

REPORT

BECOMING ONE OF US

REFORMING THE UK'S
CITIZENSHIP SYSTEM
FOR A COMPETITIVE,
POST-BREXIT WORLD

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SUMMARY

Decades of high migration have brought millions of people to Britain's shores. Many come to make the UK their home – working, raising families and becoming a permanent part of British society. Yet the political debate on immigration has recently tended to focus on the numbers of new immigrants coming into the country. This has had a distortive effect on the debate. Too little attention has been paid to migrants who are already here, and their pathway to citizenship. The means by which migrants make Britain their permanent home – indeed, become British citizens – is important. Yet for decades, the British citizenship system has lain unreformed.

The result of the European referendum has thrown this neglect into sharp relief. As Britain embarks upon negotiations to leave the European Union, there is no clarity on the future status and security of the 3 million citizens of other EU countries who live here. People who came to Britain legally and legitimately, who have built their lives here and contributed to British prosperity and culture, have no way of knowing whether they will be able to stay and on what terms.

In this report, we discuss the current status of EU citizens in Britain and their prospects as British withdrawal is triggered. Swift and fundamental reform is urgently needed, and we argue that all EU citizens who live here should automatically be granted indefinite leave to remain. We must recognise that European children who have been brought up in Britain, even if they do not have British nationality, will maintain an enduring connection to the country for the rest of their lives. Furthermore, the contribution that EU workers have made to the National Health Service especially must be recognised and safeguarded. The country's social cohesion depends upon a comprehensive system that integrates the migrants who have made their lives here into the national population.

However, broader reforms of the British citizenship system are overdue. Citizenship policy has developed incrementally, in response to changing migration flows and globalisation, since the British Nationality Act was passed in 1981. The system now stands on the brink of the most significant structural change since the end of Empire. Before the EU referendum, the government announced it would undertake a review of citizenship policy. This is an important opportunity to examine how the system is working and the impacts it has in the current reality of a high-migration country in an increasingly globalised economy.

Acquiring British nationality is tougher than it has ever been. As a result of reforms introduced over the past 20 years, prospective citizens have to pass a series of tests. They have to learn the language and culture, observe the law, be of good character, meet the residency requirement and pay a high fee. In many ways this is right: British citizenship should be a hard-earned privilege.

But as a means of fostering the country's economic prosperity and social cohesion, a more sophisticated system is needed. In this report, we argue that two groups of migrants, at opposite ends of the scale, are disproportionately disadvantaged by the current system. First, for migrants with world-class skills, the current system takes too long and is too uncertain. Access to a British passport would give them the ability to travel for their work and the security to put down roots and invest in the UK. Other countries compete vigorously to attract this talent, and the future success of the British economy depends on our ability to attract and retain them. Our citizenship system risks encouraging them to look elsewhere, and thus poses a real threat to our international competitiveness.

This is far from a negligible issue: while Britain has toughened its citizenship system over the past 20 years, our competitor economies have liberalised theirs. Germany, for example, has significantly liberalised access to citizenship for migrants. As Brexit stokes concern that London's financial services sector may migrate to Paris or Frankfurt, Britain must improve its offer to the world's most talented – particularly those who are already here. It should not be so difficult for them to become British and access the benefits of citizenship.

Second, low-wage migrants who are here legally and integrate well would benefit from citizenship. These migrants compete hard for jobs and accommodation. Recent reforms have made landlords and employers liable for the immigration status of those they employ or rent homes to. Those with an unusual passport, or whose residency is not straightforward or easily provable, will suffer, as employers and landlords with little knowledge of the immigration system may err on the side of caution. A British passport, which they fully satisfy the requirements for, would be a useful insurance for this group. But the spiralling price of citizenship – now more than £1,200 – has put it beyond their reach. It is far more expensive in the UK than in comparable countries. The low-skilled and low-wage labour supply is likely to decrease if the UK scraps free movement between the UK and European Union countries in light of the referendum result. Those migrants who are already here must be given a pathway to citizenship in the interests of social cohesion.

RECOMMENDATIONS

To safeguard the future of EU citizens living in Britain, and to send a clear message that Britain wants to integrate Europeans who have made their lives here, we recommend that the government takes the following immediate actions.

- 1. Grant indefinite leave to remain to all EU citizens resident in Britain.**
- 2. Offer automatic British citizenship to all European children who have been educated in Britain.**
- 3. Waive the £1,200 fee for British citizenship for all EU citizens who have been living here for more than five years.**
- 4. Offer automatic British citizenship to all Europeans working in the National Health Service, to recognise the importance of their contribution and safeguard public health.**

We also recommend a series of reforms to make the citizenship system altogether better suited to the complexities of a 21st century, high-migration country.

- 1. Give the right to vote in local elections to all migrants with indefinite leave to remain.** Currently, Commonwealth migrants can vote in local elections, as can EU migrants – although they will likely lose that right when we leave the EU. Illogically, longstanding migrants from other parts of the world have no voting rights at all. In recognition of the fact that long-term residents are part of their communities, the government should give all of them the right to vote in local council elections.
- 2. Create a fast-track route to citizenship for those with globally competitive skills.** By paying a higher fee, those with world-class skills in industries that power the British economy should be able to access citizenship, the ability to travel that it brings, and the security to invest and put down roots. This would send a much-needed message that Britain is open and competing hard in the global race for skills despite both our toughening immigration system and Brexit.
- 3. Freeze the price of citizenship.** The cost of naturalising has spiralled in recent years, and Britain is now among the most expensive citizenship regimes in the developed world. The full integration that citizenship connotes is being moved out of the reach of most migrants, and should not be allowed to become any more expensive.
- 4. Introduce a government-backed citizenship loan.** Migrants who satisfy all the other requirements of citizenship and who are in work but earning below £20,000 per year should be able to take out a citizenship loan, allowing them to pay the cost of their citizenship back over time. This loan would be interest-free and government-backed, in the same vein as student loans and start-up loans. We estimate that within a number of years any revenue loss would be offset by income from the fast-track route.

1. INTRODUCTION

Citizenship policy is one of the primary responsibilities of the state. It defines the rights to which people are entitled, and thus has a significant impact on people's lives. It defines the pool of people the government is obliged to protect, and the group who collectively agree to contribute in order to receive public services. British citizens enjoy a wide range of rights, opportunities, services, protections and advantages that depend upon their UK nationality.

Yet the current system of British citizenship policy requires significant change. In the immediate term, swift reform is required to regularise the status of the 3 million EU citizens who live and work here, and whose security has been cast into doubt by the vote to leave the European Union. In the longer term, we need a sophisticated citizenship system that is properly adapted to the necessities of the 21st-century world. We need a system that attracts and retains the world's talent – those who help UK industries innovate and achieve success in the global market – and builds social cohesion by ensuring that those who work hard and play by the rules are able to access the rights and responsibilities that come with British nationality.

This report examines current British citizenship policy. Our aim is to provide policymakers with a clear understanding of how citizenship works today, and why the current system needs to be reformed to meet the demands of the 21st century. We look at the increasingly onerous requirements that potential citizens must fulfil; what citizenship means for long-term migrants; whether access is fair; and whether the system works for the country as a whole.

Most British citizens become so by birth: they are either born here, or to British parents overseas. However, over the course of many generations, Britain has become home to immigrants from around the world. As immigrants settle in the UK, put down roots, integrate and adapt to the culture, many take the important step of acquiring British citizenship.

Generally, Europeans who have settled in Britain have been less likely than non-EU migrants to naturalise – largely because, under free movement rules, doing so would make little material difference to the rights they are afforded. As Britain prepares to leave the EU, that is likely to change. Non-EU naturalisations have risen as migration flows have increased. 2013 saw the highest-ever number of people taking this final step, with just under 208,000 people pledging the oath of allegiance and obtaining a British passport. Continued migration, combined with Brexit, means high numbers of potential citizens.

In other countries, the topic of citizenship is hotly debated. Since the Revolution, France has organised its polity around the rights of the *citoyen*. In the US, citizenship has become one of the most contested issues in the current presidential campaign. The question of who can and cannot be considered German has been one of that country's most controversial issues ever since its reunification.

Yet in the UK, the issue has received scant attention. Partly this is because the debate on migration over the past half-decade has focused overwhelmingly on net migration. But it is also because British citizenship can be tricky to pin down as a concept. As a liberalised economy without ID cards, we rarely encounter substantive distinctions between citizens and non-citizens in daily life. And the other statuses that long-term migrants may have – such as 'permanent residents' (from the EU) or those who are 'settled' in the UK from outside the EU – make the distinction between citizen and 'alien' largely immaterial.

Furthermore, because citizenship policy has developed incrementally over a long stretch of time, the system is highly complicated. Since colonial times it has been periodically adapted and reformed to cope with decolonisation, mass migration, EU membership and globalisation.

Just before the EU referendum, the government announced a review of citizenship policy. The review was announced in the context of the government's counter-extremism strategy. Given the result of the referendum, its terms of reference should undoubtedly be broadened to take account of the new issues brought up by leaving the EU. However, the review also represents an important opportunity to look at whether citizenship policy is working in 21st-century Britain.

This is not before time. The government's focus on net migration and the year-on-year churn of migrants have meant that longer-term trends such as those related to citizenship have been overlooked. As Britain adapts to the reality of high migration, this report looks at whether long-term migrants get a fair deal, and whether Britain makes the most of the opportunities they bring.

