

*Report of the Inquiry into  
securing the status of EEA+  
nationals in the UK*

December 2016

British  
Future...

The logo for British Future, featuring a dark blue L-shaped line that starts to the left of the text and extends downwards and then rightwards, ending under the text.

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British Future is an independent, non-partisan thinktank engaging people's hopes and fears about integration and migration, opportunity and identity, so that we share a confident and welcoming Britain, inclusive and fair to all.

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## Foreword – Rt Hon Gisela Stuart MP

On the 23rd June 2016 the British people reflected on their 43 year old relationship with the European Union and by a majority decided to leave.

The implementation of this decision has to take place within a reasoned and rational framework and has to gain the broad support of all sections of society.

There are currently around 2.8 million EU citizens living and working in the United Kingdom. Some 1.2 million UK citizens have chosen to make their life in EU countries.

Defining the rights and status of these groups should be the first priority of this government in their negotiations with other EU member states. There are no domestic party political differences on this subject, as successive parliamentary debates have shown.

It would set the right tone in the subsequent negotiations if the UK reached out and confirmed the status and rights of EU citizens in the UK in a manner which gave a clear indication of how we would expect EU countries to respond to their UK citizens.

British Future asked me to chair a group which brought together politicians from different political parties, academics, trade unionists and business representatives. We invited evidence and consulted widely.

My own story illustrates the journey millions of others have made. I arrived in the UK in the early 1970s, having been offered a job. For five years before I was able to apply for indefinite leave to remain, I had to register my address every time I moved. I later married, had children and in the 1990s applied to become a British citizen. For many others the rights conferred on them as EU citizens, introduced in the Maastricht Treaty in 1992, were sufficient. The only most obvious difference was that they were not able to vote in British General Elections.

I chaired Vote Leave, the organisation designated by the Electoral Commission to run the official Leave campaign. We committed to “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”.

They have made the United Kingdom their home and they want it to continue to be their home. They have the right to expect to be able to plan their lives and not have to change things retrospectively.

This Inquiry is not about deciding what the UK’s immigration policy should be after we have left the EU. Whilst there are some principles emerging, the policy itself will be hotly contested.

Rather this enquiry is about establishing how the existing rights should be recognised and how this can be best achieved.

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For EU citizens living here, it is important that they know what steps they need to take to establish residency and how they could, if they wish, apply for British Citizenship. We don't have control over whether other countries offer dual citizenship, but we can provide clarity over the British Government's actions.

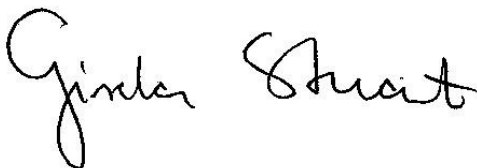
For the Home Office, this will be one of the largest single administrative tasks they have been asked to undertake. Some of the current systems are not working as well as they should and the processes must be paid for.

Our aim was to arrive at a set of recommendations which will be seen as fair by the British people, the EU citizens living here and by UK citizens living abroad.

We intended to provide solutions which could be implemented by the Government without overstressing their administrative capacity, without undue burden on the taxpayer and with the consent of the major political parties.

It was an honour to be asked by British Future to chair this Inquiry. I want to thank my fellow panel members and Jill Rutter, Sunder Katwala and Steve Ballinger for their work. British Future aims to engage people's hopes and fears about integration, migration, opportunity and identity, so that we share a confident and welcoming Britain, inclusive and fair to all.

These aims and values continue to be important after we have left the EU. I hope this report supports our shared aim, which is to help the UK and other EU governments to do the right thing by their EU and EEA citizens.



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## Executive summary

Britain's decision to leave the European Union will likely result in significant changes to immigration policy, including to the rights of nationals from some 30 European countries to live and work in the UK. The nature of those changes will be the subject of political, academic and diplomatic difference and debate over the next two years.

There is, however, broad political, business and public support for separating the status of the 2.8 million EEA+ nationals<sup>1</sup> currently living in the UK from future policy changes. Opinion polling for British Future, conducted in the days shortly after the referendum, found that 84% of the British public support letting existing EU migrants stay – including over three-quarters (77% per cent) of Leave voters – with any future changes to freedom of movement applying only to new migrants<sup>2</sup>.

Support for settling the status of EEA+ nationals who have made their homes in Britain stretches across political parties and the divides of the referendum debate. Indeed, before the referendum the official Vote Leave campaign committed to “*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*”. The purpose of this Inquiry, then, was not to establish whether EU citizens *should* be able to remain in the UK with secured status – we believe that is a settled question, in the minds of the public, businesses and a broad coalition of politicians of all parties. Its aim was rather to move beyond that to determine how we make that happen in practice.

This is an unprecedented situation both diplomatically - no fully-fledged member state has left the European Union before – and domestically, too, with the Government needing to settle the immigration status of 2.8 million people. EEA+ nationals living in the UK are a diverse group of people in terms of countries of origin, length of residence, employment history and social backgrounds. Resolving their status will be the largest administrative task that the Home Office has ever undertaken, and current staff are already under considerable pressure from its routine workload. So this Inquiry has sought to find proposals that are fair and practicable, resolving the issue in ways that can minimise the administrative burdens and the costs for EEA+ nationals themselves, for employers and for the Government, in ways that we believe can command broad political, civic and public support.

In order to fulfil the Inquiry's aims British Future brought together a cross-party panel, from both sides of the EU referendum debate, to examine this issue independently and make recommendations to the Government. Its members were Gisela Stuart MP (Chair); Suzanne Evans, UKIP; Suella Fernandes MP; Kate Green MP; Sunder Katwala, British Future; Fraser Nelson, The Spectator; Seamus Nevin, Institute of Directors; Professor Steve Peers, University of Essex and Owen Tudor, TUC. Members of the panel sat as individuals and the Inquiry's recommendations do not represent the policies of their organisations.

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British Future acted as the secretariat to the Inquiry, with Jill Rutter undertaking the background research and coordinating the Inquiry process. The Inquiry consulted widely, including with EEA+ citizens themselves as well as with legal experts, academics, employers and interest groups.

What the Inquiry panel found, as it weighed evidence and debated proposals, is that people who supported both Leave and Remain, and from different political parties, were able to find a strong consensus on a range of proposals to secure the status of EEA+ nationals who have chosen to make their homes in Britain.

The Inquiry examined six overarching issues:

1. It considered what might comprise a fair and legally watertight cut-off date, after which changes to the settlement, citizenship and social rights of newly-arrived EEA+ nationals might apply. **The Inquiry recommends, as a cut-off date, the day on which Article 50 is triggered or whatever legal mechanism the Government chooses to show it is leaving the EU.**
2. The Inquiry looked at options for granting EEA+ nationals currently in the UK settlement and citizenship rights. **It recommends that EEA+ nationals who can show five years' residency in the UK be offered Permanent Residence as it currently stands.** This approach would offer a clear status (and pathways to citizenship) for an estimated 1.8 million EEA+ nationals currently estimated to be living in the UK.

Permanent Residence as an immigration status is a consequence of the UK's membership of the EU, so **the UK Government will need to pass regulations automatically to convert Permanent Residence into a bespoke Indefinite Leave to Remain (bespoke ILR) for EEA+ nationals on the date that the UK leaves the EU.** Modelling this status on the 'Ex-EU' legal status that citizens can hold in EEA+ countries would make it significantly easier for a reciprocal deal to be struck with EU governments regarding the granting of an equivalent status for UK nationals living in EU countries.

