

Brexit and free movement for (poor) Citizens

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**CONTEXT AND THE RUN UP TO THE
REFERENDUM**



MailOnline Home

Clarifications and corrections

An article of 3 April ('Report shows the NHS is nearly at breaking point as massive influx of EU migrants forces doctors to take on 1.5million extra patients in j... GP registrations was caused... to make clear that - while le... registrations on rising EU m... Information Centre does not... per nationality, and that incr... from outside the EU are fact...

Daily Mail
As politicians squabble over border controls, yet another lorry load of migrants arrives in UK declaring ...

WE'RE FROM EUROPE - LET US IN!

Clarifications

■ IN common with other newspapers, we published a reputable news agency's story yesterday which said that slowways intercepted in east London had told police that they were 'from Europe'. In fact, while they had travelled to the UK in an Italian vehicle from mainland Europe, the migrants told police they were from Iraq and Kuwait.

Schrodinger's Immigrant



Simultaneously stealing your job and too lazy to work

DAILY EXPRESS
DOCTORS ARE EARNING LESS THAN SANDWICH SHOP WORKERS
HOW TO GET THE MIDD SUGAR YOUR F...
10 PAGES OF FANTASTIC MIGRANTS AND TRAVEL

MIGRANTS MILKING BRITAIN'S BENEFITS
Foreigners more likely to claim handouts

'Illegitimate' migrant benefit claimants

- (1) the recently arrived EU 'benefit tourist' or unemployed EU migrant claiming out-of-work benefits;
- (2) EU migrants bringing their third country national family members with them who gain equal treatment rights by virtue of the familial connection, including access to benefits in the UK;
- (3) EU migrants claiming (and 'exporting') child benefit for their children who are not resident in the UK; and
- (4) low waged EU migrants claiming in-work benefits such as child tax credit to supplement their income, including cases where income is sent home.

The screenshot shows a webpage from the UK Parliament website. The page title is "Immigration: EU Nationals: Written question - HL4654". The question was asked by Lord Kinross on 18 December 2015. The question text is: "To ask Her Majesty's Government whether they will provide all factual evidence they have, together with their sources, that UK in-work and out-of-work benefits are a factor in encouraging immigration to the UK from other EU member states." The answer was provided by Lord Freud on 04 January 2016. The answer text is: "The benefits system is one of a range of factors attracting migrants to Britain. Net migration to the UK stood at 136,000 in the year to June 2015 according to the September 2015 Migration Statistics Quarterly Report from the Office for National Statistics, and EU nationals are a significant contributor to recent increases. Meanwhile, an analysis of administrative data held by the Department for Work and Pensions showed that between 27% and 45% of all recent EU migrants were in households supported by the benefits system as of March 2013. The Government has already introduced tough new measures to ensure that EU jobseekers will have no access to means-tested benefits whatsoever as Universal Credit is rolled out. And now we want to ensure that the welfare system plays no part in the migration decisions of any EU national. The Prime Minister is therefore pursuing further reforms to ensure that EU migrants who come to the UK for low-paid work cannot claim in-work benefits until they have lived here and contributed to our country for a minimum of four years."

Claimants by nationality

Appellant's nationality	2010-11		2015-16		All years	
	No. of cases (n=63)	As %	No. of cases (n=392)	As %	No. of cases (n=455)	As %
NECNB	24	38	243	62	267	59
British	21	33	35	9	56	12
African	4	6	41	10	45	10
South Asian	4	6	24	6	28	6
EU	8	13	16	4	24	5
West Asian	0	0	22	6	22	5
South East Asian	0	0	6	2	6	1
Refugees	0	0	4	1	4	1
Non EU European	2	3	0	0	2	0
Chinese	0	0	1	0	1	0