In chapter 1 of this report, we set out the immediate issues thrown up by the vote to leave the EU. Millions of long-term residents who came to Britain legally, and who have always obeyed the law, now have no clarity and security on their status. The future of key industries and public services that rely on EU migrant workers is also in doubt – in the NHS, for example, one in 10 doctors is an EU migrant. We lay out some key, implementable changes that the government should swiftly adopt in order to bring both clarity to the lives of millions of residents, and security to our public services and economy.

In chapter 2, we explore the meaning of citizenship today, and whether the UK's current approach is fit for the modern world.

In chapter 3, we look at trends in citizenship policy, and how the UK compares to other countries in this regard.

And in chapter 4, we examine the impacts of citizenship policy on different groups of migrants, and on the capacity of the citizenship system to build social cohesion and economic prosperity.

In the final chapter we offer a series of policy recommendations designed to make the system fairer and more effective, both for individual migrants and the economy overall.

None of our proposals contradict the current government's two hallmark objectives on immigration: bringing down net migration and reducing illegal immigration. Our proposals apply only to immigrants who are here already, be they European or not, and to those with legal status who have complied with immigration rules, which is a current and correct prerequisite for obtaining citizenship.

The urgent issues raised by the decision to leave the EU will necessitate a significant shift in British citizenship policy. Arguably, in a system that has been developed incrementally, this represents the biggest structural change since the end of Empire. While swift action must be taken, now is a good time to look more broadly at citizenship and the system that manages it.

Methodology

In the course of our research for this report we held semi-structured interviews with a range of stakeholders from government, academia and civil society in both Britain and Germany. These included representatives from the British Home Office and Foreign and Commonwealth Office, and the German Federal Chancellery and Office for Migration and Refugees.

2. THE IMMEDIATE CHALLENGE FOLLOWING THE EU REFERENDUM

The result of the EU referendum cast the position of the 3 million EU citizens living and working in the UK into doubt. The government will now begin its negotiations with the EU to orchestrate the UK's exit from the Union and, in all likelihood, our withdrawal from the freedom of movement provisions that entitle EU citizens to live and work here.¹ Many have made their lives here – working, raising families, paying tax and contributing to the British economy and our cultural life. The lack of clarity on the future status of these EU migrants living in the UK needs to be addressed urgently.

Technically, the outcome of the referendum itself resulted in no immediate legal change to the status of EU migrants in the UK. Under article 50 of the Lisbon treaty, which provides for a member state to leave the EU, the provisions of that treaty cease to apply from the date on which the negotiated withdrawal agreement enters into force. Until that point, the rights and protections afforded to EU citizens resident in Britain remain fully enforceable by the European Court of Justice (Eurostep and EEPA, no date). What happens after that point is, at this stage, not known.

While there are no immediate changes to those people's legal status, there has been an immediate political change. People who came to Britain legally and legitimately now cannot be certain of whether they will be able to remain in the UK. During the referendum campaign, assurances were made by both Leave campaigns that Brexit would not entail the deportation of EU nationals.² However, such assurances are not enforceable, and their post-Brexit status is opaque. This precariousness will have a significant impact on the lives of millions, with a chilling effect on those seeking jobs, housing and bank loans, and looking to make any other long-term commitments.

It is unlikely that the 3 million EU citizens currently in Britain will be deported. For one thing, the European Convention on Human Rights will guarantee that anyone with significant roots here will be protected under the right to family life. And deporting millions of people to friendly countries with whom we are negotiating critical trade deals would be diplomatically calamitous. But until negotiations are complete, there can be no certainty.

1 While the UK government's negotiating position has yet to be agreed, senior ministers and shadow ministers have been clear that maintaining the current free movement arrangements is not politically tenable (see Morris 2016).

2 <http://leave.eu/en/faqs/faqanswers>

As such, the status of the 3 million EU migrants in Britain must be urgently and comprehensively clarified. These people came here legally and have contributed to our prosperity and culture: they deserve security. It would take the status of EU migrants off the table in the upcoming negotiations, and rightly so: the livelihoods of millions should not be used as a bargaining chip to extract concessions from our European allies. And it would send a diplomatic message of good faith to other EU leaders, who will also have to decide on the future status of the 2 million British nationals currently resident in their countries.

IPPR therefore makes the following proposals for securing the status of EU migrants in light of the referendum. These recommendations can and should be implemented immediately, and do not require Article 50 to be triggered, or any negotiations with other EU member states.

1. ALL CURRENT EU CITIZENS LEGALLY RESIDENT IN THE UK SHOULD BE GRANTED AUTOMATIC INDEFINITE LEAVE TO REMAIN.

Indefinite leave to remain, also called ‘settlement’, is an immigration status that non-EU migrants to Britain can currently obtain. This entitles the holder to many of the privileges of citizenship: they can live permanently in the UK, are able to enter and leave the country (although this entitlement can lapse if they spend too much time out of the country), have ‘recourse to public funds’ (that is, benefits), and can sponsor family members to come to Britain (Home Office 2014). This effectively continues the status quo for EU migrants who are already in Britain.³

We propose that all EU residents in Britain be automatically and immediately granted indefinite leave to remain. An ‘EU resident’ is any citizen of another member state or EEA country who has spent three months or more in Britain exercising their treaty rights. The exercise of treaty rights means being either employed, self-employed, self-sufficient, a student or a jobseeker in the country. The vast majority of EU citizens currently in the UK fall into this category (ONS 2016).

Under the present rules, to obtain indefinite leave to remain migrants have to pay a fee, pass the ‘life in the UK’ test and an English language test, and meet the threshold of the residency requirement of five years living in the UK with only a certain amount of time outside the country (Home Office 2016). We recommend that both the tests and the residency requirement thresholds be scrapped for EU and EEA citizens; the salary threshold for settlement should also not apply.

Normally a candidate for naturalisation must also meet the ‘good character’ requirement as set out in the immigration rules (Home Office 2015a). The good character requirement generally means that the individual concerned has not broken the law or misled the immigration authorities, although it can be interpreted more broadly (see chapter 4). This is an important provision that enables the authorities to ensure that foreign criminals are not allowed to remain in the UK; similar provisions to remove criminals already exist for EU citizens. We propose that the good character requirement should remain in place.

³ The emergency break and other concessions negotiated by David Cameron ahead of the referendum will now not be implemented, given the UK’s decision to leave the EU.

There should be no cut-off deadline before which EU citizens must register for indefinite leave to remain. Anyone able to show that they have habitually been resident in the UK at any point in the two years preceding the referendum – for example, by producing payslips or bank statements – would be entitled to it. It should also be open to those who had maintained a significant connection to the UK over the past two years (for example, by owning property here).

Such a step is not without precedent. Under Theresa May's leadership the Home Office granted indefinite leave to remain to large groups of asylum seekers whose cases it had not been able to clear because of a large backlog in unresolved cases.⁴ It is established practice internationally for immigration systems to grant a new status to swathes of the migrant population on an exceptional basis. Since Ronald Reagan introduced an amnesty for migrants who had entered the US illegally but had put down roots in the country, successive US presidents have realised that regularising the status of sections of the migrant community can be a plausible immigration reform.⁵

While we set out other proposals on citizenship below, we recommend that indefinite leave to remain be the baseline of the government's post-Brexit offer to EU nationals in Britain. This is because some EU and EEA countries have restrictions on their citizens' ability to obtain dual citizenship which could interfere with their rights in their home country and, by virtue of that country's EU/EEA membership, with their treaty rights in the other member states.⁶ Offering indefinite leave to remain would mean that no existing EU national in Britain would be forced to choose between nationalities.

2. ALL EU CHILDREN BEING EDUCATED IN BRITAIN SHOULD BE AUTOMATICALLY ENTITLED TO BRITISH CITIZENSHIP

Many EU migrants have brought their children to the UK with them. These children are enrolled in British schools and are growing up in British society. Whatever deal is reached on British withdrawal from the EU, we must recognise the strong bond and enduring connection between these children and Britain.

Any EU national currently resident in the UK who was under 18 years old on the day of the referendum should be automatically entitled to British citizenship. This will entitle them to 'register' as a British citizen, rather than naturalise as one. Registration as a British citizen is currently a process that is available to those who automatically qualify for British citizenship by birth but who have not otherwise claimed it. For example, British citizenship is available to some people by descent (if someone were born overseas to a British parent who did not register that birth with the British authorities), or through a link to a British overseas territory or former colony (gov.uk 2016).

4 <http://www.bbc.co.uk/news/uk-politics-13617183>

5 <http://www.ibtimes.com/ronald-reagan-immigrant-amnesty-gop-debate-2100592>

6 For example, EU members Austria and Germany and EEA member Norway have rules that restrict dual citizenship, or stipulate that a citizen of that country forfeits their existing nationality if they acquire another. Furthermore, while Germany currently permits dual British-German nationality, this is only as a result of Britain's membership of the EU, and of the European Court of Justice's ruling that Germany must permit all EU dual nationalities. However, this provision would likely cease to apply to Britain once we leave the EU.

The process for becoming a British citizen by registration is simpler than the naturalisation route: there is no requirement to pass the language or 'life in the UK' tests, or to be of 'good character'.

