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## **Less common rights of residence arising from EU free movement law and their status post-Brexit**

**The information in this sheet is up-to-date as at 2/11/18 but is provisional and dependent on the Government's Brexit policy. Please check the ILPA website regularly for updates. This sheet will be updated when further information is available.**

### **'Chen' Carers**

These are primary carers of self-sufficient children from EEA countries who are living in the UK, where the child needs the carer's presence to remain in the UK. Such carers may be non-EEA nationals.

'Primary carer' means a direct relative or a legal guardian of another person who has primary responsibility for that person's care, or shares the responsibility for that person's care with one other person.

'Self-sufficient', in brief, means that the person does not need to access benefits because they have sufficient resources. For more detail on the meaning of self-sufficient, please see our [information sheet on self-sufficient persons](#). The position on access to welfare benefits for Chen carers is complex, and we would urge you to seek specialist advice if you have a query about this.

Under current EU law 'Chen' carers have the right to reside in the UK until the carer is no longer required by the child for the child to continue or complete their education. 'Chen' carers are not eligible for the EU law right of permanent residence, nor can they rely on their status as a basis for bringing other family members to the UK.

Post-Brexit the Government has confirmed that 'Chen' carers will be able to apply for a temporary status allowing them to reside so long as the EEA self-sufficient child requires them to be present. However, such status will not lead to settlement.

## **‘Ibrahim/Teixeira’ Children and Carers**

‘Ibrahim/Teixeira’ children are children of an EEA national worker or former worker whose primary carer is not an EEA national, and whose presence is required for the child to remain in the UK. Their primary carer, who may be of any nationality, is termed an ‘Ibrahim/Teixeira’ carer.

‘Worker’, in brief, means an employee, full-time or part-time, who does work for pay which is ‘genuine and effective’, and not on ‘such a small scale as to be regarded as purely marginal and ancillary’. For the meaning of ‘worker’, please see our [information sheet on workers](#). ‘Ibrahim/Teixeira’ carers can access welfare benefits in the UK.

Under current EU law ‘Ibrahim/Teixeira’ carers have the right to reside until the carer is no longer required by the child for the child to continue or complete their education. ‘Ibrahim/Teixeira’ carers are not eligible for the EU law right of permanent residence, nor can they rely on their status as a basis for bringing other family members to the UK.

Post-Brexit the Government has confirmed that ‘Ibrahim/Teixeira’ carers will be able to apply for a temporary status allowing them to reside so long as the child of an EEA national worker or former worker requires them to be present. However, such status will not lead to settlement.

## **‘Zambrano’ Carers**

A ‘Zambrano’ carer is the primary carer of a British citizen child where if the carer were removed from the UK, the British citizen child would be forced to leave the EEA.

Under current EU law ‘Zambrano’ carers are not eligible for the EU law right of permanent residence, nor can they rely on their status as a basis for bringing other family members to the UK. ‘Zambrano’ carers cannot access non-contributory benefits in the UK which have a ‘right to reside’ test, but beyond this they may access benefits.

The Government has neither confirmed nor denied whether ‘Zambrano’ carers will be able to apply for settled status post-Brexit, nor confirmed what rights ‘Zambrano’ carers will have.

## **‘Surinder Singh’ Residents**

The ‘Surinder Singh’ route allows British citizens to bring their families to the UK after the British national has exercised their free movement rights in another EEA Member State. Such family members are said to have a right of residence under the ‘Surinder Singh’ route. The case of *C-89/17 Banger v UK* decided on 12 July 2018 confirmed that unmarried partners of British citizens benefit from the ‘Surinder Singh’ route too.

Under current EU law those who arrive under the ‘Surinder Singh’ route can apply for permanent residence, and similarly for unmarried partners through *Banger*.

The Government has confirmed that 'Surinder Singh' residents will be able to apply for settled status post-Brexit. While nothing has been confirmed nor denied regarding *Banger*, there is no clear policy reason to deny unmarried partners settled status post-Brexit.

## **Lounes**

The decision in *Lounes* by the Court of Justice of the European Union means that an EU citizen who has previously relied on their EU law right of residence can act as the sponsor of a non-EU family member, even once the EU citizen has naturalised as a dual British/EU citizen.

*Lounes* has now been implemented in section 9A of the Immigration (EEA) Regulations 2016. As such, post-Brexit, dual British/EU citizens who have previously relied on their EU law right of residence should be able to sponsor their non-EU family members.