



BRIEFING PAPER

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Brexit: what impact on those currently exercising free movement rights?

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Summary

For as long as the UK remains a Member State of the European Union, it is subject to laws guaranteeing EU citizens the right to free movement throughout the Union. British citizens will continue to enjoy EU citizenship until the UK exits the EU.

The latest available data suggests that in 2015 there were around 1.2 million British citizens living in other EU countries, compared with around 3.2 million EU citizens living in the UK.

Free movement

Free movement is central to the concept of EU citizenship. It is a right enjoyed by all citizens of the Union (those with nationality of any of the 28 Member States).

All EU citizens have a right to reside in another EU Member State for up to three months without any conditions other than the requirement to hold a valid identity card or passport. After three months certain conditions apply, varying according to the status of the EU citizen (eg whether they are a worker or a student etc). Those who opt to exercise their free movement rights are protected against discrimination in employment on the grounds of nationality. Provisions co-ordinating social security rules ensure citizens do not lose entitlements by working elsewhere in the Union.

EU citizens who have resided legally for a continuous period of five years in another EU Member State automatically acquire the right to permanent residence there. To qualify for permanent residence, students and the self-sufficient must possess comprehensive sickness insurance cover throughout the five year period. Confusingly, while EU citizens in the UK have access to NHS care, under UK law this does not satisfy the requirement to have comprehensive sickness insurance cover.

UK immigration law as it applied to non-EU citizens is significantly more restrictive.

What was said during the referendum campaign?

The Government White Paper noted that if the UK left the EU, remaining Member States would no longer be required to maintain the rights currently enjoyed by British citizens. Securing these rights would likely require the offer of reciprocal protection for EU citizens in the UK.

Both the Vote Leave and Leave.EU campaigns claimed the status of EU citizens lawfully resident in the UK would be unaffected as a result of Brexit.

What has been said since the referendum?

The Government immediately sought to reassure EU citizens in the UK that there was no change in their status as a result of the vote to leave.

In the months since the referendum ministers have reiterated that the Government wants to protect EU citizens' status. They say the only scenario in which such an outcome would be impossible is if British citizens' rights in remaining Member States are not protected in return. Despite this, the Government has faced accusations of treating EU nationals as 'bargaining chips' in the forthcoming negotiations with the European Commission.

Polls conducted since the referendum have all shown high levels of support for protecting the status of EU citizens lawfully resident in the UK.

1. Migration between the UK and other EU countries

How many EU citizens are living in the UK, and how does this compare with the number of British citizens living in other EU Member States?

The latest available data suggests that in **2015** there were around **1.2 million** British citizens living in other EU countries, compared with around **3.2 million** EU citizens living in the UK.

1.1 EU migrants living in the UK

2011 Census estimates

The most accurate source of data on the UK population is the decennial Census. The most recent Census results showed that in March 2011 there were **2.68 million** people born in other EU countries living in the UK.¹ This estimate covers all countries that were EU Member States in 2011, so it does not include a small number of people born in Croatia, which joined the EU in July 2013.

The 2011 Census offers the most accurate source of data on the UK population

It is important to understand that in this context “living in the UK” means the usually resident population of the UK, which are those people who on Census day were in the UK and had stayed or intended to stay for twelve months or more, or who had a UK address but were living abroad for less than twelve months.

In measuring the migrant population, the Census asked people about their country of birth and not their nationality. The Census questionnaires in England, Wales and Northern Ireland did ask respondents about passports they held, and this can be used as a proxy for nationality, but the question on passports was not asked in Scotland.

Labour Force Survey estimates

The most recent estimates of the EU migrant population of the UK are available from the Labour Force Survey, and are published in an Office of National Statistics (ONS) annual statistical release on ‘Population by Country of Birth and Nationality’. According to these figures, in 2015 there were around **3.18 million** people born in other EU countries living in the UK, and around **3.16 million** people who were nationals of other EU countries living in the UK.²

The Labour Force Survey offers the best estimate of the EU migrant population of the UK

These estimates are based on the quarterly Labour Force Survey (LFS) and its annualised equivalent, the Annual Population Survey (APS). These surveys are designed to represent the usually resident household population of the UK, excluding some people in communal establishments.