Automatic entitlement to citizenship by registration does not mean that a child citizen would lose their rights to their existing citizenship if their home country had provisions against dual citizenship (as Norway or Switzerland do, for instance), as their British citizenship would only come into effect upon registration (Clayton 2014). The fee for registering children (currently just over £900) should be waived for the EU nationals in question until the UK formally exits the EU.

Among other developed countries including Germany and the US, offering special dispensation for children who grew up that country is common practice. Reforms have been introduced by President Obama to ensure that children who came to America illegally but who grew up in the US are able to stay and become citizens. The Deferred Action for Childhood Arrivals policy sought to remove the threat of deportation from children with no secure legal right to reside in the US.⁷

The British government should make an amendment to the Immigration Act 2016 to make any EU/EEA citizen who was under 18 at the time of the EU referendum (that is, who was born after 23 June 1998) and has been legally resident in Britain between the date on which the Lisbon Treaty entered into force (1 December 2009) and the date of the EU referendum (23 June 2016) eligible to register for British citizenship.

3. THE FAMILIES AND PARTNERS OF EU NATIONALS IN BRITAIN SHOULD BE ENTITLED TO THE SAME STATUS

Under free movement rules, a family member of an EU citizen exercising their treaty rights has the right to reside with them in the UK.⁸ That family member does not necessarily have to be a EU citizen herself. For example, a Brazilian who has married a French person is able to live and work in Britain because the French person has free movement rights. In order to give these people the security they need, the government should offer indefinite leave to remain on the same basis as EU citizens to anyone from a non-EU country who is in the UK as the family member of an EU national.

Again, there is precedent for such action, both in the UK and internationally. Carers of British citizens are currently able to reside in the UK on the basis of the citizenship of the person they care for.⁹ In the US, President Obama introduced the Deferred Action for Parents of Americans policy, which allows American citizens' parents who themselves do not have legal status to stay and work in the country.¹⁰

7 See <https://www.whitehouse.gov/the-press-office/2012/06/15/remarks-president-immigration>

8 http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_2.1.3.html

9 The government has, however, been rather ungenerous in terms of the rights it extends to such people. For more information on so-called 'Zambrano cases' see <http://www.nrpfnetwork.org.uk/Documents/Zambrano-Factsheet.pdf>

10 This case is currently being challenged in the US Supreme Court on constitutional grounds. See: http://www.huffingtonpost.com/geoffrey-r-stone/faithfully-executed-obama_b_9995044.html

4. LONG-TERM EU RESIDENTS SHOULD BE ENTITLED TO BRITISH CITIZENSHIP FOR FREE

Many EU nationals have lived in Britain for many years. Given that in the context of everyday life there is little substantive difference between the rights of a British citizen and a European citizen, only a small proportion of them have naturalised. This will change after Britain leaves the EU. The government should therefore facilitate access to citizenship for those long-term EU residents.

Under current free movement rules, an EU or EEA citizen who has been legally resident in another member state for five years automatically becomes a 'permanent resident'. We propose that all those who have obtained permanent residence be able to naturalise as a British citizen, and that the fee – which currently stands at over £1,200 – be waived. The other requirements that are currently in place for EU nationals who naturalise as British citizens should remain: that they should be of good character, and pass both the English language and 'life in the UK' tests.

In 2015, the government changed the immigration rules to stipulate that an EU permanent resident must have held that status for one year, and have obtained a permanent residence card, before they could qualify for naturalisation (which itself requires filling out a long and complicated form, and paying a fee). We propose that both these restrictions be scrapped.

5. ALL EU NATIONALS WORKING FOR THE NATIONAL HEALTH SERVICE SHOULD BE OFFERED BRITISH CITIZENSHIP FOR FREE

In recognition of the contribution that EU nationals make to the National Health Service, and the need to keep them in their roles in order to ensure the continued functioning of the NHS, we recommend that the government makes a particularly generous citizenship offer to NHS workers. There are currently around 55,000 EU nationals working in the English NHS, accounting for 5 per cent of its workforce; one in 10 of the UK's registered doctors is an EU national.¹¹ Without them, the NHS would collapse. It is critical to public health that these workers do not seek jobs elsewhere.

All EU nationals who work for the NHS, or as locums in the NHS system, should be eligible to apply for British citizenship. This offer should be organised by the regional NHS and mental health trusts, who would be responsible for writing to all NHS staff who are EU nationals to inform them of their eligibility.

We recommend that the fee, the English language and 'life in the UK' tests and residency requirements be waived for all staff employed in public healthcare. Those who do not wish to take up British citizenship would still be eligible for indefinite leave to remain as EU residents, as set out above.



The decision of the British electorate to leave the EU has made the future status of 3 million EU residents uncertain. While deportations are ultimately unlikely, the chilling effect could be highly destabilising to individuals, to key public services like the NHS, and to firms

¹¹ <https://fullfact.org/immigration/immigration-and-nhs-staff/>

and industries that are already acting on their doubts about the future of the British economy as Brexit's impact upon it becomes clearer.

The British immigration system, as set out below, has generally evolved gradually and incrementally. The proposals set out within this section involve more significant changes than the usual piecemeal adjustments to the immigration rules. However, it should not be assumed that these proposals are holistic and will capture all the special or unusual cases that will undoubtedly arise – the government should be vigilant over the coming months and years for unforeseen or unanticipated cases that fall through the gaps. Equally, the opportunity for immigration fraud may increase – the government must therefore ensure that the new rules are applied consistently and fairly, in a way that maintains public trust in the immigration system.

However, the scale of the uncertainty – both for those affected by the changes, and for the wider economy and public services – is too great to allow us the time it would take to design a wholly new and loophole-free system. The government should act swiftly to address urgent concerns regarding the status of EU citizens currently in Britain. However, it should also use this opportunity to reform British citizenship policy to make it better suited to the reality of migration.

3.

THE MEANING OF CITIZENSHIP

Beyond the immediate challenges arising from the result of the EU referendum, there are wider issues with the British system of citizenship that need to be addressed. Even before Britain voted to leave the EU, the government had announced a review of citizenship policy (HM Government 2015).¹² Now that Britain has voted to leave, the system is about to go through its most significant structural change since the end of the Empire, when the status of ‘citizen’ was created to replace that of ‘subject’, which had applied to all those living in Crown dominions throughout the world. In order to understand those parts of the system that need to be reformed, in this chapter we examine what citizenship means in contemporary Britain, a high-migration country with a liberal, globalised economy.

Most British citizens obtain their nationality at birth. Anyone born in the UK before 1983, and anyone born in the UK to a settled or British parent after 1983, acquires British citizenship as a birthright. Those born overseas to a British parent who was born in Britain also acquire British nationality at birth. Immigrants to the UK can go through the naturalisation process to obtain British citizenship (see chapter 4).

THE RIGHTS OF THE CITIZEN

Being a British citizen entitles a person to the following rights:

- the right to vote in all elections
- the right to protection by the forces of law and order, and to a fair trial
- full and free access to public services and the welfare system
- British consular protection overseas
- freedom from deportation
- the right to sponsor family members to come to the UK
- all EU rights (most notably free movement)
- visa-free access to 137 countries
- the right to enter and leave the UK at will.

Citizenship is the threshold at which all these rights are obtained. However, anyone searching for a clear red line that distinguishes the rights and responsibilities of the citizen from those of the alien will search in vain (Crick and Home Office 2003). In fact, almost none of these rights are exclusively the preserve of full citizens. Only consular protection and

¹² This was announced in the context of the government’s new counter-extremism strategy (HM Government 2015): ‘We will also review rules on citizenship. Gaining British citizenship is a privilege and should signal a person’s commitment to becoming an active member of our society’ (ibid: para. 104).

freedom from deportation apply uniquely to British citizens.¹³ And of course, in Britain the right to protection by the police and a fair trial applies to everyone in the country, regardless of immigration status.

Furthermore, different types of immigrant gain access to these rights at different points in the immigration process. Some acquire almost all of them within a few months and with very little effort; some accrue them over time, and others have to complete almost the entirety of the naturalisation process in order to gain them.

These different levels of political rights reflect the levels of complexity inherent in the British system. Commonwealth citizens are able to vote in local, national and European elections as soon as they have established residency in the UK. They are also able to vote in any referendum associated with those franchises – so Irish, Cypriot and Maltese citizens were the only non-British EU citizens able to vote in the EU referendum, even if they had only been resident in the UK for a few months. By contrast, EU citizens are able to vote in EU and local elections, but not national elections, as soon as they become residents. Non-Commonwealth, non-EU immigrants cannot vote in any election, regardless of how long they have lived here and even if they have acquired indefinite leave to remain.

The pathway to the rights of the citizen has been, and for now remains, simplest for EU migrants. They have been able to enter and leave Britain straightforwardly under EU free movement rules, and will retain that ability until Britain withdraws from free movement (Morris 2016). This entitles them to all the rights of the citizen except the right to vote in elections to the House of Commons (and any referendums associated with that franchise, such as the EU referendum). Once they have been in the UK for five years, they automatically qualify for permanent residence. Under the system as it existed prior to the referendum, they must apply for proof of permanent residency, and after one year can apply for citizenship. As discussed in the previous chapter, it is not at all clear which, if any, of these rights will be afforded to EU citizens once Britain leaves the EU.

