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EU Staff and Brexit

Five questions for every business

March 2019
People and Skills

In collaboration with

Deloitte.



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For Deloitte, contact:

Jurga McCluskey
Deloitte LLP
2 New Street Square
London
EC4A 3BZ

D: +44 (0)207 007 7668

E: jmcccluskey@deloitte.co.uk

Learn more at: <https://www2.deloitte.com/uk/en/pages/legal/solutions/global-employer-immigration-services.html>

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Foreword CBI

People are at the heart of every business. As the UK prepares to leave the European Union, the potential impact on colleagues and staff is high on the agenda for thousands of businesses. Whilst debates about the future immigration system are important, HR Directors and line managers face practical questions from staff about their position today.

Ever since the referendum businesses have been in the difficult position of receiving questions from staff but being unable to answer them due to a lack of clarity.

Understandably businesses have only wanted to communicate the facts and not have to interpret the news.

It is welcome that the Government has now officially confirmed that EU citizens will have access to the EU Settlement Scheme in a 'no deal' scenario. European colleagues should have confidence that regardless of what comes next on Brexit, they'll continue to be able to work, study and contribute in the UK. With this now a fact, employers should also have confidence to communicate to their staff.

I am delighted that the CBI has collaborated with Deloitte to produce this guide which seeks to support both our members and Deloitte's clients who are keen to reassure their staff around Brexit. Communicating information and supporting applications for the EU Settlement Scheme is not a legal obligation on employers. It should help businesses who want to do the right thing for their people, but who are unsure on the best way how.

The EU Settlement Scheme has been designed to be simple, swift and straightforward for people to use. It is a dramatic and welcome improvement on existing processes. The Home Office's 'employer toolkit' is a valuable resource. I encourage all employers to make use of it when looking to communicate to their staff. Let me be clear, this guide is not an attempt to replicate this. We aim to complement it by offering practical insights and answers to the questions many HR teams are asking themselves. Particularly when it comes to employee relations.

There is no right or wrong answer, apart from being clear of the legal obligations when Right to Work checks change in 2021. But I hope the insights and best practice contained in this guide will help businesses to develop individual plans which are right for them.



Matthew Fell

Chief UK Policy Director, CBI



Foreword Deloitte

UK businesses have faced much uncertainty since the Brexit referendum result, as they seek to assess their business exposure and reassure their EU staff as free movement of people from EU ends.

Despite inevitable long term changes to the UK immigration regime, the UK government has always stated that the approximate 3.4 million Europeans living in the UK at the point of exit will be able to stay. And with the launch of the EU Settlement Scheme, we now have a guaranteed means to register and thereby protect the rights of EU, EEA and Swiss nationals under UK law.

The Government has made clear that the obligation to register lies with the EU national and that UK employers will not be expected to manage the task of registration. Nevertheless, employers are a recognised source of information and have an important role to play, should they wish. While the Government has taken care to address EU nationals directly in plain language on GOV.UK, as well as provide an employer toolkit, we have faced a great many questions from clients – as have the CBI from their business membership – about how employers should support their staff. We are therefore delighted to have been able to collaborate on a guide aimed specifically at employers.

We have structured this guide around “five questions for every business” to facilitate current levels of understanding about the rights of EU staff, the processes they need to go through to stay in the UK, the choices businesses can make about communicating requirements or offering support, and any legal obligations. This guide does not cover the different Brexit scenarios that could play out, or the longer term policy choices around the UK’s new immigration system due to launch in 2021. This guide is designed as a resource for any UK business, whether local, national or international, on which to base strategic HR discussions and to answer the questions employers and employees may have. We hope it leaves employers better informed and better able to guide their workforce and business through this unique moment of legal transition.



Jurga McCluskey

Partner, Head of Immigration
(UK & Europe) Deloitte



Executive Summary

Since the referendum result in 2016, the CBI and Deloitte have heard regularly from members and clients looking to make sense of the people impacts of Brexit. Businesses of all sizes are considering how they continue to staff their UK operations, including both current EU employees and potential new hires from the EU. They realise that Brexit will change who is able to live and work in the UK, but are uncertain about when those changes will take place and what any future immigration rules will be. They are aware of the destabilising effect of Brexit on their EU staff and potential new recruits, and see the business case for reassuring and communicating the facts to affected staff.

The UK government has been clear that EU nationals living in the UK will be able to stay after Brexit. The UK's EU Settlement Scheme, announced in June 2018 and already open as a public pilot, allows EU nationals who arrive in the UK before Brexit to register to live and work in the UK on a permanent basis. If the Withdrawal Agreement is passed, the scheme will also extend to any new arrivals from the EU until 31 December 2021. While Brexit holds many uncertainties, the EU Settlement Scheme is fixed in UK law and is a basis for immediate practical action, whether we leave the EU with a deal or not.

The government has been clear that registration via the EU Settlement Scheme is the personal responsibility of EU nationals and employers are not legally required to ensure or check registration. However, this guide is for UK employers in any sector – from multinationals to SMEs – who want to understand best practice and the role they could play in communicating information and supporting their staff. This guide should enable HR leaders to decide the right level of practical support for their employees to protect their business model through these changes.

The guide is structured around “five questions for every business” as a sense-check of what employers do and don't know about the rights of their EU staff, the processes individuals need to go through to stay in the UK, the ways employer could communicate EU Settlement Scheme requirements or offer direct support to staff, plus any legal obligations to do so. Employee FAQs are identified in text boxes as we progress through the guide to allow you to respond to employees succinctly, and the Appendices give further detail where required.

Government Advice:

Please refer to UK Visa & Immigration's guidance for EU nationals [here](#) and employer toolkit [here](#). This guide is meant as a supplement to, not a replacement for, that official material.

No Deal:

The UK may leave the EU on 29 March 2019 or later, without having signed any Withdrawal Agreement – termed a “no deal” Brexit. This guide identifies the “no deal” position where it results in a different deadline for registration or other requirement.

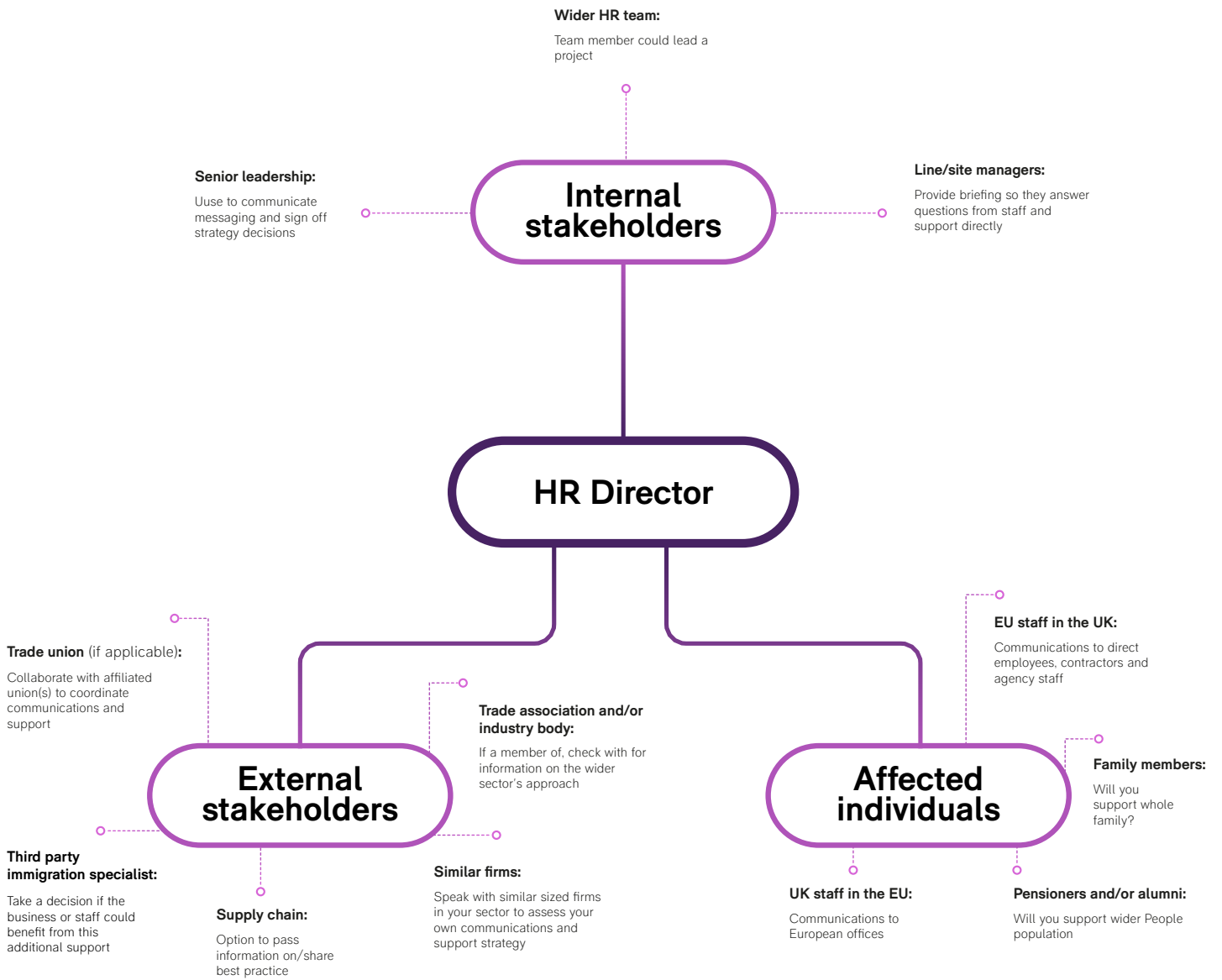
Relevant Countries and Terminology:

