

HOW THE EU SETTLEMENT SCHEME AFFECTS WOMEN AND GIRLS



About the EU settlement scheme

When the UK leaves the EU, rights currently enjoyed by EU nationals living in the UK under EU law will no longer apply. All non-Irish EU citizens and their dependents living in the UK will need to apply for 'settled status' to secure their right to stay in the UK after the end of the implementation period on 31 December 2020¹. The government has announced a six-month 'grace period', meaning that [people resident in the UK before the end of the transition period will have until 30 June 2021 to apply](#) for settled status. If they fail to do so—or if their application is refused—they will be deemed to be illegally resident.

The [Transition Advice Fund](#) (TAF) aims to ensure that everyone can secure their right to settled status. We supported the Migration Observatory research [Unsettled Status: Which EU citizens are at risk of failing to secure their rights after Brexit?](#) The report looked at four main categories of people at risk through this process:

- People who do not realise that they can and need to apply;
- People who are vulnerable for some reason, such as victims of abuse or exploitation;
- People with other barriers to accessing or understanding the system itself; and
- People who cannot provide the evidence they need to make a successful application.

Women are disproportionately represented among at-risk groups

Women and girls are over represented among many of the groups identified as being at risk. This paper explores the data and makes recommendations to ensure women and girls are not disadvantaged through this process. Unless otherwise stated, the figures quoted are from *Unsettled Status* and the associated [gender breakdown](#) published by Migration Observatory.

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

Very long-term residents: Among EU citizens there are 89,000 women who have lived in the UK for more than 30 years—61% of the total number of EU nationals resident for such a long period. Long-term residents may think that settled status does not apply to them. Most will have obtained Indefinite Leave to Remain (ILR) decades ago but may find that their original documents (e.g. old ILR cards, police booklets or stamps in old passports) are not considered valid by the Home Office. These women may find it increasingly difficult to continue accessing benefits

¹ Irish nationals do not *need* to apply for settled status to remain in the UK after Britain leaves the UK, as their rights to live, work and access public services in the UK are protected under the Common Travel Area arrangement. However, they may choose to do so if they wish—and whether or not they apply for settled status, their family members from outside the UK and Ireland will need to do so. A discussion of how Brexit will affect Irish citizens in the UK is available on the [Free Movement](#) blog.

and services unless they can prove they are legal residents either by obtaining new ILR documents (i.e. a biometric ILR card) or applying for settled status.

People whose situation makes them more vulnerable

Victims of domestic abuse

Women are more likely than men to report being victims of domestic abuse. In the year to March 2017, an estimated 53,000 female EU nationals were victims of some form of domestic abuse, compared with an estimated 34,000 men. As stated in the report, *'abusive relationships could be particularly problematic for non-EU citizen family members seeking settled status, since they cannot qualify in their own right but only as a result of their relationship to a qualifying person.'* Data on the number of women in this situation is not available, but women depending on partners or ex-partners for evidence will find it harder to prove their right to settled status.

Women in other complex circumstances

Women tend to be overrepresented in lower-status, low-paid sectors and occupations where labour abuses are more common due to a combination of factors including low wages, precarious employment structures (outsourcing, zero hours contracts), informal work arrangements, and a lack of collective representation. Women working in highly feminised sectors like care, cleaning, hospitality and domestic work are more likely to be underpaid than men and less likely to complain². Where labour abuses are not addressed, they can develop into severe exploitation³. Women in these circumstances are likely to have a complex residence history and little or no access to resources and may, in some cases, also have their passports and ID taken away from them. Figures show that marginally more women than men are victims of trafficking or modern slavery⁴.

People with other barriers to accessing or understanding the system

Older people and non-internet users

Nearly three out of four EU nationals in the UK aged over 75 are women (40,000 in all). Many will also be longer-term residents, and may not realise they need to apply for settled status and may have limited evidence of their current immigration status.

Out of a total 64,000 non-internet users among the EU population in the UK, 66% or 42,000 are women. This may be an issue for those who don't have family, friends or others nearby to help them complete the application process.

People who cannot provide the evidence they need

Non-EU partners of EU nationals

Of the 131,000 non-EU partners of EU nationals, 59% or 77,000 are women. Unmarried partners or other dependents face an additional step in securing settled status as they are asked to provide evidence of their relationship with the person on whom they depend for their eligibility under the scheme. Partners may have problems if they separate or divorce, even if they do so to escape an abusive relationship. They may also find it hard to obtain settled status if they are the spouse or dependent of an EU citizen who has died or has left the UK.

