

The scandal of CSI, the little-known loophole used to deny EU citizens permanent residency

blogs.lse.ac.uk/brexit/2017/03/17/disheartened-and-disappointed-the-government-and-universities-have-failed-eu-citizens-over-comprehensive-sickness-insurance/

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By now many EU citizens living in Britain feel disheartened and disappointed at Parliament's failure to secure their rights post-Brexit. A particularly concerning issue that emerged is the years-long misinformation surrounding the Comprehensive Sickness Insurance (CSI). **Aleksandra Herbeć** writes that failure of the UK government to communicate information about the CSI, also through universities, could mean that thousands of EU citizens in the UK face losing their eligibility for Permanent Residency (PR), and even the possibility of deportation. The media, too, have failed to cover the issue of CSI properly or to address some of its dubious aspects.

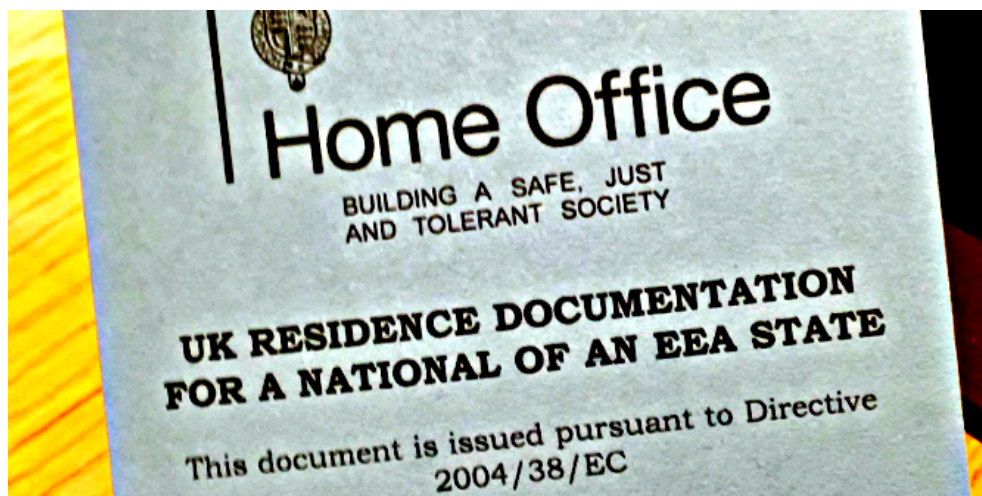


CSI – the legal loophole you have never heard of

In the past few days, the misleading term 'Comprehensive Sickness Insurance' (CSI) has suddenly become a hot topic among EU citizens in the UK. For many of them, as well as their British relatives and friends, this was the first time they have ever heard about CSI. The chilling discovery was that for many years now the CSI has been a requirement for all EU citizens studying in the UK or residing here as self-sufficient persons. Without it, they cannot exercise their treaty rights and acquire permanent residency, which would normally be automatically granted after spending a continuous period of five years in the UK. At the moment, without a valid CSI the years spent in the UK do not count towards PR. Ominously, the current rules – some of which were introduced as recently as February 2017 – seem to give the Home Office the power to deport EU nationals who are not exercising treaty rights.

The British media scrambled to publish curious assurances that the [rules on deportation will not be acted on](#), and if they were, only selectively. The Independent went as far as quoting an immigration barrister saying that he does not think that *"the Home Office is going to enforce this against say, the French wife of a British citizen. I think they're using it against people they don't like, like Polish rough sleepers."* While these speculative news reports were not particularly reassuring, they highlighted a passive acceptance of the arbitrary and demeaning use of regulations.

The CSI is a concern for thousands of EU nationals who, during their period of residence in the UK that would otherwise count towards PR, were at any time either a student, or a self-sufficient person (e.g. carers, stay-at-home spouses, or part-time workers not earning enough to cross a threshold set by the government). This would include cases in which an EU national worked full-time for 4 years and then enrolled at a UK university without having a CSI, thus unwittingly interrupting the 5-year residency rule.



A failure of communication

It is hard to understand why the fact that the CSI is a central requirement for many EU citizens in the UK has surfaced only now. It is indicative of a systematic failure of public communication that so many have learned about it only through confusing posts on social media. Many of the posts spoke of fears of deportation, of not being let back into the UK after holidays abroad, or being separated from British children or spouses at the border once Article 50 is triggered.

The official governmental channels of communication have done their best to be opaque on the topic of CSI. Also, while the House of Lords and many institutions and individuals, including British citizens living in the EU, have been calling for EU citizens' rights to reside in the UK to be secured, it is not clear if this would involve any amendments to the CSI requirement. At least up until the time of writing (13 March 2017), the UK government website used the following description for a 'qualified person' who could apply for a registration certificate, and ultimately also for PR:

2. Registration certificate

How you apply depends on your situation.

