



# REPORT

## Unsettled Status? Which EU Citizens are at Risk of Failing to Secure their Rights after Brexit?

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## Executive Summary

As the UK moves towards Brexit, the government is designing a system to give EU citizens who are already living in the UK 'settled status.' The EU-UK agreement that underpins this process is not final or legally binding, but its basic parameters are known and the government has set out the principles for implementing it. Government plans announced so far propose that the process will be mandatory, with a deadline for applying; that the application process will be streamlined and more 'user-friendly' than existing Home Office applications; and that the eligibility criteria will be simplified so that (almost) all EU citizens living in the UK at the point of Brexit will be eligible.

One challenge facing any large-scale government programme is coverage: how to enable everyone who is eligible to participate. For EU citizens to secure settled status, they will need to (1) know about the programme and the need to apply; (2) be able to navigate the system and make an application; and (3) be able to demonstrate that they have been living in the UK. Irish citizens will not need settled status to continue living in the UK, so are excluded where possible from the data in this report.

EU citizens living in the UK are on average a highly educated population that should not be expected to have problems understanding and navigating a simplified application process. However, securing settled status will be more difficult for certain groups of people, whether because they lack awareness of the process or the need to apply, are vulnerable for different reasons (such as abuse or exploitation), have difficulty navigating the application system, or cannot provide evidence of time spent in the UK. It is not possible to know exactly what share of EU citizens will fall into these categories but it is possible to analyse some of the characteristics associated with greater risk.

First, a potentially significant number of people may not be aware that they can and need to apply. In practice many different people could fall into this category, although specific groups include:

- **Children** whose parents do not themselves apply, do not realise that children need to apply, or mistakenly believe that their UK-born children are automatically UK citizens. There are more than 900,000 children of non-Irish EU citizen parents living in the UK, born either here or abroad. This includes an estimated 239,000 UK-born children whose parents report that they are UK citizens, but available data suggest that tens of thousands of these children may not be.
- **Very long-term residents**, such as the estimated 146,000 non-Irish EU citizens who arrived at least 30 years ago.
- **People who have already applied for permanent residence**—at least 146,000 non-Irish EU citizens have been granted permanent residence since 2004 but are not yet UK citizens.
- **People who believe they are ineligible**, such as people who have previously been rejected for permanent residence under the existing, more restrictive system (e.g. self-sufficient people without private health insurance), or people with minor criminal convictions or cautions.

Second, applications may be more difficult for people who are already vulnerable or have reduced autonomy for some reason. For example, victims of domestic abuse, particularly if they rely on a partner for evidence, could struggle to complete the process. EU citizens are less likely than British nationals to be victims of domestic abuse, although an estimated 50,000 EU citizen women reported experiencing some form of abuse (either once or repeatedly) in the year ending March 2017. Other vulnerable groups include victims of exploitation who have not been paid for their work, and people living in poverty or without stable housing. By their nature, such groups are difficult to quantify and the types and severity of the barriers they face will vary.

Third, some people will struggle to navigate an application due to difficulties accessing or using the application. This could be because of factors such as:

- **Language barriers.** Data on language proficiency are imperfect but in 2015 around 250,000 non-Irish EU nationals reported language difficulties in keeping or finding work.
- **Age or disability,** ranging from barriers to using an online system or identifying offline sources of help to problems associated with memory loss when sourcing evidence and identity documents. EU citizens are a relatively young population but an estimated 56,000 were age 75 or above in 2017.
- **Digital exclusion,** that is, lack of computer literacy or online access required to navigate a primarily digital system. Internet use is high among EU citizens, but in early 2017 an estimated 2% or 64,000 non-Irish EU citizens nonetheless said that they had never used the internet.

Fourth, some people could have difficulty demonstrating that they have been living in the UK. The extent of this barrier to securing settled status is likely to depend heavily on policy decisions about what kinds of ‘non-official’ evidence are acceptable and how many different forms are required. The people with the greatest difficulty producing evidence will be those who lack evidence of both residence and economic activity. This could include:

- **People without bank accounts,** who are conducting their daily lives in cash (whether they are working or non-working—such as retirees or people looking after family). An estimated 3.4% of people age 18 and over do not have bank accounts, equivalent to just over 90,000 non-Irish EU citizen adults.
- **Non-working partners, unpaid carers, people working cash in hand and young people not in education, employment or training** who also lack proof of address in their name (for example because they were living rent free with parents or friends) may find it difficult to show that they have been living in the UK if their daily activities have not generated a paper trail.
- **People who have arrived shortly before the cut-off date for eligibility.** People who arrive in the weeks and months preceding the cut-off date (currently expected to be December 2020) are more likely not to have bank accounts, leases, or potentially verifiable informal activity such as membership of clubs or contracts for services.
- **People without passports or national identity documents** may have difficulty demonstrating their nationality. At the time of the 2011 Census, 100,000 or 5% of EU-born residents of England and Wales reported not holding a passport.

Simply having one of the characteristics identified in this report does not mean that a person will fail to secure settled status. People are likely to face greater difficulties if there is a combination of factors. For example, barriers to access due to language, disability or lack of digital literacy will be most relevant for people with complex cases because they lack evidence, or for those who are isolated and cannot easily rely on friends and family for help.

The individuals who are most likely to be excluded from the settled status process are those who are already vulnerable for other reasons. This includes victims of abuse and exploitation, and isolated people who are not participating in mainstream institutions such as banking and formal work or study. Many of these people are likely to need help completing the process, and their ability to do so will also be influenced by policy decisions such as what kinds of informal evidence can be accepted.

Finally, arguably the biggest challenge if the government aims for comprehensive take-up of settled status is awareness about the need to apply. There are some large groups of people who would not normally be classified as ‘vulnerable’ but who may not realise that they need to apply, from children to very long-term residents to people who already hold permanent residence documents. In addition, there will be people who simply forget or delay their application until after the deadline expires. These people’s inclusion in the process will be in part a function of how well accurate information is circulated. If a significant number of eligible people do not apply, enforcing a strict deadline would increase the illegally resident EU-national population in the UK. As a result, perhaps one of the most important unresolved policy questions affecting the completeness of the settled status process is what contingency plans will be in place for people who do not apply by the deadline.

## Understanding the evidence

To identify the groups of EU citizens discussed in this report, we have reviewed existing reports and publications (e.g. Yeo, forthcoming; O'Brien, 2017; Ryan, 2017; Desira, 2017; Gbikpi, 2018; Benton, 2017; Spaventa, 2017; Valcke, 2018) and consulted stakeholders working in the field, including immigration lawyers and service providers with EU citizens as clients or beneficiaries. We have attempted to be as comprehensive as possible in our coverage of the different groups identified in this process. However, this report is not designed to be a legal analysis, particularly since the policies it deals with have not been finalised.

The UK and EU have agreed that people arriving during the post-Brexit transition period – currently agreed to last until December 2020 although this could in theory be extended – will be able to remain in the UK and receive a permanent status after 5 years.

Because this report focuses on EU citizens already living in the UK, we do not discuss groups of people who are not living in the UK but might come in the future, such as family members of people protected by the proposed EU Withdrawal Agreement. The government has indicated that it intends to include family members of UK citizens who currently benefit from free movement rights (e.g. Surinder Singh and subsequent cases) in the settled status process, but it is not possible to identify these individuals in the dataset used so we are not able to analyse this group in this report.

Unless otherwise indicated, the data in this report are drawn from the Labour Force Survey (LFS) for 2017. Like most survey data, the LFS has some limitations. The survey does not capture those who do not live in private households, such as in hotels, caravan parks and other communal establishments. Its response rate has declined over time, and is now below 50% (ONS, 2016); this means that people who are more likely not to respond to the survey may be undercounted, and ONS analysis based on the Census suggests that non-response is a greater problem among people born outside of the UK (Weeks et al, n.d.); it is also likely to undercount circular migrants and some of the vulnerable groups discussed in this report, such as people with low language or literacy skills.

From Q3 2017 onwards, the LFS data files available to researchers no longer enable separate breakdowns of the data for EEA citizens; the tabulations in this report are therefore for EU citizens only. The status of people from countries that enjoy free movement rights but are not part of the EU (i.e. Norway, Iceland, Liechtenstein and Switzerland) has not been discussed in detail in the public debate, although a note on the government website says that the UK is in discussions with these countries. In Year Ending (YE) June 2017 (the period for which individual nationality breakdowns are publicly available) there were an estimated 15,000 Norwegian and 18,000 Swiss citizens living in the UK; the number from Liechtenstein and Iceland was too small to estimate using the LFS.

Where possible, we exclude Irish citizens from the analysis in this report, who will not be required to apply for settled status as they have separate rights as part of the Common Travel Area. The new LFS data files from Q3 2017 allow us to exclude most, but not all people who report their nationality as Irish, due to inconsistencies in nationality self-reporting; pre-Q3 2017 data suggest that about 15–18% of Irish nationals may remain in the data for Q3 and Q4 2017 only.

In some cases, data that are not available in the LFS are taken from the 2011 Census of England and Wales or from other sources such as administrative statistics. While Census statistics are now quite out of date and exclude Scotland and Northern Ireland, they are the only available source of information on some groups and can nonetheless provide useful evidence. We also make use of the 5% Census microdata sample to produce data not available in ONS published tabulations. Because this is a sample of the full England and Wales Census responses, estimates will have some sampling error and the totals may differ slightly from published figures.