Non-EU citizens must obtain indefinite leave to remain (see the boxed text below), at which point they become able to enter and leave the UK largely without restriction, obtain benefits, and sponsor family members to join them. After one year's indefinite leave they may apply for citizenship (UKVI 2012). Those granted refugee status or who are in the UK on a humanitarian protection visa, can apply for indefinite leave to remain after they have been in the UK for five years. Similarly, after one year's indefinite leave they can apply for citizenship (UKVI 2016).

Britain also has no bar on dual nationality. Some countries force new citizens to give up their previous nationality upon acquiring theirs. Others impose restrictions on citizens who take up the citizenship of

¹³ Even then, there are caveats. Consular protection is not available to dual nationals in a country where they hold nationality. Citizens of other EU countries whose home state does not have a diplomatic presence in a country may seek consular assistance from the UK mission with no need to prove a link to Britain. In terms of freedom from deportation, naturalized British citizens can still be deported to their country of origin for certain criminal offences (Clayton 2014).

a new country – for example, by restricting their burial rights in their country of origin.¹⁴

Indefinite leave to remain

The British immigration system includes the status of indefinite leave to remain (also known as ‘settlement’), which immigrants from outside the EU can apply to obtain. This status entitles the holder to many of the privileges of citizenship: they can live permanently in the UK, are able to enter and leave the country freely (although their leave to remain can lapse if they spend too much time out of the country), have ‘recourse to public funds’ (that is, benefits and public services), and can sponsor family members to come to the UK.

Indefinite leave to remain is obtained by sitting the ‘life in the UK’ test and, for those from non-English speaking countries, proving their proficiency in the English language. They must also have lived in the UK for at least five years, and not have committed a crime or misled the immigration authorities.

The UK is unusual in granting so many rights indefinitely at the pre-citizenship stage. Most other countries require non-citizens with leave to remain status to reapply at regular intervals – as is the case for the French ‘titre de séjour’ status, for example.

For non-EU migrants, obtaining indefinite leave to remain is a prerequisite for applying for citizenship. There are several benefits to upgrading from indefinite leave to citizenship.

- One becomes eligible for a British passport and the ease of international travel it brings.
- As a citizen one has far greater security against deportation.
- A citizen is also able to leave the UK for as long as they want, as often as they want.
- Citizenship can give those with commitments overseas, such as family members requiring care, the ability to go overseas for extended periods of time without losing their rights in the UK, unlike indefinite leave to remain which expires if one spends too long outside the country.
- Finally, citizenship can also be a powerful personal statement – one that says that, rather than a long-term foreigner, one has fully integrated and become British.

WHAT CITIZENSHIP MEANS TO THE INDIVIDUAL

The tangible difference between indefinite leave to remain, or permanent residence for EU nationals, and citizenship is minimal for many immigrants to the UK. Britain does not have ID cards, does not require immigrants to register regularly with their local authorities, and does not have separate systems of benefits for non-UK nationals. Many migrants

¹⁴ Historically, the hostility to dual nationality arose from questions of military allegiance: which army could call on a reservist if he had two nationalities? Fortunately, such questions have become hypothetical in modern Europe.

who have obtained indefinite leave to remain may therefore choose not to naturalise when they become eligible to do so (either for personal reasons or as a consequence of the restrictions put in place by their countries of origin).¹⁵ The advantages of citizenship for some individuals may not be sufficient to outweigh the costs associated with opting to naturalise. The British system is well adapted to these realities: it does not force those who see no value in acquiring citizenship to do so.

From the foregoing discussion we can draw two conclusions about Britain's citizenship regime.

First, that it already has an inbuilt flexibility that is well-suited to the global age. More than ever before people migrate in order to find work, obtain new experiences or join family members. Their enduring connection to their country of origin does not *ipso facto* inhibit their integration into British society. Long-term migrants, for the moment, are not faced with the choice of becoming British or being relegated to a second-class status. They must pass basic integration tests on the English language¹⁶ and knowledge of British life if they wish to stay permanently, but beyond that there are no penalties against those who do not wish to become British. This setup is reflective of a country that is tolerant and at ease with different kinds of immigrant, and well-placed to seize the opportunities of a high-migration, globalised economy.

Second, British citizenship is for those who want it and who value the small (but important) suite of additional rights that it brings. It is not a prerequisite for leading meaningful life in Britain. Rather, it is the final step in the process of integration. British citizenship is perhaps a symbol as much as it is anything else: it is not something that can be instrumentalised. Naturalise a million well integrated, settled residents and you are unlikely to improve their integration outcomes, as doing so would give them few additional concrete rights that would facilitate that outcome.

The question, then, is how citizenship in Britain functions as a **public policy**. If we accept that the principles underpinning it are sound and well-suited to the 21st century, then by answering three key questions we can determine its effectiveness as a public policy.

1. Is it too easy or too difficult to acquire citizenship?
2. Are some people unfairly treated or affected by the current system?
3. Is the country as a whole getting the best deal from the system?

In chapter 4 we examine how British citizenship has developed, and how appropriate it is today for a high migration economy in the post-Brexit world.

15 For example, some countries force their citizens to abrogate their nationality when they acquire a new one. Others restrict rights for dual nationals, including those related to property, inheritance and burial.

16 Or, in a small minority of cases, Gaelic or Welsh.

4.

THE TREND IN BRITISH CITIZENSHIP POLICY

British nationality law has developed incrementally over time. Now, as a result of the outcome of the EU referendum, it will need to be significantly restructured. Historically, the system has adapted to the realities of overseas territories, the end of Empire, EU membership, higher immigration flows and dual citizenship. In doing so it has become complex and often confusing. ‘Where [British nationality] has grown organically from a variety of intertwined roots, it is often as much flexible and functional as it is ambiguous and apparently impractical’ (Sawyer and Wray 2012).

As set out in chapter 1, the result of the EU referendum will require significant structural changes that will affect millions of migrants. This will be the biggest restructuring of the basis on which migrants can stay in Britain since decolonisation. Once the urgent question of EU migrants’ rights has been addressed, the government should use this opportunity to make further reforms to the system to ensure it is appropriate for the current migration reality. In this chapter we look at how British citizenship policy has developed, and assess how suitable it is for dealing with current challenges.

BRITAIN’S CURRENT NATURALISATION REQUIREMENTS

Those applying for British nationality must satisfy a range of exacting eligibility requirements.

Residency requirement

Normally a candidate for citizenship must have lived in the UK for at least five years prior to application (less if you are married to a British person, although this is likely to change), and have already obtained indefinite leave to remain (or, for EU nationals, permanent residence).

Fee

The total fee payable to naturalise is £1,236 (Home Office 2016a).

‘Life in the UK’ test

In 2002 the government introduced the ‘life in the UK’ test (Brooks 2013). Everyone who applies for British citizenship has to pass this test. Those from non-EU countries who apply for indefinite leave to remain sit the test at that stage, and do not have to sit it again when they apply for naturalisation. EU citizens, who obtain permanent residence automatically after five years of living in Britain, have to sit the test if they choose to apply for naturalisation. At one stage or another, all new citizens must pass the test.

Language requirement

The test may be taken in English (which accounts for the vast majority of cases) or in Welsh or Scottish Gaelic. If an immigrant is applying for indefinite leave to remain, they must demonstrate their language ability at this stage and do not need to re-sit the test as part of the naturalisation process. There are exceptions to the language requirement for those from English-speaking countries such as Australia, Canada and the US, and a limited number of further exceptions – for refugees, for example.

Good character requirement

Naturalisation is granted at the home secretary's discretion: an application may be refused even if the statutory requirements are met in cases in which the applicant is deemed not to be of 'good character'. While this is a general term that leaves significant room for interpretation, citizenship will generally be denied to those with significant criminal convictions, those who have misled the immigration authorities, and those whose actions, behaviour, personal circumstances or associations are such that their prospective citizenship is deemed not to be in the public interest.

RISING BARRIERS TO NATURALISATION

As immigration has increased over the past two decades, successive governments have introduced greater barriers to naturalisation. Across a range of indices, we can track the tightening of access to British citizenship.

Cost

The price of obtaining British nationality has increased significantly. Earlier this year the fee was increased again by 25 per cent, to £1,236. But prior to 2007 an application cost £200.

Current fees are significantly more expensive than those charged in other European countries – it is €255 in Germany, for example.¹⁷ The evidence suggests that the price of naturalisation is becoming prohibitive for many long-term residents, many of whom rush to submit their applications before the end of the financial year in order to avoid higher fees that will apply in the next (Badenhoop 2016 forthcoming). It is also known that fees are far higher than the unit cost of processing a naturalisation (which was £144 in 2014).¹⁸ The Home Office has an explicit policy of extracting maximum funding for chargeable services in order to subsidise other, non-profitable areas of delivery.

The issue of how prohibitively high the fee is has been raised by numerous analysts of immigration policy – by those active in the field such as Free Movement (Yeo 2016), and by Peter Goldsmith in his review of citizenship policy (Goldsmith 2008). Yet the fee has continued to rise.