This is current wording (13th March, 2017) on who is a 'qualified person' on www.gov.uk

Apply as a 'qualified person'

You're usually qualified if you're a citizen of a [European Economic Area \(EEA\)](#) country or Switzerland and you're one of the following:

- working
- studying
- self-employed
- self-sufficient
- looking for work

You must provide proof that you're qualified. Read the [guidance notes](#) with the form to check the supporting documents you need in your situation.

Fig 1: Information on Permanent Residency on the gov.uk [website](#) (13/03/2017).

Unfortunately, this information is rather incomplete, and EU nationals acting on it could unknowingly lose their right to acquire PR, and face uncertainty over their legal status. This might have been avoided if only the UK Government website was upfront about who might classify as a 'qualified person' (Fig 2):

2. Registration certificate

How you apply depends on your situation.

Apply as a 'qualified person' *

You're usually qualified if you're a citizen of a [European Economic Area \(EEA\)](#) country or Switzerland and you're one of the following:

- working (and are working min X hrs/week, and/or earn min X GBP/week or /year)
- studying **
- self-employed (and are working min X hrs/week, and/or earn min X GBP/week or /year)
- self-sufficient** (including spouses of British citizens who do not work, are self-employed, or students)
- looking for work

You must provide proof that you're qualified. Read the [guidance notes](#) with the form to check the supporting documents you need in your situation.

***To ensure your rights are protected, we strongly encourage that you read through the guidance notes before arriving to the UK, or within 60 days of arriving, and even if at the moment you do not plan to stay in the UK long-term.**

****also possess Comprehensive Sickness Insurance (CSI) - please note that access to NHS does not count as CSI. For more information and a list of approved providers see: [www.....gov.uk](#)).**

The text in RED here is NOT provided on the Government website, but was added by the author as an example of information that should have been provided to make the requirements transparent.

Figure 2: Suggested amendments for improving the gov.uk website on residency in the UK for EU/EEA nationals

Information on CSI is curiously sparse on the gov.uk website. CSI is mentioned briefly in the guidance notes and the PR application, documents that very few would have checked before actually beginning their application process. This is particularly unlikely as the gov.uk website seems to discourage EU nationals from applying for residency certificates:

Who needs to apply

You usually need a:

- registration certificate if you're an [extended family member](#) of someone from the EEA or Switzerland
- permanent residence document to apply for British citizenship

You don't need either document to live in the UK if you:

- are a 'qualified person' (you're working, studying, self-employed, self-sufficient or looking for work)
- have a [family member](#) who is a qualified person
- have a [retained right of residence](#)

However, a document can:

- make it easier to claim certain benefits and services
- prove you have a right to live in the UK

Fig. 3: Information on the [gov.uk](#) website suggesting EU nationals do not need to apply for residency certificates

More broadly, the UK government has been passing laws on CSI without communicating them widely, not even through the organisations directly in contact with EU citizens, such as universities. EU nationals arriving to the UK have not been provided with clear information on the requirement to obtain health insurance in order to secure their rights.

Not so ‘comprehensive’ after all

Once an EU citizen somehow finds out about CSI, they face another challenge – there does not seem to be a reliable source of information on what private insurance coverage would qualify as CSI in the eyes of the Home Office. Some private insurers advertise CSIs, but state they are not liable if their insurance ends up not meeting requirements. An insurance broker contacted by the author claimed that the Home Office has not issued guidelines on CSI and that they go by what is reported in the media and by their own experience with PR applications.

The mere fact of having health insurance from another EU country does not necessarily mean an EU citizen has CSI. They should have had a European Health Insurance Card (EHIC) issued by another EU member state for every period in which they were a student or self-sufficient person in the UK. However, by being a resident in the UK, some EU citizens may have lost access to healthcare in their country of origin. In a further administrative paradox, relying on an EHIC issued by another EU country for the PR application will only be accepted if one confirms their intent not to live in the UK permanently (see Fig 3).

Comprehensive sickness insurance cover

6.4 Please indicate below how you meet the requirement to have comprehensive sickness insurance for you (and your family members in the UK, if applicable). Tick all that apply:

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Private medical insurance plan that covers me (and my family) for the majority of risks while in the UK

European Health Insurance Card (EHIC) (see Note), issued by an EEA Member State (not the UK)

Form S1

Form S2

Form S3

Note:
You can only rely on an EHIC if you have not come to live permanently in the UK. As well as submitting your EHIC, you must also submit a 'statement of intent' confirming that you do not intend to live permanently in the UK.

Fig 4: Screenshot from the [PR application](#) and a note on CSI requirement.

