

FRAGOMEN



Universities UK
International

Guide to employing international students

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Contents

- 1. Introduction**
- 2. Straightforward route – personal routes**
- 3. Sponsorship – Introduction**
- 4. Applying for a sponsor licence**
- 5. Tier 2 work visa categories'**
- 6. Recruitment Scenarios**
- 7. Compliance - What is an acceptable right to work check?**
- 8. Applying for a Tier 2 visa from outside the UK**
- 9. Applying for a Tier 2 visa from within the UK**
- 10. Extending a Tier 2 visa from within the UK**
- 11. Indefinite Leave to Remain (ILR)**
- 12. Students working in the UK**
- 13. Brexit**

Using this guide

The UK is facing an unprecedented amount of change in our labour market – from automation to the rise of the gig economy. But one of the biggest changes to our labour market will come as a result of the proposed changes to our immigration system post Brexit.

Universities UK is therefore delighted to be working with Fragomen to help employers navigate this complex and changing landscape and ensure you have the necessary information to help you employ international graduates. The purpose of this guide is to help you understand the main immigration categories, how to set up a sponsor licence and how to manage it, as well as an overview on Brexit and how this will impact you.

Before we delve into the detail, it's important to understand the way the UK immigration system works. There are two main reasons why a company may need to understand visas and immigration. You might be from overseas yourself and need a visa to stay in the UK and run your business. You might be expanding and need to recruit a foreign worker with a particular skill set, experience or knowledge.

There is a wealth of information available online about visas and immigration law, all from a variety of sources. The trick is to know where to look and how to act on information you find, but that is not always easy.

We want to help you navigate the immigration system. This tool kit runs through the main considerations for a company as they think about visas. The easiest place to start is with the quick wins, the most straightforward visa categories.

If none of these suit you might be able to sponsor for a Tier 2 visa, the skilled worker category. That means understanding who can qualify for a visa and the obligations that sponsorship places on you, on top of the right to work checks that exist for every employee. We look at students and how they fall into this arena. We also go through Brexit and the new immigration system that is likely to be in place from January 2021.

Our tool kit addresses each of these considerations in turn. We do not provide full legal advice, nor do we cover every single immigration category (that would not be possible in a simple guide), but the tool kit should contain enough information to help you understand what to look for, as and when immigration becomes an issue for you.

Remember though, immigration is a complex business and changes regularly, so make sure you look at the law as a whole and consider all options before making a decision.



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Straightforward routes – personal immigration categories

There are certain visa options available to individuals that are often overlooked – these options may offer a simple solution for those eligible.

ARE YOU:

BRITISH?

You are able to apply for a British passport or have one - No immigration permission required.

A EUROPEAN UNION OR EUROPEAN ECONOMIC AREA COUNTRY?

In 2019, the Home Office opened the EU Settlement Scheme. Please refer to the slides on EEA nationals currently in the UK can apply under the EU settlement Scheme.

A COMMONWEALTH CITIZEN?

If you are a commonwealth citizen and have a grandparent born in the UK this will likely entitle you to a UK Ancestry visa. This is a visa providing full work permission in the UK and a route to indefinite leave to remain (settlement). If you were a commonwealth citizen in 1982 and one of your parents was born in the UK and a UK citizen, you are likely entitled to right of abode in the UK.

MARRIED OR IN A LONG TERM RELATIONSHIP?

You may qualify for a work visa if your spouse/partner is British (Family of a Settled Person visa) or European (EEA Family Permit/EEA Residence card). Unmarried partners are also eligible but will need to demonstrate that they have been living in a relationship akin to marriage for the past two years.

UNDER 30?

People aged 18 to 30 and from select countries (Australia, Canada, New Zealand, Japan, Monaco, Hong Kong, South Korea, Taiwan, British Overseas Citizens) are eligible for a two year work visa known as a Tier 5 (Youth Mobility) visa. You can only apply for this visa once and it cannot be extended beyond two years, so a longer term solution may be required.

Growing your company: Sponsorship

UK companies who wish to hire non-British/EEA national workers will generally need to do so under Tier 2 of the Points Based System. This is a two step process, first applying for a Tier 2 sponsor licence, and once the licence is acquired, issuing Certificates of Sponsorship (CoS) to individuals enabling them to submit visa applications in order to work for you in the UK. Once your company has a Tier 2 sponsor licence, you must ensure you have the appropriate mechanisms in place to meet your obligations as a sponsor licence holder, otherwise the Home Office have the power to issue sanctions, and in severe cases, revoke your sponsor licence.

WHEN CAN YOU SPONSOR ?

Workers can be sponsored under Tier 2 only for job roles that are sufficiently skilled. The Home Office relies on a range of Standard Occupational Classification (SOC) codes, and each job role must be mapped to a certain code. Companies can normally only sponsor workers in degree level jobs. Each degree level job and visa type has a minimum salary that must also be paid to the worker. You may need to run a resident labour market test (a minimum 28 day advertising period to determine whether any settled workers are suitable for the job) before you can recruit a non-EEA national.