17 http://www.bmi.bund.de/SharedDocs/FAQs/EN/Themen/Migration/Staatsang/Erwerb_der_deutschen_Staatsbuergerschaft_durch_Eingbuengerung_en.html;jsessionid=B422198A4C49D5B14632E8D2B0636414.2_cid373?nn=3317066#doc159094bodyText7

18 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/279536/Fees_Table_April_2014.pdf

The ‘life in the UK’ test

This test is updated periodically, and was substantially reformed in the early days of the Coalition government to be centred less on how life in Britain operates (that is, covering aspects of how the NHS works, for example, or how to report a crime) and more on facts and history (such as the age of Big Ben and the height of the London Eye in feet and metres) (Robinson 2013). The aim of this reform was framed as making the test focus more on Britain’s ‘long and illustrious history’ (Travis 2012). However, this focus on patriotic facts rather than lived experience of today’s UK has arguably made the test more demanding for those who are unfamiliar with British history but may have a good knowledge of everyday British life and institutions (Sawyer and Wray 2012).

Language testing

Similarly, the level of language proficiency required in order to obtain British citizenship has been increased, while the level of support on offer to help people to meet that requirement has diminished. In July 2015 the Skills Funding Agency announced cuts to English for speakers of other languages (ESOL) courses.¹⁹ This move drew strong condemnation from those working in the migrants’ rights field, who warned that the resultant lack of funding for ESOL provision would put settlement and citizenship beyond the reach of vulnerable and poor migrants. Research suggests that ESOL course provision is now scarce and of varying quality, even in terms of formal criteria such as course length and fees (Badenhoop 2016 forthcoming).

Prior to October 2013, applicants for citizenship were able to take a specially designed course that gave them instruction in both the English language and life in the UK together. Satisfactory progress in this course could be presented as evidence of meeting the cultural and language requirements of citizenship, thereby obviating the need to separately sit the ‘life in the UK’ test. However, this route was scrapped in 2013, and applicants must train for and sit each test separately.

Legal requirements

The criteria for qualifying for British citizenship have also been toughened as a consequence of legal changes made to the British Nationality Act 1981 since its original passage, with additional complications coming to light as new cases arise. For example, it has increasingly become necessary to prove the immigration status of one’s parents at the time of one’s birth in order to obtain a British passport (Sawyer and Wray 2012). Similarly, prior to 2005 refugees were granted indefinite leave to remain, and as such any children they had in Britain acquired British nationality. However, since 2005 they have only been given five years’ leave (which can, after those five years, be upgraded to settlement and citizenship); this has meant that any children born in the UK prior to their parents obtaining indefinite leave to remain do not automatically acquire British nationality.

The conditions of the good character requirement have also become increasingly stringent. Further undesirable behaviours have been added to the list of disqualifiers in the naturalisation criteria in recent years

¹⁹ <http://fewweek.co.uk/2015/07/21/sfa-confirms-further-3-9-per-cent-asb-cut-as-in-year-departmental-savings-bite/>

(Home Office 2014). Among these behaviours is any evasion of immigration control. Very few refugees come to the UK directly from their home area via a government resettlement scheme such as the Syrian vulnerable persons relocation scheme. The vast majority arrive via another route, either irregularly or on another, non-refugee visa. This by definition entails some evasion of immigration controls, even if the person is subsequently judged to be a genuine refugee whom the UK is obliged under international law to protect. This extension of the good character requirement means that almost all refugees in Britain are disbarred from obtaining British citizenship for at least 10 years after their date of entry (if they entered the UK on a non-resettlement visa, as most will have).²⁰

Furthermore, the legal cases relating to nationality law that the government has recently contested suggest a toughening of attitudes towards granting citizenship. For example, the government denied citizenship to a woman and two young children in 2015 on the grounds that they were related to an extremist – without any evidence to suggest that the applicants were themselves extremists. This decision was overturned by the court of appeal.²¹ Similarly, the Home Office refused to grant British nationality to a woman who claimed it by descent, as her father was British: her father having died, she was unable to provide DNA evidence of her relation, but she was able to prove that she and her four siblings were related to her mother, and that her mother had been married to her father during the period in which they were all born. The Home Office refused her application on the grounds that her mother could have been having an affair with a different man, who fathered her five children. The high court overturned this decision, calling it ‘grotesque’ and ‘astonishing’.²² That the Home Office now contests such cases is indicative of a harsher attitude towards granting citizenship. As mentioned previously, the discretionary nature of citizenship leaves very little scope for appeal, and so few such cases make it to court – there is therefore no way of knowing how many other similar cases might be liable to being overturned.

The government has made a series of immigration reforms designed to break the link between temporary arrival and permanent settlement in the UK (Home Office and May 2010). As such, the message from the government to those immigrating to the UK who are not on a pathway to settlement (those who are joining family members, for example) is that they should have no expectation of eventually becoming citizens.

HOW THE UK COMPARES TO OTHER COUNTRIES

The pathway to British citizenship for immigrants has become increasingly restricted, and the pace of that increase has quickened over the past two decades. Britain now has a relatively restrictive set of policies relating to citizenship.

20 <https://www.freemovement.org.uk/good-character-citizenship-criteria-quietly-tightened-up/>

21 <https://www.freemovement.org.uk/refusal-of-citizenship-to-wife-and-children-of-islamist-extremist-declared-unlawful/>

22 <http://nationality-migration-blog.tumblr.com/post/131211737347/british-citizenship-by-descent-rail-and-error>

The Migrant Integration Policy Index (MIPEX 2015) ranks developed economies according to the ease with which migrants can access citizenship regimes. Ahead of the UK are other high-migration countries such as France, Australia, Canada, Germany and the US, with Portugal coming top. Britain ranks at 13 of 38. No other country that has seen such high levels of migration, nor which has a longstanding history of immigration, ranks as more restrictive than Britain. This includes countries with policies designed to reduce immigration such as the US and France.

While Britain is, of course, not the only country to have reformed its citizenship policies over the past few decades as migration has increased globally, some of our competitor countries have actually moved in the opposite direction to ourselves. Other, similar countries – notably Canada and Germany – have liberalised access to citizenship (see the boxed text below for a discussion of the changing German approach to citizenship policy).

To some extent, the toughness of the British system is appropriate. It is right that the advantages of citizenship are only available to those migrants who meet the stringent requirements around criminality and can demonstrate their integration. The stringency of these requirements sends an important and reassuring message to those worried about immigration: only those who pass a high bar can become fully British.

While the British citizenship system overall is perhaps well suited to the multiplicity of individuals, with their different backgrounds and personal choices, who make Britain their home, there are also downsides to it. In chapter 5 we explore how the increasingly restrictive nature of our system unfairly hinders some categories of immigrant from accessing citizenship.

The German parallel: Convergence and crossing paths

Germany provides useful parallels with Britain: its economy and population are both of similar sizes to our own, it too has been experiencing historically high levels of immigration, and it is (for now, at least) a fellow EU member state. Over the course of the 20th and early 21st centuries, Germany has slowly moved away from a definition of citizenship based on ethnic grounds and towards one that takes account of the realities of migration.

German citizenship law, for reasons of expediency and the division of Germany during the Cold War, had survived relatively unchanged since the Second Reich, when a 1913 law defined those belonging to the newly-constituted Federal Republic of Germany as those who were ethnic Germans. This conception of membership of the German nation being defined by ethnicity obviously appealed to, and was built upon by, the Nazi regime and its racist policies two decades later. Following Germany's defeat in the second world war and its subsequent division, this conception of nationality as defined by race proved expedient and useful to the new West Germany for two reasons. First, ethnic Germans who were living in central and eastern European lands that had been occupied by the Nazis were now facing persecution and reprisals: an ethnic definition of citizenship gave these *Aussiedler*, even those whose families had not lived in

Germany for generations, the right to move and settle there. Second, substantial numbers of those living in the new German Democratic Republic (East Germany) were seeking to flee the repressive socialist regime. An ethnic conception of who was German gave these *Übersiedler* the right, if they could make it over the border, to settle in West Germany. Providing a 'safe haven' to those fleeing the East was a key plank in West Germany's strategy to undermine its socialist neighbour (Hailbronner 2012).

However, having lost between 3 and 5 million working-age men in the war, migrant labour was badly needed for the postwar rebuilding effort. Guest worker programmes were therefore set up with Spain, Greece, Italy and Turkey in order to encourage migrant workers to travel to West Germany specifically on the proviso that they would not settle and stay there. German nationality law, which only offered citizenship to ethnic Germans, therefore provided these migrants no pathway to citizenship.

By the time of German reunification and the end of the Cold War, it had become increasingly apparent that many of these guest workers would not return. Italians, Greeks and Spaniards had to some degree attained further rights as a consequence of increasing European integration. However, Turkish migrants – many of them third generation, fluent speakers of German and educated within the German school system – remained *de jure* aliens; the same was true of migrants from countries to the east of the EU's borders as they then stood. Germany's temporary migration model had not translated into reality. This created problems for German integration: by 1990, over a fifth of 'foreigners' in West Germany (as it would soon no longer be known) had actually been born in West Germany. Nationality law became a particularly politically contested topic in Germany.

Over time, a series of incremental reforms were implemented to allow different categories of long-term resident access to citizenship (Hailbronner 2012). Subsequent reforms have progressively liberalised the naturalisation process (although some significant obstacles remain, particularly for certain groups that have proven difficult to integrate, such as long-term resident Turks). Germany's requirement that new citizens give up any other nationalities was removed for EU citizens, Americans and some others, including those whose home countries forbade the abrogation of nationality. Tests of citizenship and language were made non-compulsory in some *Länder* and for some categories of applicant. The general direction of travel has been one of liberalisation and the facilitation of naturalisation. Today Germany ranks third in the MIPEX index that rates countries according to the ease with which immigrants can acquire nationality (MIPEX 2015).

