Preparing for the new post-Brexit immigration policy

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Launch of policy report “Facing the Future” secured front page coverage in *The Observer*.

The most quoted organisation (out of 450+ organisations) in the Migration Advisory Committee’s report on a new EU immigration system; whose recommendations the Government largely adopted in the White Paper.

Meetings with key politicians and officials e.g. The Rt Hon Caroline Noakes MP, The Rt Hon Yvette Cooper MP, etc.

“Thanks for all your help on the migration side, it’s been really useful – even though we can’t let you always know where/when, trust me it has been useful!” (Outgoing senior official at the Department for Business).
Low awareness levels of migration restriction proposals

- 36%: I know a lot
- 35%: I know a little
- 22%: I have heard of it but know nothing about it
- 7%: I haven’t heard of it
Brexit & Immigration
SETTING THE SCENE

Lots of uncertainty and very little time

Possible outcomes:

- Revised Deal agreed
- Brexit delayed (again)
- No Deal
- Second referendum with potential No Brexit
31 OCTOBER 2019
The EU has agreed a further extension of the exit date until 31 October 2019 to allow Parliament more time to hold discussions and vote on the proposed deal.

If the UK and EU ratify the Withdrawal Agreement before 31 October 2019, the UK will leave the EU on the 1st day of the following month unless Brexit is delayed again.

24 JULY 2019
Boris Johnson replaces Theresa May as Prime Minister.

DECEMBER 2020
End of planned transition period (subject to a deal) and deadline for UK Settled Status applications if there is no deal.

1 January 2021
New UK immigration system takes effect.

27 AUGUST 2019
Proroguing of Parliament announced.

2018
The draft Withdrawal Agreement is agreed between the EU and UK Government.

NOVEMBER 2018
The draft Withdrawal Agreement is agreed between the EU and UK Government.

MARCH - APRIL 2019
Brexit delayed.

23 JUNE 2016
UK referendum on membership of the EU.

24 JULY 2019
Boris Johnson replaces Theresa May as Prime Minister.

1 January 2021
New UK immigration system takes effect.

30 June 2021
Deadline for UK Settled Status applications if there is a deal.

2018
The draft Withdrawal Agreement is agreed between the EU and UK Government.

2016
UK referendum on membership of the EU.

2019
Boris Johnson replaces Theresa May as Prime Minister.
IF A DEAL IS AGREED

The UK will leave the EU on the date the deal is agreed.

A Brexit transition period will run until 31 December 2020, during which time EEA / Swiss nationals retain free movement rights in UK.

Irish aside, EEA / Swiss nationals in UK before end of transition period will need to make an application under the EU Settlement Scheme by 30 June 2021 - online and straightforward.

5 years residence will lead to settled status with a bridging pre-settled status for new arrivals.

Applicants who do not want to be without their passport will be able to submit biometrics using an app.

Similar policy will apply to UK nationals in Europe, with processes varying between Member States.
IF THERE IS A NO DEAL BREXIT

UK
- EU nationals already residing in the UK would not be required to leave the UK even if there is “No Deal” and those here before Brexit will be able to apply under the settlement scheme
- We do not expect free movement to end immediately on Brexit, although it will soon after
- Europeans should be able to enter and make an application to stay for three years, if they wish to remain beyond 31 December 2020
- If they wish to stay beyond 31 December 2020, they must hold European Temporary Leave to Remain (36 month permission)
- When European Temporary Leave expires, the individual will need to qualify and apply under the new immigration regime or leave the UK

EU
- UK nationals already in Europe will need to confirm their status, but relatively little policy has been released
- The EU adopted a regulation on 9 April confirming that UK nationals will be able to enter the Schengen area for tourism and business trips without a visa after Brexit for stays up to 90 days in a 180-day period, in either a deal or no-deal scenario
- UK nationals working in the Schengen area after Brexit will require a work permit. Securing a work permit for Europe tends to take between 1-6 months at present.
YOU WILL NEED TO MOVE QUICKLY IN EUROPE

If the UK leaves the EU without a deal, each EU Member State would set its own policy for UK nationals residing and working within their borders after Brexit. Most jurisdictions have relaxed proposed no-deal arrangements, and we can see that most provide a ‘grace period’ within which individuals and employers can make necessary arrangements. The map above shows the duration of each EU Member State’s proposed grace period.
AND ACCOUNT FOR TIME AND COMPLEXITY
BUSINESS TRAVEL WILL ADD COMPLEXITY

Meetings

Training

Productive work
BUSINESS TRAVELLERS IN A NO DEAL

EEA/Swiss national business travellers to the UK will be able to enter the UK until 31 December 2020.