This report attempts to quantify groups with different characteristics relevant to the settled status process but because the characteristics discussed vary widely, we do not provide a single estimate of the total number of ‘at-risk’ people. Note that it is not possible to create such a figure by adding the statistics provided for different groups, as there will be significant overlap between many of them.

## 1. Introduction

Since the EU referendum in 2016, the status of EU citizens currently living in the UK has been one of the major questions in the migration policy debate. Assuming that free movement comes to an end after Brexit, EU citizens who are already living in the UK will need to be able to demonstrate their legal status. As a result, an application system of some kind is required to enable EU citizens—other than those from Ireland whose free movement rights are not affected by Brexit—to secure their status.

The EU and UK have reached political agreement on a process to secure the rights of people who have moved to the UK from the EU and vice versa. The EU-UK agreement that underpins this process is not yet final and legally binding, but its basic parameters are known. Under the proposal, the criteria for acquiring settled status are the same as the criteria for acquiring permanent residence under EU law: 5 years of continuous residence exercising treaty rights as an employee, self-employed person, student, jobseeker or self-sufficient person (EU and UK, 2017).

However, the agreement outlines only the basic principles of the system. Many important details will depend on how these principles are implemented in each Member State. This includes factors such as how the eligibility criteria are interpreted in practice, what is the ‘burden of proof’ on the applicant, and what happens to people who do not apply. The government is currently designing a system for giving EU citizens ‘settled status’ and has provided some details of how the system is expected to work (HM Government, 2017).

Government plans announced so far propose that an application will be mandatory, with a deadline for applying; that the application process will be streamlined and easier to navigate than existing Home Office applications; and that the eligibility criteria will be simplified so that (almost) everyone living in the UK at the point of Brexit is eligible. Giving evidence to the House of Lords EU Justice Subcommittee in December 2017, the then Immigration Minister Brandon Lewis said that new system for settled status will be a ‘user-friendly experience’ much simpler than the permanent residence application under EU law, the current version of which has been criticised for its complexity (House of Lords, 2017).

In February 2018, current Immigration Minister Caroline Nokes followed up with more detail in front of the EU Scrutiny Committee: “We intend to make sure that the settled status scheme is as straightforward and easy as possible. Anybody who can demonstrate residency for five years will certainly find it an easy process to get through. We are not going to apply any tests about whether they have been working and exercising their treaty rights; it literally is just if they can demonstrate residency. For those who have not been working, they will not have to demonstrate any record from HMRC, but they may well have a driving licence, for example, or may well have utility bills showing their address. For them, we are confident that we would be able to demonstrate the five years’ residency and that they will be able to go through the process smoothly” (European Scrutiny Committee, 2018). For the purposes of this report we therefore assume that the future system will not require people to be exercising treaty rights.

### Implementing the settled status process

Any large-scale registration programme of this kind faces operational challenges, including how to make efficient use of staff and processing resources, ensure accurate decision-making, and enable everyone who is eligible and wants to remain in the UK to be included.

In December 2017, the Migration Observatory published a report pointing out that while most EU citizens should not have difficulty navigating the simplified system the government has proposed, some groups of EU citizens could face difficulties—whether because of personal barriers to making an application or because they cannot prove they meet the criteria (Sumption, 2017). Since then, we have frequently been asked about the size and characteristics of the groups who are at risk of failing to secure settled status for different reasons. This is of interest both to those interested in policy design, and those interested in understanding how to target advice and outreach to EU citizens once the application process begins. This report looks in more detail at that question. It looks at four main categories of people at risk of failing to secure settled status:

- People who do not realise that they can and need to apply;
  - People who are vulnerable for some reason, such as victims of abuse or exploitation;
  - People with other barriers to accessing or understanding the system itself; and
  - People who cannot provide evidence that they have been living in the UK.
- We also discuss people who may not meet the eligibility criteria, although this is particularly difficult without final details on what the policies will be.

It is not possible to say in advance what number or share of the EU citizen population will or will not secure settled status, for several reasons. First, it depends on policy. A system with more stringent eligibility and evidence requirements would exclude more applicants than a light-touch system that gives applicants the benefit of the doubt. Second, it depends on EU citizens' own actions, particularly whether a large number of eligible people do not apply. People might not apply for a range of reasons, including not wanting to apply; wanting to apply but not getting around to it; and starting an application but not completing the process. Third, some people who struggle initially may be able to delay their application while they gather additional evidence. Finally, there are many data limitations. Available statistics cannot fully capture the characteristics of people who will or will not have trouble meeting a given set of requirements. For example, important factors in determining whether people can document their time in the UK will include whether they or their employers filed tax returns, but there are no data allowing us to assess this. In addition, the main source of data on the population of EU citizens already in the UK – the Labour Force Survey – excludes certain groups of people, such as those living in communal accommodation; it is likely to undercount others, including many of the groups considered most at risk of failing to secure settled status, such as people with precarious housing arrangements.

As a result, the data in this report are not intended to identify whether people will or will not secure settled status. Instead, the report aims to give an overall sense of the size and characteristics of different groups that might be at risk of falling into this category, and why.

## 2. How many people will be potentially eligible for settled status?

By 2017, there were an estimated 3,438,000 non-Irish EU citizens living in the UK, excluding residents of communal establishments such as hostels. In addition, there were 131,000 non-EU partners of EU citizens (including Irish). The vast majority of these 3,568,000 people should be eligible for settled status assuming that the government goes ahead with its current proposal to include everyone who has been living in the UK by the time the cut-off date for eligibility (see section 3.5 for more discussion of ineligibility).

However, this figure of just under 3.6m is not the same as the total number of people who will need settled status in order to continue living legally in the UK after Brexit.

To qualify for settled status under the proposed system, EU citizens would have to have started living in the UK before the agreed cut-off date (which is currently scheduled to be December 31 2020). On one hand, therefore, the number of people potentially eligible for settled status will be increased by further migration between 2017 and the cut-off date. (Net migration of EU citizens to the UK has been declining, reaching 90,000 in the year ending



September 2017, although future immigration in the coming years is difficult to predict.) The number of EU citizens in the UK is also affected by births to EU citizen parents, since children do not automatically acquire UK citizenship unless at least one parent is already a permanent resident or UK citizen when the child is born.

On the other hand, not all EU citizens living in the UK at the point of the cut-off date will stay permanently. Long-term emigration of EU citizens was 130,000 in the year ending September 2017, and a majority of EU citizens who emigrate leave within 5 years after arrival (IPS table 3.15). Emigration in the 5 years after the cut-off date will thus reduce the size of the potentially eligible population, although the exact amount is not yet known because emigration levels fluctuate. Because of these uncertainties, it is not possible to provide a precise estimate of the number of people potentially eligible for settled status by the end of the process. An updated estimate will be possible later, however, when more of the immigration and emigration have already taken place.

### 3. Who might fail to secure settled status and why?

The settled-status process may be unique in the context of UK immigration policy, but there is a large amount of research on what affects participation in other types of government programmes, such as income-related benefits (usefully summarized in Finn and Goodship (2014) and Daigneault et al (2012)).

That research makes it clear that 100% coverage of the eligible EU citizen population within a period of a couple of years is not likely. Many government functions that require people to apply have incomplete take-up, even when it is apparently in the interests of individuals to participate. For example, an estimated 14% of families eligible for child tax credits did not take them up in 2014–15, and 5% of eligible children did not have child benefit claimed on their behalf (HMRC 2016). In 2018, 6.5% of people missed the deadline for submitting their self-assessment tax return to HMRC despite facing an immediate financial penalty for doing so, and more than a quarter submitted their self-assessment in the last two days before the deadline (HMRC, 2018). In the United States, an estimated 34% of unauthorised migrants eligible for the Deferred Action for Childhood Arrivals regularisation programme had not applied 3.5 years after the programme began (Hipsman et al, 2016).

Participation in government programmes depends on a complex web of factors from the design of the process itself to the characteristics and attitudes of the applicants. For someone to participate, they must know that the programme exists and that they are eligible; they must believe that applying will benefit them enough to justify the hassle or costs; and their application must be accepted (Daigneault et al, 2012). They must also get around to it: even people who want to complete a task (such as applying for a benefit) may repeatedly postpone it, particularly if there are immediate barriers to doing so, such as gathering complex documentation (O'Donoghue and Rabin, 1999).

As a result, it is not surprising that studies on the take-up of government programmes find that barriers to participation include lack of awareness (which can be affected by factors such as literacy, language proficiency, and the availability of independent support); perceived ineligibility, including due to complex rules or previous experience of rejected claims; the hassle involved in applying, especially where there are complex requirements to navigate; and any negative perceptions about the value or risks of participating, including within a person's social network (Finn and Goodship, 2014; Daigneault et al, 2012). Individual characteristics such as low qualifications, being socially isolated, and being a migrant (particularly recent arrivals and those with language barriers) have also been found to be associated with lower take-up of income-related benefits (Dubois and Ludwinek, 2014).