GETTING THE SPONSOR LICENCE

The purpose of the licence process is for the Home Office to verify a company has the necessary systems and safeguards in place to responsibly sponsor and manage migrant workers.

In order to obtain a sponsor licence a company will need to provide four documents to the Home Office. These include, but are not limited to, Employers Liability Insurance Certificate, a most recent set of annual accounts/annual reports, certificate of VAT registration, evidence of registration with HMRC as an employer to PAYE and National Insurance, latest corporate/business bank statement, proof of ownership of business premises or evidence of lease of premises, and latest annual self-assessment tax return. Applicants should check the guidance to be sure they provide the right documentation.

The Home Office may conduct an audit of your premises/business prior to granting the sponsor licence application. The purpose of this audit is to ensure your company can meet its obligations as a sponsor licence holder.

TIME AND PROCESS

Sponsorship applications will normally be processed by the Home Office in around three to six weeks although on occasion they may take longer. The sponsor licence will be valid for four years initially and then can be extended for a further four years on each extension.

Applying for a Sponsor Licence

To employ someone from outside the EEA and Switzerland, you will need to apply for a UK Sponsor Licence from the Home Office.

Key requirements to apply include:

- Must be operating and trading in the UK, e.g. registered Companies House
- Must have appropriate key personnel, e.g. at least one individual based in the UK and one settled worker
- No unspent criminal convictions
- Appropriate HR systems in place to monitor sponsored employees
- Must have identified a need to apply for the Sponsor Licence, e.g. identified a role that cannot be filled from the UK labour market

Application process

- Complete application form online
- Once submitted online, print submission sheet that is generated and send to Home Office together with supporting documents
- Application will be processed in around 3-5 weeks (can be up to 8 weeks)
- Potential visit from the Home Office – may be announced or unannounced

Key areas that may be reviewed by the Home Office before or after licence has been granted:

Area 1: Monitoring immigration status and preventing illegal employment

Area 2: Maintaining migrant contact details.

Area 3: Record Keeping

Area 4: Migrant Tracking and Monitoring

Area 5: General Sponsorship Duties

Obligations and responsibilities as a Sponsor

You must:

- Check that your foreign workers have the necessary skills, qualifications or professional accreditations to do their jobs, and keep copies of documents showing this
- Only assign certificates of sponsorship to workers when the job is suitable for sponsorship
- Tell UK visas and immigration (UKVI) if your sponsored workers are not complying with the conditions of their visa

You must have HR systems in place that let you:

- Monitor your employees' immigration status
- Keep copies of relevant documents for each employee, including passport and right to work information
- Track and record employees' attendance
- Keep employee contact details up to date
- Report to UKVI if there is a problem, for example if your employee stops coming to work

You must report any significant changes in your own circumstances within 20 working days, for example if you:

- Stop trading or become insolvent
- Substantially change the nature of your business
- Are involved in a merger or take-over
- You must also tell UKVI if you're changing your details, like your address or allocated roles.

You must make sure that foreign workers under 18 have suitable care arrangements for their:

- Travel to the UK
- Arrival in the UK
- Living arrangements in the UK

You must also:

- Get a letter from their parents giving consent to the care arrangements
- Get a [disclosure and barring service check](#) on any of your workers who need it.

For children under 16 you must:

- Get a licence from the local education authority in the area where the child will work

Tier 2 work visa categories'

Visa Type	Purpose	Length	Settlement Eligibility	Salary	Requirements
Tier 2 (General)	New hires and permanent moves	Up to six years	Yes – eligible after five years in UK	Experienced £30,000 or SOC code minimum, whichever is greater New Entrant £20,800 or SOC code minimum, whichever is greater	• Must meet English language requirement • Resident labour market test required if paid under £159,600 or not a shortage occupation role
Tier 2 (ICT Long Term)	Temporary intra-company moves	Up to five years (or nine years if high earner over £120,000)	No	£41,500 or SOC code minimum, whichever is greater	• 12 months employment overseas (if paid less than £73,900) • Requisite links between entities • No resident labour market test required
Tier 2 (ICT Graduate Trainee)	Transfer into graduate trainee programmes for specialist roles	Up to 12 months	No	£23,000 or SOC code minimum, whichever is greater	• Three months employment overseas • No resident labour market test

WHAT IS THE RESIDENT LABOUR MARKET TEST (RLMT)?

You may need to conduct a resident labour test when hiring an individual under Tier 2 (General). The test is designed to protect the resident settled workforce. Typically any role with a salary on offer below the higher earner threshold of £159,600 will require that a resident labour market test is run.

The test itself is a 28 day advertising/recruitment period where you must advertise on at least two mediums, typically websites (and one of these must be JobCentrePlus if the salary on offer is under £73,900). If any settled workers apply who are suitable they must be offered the job role before any non-settled workers can be hired. If the test is concluded and no suitable settled workers were found then you may proceed with issuing a CoS to the individual (and this may be a restricted CoS if the hire is from overseas).

The Home Office has also introduced digital shortage occupation routes for small tech companies, which provided the necessary criteria is met, would allow an exemption from the resident labour market test for certain tech roles.