It is unclear as to how the CSI would relieve the potential burden an EU citizen might pose to the NHS. The PR application only requires one to have a CSI, not to have made use of it. Indeed, people with CSIs can still access GPs and all treatments on the NHS. EU citizens are in many circumstances required or strongly encouraged to register with a GP (including when enrolling at a university). Moreover, private insurers do not cover all treatments (even under the ‘comprehensive’ sickness insurance), often delegating the treatment of chronic conditions to NHS.

Furthermore, CSI is discriminatory. Contrary to the Immigration Health Surcharge paid by international students in the UK, there is no standardised rate for private CSI for EU nationals. The CSI premiums depend on one’s age, sex, health, and prior conditions, among others. This disadvantages EU nationals who are women, older, have comorbidities or prior health conditions. Even the cheaper options for healthy young adults (c. 30-40£/month) could be difficult to afford.

Obtaining CSI seems to be a purely administrative, box-ticking task for the PR form, without much real-life relevance or benefit to EU citizens, or to the NHS. In its current form, the CSI confers an unnecessary financial burden and a

discriminatory barrier to residency.

How about the universities?

It seems that the UK universities were not prepared to offer their EU students (some of whom are their former employees) comprehensive information about CSI. In certain cases, they offered false reassurance that EU students do not require health insurance. For example, still in February 2017, the [UCL website dedicated to health advice](#) contained the following statement: *“If you are an EU/EEA student, [...] you may wish to consider private health insurance as well as there can be long waiting times for some NHS services. [...]. However, medical insurance is not compulsory and is your decision whether you wish to purchase it or not.”* A few days before the publication of this article, a rather unhelpful statement was added: *“For EU/EEA students, the information provided above concerning medical insurance is relevant for accessing healthcare during your time as an enrolled student at UCL. More information about comprehensive sickness insurance can be found on the UK Council for International Student Affairs (UKCISA) website.”*

This further testifies to the lack of clear guidelines and bureaucratic chaos surrounding CSI, with few institutions equipped to offer specific guidance even today.

The author of this article has yet to meet an EU student who knew about the CSI before the issue surfaced in the media in the last weeks. Many still do not know about it. Some websites suggest that some university application forms for EU/EEA nationals ask whether the student [holds CSI](#). However, given the legal implications of not having CSI, it does not seem sufficient to be informing students about it via a box-ticking exercise or a brief mention on application forms. Crucially, the information about CSI should always be contextualised and accompanied by information clarifying that (i) access to the NHS does not count, and (ii) that CSI is required to exercise treaty rights and accumulate residency rights.

What should have been done about CSI

The CSI regulations have not been implemented effectively, but this could have been avoided. The legality, practicality, and logistics of CSI should have been scrutinised before implementing the rules, and if they were still deemed to be appropriate, then:

1. The UK government should have been more transparent and vocal about the rules for EU citizens, and particularly CSI.
2. There should have been procedures in place to ensure that EU citizens planning to come to the UK, and those already residing here, but also British citizens (who might be partners, in-laws, employers, tutors to EU nationals), are appropriately informed.
3. Information about the CSI requirement should have been disseminated in *a useful and non-threatening* manner through many channels: at passport controls, via GPs, schools, religious associations, banks, TV and radio stations, unions, as well as universities (emails to EU students and their supervisors/tutors, at orientation days, freshers' weeks, special inductions). Such an information campaign should have been initiated ahead of the proposed changes to legislation and should have continued ever since.
4. A simple government website should have been set up with comprehensive information on CSI, listing (a) clear rules as to what cover would qualify for a private CSI, and (b) a list of approved providers. This could also ensure that EU nationals do not fall victim to 'sham' offers, or purchase wrong policies.
5. Universities should have been provided with guidelines on CSI, and so that they could inform EU applicants about the rules, and the implications, e.g. that they may be losing their residency rights if they start degrees without being covered by CSI.
6. The EU citizens should be provided with means to acquire CSI in time, including 'buffer periods' to

accommodate a change in circumstances.

7. EU citizens should be able to make direct contributions to the NHS fund, if they wish to, rather than private insurers, with the rates standardised.

Challenging the CSI requirement

The current regulations and procedures surrounding the CSI requirement put EU citizens in the UK at a disadvantage when they apply for residency. Not surprisingly, CSI has been considered unlawful by some lawyers, and has been challenged in UK courts already, but with no success. Several petitions and MPs have also called for abolishing the rule. [EU Rights Clinic](#) tries to put a new case together and calls for stories on PR being denied due to lack of CSI. The time is also high for UK universities to join their plea to protect the rights of their current and former students.

Abolishing the CSI requirements altogether, and especially for PR applications, seems the only reasonable course of action. However, abolishing the CSI itself will not be meaningful without further securing EU nationals' rights in the UK post-Brexit.

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