The Behavioural Insights Team (2014) finds that government programmes can nudge people towards participation in a given programme by making systems easy to use (e.g. by reducing the number of steps people have to complete and making the guidance clear); making it attractive (e.g. through personalised communication tailored to the situation of the recipient); making it social (e.g. by showing that a majority of people are complying or relying on social networks to spread information); and making it timely (e.g. prompting people to act as a deadline is coming up). Other research has found that the way information is provided can affect participation in government

programmes, such as using trusted intermediaries who understand the characteristics of target groups, local-level campaigns by government agencies or voluntary organisations (Finn and Goodship, 2014; Eurofound 2015), using in-person outreach to more vulnerable groups (Daigneault, 2012), and providing information through multiple different channels (TNS BMRB, 2015).

This report focuses on the circumstances and characteristics of the EU citizens who will need to navigate the settled-status process, rather than on questions such as how the programme is publicised. The following sections therefore examine factors that are likely to affect EU citizens' awareness and knowledge of the settled status programme, as well as the ease with which they can participate and the likelihood that they will be able to demonstrate their eligibility. We focus on identifiable demographic and socio-economic factors likely to affect applications, and do not cover more general attitudes or behaviours that could nonetheless play an important role, such as not wanting to apply (for example people who believe out of principle that they should not be required to) or being too disorganised to start or complete an application.

### 3.1 People who do not realise that they can and need to apply

Awareness and knowledge is a challenge for the settled status process for various reasons. First, the population of EU citizen is large, dispersed across the entire country and across a host of social, economic and demographic groups. Because there has been no obligation to register in the UK until now, most EU citizens do not have any experience of being in contact with government agencies about their immigration status. There is also no 'list' of eligible individuals the government can contact, and the government will not necessarily know who has not applied: coverage will rely on EU citizens understanding the programme and coming forward to make an application.

Second, research on participation in government programmes suggests that people are often prompted to act by 'triggers' such as salient personal or external events (van Oorschott, 1998; Behavioural Insights Team, 2014). The EU referendum was clearly one such event, and was—as one might expect—followed by a spike in applications for permanent residence, albeit from only a small share of the overall population of EU citizens (Sumption, 2017). Since the referendum, however, the government's message to EU citizens concerned about their future status has been "you do not need to do anything now" since the UK remains part of the EU. This has, of course, been true and EU citizens continue to enjoy the same rights as in the past. People who do not pay close attention to political developments will not necessarily realise when this changes.

Under current proposals, there would be a deadline for settled status applications, and people who miss the deadline would become illegally resident. These people could be accepted 'where there is a good reason' (EU and UK, 2017), although it is not yet clear how this phrase will be interpreted.

#### *Children of EU Citizens in the UK*

Perhaps the largest single group that could fall into this category is children. It may not be universally understood that children are required to apply for settled status—for example if parents assume that school attendance means the government is already aware of their residence here. If the parents are applying themselves, this problem would in principle be mitigated using an application form that asks the questions about the presence of UK-born children. Children whose parents are not applying for any of the reasons discussed in this report, however, are more likely to be excluded from the process.

The EU citizen population now includes a substantial share of children: in 2017, there were an estimated 727,000 children under the age of 18 reported as EU citizens based on the Labour Force Survey. In addition, there were 239,000 UK-born children of EU national parents who were reported to be UK citizens. However, as discussed in Box 1, there is some evidence that a share of these children may not in fact be UK citizens and would need to apply for settled status or citizenship.



The rules on how children become UK citizens are complex (Yeo, forthcoming). EU citizen children born abroad who come to the UK with their parents can become citizens if the parents naturalise, or if they naturalise in their own right once they turn 18. Children born in the UK are automatically British citizens and do not need to naturalise or register if one of their parents was already a UK citizen or had permanent residence when they were born. UK-born children are eligible but need to register—at a cost of £1,012 per child—if one of their parents naturalised or received permanent residence after they were born, or if the child lived in the UK until they were 10 years old.

Nationality data in the LFS is self-reported and thus is the perceived nationality rather than the definite legal citizenship. For children under 16, responses are provided by a parent or other adult relative. In 2017 there were an estimated 727,000 children under 18 living in the UK whose parent or relative reported them to be non-Irish EU citizens. Among them, 442,000 were born outside of the UK (Figure 1) and thus would either need to apply for settled status or naturalise with their parents (if the parents are eligible to do so).

Another 285,000 children reported as being non-Irish EU nationals were born in the UK. In fact, some of these people will be UK citizens automatically because their parents were already permanent residents when they were born, but do not realise that citizenship can be transmitted automatically. An estimated 169,000 of these children had a parent who had been in the UK for 5 or more years when they were born, although this does not necessarily mean they had acquired permanent residence. However, as is now well known, EU citizens have had difficulty securing permanent residence documents in recent years, with about one quarter of applications either rejected or sent back to the applicant as invalid in the 15 months following the referendum (Sumption, 2017). Many will not have met the requirements (e.g. due to not holding comprehensive sickness insurance or having breaks in employment), and others may be unable to demonstrate it, for example because they do not have retrospective documentation showing their status 5 years prior to the child's birth. (While the settled status programme is expected to drop some of these criteria, under current law the parent would still need to meet the permanent residence requirements in place at the time of the child's birth.) In these cases, registration would be required for the child to become a UK citizen.

In addition to the 727,000 children reported to be non-Irish EU nationals, a further 239,000 UK-born children were living with parents who were either both EU nationals or were a mixed EU and non-EU national couple, and were reported as UK citizens. In order to be UK citizens, these 239,000 children must either have had at least one settled/permanent resident parent when they were born (and thus be citizens automatically), or they must have been registered (after 10 years in the UK or after their parents became permanent residents). It is not possible to estimate the exact size of these two groups, because we cannot identify from the LFS if or when the parents became permanent residents. However, we know that at minimum, 5 years of continuous residence is required. We can thus break the 239,000 into those who had at least one parent with 5 years of residence when they were born, and those who did not. In this case:

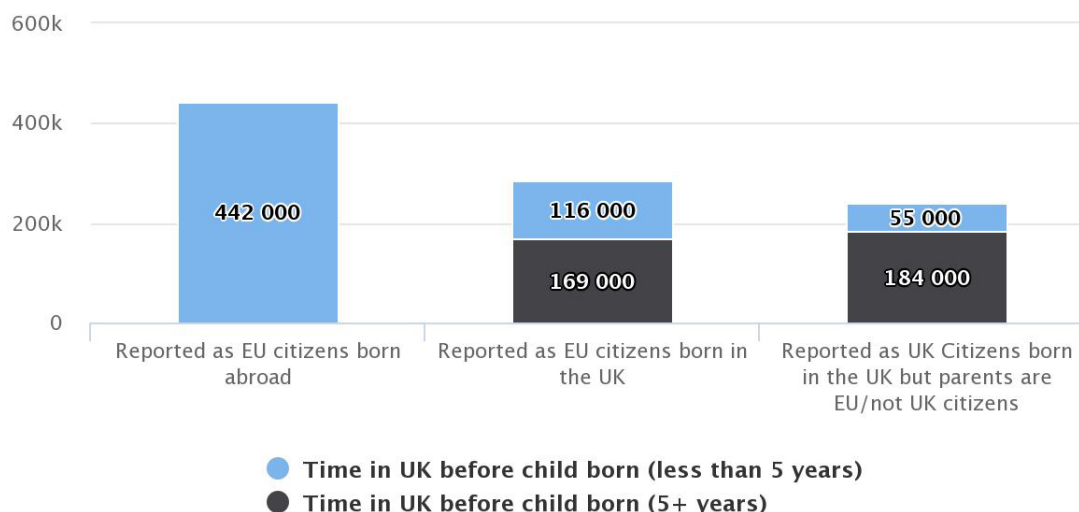
- 184,000 of the children were living with at least one parent who had arrived 5 or more years before they were born. In this case, the parents may have become permanent residents in time for the children to be UK citizens automatically (if they qualify – see above).
- 55,000 were living with parents who had arrived fewer than 5 years before they were born, and thus would need to register to become British.

In other words, a minimum of 55,000 of the 239,000 children would need to register, and possibly substantially more, depending on how many of the 184,000 in the first category had parents who could demonstrate 5 years of continuous residence exercising treaty rights under UK law. In this context, it is worth noting that during the period for which comparable data is available in 2002–2016, Home Office data suggest that only about 29,700 EU (including Irish) citizens under the age of 18 have been granted UK citizenship (HO immigration statistics, table

cz\_05, excluding 16–17 year olds registering before 2015 who would have been 18 or more by 2017, when the 239,000 children above are captured in the LFS). This hints at the possibility that tens of thousands of children of EU citizens have parents who do not realise that they are not automatically UK citizens, and thus are unlikely to register them for settled status.

**Figure 1: Children under 18, by reported country of birth, nationality, and time that EU citizen parents had spent in UK at time of birth, excluding Irish, 2017**

Chart provided by [www.migrationobservatory.ox.ac.uk](http://www.migrationobservatory.ox.ac.uk)



Source: Migration Observatory analysis of LFS, 2017

Note: UK nationals born in UK living with EU national parents includes families where one parent is an EU national and the other is a non-EU national; it does not include mixed-nationality couples where any of the parents are UK nationals. Children under 16 do not answer the LFS directly – answers will be reported by parents or another relative; children age 16–17 are interviewed with the permission of a guardian

### *Very long-term residents*

A second group who might not apply is very long-term residents. People who have lived in the UK for several decades may believe that the settled status process is for more recent arrivals. Some of these people will previously have had some form of residence authorisation, such as refugee status or Indefinite Leave to Remain (ILR), before their country of origin joined the EU but no longer have the documents. By 2017, 92,000 EU citizens had lived in the UK for at least 40 years, 146,000 for at least 30 years, and 284,000 for at least 20 years (Table 1).