This bespoke ILR status should be offered, to those who were legally resident as 'qualified persons'<sup>3</sup> on the cut-off date, for a five-year transition period after the UK leaves the EU. During this five-year period the cost of applying for bespoke ILR should be capped.

Applicants should have to meet the good character requirements that non-EEA+ nationals have to fulfil when they apply for ILR and applications would be screened against a list of individuals whom the Home Office and Ministry of Justice seeks to exclude on the grounds of past criminal convictions. Applicants would not, however, be required to pass the citizenship test or meet the English language and salary threshold requirements needed for ILR, for a five-year transitional period. This would entail keeping existing laws relating to EEA+ citizens in force in the UK for qualified persons, which would simplify the administration of the rules, reducing legal challenges and remaining consistent with the Government's intentions to convert existing EU law into UK law by means of a 'Great Repeal Act'.

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3. EEA+ nationals living in the UK enjoy some privileges over UK and non-EEA+ nationals in relation to family migration, in that they can bring immediate family members to the UK without having to fulfil a minimum income threshold and show a basic level of English language competency. **The Inquiry recommends that EEA+ nationals who were qualified persons on the specified cut-off date, or who have Permanent Residence or bespoke ILR, keep their previous rights to family migration for a five-year transition period after the UK leaves the EU.**

4. The Inquiry examined the social rights granted to EEA+ nationals in relation to their access to public funds (student loans, in- and out-of-work benefits, social housing etc) and fee status in further and higher education. **It recommends that EEA+ nationals who were qualified persons on the specified cut-off date see these privileges continue for a five-year transition period after the UK leaves the EU.**

5. The Inquiry considered the best administrative means by which to deal with up to 1.8 million applications for Permanent Residence and looked at whether the current Home Office systems for issuing documentation would be able to cope with a substantially increased caseload. **It recommends that local authority Nationality Checking Services should be given the first-line responsibility for processing and approving applications**, and should be allowed to charge to cover their costs for doing this. More complex cases should be passed on to the Home Office. **The Inquiry also recommends a simplification of the process, where possible with applicants' names checked against HMRC, DWP, Home Office and Ministry of Justice criminal records to establish whether they qualify for Permanent Residence.**

6. The Inquiry also looked at whether there would be groups of EEA+ nationals who might struggle to show legal residence in the UK, how the Government might deal with such cases and whether there was a need for additional advice and legal representation for immigration cases. **It recommends that Citizens Advice and other relevant organisations be funded to offer advice to EEA+ nationals who might struggle to apply for settlement, with some of this support targeted at the self-employed.**



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## EEA+ nationals in the UK: Key Facts

### Top EEA+ nationalities living in the UK

- Poland: 916,000
- Ireland: 332,000<sup>4</sup>
- Romania: 233,000
- Portugal: 219,000
- Italy: 192,000
- Lithuania: 170,000<sup>5</sup>

### Employment

- 51% of EEA+ nationals in the UK are employees and 9% are self-employed. 4% are students, 7% retired and 17% aged under 16 with 3% unemployed<sup>6</sup>.
- In England alone there are approximately 144,000 non-UK EEA+ nationals working in the health and adult social care system<sup>7</sup>.
- Around 27% of the UK's food and drink manufacturing workforce are non-UK EU nationals – almost 100,000 workers<sup>8</sup>.
- About 15% of the academic workforce of UK universities are non-UK EU nationals.

### Entitlement to Permanent Residence

- 64% of EEA+ nationals (about 1.8 million people) had first arrived in the UK before 2011 and may now qualify for Permanent Residence because they have lived in the UK for more than five years<sup>9</sup>.
- Some 18,064 Permanent Residence cards were granted in 2015<sup>10</sup>. Given this rate of processing, it would more than 150 years to clear 2.8 million applications.
- An application for Permanent Residence can take up to six months to process.
- 34% of applications for Permanent Residence were refused or declared invalid in 2015, compared to just 5% of Indefinite Leave to Remain applications (a similar status given to non-EEA+ nationals)<sup>11</sup>.

### EEA+ nationals becoming British

- There were 17,158 grants of British Citizenship to EEA+ nationals in 2015. Of these, 3,763 (22%) were to Polish nationals<sup>12</sup>.

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## I. Introduction

Leaving the EU is likely to result in many changes to immigration policy, including regulations that allow the nationals of EEA + countries to live and work in the UK. EC Directive 2004/38/EC, the 1992 EEA Agreement and the 1999 Bilateral 1 agreement between the EU and Switzerland permits freedom of movement for employees, the self-employed, job-seekers<sup>13</sup>, students and self-sufficient people within EU member states, or Iceland, Lichtenstein, Norway and Switzerland. This group of people will be referred to as EEA+ nationals in this report. While these regulations still stand, many commentators believe it is unlikely that freedom of movement for eligible EEA+ nationals will be retained in its current form after the UK leaves the EU, given the results of the referendum in which immigration was a central theme.

There is, however, broad political, business and public support for separating the status of EEA+ nationals currently living in the UK from future policy changes. Polling for British Future undertaken in the days after the referendum found that 84% of the British public support letting existing EU migrants stay – including over three-quarters (77% per cent) of Leave voters – with any future changes to freedom of movement applying to new migrants<sup>14</sup>. This consensus also bridges referendum and party political divides: indeed, before the referendum the official Vote Leave campaign committed to *“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”*<sup>15</sup>.

Despite the breadth of support for EEA+ nationals living in the UK, the Government has delayed giving a commitment to protect their status, on the grounds that it needs to seek a reciprocal agreement to secure the status of British nationals living in the EU. Six months after the referendum this position still stands, despite efforts by a number of parliamentarians to resolve this position<sup>16</sup>. This delay has caused considerable anxiety for EEA+ nationals themselves, as well as creating uncertainty for their employers. In order to help resolve this situation, independent thinktank British Future has brought together a panel of cross-party political, economic and academic voices, chaired by Gisela Stuart MP, to conduct an independent inquiry to look at ways that the Government could secure the status of EEA+ nationals currently living in the UK.

### Aims and terms of reference

The Inquiry aimed to set out a range of proposals relating to how the Government could secure the status of EEA+ nationals presently living in the UK, starting from the publicly-supported position that securing their status would be the right thing to do. It considered issues of principle, as well as practical and administrative issues – for example, how the Home Office might process applications for settlement from nearly three million people. While upholding the two principles of *‘no change for EU citizens already lawfully resident in the UK’* and *‘no less favourable treatment than at present’*, the Inquiry

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looked for policy proposals and approaches that would command political, business and public support.

The Inquiry examined six overarching issues. First, it considered what might comprise a fair and legally watertight cut-off date - after which changes to the settlement, citizenship and social rights of newly-arrived EEA+ nationals might apply and before which those EEA+ nationals already here would be entitled to stay.

Second, the Inquiry looked at options for granting EEA+ nationals currently in the UK settlement and citizenship rights. A grant of settlement means that non-UK nationals can remain in the UK without time limits placed on their status, and is currently afforded through either the status of Permanent Residence, which is granted to EEA+ nationals, or Indefinite Leave to Remain for those from outside the European Economic Area. However, Permanent Residence as an immigration status exists as consequence of the UK's membership of the EU. Leaving the EU will require changes to legislation that covers settlement and citizenship rights to EEA+ nationals, including the best approach to replacing Permanent Residence as a status.