¹ ONS, [2011 Census, Key Statistics and Quick Statistics for local authorities in the United Kingdom - Part 1](#), Table QS203UK

² ONS, [Population by Country of Birth and Nationality, 2015](#), Tables 1.1 and 2.1

One feature of the LFS is that respondents do not need to be usually resident at the time they complete the survey. However, the sample is weighted up to represent just the usually resident population. In that sense LFS estimates do not reflect short-term migration.

1.2 British citizens living in other EU countries

The most up to date and comprehensive estimates of the number of British migrants living in other EU countries are published in the United Nations Global Migration Database.

According to this data, there were an estimated **1.22 million** British migrants living in other EU countries in 2015.³

The United Nations dataset is based on estimates from national censuses and population surveys, which are rolled forward to account for population growth among migrant stocks in years since the last available data.

One issue with the United Nations dataset is that, because different countries use different definitions of the migrant population in their official statistics, aggregating figures for migrants in different countries necessarily involves combining some figures that are not strictly comparable, mixing estimates based on country of birth with estimates based on nationality. This is an unavoidable limitation with using the dataset for this purpose.

The UN Global Migration Database offers the best estimate of the number of British citizens elsewhere in the EU

³ United Nations Global Migration Database, [International migrant stock by destination and origin](#), Table 16

2. The current, pre-Brexit position on free movement rights

For as long as the UK remains a EU Member State, it is subject to laws guaranteeing EU citizens the right to free movement throughout the Union. British citizens will continue to enjoy EU citizenship until the UK exits the EU.

2.1 EU 'Free movement' rights

The [right to move and reside freely](#) in another Member State is one of the rights enjoyed by all those with EU citizenship.⁴ It is conferred directly on every EU citizen by Article 21 of the [Treaty on the Functioning of the European Union](#) (TFEU). It is also enjoyed by those non-EU citizens who hold Swiss citizenship or citizenship of states in the European Economic Area (Iceland, Norway and Liechtenstein).⁵ For ease of reference all will be referred to as 'EU citizens' in this paper.

Free movement is central to the concept of EU citizenship

The right entitles EU citizens to reside on the territory of another EU Member State for up to three months without any conditions other than the requirement to hold a valid identity card or passport.⁶ After three months certain conditions apply, depending on the status of the EU citizen. In order to have an ongoing "right to reside" an EU citizen must fit into one of the following categories:

- a worker or self-employed person⁷
- a job-seeker (a person who is seeking employment and has a genuine chance of being employed)
- a self-sufficient person
- a student
- a family member accompanying or joining an EU citizen who fits into one of the above categories.⁸

There may also be certain administrative formalities to be met.⁹

⁴ Any person who holds the nationality of an EU Member State is automatically also an EU citizen. EU citizenship is additional to nationality of a Member State and does not replace it.

⁵ The European Economic Area (EEA) allows Iceland, Liechtenstein and Norway to be part of the EU's single market. Switzerland is neither an EU nor EEA member but is part of the single market.

⁶ Directive 2004/38 of the European Parliament and of the Council, Article 6

⁷ In certain circumstances, a person who is no longer working can retain "worker" or "self-employed" status - for example, if temporarily unable to work due to illness or accident, or due to involuntary unemployment: Directive 2004/38/EC, Article 7(3)

⁸ A more limited range of relatives are eligible for a right of residence as the family member of a "student" than for the other categories: Directive 2004/38, Article 2(2), Article 7(4)

⁹ Directive 2004/38, Article 7

EU citizens who have resided legally for a continuous period of five years in another EU Member State acquire the right to permanent residence there. (See section 2.3 below for further details).