Citizens from the EU, Norway, Iceland, Liechtenstein and Switzerland listed [here](#) all have the same right to protection under the UK’s EU Settlement Scheme. In line with the UK government approach in its official guidance, this guide uses the term “EU national” as shorthand for all the nationals protected by the EU Settlement Scheme. It includes any non-EU national family members who have rights as the dependent of an EU national e.g. the Chinese wife of a French national working in the UK.

“Brexit” (also termed “EU-Exit”) refers to the day the UK’s membership of the EU ends, set for 29 March 2019.



Identifying Stakeholders



1. What rights do our EU staff have?

Why should I read this section? For a clear picture of EU citizens' rights under Brexit (deal or no deal), and to answer frequently asked questions about continuing to live and work in the UK after Brexit.

Key message: EU nationals living in the UK prior to Brexit are guaranteed to be able to stay in either a deal or no deal Brexit scenario.

Citizens' rights were the first priority when Brexit negotiations began in March 2017, given the estimated 3.4 million people living in the UK on the basis of EU free movement rules and facing uncertainty after the referendum result. The UK announced the EU Settlement Scheme in June 2018 to clearly demonstrate the UK's intention to protect EU nationals' rights, and changed the UK's Immigration Rules in August 2018, all before the overall EU Withdrawal Agreement was complete. The scheme opened as a public test phase on 21 January 2019 for anyone with a biometric passport or biometric ID card, meaning registrations can be made ahead of the planned Brexit day on 29 March 2019 (although they currently attract a fee that will be removed when the scheme is fully open on the 30th March 2019).

Most EU nationals' status in the UK is granted by EU law, which will no longer be valid in the UK after Brexit. The purpose of the EU Settlement Scheme is to give these EU nationals an equivalent status under UK law.

Registration under the UK's EU Settlement Scheme will recognise EU nationals with "settled status" i.e. those who have been living in the UK for 5 years or more, and will automatically grant them "indefinite leave to remain" in the UK. These EU nationals will be able to stay on a permanent basis with no further action necessary.

The Scheme will also recognise EU nationals with "pre-settled status" i.e. those who have been living in the UK for less than 5 years, and will grant them "limited leave to remain" in the UK. These EU nationals will then have 5 years' permission to stay in the UK, but can re-register to be granted "settled status" as soon as they have spent 5 continuous years in the UK overall, to enable them to stay on a permanent basis.

Whether the EU Withdrawal Agreement (the Brexit 'deal') is approved or not:

- The EU Settlement Scheme will allow EU nationals and their family living in the UK by 29 March 2019 to register their status to allow permanent stay.
- EU passport or ID cards alone will allow entry to the UK at the border after 29 March 2019 (no visas required) and until the new system is launched in 2021.
- An EU passport or ID card alone will allow a continued right to work in the UK with a current employer, with no need to prove status after 29 March 2019 until the new immigration system is in place (unless changing employer).

FAQs

We have set out below the questions EU nationals are most likely to pose on citizens' rights.

<p>What's the difference between settled status and pre-settled status?</p>	<ul style="list-style-type: none"> • Either status will enable the EU national to live and work in the UK after Brexit without needing to apply for a visa or work permit. • EU nationals with 5 years' residence have "settled status" and will be granted "indefinite leave to remain" in the first instance. This status can only be lost if they spend 5 years or more outside the UK. • The differences are set out in detail at Appendix 1. • EU nationals with less than 5 years' residence have "pre-settled" status and will be granted 5 years' "limited leave to remain" in the first instance. This status can be lost if an EU national spends 2 years or more outside the UK. The EU national should also spend 6 months out of every 12 in the UK to maintain "continuous residence" and therefore be able to qualify for "indefinite leave to remain" once they have spent 5 years in the UK overall. • Commuters or others who do not intend to settle in the UK may continue in "pre-settled status" provided they are not outside the UK for more than 2 years in any one stretch.
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<p>What happens in a “no deal” scenario?</p>	<ul style="list-style-type: none"> • The differences between deal and no deal are detailed at Appendix 2. • EU nationals and their family members living in the UK before 29 March 2019 are still guaranteed to be able to stay in the UK in a no deal scenario. • They will have a reduced timeframe to register under the EU Settlement Scheme – they must register by 31 December 2020 rather than by 30 June 2021. • They can continue to rely on their EU passport or national identity card when entering the UK, or if asked to show their right to reside/work in the UK, for example when renting or applying for a job. • They can be joined by family members up until 29 March 2022 provided the EU national has settled status (see FAQ for details on family reunion).
<p>Do those with an EEA Residence document need to register?</p>	<ul style="list-style-type: none"> • EU nationals may already hold an EEA Permanent Residence Card or a 5 year EEA Registration Certificate (which many EU nationals obtained to prove their status under EU law on a voluntary basis). • It is now mandatory to register under the EU Settlement Scheme, so that the EU national holds status under UK law after Brexit. • Holding an EEA Permanent Residence Card or Registration Certificate will not be sufficient after 31 December 2020.
<p>Do Irish nationals need to register?</p>	<ul style="list-style-type: none"> • Irish nationals do not have to register their status under the EU Settlement Scheme or do anything further. • Irish nationals can continue to work in the UK under the Common Travel Area arrangements and on the basis of their Irish passport. • Irish nationals have a unique legal position; they are “present and settled” under UK law but they are also EU nationals and benefit from EU citizens’ rights. • Irish nationals may still choose to register their status in order to be able to sponsor any non-Irish, non-European family members who live in the UK (or to retain the option to support a family member in the future).

<p>Do British nationals need to register?</p>	<ul style="list-style-type: none"> • British nationals do not have to register their status under the EU Settlement Scheme in order to live in the UK. • Dual nationals (e.g. EU nationals who have naturalised as British citizens but retained their original nationality) may still choose to register their status in order to be able to sponsor any non-EU family members who live in the UK (or to retain the option to support a family member in the future) under the more lenient EU rules which do not require a minimum income or other financial evidence.
<p>Can Commuters or frontier workers register?</p>	<ul style="list-style-type: none"> • Commuters/frontier workers live in one country but regularly work in another. • EU nationals who currently live in Europe, but travel regularly to work in the UK as part of their working arrangements, may already have spent sufficient time in the UK and therefore may be able to register for settled or pre-settled status on the basis of either an NI number or an employer letter. • For EU nationals who do not meet the requirements to register, the border arrangements after Brexit will allow continued entry on the basis of an EU passport or ID card until the new immigration system is launched from 1 January 2021. In a no deal scenario, any new commuters staying for more than 3 months, would need to apply for European Temporary Leave to remain on arrival.
<p>Can a registered EU national go on assignment outside the UK?</p>	<ul style="list-style-type: none"> • Those with "settled status" will be able to leave the UK for anything up to 5 years without losing this status. • Those with "pre-settled status" will be able to leave the UK for anything up to 2 years without losing this status, BUT must spend at least 6 months of any 12 month period in the UK to maintain "continuous residence" in the UK in order to qualify for "settled status" in the future. • The registration process does not ask for specific dates of residence; national insurance records are considered sufficient proof that the EU national has been resident in the UK.