EEA+ nationals living in the UK enjoy some privileges over UK nationals in relation to family migration, in that they can bring non-British immediate family members to the UK without having to fulfil a minimum income threshold and show a basic level of English language competency. The minimum income threshold, which stands £18,600 per annum for those wanting to bring in a spouse or partner, has divided a number of families and led to vocal campaigning<sup>17</sup>. A third issue considered by the Inquiry was family migration.

Fourth, the Inquiry examined the social rights granted to EEA+ nationals in relation to their access to student loans, in- and out-of-work benefits, social housing and fee status in further and higher education.

Fifth, the Inquiry considered the best administrative means for the Home Office to process applications for Permanent Residence and looked at whether the current Home Office systems for issuing documentation would be able to cope with a substantially increased caseload.

Sixth, the Inquiry also looked at whether there would be groups of EEA+ nationals who might struggle to show legal residence in the UK, how the Government might deal with such cases and whether there was a need for additional advice and legal representation for immigration cases.

For practical reasons, the Inquiry's remit did not extend to looking at ways to secure the status of the 1.2 million British nationals who live in the EU, as this would have involved reviewing the national interpretations of the 2004 directive for all EEA+ countries.

However, the Inquiry recognises the worries of British nationals who live elsewhere in the EU and is concerned about the evidence provided by individuals and groups such as Brexpat and ECREU. The Inquiry

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also concluded that it is morally wrong to use EEA+ nationals in the UK as bargaining chips to secure the rights of UK nationals in Europe. Rather, the Inquiry's position is that the British Government should first guarantee the rights of EEA+ nationals in the UK. After this, it could then legitimately seek reciprocal arrangements for UK nationals who lived in the EU to be granted a comparable and secure immigration status in return. Whether the UK government decides to proceed by guaranteeing the status of EU nationals unilaterally or by reciprocal agreement with EU governments, the Inquiry's proposals set out the steps that would be required in the UK to achieve this in a fair and practicable way.

## **Members and the report**

The Inquiry met in autumn 2016 and British Future acted as its secretariat. Its members were:

- Rt Hon Gisela Stuart MP (Chair)
- Suzanne Evans, UKIP
- Suella Fernandes MP
- Kate Green MP
- Sunder Katwala, British Future
- Fraser Nelson, The Spectator
- Seamus Nevin, Institute of Directors
- Professor Steve Peers, University of Essex
- Owen Tudor, TUC.

In addition to the formal sittings, the Inquiry held an open meeting in Coventry to seek the views of EEA+ nationals and others with an interest in this issue. It also put out an open call for written evidence, which was received from 69 organisations and individuals, including many EEA+ nationals<sup>18</sup>.

This report sets out the recommendations of the Inquiry. We hope that the Government will take note of our recommendations, not only on how to secure the status of EEA+ nationals, but also the Inquiry's suggestions on how it might approach the considerable administrative challenge of processing what could amount to nearly three million requests for settlement in the UK.

The public is clear in its support of EEA+ nationals – that they should be allowed to stay and settle. Their status is also a vital concern for business and public services that do not want to lose valued members of their workforce. In England alone there are approximately 144,000 EEA+ nationals working in the health and adult social care system<sup>19</sup>. Around 27% of the UK's food and drink manufacturing workforce are non-UK EU nationals – almost 100,000 workers<sup>20</sup>. About 15% of the academic workforce of UK universities are non-UK EU nationals<sup>21</sup>. A

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broad collation of business and civil society voices has been pushing for the Government to provide clarity and a secure status for EEA+ nationals. We hope the Inquiry's recommendations will be a useful focus for these individuals and organisations, as well as informing the media and political debate on such an important political, economic and moral issue.

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## 2. EEA+ nationals in the UK

Article Six of EC Directive 2004/38/EC - commonly known as the freedom of movement directive - gives EU nationals and their immediate family members the right to reside in another EU country for an initial three month period. Article Seven of the same directive gives nationals and their family member further rights of residence in an EU country, providing they fulfil certain conditions. These directives are incorporated into UK law through the Immigration (European Economic Area) Regulations 2006. Essentially, EEA+ nationals can remain in the UK and be termed a ‘*qualified person*’ under EU and UK law if they are (i) in employment (ii) self-employed (iii) job-seekers, although they lose their right to reside as job-seekers after 91 days (iv) students and (v) self-sufficient persons.

The EEA Agreement, signed in 1992 between the EU and most EFTA countries, enables Iceland, Liechtenstein and Norway to participate in the Single Market and commits them to the same rules regarding freedom of movement. Switzerland rejected membership of the EEA in a referendum in 1992, but signed a bilateral agreement with the EU in 1999 that (taken with EFTA states) allows for freedom of movement within 32 European states for qualified persons.

In the short term, the status of Irish nationals in the UK appears to be unaffected by Brexit. Their residency rights in the UK derive from the Ireland Act 1949 which grants “non-foreign” status to Irish nationals and gives them permanent settlement as soon as they move to live in the UK<sup>22</sup>. The ability of the UK to offer preferential treatment to Irish nationals may be the subject of negotiation between the EU and the UK. Leaving the EU may also require that the Immigration (Control of Entry through Republic of Ireland) Order 1972 is amended, subject to negotiations on visa free travel and freedom of movement. However, nationals of most member states, three additional EEA member states and Switzerland are likely to see changes to their current immigration status. The Inquiry’s remit focuses on the future immigration status and social rights of EEA+ nationals who are currently qualified persons in the UK.

This section of the report provides a context to the issues examined by the Inquiry and where relevant draws on written evidence submitted to the Inquiry. It sets out the settlement, citizenship and social rights currently afforded to EEA+ nationals. Some of the demographic and the socio-economic characteristics of EEA+ nationals living in the UK - population size and patterns of work – have a bearing on the administrative challenges faced by the Government and are also examined in this section.

### 2.1 Population size

The Annual Population Survey provides the most up-to-date estimates about the size and characteristics of EEA+ nationals living in the UK, although there are a number of shortcomings in this data. It excludes short-term migrants who intend to be in the UK for less than a year, as well as people who are not ordinarily resident in the UK. Importantly,

from the perspective of the Inquiry, the Annual Population Survey does not have the capacity to record dual nationality, instead recording what is judged to be a respondent's 'first' nationality<sup>23</sup>.

Despite these caveats, the Annual Population Survey suggests that there were 2.83 million EEA+ nationals living in the UK in December 2015, excluding those of Irish nationality (Table 1). The largest national group were those of Polish nationality, comprising nearly a third (32%) of the population of EEA+ nationals in the UK.