Tier 2 work visa categories



Recruitment Scenarios



RECRUIT A GRADUATE

Students who can provide evidence they have successfully completed a course from a recognised institution, or who will be completing the course within the next 3 months are eligible to switch from their Tier 4 Student visa into Tier 2 (General).

An employer does not have to undertake a resident labour market test for these applications.



RECRUIT FROM OVERSEAS

New hires from overseas must be sponsored under Tier 2 (General). The employer must undertake a resident labour market test, unless the individual is paid over the high earner threshold (currently £159,600) or the role is a deemed a shortage occupation role.

The application is subject to a monthly government cap on the number of hires (known as the restricted Certificate of Sponsorship process).



TALENT MOVING FROM ANOTHER COMPANY

Individuals working for another employer in the UK who are on a Tier 2 (General) visa can switch employers. Again, the employer must undertake a resident labour market test, unless they are paid over the high earner threshold (currently £159,600) or the role is a deemed a shortage occupation role.



RECRUIT FROM A LINKED ENTITY OVERSEAS

If your company has entities overseas that are linked by common ownership or control, and the relevant documents have been submitted to the Home Office confirming the ownership structure, you can bring the overseas employees to the UK on a Tier 2 (ICT) visa.

The application process is less onerous than Tier 2 (General) but the visa length is capped at five years (or nine years, if a high earner salary threshold is met, currently £120,000) with no ability to settle. It is therefore a temporary visa option to move employees around at short notice.

Case studies

1

Super Top Tech Company has been recruiting for a role. An Indian individual has applied for the role and is currently living in India. The individual does not currently have an employer overseas. Super Top Tech Company is very keen on the candidate and wants to hire this individual as a permanent move. What needs to happen in order for them to hire this individual? Super Top Tech Company currently has a Tier 2 sponsor licence. They are offering a salary of £60,000.

Super Top Tech Company will first need to conduct the resident labour market test, a genuine 28 day recruitment process for the job role to see if there are any suitable settled workers. If they find no suitable workers they may then offer the role to the individual. They would need to apply for a restricted Certificate of Sponsorship for this individual – once approved the individual could then apply for the visa. The individual will need to demonstrate they can meet the English language requirement.

2

Super Top Tech Company is recruiting for a high level job role, likely to pay a minimum of £160,000. They find a candidate, an Indian national, who is currently employed in the UK with one of their competitors. They would like to proceed with hiring him on a permanent basis. What needs to happen next? They have a Tier 2 sponsor licence.

As the role is paying above £159,600, there is no resident labour market test requirement. They can proceed with issuing a Certificate of Sponsorship for the individual. The application will be submitted from within the UK.

3

Super Top Tech Company has a need to fill a job role as soon as possible. Super Top Tech Company's parent company has just acquired another company based in Brazil. There is a very strong candidate for the job role in the Brazilian company and Top Tech would like to bring them to the UK on a 12 month visa. What needs to happen next? They have a Tier 2 sponsor licence. The role will pay £45,000.

Super Top Tech Company would need to file an update on their sponsor licence to confirm that the newly acquired Brazilian company is linked by common ownership/control. Super Top Tech Company could then issue a Tier 2 (ICT Long Term) Certificate of Sponsorship to the individual who would then be able to submit their visa application. The individual would need minimum 12 months employment with the overseas entity.

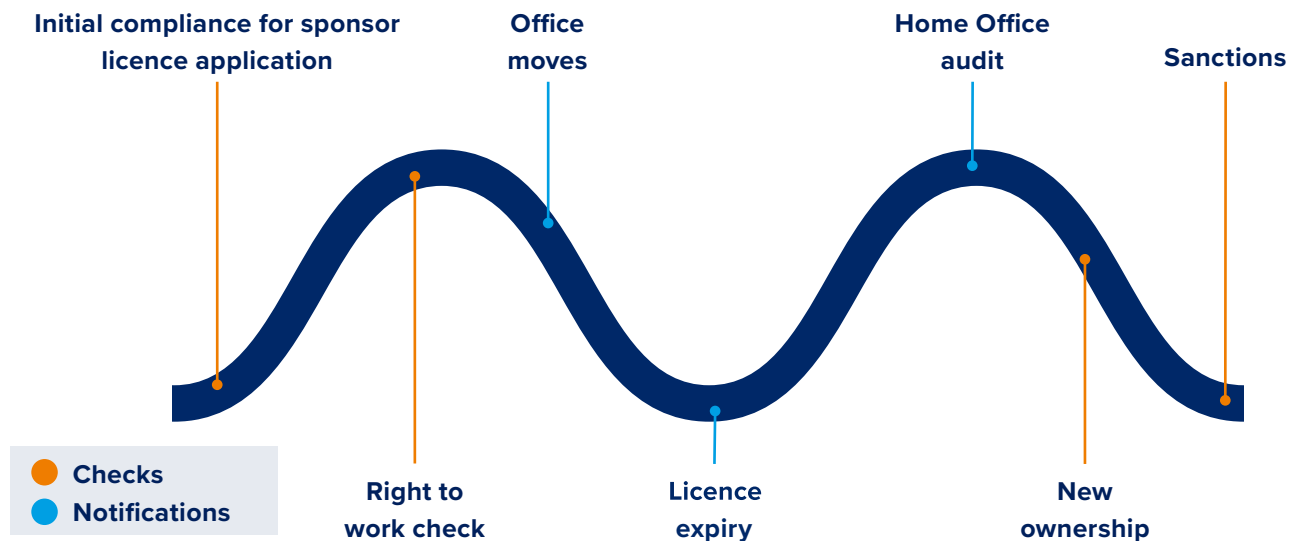
4

Super Top Tech Company has been recruiting for a job role and have received a number of applications from individuals who would require work permission. They are wondering what the first step would be to look into hiring one of these foreign nationals. They do not have a sponsor licence at this time.