<p>What about family members?</p>	<ul style="list-style-type: none"> • Family members may be EU nationals themselves, in which case they can enter the UK on the basis of their European passport and qualify under the EU Settlement Scheme in their own right. • Family members from a non-EU country (e.g. US, Canada, China) should obtain permission to enter the UK prior to travel to the UK and then must register under the EU Settlement Scheme once their EU family member has registered as settled/pre-settled once in the UK. This permission is termed a "family permit" and you would apply for this like a visa. • "Family Members" can include spouses, civil partners, any dependent children under 21, or any dependant parents. Family members can also include unmarried partners with whom you can show two years' cohabitation or other evidence of a "durable relationship" e.g. a child together. It also includes other extended family members in the ascending or descending line e.g. grandchildren, grandparents. Family can include step-children or adopted children. The relationship can be with either the primary EU national or their non-EU partner. While the concept of family is drawn widely under European law, it can be an area of complexity and employees should seek professional advice if they have any doubts on who within their family can qualify. • Under a deal scenario, family members will be eligible to join the EU national in the UK at any point after 31 December 2020, provided the relationship was in place as at 31 December 2020. In a no deal scenario, they must enter by March 2022.
<p>Will "no deal" change the rules for family members?</p>	<ul style="list-style-type: none"> • EU nationals with "settled status" can be joined in the UK by close family members including children (under 21), spouses and partners, parents and grandparents living overseas until 29 March 2022, providing the relationship existed by 29 March 2019 and continues to exist when the family member registers. Children born after 29 March 2019 are entitled to the same rights. • EU nationals with "settled status" can be joined by future spouses and partners (where the relationship was established after exit) and other dependent relatives until 31 December 2020 • After these deadlines, UK Immigration Rules would apply with minimum salary and other eligibility criteria.

2. What will our EU staff have to do to stay in the UK?

Why should I read this section? To understand the EU Settlement Scheme process, and to answer frequently asked questions from affected staff about the actions they will need to take.

Key message: The process is simple, swift and straightforward. It typically involves providing identity documents (either via the Android app, registry offices or by post) before completing an online application form.

The EU Settlement Scheme allows EU nationals to register their status in the UK as either “settled” or “pre-settled”. The process is summarised below, and then detailed step by step, based on the currently available EU Settlement Scheme [pilot information](#) and EU Settlement Scheme guidance [here](#). Documents must be scanned using the EU Exit: Identity Check app during the test phase (from 21 January 2019), which then links to an online application form. It is not possible to apply directly online. While it is expected that most EU nationals will register using the app, this will not be essential once the scheme opens fully and alternative document check methods, such as using registry offices and post to check documents, become available. We will update this guide fully once new UK Visas and Immigration (UKVI) guidance is published on 30 March 2019.

Process Summary

1. **Identity Document Check** – The starting point is to scan in documents to enable UKVI to verify the EU national’s identity. From 21 January 2019, the app can scan the electronic information in the EU national’s passport or ID card and generate a link to an online application. From 30 March 2019, documents can be also scanned at a registry office or sent by post, instead of using the app.
2. **Online application** – the EU national will answer basic questions about themselves and provide their National Insurance number. The UKVI expect most EU nationals won’t need to provide any further evidence.
3. **Approval** – the online system will immediately notify the EU national if they are considered “settled” or “pre-settled” based on their answers, with the option to upload documents that show further residence in the UK if the EU national disagrees with a “pre-settled” outcome. The result will then be emailed to the EU national following UKVI consideration.

Step by Step Process

	Summary	Action
Step 1. Prepare	<p>Basic preparation is necessary.</p> <p>The app and online form is self-explanatory.</p>	<p>EU nationals will need to collate:</p> <ul style="list-style-type: none"> • An Android phone (if applying via option 1 below – they can search and download the app on Google Play store. • Their identify document: an EU passport, national identity card, or biometric residence card (BRC) if a non-EU national family member. • National Insurance number. • Any additional documents to prove residence if an NI number is not available or does not cover 5 years (see below). • Original documents to prove relationship with non-EU national (e.g. marriage or birth certificate) if no current BRC available.



<p>Step 2. Prove identity</p>	<p>The employee must prove their identity by scanning an EU ID document and an image of their face.</p> <p>This step cannot be completed online.</p>	<p>Option 1: EU Exit: ID Document Check app</p> <ul style="list-style-type: none"> • Use an Android phone to download the EU Exit: ID Document Check app from the Google Play store. • UKVI anticipate most registrations will be made this way. • This is the only method available during the test phase from 21 January 2019. • The app does not work on an iPhone – EU nationals will need an Android phone (such as Galaxy, Samsung, Google, Sony etc.) version 6.0 or above, with 135MB storage, and “near field communication” in settings. This contactless technology on the phone will read the biometric chip in the identity document (passport or ID card) and scan the details page, scan the EU nationals face and take a photo. It will then push this information onto the online form. Identity documents cannot be scanned online to complete step 3. • See below for detailed instructions. <p>Option 2: Scan at Registry Office</p> <ul style="list-style-type: none"> • If the EU national cannot access an Android phone, once the Scheme opens fully on 30 March 2019, s/he may make an in-person appointment to scan in an EU passport or biometric residence card at listed registry offices in the UK. • ID cards cannot be scanned using this method. • The EU national will be charged directly for the scanning service (this is separate to the online fee for the registration charged during the test phase). • After the registry office appointment, scanned information will be pushed onto the online form to enable the EU national to complete step 3 “prove residence” online.
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		<p>Option 3: Post documents and attend biometric appointment</p> <ul style="list-style-type: none"> • If the EU national cannot access an Android phone or does not want to attend a registry office, s/he can opt to physically post their ID documents to the UKVI once the scheme opens fully on 30 March 2019. • If posting documents, the EU national would also need to attend an in-person appointment at a UK Visa and Citizenship Application Services Centre or post office to give biometrics (a facial scan) once notified. This would be a different process to the registry office appointment made ahead of any application at option 2. <p>Note: Non-EU family members will also need to attend an in-person appointment at a UK Visa and Citizenship Application Services centre or post office to give biometrics (a facial scan) in order to be issued a physical biometric residence card.</p>
<p>Step 3. Prove residence</p>	<p>An online form is generated after the identity check is complete.</p> <p>The EU national will be asked for basic details (name, address) and National Insurance number.</p>	<ul style="list-style-type: none"> • Most EU nationals should be able to rely on their NI number as a proxy for residence in the UK. • EU nationals will be asked to declare if they have spent any time outside the UK that would mean any existing status (e.g. permanent residence) has been lost. They will not be asked to confirm total number of days' absence from the UK, or state where they were and when. • In government trials 96% of applicants were able to rely solely on the National Insurance record alone - only 3% needed to provide further residence documents.

<p>Step 4. Criminality checks</p>	<p>The EU national must self-declare any criminal or terrorist convictions or negative immigration history.</p>	<ul style="list-style-type: none"> • An EU national must not be a serious or persistent criminal, a threat to national security, or have a deportation order, exclusion order, exclusion decision or removal decision against them. • The UKVI have stated that they do not expect this to affect many people, and they are not concerned with road traffic offences or minor fines. • If an EU national has any doubts about criminality then professional legal advice from a solicitor or OISC-regulated advisor should be sought.
<p>Step 5. Review status result and submit</p>	<p>The system will suggest whether the EU national is considered to have “settled” or “pre-settled” status based on the NI number.</p>	<ul style="list-style-type: none"> • The system uses the NI number to link directly to HM Revenue & Customs (HMRC) and the Department of Work and Pensions (DWP) to deliver an immediate result showing either “settled” or “pre-settled” status. • If the EU national disagrees with a “pre-settled” result, s/he will be able to upload photos or scans of additional residence documents to demonstrate a 5 year period of residence to prove “settled status”. • Please see Appendix 3 for list of acceptable additional residence documents. • It is also possible to accept “pre-settled” status in the first instance and re-register as settled once the NI record alone shows 5 years residence, if additional documents are not available or difficult to source. • Once the online submission is complete, the EU national will be emailed a UKVI letter confirming that the registration is pending.