**Table 1: Country of birth and nationality data for the largest groups of EEA+ nationals in UK, 2015**

	UK resident population by country of birth	% of country-of-birth group who are nationals of this country	% who country-of-birth group who are British nationals	% who are nationals of a third country	UK resident population by nationality	Non-British population born in UK	Non-British population born in 3 <sup>rd</sup> country
Poland	831,000	97%	3%	<1%	916,000	108,000	<5,000
Ireland	382,000	82%	18%	<1%	332,000		
Germany	286,000	36%	62% <sup>24</sup>	2%	135,000	12,000	21,000
Romania	220,000	94%	4%	2%	233,000	18,000	9,000
Italy	162,000	86%	11%	3%	192,000	14,000	40,000
France	153,000	79%	17%	4%	165,000	17,000	28,000
Lithuania	151,000	97%	<1%	<1%	170,000	20,000	<5,000
Portugal	140,000	94%	5%	<1%	219,000	20,000	67,000 <sup>25</sup>
Spain	125,000	86%	13%	1%	132,000	6,000	19,000
Latvia	94,000	91%	4%	5%	97,000	8,000	<5,000
Slovakia	85,000	98%	1%	1%	93,000	8,000	6,000
Hungary	80,000	92%	8%	<1%	82,000	<5,000	6,000
Netherlands	69,000	77%	20%	3%	81,000	8,000	20,000 <sup>26</sup>
Bulgaria	69,000	89%	11%	<1%	66,000	<5,000	<5,000
Cyprus	60,000	13%	78%	8%	13,000	<5,000	5,000
Greece	57,000	82%	18%	2%	56,000	5,000	9,000
Czech Republic	49,000	88%	8%	4%	45,000	<5,000	<5,000

Source: Annual Population Survey, 2015<sup>27</sup>

The Annual Population Survey provides data on migrants' date of arrival in the UK. This is important to consider, as it gives an indication of the number of EEA+ nationals who may already qualify for Permanent Residence, being likely to have fulfilled the five years residency needed to acquire this status. Annual Population Survey data suggests that 64% of EEA+ nationals (about 1.8 million people) had first arrived in the UK before 2011 and may now qualify for Permanent Residence. Should uncertainty about their future prompt the majority of

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this group to apply for Permanent Residence the Home Office would be faced with a substantial immigration caseload.

**The Inquiry looked at ways that the Home Office might process large numbers of applicants for Permanent Residence and makes recommendations detailed in Chapter Three.**

## 2.2 Cut-off dates

A crucial question for the Inquiry was to consider what might comprise a fair and legally watertight cut-off date - after which changes to the settlement, citizenship and social rights of newly-arrived EEA+ nationals might apply and before which those EEA+ nationals already here would be entitled to stay.

Setting a cut-off date is the issue that has attracted the greatest amount of media commentary. The issue of immigration surges has been raised as part of this debate, with suggestions that significant numbers of EEA+ migrants would move to the UK prior to changes to their status being implemented.

The Government could avoid these increased migration flows by (i) setting a cut-off date prior to the day that the UK leaves the EU and (ii) limiting the time period between the cut-off date and its announcement. It usually takes a number of weeks to travel to the UK, find and take up work, so becoming a ‘qualified person’. There is also a high bar in proving “job-seeker” status, which is, in any case, restricted to 91 days. Home Office guidance states that an EEA+ national must be able to show evidence that they are seeking employment and have a genuine chance of being engaged: for example evidence of job interviews, evidence of qualifications, a National Insurance number, registration with Job Centre Plus and recruitment agencies. Gathering such evidence would usually take a number of weeks.

There are a number of approaches to setting cut-off points, reflected in written evidence submitted to the Inquiry. Possible dates include:

- The day of the EU referendum
- The triggering of Article 50
- The repeal of the Immigration (European Economic Area) Regulations 2006
- The day that the UK leaves the EU.

The concept of *legitimate expectation* appears to be an important legal and moral principle that is relevant to the Inquiry’s task. It underpins English public law and draws from the concepts of natural justice and fairness. Arguments about legitimate expectation have previously been used in immigration law, when non-EEA+ migrant doctors already present in the UK through the Highly Skilled Migration Programme were banned from applying for training posts in hospitals<sup>28</sup>.

Retrospective changes to their status are unfair as EEA+ nationals who



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have settled in the UK could legitimately expect their status to remain secure when they moved here. But written evidence also argued that EEA+ nationals who arrive in the UK after Article 50 is triggered could legitimately expect future changes to their immigration status.

*“It is legitimate to expect that those who enter the UK after Article 50 is triggered are on notice that the UK is leaving [the EU].”* (Evidence from the Joint Council for the Welfare of Immigrants).

It should be noted that the legal and constitutional status of the EU referendum is uncertain. As well as being unfair to EEA+ nationals, retrospectively setting 23 June 2016 as a cut-off date may, therefore lead to legal challenges.

**The Inquiry considered the different approaches to setting cut-off dates and makes recommendations detailed in Chapter Three.**

### **2.3 Criteria for Permanent Residence**

Once Article Seven rights have been secured, a person can apply to the Home Office for a Registration Certificate that shows they are legally resident in the UK. This costs £65 and may take six months to process, although the Home Office has a small number of on-the-day appointments through Premium Service Centres for qualified persons. For family members and carers of EEA+ nationals, the Home Office issues a similar document to the Registration Certificate called a derivative residence card which also costs £65. Some 40,058 applications for Registration Certificates and residence cards were granted in 2015, while another 24,871 applications were refused or declared invalid, 40% of total applications. The Home Office website is not clear about the merits of applying for a Registration Certificate, saying that qualified EEA+ nationals do not need them, although they can prove the right to work in the UK and can be of use to those needing to apply for benefits and services.

For EEA+ nationals there is a stronger merit in applying for Permanent Residence, as 12 months’ Permanent Residence is needed before a person can apply to become a British citizen. As with Indefinite Leave to Remain (ILR) for non-EEA+ nationals, Permanent Residence gives settled status, enabling people to live in the UK permanently without time limits on their stay. However, Permanent Residence differs from ILR in a number of significant ways:

- Permanent Residence is an immigration status that derives from the UK’s membership of the EU, with its legal basis underpinned by Directive 2004/38/EC as set out in Immigration (European Economic Area) Regulations 2006. If these regulations are revoked when the UK leaves the EU, Permanent Residence will no longer exist as an immigration status.
- Applicants for Permanent Residence do not need to pass the citizenship test and meet the English language criteria whereas applicants for ILR need to do so.

- An applicant for Permanent Residence currently does not have to show that they are of “good character”, unlike those who apply for ILR or British citizenship where there is detailed Home Office guidance on the types of criminal convictions that justify refusal<sup>29</sup>.
- There is no salary threshold for Permanent Residence, but those who are applying for ILR after a Tier 2 visa have to meet a £35,000 salary threshold unless they are on a shortage occupation list, or fall into the category of certain other exempted workers<sup>30</sup>.
- Permanent Residence for EEA+ nationals does not become invalid if a person leaves the country for more than two years, whereas a two-year period of absence from the UK for those with ILR means that a person loses their right to settlement.
- Permanent Residence is much cheaper than ILR, costing the applicant £65 compared to £1,875 for most categories of ILR.

**The Inquiry considered the best approach to replace Permanent Residence and the criteria that an applicant will need to fulfill in order to be granted a replacement status. It makes recommendations detailed in Chapter Three.**

## **2.4 Family migration**

The spouses/civil partners and dependent children (under 21) of qualified persons can reside in the UK, although if the qualified person is a student or self-sufficient person they will need comprehensive sickness insurance. These rights are kept as ‘retained rights of residence’ if that qualified person dies, leaves the UK or divorces/dissolves their civil partnership. There are some additional categories of family members of qualified persons who can reside in the UK:

- extended family members who are dependent on the EEA+ qualified person or their spouse/civil partner, for example, a dependent parent<sup>31,32</sup>.
- Those in a “durable relationship” with a qualifying EEA+ national, with considerable amounts of evidence needed to show this.