Table 1: Duration of residence in the UK, non-Irish EU nationals, 2017

Duration of residence in the UK	London	Rest of UK	All
Less than 10 years	608,000	1,292,000	1,900,000
10–19 years	276,000	660,000	936,000
20–29 years	66,000	72,000	138,000
30–39 years	26,000	28,000	54,000
40+ years	23,000	69,000	92,000
Born in the UK	92,000	207,000	299,000
<b>Total</b>	<b>1,099,000</b>	<b>2,338,000</b>	<b>3,438,000</b>

Source: Migration Observatory analysis of LFS, 2017. Figures may not sum to total due to rounding.

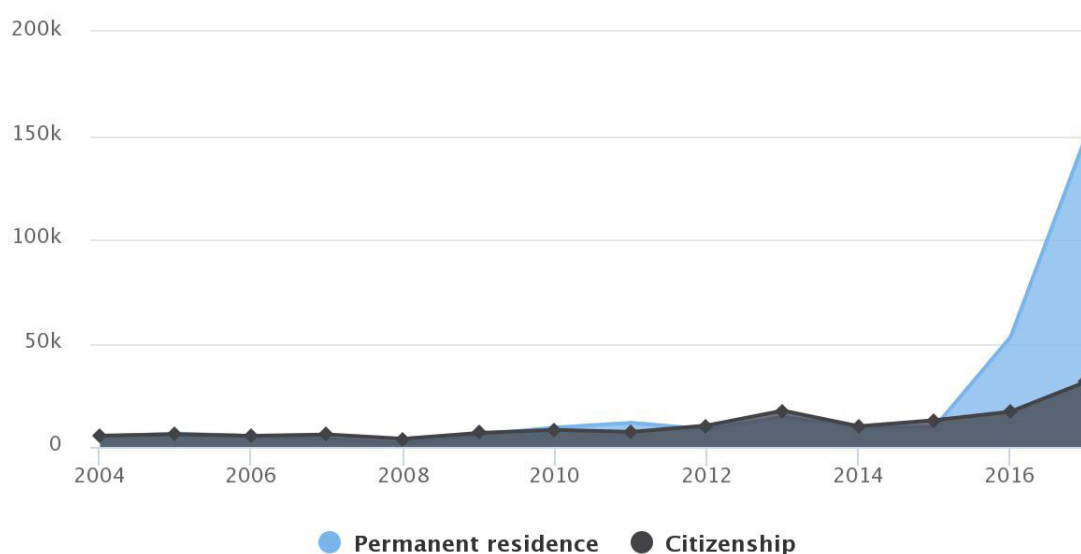
### *People with permanent residence status*

Third, people who have already received permanent residence but are not yet UK citizens may not realise that their 'permanent' status is not actually permanent and that second application is needed to receive settled status. From

2004 to 2017 there were 295,000 grants of permanent residence (PR) to non-Irish EU citizens and a further 105,000 grants to non-EU family members (total 402,000). More than half (58%) of these grants were in 2016 and 2017. Some but not all of these people will have become UK citizens. During the same time period, 148,000 non-Irish EU citizens were granted UK citizenship. Because PR was not a requirement for applying for citizenship before 2015, a share of those 148,000 people will not previously have held PR. As a result, there are a minimum of 146,000 EU citizens (i.e. 295,000 minus 148,000, with rounding) who were granted permanent residence from 2004–2017 but who are not UK citizens (Figure 2). There are no data on how many of these people are still living in the UK (some will have emigrated or died).

**Figure 2: Grants of permanent residence and citizenship to EU citizens in the UK, 2004–2017**

Chart provided by [www.migrationobservatory.ox.ac.uk](http://www.migrationobservatory.ox.ac.uk)



Source: Home Office Immigration statistics tables ee\_02 and cz\_06

Note: At least 146,000 EU citizens were granted permanent residence but not citizenship from 2004–2017.  
Excludes non-EU citizens granted permanent residence on the basis of their relationship with an eligible EU citizen

#### *People who are expecting to return home*

Fourth, some people may believe that they do not need to apply because they are expecting to return home. Many people who migrate do not have firm plans, and initial intentions to stay temporarily can lead to permanent migration as people integrate into work or meet partners. These people will not necessarily keep track of documentation to ensure they can apply later.

#### *People who think they are not eligible or fear being rejected*

Some people may believe that they are not eligible or fear being rejected for settled status and therefore not apply unless they receive reliable information to the contrary. There are several groups of people who could fall into this category, including people who were previously ineligible (e.g. due to lack of comprehensive sickness insurance) and do not realise that the criteria are to be made less restrictive.

In particular, people who have previously applied and been rejected for permanent residence based on rules that are subsequently dropped (like CSI) may be reluctant to apply again. There are no data on the number of people who have been refused for PR and who have not reapplied successfully. From 2004 to 2017, 57,000 permanent residence applications from non-Irish EU citizens were refused and an additional 37,000 were sent back as invalid because the applicant did not include all the required information or did not enclose the fee (Home Office Immigration Statistics table ee\_02). In addition, there were approximately 42,000 refused registration certificates for non-Irish EU citizens with fewer than 5 years of residence (ibid). Many of these people will subsequently have reapplied successfully, however, and others may have emigrated.

Similarly, EU citizens who have previously been removed from the UK and subsequently returned here may be reluctant to apply for settled status (people removed for not exercising or misusing their treaty rights can return after 12 months and in some cases earlier (Home Office, 2017a)). Enforced removals of EU nationals averaged approximately 4,260 per year from 2014 to 2017 (Home Office immigration statistics table rt\_02), in part due to policies towards homeless people who the UK deemed to be misusing their free movement rights (although references to rough sleepers are no longer in the official guidance on removing EEA nationals, following a high-court decision in December 2017). It is not known how many of these people may have subsequently returned to the UK.

Finally, EU citizens with minor criminal convictions, cautions—ranging from traffic violations to those with custodial sentences for offences below the threshold of being removable on ‘serious grounds of public policy and public security’—may be reluctant to apply or believe they are not eligible. Data on the number of EU citizens with past convictions are not available.

### 3.2 Vulnerable groups

Even among those who realise that they should apply, a range of personal circumstances may create barriers to successfully navigating the process. The reasons for this are complex and not easily captured in data, but include those who already face social exclusion of some kind or whose independence or autonomy is reduced.

For example, women in abusive or controlling relationships would fall into this category, especially where they rely on their partner for evidence (the latter is discussed further below). EU citizens were less likely have been victims of domestic abuse than UK citizens, according to self-reported data from the Crime Survey of England and Wales collected by ONS. However, 3.3% of EU nationals age 16 to 59 interviewed in the year ending March 2017 said that they had been victims of domestic abuse within the past year (Table 2). These figures include all experiences reported by individuals answering the ONS survey, and do not distinguish between one-off or minor incidents from ongoing patterns of behaviour that could be characterised as ‘coercive control’; previous research has found that experiences of coercive control have much more serious impacts on their victims, who are more likely to be women (Myhill, 2015).

Table 2 breaks the figures down by gender and estimates the total number of victims of domestic abuse, assuming the same prevalence of this behaviour in Scotland and Northern Ireland as in England and Wales, where the survey is conducted. The data suggest an estimated 53,000 female victims and 34,000 male victims of domestic abuse of some kind, within the 16–59 age group of EU citizens (including Irish). Men experiencing domestic abuse are also more likely to experience it from a family member who is not their partner (ONS 2017a).

Table 2: Victims of domestic abuse (including non-physical abuse, threats, force, sexual assault or stalking by partner or family), by nationality, year ending March 2017

	UK	EU	Rest of World	Total
Percent reporting being victim in the past year	6.2	3.3	3.9	5.9
<i>EU nationals only</i>				
Gender	Men	Women	Total	
Percent reporting being victim in the past year	2.7	3.9	3.3	
LFS estimate of EU national population, Q1 2016	1,279,000	1,371,000	2,650,000	
Estimated number of people affected, Q1 2016	53,000	34,000	87,000	

Source: data provided by ONS from Crime Survey of England and Wales, Year ending March 2017; population estimates from Migration Observatory analysis of Labour Force Survey for Q1 2016 – the mid-point of the period during which crimes reported in YE March 2017 would have occurred. Note: This measure of any domestic abuse experienced in the last year relates to adults aged 16 to 59 only and is taken from the self-completion section of the survey which is designed to reduce the extent of underreporting for sensitive issues that respondents may not want to discuss openly with an interviewer. Full details of the offences included are provided in ONS (2018b, p52). All figures include Irish nationals.

Abusive relationships could be particularly problematic for non-EU citizen family members seeking settled status, since they cannot qualify in their own right but only as a result of their relationship to a qualifying person. However, data on non-EU partners of EU citizens who are victims of domestic violence or other crimes are not available.

Second, children in care—or children leaving care and transitioning to adult life—may not have support completing an application and may have difficulty producing evidence of residence if they have moved frequently between foster homes and/or schools. Reliable data on EU national children in care are not available as data are reported by ethnicity rather than nationality. In March 2017 there were 72,670 children in care, of any nationality.