<p>Step 6. Approval</p>	<p>No physical document will be issued.</p> <p>The EU national will be emailed a letter confirming the grant of “settled” or “pre-settled” status and a link to view their status online.</p> <p>Employers are not required to check status.</p>	<ul style="list-style-type: none"> • EU nationals will not receive a physical document to confirm status and prove they have registered successfully. • EU nationals will be emailed a letter which confirms that they have been granted “indefinite leave to remain” (settled status) or 5 years “limited leave to remain” (pre-settled status) together with a link to access confirmation of their status online following guidance here. • This link will be sent to the EU national’s mobile phone or email address as given online, to allow them to access their personal profile. They can log on and view status, and can chose to share this with employers by generating a “share code”. Employers will then be emailed a link which gives access to an employer view to confirm status (see Right to Work section below). • Non-EU family members will still be issued with a physical biometric residence document which can be used as a right to work document (see the Right to Work section below). • The estimated processing time is two weeks, but this cannot be guaranteed. Processing times will be published by UKVI here.
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EU Exit: Identity Document Check App instructions

The CBI has received a number of queries on how to use the App. We have extracted the UKVI's guidance 'Using the Exit: ID Document Check' app as the best source of information on this:

Process steps	The EU national will need to:
1. Scan photo page	Use the phone's camera and instructions to scan the photo page of the passport or biometric residence permit.
2. Check biometric chip	<p>Before beginning this step, remove any cases or covers from the passport or ID document and make sure the volume is turned up on the phone. This is important as you will need to be able to hear a beep to know when the document has been recognised.</p> <p>Click the 'check now' button in the app when you are ready to start checking your document. Place the phone on top of your passport or ID card when the app tells you to 'check your document's information'. A progress bar will let you know when the check begins and when it is complete. Do not move the phone until the check is complete.</p> <p>If the app doesn't recognise your passport or ID card first time, you should slowly move your device around the document until the app recognises it. If you are using a passport and you continue to have problems, place the phone on the reverse cover or the photo page.</p> <p>Only after trying all of these steps and the app is still not able to read the chip in the ID document, is it necessary to follow Options 2 or 3 outlined in Step 2 of the Step by Step Process.</p>
3. Scan face	Look into the camera to allow face to be scanned (children under 10 years old will not be asked to scan their face).
4. Take photo	Take a well-lit photo on the device, looking straight into the camera with a neutral expression, no tinted glasses, and no other faces in the background.
5. Complete registration form online once sent link	Go on to complete the rest of the registration questions online on the same phone, or switch to laptop or computer for this step 3 of the overall process.
If you encounter any issues using the App or want more detailed step by step instructions please read the Government's guidance ' Using the 'EU Exit: ID Document Check' app '.	

FAQs

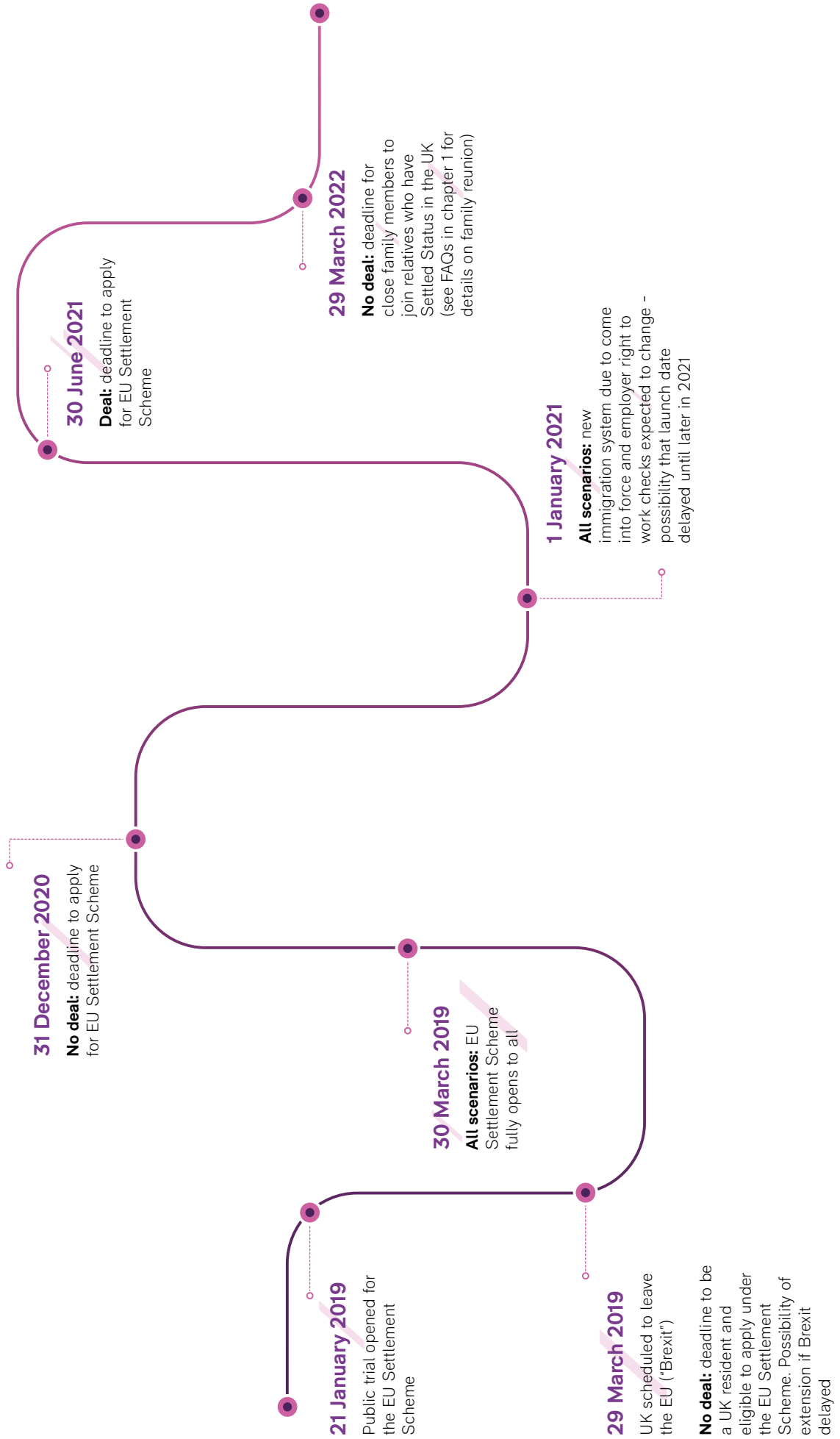
We have set out below the questions EU nationals are most likely to pose on the EU Settlement process.

<p>Who needs to register?</p>	<ul style="list-style-type: none"> • All EU nationals wanting to stay in the UK after 30 June 2021 (under the Withdrawal Agreement) or after 31 December 2020 (if “no deal”). • This includes those who already hold an EEA Permanent Residence document or 5 year EEA Registration Certificate under EU law.
<p>Who does not need to register?</p>	<ul style="list-style-type: none"> • EU nationals who intend to leave the UK by 30 June 2021/31 December 2020, and who are willing to apply under the new immigration system should they want to return. • EU nationals with an ILR document do not have to apply, but may choose to do so in order that they be able to leave the UK for up to 5 years without losing their right to return (otherwise it would be lost after 2 years’ absence from the UK). • British citizens do not need to register, but may choose to if they are dual nationals, in order to host family under more lenient EU rules during transition. • Irish citizens do not need to register, but may choose to in order to host family in the UK under more lenient EU rules during transition.
<p>When does the Scheme launch?</p>	<ul style="list-style-type: none"> • The Scheme was initially piloted by applicants from within certain NHS Trusts and universities from August 2018. • The public test phase of the system opened on 21 January 2019. • During this test phase the system is open to anyone who can access it via the app on an Android device. The scheme will be fully open by 30 March 2019, when more complex and vulnerable applicants including those with non-biometric passports, or anyone simply wishing to avoid the fee (see below) will be able to register using online, assisted and postal methods.
<p>What is the fee?</p>	<ul style="list-style-type: none"> • Registration will be free for all once the Scheme is fully opened on 30 March 2019. • During the test phase, those over 16 are being charged a £65 fee when registering online. • The fee paid during the test phase will be automatically refunded – applicants do not need to do anything and will receive an email confirming the refund. If an email is not received by 20 April 2019 contact the Home Office.

