



Brexit roadmap:
A workforce planning guide
for employers



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The post-Brexit UK immigration system is beginning to take shape and so it is vital for employers to start assessing the impact which the inevitable changes will have on their business.

Certain aspects will depend on whether UK parliament approves the deal which has been negotiated with the EU. This currently looks unlikely and so employers should look to develop a flexible strategy which takes account of the potential different scenarios and enables them to create a workforce plan to deliver the skills and the people their business will require in the immediate and longer term.

This guide provides employers with a roadmap for preparing for the likely changes to the UK immigration system following Brexit. In particular, we set out the key dates and potential events over the next few years and suggest some immediate workforce planning actions and considerations to be adapted for either a deal or no-deal scenario.



Key dates

<p>SEP 2018</p> <p>18</p>	<p>DEC 2018</p> <p>?</p>	<p>JAN 2019</p> <p>21</p>	<p>MAR 2019</p> <p>29</p>	<p>DEC 2020</p> <p>31</p>
<p>DATE: 18 September 2018</p>	<p>PROVISIONAL DATE: December 2018?</p>	<p>PROVISIONAL DATE: No later than 21 January 2019</p>	<p>DATE: 29 March 2019</p>	<p>PROVISIONAL DATE: 31 December 2020</p>
<p>EVENT: MAC report</p>	<p>EVENT: White Paper</p>	<p>EVENT: UK parliaments votes on the proposed deal with the EU</p>	<p>EVENT: UK leaves the EU</p>	<p>EVENT: End of transition period (if agreed)</p>
<p>WORKFORCE PLANNING SIGNIFICANCE:</p> <p>The Migration Advisory Committee (MAC) report sets out its recommendations for a new immigration system to facilitate EU migration after Brexit.</p> <p>The government has endorsed the report and so it is likely that many of the recommendations will shape a new immigration system to be introduced following the end of free movement.</p> <p>For further details on the report: www.gateleyplc.com/preparing-business-brexit</p>	<p>WORKFORCE PLANNING SIGNIFICANCE:</p> <p>The White Paper will set out the government's plan for a UK immigration system to come into effect following the end of free movement.</p>	<p>WORKFORCE PLANNING SIGNIFICANCE:</p> <p>Scenario 1: "Deal"</p> <p>The draft terms agreed by the UK and the EU27 are approved following a vote by UK parliament.</p> <p>Scenario 2: "No Deal"</p> <p>The draft terms are not approved by UK parliament. It is possible that the terms are subject to further negotiation and amendment but the EU has, to date, indicated that this is not an option.</p>	<p>WORKFORCE PLANNING SIGNIFICANCE:</p> <p>In the event of a "deal", this will signal the start of a transition period during which free movement will continue. If there is "no deal", there will not be a transition period but free movement of people will continue until such time as it is ended by new legislation (expected in the form of an Immigration Bill).</p>	<p>WORKFORCE PLANNING SIGNIFICANCE:</p> <p>Free movement of people will cease to apply and EU nationals entering the UK after this date will most likely require a visa to work.</p>

JAN 2021
01

PROVISIONAL DATE:

01 January 2021

EVENT: New immigration system**WORKFORCE PLANNING SIGNIFICANCE:**

All UK employers will need to ensure they are employing EU nationals in accordance with new immigration rules.

JUN 2021
30

PROVISIONAL DATE:

30 June 2021 (possibly 31 December 2020 if no deal)

EVENT: Cut-off for applying for pre-settled or settled status**WORKFORCE PLANNING SIGNIFICANCE:**

Employers will require appropriate right to work evidence.

2022
?

PROVISIONAL DATE:

2022

EVENT: General Election**WORKFORCE PLANNING SIGNIFICANCE:**

Immigration policy will form a key part of each party's manifesto and a new government may well lead to further changes to the UK immigration system.

A General Election could be triggered a lot earlier than 2022 if there is a vote of no confidence before /after the parliamentary vote in December 2018.