Carers and other 'economically inactive' women

² Low Pay Commission (2017) [Non-compliance and enforcement of the national minimum wage](#).

³ Focus on Labour Exploitation (FLEX) and the Labour Exploitation Advisory Group (2016) [Compliance to exploitation and the abuses in between](#).

⁴ [2017 UK Annual Report on Modern Slavery](#)

260,000 EU women in the UK are 'economically inactive' (79% of all economically inactive EU nationals)—this includes people who are retired, long-term sick or looking after children or other family members. This group is likely to find it more difficult providing evidence of their residence, especially if they lack a HMRC/DWP record and if other evidence of residence (such as bills or bank statements) is in their partner's name.

More than 90% of the estimated 144,000 EU nationals not working due to caring for family members are women. Carers may have difficulty confirming their eligibility for settled status if they do not have a HMRC or DWP footprint (if they have not been receiving carers' allowance or have never claimed child benefit) and lack other evidence of their residence in the UK (for example, if proof of address is in their partner's name).

Conclusion and recommendations

Women are disproportionately represented in many groups who could struggle with the settlement scheme. What we know about the scheme and the application procedure⁵ does not allow us to conclude that women will be systematically discriminated against, but if the system does not recognise their unique and specific challenges it may inadvertently disadvantage them. The Home Office has confirmed it will remove key barriers that previously disadvantaged women applying for Permanent Residence—such as the need to demonstrate they have been exercising Treaty rights. Nor will they need to show evidence of Comprehensive Sickness Insurance, and there will be no test for 'genuine and effective work'.

Despite these lighter evidential requirements, many women will still face a significant challenge proving the five years' continuous residence needed to qualify for settled status. Evidence of residence will automatically be drawn from government tax and benefit records. Where this record is insufficient or is missing completely, applicants will be asked to provide evidence to demonstrate their eligibility. Given women's predominance in the groups highlighted above we can expect more women than men will find themselves in this situation, going through the more burdensome 'second tier' of the application process.

Where people are unable to provide this additional evidence they will be granted pre-settled rather than settled status. This will have implications for their social security status and could delay them from applying for UK citizenship for themselves or their children. For non-EU citizen family members the consequences could be even more serious—they may never be able to achieve settled status under the scheme (for example, if they separate from their partner or their partner leaves the UK).

What should be done?

Equality impact assessment: Conducting an equality impact assessment of the settlement scheme will help to identify any barriers that women and girls—and other groups with protected characteristics—may experience when applying for settled status, and ways to mitigate them. This assessment should be widely shared by the Government so that groups working with women and girls and with other groups can provide appropriate support.

Advice and support: People in complex or vulnerable circumstances should receive additional advice and support from qualified immigration advisors. This will ideally be provided face to face at the local level to ensure higher uptake. Legal support should be accessible and affordable to those who need it.

Evidential flexibility: Allowing applicants to submit a broad range of supporting documents, including statements from trusted referees (e.g. GPs, ministers, teachers), would help women get through the application process more easily and without unnecessary delays or stress. In addition, the Home Office could consider sharing the burden

⁵ EU Settlement Scheme: Statement of Intent, 21 June 2018

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/718237/EU_Settlement_Scheme_SOI_June_2018.pdf

of proof with applicants by making reasonable enquiries of departments other than HMRC and DWP to satisfy themselves of applicants' eligibility under the scheme.

Monitoring performance of the scheme: Effective real-time monitoring will show whether at-risk groups—including women and girls—are encountering problems at different stages of the application process. To this end, data on a number of protected characteristics including gender will need to be collected, analysed and released by the Home Office on a regular basis from late 2018 through to the end of the 'grace period' in 2021 and beyond. Based on the evidence, the Government should then be able to make necessary adjustments to the scheme and provide additional support where this is most required. The Migration Observatory has considered [how the Home Office can monitor the success of the scheme](#).

Access to justice: Access to justice for people in vulnerable circumstances will be critical to ensuring that the system works for everyone. Legal advice should be made available for those submitting appeals who are on low or no income.

If you have ideas for how to ensure women are not disadvantaged through the settlement scheme we would like to hear from you. Please contact TAF@thinknpc.org

About the Transition Advice Fund

The Transition Advice Fund (TAF) aims to ensure that EU citizens living in the UK can secure their right to settled status—by helping the government design a system that works for everyone, and by making sure information and support is available to help people navigate the system. The TAF is completely non-partisan. It is funded by the Barrow Cadbury Trust, the Legal Education Foundation, the Paul Hamlyn Foundation and Unbound Philanthropy.

For more information about the TAF please contact TAF@thinknpc.org