<p>When should EU nationals apply?</p>	<ul style="list-style-type: none"> • It may be worth waiting until the Scheme is open fully on 30 March 2019, to avoid paying a fee and then wait for a refund. • If the EU national will complete 5 years in the UK before 31 December 2020, then it may makes sense to wait to register for settled status (so that the EU national need only register once). • If the EU national will complete 5 years in the UK after 31 December 2020, then s/he should apply for pre-settled status as soon as convenient (as this will facilitate travel after this date). • EU nationals arriving after 29 March 2019 should register their pre-settled status within 3 months of arrival if they wish to stay for 6 months or more (under the Withdrawal Agreement).
<p>Can I apply from outside the UK?</p>	<ul style="list-style-type: none"> • From 9 April 2019, EU citizens and certain family members will be able to apply to the Scheme from outside the UK, based on their previous residence in the UK, without needing to travel to the UK to make an online application.
<p>Can you register on an iPhone?</p>	<ul style="list-style-type: none"> • The EU Exit app cannot be accessed on an Apple iPhone or iPad. • EU nationals must have access to an Android phone (such as Galaxy, Samsung, Google, Sony) version 6.0 or above, with 135MB of storage space, and "near field communication" activated in the settings menu. • The phone will read the biometric chip in the identity document (passport or ID card) and scan the details page, scan the EU nationals face and take a photo and will then push this information onto the online form. • Identity documents cannot be scanned online. See detailed instructions on page 22. • Multiple users can use the same app and many employers have sourced qualifying phones to lend to employees, or a phone can be borrowed in order to register.
<p>Do you have to use the App?</p>	<ul style="list-style-type: none"> • No. Once the Scheme is fully open, it will be possible to scan documents at a registry office or use the post.
<p>How long does registration take?</p>	<ul style="list-style-type: none"> • In government trials the fastest application using the EU ID App took 9 minutes, and 85% completed the application process in less than 30 minutes.

<p>What does the application form ask?</p>	<ul style="list-style-type: none"> • EU nationals will be asked basic questions like name and address and contact details, for their national insurance number and to confirm the period of time they have been continuously resident, and for details of any serious criminal convictions. <p>EU nationals will <i>not</i> be asked to:</p> <ul style="list-style-type: none"> • Confirm their exact status under EU law while in the UK • Provide evidence of health insurance (whereas the EEA PR application requested this for time spent as a student or self-sufficient person) • Confirm the number of days spent in the UK • Input a schedule of absences from the UK 														
<p>How do family members register?</p>	<ul style="list-style-type: none"> • Family members who are EU nationals themselves can make their own registration. • Non-EU family members must wait until the primary EU national has completed the registration process before making their own application. • Non-EU family members who have a valid biometric residence card can scan this in and should not need to provide further proof of relationship as set out in the table below: <table border="1" data-bbox="564 1205 1315 1727"> <thead> <tr> <th>Relationship</th> <th>Original Document</th> </tr> </thead> <tbody> <tr> <td>Spouse</td> <td>Long form marriage certificate</td> </tr> <tr> <td>Civil Partner</td> <td>Long form marriage certificate</td> </tr> <tr> <td>Unmarried Partner</td> <td>Official letters addressed to both parties, or individually at the same address, to show two years' cohabitation</td> </tr> <tr> <td>Durable Partner</td> <td>Other evidence of durable relationship e.g. child's birth certificate with both parents' names</td> </tr> <tr> <td>Child</td> <td>Birth certificate for child and marriage certificate for parents including the EU national</td> </tr> <tr> <td>Parent</td> <td>EU nationals birth certificate and marriage certificate for parents</td> </tr> </tbody> </table> <ul style="list-style-type: none"> • Non-EU family members will be sent an invitation to physically attend an application centre in order to give their biometrics and will then be sent a Biometric Residence Card to show their status once the registration is approved. 	Relationship	Original Document	Spouse	Long form marriage certificate	Civil Partner	Long form marriage certificate	Unmarried Partner	Official letters addressed to both parties, or individually at the same address, to show two years' cohabitation	Durable Partner	Other evidence of durable relationship e.g. child's birth certificate with both parents' names	Child	Birth certificate for child and marriage certificate for parents including the EU national	Parent	EU nationals birth certificate and marriage certificate for parents
Relationship	Original Document														
Spouse	Long form marriage certificate														
Civil Partner	Long form marriage certificate														
Unmarried Partner	Official letters addressed to both parties, or individually at the same address, to show two years' cohabitation														
Durable Partner	Other evidence of durable relationship e.g. child's birth certificate with both parents' names														
Child	Birth certificate for child and marriage certificate for parents including the EU national														
Parent	EU nationals birth certificate and marriage certificate for parents														

<p>Do employers need to provide documents?</p>	<ul style="list-style-type: none"> • Not typically, as registration is not employer sponsored. • However, an employee may ask HR or management to provide an official letter confirming the EU national's dates of employment in the UK on letterhead to confirm residence (where the national insurance record does not cover this period). • Employers should be prepared to assist employees in this way when asked.
<p>How long will approval take?</p>	<ul style="list-style-type: none"> • In government trials, the UKVI case-working team typically took 9 days to issue a decision, and 3 days in the fastest case. • Standard processing times are expected to be approximately 2 weeks however.
<p>What if there is a mistake/ insufficient information?</p>	<ul style="list-style-type: none"> • The UKVI has been training new caseworkers to approve registrations wherever possible. • The UKVI should contact the EU national to seek additional information or documentation where this is missing or unclear. • The worst-case scenario is that "pre-settled" status is granted in the first instance, rather than "settled" status, but this still is a route to a permanent stay in the UK.
<p>What will EU nationals receive on approval?</p>	<ul style="list-style-type: none"> • EU nationals will not receive a physical document; they will receive an emailed approval letter and a link to view their status online following guidance here. Employees will also be able to grant employers access to view their status online. • Employers should continue to rely on physical checks of EU passports and ID cards for any new employees until the new system is launched on 1 January 2021. • Employers are not required to check that EU Settlement Scheme registration has taken place for existing employees either after Brexit or once the new system is launched (see section 5 on right to work for further details). • Non-EU family members will be issued with a physical biometric residence document and will therefore have an additional biometric enrolment process step.



3. How should we help EU staff understand their situation?

Why should I read this section? To understand the benefits of communicating information about the EU Settlement Scheme to your staff and best methods to do so.

Key message: Communicating information to staff should not be resource intensive and can be a “win-win-win” for employers, employees and the government.

We have set out the key considerations for employers in the table below:

<p>What are the benefits of communicating information?</p>	<p>Many EU nationals have felt unsure about their future in the UK and the process they will need to follow in order to stay. Despite information being published on government websites, many EU nationals rely solely on media reports and have many questions. It can benefit all sides where employers play an active role in communicating relevant information to their EU staff.</p>	<p>Employers benefit from a positive impact on employee relations, as EU staff feel supported and are more likely to stay (at a time when many UK businesses are already struggling to recruit and retain EU staff, with 92% of CBI members citing Brexit as having a negative impact). Most costs associated with Brexit communications are flat and are not impacted by the size of the business.</p>
		<p>EU staff benefit from clear information from a trusted source, and save time and are spared stress from having to search the internet and interpret the information they find.</p>
		<p>The government benefits as it cannot reach the millions of people who need to register before the deadline via direct advertising methods alone. The Home Office has developed an official employer toolkit as it recognises the crucial role businesses can play in disseminating information.</p>