In some respects EEA+ nationals have privileged rights to family migration over UK and non-EEA+ nationals, in that they can bring in family members without having to fulfil a minimum income threshold required of other groups. These amount to needing an annual income of £18,600 to bring in a spouse/partner, or £22,400 for spouse/partner and one child. The Spouses or partners of UK or non-EEA+ nationals who wish to enter the UK also have to show basic (A1 Level) competency in English and pay a visa fee of £1,195. The minimum income threshold requirement has divided a number of families and led to vocal campaigning<sup>33</sup>.

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**The Inquiry considered whether the UK should give EEA+ nationals additional family migration rights permanently, or for a transitional period after the UK leaves the EU, and makes recommendations detailed in Chapter Three.**

## **2.5 Access to public funds**

EEA+ nationals who are qualified persons have many of the same social citizenship rights as UK nationals or those with settled status with similar personal circumstances. This includes in- and out-of-work benefits, access to the NHS, social housing, access to student finance and home student fees in further and higher education. Pension uprating for EEA+ (and UK) nationals who retire to another country may also be affected when the UK leaves the EU. Currently, those living in EEA+ states who receive a UK state pension see its amount up-rated annually whether they remain in the UK or retire to an EEA+ country. Upratings are also payable in countries and territories with which the UK has a reciprocal social security agreement that requires increases to be paid<sup>34</sup>.

**The Inquiry considered pensions and whether the UK should grant EEA+ nationals these additional benefits permanently, or for a transitional period after the UK leaves the EU, and makes recommendations detailed in Chapter Three.**

## **2.6 Home Office processes**

An applicant for Permanent Residence must have been present in the UK for five years and not have been out of the UK for more than 180 days in each of the last five years. The application form is lengthy – 85 pages and another 18 pages of guidance notes. An application for Permanent Residence can take up to six months to process, although the Home Office is trialing a simplified online process<sup>35</sup>. Despite this review of practice, there was a strong consensus among organisations that submitted written evidence that the process of applying for Permanent Residence requires simplification and additional resourcing if the Home Office was to cope with an increased number of applicants. Some 18,064 Permanent Residence cards were granted in 2015. Given this rate of processing, it would more than 150 years to clear 2.8 million applications.

*“It is absolutely essential that the process of establishing Permanent Residence is reformed. Unless this is done, many EEA nationals and their family members who have every right to be here and to remain here as permanent residents will be transformed into ‘illegal migrants’ by the obtuseness of current Home Office practice.”* (Evidence from the Joint Council for the Welfare of Immigrants)

*“The Home Office is understaffed for its current tasks and this is getting worse. There is simply no way that it could cope with having to examine, on a case-by-case basis, the documentation of up to 3 million people. There would be huge delays. Tens of thousands of people would be wrongly rejected and would have to appeal, making things worse. At the same time to be remotely practicable the checks would have to be very light touch, making the system wide open to fraud.”*

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(Individual evidence).

Issues raised in the written evidence that related to Home Office processes included:

- A lack of clarity about the documentation that is needed so as to apply for Permanent Residence.
- An overly demanding process that places unnecessary burdens on individuals and employers.
- High rates of refusal among those applying for Permanent Residence.

Home Office statistics also suggest a high refusal rate for Permanent Residence with 9,207 (34% of total applications) refused or declared invalid in 2015. Applications for Permanent Residence increased in 2016, with 21,208 of them in quarter three 2016, a 239% increase compared with the same period in 2015. The percentage of applications refused or declared invalid stood at 32% of applications in this quarter. This is a higher proportion of refusals than for applicants for ILR, where refusal rates stood at 5% in 2015. An increased refusal rate was a trend which began in 2011 and it is not known why this is, although reasons for rejection cited in the evidence included:

- Incomplete documentation, particularly among those who have been self-employed workers;
- An absence or breaks in comprehensive sickness insurance;
- Failure to register with the Workers Registration Scheme or Workers Authorisation Schemes covering EU8 and EU 2 nationals respectively.

*“The problem is finding the evidence required to prove eligibility. This is difficult as we lost documents over the years and contacts within job agencies and with various employers are no longer in place....Proving address is difficult as we did not keep all the relevant documents from 2006 and landlords also disappear too. Our gas and electricity supplier (E-on) only allows one named person on the bills and account.”*

(Individual evidence).

*“I will have been here five years in September 2017, however only one of those years would count towards getting permanent residency. Why? Because four of those years I was a student and didn't have the “comprehensive health insurance” that the government requires in order for students, entrepreneurs, and self-sufficient persons to apply for PR....Nobody told us we needed to have health insurance when we entered the UK or used the NHS, so it was a shock to suddenly figure out for many of us.”* (Individual evidence).

Those who are qualified persons as a consequence of being employed or self-employed are allowed to use the NHS free of charge but students, the self-sufficient and family members of students and self-sufficient persons need comprehensive sickness insurance to reside

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in the UK under Article Seven. This usually means private medical insurance or a European Health Insurance Card (EHIC), although there is little guidance about what is needed<sup>36</sup>. However, significant numbers of EEA+ nationals do not appear know about this requirement, which was introduced in 2004<sup>37</sup>, particularly from EU14 countries.

### **The Inquiry considered ways in which the process of applying for Permanent Residence might be simplified and made less**

**burdensome for individuals and employers who may be asked to provide supporting evidence, and makes recommendations detailed in Chapter Three.**

## **2.7 Groups that may struggle to fulfil the criteria needed for Permanent Residence**

Evidence to the Inquiry suggested that some groups of EEA+ nationals may struggle to show that have been qualified persons for the required time period, and thus may face great difficulty in satisfying the criteria for Permanent Residence. These groups are likely to include:

1. Those who have qualified under more than one category during their time in the UK, for instance someone who arrived as a student then found a job. This practice can impact on the collection of evidence needed to establish Permanent Residence in the UK.
2. The self-employed, who comprise an estimated 9% of EEA+ nationals (Table 2). While many self-employed EEA+ nationals have kept records of their tax and national insurance contributions, not all have done so.
3. Those who have worked for unscrupulous employers who have failed to provide pay slips or to pay tax and National Insurance contributions.
4. Victims of trafficking.
5. The former partners of qualifying EEA+ nationals who are unable to access evidence due to the breakdown of their relationships. This group may include victims of domestic violence.

*“There are certain groups of EU nationals and family members who already have difficulty in proving their legal right to reside in the UK. Notably victims of domestic violence who have separated from the qualifying EU national often have no access to evidence of the qualifying person’s exercise of rights of free movement under EU law. Although there is a Home Office policy in place which supposedly deals with this particular problem, it seems that the case owners making decisions have absolutely no knowledge of their own policy and do not apply it. Again this would require better trained staff to apply the applicable law and policy.”* (Evidence from Greater Manchester Immigration Aid Unit).

6. Looked-after children or care leavers are another group who may struggle to fulfil the criteria needed for Permanent Residence as they may no longer be a family member of a qualified person. Neither the Department for Education, nor the relevant bodies in the devolved administrations, keeps data on looked-after children or care leavers that is broken down by nationality, but in England there were 1,620 children of ‘any other white background’ who had been looked after continuously by a local authority for a 12 month period as of 31 March 2016<sup>38</sup>. At present there are child protection safeguards and immigration processes that apply to looked after children from outside the EEA+ Applications for Indefinite Leave to Remain can be made on behalf of looked after children who are not asylum-seekers. Section 55 of the Borders, Citizenship and Immigration Act 2009 contains a mandatory duty on the UK Border Agency and others to safeguard and promote the welfare of children in the UK as they carry out their functions. These safeguards will remain after the UK leaves the EU. The issue is not these safeguards, but the lack of legal representation for such children, as immigration cases from the EU do not normally qualify for legal aid<sup>39</sup>.

