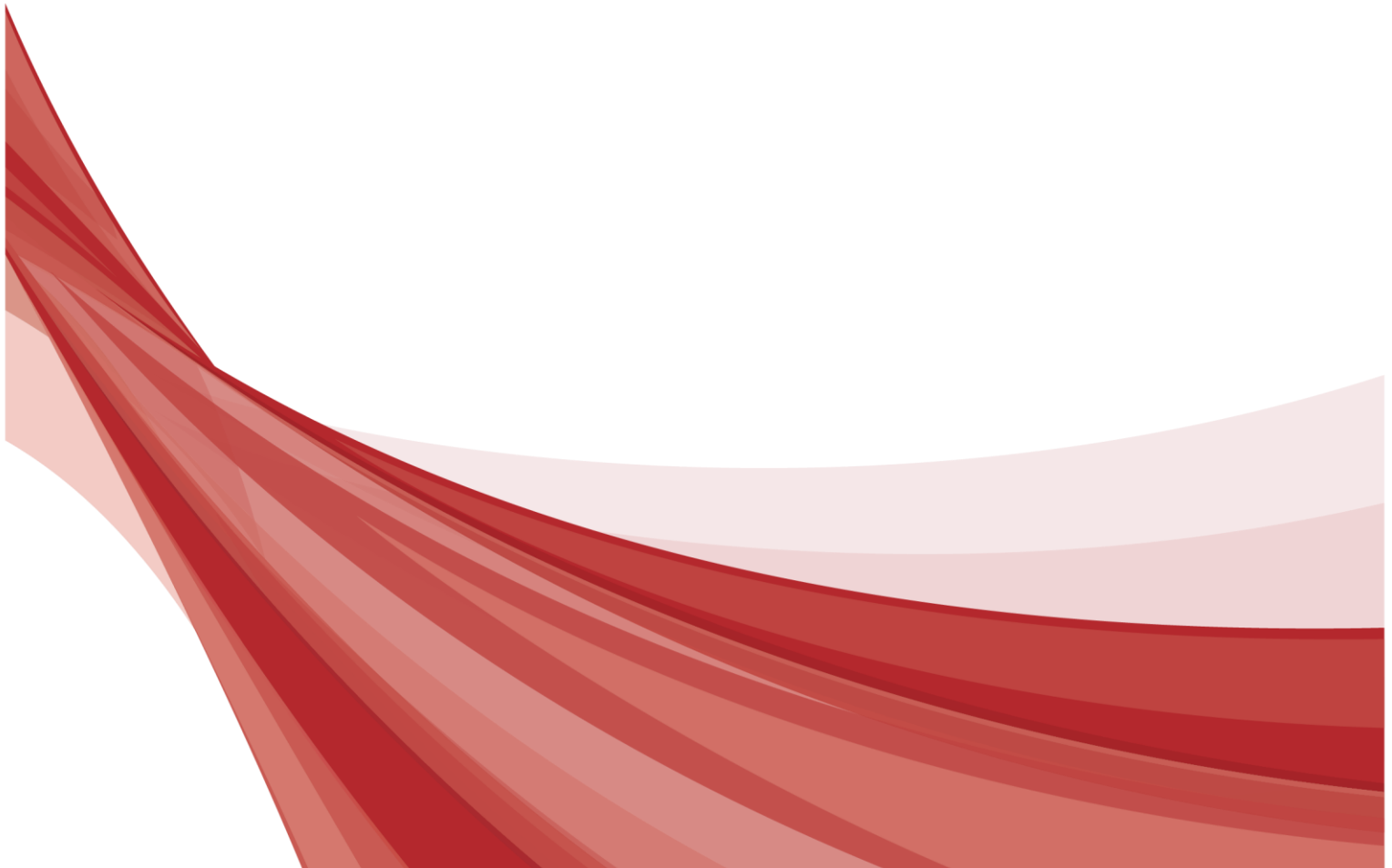




# The right to remain

**TUC evidence for British Future inquiry into EU27  
nationals' status in the UK – September 2016**



## Introduction

The Trades Union Congress (TUC) has 52 affiliated unions, representing almost six million members, who work in a wide variety of sectors. The TUC has a long history of campaigning against racism and xenophobia and believes all workers must have their rights respected at work regardless of nationality.