As well as conferring the freedom to move and reside freely throughout the EU under EU citizenship provisions, the TFEU specifies the free movement rights of workers and the self-employed.¹⁰ This fundamental principle is supported by protections against discrimination in employment on the grounds of nationality and provisions co-ordinating social security rules so that citizens do not lose entitlements when they exercise their free movement rights in order to work elsewhere.

In practice, free movement law means that EU citizens do not require a visa in order to come to the UK. Those coming to the UK are not subject to rules on English language proficiency. The exclusion of an EU citizen must be justified on the grounds of public policy, public security or public health.

2.2 Immigration controls for non-EU nationals

The comparable provisions for non-EU citizens, including those who are family members of British citizens, are specified in the UK's [Immigration Rules](#) and are significantly more restrictive.

For example, opportunities for non-EU citizens to come to work in the UK under the [points-based system](#) are generally restricted to skilled migrants who already have a job offer. To secure a visa, non-EU citizen spouses of British citizens must satisfy various eligibility criteria, including a requirement their British partner has an annual income of at least £18,600 (or a higher amount in savings). Most non-EU visa categories require that applicants have some proficiency in the English language, and initially grant only a temporary permission to stay in the UK. The scope to extend the permission, to switch to a different immigration category or to stay in the UK permanently, varies depending on the visa category.

The Immigration Rules impose significantly more restrictive conditions on non-EU migration

As the UK's Immigration Rules have become more restrictive the contrast between EU free movement rights and visa restrictions for non-EU citizens has become more striking. The UK and its fellow EU Member States recognised the potential for exploitation of EU free movement law, for example, through 'sham marriages' between EU citizens and non-EU nationals who would otherwise struggle to qualify for entry under national immigration legislation. The proposed ['new settlement for the United Kingdom within the European Union'](#) offered by the European Council in February 2016 included restrictions on freedom of movement so as to make non-EU family members subject to a host Member State's national immigration laws.¹¹ However these measures will not come into force due to the outcome of the referendum.

¹⁰ Articles 45-48 TFEU and Articles 49-53 TFEU respectively

¹¹ European Council, *European Council meeting (18 and 19 February 2016) Conclusions*, 19 February 2016

2.3 Permanent residence

EU citizens who reside legally for a continuous period of five years in a Member State other than their own acquire the right of permanent residence in their host state. This right is acquired automatically. Citizens do not need to apply for it. Once acquired, the right of permanent residence is lost only through an absence from the host Member State for a period exceeding two consecutive years.¹²

EU citizens with five years of lawful residence in the UK do not need to apply for permanent residence

Permanent residence is provided by Directive 2004/38 - often referred to as the “Citizens Rights Directive” or the “Free Movement Directive” - and transposed into UK law by the *Immigration (European Economic Area) Regulations 2006*.¹³

Comprehensive sickness insurance cover

Those who are students or self-sufficient must meet a further requirement of possessing comprehensive sickness insurance cover in their host Member State (a condition to ensure the ‘economically inactive’ do not become a burden on their host state). Without such cover, any student or self-sufficient person will not be deemed to be exercising their Treaty rights. Such periods of time without comprehensive sickness insurance will not count towards the five years of lawful residence necessary to acquire permanent residence.

Certain categories of EU citizens in the UK require sickness insurance in order to exercise their Treaty rights

Whilst EU citizens in the UK have access to the NHS, this does not count as having comprehensive sickness insurance cover. The Home Office view that entitlement to NHS treatment is insufficient to meet the requirement of the Directive was upheld by the Court of Appeal in 2014.¹⁴

Access to the NHS does not count as having sickness insurance

The UK requires family members of EU citizen students and self-sufficient people to have their own, separate comprehensive sickness insurance cover. The Government has faced calls to scrap this requirement. Sarah Wollaston has warned of a “bureaucratic nightmare” facing EU citizens seeking certainty as to their status in the UK and is urging the Government to ensure that EU citizens in the UK will not be disqualified from permanent residency on the grounds of lacking insurance cover.¹⁵