<p>What information should be communicated?</p>	<p>Employers have the choice whether to simply signpost official government advice, to add a level of their own messaging or to set out a more active support policy.</p> <p>It is extremely important that any communication is positioned as an explanation of the EU Settlement Scheme, rather than a request for staff to prove their “settled or pre-settled” status (which may be considered discrimination) and will not be required for existing staff under right to work guidance. Employers should not provide individual immigration advice (see section five below).</p>	<p>Employers can signpost to the primary “settled and pre-settled” status GOV.UK webpage, the employer toolkit briefing pack (Online and PDF), and/or the one page EU Settlement Scheme factsheet (Online and PDF). Employers may also chose to produce information, including any information in this guide, for dissemination by email or on a dedicated intranet page, via FAQs, instructional videos, seminars, webinars, townhalls or posters as appropriate (see below).</p> <p>Employers could consider sending a message of reassurance to reiterate the ongoing value and contribution of EU staff. A personal message from the CEO or HR leadership can encourage retention of EU staff.</p> <p>Employers should clarify its policy on actively supporting EU Settlement Scheme registrations (including means of support, who will qualify, or even simply to confirm no support available) so the messaging is consistent across the business and rumours and misunderstandings avoided. This includes any advice via helplines, email and/or one to one support to complete applications.</p>
<p>Who should be included?</p>	<p>Employers must decide whether to communicate directly with affected EU staff directly or to include all staff.</p> <p>The best approach is likely to depend upon on the size and nature of each individual business.</p>	<p>Direct communications to EU staff are potentially more likely to be read and followed. However, EU staff could potentially perceive this as being treated differently to other employees. It would be important to carefully manage the messaging to make the intention to support and assist clear (as opposed to singling out EU nationals).</p> <p>All staff communications could have a wider positive impact on employee relations as the business demonstrates care for EU colleagues and ensures all colleagues are on the same page. The employer will not know the extent to which UK nationals will be affected so could benefit from reaching out to everyone. Worrying about how family and friends may be impacted by Brexit can affect employee performance as much as for those directly affected; if all staff are given the same information, then they will be able to pass on information to affected individuals as required.</p> <p>EU nationals with close links to the business e.g. people receiving an employer pension, recent alumni and current agency staff or contractors, may also value receiving information. tSmall and Medium Enterprises (SMEs) without dedicated HR teams may be less aware of the EU Settlement Scheme and implications for their staff – information passed within your supply chains could support your wider business community.</p>

How should information be disseminated?	<p>There is no single, standard approach. The most effective communication methods will depend on number of employees, whether office-based or on shop-floor (e.g. warehousing or production), whether in one site or spread across multiple locations.</p>	<p>Direct communications can be sent via email or private letters, including invitations to face to face briefings or seminars/webinars/townhalls, depending on whether contact information is available. HR can manage this whilst being careful not to provide immigration advice (see Appendix 4). Alternatively, third party immigration advisors can be brought in, being mindful of the time commitment and costs.</p> <p>All staff communications can be sent via email and internal newsletters for office-based staff and intranet pages can house key information/resources including FAQs, webinar/seminar materials etc. If EU staff are not office-based, physically promoting information in key communal areas i.e. on the shop-floor, including canteens, changing rooms, clock in points, is likely to be more effective. The Home Office employer toolkit has a wide range of readymade leaflets and posters which can be downloaded and printed.</p> <p>Briefings, FAQ documents, scripts etc. can support line managers to proactively raise the issue with their staff or respond directly to questions, particularly where there is no centralised or consistent HR function.</p>
When should communications be made?	<p>Many businesses have already communicated with EU staff. If you have not to date, it is not too late.</p>	<p>Staff are likely to value information as soon as possible, even if it is only that the business is aware of the issue and still making decisions, particular since the scheme already opened to the public in test phase on 21 January 2019.</p> <p>Employers should ideally notify once the EU Settlement Scheme is fully open by 30 March 2019 to clarify key support messages, dates, deadlines and requirements and policy on support if applicable.</p> <p>Employers should also notify in good time and before the deadline for registration</p>
Still unsure about the right approach for your business?	<p>Consider conducting a staff survey on required content, audience, method and timing for any Brexit communications.</p>	<p>Gathering employee and business views can, in itself, demonstrate a level of care as an employer and ensure any Brexit communications directly meet staff needs.</p>

Employer case studies

The following case studies cannot demonstrate best practice, as each company has different challenges, but they can be used as a benchmark as to how some employers have approached Brexit communications:

Airbus

"Our initial internal communications on Brexit were limited to signposting what our senior team had been saying externally in the media. We quickly learnt however that a key element of fostering good employee relations around Brexit is ensuring high-profile decisions and news is circulated sufficiently internally before it is externally."

"We decided to conduct a survey of our roughly 2,000 staff who are directly affected by Brexit, including UK nationals living in the EU as well EU nationals in the UK, to inform our communications plan going forward. This included questions such as 'how are you feeling following the referendum result?' and 'are you actively considering returning to your country of origin?'"

"The results showed a clear desire for the company to be more hands on in providing support. Therefore we hired a third party, Deloitte, to come in and run workshops for affected staff. These sessions covered practicalities of the EU Settlement Scheme and allowed staff to personally ask questions such as 'what can I be doing now?', 'when will I be able to apply?' etc. The feedback on these sessions has been positive. We followed these sessions up with an extensive Q&A document available to all staff. We also created a dedicated space on our intranet for affected employees to use as a noticeboard to share advice and best practice between themselves. This has been especially used by UK staff in the EU who are trying to navigate varying procedures in local communes and regional town halls."

"We have just finished conducting a second Brexit survey of affected staff to gauge the temperature and understand their continuing needs in relation to support required from the company. Our overarching focus continues to be regularly engaging with affected employees by various means including transnational webinars to provide them with the latest updates and relevant information as and when it becomes available, so they can make informed decisions about their future."

General Manager and HR Director, Airbus UK

GSK

"A key component of our Brexit planning has been supporting our people who may be personally affected by Brexit. GSK is offering access to specialist immigration services for those wishing to understand what they need to do to continue to live and work in the UK post-Brexit, or to help formalise their residency status either in the UK or an EU country. In summer 2018, we ran a webinar that outlined the latest information on the EU Settlement Scheme, and we continue to provide regular, informative updates to affected employees – We're offering UK nationals in the EU personalised assessments and specialist support to navigate local immigration systems. A personal consultation with an immigration services provider is available to both UK and EU based staff, if needed."

"Beyond this, we have given managers detailed information packs to guide conversations about Brexit, and our dedicated intranet hub houses extensive information including a recording of the webinar, Brexit factsheets, employee Q&A, links to relevant GOV.UK pages and an internal Brexit Mailbox for questions about our Brexit activity and support. Employees have said that they appreciate the timely information and support that GSK has provided."

Senior Vice President HR, GSK

Hospitality Business

"To date, we have issued a targeted email communication and FAQ document to our property managers to be shared with staff via notice boards and individual meetings - guidance has been for managers and employees to visit GOV.UK for advice, particularly for information regarding the EU Settlement Scheme. Given limitations with the information available within our own database, and the risk of missing individuals who are impacted, we believe a targeted email to local management is the most effective way of communicating with those people who will need to take action."

"tWe are currently assessing the requirement for a high level communication of reassurance to our employees, as we monitor the situation closely over the coming days."

HR Director

Professional services firm

"Within a few weeks of the referendum result we compiled data on the number of EU nationals within our UK workforce, around 500, and privately wrote to each of them. The aim of this letter was to reassure staff, with a broad message they were highly valued and we wanted them to continue working for us in the UK."

"Despite the positive intention, the letter received a mixed response. Some welcomed it, however many felt like they had been singled out. Also, that there was not much 'value added' with no certain information at this early stage. Several added because it was private, concerned UK peers and colleagues were not aware the business was trying to reassure them. Looking back on it, I think we failed to appreciate the extent of conversations which were already organically happening between EU staff and their line managers."

"Following this our executive committee decided the best way to communicate future information on Brexit and the EU Settlement Scheme would be through line managers and FAQ documents available for all staff, rather than targeted communications direct from HR. Ahead of the vote in Parliament on the Brexit deal we updated our FAQs for managers and published it on our internal intranet for all employees to be able to access. At the heart of this document is signposting to relevant pages on settled status on GOV.UK, rather than providing advice ourselves."

HR Director



4. Should we actively support EU staff through the EU Scheme process?

Why should I read this section? To assess the commercial reasons for possibly giving staff direct support to make their applications under the EU Settlement Scheme.

Key message: Businesses are not legally required to provide direct support, but it may enhance employee relations and so result in possible retention/recruitment benefits.

We have set out the key considerations for employers in the table below:

Employers could consider direct support with the process	The system has been designed for EU nationals to use directly.	Employers could purchase android device(s) to assist those who have iPhones or none compatible phones. There could be a dedicated device in each workplace that can be loaned to EU staff either in worktime or signed out to register at home. The business must consider the cost.
	There is no legal requirement for employers to provide direct support.	A member of HR could offer timed appointments to help with registration, either during or after work hours. HR must learn the application process and how to use the system and should be careful not to provide direct legal advice, but the process is sufficiently simple to make this a viable option. The business must consider the staff time commitment.
		Employers could bring in third-party immigration advisors to offer timed appointments in a block and/or to manage any registrations individually (particularly if there is a question around qualification, or if an EU national requires more support). This has the advantage of not placing any additional burden on HR teams or line managers, and allows direct legal advice (as detailed in Appendix 4). The business must consider the cost.