Super Top Tech Company would likely need to apply for a Tier 2 sponsor licence in order to proceed. They should also see if any other visa options are available first e.g. a UK Ancestry or a Tier 1 visa.

What can trip you up

MEETING YOUR COMPLIANCE OBLIGATIONS AS A SPONSOR



RIGHT TO WORK CHECKS

Right to work checks must be conducted in accordance with the Home Office guidelines (in particular seeing the original documents and the check being conducted in the presence of the individual). They must always be conducted on day one of work, or shortly before, and stamped and dated accordingly. Failure to conduct a valid right to work check can leave an employer without a statutory defence should the employee be found to be an illegal worker.

NOTIFICATIONS

The Home Office places the obligation on employers to submit the relevant notifications regarding their migrant worker population. Notifications are required when a migrant worker leaves employment earlier, or when there are certain changes to their job roles, including, but not limited to, changes in job description and job title, changes in work location, and changes in salary. Notifications should be made within ten working days of the triggering event and failure to do so can lead to sanctions.

SANCTIONS

The Home Office has a wide range of sanctions they can impose. For illegal working they have the ability to impose both criminal and civil sanctions. Criminal sanctions, including being sent to jail for five years and paying an unlimited fine, can be imposed on those employers who are found guilty of employing someone who they knew did not have the right to work in the UK. Civil penalties can be assessed for those employers who employed an individual who did not have the right to work and the correct checks did not occur, or they were not performed properly. A civil penalty of up to £20,000 can be assessed for each illegal worker.

The Home Office can also issue sanctions to those employers who fail to manage their sponsorship licence correctly. The Home Office can downgrade sponsors to “B” rating which does not allow an employer to sponsor any new migrant workers. The Home Office can also issue action plans requiring a sponsor to take action to remedy a deficient aspect of their system/structures with regards to their sponsor obligations. In severe cases the Home Office can revoke the sponsor licence entirely and the employer cannot apply for another sponsor licence for 12 months.

What is an acceptable right to work check?

THERE ARE THREE BASIC STEPS TO CONDUCTING A VALID RIGHT TO WORK CHECK:



OBTAIN

Obtain original versions of one or more acceptable documents.



CHECK

Check the document's validity in the presence of the holder.



COPY

Make and retain a clear copy, and record the date the check was made.

STEP 1: OBTAIN

In order to ensure a valid right to work check, you are required to obtain an original acceptable document. The acceptable documents are set out by the Home Office and can be found in List A & B.

Electronic copies sent as part of the recruitment/immigration process are not acceptable and will not assist the company in establishing a statutory defence.

LIST A: PERMANENT STATUTORY EXCUSE

List A	
Acceptable documents to establish a continuous statutory excuse	
1.	A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2.	A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
3.	A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
4.	A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
5.	A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
6.	A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
7.	A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
8.	A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
9.	A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
10.	A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

LIST B: TIME-LIMITED STATUTORY EXCUSE

List B	
Group 1 – Documents where a time-limited statutory excuse lasts until the expiry date of leave	
1.	A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
2.	A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3.	A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
4.	A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
Group 2 – Documents where a time-limited statutory excuse lasts for 6 months	
1.	A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with a Positive Verification Notice from the Home Office Employer Checking Service.
2.	An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, together with a Positive Verification Notice from the Home Office Employer Checking Service.
3.	A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question.

STEP 2: CHECK



Check that the document and visa is valid



Check that photograph and dates of birth are consistent across all documents



Check in the presence of the person to detect impersonation



If name is different/has changed (e.g. marriage) obtain supporting evidence, e.g. marriage certificate



Check any restrictions (e.g. 'work restricted'): Investigate whether migrant can perform this work

STEP 3: COPY

Passports: Copy the photo page, and any UK visa (must contain expiry date, nationality, date of birth, signature, biometric details and photo).

Also include details of any visa and conditions)

Make photocopies of the document(s)

1. Sign it
2. Date it
3. Retain it (on HR file)

The photocopy can be taken as a colour copy, or black/white. You must ensure that the copy is legible

For guidance on how to check a document is genuine, please follow this link:

<https://www.gov.uk/government/publications/recognising-fraudulent-identity-documents>

RIGHT TO WORK CASE STUDY

A Pakistani national holding a Tier 4 visa sponsored by King's College London commenced employment at a tech company. A copy of the attached visa confirming a limited right to work in the UK has been provided as part of the Right to Work check.



