



Brexit and Immigration



Who we are

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Agenda

- Employing EU Nationals
- Employing non UK Nationals after 1 January 2021
- Becoming a sponsor and sponsor duties





Employing EU Nationals – the rules

- Any EU citizen who wants to live and work in the UK without restrictions post Brexit must be living in the UK by 31 December 2020 (and be able to prove it).
- Any EU citizen in the UK before 31 December 2020 who wants to continue to live and work in the UK must apply through the [EU Settlement Scheme](#) for either pre-settled status (if they have less than 5 years' residence in the UK) or settled status (if they have 5 years' residence or more in the UK) by 30 June 2021.





Existing EU citizen employees

- Need to register under the EU Settlement Scheme by 30 June 2021
 - What can you do as an employer?
 - Review the workforce
 - Identify EU citizens
 - Inform them of their need to apply
 - Provide them with support (if required)
 - Follow up to check they obtain confirmation of their right to remain in the UK (by 30 June 2021 at the latest)
 - Potentially illegal to employ them after 30 June 2021 if they do not have the certification as they would not pass the right to work checks
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Timeline for talking to current EU citizen employees

COUNTDOWN TO BREXIT | ARE YOU AND YOUR EU CITIZEN WORKERS READY?

You should review your workforce and identify the EU citizens as soon as possible.

1. Review

As soon as possible

The next step is to review the responses received and repeat the information provided to remaining individuals who have not yet responded.

3. Repeat

By November 2020

Review the list of EU citizen employees and workers you met with at Step 4 and remind those that have not yet applied for pre-settled or settled status to do so by 30 June 2021.

5. Remind

By March 2021

2. Notify & explain

By October 2020

You need to notify your EU citizen workforce of the new requirements. You should explain the need to apply for settled status or pre-settled status by 30 June 2021. You also should confirm you will need to see evidence of their pre-settled or settled status or their right to work by 31 December 2020 if possible.

4. Meetings & evidence

By December 2020

You then need to identify any remaining individuals and meet with them to discuss the situation. Ensure that by 31 December 2020, as far as possible, you have sufficient evidence of all employees' and workers' right to work in the UK.

6. Final review & action

By May 2021

Now you need a final review of the workforce. Consider whether you will continue to have the legal right to employ any individuals that have not yet obtained pre-settled or settled status after 30 June 2021. You then need to action lawful termination of employment due to expiry of the right to work or consider alternative applications if possible.





New employees hired before 31 December 2020

- Same rules as for existing employees will apply
- Encourage them to apply for the EU Settlement Scheme during the recruitment process
- Be cautious of discrimination claims

- If they don't provide evidence of settled or pre-settled status by 30 June 2021 you need to consider options for terminating the employment