<p>Advantage: enhanced employee relations</p> <p>Disadvantage: additional costs</p>	<p>Employers may chose to actively support staff with the registration process.</p>	<p>Any costs of direct support may be worthwhile where the potential cost of replacing any individual EU member of staff is high, as it would demonstrate to the individual that they are valued and help retain staff. Businesses with a small proportion of highly-skilled EU nationals e.g. in sectors such as professional services, financial services, technology and life sciences, may consider this an investment in their people.</p>
	<p>Unlike simply communicating information, the cost of directly supporting registration is directly linked to the number of staff.</p>	<p>Any costs of direct support may be worthwhile where the business is already struggling with recruitment and retention. Business with a high number of lower-skilled EU staff e.g. in sectors like agriculture, construction, food manufacturing, hospitality and logistics, may wish to actively support their staff due to their critical importance for continued operations (particularly as lower skilled routes are less likely to be available in the longer term).</p>
	<p>Businesses must decide what is appropriate based on the size of their EU workforce, margins within the sector and overall budget.</p>	<p>Employers should consider what other similar sized businesses within their sector are offering EU staff, to remain an attractive and competitive employer, comparable in the industry sector.</p>



Employer case studies

The following case studies give an insight into other employers' approach regarding offering EU staff direct support.

Professional services firm

"We haven't made a final decision yet on how active we will be in supporting staff, but at the moment we are not planning on running a central HR function to support affected staff through the application process. We don't think there is sufficient demand from staff for this and the majority will be able and willing to complete this in their own time. But we will be briefing managers and HR teams if staff do ask questions and actively seek further support with applying. Ultimately, we do not want to misinform people. So in a similar way as to how we approach staff's tax arrangements, we want to avoid providing immigration advice and stick to pointing people in the direction of government advice."

HR Director

Hospitality Business

"We have purchased a number of Android devices to ensure that those who do not have access can self-scan their ID document rather than having to send this in the post."

HR Director

GSK

"We have made Android devices available to help EU nationals in the UK with their Settled Status applications. "

HR Director

5. What are our legal obligations as an employer of EU nationals?

Why should I read this section? To ensure you are fully aware of the latest employer Right to Work requirements, the restrictions around providing direct immigration advice and avoiding discrimination.

Key message: There is no change to existing Right to Work checks for employers (continue to check passports and ID cards) until the new immigration system comes into force in 2021. Employers should not retrospectively request evidence from existing staff of their EU Settlement Scheme registration.

The key legal obligations and required actions for employers are set out in the table below:

	Legal Obligation	Actions
Right to work checks	<p>Whether deal or no deal:</p> <ul style="list-style-type: none"> Employers must continue to follow UKVI prevention of illegal working guidance here for any new employees starting work before 1 January 2021. New EU national employees can continue to start work on the basis of an EU passport or ID card until 31 December 2020. The new right to work rules will only apply to employees starting work on or after 1 January 2021. 	<p>Employers must continue to follow the three-step right to work check process:</p> <ol style="list-style-type: none"> Obtain the individual's original acceptable documents; Check the validity of the documents face to face with the individual; Make and retain a clear physical copy of the document, and make a record of the date of the check, to be held on an HR file. <p>The following original documents continue to give an EU national non-time limited right to work in the UK:</p> <ul style="list-style-type: none"> European passport European ID card EEA Registration Certificate Document certifying permanent residence e.g. an EEA Permanent Residence Card or ILR endorsement.

<ul style="list-style-type: none"> • From 1 January 2021, new hires must be able to show settled or pre-settled status or have a visa under new skills-based system. • There will be no need at any point to check whether EU staff starting work before 1 January 2021 have registered under the EU Settlement Scheme. • No additional general checks of staff will be necessary after Brexit, or after 1 January 2021, or after any registration deadline. • EU nationals due to change employer or travel after 1 January 2021 will need to register before doing so (rather than wait for any 30 June 2021 deadline). <p>In the event of no deal:</p> <ul style="list-style-type: none"> • New arrivals from the EU must apply for European Temporary Leave to Remain (ELTR) if staying for more than 3 months. • Employers are not required to check ELTR and this does not form part of the right to work check. 	<p>These original documents give a time limited right to work in the UK:</p> <ul style="list-style-type: none"> • EEA Family Permit (usually valid for 6 months) • EEA Residence Card (usually valid for 5 years) • Certificate of Application (must be less than 6 months old and issued by UKVI following an application for a residence card), PLUS an additional verification number from the Employer Checking Service. <p>Employers must check again prior to the document expiry.</p>
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Transition to new system

- An online checking service is being developed to allow employers to check right to work in the UK for any new employees, in real time, once the new immigration system launches on 1 January 2021.
 - 31 December 2020 is the practical deadline for EU Settlement scheme registration if needing to travel or start/ be able to start a new job (and would be a hard deadline under no deal arrangements).
 - EU Settlement Scheme approvals will be issued online in preparation for this change, and to avoid the risk of fraud associated with a physical document.
 - After registering, EU nationals will be sent a link to "view their status" online, from which they can generate a further link for employers to view their status (ensuring the full consent is given each time an employer views right to work under the new system).
 - There is no legal requirement to send confirmation of EU Settlement registration to employers.
- Employers should **not** proactively ask existing EU staff to confirm their status either after Brexit day or once the new system is in place from 1 January 2021.
 - HR teams may start receiving links from existing staff who have registered their status and should consider a standard response to confirm that it is not necessary for employers to hold this information.

<p>Avoiding discrimination</p>	<ul style="list-style-type: none"> • Employers must prevent discrimination in the work place, including discrimination on the basis of nationality. • Discrimination does not need to be intentional or direct; it can occur when hiring, offering promotions or secondment opportunities, making redundancies, or setting pay, if any working conditions or rules disadvantage one group of people more than another. 	<ul style="list-style-type: none"> • Employers must not do anything to treat EU nationals or their family members differently from any other employee, despite Brexit and the requirement to register under the EU Settlement Scheme. • Employers must continue to give EU national employees equal consideration with any other employees for promotions, training, secondments, redeployment etc. both after Brexit and once the new immigration system launches on 1 January 2021. • It would be discriminatory for employers to use Brexit as a reason stop or limit employment. • It could also be discriminatory to ask for confirmation of EU Settlement Scheme registration or to view an employee's status on the UKVI online system.
<p>Avoiding direct provision of immigration advice</p>	<ul style="list-style-type: none"> • Provision of immigration advice or services is regulated by the OISC or Solicitors Regulation Authority (see rules here and here). 	<ul style="list-style-type: none"> • Employers must avoid directly advising employees with specific legal questions related to citizens' rights and the EU Settlement Scheme. • If HR teams are in doubt about what questions they can answer for EU staff, it is safest to direct EU staff to official advice published on GOV.UK or to an immigration adviser.



Levels of Employer Support

Maximum

Outsource process and support for staff to an immigration third party specialist. Expert advice may be valuable to staff and merit investment, but professional support is optional not essential

Active support

Invest internal time and resources from HR to actively support EU staff and their families with applications i.e. timed appointments and/or provision of Android devices

Communicating information

Forward official Government advice contained in the Home Office employer toolkit, run information sessions and offer reassurance to affected staff

Minimum

Be aware of your legal obligations as an employer and any changes to right to work check

Appendix 1 - Difference between settled and pre-settled status

EU nationals may be concerned about the difference between “settled and pre-settled” status. We have analysed this in more detail below, showing where they have equal status, and where there is a difference. Provided the EU national maintains “continuous residence” in the UK, “pre-settled” status should lead to “settled” status and therefore facilitates a permanent stay in the UK.