Third, victims of exploitation or trafficking, who have not been paid for their work at all, may struggle for several reasons, including the fact that they may not have evidence that they have been living in the UK (discussed below). Quantifying the extent of forced labour or ‘modern slavery’ is extremely difficult, although the Home Office estimated the number of victims at 10,000–13,000 of any nationality as of 2013 (Home Office, 2017b). The ‘duty to notify’ introduced by the Modern Slavery Act 2015 requires of public bodies such as the police, the National Crime Agency and local authorities, to report to the Government all potential adult victims of modern slavery encountered in England and Wales. Between November 2015 and June 2017, these agencies reported 746 cases of potential victims in England and Wales who were from an EEA country (ibid).

Finally, some people with mental health problems may struggle with the application process, especially if their cases are complex. Mental health is difficult to measure statistically; it is likely to be underreported and LFS questions on health are only asked to the working-age population. In 2017, non-Irish EU citizens were less likely to identify mental health, depression and related conditions as a significant health problem compared to the UK population as a whole. However, 45,000 non-Irish EU citizens reported that they had one of these conditions. About half said that this condition limited their daily activity ‘a little’ and a further quarter said that it limited their daily activity ‘a lot’ (Table 3).

Table 3: People age 18–64 reporting long-lasting depression, mental health disorders and related illnesses as main health problem, in 2017

	Non-Irish EU	Whole UK population
People reporting this mental health or depression	45,000	2,087,000
<i>Of which: limits daily activity a lot</i>	11,000	699,000
<i>Of which: limits daily activity a little</i>	22,000	864,000
<i>Of which: does not limit daily activity</i>	11,000	513,000
Total 18–64 population	2,601,000	39,730,000
Percent of 18–64 population	2%	5%

Source: Migration Observatory analysis of LFS, 2017. Note: respondents select from list of possible health problems and are included here if they both select ‘depression, bad nerves or anxiety’ or ‘mental illness or suffer from phobias, panics or other nervous disorders’ and if they report that this is their main health problem and that it has lasted or is expected to last at least 12 months.

EU citizens living in the UK are on average a highly educated population that should not be expected to have problems understanding and navigating a simplified application process of the kind the government has proposed. A minority of EU citizens will find the process itself difficult to navigate, however, for reasons such as language barriers, low literacy, disabilities or low digital knowledge. In practice, the experience of these people will vary depending on what help is available to them, and those with good support from family and friends may face few problems.

First, people with limited English proficiency may lack access to high-quality information about settled status and/or find it difficult to navigate the process of acquiring evidence, for those who need it. Information on language

proficiency among migrants in the UK is imperfect, although the LFS asks respondents whether they have had language problems in keeping or finding employment. In Q3 2015 (the most recent quarterly data in which this question was asked in the LFS), the large majority of EU citizens said they did not, but 250,000 non-Irish EU nationals age 18 or over reported experiencing language problems (Table 4). This does not include people who speak little English but do not need English for work. Other information on language proficiency comes from the 2011 Census, in which 288,000 EU passport holders reported not speaking English well (Census table CT0066), although these figures could have changed substantially since 2011 as existing residents improved their English skills and new migrants with different proficiency levels arrived.

Second, people with low levels of literacy, such as early school leavers, may find the process more difficult to navigate and may also have less knowledge of the settled status programme. In general, EU citizens have high levels of education compared to the UK population (Migration Observatory, 2016). However, in 2017 there were an estimated 102,000 non-Irish EU citizens who left full-time education before age 16, and a further 175,000 who left school at age 16 or later who reported having no formal qualifications (Table 5)—making up about 10% of the non-Irish EU citizen population age 18 and above. The Q3 2015 data suggest that 23% of those reporting language problems were also in one of the low-education groups identified here, with an estimated 58,000 non-Irish EU citizens reporting both low language and low education (not shown in table).

Table 4: Self-reported language problems and educational background, non-Irish EU citizens age 18+

	London	Rest of UK	Total
Language problems keeping or finding work (Q3 2015)	73,000	177,000	250,000
Left full-time education before 16 (2017)	35,000	66,000	102,000
Left after 16 but report having no qualifications (2017)	39,000	136,000	175,000

Source: Migration Observatory analysis of LFS.

Third, elderly people may face a range of barriers. In addition to the fact that many are very long-term residents (discussed above), degenerative aging conditions and memory loss may mean that older residents have limited information on their immigration status – including whether they have become a UK citizen already and whether they previously held another status such as ILR. (Indeed, dementia among some elderly prospective applicants may be a problem; the Alzheimer's Society (2014) suggests that 1 out of 14 of all those of age 65 or over suffers from the disease in the UK.) Older foreign born residents were among those more likely to report not having a passport in the 2011 Census, as discussed below.

In 2017, there were an estimated 56,000 non-Irish EU citizens living at private addresses age 75 or older (Table 5). Care homes are not included in the LFS, but the 2011 Census included 5,600 non-Irish EU born people age 75 or older who were living in communal establishments such as care homes (Census Table DC2118EW1a).

Table 5: Age of non-Irish EU nationals, 2017

	London	Rest of UK	Total
Under 18	196,000	531,000	727,000
Age 18–34	427,000	911,000	1,338,000
Age 35–64	439,000	823,000	1,262,000
Age 65–74	20,000	35,000	54,000
Age 75+	17,000	39,000	56,000
Total	1,099,000	2,339,000	3,438,000

Source: Migration Observatory analysis of LFS, 2017. Figures may not sum to total due to rounding.

Older people are also more likely to have poor digital literacy, which can exclude people from online government services (LITRG, 2012). Internet use varies between socio-economic and demographic groups, but research



suggests that age is the most important factor, with older people much more likely to be non-users, alongside less educated and low-income groups (Blank et al, 2017). Perhaps not surprisingly due to their young age profile and high education, EU citizens have high rates of internet use. In Q1 2017, 64,000 or 2% of non-Irish EU nationals age 16 and over said that they had never used the internet, compared to 6% of non-EU nationals and 10% of UK nationals age 16 and above (Table 6). A majority of the non-Irish EU national group not using the internet (43,000) were age 70 or above.

Table 6: Non-internet users by nationality, age 16+, 2017

	Non-Irish EU	Non-EU	UK & Irish	Total
Never used internet	63,000	119,000	4,646,000	4,828,000
Total 16+ population	2,762,000	2,157,000	47,719,000	52,659,000
Percent	2%	6%	10%	9%

Source: Migration Observatory analysis of LFS, 2017. Note: share of internet non-users has declined over time and so figures are lower than previously published totals using the LFS.

Of course, many of these people will have children or family members who can help with their application, though this will be difficult for those who are more isolated. Separate research from the Oxford Internet Institute suggests that the most common reason for not using the internet is that people are 'just not interested' (Blank, 2013a); and that around 70% of internet non-users have someone else who can use the internet on their behalf (Blank, 2013b).

Fourth, people with some physical health problems and disabilities may struggle with an application unassisted. EU citizens in the LFS report lower prevalence of health problems than UK citizens, presumably in part due to their younger age profile. In addition, many health problems reported by respondents in the LFS will not be severe enough to interfere with an application. In 2017, 61,000 or 2% of EU citizens age 18–64 said that they had a physical health problem that limited their daily activity a lot (Table 7).

Table 7: People age 18–64 reporting long-lasting physical health problems, 2017

	London	Rest of UK
Language problems keeping or finding work (Q3 2015)	73,000	177,000
Left full-time education before 16 (2017)	35,000	66,000
Left after 16 but report having no qualifications (2017)	39,000	136,000

Source: Migration Observatory analysis of LFS 2017. Note: long-conditions include those lasting or expected to last at least 12 months. Figures refer to a person's 'main' health problem so will exclude some physical health problems among people who report mental health or depression-related condition as their main health problem.

### 3.4 People who cannot provide evidence

Some people may either be rejected for settled status or decide not to apply because they struggle to provide evidence of their time in the UK. How easy it is for applicants to demonstrate that they have been resident here will depend to a large extent on policy choices about what evidence to require. The government has said that the 'user-friendly' process will draw on existing government records such as HMRC tax records, so that most people do not have to send in any documents at all. Since employment rates for EU citizens are very high—81% in the fourth quarter of 2017 (ONS, 2018)—a large majority of applicants should fall into this category.

The minority of people who do not already have an official paper trail will presumably need to supply other forms of evidence that they lived in the UK before the cut-off date. Depending on how the process is designed, this might include either proof of address in the UK or proof of other activities here, such as work, study or daily life.

The current permanent residence process prioritises ‘formal’ proofs of address as evidence that someone has been living in the UK, such as documents from government sources, employers, landlords or education providers (e.g. tax bills, bank statements and leases). The PR guidance notes identify a hierarchy of documents that can demonstrate UK residence, from ‘high value’ to ‘no value’ (UKVI, 2017), and lists examples of evidence that can be used to document activity in the UK (provided in Appendix Tables 1 and 2).

How these requirements will change in the settled status process is still under discussion. The government has established ‘user groups’ including representatives of EU citizens in the UK to consult on questions such as what evidence EU citizens without formal documentation can provide. (HM Government, 2017). Since some groups of EU citizens are likely to struggle to provide any of the formal sources of documentation listed above, their ability to prove residence may depend on decisions about what other forms of evidence to accept—such as contracts for services (e.g. car insurance), membership of clubs or libraries, personal letters and emails, social media activity, or testimonies from private individuals.