New employees hired after 1 January 2021

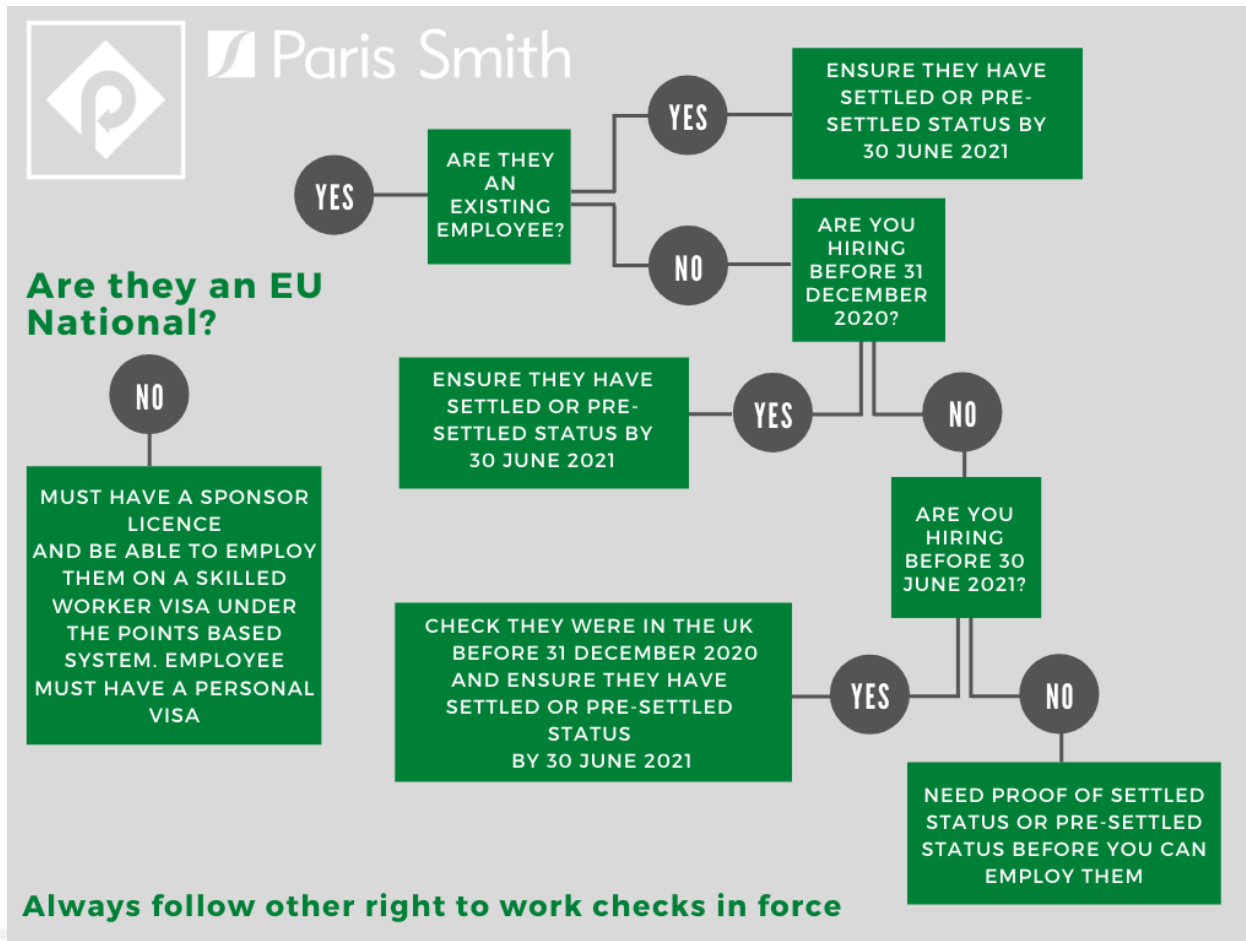
- If came to the UK before 31 December 2020
 - Can continue to employ them in the usual way
 - Need proof of their presence in the UK pre 30 December 2020
 - Evidence of registration with settled or pre-settled status (preferred); or
 - Other evidence that in the UK
 - If they don't provide evidence of settled or pre-settled status by 30 June 2021 you need to consider options for terminating the employment
- If came to the UK after 1 January 2021
 - Need to be a sponsor
 - Role must meet sponsorship requirements
 - Individual needs a relevant personal visa

All right to work checks applicable at the time must also be carried out





Flowchart for employing EU nationals





New points based immigration system from 1 January 2021

- New immigration system goes live from 1 December 2020
- Applies to all new overseas employees, including EU nationals





Skilled workers

- Sponsored skilled worker visa (replacing Tier 2 (General))
- Employers will need a sponsor licence
- Other options such as a graduate visa or youth mobility scheme visa do not need to be sponsored





Types of jobs which can be sponsored

New Appendix Skilled Occupations

Examples include:

- Managers and directors in most areas of industry, including sales and marketing
- Engineering and IT: e.g. engineers, graphic designers, IT design
- Professional services roles: e.g. lawyers, accountants, architects
- Skilled trades: e.g. carpenters, welders

Shortage occupation list

- Current examples include biological scientists, some physical scientists, most engineer roles, programmers, IT business analysts, web designers, cyber security specialists, medical practitioners, veterinarians, occupational therapists, nurses, secondary teachers in STEM, architects, paramedics, graphic designers.