¹² Directive 2004/38 of the European Parliament and of the Council, article 16

¹³ To be revoked and replaced by the [Immigration \(European Economic Area\) Regulations 2016](#) on 1 February 2017

¹⁴ [Ahmad v Secretary of State for the Home Department \[2014\] EWCA Civ 988](#) (paragraphs 70 and 71)

¹⁵ [‘Scrap insurance rule for stay-at-home parents from EU, says Tory MP’](#), *the Guardian*, 30 December 2016

3. What was said during the referendum campaign?

The Government White Paper

In its White Paper the Government suggested that any agreement protecting the rights of British citizens living and working in EU Member States would likely include reciprocal protection for EU citizens remaining in the UK:

4.2 [*The approximately 2 million UK citizens living, working and travelling in the other 27 Member States of the EU*] all currently enjoy a range of specific rights to live, to work and access to pensions, health care and public services that are only guaranteed because of EU law. There would be no requirement under EU law for these rights to be maintained if the UK left the EU. Should an agreement be reached to maintain these rights, the expectation must be that this would have to be reciprocated for EU citizens in the UK.

5.9 Many UK citizens would want any negotiations to secure their continued right to work, reside and own property in other EU states, and to access public services such as medical treatment in those states. UK citizens resident abroad, among them those who have retired to Spain, would not be able to assume that these rights will be guaranteed. At the very least, any terms which the UK seeks for its own citizens would have to be offered to EU citizens wishing to come to or stay in this country.¹⁶

The Vote Leave campaign

The Vote Leave campaign denied the rights of EU nationals in the UK would be affected by Brexit. In a statement by Michael Gove, Boris Johnson, Priti Patel and Gisela Stuart, the campaign stated:

...there will be no change for EU citizens already lawfully resident in the UK. These EU citizens will automatically be granted indefinite leave to remain in the UK and will be treated no less favourably than they are at present.¹⁷

Gisela Stuart, the chair of the Vote Leave campaign, also argued the Vienna Convention on the Law of Treaties guarantees the acquired rights of EU nationals in the UK and of British citizens elsewhere in the EU.¹⁸

The Leave.EU campaign

The Leave.EU campaign stated “the EU would be obliged to grant permanent settlement rights to Britons living in Ireland and mainland Europe. The UK would do the same.”¹⁹

¹⁶ HM Government, [The process for withdrawing from the European Union](#), February 2016, Cm 9216

¹⁷ Vote Leave, [Restoring public trust in immigration policy - a points-based non-discriminatory immigration system](#), 1 June 2016

¹⁸ ‘EU citizens in UK face Brexit uncertainty’, *Guardian*, 15 May 2016

¹⁹ <http://leave.eu/en/faqs> (accessed on 19 January 2017)

4. What has been said since the referendum?

4.1 Immediate reaction

In his statement outside 10 Downing Street on the morning of 24 June David Cameron addressed British citizens living elsewhere in Europe and EU nationals in the UK:

I would also reassure Brits living in European countries, and European citizens living here, that there will be no immediate changes in your circumstances. There will be no initial change in the way our people can travel, in the way our goods can move or the way our services can be sold.²⁰

Boris Johnson denied the result was due to concerns about immigration and said the status of EU nationals would not change:

I've seen a lot of confusion over the weekend about the status of people living in this country. It's absolutely clear that people from other European countries who are living here have their rights protected.²¹

4.2 The Government's statement following the referendum

Following the referendum the Government made a statement on 11 July 2016 on the status of other EU citizens in the UK:

There has been no change to the rights and status of EU nationals in the UK, and UK nationals in the EU, as a result of the referendum.