EU claimants by nationality

Appellant's nationality	2010-11		2015-16		All years	
	No. of cases (n=8)	As %	No. of cases (n=16)	As %	No. of cases (n=24)	As %
Bulgaria	0	0	1	6	1	4
Cyprus	1	13	0	0	1	4
France	0	0	1	6	1	4
Greece	0	0	1	6	1	4
Ireland	2	25	0	0	2	8
Italy	0	0	1	6	1	4
Latvia	1	13	0	0	1	4
Netherlands	2	25	0	0	2	8
Poland	2	25	6	38	8	33
Portugal	0	0	2	13	2	8
Spain	0	0	4	25	4	17

Types of benefit at issue in individual claims brought by EU national appellants

Benefit type	2010-11		2015-16		All years	
	No. of cases (n=8)	As %	No. of cases (n=16)	As %	No. of cases (n=24)	As %
Attendance allowance	0	0	0	0	0	0
Child benefit	0	0	1	6	1	4
Disability living allowance	2	25	2	13	4	17
Employment support allowance	3	38	11	69	14	58
Housing benefit	0	0	0	0	0	0
Incapacity benefit / credit	1	13	0	0	1	4
Income support	1	13	1	6	2	8
Industrial injuries	0	0	0	0	0	0
Jobseeker's allowance	0	0	1	6	1	4
Pension (state/credit)	0	0	1	6	1	4
Personal independence payment	0	0	2	13	2	8
Tax credits (child/working/universal)	1	13	0	0	1	4
Unknown overpayment	0	0	0	0	0	0

Success rate

- EU nationals won (at least in part) in 16 of the 24 cases (or 66% of cases) that were brought across the two years of our sample.
- Appellants in our larger dataset from all national backgrounds were proportionately more successful in their claims, winning, at least in part, in 366 of 455 cases (80%).
- strong evidence that most claims that are brought by EU nationals have merit

The 'Daily Mail' test

Claim date	Claimant's nationality	Duration of prior residence	Prior employment	Derivative component to claim	Exporting benefit	Low waged in-work benefit	Outcome
2012	Polish	Unknown (LTR)	Unknown	Yes	No	No	cl lost
2016	Latvian	Unknown (LTR)	Yes	No	No	No	cl lost
2012	Dutch	7 years	Yes	No	No	No	cl lost
2012	Irish	Unknown	Unknown	No	No	No	cl won
2011	Dutch	4 years	Yes	No	No	No	cl won
2011	Polish	4 years	Yes	No	No	Yes	cl won
2011	Cypriot	Unknown	Unknown	No	No	No	cl won
2012	Irish	13 years+	Yes	No	No	No	cl won
2016	Spanish	Unknown (LTR)	Yes	No	No	No	cl lost
2015	Italian	Unknown (LTR)	Unknown	No	No	No	cl won
2016	Polish	6 years+	Yes	No	No	No	cl won
2015	Portuguese	Unknown	Unknown	No	No	No	cl won
2016	Spanish	2 years+	Yes	No	No	No	cl won
2016	Polish	6 years	No	Yes	No	No	cl won
2016	Bulgaria	3 years	Yes	No	No	No	cl won
2016	Spanish	19 years	Yes	No	No	No	cl won
2016	Spanish	3 years	Yes	No	No	Yes	cl won
2016	Polish	3 years	Yes	No	No	No	cl won
2015	Polish	Unknown	Unknown	No	No	No	cl won
2016	Polish	3 years+	Yes	No	No	No	cl won
2015	Greek	1 year+	Unknown	No	No	No	cl won
2015	French	23 years	Yes	No	No	No	settled
2016	Polish	9 years	Yes	Yes	Yes	No	settled
2016	Portuguese	Unknown	Unknown	No	No	No	withdrawn

'Illegitimate' migrant benefit claimants

- (1) the recently arrived EU 'benefit tourist' or unemployed EU migrant claiming out-of-work benefits

Shortest period of residence one year (1 case)

1 case of an EU national who had never worked

- (2) EU migrants bringing their third country national family members with them and (3) EU migrants claiming (and 'exporting') child benefit for their children who are not resident in the UK;

3 cases

- (4) low waged EU migrants claiming in-work benefits such as child tax credit to supplement their income, including cases where income is sent home.