Q: Will the documentation suffice and provide a statutory excuse?

A: No. If you are presented with documents indicating that the holder is a student with a limited right to work in the UK during term time you are required to obtain and retain evidence of their academic term and vacation dates.

Q: What additional documentation would you expect to see from the student?

A: The UKVI consider the following to be acceptable evidence:

- A printout from the student's education institution's website setting out the timetable for the student's course of study; or
- A copy of a letter or email addressed to the student from their education institution confirming term time dates for the student's course; or
- A letter addressed to you as the employer from the education institution confirming term time dates for the student's course.

RECORD KEEPING: WHAT TO KEEP ON FILE

Personal Information

- Evidence of right to work - Passport copy & visa stamp/UK biometric card
- NI number
- Contact details - includes residential address, landline and mobile number. Updated regularly – even for those on short assignments
- Record of absences

Salary Information

- Copies of payslips with NI number and relevant tax deductions and allowances
- For ICT migrants – copy of evidence they worked at a linked entity abroad for 12 months (e.g. payslips for the 12 months prior to assignment to the UK)
- Evidence from the landlord or letting agent for housing allowance
- Copy of the COS, and contract if based at client site.

Qualifications

- Professional accreditation documents (if applicable)

Applying for a Tier 2 visa from outside the UK

When applying for a Tier 2 visa from within the UK, the process will generally be as follows:

- Confirm that eligibility is met, e.g. salary requirement, role is degree level, etc.
- Prepare Certificate of Sponsorship.
- Draft application form online.
- Once all eligibility requirements have been met, (e.g. English Language etc), application submitted online and appointment booked at a Visa Application Centre.
- Applicant attends the appointment to submit application pack including original documents and submits biometrics (digital photograph and fingerprints).
- Application processed by Home Office.
- Documents returned to applicant, approval received and 30 day entry clearance visa endorsed in passport
- Applicant enters the UK within 30 day window stated on their visa, collects BRP from Post Office and commences work.

APPLICATION SUBMISSION METHODS AVAILABLE

Submission method	Application Process	Processing time to receive approval and original documents to be returned	Time to receive BRP
Standard service	Application prepared and submitted at a pre-booked in person appointment at an application centre local to the applicant. At the appointment applicant submits biometrics (digital photograph and fingerprints) and application pack including original documents. Original documents held for the whole processing time (including original passport).	10-15 working days Applicant will receive an entry clearance visa endorsed in their passport giving them a 30 day window in which to enter the UK (will not be valid from more than 2 weeks in advance of the UK work start date)	BRP to be collected from the Post Office in the UK within 10 days of arrival

Submission method	Application Process	Processing time to receive approval and original documents to be returned	Time to receive BRP
Priority Service	Application prepared and submitted at a pre-booked in person appointment at an application centre local to the applicant. At the appointment applicant submits biometrics (digital photograph and fingerprints) and application pack including original documents. Original documents held for the whole processing time (including original passport).	5 working days Applicant will receive an entry clearance visa endorsed in their passport giving them a 30 day window in which to enter the UK (will not be valid from more than 2 weeks in advance of the UK work start date)	BRP to be collected from the Post Office in the UK within 10 days of arrival
Super Priority Service (specific locations only)	Application prepared and submitted at a pre-booked in person appointment at a premium application centre. At the appointment applicant submits biometrics (digital photograph and fingerprints) and application pack including original documents. Original documents held for the whole processing time (including original passport).	24 hours (If appointment is attended on a Friday or last working day before a public holiday, approval will be received the next working day, e.g. Monday for a Friday appointment). Applicant will receive an entry clearance visa endorsed in their passport giving them a 30 day window in which to enter the UK (will not be valid from more than 2 weeks in advance of the UK work start date)	BRP to be collected from the Post Office in the UK within 10 days of arrival

POINTS TO NOTE:

- Applications can only be submitted within 3 months of the UK work start date.
- All submission methods – applicants cannot travel until they have received the approval for their application and their 30 day entry clearance visa endorsed in their passport.
- Government processing times are not guaranteed and are subject to delays. You should therefore always allow more time than needed.
- Fees vary per service and are always in addition to the main application fee. Fees generally change in April each year.

Applying for a Tier 2 visa from within the UK

When applying for a Tier 2 visa from within the UK, the process will generally be as follows:

- Confirm that eligibility is met, e.g. salary requirement, role is degree level, etc.
- Prepare Certificate of Sponsorship.
- Draft application form online.
- Once all eligibility requirements have been met, (e.g. English Language etc), application submitted online.
- Application submitted to Home Office with original documents via prescribed methods detailed below.
- Application processed by Home Office.
- Documents returned, approval received, and BRP issued within 7-10 working days of approval.