This section of the report identifies a few of the different groups who could fall into this category. Assuming that a range of different types of evidence is allowed, people with the greatest difficulties producing evidence are likely to be those with a limited paper trail across several domains, such as housing and work or other non-work activities.

#### *People without bank accounts*

First, people who conduct their daily life with cash rather than electronic payments may have limited paperwork. This could include, for example, casual workers who do not realise that their employers do not have proper payroll systems, are not providing them with payslips, and/or are not paying required tax and national insurance contributions. It could also include self-employed people in low-skilled jobs such as cleaning, construction or childcare in private households, who may have failed to pay tax either intentionally or inadvertently (e.g. due to a poor understanding of the requirements (see e.g. TNS BMRB, (2015))).

An estimated 3.4% of individuals age 18 and over in 2014–2016 did not have a bank account (ONS user requested data for Great Britain). Reliable information by nationality is not available, but if the share of EU and UK citizen adults without bank accounts were the same, this would mean just over 90,000 EU citizen adults did not have bank accounts (3.4% of 2.7 million age 18 and above). In practice, the true number could be higher because EU citizens are more likely to be in low-skilled jobs where cash payment is more common, reducing the need for a bank account; and setting up a bank account is more difficult for foreign nationals and the recently arrived, since obtaining an acceptable proof of address can take time. Some EU citizens may also have a bank account but only outside of the UK.

#### *People without proof of address*

An estimated 1,966,000 or 73% of non-Irish EU citizens live in private rented accommodation, primarily from individual private landlords rather than organisations. In most cases, at least one person in the household will have a written tenancy agreement (CLG 2011) or other documents such as mortgage or property deeds. However, not everyone in the household will have documents in their name—for example because they are informally subletting, do not pay rent, or are part of a family where only one person’s name is on the paperwork. Large numbers of EU citizens have living arrangements in which this problem could arise.

For example, 218,000 non-Irish EU nationals in 2017 were living in households with two or more adults who were not a couple; 521,000 were in households with more than one family unit; and 170,000 EU citizens age 18 or older were living with their parents—all situations involving a greater risk of limited paperwork.

Table 8: Household composition, non-Irish EU nationals, 2017

Household type	Head of family	Spouse/Partner	Child Under 18	Child 18+	Total
1 person living alone	205,000	-	-	-	205,000
2 or more adults, not couple	218,000	-	-	-	218,000
One family unit	896,000	819,000	640,000	140,000	2,495,000
More than 1 family unit	287,000	129,000	76,000	29,000	521,000
Total	1,605,000	948,000	715,000	170,000	3,438,000

Source: Migration Observatory analysis of LFS, 2017. Figures may not sum to total due to rounding.

Note: A 'family unit' includes only couples and their children; other relatives (e.g. the brother/sister of the adult household head) would be counted as a separate family unit. The 'head of family' in the LFS is usually the man in a couple, and the spouse/partner is usually the woman. Figures in this table cover only EU nationals but the households they are part of may have a mix of nationalities (e.g. '2 or more adults' could be one EU national and one UK national) including UK-born children reported by the parents as UK citizens (see discussion below on citizenship). Data on household composition for same-sex couples is not provided so these people are included in households with one family unit.

About half of non-Irish EU national adults in the UK were living with a spouse or civil partner in 2017 (Table 9); 21% were cohabiting with a partner, 16% not living as part of a couple and 10% were single parents. For couples, there is a risk that one partner will not have documentation in their name, particularly cohabiting couples.

Table 9: Non-Irish EU nationals by family type and position in household, 2017

Type of family	Head	Wife/partner	Child under 18	Child 18+	Total
One person only	536,000	-	-	-	536,000
Married couple or civil partners	621,000	622,000	479,000	98,000	1,820,000
Cohabiting couple	286,000	326,000	107,000	15,000	734,000
Single parents (male or female)	162,000	-	129,000	57,000	348,000
Total	1,605,000	948,000	715,000	170,000	3,438,000

Source: Migration Observatory analysis of LFS, 2017. Figures may not sum to total due to rounding.

Note: children only included if they are reported as being EU nationals.

#### *People in precarious or non-standard housing*

People without clearly defined addresses are at greater risk of not having evidence of residing in the UK. This could include people who move regularly between locations to reduce costs (e.g. staying with friends or family) or people who travel for work. This kind of movement is not captured in the LFS.

Second, some people who live in communal establishments (e.g. hostels, B&Bs or caravan parks) will not have a defined address. The LFS excludes people living in communal accommodation, such as hostels or communal employer-provided housing on farms or other work sites. At the time of the 2011 Census in England and Wales there were an estimated 45,000 residents or staff of communal establishments who held passports from EU countries other than Ireland (Census table DC2119EW1a). The number of such residents is likely to have increased due to further EU migration since 2011.

Data on homeless EU nationals are limited, not least because of difficulties of measurement and because people are not classified as 'homeless' or 'not homeless' but may move between the two. Housing, Communities and Local Government (2018) estimated there were 760 EEA national rough sleepers in England during the Autumn of 2017, while the Combined Homelessness and Information Network (CHAIN) counted 3,000 EEA national rough sleepers in London alone between April 2016 and March 2017 (Mayor of London, 2017).

Roma communities are also more likely to have precarious housing arrangements. In the 2011 Census of England and Wales, just under 59,000 people in England and Wales reported their ethnicity as Gypsy or Traveller (Census table CT0769), although this will include people born in the UK and Irish nationals. Other studies have produced larger numbers of up to 300,000, although there are serious methodological challenges (see Morris 2016 for a

discussion). Official statistics suggest 23,000 pupils in state-funded schools reported their ethnicity as “Gypsy/Roma” as of January 2017 (Department for Education, 2017).

#### *People who arrive shortly before the cut-off date*

Most of the EU nationals living in the UK are established residents who have been here for some time. People who arrive shortly before the cut-off date, however, will be less likely to have time to set up a bank account and/or acquire proof of address; some, such as the self-employed, will also not yet be captured in tax records on which the government hopes to draw. Unlike people with several years of residence, recent arrivals are more vulnerable to being excluded from the process entirely, because they will not be able to substitute a later period of documented residence for an earlier period when they were resident but do not have evidence.

In the most recent figures for the year ending September 2017, 220,000 EU citizens arrived in the UK intending to spend at least a year here. If recent rates of immigration remained constant, approximately 100,000 long-term EU migrants would arrive within 6 months before the cut-off date, although some would also be expected to leave within 5 years and therefore not qualify for settled status.

#### *People without evidence of formal work in the UK*

For people who lack proof of residence, evidence of work is a potential substitute. However, people who are not working or who are doing informal work in the home such as caregiving may lack evidence of their activities. Unpaid care, in particular, is widespread: in the Census 2011, 5.8m people reported providing unpaid care to people with long-term ill health or disabilities; among them, 292,000 had a main language that was not English, although breakdown by nationality or country of birth is not currently available (Census table CT0750). This will include people who are also working and providing care outside of their working hours.

In 2017, an estimated 150,000 non-Irish EU citizens were not working because they were looking after family members, the most common reason for being economically inactive (Table 10); more than 90% of these people were women. (The figures do not include non-related informal carers—people who look after others in return for room and board, with no money changing hands.) These economically inactive people are likely to have greater problems finding evidence if they also lack residence documentation, for example because all proofs of address are in the name of a partner or other household member.

Table 10: Economically inactive non-Irish EU citizens age 18+, excluding students, 2017

Reason for inactivity	Whole UK		London	Whole UK	
	Men	Women	All	All	Inactive 5+ years
Looking after family	–	139,000	36,000	144,000	78,000
Long term sick or disabled	16,000	19,000	12,000	35,000	24,000
Retired	31,000	69,000	31,000	100,000	88,000
Other reasons	16,000	33,000	18,000	49,000	23,000
Total	68,000	260,000	97,000	328,000	213,000

Source: Migration Observatory analysis of LFS. Figures may not sum to total due to rounding. Excludes people still enrolled in education. Figures on who have been inactive for 5 or more years include those who have never worked.

Young people not in employment, education or training (NEET) may have no paperwork in their name. For children and young people, school records are likely to be a major source of evidence on UK residence. However, a small number of EU citizens are NEET. This applied to an estimated 41,000 non-Irish EU nationals age 16 to 24 in 2017, about 21,000 of whom were living with their parents (and thus may also lack information on housing).

Among people who are working, some types of jobs will be more difficult to document, whether because they involve multiple short-term engagements, variable or unpredictable hours, informal HR practices with limited

paperwork, a lack of a traditional employer-employee relationship, or all of the above. In 2017, there were an estimated 179,000 EU nationals being paid via an agency, which may include people being paid from an agency in their home country. About 25,000 non-Irish EU nationals were on zero-hour contracts and 135,000 had temporary contracts (these categories are not mutually exclusive). Agency workers and people on temporary contracts were overrepresented in the East Midlands (17% of agency workers and 14% of temporary contract holders lived there, compared to 7% of the overall non-Irish EU national population who lived in the East Midlands). Both groups were underrepresented in London (19% vs. 33% of the total) (Appendix Table 3).

About 266,000 employees reported working for small employers (10 or fewer people), who may have less formal HR and bookkeeping practices, and about 55,000 worked fewer than 15 hours per week. Finally, there were an estimated 56,000 self-employed non-Irish EU nationals in the lowest-skilled categories of work ('elementary occupations') and 80,000 in routine jobs such as machine operators in factories and retail sales assistants, a total of 136,000 (Table 11). This model of working was most common on London, where half (67,000) of the low-skilled self-employed worked, in part due to the high prevalence of self-employment in construction in the capital (Appendix Table 3).