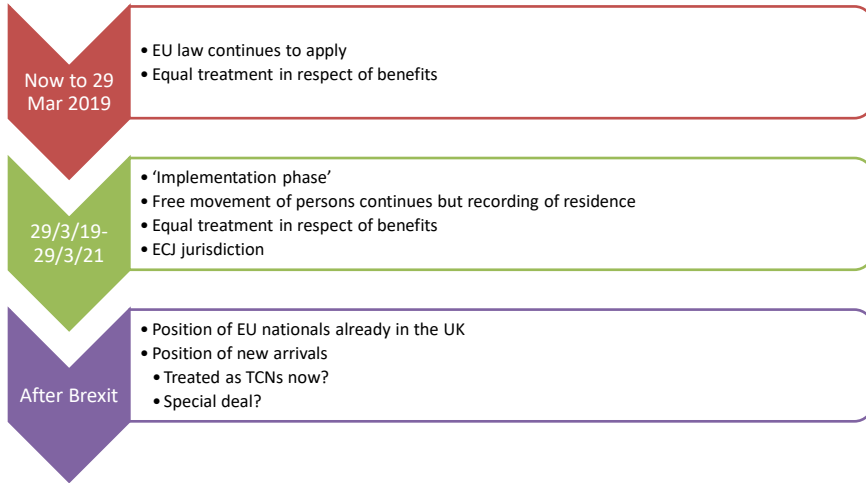
2 cases

Conclusions

- only six out of the 24 cases brought by EU nationals within our larger dataset of 455 examined cases had any of the features that were the focus for angst within Daily Mail headlines.
- These six cases amount to only 1.3% of all social security cases where representation was provided by the Free Representation Unit in 2010-11 and 2015-16.

SO WHAT WILL HAPPEN IN THE FUTURE?

Position of EU migrants



Costs for Tier 2 (skilled worker visa)

Three year visa	Apply outside	Extend or switch in UK
Worker and dependants	£567 pp	£1267 pp

Five year visa	Apply outside	Extend or switch
Workers and dependants	£1174 pp	£1944 pp

	Healthcare surcharge	Skills surcharge
Three year visa	£600 per person	
Five year visa	£1000 per person	£1820/ £5000.

- £30k plus earnings (some exceptions eg nurses); some Leavers propose £35k
- Certificate of sponsorship

So a medium or large sponsor looking to hire a female employee who wished to bring her husband and two children with her would be looking to pay £13696

Penalties on employers

Criminal penalties

- s.24B the Immigration Act (IA) 1971 illegal working by the individual
- Section 21 of the Immigration, Asylum and Nationality Act 2006 (offence of knowingly employing illegal worker): 5 years imprisonment and/or fine

Civil penalties

- s.15 of the Immigration, Asylum and Nationality Act 2006 makes provision for civil penalties for breaches of the legislation. So a penalty of up to £20,000 (up from £10,000 prior to 2014) for each illegal worker

UK government proposals for existing EU nationals

5 years+ continuous residence by specified date

- Settled status
- Will need to go through immigration screening checks
- Those with PR will need to reapply
- Issues of proof and HO capacity; 27% of applications for PR turned down

Less than 5 years by (unspecified) specified date

- Track to settled status

Arrive after specified date but before Brexit

- UK immigration law applies, visas, fees, NHS charge etc

Enforcement issues: ECJ v national courts

- Hint of direct effect in PM's speech 22 Sept 2017

Press conference Florence 22 Sept 2017

- Q. As you said, 600,000 Italians now live in the UK. You said that you want them to remain. What is going to change for them – I guess something is going to change?
- A. (the Prime Minister). **We set out that for those EU citizens currently living in the UK who have made the UK their home, including those 600, 000 Italians who are in the UK, we want them to be able to stay and to have the same rights as they have at the moment.**

MATT



*'Our son's an EU citizen who
has been here more than five
years - we can't get rid of him'*