APPLICATION SUBMISSION METHODS AVAILABLE

Submission method	Application Process	Processing time to receive approval and original documents to be returned	Time to receive BRP	Estimated total time
Standard postal (Sopra Steria)	Application prepared and submitted to the Home Office by post. Applicant attends an in person appointment, taking original documents with them. Applicant does not leave their original documents and can retain them during application processing. Various appointment locations are available, including Croydon.	8 weeks	7-10 working days post approval	Allow 10-11 weeks for application processing and to receive BRP (plus application preparation time)

Priority service (Sopra Steria)	Application prepared and scanned copies of all documents uploaded to portal before appointment. Applicant attends an in person appointment, taking original documents with them. Applicant does not leave their original documents and can retain them during application processing. Various appointment locations are available, including Croydon.	5 working days	7-10 working days post approval	Allow 4-5 weeks for application processing and to receive BRP (plus application preparation time)
Super Priority service (Sopra Steria)	Application prepared and scanned copies of all documents uploaded to portal before appointment. Applicant attends an in person appointment, taking original documents with them. Applicant does not leave their original documents and can retain them during application processing. Various appointment locations are available, including Croydon.	24 hours	7-10 working days post approval	Allow 2-3 weeks for application processing and to receive BRP (plus application preparation time)

POINTS TO NOTE:

- Using “Sopra Steria” submission methods – once the applicant has attended the appointment, even though they retain their original passport, they cannot travel outside of the UK.
- All submission methods – applicants cannot travel until they have received their new Biometric Residence Permit.
- Government processing times are not guaranteed and are subject to delays.
- Fees vary per service and are always in addition to the application fee. Fees change each April

** Sopra Steria is the official partner of UKVI and is the new service provider. Applicants attend an appointment at one of the centres to submit their biometrics and application. This service replaces the previous method of attending a Premium Service Centre.

Extending a Tier 2 visa from within the UK

TIER 2 ICT

Requirements to meet:

- The applicant still holds the same role
- The applicant is still working for the same employer
- The applicant's salary still meets the minimum salary requirement (e.g. the higher of £41,500 or the SOC code minimum).

Length of time can extend for:

Maximum of 5 years (or maximum 9 years if the applicant earns £120,000 or above)

When can the extension application be made?

Within 3 months of the expiry of current visa (if visa is extended in advance of this, no additional time will be granted)

TIER 2 (GENERAL)

Requirements to meet:

- The applicant still holds the same role
- The applicant is still working for the same employer
- The applicant's salary still meets the minimum salary requirement (e.g. the higher of £30,000 or the SOC code minimum).

Length of time can extend for:

Maximum of 6 years

When can the extension application be made?

Within 3 months of the expiry of current visa (if visa is extended in advance of this, no additional time will be granted)

Submission methods available:

- Standard postal (8 weeks)
- Priority service (Sopra Steria) (2 weeks)
- Super Priority service (Sopra Steria) (24 hours)

Indefinite Leave to Remain (ILR)

Indefinite Leave to Remain (ILR) is essentially permanent settlement in the UK and, once obtained, allows the applicant to take employment or set up a business in the UK without seeking permission from the Home Office. A person with ILR status is entitled to live in the UK without restriction. However, it is possible to lose this status by being absent from the UK for more than 2 years in a continuous period.

Once an individual has held ILR status for 12 months they may be eligible to apply to Naturalise as a British citizen, provided they meet the relevant requirements at the time.

WHO CAN APPLY?

Those who have held a Tier 2 (General) visa for a continuous period of 5 years and meet all of the following requirements:

- They are still required to work for the company in question
- They pass the criminality threshold
- They do not have absences of more than 180 days in any 12 months of the 5 year period
- They pass the Knowledge of Life in the UK test

DOCUMENTS TO PROVIDE FOR A SUCCESSFUL APPLICATION

Document	Document requirements
Current passport and any expired passports held during the relevant 5 year period	Must be original
Current Biometric Residence Permit	Must be original
Current Police Registration certificate (if applicable)	Must be original and hold all current details, e.g. address, passport number etc
Payslips for the 3 months prior to application	Must be original, or certified by the employer or accompanied by a letter from the employer confirming authenticity. Latest payslip must be dated within 28 days of application
Bank statements for the same 3 months prior to application	Must be original, or certified/stamped by the bank or accompanied by a letter from the bank confirming authenticity. The statements must show all transactions and must show the salary entering the account each month.
P60s for each year of the relevant 5 year period	Must be original, or certified by the employer or accompanied by a letter from the employer confirming authenticity.
Letter of support from employer	Must be original, wet signed, dated, on company letter-head and contain the following information: • That the applicant is still required for the employment in question • The gross annual salary and that this salary will be paid for the foreseeable future • Number of hours per week the salary is based on N.B If more than one employer during the 5 years, a letter(s) from all previous employers must be submitted confirming the dates of employment and that all absences were either business travel or personal trips taken within annual leave allowance

Document	Document requirements
Evidence of English Language	Must be original and meet the specific English Language requirements
Life in the UK Test pass certificate	Must be original
A schedule listing all absences from the UK over the past 5 years.	Must list each absence from the UK in the 5 year period, including date of departure from UK and date of return to UK, duration of trip, country of destination, reason for trip, e.g. business/personal. Total absences across the 5 years should be recorded and should not exceed 180 days in any 12 month period in the 5 year period. N.B days of departure and return to the UK do not count as days away from the UK. For instance, departing to Paris on a Monday and returning to the UK on Tuesday will count as zero days away from the country.