Rights	Pre-Settled Status	Settled Status	Notes
Presence/ Residence in UK	Arrived/ resident by 31 December 2020.	Arrived/resident by 31 December 2020 and have lived in the UK for 5 years when registering.	Equal status. 31 December 2020 is arrival/ residence deadline, and 30 June 2021 is registration deadline (under deal scenario).
Time in UK “Continuous residence”	Must have a NI record or alternative documents which show current residence in the UK. There is no time restriction on how long held i.e. could theoretically arrive, sign a lease, and apply on that basis on 31 December 2020 deadline.	Must have ILR, permanent residence card, or NI record or alternative documents to show current residence in the UK and 5 years “continuous residence” in the UK in total.	Key difference. “Continuous residence” means spending 6 months of any 12 month period in the UK. A single period of absence of up to 12 months for an important reason such as pregnancy, childbirth, serious illness, study, vocational training or an overseas posting is permitted. Any period of absence on compulsory military service is also permitted. The EU Settlement Scheme form does not ask for a schedule of absences. Time in the UK will be assumed from the NI record. There are also many official documents which can show residence, such as bank statements and utility bills.

Absences from UK "Returning resident rule"	Can spend up to two years outside the UK before losing "pre-settled" status BUT you must spend 6 months out of every 12 in the UK to qualify for "settled status"	Can spend up to five years outside the UK before losing "settled" status.	Key difference in amount of time one can spend outside the UK e.g. on assignment outside the UK, before losing status and ability to stay permanently under EU rules (rather than UK rules).
Work	Will show right to work for any UK employer.	Will show right to work for any UK employer.	Equal status.
Benefits	Will allow access to benefits.	Will allow access to benefits.	Equal status.
Validity	Valid for 5 years, after which the individual registers for "settled status".	There is no need to register again or monitor expiry.	Difference in whether one needs to monitor expiry date.
British Citizenship	Cannot apply to naturalise as a British citizen with this status.	Can apply to naturalise as a British citizen after holding ILR/"settled status" for 12 months.	Difference in terms of how soon one can qualify for British citizenship. Both routes offer a route to citizenship ultimately.
Best time to apply (under deal scenario)	<p>If an employee won't be able to show 5 years residence to qualify for settled status before 30 June 2021 (in a deal scenario), then they should apply for "pre-settled" status when convenient before the deadline.</p> <p>If they will qualify for "settled status" before 30 June 2021, then there is no need to register for "pre-settled" status – they can wait to register once for "settled status."</p> <p>Earlier registration is advisable if they want to be able to travel after 31 December 2020 and prove status on re-entry under the new system.</p>	<p>If an employee already holds permanent residence, then they can apply for "settled status" whenever convenient before the deadline.</p> <p>Others, once they are able to show 5 years residence, can apply.</p> <p>Earlier registration is advisable if they want to be able to travel after 31 December 2020 and prove status on re-entry under the new system.</p>	<p>There may be a rush to take up status once the system is launched and then later as the closing deadline approaches.</p> <p>Once the new immigration system comes into force on 1 January 2021, anyone seeking entry to the UK will need to prove their status at the border. Therefore, if EU nationals are likely to need to travel out and back to the UK (e.g. on business or for leisure) from 1 January 2021, they should register before 31 December 2021 (irrespective that the deadline for registrations is 30 June 2021 in a deal scenario).</p>

Appendix 2 - Key EU rights before and after 29 March 2019 in either deal or no deal scenario

We have analysed citizens' rights in greater detail here, setting out the position under EU law, and the position after Brexit in either a deal or no deal scenario, whether travelling, working, considering a family or considering ability to live in the UK on a permanent basis.

EU Nationals	Before Brexit	After Brexit - deal	After Brexit – no deal
At the Border No change	Can enter the UK on basis of ID card or passport.	Can enter the UK on basis of ID card or passport until 31 December 2020.	Can enter the UK on basis of ID card or passport until 31 December 2020.
Living and working in UK New online registrations on arrival	Can live in the UK under free movement principles as a: <ul style="list-style-type: none"> • Worker • Self-employed person • Job-seeker • Self-sufficient person • Student 	Can continue living in the UK on an ongoing basis if entry was before 31 December 2020. Those already living in the UK must register under EU Settlement Scheme by 30 June 2021. New arrivals after 29 March 2019 should register for "limited leave to remain" ("pre-settled" status) under the EU Settlement Scheme within three months of arrival if staying for more than 6 months.	Can continue living in the UK on an ongoing basis if entry was before 29 March 2019. Those already living in the UK must register under EU Settlement Scheme by 31 December 2020. New arrivals after 29 March 2019 should register for European Temporary Leave to Remain (ELTR) on arrival if staying for more than 3 months

<p>Bringing Non-EU Family Members</p> <p>e.g. Chinese wife of French National living in the UK</p>	<p>Family members who are European have their own right of free movement.</p> <p>Family members who are not European themselves should make an EEA Family Permit application to enter the UK and can consider an EEA Residence Card application on arrival.</p>	<p>Can join the EU national in the UK and register as “pre-settled” at any point if:</p> <ul style="list-style-type: none"> • the relationship is in place by 31 December 2020; and, • the EU national partner/parent registers under the EU Settlement Scheme by the 30 June 2021 deadline. 	<p>If the relationship was formed before 29 March 2019, family members can join up to 29 March 2022.</p> <p>If the relationship was formed after 29 March 2019, there is a shorter window to join – direct family members must enter and register by 31 December 2020.</p> <p>In either scenario the EU national must have settled status by 31 December 2020 deadline (and at the time their family member joins).</p>
<p>Permanent Residence</p>	<p>Automatic right after 5 years residence. EEA Permanent Residence declaratory document available.</p>	<p>Must register “settled status” if you have 5 years’ residence or an EEA PR document by 30 June 2021. Optional if have an ILR document.</p>	<p>Must register “settled status” if you have 5 years’ residence or an EEA PR document by 31 December 2020. Optional if have an ILR document.</p>



Appendix 3 - Acceptable Documents to prove residence in UK

The primary proof of residence in the UK will be a NI number. However, for periods of residence where a NI number is not available, EU nationals can also upload and rely on the following documents (or any official document that may demonstrate residence) :

Best Documents: cover longest period	Acceptable Documents: cover shorter periods	Unacceptable Documents: Do not use
Employer letter confirming employment dates and employer credentials e.g. Companies house number	Bank statements showing payments received or spending in the UK	Photos and video
P60 for a 12-month period	Payslips for a UK-based job	Letters or references from family and friends
P45 showing the length of your previous employment	Water, gas or electricity bills which show a UK address	Greetings or birthday cards or postcards
Council tax bills	Landline or mobile telephone, TV or internet bills showing a UK address	Personal scrapbooks
Letters/ certificates from school/college/university or confirming course enrollment, attendance and completion	Domestic bills e.g. home repairs, vet's services or insurance + bank statements showing payment	
Invoice from school/college/university and bank statement showing payment	Cards or letters from GP or other healthcare professional confirming appointments	
Student finance body/ Loans Company letter showing address	Letters from government departments, other public services or charities showing dealings on a particular date or for a particular period (for example Job Centre Plus or Citizens Advice)	
Mortgage statements/ rental agreements and bank statements showing payment	Passport stamps from UK border (only applicable to non EU nationals)	
Employer pension contributions statements	Used travel tickets confirming entry to the UK from another country	
Annual business accounts if self-employed	Invoices for work in the UK and bank statement showing payment	

Appendix 4 - Avoiding direct provision of immigration service

Businesses are able to support employees by directing them to legitimate sources of information and to share standardised advice. Business should be aware that a restriction exists on providing direct immigration/legal advice, and must be careful not to become too involved with any specific individual case, as set out below:

You can	You can not
Signpost employees to GOV.UK EU Settlement Scheme pages . Advise on process to the extent you replicate GOV.UK advice.	Provide direct advice or guidance on entry clearance or leave to enter or remain under UK immigration rules.
Direct employees to the GOV.UK settlement and citizenship pages.	Provide direct advice or guidance on any British nationality or citizenship query or application.
Direct employees to various immigration publications or GOV.UK EU page .	Provide direct advice on admission to, residence in and citizenship of Member States of the EU under EEA Regulations.
Direct to regulated advisors e.g. law firm or OISC advisor.	Advise on any immigration application, unlawful entry, or asylum and protection or, judicial review.
Check EU passports and documents following Right to Work procedure here .	Discriminate against EU nationals as part of any recruitment process or during employment. Demand registration under EU Settlement Scheme.

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Produced by Tom Barrett and the **People and Skills** team
To share your views on this topic or ask us a question, contact:



Tom Barrett
Senior Policy Adviser
tom.barrett@cbi.org.uk

Product code: 12449