The decision about when to trigger Article 50 and start the formal process of leaving the EU will be for the new Prime Minister. The UK remains a member of the EU throughout this process, and until Article 50 negotiations have concluded.

When we do leave the EU, we fully expect that the legal status of EU nationals living in the UK, and that of [UK nationals in EU member states](#), will be properly protected.

The government recognises and values the important contribution made by EU and other non-UK citizens who work, study and live in the UK.

I have lived in the UK for more than 5 years. What does the vote to leave the EU mean for me?

EU nationals who have lived continuously and lawfully in the UK for at least 5 years automatically have a permanent right to reside. This means that they have a right to live in the UK permanently, in accordance with EU law. There is no requirement to register for documentation to confirm this status.

EU nationals who have lived continuously and lawfully in the UK for at least 6 years are eligible to apply for British citizenship if

The Government reminded EU citizens of the automatic right of permanent residence

²⁰ 10 Downing Street, [EU referendum outcome: PM statement](#), 24 June 2016

²¹ ["PROJECT FEAR IS OVER' Boris welcomes ceasefire with Osborne after saying Brexit 'was NOT about immigration'"](#), *The Sun*, 27 June 2016

they would like to do so. The eligibility requirements can be found [here](#).

What if I have lived in the UK for less than 5 years?

EU nationals continue to have a right to reside in the UK in accordance with EU law. EU nationals do not need to register for any documentation in order to enjoy their free movement rights and responsibilities. For those that decide to apply for a registration certificate, there has been no change to government policy or processes. Applications will continue to be processed as usual.

Non-EU family members of EU nationals must continue to apply for a family permit if they wish to enter the UK under EU law, and they do not have a residence card issued by a member state. There has been no change to government policy or processes, and applications will continue to be processed as usual.

Extended family members of EU nationals must continue to apply for a registration certificate (if they are an EU national) or residence card (if they are a non-EU national) if they wish to reside in the UK. There has been no change to government policy or processes, and applications will continue to be processed as usual.

Irish nationals enjoy separate rights, under various pieces of legislation, which allow Irish nationals residing in the UK to be treated in the same way as British nationals in most circumstances. There is no change to this position.

Irish citizens have rights separate to those of other EU citizens in the UK

Croatian nationals might continue to need to apply for a registration certificate to be allowed to work in the UK under the transitional arrangements that were put in place when Croatia joined the EU in 2013. The type of registration certificate that they might need will depend on whether they need permission to work in the UK, and what they will be doing. There has been no change to government policy or processes, and applications will continue to be processed as usual.

Does the government plan to remove EU nationals from the UK?

There has been no change to the right of EU nationals to reside in the UK and therefore no change to the circumstances in which someone could be removed from the UK.

As was the case before the referendum, EU nationals can only be removed from the UK if they are considered to pose a genuine, present and sufficiently serious threat to the public, if they are not lawfully resident or are abusing their free movement rights.

4.3 The Government position

Speaking for the Government at the outset of an Opposition Day Debate moved by Andy Burnham on [6 July 2016](#), then Immigration Minister James Brokenshire echoed Mr Burnham in saying that other EU citizens living and working in the UK are valued and welcome here. He condemned the rise in incidents of hate crime and racial abuse since the referendum and rejected the accusation levied by some members of the House that the Government sees EU citizens

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as bargaining chips. He clarified the Government's approach to the question:

We will look to secure a fair deal for EU citizens, as we secure a fair deal for British citizens in the EU. That is the responsible approach, and that is what we will do. We want to be able to guarantee the legal status of EU nationals who are living in the UK and I am confident we will be able to do just that. We must also win the same rights for British nationals living in European countries and it will be an early objective for the Government to achieve those things together. As the Prime Minister and the Home Secretary have made clear and as I stated on Monday, there will in any event be no immediate changes in the circumstances of EU nationals in the UK. Currently, they can continue to enter and live in the UK as they have been doing.²²

...