**Table 2: Economic activity among EEA+ nationals, 2015**

Economic activity	Numbers	Percentage share of EEA+ nationals
Employee	1,695,000	51%
Self-employed	314,000	9%
Unemployed	111,000	3%
Economically inactive - student	135,000	4%
Economically inactive - retired	221,000	7%
Economically inactive – looking after family	162,000	5%
Under 16	563,000	17%
Other	115,000	3%

Source: Annual Population Survey, 2015.

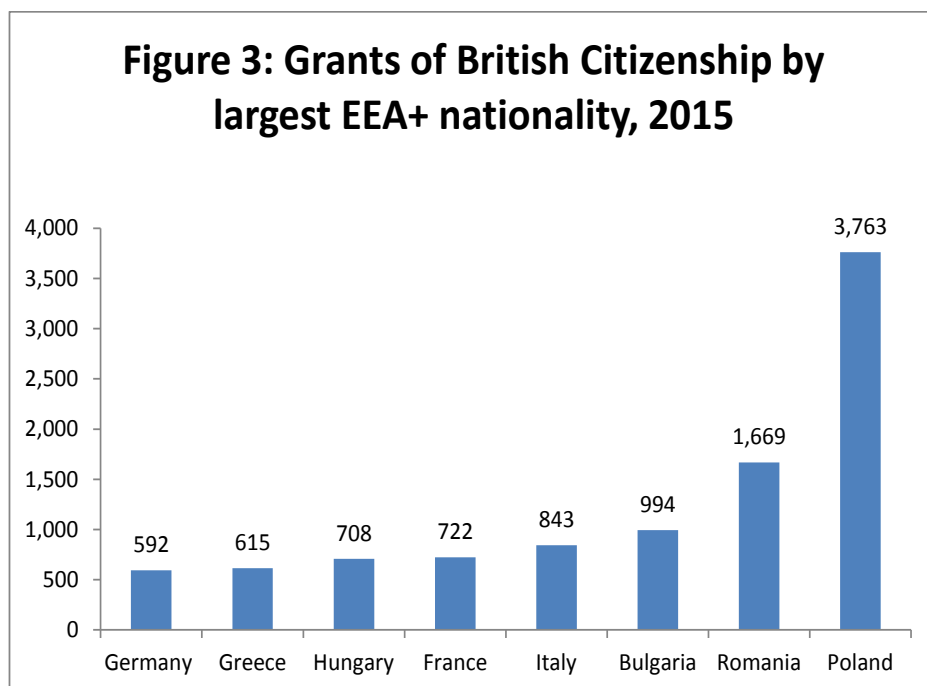
As well as protection afforded by the Human Rights Act 1998, there are humanitarian provisions within the immigration law, for example, to protect victims of trafficking. However, legal advice would be needed to make such a human rights application and EEA+ nationals are normally excluded from legal aid for immigration cases.

**The Inquiry looked at the availability of advice and legal aid and considered how the Home Office should approach groups that might be entitled to Permanent Residence but struggle to show their legal residence in the UK, and makes recommendations detailed in Chapter Three.**

## 2.8 British citizenship

The most recent citizenship data shows that between 1990 and 2015 there were just over 140,000 grants of British citizenship to EEA+

nationals, of which about half were granted in the last five years. In 2015, there were 17,158 grants of British citizenship to EEA+ nationals, up by 48% over the previous year. Of these 34% were from EU14 nations, 44% to EU8 nationals, 21% to EU2 nationals and 1% to other EU nationals. Citizens of Poland accounted for the largest number of applications (Figure 3). This compares with 100,994 grants of British citizenship to nationals of non-EEA+ countries in the same year.



Source: Home Office immigration table cz\_06.

All EEA+ countries, with the exception of Austria, now allow dual citizenship. Austrian nationality law substantially restricts dual citizenship, although Austrian citizenship can be retained with special permission for those who take on the nationality of another country. The relaxation in nationality laws has been quite recent in countries such as Estonia and Lithuania. However, previous laws that have restricted dual citizenship have not been the reason that comparatively small numbers of EEA+ nationals have not become British citizens. Rather, studies suggest that take-up has been low because EEA+ nationals have previously not felt the need for the security afforded by British nationality.

An EEA+ national can apply for naturalisation as a British citizen as an individual after at least 5 years of residence, or as a spouse/civil partner of a British citizen after at least three year of residence. To apply for naturalisation a person must:

- Be 18 or over;
- Be of good character;
- Have passed the citizenship test and fulfil the English language

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requirements;

- Be legally resident in the UK for five years before the date of application and have held Permanent Residence (if an EEA+ national) or ILR for at least a year before; and
- Not have been absent from the UK for more than 450 days in the last five years and 90 days in the last year.

Children of EEA+ nationals who were born abroad usually gain citizenship through registration. Where one or both parents are applying for British citizenship they may apply for one or more children who are not automatically British at birth to be registered as British citizens as part of a “family application”

When applying for citizenship a person can make the application themselves, use a local authority Nationality Checking Service (NCS), or use a lawyer or other agent to help them make the application. As of July 2016, there were 123 Nationality Checking Services in England, five in Wales, six in Scotland and none in Northern Ireland. While all will help applicants make an application for citizenship, some also help with applying for the first passport, ILR and permanent residency applications. They charge for this service with prices varying from £50 to £80 for checking documents for citizenship. NCS staff are regulated by the Office of the Immigration Service Commissioner (OISC). Users of these services do not have to live in the local authority to use the NCS. There are a few areas where there are large populations of EU nationals but are not well-served by either legal advisers or NCSs and applicants would have to travel considerable distances to find a NCS<sup>40</sup>.

The costs of applying for British citizenship are substantial. For a family of EEA+ nationals of two adults and two children under 18 the cost of getting citizenship is £5,511<sup>41</sup> excluding travel costs. If EEA+ nationals were to be treated the same way as non-EEA+ nationals after the UK leaves the EU, the price of citizenship rises to £12,881.

**The Inquiry considered the costs of applying for citizenship and makes recommendations detailed in Chapter Three.**



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### 3. The Inquiry's recommendations

As noted in the previous sections, in making its recommendations the Inquiry panel considered the following issues:

- Cut-off dates, after which changes to the settlement, citizenship and social rights of newly-arrived EEA+ nationals might apply;
- Options for granting EEA+ nationals currently in the UK settlement and citizenship rights;
- Family migration;
- Access to public funds, pensions, student loans and fees in further and higher education;
- Home Offices processes for applying for settlement;
- The treatment of EEA+ nationals who might struggle to show legal residence in the UK; and
- The provision of advice and legal representation for immigration cases.

#### 3.1 Cut-off dates

There are a number of approaches to setting cut-off points, after which changes to the settlement, citizenship and social rights of newly-arrived EEA+ nationals might apply. These include the day of the EU referendum, the day when Article 50 is triggered, the repeal of the Immigration (European Economic Area) Regulations 2006 or when the UK leaves the EU. It should be noted that the legal and constitutional status of the EU referendum is uncertain and retrospectively setting 23 June 2016 as a cut-off date may lead to legal challenges.