EEA/Swiss nationals travellers to the UK from 1 January 2021 must restrict activities to what is permitted under the business visitor rules in the UK.

UK national travellers to the EEA/Switzerland must restrict activities to what is permitted under the business visitor rules in their destination country.

Message to the business:
• Identify UK national travellers to the EEA/Switzerland from 01 November 2019.
• Consider if travel can be brought forward.
• Consider whether their activities are that of a business visitor in a destination country.
THE SETTLEMENT SCHEME PROCESS IS REASONABLY EASY

Applications open until 30 June 2021 (31 December 2020 in a no-deal).

EU PASSPORT

Applications can be made via an App on an Android phone or computer

< 5 years = Pre-Settled Status

Scan other evidence if residency is greater than tax record shows

> 5 years = Settled Status

HM Revenue & Customs
## DOCUMENTS FOR UK APPLICATIONS?

<table>
<thead>
<tr>
<th><strong>EU NATIONALS</strong></th>
<th><strong>Non-EU national family members</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobile phone with access to emails</td>
<td>Mobile phone with access to emails</td>
</tr>
<tr>
<td>Original valid biometric passport</td>
<td>Valid passport details</td>
</tr>
<tr>
<td>National Insurance number</td>
<td>Original Biometric Residence Permit</td>
</tr>
<tr>
<td>Individuals may also need to provide proof of residence (e.g. P60s, bank statements, utility bills)</td>
<td>National Insurance number</td>
</tr>
<tr>
<td></td>
<td>Evidence of relationship to EU sponsor who is residing in the UK (e.g. birth certificate, marriage certificate, evidence of cohabitation)</td>
</tr>
<tr>
<td></td>
<td>Individuals may also need to provide proof of residence (e.g. P60s, bank statements, utility bills)</td>
</tr>
</tbody>
</table>
NON-EU NATIONAL FAMILY MEMBERS OF EU NATIONALS

Deal

- Will qualify provided:
  - Relationship to qualifying EU National existed by 31 December 2020 regardless to whether individual was in the UK by that point
  - Meet the criminality threshold
- Can apply at any time
- If the relationship to the qualifying EU national did not exist by 31 December 2020, individual can apply under the Immigration Rules
- Exception is children born after 31 December 2020

No Deal

- Will qualify provided the individual fits into one of the below scenarios:
  - In the UK by 31 October 2019;
  - Can apply until 29 March 2022 if:
    - Not residing in the UK by 31 October 2019
    - Relationship to qualifying EU national existed by 31 October 2019
    - EU national holds settled status
- Can apply until 31 December 2020:
  - Not residing in the UK by 31 October 2019
  - Relationship to qualifying EU national formed 31 October 2019 – 31 December 2020
  - EU national holds settled status
This guidance is partly based on government announcements rather than law. It should be treated as indicative and cannot be relied on without cross referencing the law, once released.

**Deal**

You need to see

No change for new employees. A European passport or ID is sufficient. Employers can also conduct an acceptable check online which will evidence that the individual has settled or pre-settled status. If an online check is successfully carried out, there is no need to see original documents.

They should apply for

Pre Settled or Settled Status

They should hold:

Pre-settled status, settled status or a work visa.

**No Deal**

You need to see

No change for new employees. A European passport or ID is sufficient. Employers can also conduct an acceptable check online which will evidence that the individual has settled or pre-settled status. If an online check is successfully carried out, there is no need to see original documents.

They should apply for Pre Settled or Settled Status

Not clear if Europeans entering the UK after Exit Day but before free movement ends can apply under any preferential scheme.