It must also be recognised that, as well as working to protect the rights of EU nationals in the UK, the Government have a duty to protect the rights of UK nationals who currently reside in countries throughout the EU. Just as EU nationals are making a tremendous contribution to life in the United Kingdom, UK nationals are contributing to the economies and societies of the countries that belong to the EU.²³

The minister also recognised the Government would have to decide 'where to draw the line':

Further considerations must be taken into account. As I said on Monday, it has been suggested by Members of Parliament and others—and it has been suggested again today—that the Government could fully guarantee EU nationals living in the UK the right to stay now, but where would the right hon. Member for Leigh draw the line? I think that he has drawn it in one place already by suggesting 23 June, but what about 24 June? What about the EU nationals who arrived later that week, or those who will arrive in the autumn to study at our world-class universities? Or should we draw the line in the future—for example, at the point at which article 50 is invoked, or when the exit negotiations conclude?

James Brokenshire raised the issue of settling upon a cut-off point for deciding which EU citizens would have residence rights protected

In a statement to the House of Commons on the next steps in leaving the EU, David Davis sought to offer reassurance to EU nationals worrying about their status in the UK. He claimed many already have indefinite leave to remain in the UK:

People should not worry people unnecessarily or get them concerned. Bear in mind, five out of six migrants who are here either already have indefinite leave to remain or will have it by the time we depart the Union.²⁴

Speaking for the Government at a second Opposition Day Debate on the issue, moved by Joanna Cherry on [19 October 2016](#), the Immigration Minister Robert Goodwill again tied the future rights of those EU citizens presently in the UK to the post-Brexit status of British expatriates in EU Member States:

²² HC Deb 6 July 2016 c947-948

²³ HC Deb 6 July 2016 c950

²⁴ HC Deb 10 October 2016 c47. This claim has been doubted by Full Fact.

The Government have been clear that they want to protect the status of EU nationals resident in the UK. As the Prime Minister has made clear, the only circumstances in which that would not be possible were if British citizens' rights in other EU member states are not protected in return. The Government have provided repeat assurances on this point, and their position has not changed.²⁵

[...]

The only problem that the Government have with the motion is that it does not go far enough, in that it does not include the rights of British citizens living in other EU member states, which we would demand to be protected in return. It is impossible for us to support the motion, because that reassurance is not contained in it.

I fully appreciate the importance of giving certainty to EU citizens who have built a life here in the United Kingdom. As I have already said, they should be reassured that we are working on the basis that we want to protect those people's status in UK law beyond the point at which we leave the EU.

In her Lancaster House speech of 17 January 2016, the Prime Minister reiterated her wish to 'guarantee' the right of EU citizens in the UK if there is a reciprocal deal for British citizens living elsewhere in Europe:

Fairness demands that we deal with another issue as soon as possible too. We want to guarantee the rights of EU citizens who are already living in Britain, and the rights of British nationals in other member states, as early as we can.

I have told other EU leaders that we could give people the certainty they want straight away, and reach such a deal now.

Many of them favour such an agreement - 1 or 2 others do not - but I want everyone to know that it remains an important priority for Britain – and for many other member states – to resolve this challenge as soon as possible. Because it is the right and fair thing to do.²⁶

Theresa May suggested that some EU leaders oppose a reciprocal agreement

4.4 Criticism of the Government's position

The motion of the Opposition Day Debate on 6 July 2016 was:

That this House notes that there are approximately three million nationals of other EU member states living in the UK; further notes that many more UK nationals are related to nationals of other EU member states; rejects the view that these men, women and children should be used as bargaining chips in negotiations on the UK's exit from the EU; and calls on the Government to commit with urgency to giving EU nationals currently living in the UK the right to remain.

The motion was agreed to, with 245 in favour and two members choosing to abstain by voting both for and against.