The Inquiry believes that *legitimate expectation* is an important legal and moral principle that should underpin the treatment of EEA+ nationals. Retrospective changes to their status are unfair as EEA+ nationals who have settled in the UK could legitimately expect their status to remain secure when they moved here. However, the Inquiry panel considers that it is legitimate to expect that those who enter the UK after Article 50 is triggered are on notice that the UK is leaving the EU and may see change to their status.

**The Inquiry recommends, as a cut-off date, the day that Article 50 is triggered or whatever legal mechanism the Government chooses to show it is leaving the EU.**

#### 3.2 EEA+ nationals who already qualify for Permanent Residency

The Inquiry recommends that EEA+ nationals who can show five years' residency in the UK be offered Permanent Residence as it currently stands. This approach would offer a clear status (and pathways to citizenship) for an estimated 1.8 million of EEA+ nationals currently estimated to be living in the UK.

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### **3.3 Converting Permanent Residence into a bespoke ILR status after the UK leaves the EU**

The Inquiry recommends that the UK Government pass regulations automatically to convert Permanent Residence into a bespoke Indefinite Leave to Remain (bespoke ILR) for EEA+ nationals on the date that the UK leaves the EU.

### **3.4 EEA+ nationals currently living in the UK, but who have not been resident for sufficient time to qualify for Permanent Residence**

An estimated one-third of EEA+ nationals currently living in the UK have not accrued the necessary period of residence to qualify for Permanent Residence. Some of them will do so before the UK leaves the EU and will thus be able to apply for Permanent Residence. But there will be others who will not qualify for Permanent Residence before the UK leaves the EU. The Inquiry recommends that those who were ‘qualified persons’ exercising their treaty rights on the specified cut-off date be allowed an additional five years transition after the UK leaves the EU to apply for a bespoke ILR status reserved for this group of EEA+ nationals.

### **3.5 Qualification conditions for bespoke ILR**

Applicants for bespoke ILR should have to fulfil the ‘good character’ requirements that non-EEA+ nationals have to fulfil when they apply for ILR, but should not be required to pass the citizenship test or meet the English language and salary threshold requirements needed for ILR, for a five year transitional period.

### **3.6 Capping the cost of bespoke ILR**

Non-EEA+ nationals who apply for ILR (which they need before applying for British citizenship) are faced with a higher charge, of £1,875 per person in most cases, than those who apply for Permanent Residence. The Inquiry recommends that EEA+ nationals who were qualified persons on the specified cut-off date should have their costs of applying for bespoke ILR capped at a cost that should not exceed the price of a first passport (currently £72).

### **3.7 Children in public care and care leavers**

There are a small number of looked-after children or care leavers who may no longer be a family member of a qualifying EEA+ national. This number is likely to be less than 1,000 children and young people. The Inquiry recommends that the Home Office clarify the position of this group, offering them Permanent Residence or bespoke ILR in the same manner as other EEA+ nationals. Where needed, those providing legal representation for these children should have access to legal aid. The Home Office and the Ministry of Justice should communicate their decisions to all local authorities and other relevant organisations.

### **3.8 Family migration**

The Inquiry recommends that EEA+ nationals who were qualified persons on the specified cut-off date, or who have Permanent Residence

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or bespoke ILR, keep their previous rights to family migration for a five-year transition period after the UK leaves the EU. This means that they will be able to bring in immediate family members without having to fulfil a minimum income or English language threshold, or pay the visa fee charged to EEA+ nationals.

### **3.9 Social and educational rights**

EEA+ nationals without Permanent Residence enjoy some privileges over non-EEA+ nationals in relation to their access to public funds, the NHS, social housing and fee status in further and higher education. The Inquiry recommends that EEA+ nationals who were qualified persons on a specified cut-off date see these privileges continue for a five year transition period after Britain leaves the EU.

#### **3.10 Pension up-rating for those retiring to EEA+ countries**

Currently, those living in EEA+ states who receive a UK state pension see its amount up-rated annually whether they remain in the UK or retire to an EEA+ country. Upratings are also payable in countries and territories with which the UK has a reciprocal social security agreement that requires increases to be paid<sup>42</sup>. It is hoped that the UK will sign such an agreement with the EU. Should this not happen, the Inquiry recommends that EEA+ nationals who were qualified persons on the specified cut-off date receive the same annual pension up-rates as UK nationals living overseas.

#### **3.11 Processes for applying for Permanent Residence and bespoke ILR**

An estimated 1.8 million EEA+ nationals may already qualify for Permanent Residence and the following months are likely to see a substantial increase in applications for Permanent Residence to the Home Office. So as to avoid backlogs, the Inquiry recommends reform to the application process, which is onerous for the applicant and places a substantial administrative burden on the Home Office. In particular, the Inquiry suggests:

- (a) With additional Home Office resourcing and support, local authority Nationality Checking Services should be given the first-line responsibility for processing and approving applications for Permanent Residence, and should be allowed to charge £65 to cover their costs for doing so.
- (b) Those who are qualified persons by virtue of their employment or self-employment should initially no longer be required to produce contracts of employment, pay slips and evidence of their qualifications. Rather, local authority Nationality Checking Services and the Home Office should establish residence in the UK by checking applicants income tax, National Insurance and tax credit payments against the HMRC and DWP databases where possible. Applicants should have to meet the good character requirements that non-EEA+ nationals have to fulfil when they apply for ILR and applications would be screened against a list of individuals whom the Home Office

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and Ministry of Justice seeks to exclude on the grounds of past criminal convictions.

- (c) More complex applications for Permanent Residence should be passed on from local authority Nationality Checking Services to a dedicated ‘complex cases’ team within the Home Office. Applications that might be dealt with by the Home Office include those where applicants cannot provide sufficient documentation to establish they have been a qualified person over the required time period, or where they have been convicted of a criminal offence.
- (d) The Home Office should not refuse applications for Permanent Residence or bespoke ILR solely on the basis of not holding comprehensive sickness insurance.

### **3.12 Advice for EEA+ nationals.**

The Inquiry recommends that the Home Office undertakes an information campaign targeted at EEA+ nationals when it has made a clear decision about the processes to secure their status. This campaign should provide clear information about processes and sources of further advice and help for applicants. The Inquiry also recommends that Citizens Advice and other relevant organisations be funded to offer advice to EEA+ nationals who might struggle to apply for settlement, with some of this support targeted at the self-employed and other vulnerable groups of workers.

### **3.13 Status of UK nationals in the EU**

While this is not the focus of the Inquiry, the Inquiry recommends that offering the above conditions to EEA+ nationals is the best way to secure the future status of UK nationals in the EU. This means that the Government can legitimately expect similar conditions to be offered to UK nationals in return.

For those UK nationals who are in the EU with non-EU family members and return to the UK before the cut-off date, it should logically follow that they would retain the rights relating to their family members based on EU law in the same way that EU citizens already in the UK on the date retain theirs.

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## Notes and references

<sup>1</sup> Excludes Irish Nationals

<sup>2</sup> ICM poll for British Future of 2,418 GB adults undertaken 24-26 June 2016.

<sup>3</sup> Directive 2004/38/EC and the UK's Immigration (European Economic Area) Regulations 2006 give EEA+ nationals the right to live in the UK and be termed a '*qualified person*' if they are if they are in employment, students, self-sufficient person or job-seekers although they lose the right to remain as a job-seeker after 91 days. Immediate family members of these four groups can also live in the UK as qualified persons.