JUN 2024
30

PROVISIONAL DATE:

30 June 2024 (possibly 31 December 2023 if no deal)

EVENT: Cut-off for applying for settled status**WORKFORCE PLANNING SIGNIFICANCE:**

Employers will require appropriate right to work evidence.



Existing workforce

SCENARIO 1: “DEAL”

- ◆ Free movement of people will continue to apply during the transition period which is set to run from 29 March 2019 to 31 December 2020.
- ◆ EU nationals who enter the UK prior to 31 December 2020 will be able to apply for pre-settled status or settled status. Third-country national family members will also be eligible.
- ◆ Pre-settled status will be available to EU nationals who have been in the UK for less than 5 years and will provide them with a route to settlement.
- ◆ Settled status will be available to EU nationals who have been in the UK for 5 years or more and will provide them with a route to British citizenship.
- ◆ Applications for either pre-settled or settled status must be submitted before 30 June 2019. Anyone with pre-settled status must ultimately apply for settled status by no later than 30 June 2024.
- ◆ The new settlement scheme will go live by March 2019. Applications may be submitted via a mobile app and, where the applicant has been a UK tax payer, residence will be verified via HMRC tax records. The application will cost £65 unless the applicant already holds a permanent residence card, in which case it will be free.
- ◆ Reciprocal (or similar) arrangements will apply to UK nationals living and working in any of the EU27 member states.

SCENARIO 2: “NO DEAL”

- ◆ In its guidance for a “no deal” scenario, the Home Office state that provisions have been considered since Article 50 was first triggered, but that the policy is very fluid and will only be cemented as we approach 29 March 2019.
- ◆ The European Union (Withdrawal) Act would take effect on the UK leaving the EU. This Act preserves law derived from EU provisions until alternative provision is made. The Immigration (European Economic Area) Regulations 2006 (SI 2006/1003) allow EU citizens to live and work in the UK at present, so those provisions would remain until any further legislation is implemented. Under the “deal” scenario, we would expect a new immigration system to come into effect on 1 January 2021. In the event of a “no deal” scenario, we may see this fast-tracked with a much earlier implementation date.
- ◆ The pre-settled/settled status scheme outlined above will still be implemented but it will only apply to those who have entered the UK by 29 March 2019 (as opposed to 31 December 2020) and applications would need to be submitted by 31 December 2020 (as opposed to 30 June 2021).
- ◆ British citizens living in any of the EU27 member states may become subject to new immigration requirements and restrictions sooner than anticipated.

Under the “deal” scenario, we would expect a new immigration system to come into effect on 1 January 2021

WORKFORCE PLANNING CONSIDERATIONS AND ACTIONS

Whilst it looks likely that EU nationals will become subject to a new immigration system, this will not apply to your existing workforce (i.e. those already working in the UK before 31 December 2020 or potentially as early as 29 March 2019 in the event of a “no deal”). However, there are reports of EU nationals continuing to feel vulnerable and confused about their status with many citing a lack of support from their employers.

Deal or no deal, employers should consider the following actions:

- 1 Communicate with your EU national population in the UK (and your UK workers in the EU27)** – whilst we still do not have all of the answers, we do now have enough information to provide reassurance and meaningful guidance. Communication methods should be adapted to take account of English language issues and the shape and size of your organisation.
- 2 Determine level of support (financial or otherwise)** – decide whether you intend to cover the £65 fee for pre-settled and settled status applications and consider the level of support (internal or external) you will provide to assist your workforce with their application. Identify individuals or groups who may require particular or additional support (e.g. employees with learning difficulties or who are not proficient in English).