Having initially refused access to citizenship for whole generations of migrants, Germany has substantially liberalized its naturalisation procedures to take account of the reality of migration. It now significantly outranks the UK on the MIPEX Index. Germany provides a useful parallel with the UK's trajectory – one that highlights the convergence in the two countries' citizenship policies. While the UK has moved from an expansive to a more restricted

system, Germany has transitioned from a highly restrictive to a more expansionist model, to the extent that the countries' trajectories have crossed paths.

5. THE CITIZENSHIP DIVIDEND

The different pathways to citizenship on offer to different types of immigrant mean that some groups can gain a great deal from citizenship, while others will obtain only a few additional advantages relative to their current status. Consequently, the toughening of British citizenship policy has had a disproportionate effect on certain groups. Until recently, EU free movement rules meant that EU migrants could largely obviate the implications of citizenship policy. Following the referendum, however, the question of access to the benefits of citizenship applies with equal salience to EU and non-EU migrants.

We have identified two categories of migrant who would derive substantial benefits from citizenship, but for whom increasing restrictions make its acquisition particularly difficult: the very highly skilled who are globally sought-after, and migrants on low wages.

HIGHLY SKILLED AND HIGH NET-WORTH INDIVIDUALS

The UK today competes with other advanced economies around the globe to attract the same pool of world-class talent. OECD research has shown that a growing range of countries increasingly compete to attract this mobile class of highly skilled workers (OECD 2008).

An ever-increasing number of industries and companies based in the UK rely on attracting ‘highly skilled individuals’, by which term we refer to those at the very top of their industry or sector, those with specific skills that are highly sought-after across the world, and high net-worth individuals. These migrants can bring huge advantages to the countries where they settle: they pay tax, boost innovation, improve firms’ productivity, invest in local economies and employ people.

There is no room for complacency in attracting and retaining the global talent – something that Britain has historically been well-placed to do. While this is partly due to factors such as culture and language, much of Britain’s attractiveness can be attributed to our membership of the EU – specifically our access to the single market and close links with the European economy.

In the post-Brexit world, it is imperative that the UK is able to remain an attractive destination for the top tier of international talent, and to retain the talent that is already here. The survival of our financial services, telecommunications, creative and technological sectors could depend on it. However, given the result of the EU referendum and the recent tightening of our immigration system, the UK’s citizenship policies risk compelling us to make do with second-tier global talent.

As competition continues to increase, countries need to work ever harder to attract these individuals: the share of mobile global talent choosing to settle in OECD countries has been in decline for some time (OECD 2008). While as a country the UK has a good track-record of encouraging the highly-skilled to our shores, the realities of globalisation in the 21st century make the task harder than in the 20th century. The main reason for this is that highly talented people now come from a range of emerging economies. In some cases, the UK's historical connections through colonialism and the Commonwealth have provided us with strong *cultural* connections that help attract talent from emerging economies. Many highly talented Indians and Kenyans, for example, speak English, have been educated in an education system similar to that of the UK, and have a good knowledge of British culture and society. However, these legacy bonds from the 20th century are fraying: the next generation of Indians and Kenyans will be less attracted to Britain for these reasons than current ones. Furthermore, many emerging economies do not have any particularly strong cultural links with the UK, so historical migration pathways to it are not well-entrenched. Countries such as Brazil, Indonesia and China will be key sources of global talent as their economies advance. If Britain is to appeal to top talent from these countries over our competitors, we will need to do more than simply rely on the residual dynamics of capital and migration flows and cultural connections from the previous century.

Furthermore, competition between countries around the world for highly talented and wealthy individuals is increasing: countries across the EU, North America and the Caribbean are adapting their immigration and citizenship regimes to maximize their attractiveness (Barclays 2014). OECD countries vary in terms of the 'intensity' of their policies designed to attract highly skilled immigrants (OECD 2008), and Britain is by no means leading the field.

However, the UK is in many other ways a highly attractive destination for this talent: we speak English, have a liberalised economy with strong rule of law, a thriving cultural life and excellent schools and universities (UKTI 2013). The solution is not, therefore, to increase the raw number of skilled migrants who seek to come here by encouraging the medium-skilled (see Padademetriou and Sumption 2013). Rather, the challenge for Britain is two-fold. First, we need to attract the very best of the international crop. Second, we must ensure that those who are already here are not enticed, post-Brexit, by the offers of our competitor economies. The length of time that it takes to obtain British citizenship and its attendant benefits, and the complexity and opacity of the British system, risks becoming highly off-putting to these migrants.

British citizenship, as opposed to an investor or entrepreneur visa or even leave to remain, can offer this world-class talent a range of advantages. First, a British passport is a passport to the world. The World Tourism Organisation in 2015 rated the UK top in its index of countries whose citizens are affected the least by visa restrictions (UNWTO 2015).²³ Obtaining a visa is often significantly more straightforward for those with UK passports than those of other countries, because of the UK's strong

23 The UK shared joint top position with Denmark, Finland, Germany, Italy, Luxembourg and Singapore.

rule of law, trustworthy passport system and strong mutual-recognition agreements with other countries. The value of this mobility to world-class talent is hard to underestimate: a non-EU immigrant businesswoman who has obtained British citizenship is able to travel to Paris or Frankfurt for meetings with far greater ease than she would if she had to apply for a visa with her pre-existing citizenship.²⁴

Second, obtaining British citizenship offers security to the new citizen. This is a key concern of individuals of high-net worth and globally competitive talent, who tend to demonstrate a highly pragmatic approach to mobility – settling in places that can simultaneously help them to earn and secure their wealth, educate their children to a high standard, and further their business development (Barclays 2014). The absence of a pathway to British citizenship for some types of migrant makes the UK a less attractive destination to those affected: having the full protection of UK law, security from expulsion and the robustness of the laws governing wealth, assets and inheritance that UK citizens enjoy are key concerns for the globally mobile. If the UK’s competitors offer these things, and the UK itself restricts access to citizenship, we will not be able to attract the very top class of global talent.

These migrants are keen to secure British citizenship quickly in order to travel with their new passport (often in the course of their work), and to gain the security they need to make investments and plan for their personal lives.²⁵ They are on average wealthier than the average migrant, and their employers are keen to spend money in order to attract them. Our current citizenship system is unyielding in accommodating the requirements of those who are time-poor but cash-rich. High net-worth individuals looking to settle in another country are more likely to choose that on the basis of its citizenship programme than on its business merits (EIU 2013). Similarly, those of world-class talent are able to shop around to choose the best option for them, to an extent that other migrants are not.

The British citizenship system should be reformed to make it more attractive to those with world-class talents. Other countries have adapted their citizenship systems to take account of the competition for global skills. Germany once had an historically restrictive conception of citizenship, as discussed above. In the course of our interviews with German policymakers, we were told that the advantages that skilled migrants can gain from citizenship (most notably the ability to travel for their work), and how attractive those advantages are to the highly mobile, wealthy and talented, were among the key concerns of those behind the liberalisation of the German system. Britain is running the risk of being outpaced by countries like Germany in the race for global talent. For example, highly skilled migrants to Germany are

24 While the EU referendum has thrown much into doubt, there has been little suggestion that travelling rights between the UK and the rest of the EU will be affected, and all parties will be keen to facilitate visa-free travel. The imposition of visas on EU nationals coming to Britain, and vice versa, would be economically and diplomatically disastrous.

25 Routes to citizenship are important to this class of globally competitive talent. A study by the Economist Intelligence Unit found that, among the factors considered in choosing a specific country for an additional citizenship, high net-worth individuals consider the demands of the citizenship programme to be decisive – more so, even, than the business-related benefits that the applicant expects from being granted citizenship. Similarly, 77 per cent said that favourable time requirements for obtaining citizenship are an important consideration in their choice of destination country. Sixty-nine per cent of those questioned said the general ease of obtaining citizenship was a motivation in choosing a country (EIU 2013).

able to apply for permanent residency immediately, and migrants can also apply for a permit that allows them to travel and work in other EU countries – an attractive offer to those whose skills enable them to shop around for the best deal.

Tier 1 (investor) visas

Under the UK's current arrangements, high net-worth migrants can apply for the tier 1 (investor) visa. This requires an investment in the UK of at least £2 million. This group of migrants can also reduce the time required to apply for settlement (and thus for citizenship): if they invest £10 million they can apply for settlement after two years, or after three years if they have invest £5 million.

Clearly, very few people have disposable incomes large enough to spend these kinds of sums on a visa that offers a clear pathway to settlement and citizenship: only the super-wealthy can avail themselves of this pathway to settlement. It is also a very blunt means of facilitating access to the UK. Crucially, it appeals (at least in theory) to the extremely wealthy, while offering no route to citizenship to the highly-skilled migrant, nor those at the top of their industry globally, unless they have millions of pounds at their disposal to spend in this way.