<sup>4</sup> The rights of Irish nationals to live in the UK are unlikely to be affected by the UK's decision to leave the EU.

<sup>5</sup> Source: Annual Population Survey 2015.

<sup>6</sup> Source: Annual Population Survey 2015.

<sup>7</sup> Evidence submitted by the Cavendish Group to the Inquiry.

<sup>8</sup> Evidence submitted by the Food and Drink Federation to the Inquiry.

<sup>9</sup> Annual Population Survey 2015.

<sup>10</sup> Home Office Immigration Statistics.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Jobseekers can only remain in the UK for 91 days without employment before they lose their freedom of movement right to stay in the UK.

<sup>14</sup> ICM poll for British Future of 2,418 GB adults undertaken 24-26 June 2016.

<sup>15</sup> [http://www.voteleavetakecontrol.org/restoring\\_public\\_trust\\_in\\_immigration\\_policy\\_a\\_points\\_based\\_non\\_discriminatory\\_immigration\\_system.html](http://www.voteleavetakecontrol.org/restoring_public_trust_in_immigration_policy_a_points_based_non_discriminatory_immigration_system.html).

<sup>16</sup> <https://hansard.parliament.uk/commons/2016-11-30/debates/D1700BDE-56C8-4969-BF44-5B630EBEE0B8/Engagements>.

<sup>17</sup> <http://www.childrenscommissioner.gov.uk/publications/family-friendly>.

<sup>18</sup> See Appendix for a list of the organisations that submitted evidence.

<sup>19</sup> Evidence submitted by the Cavendish Group to the Inquiry.

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<sup>20</sup> Evidence submitted by the Food and Drink Federation to the Inquiry.

<sup>21</sup> Universities UK, July 2016: <http://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2016/uuk-parliamentary-briefing-4-July-2016.pdf>

<sup>22</sup> Ryan, B. (2016) *The implications of UK withdrawal for immigration policy and nationality law: Irish Aspects*, London: Immigration Law Practitioners Association.

<sup>23</sup> The Census counts dual nationality, with 613,940, or 1.1% of the population, listed as having a UK passport and that of another nationality in 2011, although it does not provide a detailed country breakdown of dual nationality.

<sup>24</sup> Population includes Germany-born children of British servicemen.

<sup>25</sup> Mostly Brazil.

<sup>26</sup> Mostly Somalia.

<sup>27</sup> Belgium = 35,000; Sweden = 31,000; Denmark = 28,000; Malta = 28,000.

<sup>28</sup> <http://www.telegraph.co.uk/news/newstoppers/lawreports/1935757/R-BAPIO-ACTION-LTD-and-ANR-v-HOME-SECRETARY.html>

<sup>29</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/406368/Chapter\\_18\\_Annex\\_D\\_v02.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/406368/Chapter_18_Annex_D_v02.pdf).

<sup>30</sup> There has been a health service led campaign against this.

<sup>31</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/488450/Extended\\_Family\\_Members\\_v2.0\\_ext\\_clean.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/488450/Extended_Family_Members_v2.0_ext_clean.pdf).

<sup>32</sup> If qualified person is a student or self-sufficient person, comprehensive sickness insurance is needed for these additional categories of family.

<sup>33</sup> <http://www.childrenscommissioner.gov.uk/publications/family-friendly>

<sup>34</sup> <https://www.gov.uk/state-pension-if-you-retire-abroad/rates-of-state-pension>.

<sup>35</sup> <http://www.theguardian.com/politics/2016/sep/01/home-office-prepares-for-rise-in-residency-applications-from-eu-migrants>.

<sup>36</sup> Evidence submission and <https://www.freemovement.org.uk/comprehensive-sickness-insurance-what-is-it-and-who-needs-it/>.

<sup>37</sup> Aire Centre (2012) *Note on EEA Applications and Comprehensive Sickness Insurance Cover*, London: Aire Centre.

<sup>38</sup> <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2015-to-2016>.

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<sup>39</sup> Evidence submitted by the Coram Children’s Legal Centre.

<sup>40</sup> Including all Northern Ireland, Dundee area, Wrexham and central Wales, south Lincolnshire, Boston.

<sup>41</sup> Obtaining Permanent Residence for two adults = £130. Life in the UK test for two adults = £100, plus travel English language test for two adults = £300, plus travel. Nationality checking service for family @ average price of £80 per head adult, £40 child on family application = £240. Home Office naturalisation fee for two adults= £2,472. Home Office citizenship registration fee for two children = £1,872. Citizenship ceremony for 2 adults = £160, plus travel. First passports = £237, plus travel to interview. When the UK leaves the EU, the cost of citizenship for this notional family will increase to £12,881 if EEA nationals are treated as non-EEA nationals.

<sup>42</sup> <https://www.gov.uk/state-pension-if-you-retire-abroad/rates-of-state-pension>.

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## Evidence to the Inquiry

Written evidence was received from 33 individuals, some of whom wished to remain anonymous. Additionally, 36 organisations provided written evidence, listed below.

Anti-Brexit Campaigners West Midlands

Association of Labour Providers\*

BE FESTIVAL

Brexpats

British Chambers of Commerce\*

Bulk Products

Cavendish Coalition for Health and Social Care\*

Coram Children's Legal Centre

Office of Anneliese Dobbs MEP

EY\*

Feedback

Food and Drink Federation\*

Greater Manchester Immigration Aid Unit

Independent Age

Immigration Law Practitioners Association (ILPA)\*

IPPR

Joint Council for the Welfare of Immigrants

Liberty

Kaybee Communications

Kingsley Napley LLP

Migrants Rights Network

Migration Observatory, University of Oxford

Migration Policy Institute, Washington DC

Migration Watch

National Institute for Economic and Social Research

NHS Employers\*

Prospect



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Recruitment and Employment Federation\*

TechUK\*

The 3 Million\*

TUC

UK Race and Europe Network,

Universities and Colleges Union

University of Sheffield (including student union)

Voluntary Organisations Disability Group\*

Winchester Growers

\*Included evidence submitted by members or clients.

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## Acknowledgements

The Inquiry would like to thank Jill Rutter, Steve Ballinger and Elizabeth Gibson of British Future who acted as its secretariat. We would like to thank the members of the Inquiry panel for taking part. Panel members sat as individuals and so the Inquiry's recommendations do not necessarily represent the policies of their organisations. It is also grateful to the TUC and the Institute of Directors who provided funding to run the Inquiry. The Inquiry would also like to thank the 3 Million for their help in organising the public meeting in Coventry.

## About British Future

British Future is an independent, non-partisan think tank engaging people's hopes and fears about integration and migration, opportunity and identity, so that we share a confident and welcoming Britain, inclusive and fair to all. The organisation did not take a position on which way people should vote in the EU referendum. Since British Future's founding in 2012 it has conducted research on public attitudes to these issues in the UK, projecting our findings publicly to inform national debate. Its attitudinal research has contributed to discussions on issues such as the protection of refugees, EU migration, views about international students, migrant integration and Englishness. British Future's recent publications include:

*How (not) to talk about Europe*, January 2016.

*Disbanding the tribes: what the referendum told us about Britain (and what it didn't)*, July 2016.

*What next after Brexit? Immigration and integration in post-referendum Britain*, August, 2016.

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