- 3 Update your right to work processes** – employers can currently rely on an EU passport as evidence of an employee’s right to work in the UK without the need for any repeat checks. Going forward, EU nationals and third country national family members will need to obtain pre-settled status in order to retain the right to live and work in the UK. Applications must be submitted before 30 June 2021 (or possibly 31 December 2020 if no deal). Therefore, employers will need to identify which of its employees are caught by the new requirement and have a system in place to track and record compliance. Similar considerations will apply to UK nationals working in any of the EU27.
- 4 Consider employees with cross-border responsibilities** – identify those employees who work in more than one country and keep track of developments to assess when and where they may need to make applications to retain their status and to determine whether Brexit may lead to tax or social security implications.

Specific “no-deal” considerations

- 1 Keep track of developments** – Companies need to track all updates in this area, since it is likely that the UK’s immigration policy in event of a “no deal” is likely to accelerate the closer that it gets to 29 March 2018. Sign up to Home Office alerts and follow policy developments in the EU27.
- 2 Regular communications with employees** – As we approach March 2019, it is likely that your EU employees will become increasingly anxious if it remains unclear as to their status. Providing information and support will be all the more important in the event of a no deal.
- 3 Fast-track status applications** – The new settlement scheme is expected to fully open before March 2019 and so there may be an opportunity to apply before a no deal is finally confirmed on 29 March 2019. Keeping up to date with the progress of the roll out of this scheme and reacting quickly to be able to mobilise the workforce to make the applications prior to 29 March 2019 would negate any concerns with regards what might happen to those workers post-March 2019 with no deal agreed since once granted this status, it cannot be withdrawn.

Your future workforce

SCENARIO 1: “DEAL”

- ◆ A new immigration system to apply to EU nationals entering the UK after 31 December 2020 is expected to come into force on 1 January 2021.
- ◆ It looks increasingly likely that EU nationals will not be given preferential treatment and that there will be an extension of the existing system which applies to non-EU nationals to encompass EU nationals.
- ◆ This means that EU nationals will need to be sponsored in order to obtain leave to enter the UK to work. Similarly, UK nationals are likely to require a visa to work in any of the EU27 states.
- ◆ The MAC has recommended a lowering of the skills threshold which applies to sponsorship under Tier 2 from NQF level 6 to NQF level 3. It also recommends adjustments to the resident labour market test requirements and a removal of the monthly quota which currently applies to sponsorship under certain categories of Tier 2.
- ◆ The MAC also recommends including EU nationals aged between 18 and 30 within the Youth Mobility Scheme currently available to nationals of that age from countries such as Australia, Canada and New Zealand called Tier 5 (Youth Mobility). The Tier 5 (Youth Mobility) visa is a two-year visa that cannot be extended or applied for more than twice. This visa would be based upon reciprocal rights, so is likely to be agreed between countries to which British people travel for temporary work, such as France, Spain or Germany and perhaps not for countries in Eastern Europe where immigration into the UK far exceeds emigration from UK nationals to these countries.

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SCENARIO 2: “NO DEAL”