Indeed, investor visas have proven to be a damp squib. After the investment threshold was raised last year from £1 million to £2 million, applications fell by 76 per cent (ONS 2016). Given that the investment requirement can be satisfied by purchasing UK gilts, some have suggested that it is the only way to earn money by applying for a British visa. Alternative routes, such as entrepreneur visas, offer no route to settlement and citizenship, so those with globally attractive skill sets are likely to find other countries more attractive.

It may seem unfair to suggest that the highly talented, who already enjoy extra advantages, should get special consideration in naturalisation rules. However, by passing up the opportunity to attract them to our shores, the UK will lose the opportunities that their talents and wealth could open up. Opportunities will be lost to generate growth, creativity and jobs – opportunities that our international competitors will realise instead.

MIGRANTS ON LOW INCOMES

The ever-increasing price of naturalisation in the UK puts citizenship beyond the reach of migrants on low wages, so that even those who meet the other stringent requirements are priced out. These costs can therefore have a significant effect on the life chances of many migrants from outside the EU. For EU migrants currently in the UK, who gained a range of free movements rights upon establishing residency, their implications are less severe – for now. In the post-Brexit world, their effects will also be felt by Europeans.

This is because migrants on low wages derive a significant dividend from naturalisation above and beyond the suite of core rights that all citizens obtain. This is why migrants from, for example, Turkey and Somalia – two non-EU countries whose UK-resident communities tend to be low-income – are among those proportionately most likely to apply for British citizenship (Ford 2015).

The benefits of citizenship have become more valuable to low-income migrants as a consequence of recent reforms to the immigration system. Responsibility for immigration checks is increasingly devolved to front-line private sector organisations. Landlords can now be prosecuted if they are found to have rented accommodation to those without the right to reside in the UK in cases in which it is ‘reasonably apparent’ that the person had no such right (Home Office 2016b). Similarly, since 2014 banks and building societies have been responsible for ensuring the immigration status of those they allow to open bank accounts. Employers are also liable for prosecution if they employ those without legal status. These reforms were introduced as part of the government’s drive to create a hostile environment for illegal immigrants.

However, these reforms also pose problems for migrants who *do* have a legal right to be in the UK, and to rent a home, work or open a bank account. A report by the Joint Council for the Welfare of Immigrants on the obligation placed on landlords to verify would-be tenants’ immigration status found there was a significant risk of discrimination (Grant and Peel 2015). Even the government’s own review into the ‘right to rent’ pilot scheme raised concerns around the risk of such discrimination occurring (Brickell et al 2015). The risk of prosecution can cause the liable agent to err on the side of caution, and thus to rule out or exclude an otherwise lawful migrant. While EU passports are readily recognizable and easily verified, this protection is not offered to migrants with unusual types of passport – even those who do have the legal right to rent.

These problems are most acute for legally-resident migrants at the lower end of the income scale, who are more likely to be in rental accommodation. The Residential Landlords Association launched a review of the ‘right to rent’ scheme in 2015. It found that the government’s policy placed landlords in the undesirable position of ‘either taking a restrictive view with prospective tenants, potentially causing difficulties for the twelve million UK citizens without a passport’ or ‘targeting certain individuals to conduct the checks [on], opening themselves up to accusations of racism’ (RLA 2016). Rental sector experts have criticized the checks not only for being likely to lead to discrimination towards poorer migrants and those with less-common, non-EU nationalities, but also for providing these prospective tenants with no redress should they suspect unfair treatment or discrimination (Osborne 2016).

This is not an isolated problem affecting a few people: the RLA review also found that seven in 10 landlords do not understand right-to-rent rules that oblige them to verify the immigration status of their tenants. The structure of the housing sector in Britain compounds the problem many times over: low-income people are more likely to live in the private rented sector; migrants are more likely to live in the private rented sector;

75 per cent of landlords are private individuals or couples, rather than companies with the capacity to administer immigration law; and over half of landlords own fewer than five properties, meaning that tens of thousands of landlords are affected by these new rules (Davies and Turley 2014).

It is highly likely that a similar dynamic will assert itself in the labour market, particularly for those seeking low-skilled employment. Where an employer is able to choose from a large pool of applicants, those with an easily verifiable status (such as a UK or – for the moment – EU passport) will have an advantage over potential employees whose status requires extra verification. For small and medium-sized enterprises, or those with little experience of employing immigrants, a non-naturalised immigrant can appear higher risk. This is likely to create an unfair discrimination in the labour market based on country of origin rather than on right to work (which these immigrants have) or on capacity to work. Consequently it will become harder for these migrants to earn the money they need in order to apply for citizenship.

The problem is further compounded for migrants who are also from outside the Commonwealth, because unlike other categories of immigrant they have no political rights until they are fully naturalised. There is clear evidence that governments privilege groups that vote. IPPR research has found that non-voting groups, even when entitled to vote, are significantly more likely to be adversely affected by government spending decisions (Birch et al 2013). Non-EU, non-Commonwealth migrants are locked out of the political participation afforded to their counterparts from other countries by the UK citizenship system. With the UK's withdrawal from the EU now to be negotiated, there is no clarity on whether EU migrants, too, will lose the right to vote in local elections.

The government has a duty to minimise discrimination against migrants who have the legal right to be in the UK. Access to citizenship would protect those affected. However, its high price represents a significant barrier to citizenship for poorer migrants, who would derive a significant dividend from obtaining it. A fee of over £1,200 per person makes citizenship too expensive for a migrant raising a family on the minimum wage, for example, to obtain.

These low-income migrants are here in Britain for the long term. To be eligible for citizenship they must be here legally. Making citizenship more accessible would facilitate improved outcomes in employment, housing and security. They are being unfairly penalised by a set of policies that is designed to target *illegal* immigration: the unintended consequence of the government's policies is to move housing and employment – the very things that would improve outcomes for low-income legal migrants – further from their reach.

It is worth noting that the government recently introduced the biometric residence permit (BRP). While it promises to go some way towards helping people to prove their right to be in the UK, BRPs will be available to all migrants on any type of visa, including short-term stayers. They will not overcome the bias towards those with certain passports that the current immigration system has created. Furthermore, due to EU regulations on what the card may officially state, they will give no clear

indication that someone has the right to rent in the UK, and so will do little to prevent the discrimination that these law-abiding migrants are likely to encounter.

Germany's cautionary tale

As mentioned above, the German experience provides a cautionary tale of the dangers of an overly restrictive path to citizenship. Policies in place between the second world war and the turn of the century had led to the build-up of a large class of *Gastarbeiter* residents, mainly in low-wage work, who had no meaningful pathway to citizenship. It became clear that the policy objective of non-citizens returning to their country of origin was not being realised: in 1997, almost 50 per cent of foreigners in Germany had been there for more than 10 years, and 30 per cent for more than 20 years. This created a dual problem: as a group, the migrants' lack of access to citizenship impeded their labour market outcomes; and furthermore, with no citizenship rights the migrants had no political rights. The combination of poor employment outcomes and political exclusion was synergetic, leading to concerns about a 'parallel society' of poorly integrated, long-term migrant communities.

The German experience of the consequences of a restrictive citizenship policy demonstrates the problems that can arise when a significant portion of the long-term resident population is denied the benefits of citizenship. In Germany, this problem was compounded by a generational dimension, as even the children of *Gastarbeiter*, born in the country, were not able to acquire German citizenship at birth, and instead inherited their parents'.

By contrast, any child born to a settled or British parent in the UK automatically acquires British citizenship as a birthright, so this generational aspect of the German experience is unlikely to develop here. Nonetheless, the example of the German *Gastarbeiter* warns us that impeded access to citizenship, especially for those in low-paid work, can lead to social segregation.

6. LONG-TERM POLICY RECOMMENDATIONS

Our analysis of the broad trends in British citizenship policy leads us to several conclusions.

First, British citizenship policy is broadly well-suited to the realities of 21st century life and migration. Unlike 20th century Germany, no immigrants to Britain are legally disqualified from becoming British if they choose to do so. But equally, those who do not wish to acquire citizenship – often on perfectly reasonable grounds, such as being unwilling or unable to give up their previous nationality, or hoping eventually to return home – are not denied rights altogether.

However, there are mounting pressures on the system – and as it will be subject to substantial change as a consequence of the UK's departure from the EU, these pressures will only intensify, for two main reasons.

- First, migrants from different backgrounds acquire the rights of a UK citizen at different points in the immigration process. This is particularly true of political rights, different levels of which are afforded to migrants of different backgrounds irrespective of the length of time they have spent in the UK and their level of integration. EU citizens, who currently have some measure of political rights, may lose them in the Brexit process.
- Second, the current pathway to British citizenship is disproportionately difficult for two groups of immigrant who would derive a significant benefit from it: poorer immigrants, and those with globally sought-after talents and skills. In this chapter, we make recommendations for how the system can be made less punitive for both groups.

The government has announced that it will undertake a review of British citizenship policy – something that has not been done properly in almost 30 years. Clearly, much has changed over this period. Leaving the EU will have the most significant implications for our citizenship regime of any event since the end of the British Empire. It is important that the government's review does not focus purely on the national security aspects of citizenship policy: the system as a whole must become more sophisticated in order to meet the demands of a more interconnected age. Nonetheless, each of our below policy recommendations is congruent with the government's intention to bring down migration and reduce illegal immigration.