Table 11: Selected contract types and employers, excluding full-time students, non-Irish EU citizens age 18+, 2017

Type of work	Number
Agency worker (employee or self-employed), <i>of which</i>	179,000
<i>Manufacturing</i>	48,000
<i>Retail + wholesale</i>	33,000
<i>Transport + storage</i>	27,000
Zero-hour contract	25,000
Temporary contract, <i>of which</i>	135,000
<i>Manufacturing</i>	28,000
Working fewer than 15 hours per week	55,000
Employee working for small employer (1-10 employees)	266,000
Self-employed, routine + elementary jobs, <i>of which</i>	136,000
<i>Transport and storage (e.g. cab and van drivers)</i>	33,000
<i>Admin and support (e.g. cleaning offices)</i>	28,000
<i>Construction</i>	30,000

Source: Migration Observatory analysis of LFS. Note: small employer figures do not include responses for 'don't know but under 25'. Hours worked refer to total usual hours, excluding overtime. Examples provided in parentheses represent the largest occupational categories within the industry. Low-skilled occupations include elementary and routine occupations as classified by ONS.

### *People without evidence of citizenship*

Finally, applicants will need to show that they are in fact EU citizens, using either a passport or a national identity document. In the large majority of cases, this will be very straightforward. But some EU citizens will not hold passports or national identity documents and thus would need to obtain one to apply. At the time of the 2011 Census in England and Wales, 100,000 or 5% of people born in EU countries did not hold a passport (Census table LC2280EW), though some of these people will be UK citizens who have naturalised in the UK or were born abroad to British parents. Separate Census microdata suggests that these individuals were mostly evenly distributed across age groups, although the share was highest (9%) among adults age 70 and above (Table 12). Data on whether people hold national identity documents other than passports are not available.

Table 12: People born in EU countries (excluding Ireland), 2011, England and Wales

Age	No passport	Holds passport	Total	% without passport
Children (0–18 years)	13,000	265,000	278,000	5%
Adults age 19–69	75,000	1,541,000	1,616,000	5%
Adults age 70+	12,000	127,000	139,000	9%
Total	100,000	1,933,000	2,033,000	5%

Source: Migration Observatory analysis of 2011 Census microdata. Note: figures rounded to nearest 1,000 and are derived from 5% microdata sample so may differ slightly from published tables.

### 3.5 People who do not meet the eligibility criteria

Under the government's proposed settled status system, if eligibility is based on residence rather than specific activities conducted in the UK there should in principle be relatively few EU citizens who would not meet the eligibility criteria.

The main category of EU citizen residents who could be ineligible are those with significant absences from the UK. EU citizens who have already qualified for permanent residence can leave the UK for up to 2 years before losing their status. Those who leave the UK for more than 6 months in any 12 month period break their 5-year period of continuous residence (or 12 months if there is an important reason). If they do this before the cut-off date, the clock restarts and they may still be eligible 5 years later. However, people who break the period of continuous residence after the cut-off date are expected to lose eligibility for settled status.

Current migration statistics provide only partial insight into absences from the UK. However, available data suggest that the number of people making substantial trips away from the UK annually is in the low tens of thousands. (Note that all the statistics in this paragraph include Irish nationals.) In 2016, an estimated 23,000 EU citizens who had previously lived in the UK moved back to the country after an absence of 1–4 years (IPS Table 3.15). In the year ending mid-2015 (the most recent data available), EU citizens who were living in the UK made an estimated 45,000 short-term trips out of England and Wales, which they expected to last for 3–12 months (ONS 2017b). The average length of stay abroad was 4.5 months, so most of these trips will not exceed the 6-month threshold. These figures will not capture the movements of people making a large number of much shorter trips that could, cumulatively, exceed 6 months in a given year (EU citizens took 367,000 1–3 month trips in the year ending mid-2015, but it is not known how many of these were by the same people). This could include people who travel frequently for work providing services, for example.

In addition to people with absences from the UK, there are some groups whose eligibility has not been discussed in any detail. This includes non-EU unmarried partners of EU citizens who are separated, and non-EU spouses whose EU citizen spouse left the UK without filing for divorce or before divorce proceedings began; and non-EU citizens who are the primary carer for a UK citizen child (Zambrano carers) (Valcke, 2017). There are no available data on the population of people who qualify under these routes. In addition, it remains uncertain whether children who are not included in a parent's application – for example because they are estranged from their parents – will be able to apply in their own right, although the government's intention to base eligibility on residence rather than the exercising of treaty rights potentially removes one of the major potential barriers that children might otherwise have faced. Data on people in this situation are not available.

## 4. Conclusion

If the government's proposal for a user-friendly online system goes ahead, the large majority of EU citizens should not have difficulty making an application. EU citizens in the UK have high average levels of education, a large majority are working, most are relatively young and most do not report any problems such as low language ability or poor health. The share of EU citizens who are not internet users is low, so most should be in a good position to navigate an online application system.



This report has outlined the characteristics of people whose cases are more complex. The nature and severity of the barriers they face will vary and thus are difficult to compare among each other. However, a few observations are warranted.

First, simply having one of the characteristics identified in this report does not mean that a person will fail to secure settled status. People are likely to face greater difficulties if there is a combination of factors. For example, barriers to access due to language, disability or lack of digital literacy will be most relevant for people with complex cases because they lack evidence, or for those who are isolated and cannot easily rely on friends and family for help.

Second, the individuals who are most likely to be excluded from the settled status process are those who are already vulnerable for other reasons. This includes victims of abuse and exploitation, and isolated people who are not participating in mainstream institutions such as banking and formal work or study. As a percentage of the EU citizen population, the number of people falling into these ‘most vulnerable’ categories is likely to be small. However, available data suggest figures in the tens of thousands for groups such as women experiencing domestic abuse and young people not in education, employment or training.

Many of these people may need help completing the process. Some will be on low incomes and thus unable to afford professional advice from immigration lawyers or regulated advisors, which can be expensive. The simpler the settled status application process, the less likely it is that applicants will need advice in order to complete it. However, accurate advice about eligibility and how to apply may still be important for many of the people described in this report, and their ability to do so will be influenced by policy decisions such as what kinds of informal evidence can be accepted.

Third, policy decisions about the evidence that can be accepted are likely to be important for a significant minority of EU citizens. For a host of reasons outlined in this report, some people may have left very little paper trail. An estimated 3.4% of adults in the UK population do not have a bank account, and EU citizens in this position may also have limited evidence of their daily life in the UK. Other people in this category include young adults living with their parents, people at home caring for family members, young people not in education, employment or training, self-employed in low-skilled occupations, and EU citizens without passports. For these people, the important policy questions will be what kinds of ‘informal’ evidence is accepted and how comprehensive the coverage of the 5 years of residence needs to be, since tracking down complex evidence from multiple different sources will be more difficult and more likely to put people off applying, especially for those who already find the process difficult to navigate due to language barriers, health problems or chaotic lifestyles.

Finally, arguably the biggest challenge if the government aims for comprehensive take-up of settled status is awareness. There are some large groups of people who would not normally be classified as ‘vulnerable’ but who may not realise that they need to apply, from children to very long-term residents to people who already hold permanent residence documents. These people’s inclusion in the process will be in part a function of how well accurate information is circulated and how broadly the programme can be publicised. Having a deadline can encourage more people to apply who might otherwise postpone the task indefinitely (Altmann et al, 2017). But if a significant number of eligible people do not apply, enforcing a strict deadline would increase the illegally resident population. As a result, perhaps one of the most important unresolved policy questions affecting the completeness of the settled status process is what contingency plans will be in place for people who do not apply by the deadline.

## 5. Evidence gaps and limitations

The quantitative analysis presented here has some important limitations. First, quantitative analysis of people with a given characteristic often fails to convey the nuance of individual experiences. For example, people reporting language barriers will include both those with very significant communication problems and those who speak relatively good English but have had problems in specific circumstances (e.g. accessing high-skilled work). Similarly,

and as noted above, people reporting being victims of some form of domestic abuse will have experiences that vary enormously in their severity and impacts.

Several characteristics that could be quite important in the settled status process are not easily captured in nationally representative data sources like the LFS. For example, social isolation could have a large impact on individuals' knowledge of the process and ability to seek help if they need it, but is not easily measured. It is also hard to identify people who lead chaotic lifestyles in some way, and who might thus not be able to navigate the process. Similarly, there are no obvious sources of quantitative information identifying how 'connected' EU citizens are to mainstream sources of information such as mainstream media, online news sources, or local institutions such as community centres or GPs; or how easily people could receive help from others to complete their application.

Where data do exist, it is often the case that limited demographic breakdowns are possible (e.g. on characteristics such as age, gender, place of residence, occupation or income). This is because of limitations in the sample size of surveys like the LFS, and the fact that data from administrative sources (e.g. people who have been granted or refused permanent residence) tend not to include much of this kind of information. There is also quite limited information on household income of EU migrants in the UK, since the LFS does not provide data on earnings from self-employment or on unearned income.