Hold European Temporary and replacement Leave to Remain by 31 December 2020

They should hold:

Pre-settled status, settled status, European temporary leave to remain, or a work visa.

**FREE MOVEMENT ENDS IF THERE IS A DEAL**

No need to repeat checks for existing employees. New employees are likely to need evidence of pre-settled status, settled status or a work visa.
THE IMMIGRATION WHITE PAPER

1. Single immigration system for all nationalities

Not all nationalities will be treated the same. The UK Government will differentiate according to perceived risk or trade deals

Limited visa options for lower skilled workers

Possible minimum salary requirement of £30,000 for visas for highly skilled

No mandatory labour check

No cap on migration

Emphasis on digital systems

Joined up Government (e.g. Home office and HMRC sharing data)
<table>
<thead>
<tr>
<th>RQF level 6</th>
<th>Jobs at degree level (RQF6) and higher national certificate level (RQF4) where salary could be an issue</th>
<th>Jobs at A-Level level (RQF level 3) where salary is likely to be an issue</th>
<th>Lower skilled jobs – would not qualify, other than for one or two years</th>
</tr>
</thead>
</table>
| Programmers and software development professionals  
- Database developer  
- Programmer  
- Software engineer  
Experienced worker: £32,600 pa | Quality assurance technicians  
- Quality assurance technician  
- Quality control technician  
- Quality officer  
Salary - £23,000 pa | Credit controllers  
- Credit control clerk  
- Credit controller  
- Debt management associate  
- Loans administrator | Chemical and related process operatives  
- Gas producer operator  
- Process technician (chemical mfr)  
- Process worker (cement mfr)  
- Process worker (nuclear fuel production) |
| Finance and investment analysts and advisers  
- Financial adviser  
- Financial analyst  
- Financial consultant  
Experienced worker: £28,500 pa | Tele-communications engineers  
- Installation engineer (telecommunications)  
- Network officer (telecommunications)  
- Telecommunications engineer  
Salary - £27,200 pa | Plasterers  
- Fibrous plasterer  
- Plasterer  
- Plastering contractor | Bar staff  
- Bar supervisor  
- Barmaid  
- Barperson  
- Bartender |
| Sales accounts and business development managers  
- Business development manager  
- Product development manager  
- Sales manager  
Experienced worker: £34,800 pa | IT user support technicians  
- Help desk operator  
- IT support technician  
- Systems support officer  
Salary - £24,100 pa | Care workers and home carers  
- Care assistant  
- Care worker  
- Carer  
- Home carer  
- Support worker (nursing home) | Air-conditioning and refrigeration engineers  
- Air conditioning engineer  
- Air conditioning fitter  
- Refrigeration engineer |
| RQF level 4 | Health care practice managers  
- Clinic manager  
- GP practice manager  
Experienced worker: £27,200 pa | IT engineers  
- Computer service engineer  
- Hardware engineer (computer)  
- Maintenance engineer (computer servicing)  
Salary - £23,600 pa |  |
| Financial and accounting technicians  
- Accounting technician  
- Business associate (banking)  
- Financial controller  
Experienced worker: £31,100 pa | Electricians and electrical fitters  
- Electrical contractor  
- Electrical engineer  
- Electrical fitter  
Salary - £26,200 pa |  |
| Office managers  
- Business support manager  
- Office manager  
- Practice manager  
Experienced worker: £25,000 pa | Aircraft maintenance and related trades  
- Aeronautical engineer  
- Aircraft electrician  
- Aircraft engineer  
Salary - £29,800 pa |  |

The salaries included in this table are taken from UKVI codes of practice. These are set at the 25th percentile in salary distributions.
## FITTING IT TOGETHER