IPPR has previously argued for a much more activist public policy on citizenship. In our 2014 report *A fair deal on migration for the UK* (IPPR 2014), we called for citizenship ceremonies to be held in public spaces, for greater local involvement in initiatives to help migrants to integrate

and to acquire citizenship, and for the auto-enrolment of long-term residents – both EU and non-EU – onto the citizenship pathway.²⁶ We remain of the belief that citizenship should be an active and meaningful choice for migrants to the UK. Citizenship ceremonies, for example, are often an emotional and important event in the lives of those who have gone through the citizenship process. Their commitment to the UK should be celebrated and encouraged.

The recommendations of this report, however, are less broad: they focus on the parts of the system that have grown dysfunctional and are no longer equal to serving the needs of the UK population in the 21st century, and the effectiveness of which only stands to worsen in the coming decades. We focus here on the tangible benefits that UK citizenship can offer to migrants, and on the question of whether different categories of migrant are currently treated fairly. We set out the concrete steps that need to be taken to ensure that Britain's citizenship system continues to function in the 21st century – both for the migrants who make Britain their long-term home, and for the country as a whole.

VOTING RIGHTS

Beyond our two identified groups (highly skilled and low-income migrants), the level of political inclusion afforded to people who have settled in the UK from Commonwealth and (for the moment) EU countries speaks to a country at ease with itself and willing to integrate foreigners. The ability of many immigrants to gain political rights before they naturalise is one of the more progressive elements of Britain's migration system. It is one that we should keep, as it reflects the reality of Britain today: someone who does not or cannot become a British citizen still lives and work in, contributes to, and is part of, our communities.

We allow Commonwealth citizens to vote in all elections before they naturalise, and hitherto we have allowed EU nationals to vote in local, regional and European elections. However, non-Commonwealth and non-EU migrants are blocked from exercising similar rights, regardless of how long they have been here and how fully integrated they are. And as the UK resiles from the EU, the treaties that guarantee the franchise to EU citizens will also cease to apply.

We should adapt the current rules around voting in local elections to **allow all migrants who have obtained indefinite leave to remain to vote in council elections**. There would be a number of benefits to this move. It would facilitate the political integration of groups that are currently denied political representation on the sole basis of their country of origin. Giving them some measure of representation in this way would go some way towards ensuring that they are not overlooked in the provision of local services. It would also allow them to appear on electoral registers, which can be useful in a number of ways – for obtaining credit, for instance.

²⁶ See also Cavanagh 2014

ATTRACTING AND RETAINING HIGHLY-SKILLED, GLOBALLY MOBILE MIGRANTS

This group would derive a significant dividend from the ability to travel that British citizenship grants, and from the security of knowing that they will be able to stay and put down roots in the UK. However, the length of time that it currently takes before they can acquire that security is off-putting, and other countries that are more open in their approach to highly-skilled immigration are making more appealing offers. In a globalised marketplace, those whose skills are globally in demand will be more likely to choose a country that offers them greater security through more readily obtainable citizenship.

A fast-track to citizenship for highly skilled migrants would send a strong message that Britain is open for business and eager to attract world-class talent.

In consultation with HM Treasury, the newly created Department for Business, Energy and Industrial Strategy, and industry more widely, the home secretary should ask the Migration Advisory Committee to create a list of industries for which Britain needs to attract more global talent. Industries could apply to the Migration Advisory Committee to have certain occupations included on this list, as they currently do for shortage occupations.

That list should then serve as the basis of the eligibility criteria for fast-tracked citizenship. Candidates would also have to fulfil all the existing citizenship requirements: passing the 'life in the UK' and English language tests, and being of good character and resident in the UK. The difference would be that they would be able to apply for full citizenship after only two years' residence, rather than the usual five.

The Home Office could charge higher fees to those naturalising through this route. However, we recommend that the fee is not set extortionately high to avoid pricing out those who have globally competitive skills but are not necessarily wealthier than the average applicant. We recommend that there be an option for the fee to be split between a sponsoring employer and the applicant, so that fast-track citizenship can form part of the offer that employers make to international talent. Individuals should, however, also be able to pay the full fee themselves. We recommend that the fee be set at twice the normal rate for both the applicant and a sponsoring employer. That would equate to £4,944 at the current rates, bringing the Home Office four times the income it receives from a normal applicant. An unsponsored applicant would pay the full £4,944 themselves.

There is already precedent for enabling some people to access citizenship more quickly than others. Until recently, foreign nationals married to a British person have been able to access British citizenship after three years. Our proposal would create a similar fast-track on the basis of skills rather than of marriage.

Other countries already provide for a fast-track route to citizenship for those deemed to be of particular value to the country. In France, for example, the typical wait of five years can be shortened to two for those

deemed to have taken an exceptional integration route, through their civic, economic or scientific accomplishments.²⁷

UK governments have recently taken a series of steps that have stymied the attempts of British businesses to attract and retain world-class talent, such as instituting the ‘cooling off period’ for intra-company transfers, which forces those who have transferred to a UK-based company to spend one year outside the UK after five years (Home Office 2015b). Creating a fast-track to citizenship would improve companies’ ability to recruit the world’s brightest talents.

As the UK prepares to leave the EU, it must take action to ensure that the country remains able to attract the world’s best and brightest. There are widespread concerns that some key industries will suffer, and that many companies may move to other EU cities. Our proposal will both send a strong message and encourage the most highly-skilled to choose Britain.

MIGRANTS ON LOW WAGES

The increasingly hostile immigration environment in the UK means that migrants on low wages would gain ever greater benefits from the legal rights and recognition that come with citizenship. It is unfair to those migrants who play by the rules, pass the tests and do not break the law to block their access to citizenship by making the process prohibitively expensive. To remedy this situation, make two recommendations.

First, the government should **commit to freezing the price of naturalising as a UK citizen**. This fee has been increased significantly since the home secretary was given the power to set it. Freezing it would send an important signal to those who wish to become British citizens that this goal will not be moved even further from their reach.

Second, the government should **introduce a government-backed, interest-free ‘citizenship loan’**. These loans would work in a similar way to other government-backed loans, like start up or student loans. Those who wanted to apply for British citizenship but found the price prohibitively expensive could apply for a small loan to cover the upfront cost. It should be made available to those earning an annual income below a certain threshold, to ensure that help is offered to those who need it most and are working hard; we recommend a rate of £20,000. The loan should be paid back in small increments. Over 10 years, for example, at current rates the repayments would work out at £10.30 per month per person – a manageable amount for those on low incomes.

A citizenship loan would enable people to access to the benefits of citizenship as soon as they meet the other qualifications (residency, good character), without having to spend years saving up for it. Only those who can demonstrate regular earnings – with tax returns that document their contribution to the British state – should be eligible for the loan.

To reduce the risk that some people may not repay the loan, it should be made clear to them at the outset that should they fail to keep up their repayments for a significant period of time – three years, say – then the

27 See: <https://www.service-public.fr/particuliers/vosdroits/F15830>

Home Office would place a notice on their passport. This would mean they would be stopped at UK borders and their passport potentially confiscated. As UK passports are issued under the royal prerogative, the Home Office already has the power to do this. Furthermore, there is already established practice in this area: for example, if someone receives a consular assistance loan to help them when in difficulty overseas, they sign an undertaking to repay that loan; their passport is not returned to them until they have repaid it (FCO 2014).

Just as importantly, creating a citizenship loan scheme would send the message that the government is on the side of those who work hard, play by the rules and pass the tough tests expected of those who make Britain their home.

There would be some set-up costs associated with the scheme, as some migrants who would previously have saved up and paid the normal fee for a citizenship application will instead apply for the loans. Of course, this option would only be available to those applicants who meet the eligibility criteria outlined above. However, given the lack of data that is held on naturalisations, it is impossible to know precisely what proportion of all applicants would be eligible.

On the basis of IPPR's modelling, we estimate that the initial start-up costs to the exchequer for the citizenship loans scheme could be offset by the extra revenue generated from the fast-track fees we propose above. In the first year of operation, assuming that 36,000 low-wage applicants take advantage of the scheme, the revenue lost in the first year could be recouped by attracting 14,000 of the high-skilled migrants who would have applied under the old scheme to apply via the fast-track route instead.²⁸

The loan system would, after a few years, start to pay for itself on its own terms as it receives an increasing number of repayments for the citizenship loans it has granted. On the basis of current application numbers, we estimate that it would take 10 years for it to become revenue-neutral. However, there is good reason to predict that the point at which it becomes cost-neutral would be earlier than that: the scheme would attract additional applications from those who would previously have been put off doing so by the high price of citizenship. Each new applicant's repayments would take 14 months to pay off the £144 unit cost of their own application, after which their fees would become a new revenue stream for the government.

Furthermore, it also seems reasonable to anticipate an increase in conventional applications for citizenship over the coming years. Currently, EU migrants in Britain are unlikely to naturalise. As set out in chapter 1, we propose that **EU permanent residents, health workers and children currently in the UK should be offered free naturalisation**. However, future EU migrants will be more likely to naturalise than those who are currently here – although this will depend, of course, on the successor system to free movement that the new government puts in place.

28 This model is based on 20 per cent of current annual applicants moving to the citizenship loan route, based on an average of 180,000 per year applying for naturalisation. (The figure fluctuates annually, mainly in response to levels of migration in previous years, earlier in the decade, when previous flows of immigrants become eligible for citizenship, and to the administrative effects of Home Office resource allocation.)

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