IF APPLYING WITH DEPENDANT SPOUSE/CHILDREN, ADDITIONAL DOCUMENTS TO PROVIDE:

Document	Document requirements
Marriage certificate	Must be original and in English. If not in English, certified translation must be provided
Birth certificates for any children applying with you	Must be original and in English. If not in English, certified translation must be provided. Must be long-form and detail both parents.

Please note: The document lists above are not exhaustive and will depend on each individual.

Students working in the UK

Whilst most students who hold a Tier 4 Student visa are permitted to work whilst in the UK, there are restrictions on the number of hours they are allowed to work, depending on when their visa was granted, what course they are studying and the type of sponsor they are studying with.

Study type	10 hours per week during term-time and full-time during vacations	20 hours per week during term-time and full-time during vacations	No work allowed
A full-time course at degree level (RQF level 6 (and equivalents)) or above sponsored by a UK recognised body or a body in receipt of public funding as a Higher Education Institution			
A short-term study abroad programme in the UK at an overseas Higher Education Institution			
A full-time course below degree level (RQF level 6 (and equivalents)) sponsored by a UK recognised body or a body in receipt of public funding as a Higher Education Institution			
A part-time course at post- degree level (RQF level 7 (and equivalents)) or above sponsored by a UK recognised body or a body in receipt of public funding as a Higher Education Institution			
A course at any level at a publicly funded further education college			
A course at any level at a private provider			
Any course where the student is a Tier 4 (Child) Student over the age of 16 years old			
Any course where the student is a Tier 4 (Child) Student under the age of 16 years old			

Points to note

- Students should be employed on fixed term contracts only
- Once their course has ended, the student is permitted to work full time (provided they are permitted to work as per the above table) – you should keep evidence of this on file, e.g a copy of the student's course timetable for the year.

Work that is not allowed

- Be employed as a doctor in training (except on a recognised foundation programme);
- Be employed as a professional sports person (including a sports coach);
- Be employed as an entertainer;
- Engage in business activity; or
- Fill a full-time, permanent vacancy (except on a recognised foundation programme or where you are filling a post as a student union sabbatical officer)

Students working in the UK

Tier 4 Students can undertake a work placement as part of their course, provided that:

- It is an integral and assessed part of the course
- The time spent on the placement generally cannot exceed 50% of the total length of the degree level course (33% otherwise)
- Their University has issued them a letter confirming that the placement is an integral and assessed part of the course. This letter must be kept on file.

CASE STUDY

A Tier 4 student is currently studying a 4 year Bachelors degree “sandwich” course where the 3rd year of their course is a placement year. The company can employ the Tier 4 student for their placement year as this is a 1 year placement and therefore does not exceed 50% of their degree course length.

Before the student commences the placement, they should provide the company with the letter from their University confirming that they are permitted to undertake the placement as it is an integral and assessed part of the course.

This letter should be kept on the students HR file.



Students and Brexit

Where we are at now - Current Prime Minister Boris Johnson has said the UK will leave the EU on 31 January 2019 'do or die' and will not budge from that position. The UK Parliament appears to have other ideas and the European Union is yet to say whether the deadline for Brexit can be extended.

There is a sense of déjà vu to the political wrangling of the last few weeks and uncertainty continues to dominate Brexit. Irrespective, our clients have a job to do whatever the outcome and want to do it properly. This is what we are advising.

WHERE WE ARE

On 17 October 2019 the UK and EU agreed to a new Brexit deal



Later that day the Prime Minister wrote to the EU asking for Brexit to be delayed from 31 October 2019 until 31 January 2020



The EU and the UK's extension date has been extended to 31 January 2019.



The deal was debated on 19 October 2019 but, in practical terms at least, the UK Parliament wanted longer to consider it



He then sent a further letter explaining that he does not believe an extension should be granted



All of this leaves people working in human resources and talent asking three questions.

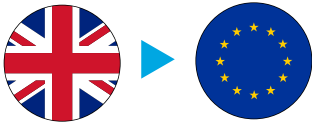
What do businesses need to know?

What do businesses need to do?