²⁵ HC Deb 19 October 2016 c834

²⁶ 10 Downing Street, [The government's negotiating objectives for exiting the EU: PM speech](#), 17 January 2017

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Opening the debate Andy Burnham accused then Home Secretary Theresa May of failing to address the anxiety felt by EU nationals in the UK and by their family members:

Instead of showing leadership and sending out an immediate message of reassurance in the aftermath of Brexit, she has added to the uncertainty that many people were already experiencing, and she has left them feeling like bargaining chips in the Brussels negotiations.²⁷

Members from both sides of the House supported the motion. Boris Johnson reminded the House of the reassurance the Vote Leave campaign had sought to offer EU citizens in the UK. He described it as “very, very disappointing” that their status should be called into question.²⁸ John Redwood expressed his hope that the motion passing would represent “a great offer of reassurance from this whole Parliament”.²⁹

Senior figures in Vote Leave reiterated assurances given during the referendum

The accusations that the Government views EU citizens in the UK as ‘bargaining chips’ have persisted.

The International trade secretary Liam Fox was criticised for comments made to a fringe event at the Conservative Party Conference in which he described the uncertainty facing EU citizens in the UK as one of the Government’s “main cards” in the expected negotiations over the UK’s exit from the EU. According to the *Guardian* Mr Fox said the government would “like to be able to give a reassurance to EU nationals in the UK, but that depends on reciprocation by other countries”, and any other strategy “would be to hand over one of our main cards in the negotiations and doesn’t necessarily make sense at this point”. Chuka Umunna denounced such an approach as treating EU nationals as “poker chips” and “gambling with their future”.³⁰

Throughout the second Opposition Day Debate on the status of EU nationals in the UK, held on 19 October 2016, Scottish National Party and Labour members repeatedly accused the Government of “using individual human beings as bargaining chips”.³¹

Opposition members have repeatedly accused the Government of viewing EU nationals in the UK as ‘bargaining chips’

The European Movement UK is campaigning to persuade the Government to commit to protecting British citizens’ EU citizenship ahead of any negotiations.³² It seeks to take advantage of a constitutional amendment tabled by Luxembourg MEP Charles Goerens that would allow for associate EU citizenship for citizens of former Member States.³³ The proposed amendment reads:

²⁷ HC Deb 6 July 2016 c937

²⁸ HC Deb 6 July 2016 c939

²⁹ HC Deb 6 July 2016 c938

³⁰ ‘Liam Fox: EU nationals in UK one of ‘main cards’ in Brexit negotiations’, *The Guardian*, 4 October 2016

³¹ HC Deb 19 October 2016 c821 (and throughout the debate)

³² See <http://euromove.org.uk/save-our-eu-citizenship/> (accessed on 19 January 2017)

³³ ‘Pressure group urges Theresa May to let UK nationals remain EU citizens after Brexit’, *The Independent*, 15 November 2016

Amendment 882

Advocates to insert in the Treaties a European associate citizenship for those who feel and wish to be part of the European project but are nationals of a former Member State; offers these associate citizens the rights of freedom of movement and to reside on its territory as well as being represented in the Parliament through a vote in the European elections on the European lists.³⁴

4.5 Polling

ICM poll for British Future

In polling commissioned by the think tank British Future, ICM found that 84% of the public supports letting EU migrants stay in the UK post Brexit. This is said to include three-quarters (77%) of Leave voters. Among Conservatives, support for protecting the status of EU citizens in the UK and UK citizens in Europe is said to be even higher at 85%, with 78% of UKIP supporters found to be in agreement. According to ICM, only 16% of the public think that EU citizens should be required to leave the UK and that UK citizens in Europe should return to Britain, with 23% of Leave voters and 15% of Conservatives agreeing. British Future announced these findings on 3 July 2016.³⁵

BMG Research for the *Independent*

In a more recent poll for the *Independent*, BMG Research found two thirds of the country would support moves to guarantee the rights of EU citizens living in the UK. BMG Research found that giving EU nationals such protection would enjoy majority support across every age and social group, and, with the exception of UKIP, among the supporters of every political party. According to the *Independent*, the poll questions were as follows:

BMG questioned a representative sample of UK adults, initially asking them if the Government should “guarantee the right of EU citizens to continue living and working in the UK post-Brexit”. In response, 58 per cent said “yes”, 28 per cent said “no” and 14 per cent said they did not know.