Low skilled workers and healthcare

- No visa route for low skilled workers
- Health and Care Visa





The points-based system

- Minimum of 70 points required to qualify
 - 50 mandatory points:
 - Job offer from approved sponsor – 20 points
 - Job at the appropriate skill level – RQF level 3 or above (A level and equivalent) – 20 points
 - Role must be matched to a standard occupational code (SOC)
 - English language skills at level B1 (intermediate) – 10 points
 - 20 remaining points related to salary
 - New tradeable points system
 - May be amended to benefit industries or sectors that are struggling to source labour
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Minimum salary thresholds

	Salary
Any job at appropriate skill level	£25,600 or more (or the going rate for the SOC Code if higher)
Job on the Shortage Occupation List	£20,480 or more (or 80% of the going rate for the SOC Code if higher)
PhD in STEM (science, technology, engineering or maths) “relevant to the job”	£20,480 or more (or 80% of the going rate for the SOC Code if higher)
Another PhD in a subject “relevant to the job”	£23,040 or more (or 90% of the going rate for the SOC Code if higher)
New entrant to the labour market	£20,480 or more (or 70% of the going rate for the SOC Code if higher)
Job is in a listed health or education occupation	£20,480 or more (or the going rate for the SOC Code if higher)





Changes to current Tier 2 (General) system

- Skill threshold lowered from RQF level 6 (degree) to RQF level 3 (A-level and equivalent)
- Minimum salary threshold reduced to £25,600 from £30,000
- Resident Labour Market Test abolished
- Annual cap suspended
- 12 month “cooling off” period removed
- 6 year maximum length of stay removed – unlimited extensions
- Switching from inside the UK for most visa holders





Outstanding issues

- Resident Labour Market Test will be abolished
 - Uncertainty how Home Office will assess whether a job is “genuine”
 - Job must exist and not be a sham or created mainly so the applicant can apply to enter or stay
 - Not clear if evidence will need to be submitted
- We await Home Office guidance





The future of the immigration system

- Positive step forward?
- Simpler and more flexible system
- Costly replacement for EU free movement





Becoming a sponsor

- You will need a sponsorship licence if you want to employ someone from overseas after January 2021
 - The licence doesn't guarantee the overseas national will be allowed to come to the UK
 - Also need a certificate of sponsorship and an individual tier 2 visa
 - If you know you will need to employ overseas nationals, apply for a licence early
 - If the company has several branches or subsidiaries they may need more than one licence
 - First line of defence for immigration control
 - Onerous duties and responsibilities
 - Licence can be downgraded or revoked (unable to sponsor migrant)
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Sponsor duties

- Record keeping (Appendix D of the guidance for sponsors)
- Reporting duty (report certain events within 10 working days)
- Compliance with the law
- Genuine vacancy
- Duty to co-operate with Home Office
- Key motto = always be prepared





Be prepared – step 1

- You need appropriate HR systems in place (at the time of your licence application) to:
 - Monitor your employees' immigration status and right to work
 - Keep copies of relevant documents for each employee (e.g. passport, right to work information, contact details)
 - Track and record employees' attendance
 - Keep employee contact details up to date
 - Report to UKVI if there is a problem e.g. if the sponsored employee stops coming to work





Be prepared – step 2

- You need to appoint people within the business that will manage and take responsibility for the licence
 - The roles are:
 - Authorising officer – most senior person responsible for recruitment of migrant workers and ensuring sponsorship duties are met
 - Key contact – main point of contact with UKVI
 - Level 1 user – responsible for all day-to-day management of the licence using the Sponsorship Management System (SMS)
 - Subject to criminal records and security checks
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Apply for a licence

- Apply online via gov.uk
- Send submission form and supporting documents within 5 working days
- Most applications dealt with within 8 weeks (beware of a backlog)
- Licence valid for 4 years





Apply for a licence

- Supporting documents
 - Appendix A of the guidance for sponsors, Tables 1 to 4
 - At least 4 supporting documents to prove you are a genuine business, e.g. audited accounts
 - Specific requirements for some businesses such as start-ups (trading less than 18 months), franchises, food businesses or those registered with a regulatory body
 - Detailed covering letter with specific information required
 - If licence refused, no right of appeal and cannot apply again for 6 months
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Application costs

	Cost of licence	Immigration Skills Charge	Certificate of Sponsorship
Small or charitable sponsors	£536	£364 per sponsored employee per year (total of £1,820 if sponsor for full 5 years)	£199 each time you issue a certificate of sponsorship to an employee
Medium or large sponsors	£1,476	£1,000 per sponsored employee per year (total of £5,000 if sponsor for full 5 years)	£199 each time you issue a certificate of sponsorship to an employee





Key action to take now

- Review your EU national workforce
- Review your recruitment needs for 2021 and beyond:
 - If you anticipate needing to recruit from outside the UK consider applying for a sponsor licence now
- Audit your HR practices





Questions?