The TUC welcomes the opportunity to provide evidence to British Future's inquiry into the status of EU nationals in the UK and believe EU citizens must be given the right to remain<sup>1</sup>.

The TUC does not believe that questioning the status of EU citizens in the UK will tackle concerns about migration. Rather it will increase the ability of bad employers to exploit workers who are too afraid of their immigration status being questioned to report mistreatment to the authorities. We believe workplace rights must be separated from immigration status so workers can report bad employers and get decent treatment at work.

In the report *Managing migration better for Britain*<sup>2</sup> the TUC put forward a series of practical recommendations the government could take now to tackle concerns around migration. These include providing more resources to bodies that enforce employment rights, encouraging employers to negotiate floor levels of wages and conditions with unions to prevent exploitation. We are also calling for increased investment in skills training and public services where there has been population increases, including an expanded Migration Impacts Fund.

## Inquiry questions

### **1. Is the best policy option to give qualifying EU nationals permanent residence in the UK in order to guarantee their right to remain? Are there any legal or practical problems in implementing such a decision?**

The TUC believes securing the right to remain for EU citizens in the UK is one of five tests that must be passed before the government begins negotiations on Article 50<sup>3</sup>.

The TUC is concerned by the fact that, to date, the government has failed to provide assurances of EU citizens' right to remain after the UK has left the EU. This turns the three million plus EU citizens currently in the UK into negotiating pawns in the Brexit process. This lacks consideration for the EU citizens who have made Britain their home. A national survey conducted by Unison in July of members from EU27 countries – who worked mainly in health, education and local government - revealed the majority have lived in the UK for over five years and wanted to continue to reside in the UK for ten

---

<sup>1</sup> <https://www.tuc.org.uk/international-issues/europe/eu-referendum/five-point-brexite-plan-protect-workers-and-families>

<sup>2</sup> <https://www.tuc.org.uk/sites/default/files/ManagingmigrationbetterforBritain.pdf>

<sup>3</sup> <https://www.tuc.org.uk/international-issues/europe/eu-referendum/five-point-brexite-plan-protect-workers-and-families>

years or more. Since the referendum, over 60% of those surveyed said they had considered applying for permanent residency in the UK.

Making clear EU citizens have the right to remain would recognise the valuable contribution they are making to the economy and helping keep our public services running. 30% of workers in public administration, education and health come from EU27 countries<sup>4</sup>, including 130,000 employed in the NHS and care sector as nurses, doctors and other workers.<sup>5</sup>

The UK government must also state clearly that while it continues to be a member of the EU it will uphold its legal obligation to free movement rules. Failing to do so suggests to EU citizens in the UK that their status may be imminently threatened. As noted above, raising uncertainties about the legal status of EU migrants plays into the hands of bad bosses who can threaten to report employees to the authorities if they resist poor treatment.

The longer we leave EU27 workers uncertain about their future, the greater the likelihood that some will leave, creating staffing shortages that will particularly negatively affect public services where a significant number of EU27 workers are employed. This will only increase the anxiety felt by many communities that research indicates voted to leave the EU partly to increase resources for public services.<sup>6</sup>

Furthermore, failing to provide assurances of the right to remain risks making it more difficult to negotiate the right to remain for UK citizens in other EU countries and will lower our diplomatic standing in negotiations.

## **2. Should EU job-seekers, potential higher and further education students, long-term non-working EU nationals, family members and self-sufficient persons be treated the same way as workers and the self-employed?**

The TUC believes all EU citizens currently living and working in the UK before Brexit should be given permanent right to remain.

## **3. How should the Government manage cut-off dates for changes to the status of EU nationals in the UK?**

The TUC believes any cut-off date must be phased in over an adequate period, in consultation with trade unions and other stakeholders so as to not leave groups of EU citizens without clarity about their status.