## Appendix

Appendix Table 1: UKVI guidance on acceptable documents to demonstrate UK residence

Category A (high value) One for every qualifying or required 12 month period	Utility bills (gas, electricity, water) Council Tax bill Bank statement Credit card statements School / college / university letters Evidence of continuous employment, such as HMRC employment history
Category B (medium value) One for every qualifying or required 12 month period	Tenancy agreements NHS letters to confirm regular attendance Mortgage agreements For children (relating to a child application only): a letter from the child's school, confirming attendance at the school
Category C (low value)	Mobile phone bills
Category D (no value)	Character references/testimonials from family and friends Wedding photograph albums Greetings cards (birthday, valentines, religious festivals) Multimedia (CRRs, CDs, DVDs, USB media sticks) Ring binders or similar folders NHS letters confirming a single appointment

Source: UKVI (2017).

Appendix Table 2: UKVI examples of acceptable evidence of activity in the UK under current PR process

Evidence of self-employment	HMRC documents, e.g. proof of self-assessment or P60s Business accounts Company registration information Invoices and receipts Contracts to provide services Bank statements showing receipts for payments
Evidence of employment	P60s from consecutive years Payslips Letter from employer Employment contracts P45s, letters of resignation or dismissal
Evidence of study	Proof of enrolment Letter from the educational institution
Evidence of self-sufficiency	Bank statements Pension statements
Evidence of job-seeking	Letters showing registration with JobCentre Plus or recruitment agency Copies of job applications Letters of rejection or invitations to interview

Source: UKVI (2017).

Appendix Table 3: Underlying data used in Figure 1, and breakdown for London

	London	Entire country
EU nationals born outside UK	87000	442000
EU nationals born in UK	109000	285000
UK nationals born in UK living with EU national parents	77000	239000
Of which, at least one parent had been in the UK for at most 5 years at time of birth	*	55000
Of which, at least one parent had been in the UK for at least 5 years at time of birth	*	184000

Source: Migration Observatory analysis of LFS, 2017. Figures may not sum to total due to rounding. \* = breakdown not possible due to sample size.

Appendix Table 4: Regional breakdown of non-Irish EU nationals, 2017

Region of the UK	Number	Percent
London	1,099,000	32%
South East	412,000	12%
East of England	330,000	10%
North West	251,000	7%
South West	198,000	6%
Yorkshire and Humberside	212,000	6%
Scotland	202,000	6%
Northern Ireland	88,000	3%
West Midlands	269,000	8%
East Midlands	256,000	7%
North East	56,000	2%
Wales	63,000	2%
Total	3,438,000	100%

Source: Migration Observatory analysis of LFS, 2017. Figures may not sum to total due to rounding.

Appendix Table 5: Selected regional breakdown, non-Irish EU nationals with temporary contracts, agency workers and self-employed in routine or elementary jobs, 2017

	London	East Midlands	Rest of UK	Total
Temporary contract	26,000	18,000	91,000	135,000
Agency worker	35,000	31,000	113,000	179,000
Self-employed in routine or elementary job	67,000	69,000		136,000

Source: Migration Observatory analysis of LFS.

## References

- Altmann, Steven, Christian Traxler and Philipp Weinschenk. Deadlines and cognitive limitations. IZA DP No. 11129.
- Alzheimer's Society, 2014. Dementia UK: Update.
- Benton, Meghan. 2017. Safe or Sorry? Prospects for Britons in the European Union after Brexit. Brussels: MPI Europe.
- Behavioural Insights Team. 2014. EAST: Four simple ways to apply behavioural insights.
- Blank, Grant. 2013a. Why do some people not use the Internet? OxIS blog, 3 September 2013.
- Blank, Grant. 2013b. Proxy users in the UK: An overview. OxIS blog, 27 September 2013.
- Blank, Grant, Mark Graham and Claudio Calvino. 2017. Local Geographies of Digital Inequality. Social Science Computer Review Vol. 36(1) 82–102.
- European Union and United Kingdom Government. 2017. Joint Report from the Negotiators of the European Union and the United Kingdom Government on Progress During Phase 1 of Negotiations Under Article 50 TEU on the United Kingdom's Orderly Withdrawal from the European Union.
- CLG. 2011. Private Landlords Survey 2010. London: CLG.
- Daigneault, Pierre-Marc, Steve Jacob and Maximilien Tereraho. 2012. Understanding and Improving the Take-up of Public Programs: Lessons Learned from the Canadian and International Experience in Human Services. International Journal of Business and Social Science, Vol. 3 No. 1; January 2012.
- Department for Education, 2017. Schools, Pupils and their Characteristics: January 2017 – National Tables.
- European Scrutiny Committee. 2018. Oral evidence: EU Withdrawal, HC 763, 21 February 2018.
- Desira, Chris. 2017. Brexit: Settled status and citizens' rights – what has been agreed? Free Movement, 11 December 2017.
- Dubois, Hans and Anna Ludwinek. 2014. Access to benefits. Eurofound Working Paper, October 2014.
- Eurofound. 2015. Access to Social Benefits: Reducing Non-Take-Up. Luxembourg: Publications Office of the European Union.
- Fenton, Alex. The Geography of Poverty and the Geography of Welfare Benefits. 2012.
- Finn, Dan and Jo Goodship. 2014. Take-up of benefits and poverty: an evidence and policy review. Centre for Social and Economic Inclusion.
- Gbikpi, Nath. 2018. How to apply for "settled status" and "temporary status": a guessing game. Free Movement, 5 January 2018.
- Hipsman, Faye, Barbara Gomez Aguinaga and Randy Capps. DACA at Four: Participation in the Deferred Action Programme and Impacts on Recipients. Washington DC: Migration Policy Institute.
- Home Office. 2017a. European Economic Area (EEA) administrative removal: Version 4.
- Home Office. 2017b. 2017 UK Annual Report on Modern Slavery. London: Home Office.
- House of Lords. 2017. Uncorrected Oral Evidence, Brexit: Citizens' Rights. Select Committee on the European Union, Justice Sub-Committee, 12 December 2017.
- HM Government. 2017. Technical Note: Citizens' Rights – Administrative Procedures in the UK.
- HMRC. 2016. Child Benefit, Child Tax Credit and Working Tax Credit Take-up rates, 2014–15. HMRC: 2016.
- HMRC. 2017. Income Tax, NICs, Tax Credits and Child Benefit Statistics for EEA Nationals.
- HMRC. 2018. On-time Self Assessment returns break the record again.
- Housing, Communities and Local Government. 2018. Rough sleeping in England.
- LITRG (Low Incomes Tax Reform Group). 2012. Digital Exclusion.
- Mayor of London. 2017. Chain Annual Report. 2017.
- Migration Observatory. 2016. Young People and Migration in the UK: An Overview. Oxford: Migration Observatory.
- Ministry of Housing, Communities & Local Government. 2018. Rough Sleeping Statistics Autumn 2017, England (Revised).
- Morris, Marley. 2016. Roma Communities and Brexit. London: IPPR.
- Myhill, Andy. 2015. Measuring Coercive Control: What Can We Learn From National Population Surveys?

Violence Against Women 2015, Vol. 21(3) 355–375.

- O'Brien, Charlotte. 2017. Written evidence submitted by Dr Charlotte O'Brien, Senior Lecturer, York Law School, University of York (NEG0008).
- O'Donoghue, Ted and Matthew Rabin. 1999. Doing it now or later. *American Economic Review*, 89(1), 103–124.
- ONS. 2016. Labour Force Survey – user guidance. Volume 1: Background and Methodology.
- ONS. 2017a. Domestic abuse in England and Wales: year ending March 2017.
- ONS. 2017b. Short-Term International Migration for England and Wales: year ending June 2015.
- ONS. 2018. Financial wealth: wealth in Great Britain.
- ONS. 2018b. User Guide to Crime Statistics for England and Wales. ONS: January 2018.
- Ryan, Bernard. 2017. Who will remain after Brexit? Ensuring protection for all persons resident under EU law. ILPA Briefing, 5 December 2017.
- Spaventa, Eleanor. 2017. The impact of Brexit in relation to the right to petition and on the competences, responsibilities and activities of the Committee on Petitions. Brussels: Directorate General for Internal Policies.
- TNS BMRB. 2015. Understanding the motivators and incentives for voluntary disclosure. HMRC Research Report 397.
- UKVI. 2017. EEA(PR): guidance notes.
- Sumption, Madeleine. 2017. *The Burden of Proof: How Will the Application Process Work for EU Citizens After Brexit?* Oxford: Migration Observatory.
- Valcke, Anthony. 2017. Brexit: Protecting Citizens' Rights and New Negotiating Directives. Open letter to Donald Tusk.
- Van Oorschott, W. 1998. Failing selectivity: On the extent and causes of non-take-up of social security benefits. In H-J. Andress (Ed.), *Empirical poverty research in a comparative perspective* (pp. 101–132). Ashgate: Aldershot.
- Weeks, Amber, Andy Fallows, Peter Broad, Salah Merad and Karl Ashworth. No date. Non-response Weights for the UK Labour Force Survey? Results from the Census Non-response Link Study. Office of National Statistics.

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## The Migration Observatory

Based at the Centre on Migration, Policy and Society (COMPAS) at the University of Oxford, the Migration Observatory provides independent, authoritative, evidence-based analysis of data on migration and migrants in the UK, to inform media, public and policy debates, and to generate high quality research on international migration and public policy issues. The Observatory's analysis involves experts from a wide range of disciplines and departments at the University of Oxford.



## COMPAS

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