<table>
<thead>
<tr>
<th></th>
<th><strong>EEA now</strong></th>
<th><strong>Non-EEA now</strong></th>
<th><strong>EEA and Non-EEA 2021</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>High skilled, new hire</strong></td>
<td>Free movement applies, so:</td>
<td>• Tier 2 General visa</td>
<td>• Tier 2 General visa</td>
</tr>
<tr>
<td></td>
<td>• No lead time for immigration;</td>
<td>• Must apply for visa before entering</td>
<td>• Likely a three to four week lead time</td>
</tr>
<tr>
<td></td>
<td>• No need for a visa;</td>
<td>• Normally a three to four month lead time</td>
<td>• If individual is a ‘low-risk national’, they can apply from within the UK. All other nationals must apply for visa before entering</td>
</tr>
<tr>
<td></td>
<td>• No restrictions on length of stay;</td>
<td>• Normally qualify for permanent residence</td>
<td>• Normally qualify for permanent residence</td>
</tr>
<tr>
<td></td>
<td>• National minimum wage requirements but otherwise no control on salary; and</td>
<td>• Normally £30,000 minimum salary</td>
<td>• Normally £30,000 minimum salary (but this could change)</td>
</tr>
<tr>
<td></td>
<td>• No government fees</td>
<td>• Substantial government fees</td>
<td>• Substantial government fees</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• RQF Level 6 skill level</td>
<td>• RQF Level 3 skill level (A Level)</td>
</tr>
<tr>
<td><strong>High skilled, assignee</strong></td>
<td></td>
<td></td>
<td>• No expected change from current system</td>
</tr>
<tr>
<td><strong>Other skilled workers</strong></td>
<td></td>
<td>• Tier 2 ICT visa</td>
<td>Will have access to Tier 2 General if role above RQF Level 3</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Normally a one month lead time</td>
<td>Would need to enter holding the low skilled, temporary worker visa, Youth Mobility or other self-sponsored visa</td>
</tr>
<tr>
<td><strong>Unskilled workers</strong></td>
<td></td>
<td>• Must apply for visa before entering</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Normally maximum five years stay</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>• Normally £41,500 minimum salary</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Substantial government fees</td>
<td></td>
</tr>
</tbody>
</table>
SO WHAT DOES THIS MEAN IN PRACTICE?

Now:
• Employees are worried
• New employees after Brexit may need work permission or be limited to three years stay
• Employees will need to make applications quickly after no deal

From 31 October 2019
• UK nationals living in Europe will need to make an application
• UK nationals travelling to Europe may need work permits
• UK nationals intending to work in Europe will need work permits

1 October 2019
• Brexit happens?
• Heightened sense of uncertainty

Early 2020
• Detail of new UK immigration system announced

During 2020
• Free movement rights of EU nationals in the UK will end

31 December 2020 or 30 June 2021
• Deadline for applying under the settlement scheme

1 January 2021
• A new UK immigration system and reduced access to workers

30 Days ahead:
• Talk to and make information available to employees
• Ensure recruiters understand no deal risks and solutions
• Move people early wherever possible
• Understand your numbers, prioritising applications

3-6 Months ahead:
• Plan communications immediately before or after exit day
• Re-emphasise process, citizens rights and any support

9-12 Months ahead:
• Drive home, track and support the need for on time applications
• Educate business on visit policy in Europe
• Move UK nationals to non-EU mobility programme, building in costs and delays

Six months ahead, three months ahead and shortly before:
• Educate employees on any additional steps to be taken
• Educate the business on access to workers, cost and delay
• Adapt processes
• Apply for new licence or similar (if required)

Six months ahead, three months ahead and shortly before, remind employees of requirement, process and consequences of not applying

Operate new system
Next steps

➢ CIPD to launch new report on Friday, 20 September
  ➢ 2-year temporary mobility scheme for people of all ages with no job offer requirement
  ➢ £30k minimum salary threshold
    ➢ Lower threshold for shortage occupations across all sectors, not just public sector
    ➢ Prevents misuse e.g. undercutting

➢ CIPD to run workshops on Brexit in November

➢ Deadline for submissions to Immigration White Paper in December 2019
➢ Government publishes concrete plans for post-Brexit immigration system in spring 2020
Questions
For the latest developments:

https://www.cipd.co.uk/news-views/brexit-hub
London
- 21 November 2019
- 16 January 2020
- 12 February 2020
- 26 March 2020
- 29 April 2020

Regional dates TBC
Thank you

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