---

<sup>4</sup> Migration Observatory (2016) *Potential Implications of Admission Criteria for EU Nationals Coming to the UK*, see table 3, p.9

[http://www.migrationobservatory.ox.ac.uk/sites/files/migobs/Report-Admission\\_Criteria.pdf](http://www.migrationobservatory.ox.ac.uk/sites/files/migobs/Report-Admission_Criteria.pdf)

<sup>5</sup>

<http://digital.nhs.uk/searchcatalogue?productid=21584&topics=0%2fWorkforce&sort=Relevance&size=10&page=1#top>

<sup>6</sup> <https://www.jrf.org.uk/brexit-vote-explained-poverty-low-skills-and-lack-opportunities>

**4. What is the likelihood of significantly increased immigration flows from the EU from those who are trying to beat cut-off points and policy deadlines? What might be the scale of such an increased flow? How might immigration surges be managed?**

The most recent ONS survey<sup>7</sup> reports that work was the main reason EU citizens cited for coming to the UK, particularly from countries where poor economic prospects. Those prospects and immediate access to jobs are likely to remain the main driver of migration rather than a cut-off point.

Should the numbers increase, however, it is important that the government acts to ensure that settled communities are not negatively affected, as we have consistently argued. As mentioned above, there should be additional spending directed to public services and housing in areas migrants move to, stronger enforcement of labour market rules to prevent exploitation.

**5. What is the best administrative means for EU nationals to show their legal residence in the UK? Are current Home Office systems for issuing documentation fit for purpose or will increased demand for registration certificates require extra staffing?**

The TUC is concerned by evidence that existing document checks have resulted in racial discrimination when carried out by employers<sup>8</sup> and landlords<sup>9</sup>. Any system for registration must be carried out in a way that does not result in discrimination against those who don't 'look' British.

Current systems of document checks have also been hampered by being under-resourced both in terms of the infrastructure involved and the staffing levels provided. A recent report indicates that on current staffing levels it might take 140 years to process applications for residence for all EU and EEA citizens in the UK.<sup>10</sup> The TUC believes any additional system of checking EU citizens' status must be adequately resourced and staffed.

**6. Are there any groups of EU nationals who might struggle to establish their legal residence? Are there useful ways in which employers might be able to work with government to facilitate an efficient process?**

The TUC is concerned that citizens who were not given payslips during employment would struggle to provide evidence of their residence in the UK. The TUC believes the government must consider a range of evidence in order to establish if someone has the

---

<sup>7</sup>[www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/bulletins/migrationstatisticsquarterlyreport/may2016](http://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/bulletins/migrationstatisticsquarterlyreport/may2016)

<sup>8</sup> <https://www.tuc.org.uk/sites/default/files/extras/idc&wrnegs.pdf>

<sup>9</sup> <https://jcw.org.uk/blog/2015/09/03/right-rent-checks-result-discrimination-against-those-who-appear-%E2%80%98foreign%E2%80%99>

<sup>10</sup> <http://www.migrationobservatory.ox.ac.uk/commentary/here-today-gone-tomorrow-status-eu-citizens-already-living-uk>

right to legal residence in the UK. Employers should ensure their workers are provided with proper evidence of their employment and pay.

However, the TUC believes employers should not be given additional responsibilities for checking the residency status of EU27 citizens or registering their status with immigration officials. This can be used as a means to control workers whose immigration status is not secure.<sup>11</sup>

### **7. Will all groups of EU nationals in the UK be able to navigate any future administrative processes in relation, or do some populations risk being non-compliant?**

The TUC believes that any administrative system must be adequately resourced and widely publicised in all EU27 languages so as to be as accessible as possible to all EU27 citizens.

### **8. Are there sufficient advice services for EU nationals in relation to securing residence rights or appealing decisions?**

The TUC believes there needs to be a significant increase in resources to trade unions and voluntary sector organisations to support EU citizens to be aware of their rights of residence and to appeal decisions. Unions have considerable expertise and networks to provide information to migrant workers. The TUC has produced the Working in the UK guide<sup>12</sup> which provides information in 21 languages which has been distributed nationally through embassies, voluntary sector organisations and through unions.

A number of unions offer legal advice to members, some of it specifically focussed on migrants. Unison, for example, provides an immigration legal support line working with the Joint Council for the Welfare of Immigrants.

The TUC also believes legal aid funding must be restored in order to provide fair access to justice to EU27 citizens.

---

<sup>11</sup> [https://www.equalityhumanrights.com/sites/default/files/the\\_invisible\\_workforce\\_full\\_report\\_08-08-14.pdf](https://www.equalityhumanrights.com/sites/default/files/the_invisible_workforce_full_report_08-08-14.pdf)

<sup>12</sup> See [www.tuc.org.uk/workingintheuk](http://www.tuc.org.uk/workingintheuk)