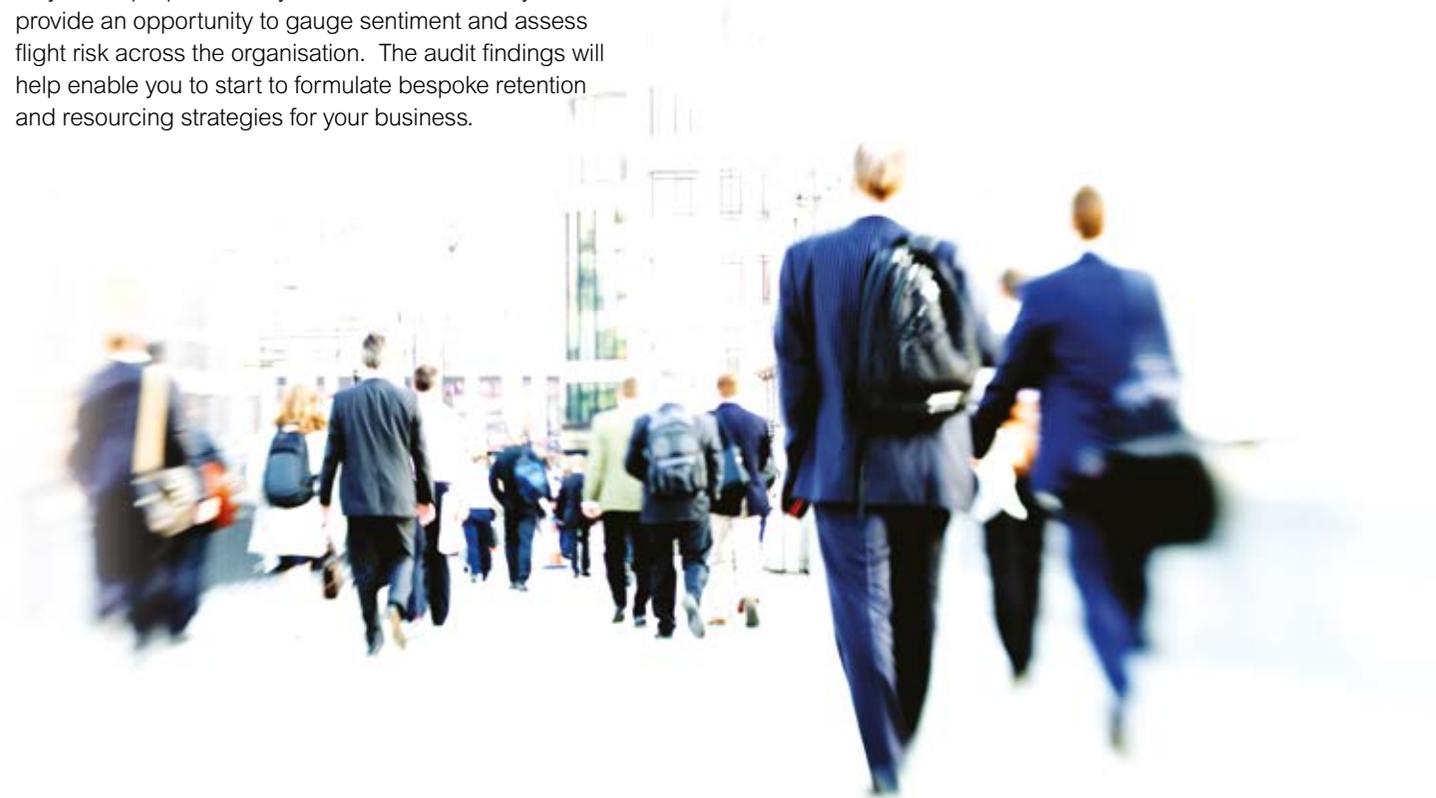
- ◆ As above, save that the introduction of the new immigration system may be expedited in the event there is to be no transition period.

WORKFORCE PLANNING CONSIDERATIONS AND ACTIONS

Employers should start to prepare for a new immigration system which does not give preferential treatment to EU nationals and which is likely to involve an expansion of the existing system applicable to non-EU nationals and all of the costs, complexity and significant barriers to entry which come with that. Whilst skills thresholds may be lowered and resident labour market test requirements adjusted, there will still be many roles which are currently performed by EU nationals that do not meet the criteria for a work visa. As such, the new regime will affect sectors and occupations differently with varying impacts on resourcing requirements and talent availability. However, in all cases, HR functions need to develop a clear company strategy and create a workforce plan which can deliver the skills and people needed by the particular organisation in both the immediate and longer term.

As a pre-cursor to any resource planning, employers need to audit their workforce to assess the potential impact of the anticipated changes to the UK immigration system. As well as tracking nationality, the audit should cover items such as length of service, retention rate, salary, skill requirements and location of each role. It should also identify particular roles or areas of the business which may be disproportionately affected. An audit may also provide an opportunity to gauge sentiment and assess flight risk across the organisation. The audit findings will help enable you to start to formulate bespoke retention and resourcing strategies for your business.

Employers need to audit their workforce to assess the potential impact of the anticipated changes to the UK immigration system



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