They were then asked: “If EU countries are willing to immediately guarantee the rights of British citizens living and working in those countries to continue post-Brexit, should the UK Government also immediately guarantee the right of EU citizens living and working in the UK?” A large majority of 66 per cent backed the move; just 21 per cent said “no” and 14 per cent said they did not know.³⁶

³⁴ See <http://euromove.org.uk/save-our-eu-citizenship/> (accessed on 19 January 2017)

³⁵ ‘Britons overwhelmingly back giving EU migrants right to stay in UK’, *City AM*, 21 August 2016; British Future, [‘Let EU migrants stay’ say the British public, plus voices from business and politics](#), 3 July 2016

³⁶ ‘Brexit: Theresa May urged to act fast as new poll finds huge support for protecting EU migrants’ rights’, the *Independent*, 29 October 2016

YouGov poll following Lancaster House speech

YouGov polling conducted on 17-18 January 2017 following the Prime Minister's speech at Lancaster House found 77% of the public support guaranteeing the rights of EU citizens already living in Britain in exchange for protection of the rights of British citizens settled in remaining EU Member States. According to YouGov, this view is held by 85% of those who voted Remain in the referendum and by 76% of those who voted for the UK to leave the EU.³⁷

5. How might UK exit affect the free movement rights of British and EU citizens in the long term?

The Government has repeatedly stated that it wants to protect the status of EU nationals already living here and that the only circumstances in which that would not be possible is if British citizens' rights in European Member States were not protected.³⁸

However it remains to be seen what form such protection would take. It is not known whether the Government would require certain criteria to be met or whether conditions would be placed upon rights of residence. Full Fact and the AIRE Centre have both cautioned that the law as it stands does not guarantee permanent residence status for all UK-based EU citizens in a post-Brexit settlement and would be contingent on the Government choosing to recognise it.³⁹

Nor is it clear by what procedures such residence rights would be sought and obtained. The Migration Observatory at Oxford has emphasised the considerable scale of the administrative exercise that would be required to register all EU citizens already living in the UK.⁴⁰

There is corresponding uncertainty over the rights of British citizens living elsewhere in Europe. On 17 January 2017 campaigners for British people settled in Spain and France told the Exiting the EU Select Committee that an unintended consequence of Brexit could be a surge in immigration to the UK of former British migrants, both working and retired.⁴¹ They claimed hundreds of thousands of elderly Britons living in Europe may have no option but to return to the UK if their healthcare costs are no longer reimbursed by the NHS. The Committee was told that professionals may also have to return to the UK if a deal does not protect their right to practice law, medicine or other disciplines in remaining EU Member States.⁴²

The Migration Observatory has stressed the size of the administrative task facing the Government

British expats warn of the unintended consequences of failing to secure a deal to protect their rights in remaining EU Member States

³⁸ Eg See [PQ59447](#), 13 January 2017

³⁹ Full Fact, [Brexit: which EU citizens will have the right to stay in the UK?](#), 24 October 2016; The AIRE Centre, [Information note on the UK referendum decision and its potential implications](#), 1 July 2016

⁴⁰ The Migration Observatory, [Here today, gone tomorrow? The status of EU citizens already living in the UK](#), 3 August 2016, page 2

⁴¹ Exiting the European Union Committee, Residency rights in Brexit negotiations examined, 17 January 2017 (accessed on 19 January 2017)

⁴² ['Hundreds of thousands of retired Britons in EU 'may be forced to return'](#), *the Guardian*, 18 January 2017

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