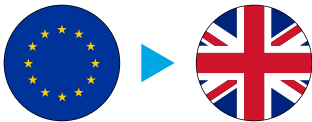
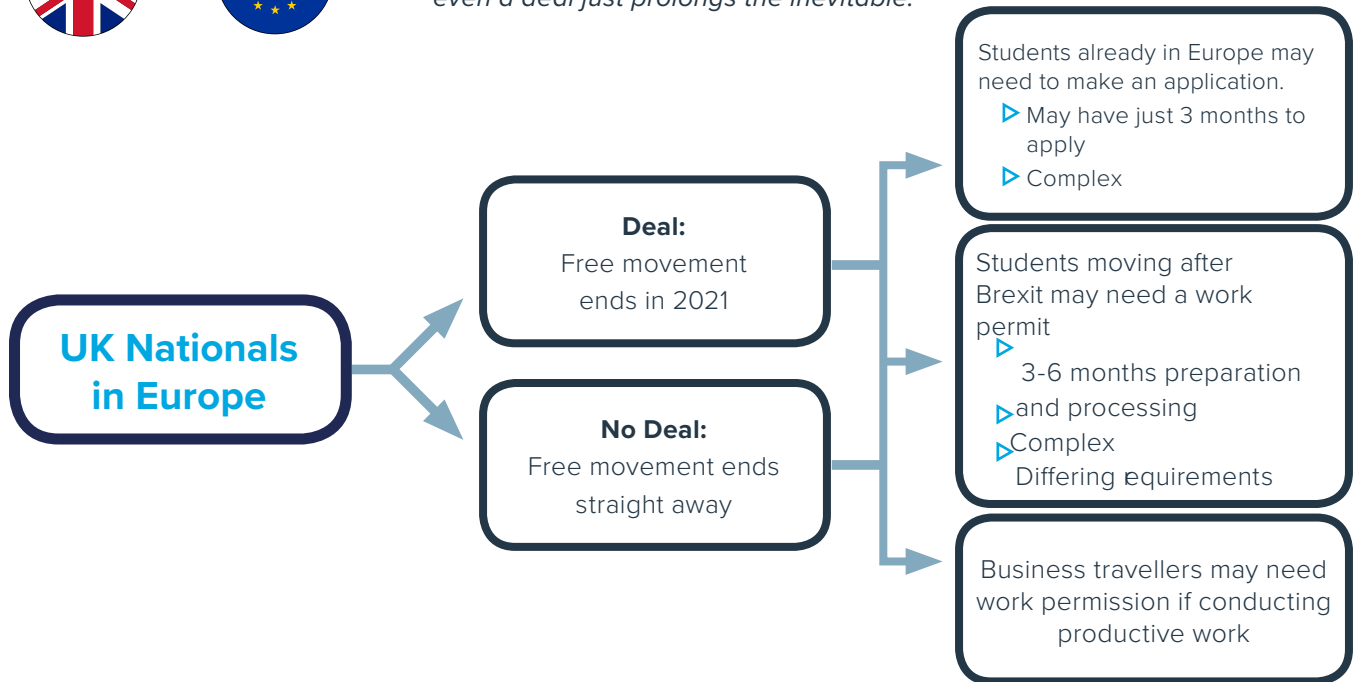
What do businesses need to tell students and your staff?

What do I need to know?

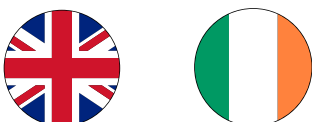
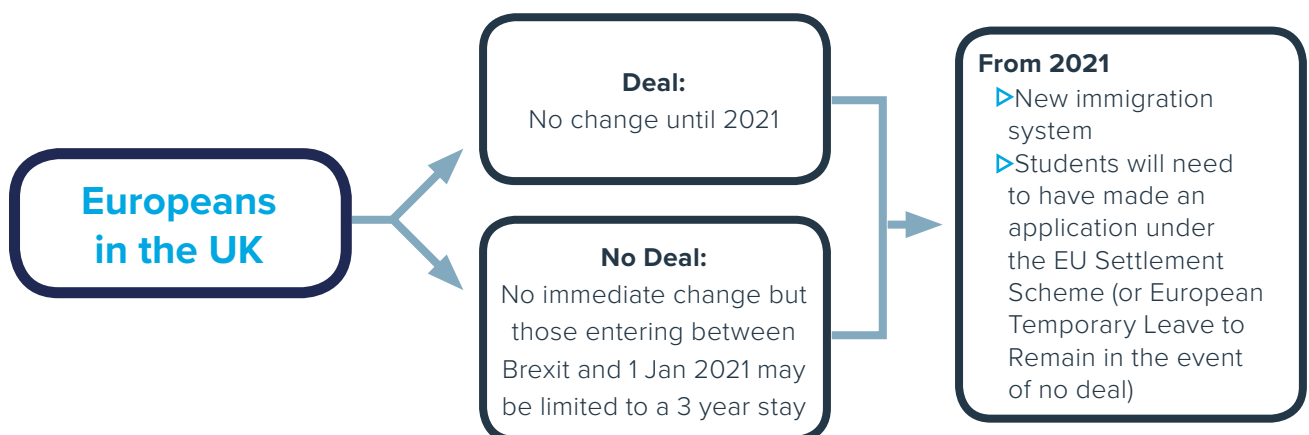
Deal or No Deal?



For UK nationals in Europe, the issues come when free movement ends; even a deal just prolongs the inevitable.



In the UK, 1 January 2021 is arguably a bigger milestone than Brexit.



UK citizens in Ireland and Irish citizens in the UK are not affected, whatever happens, as they will not require work or residence authorization even in the event of a no-deal. Their non-EEA family members however will need to make an application

What's next?

-  = Key milestones
  = Rights and issues
  = Steps you can take

While the UK government wants to get Brexit done now, the truth is that the fundamentals of the UK immigration system won't change immediately. Rather, the free movement rights of Europeans to come and live in the UK will continue throughout 2020, although Europeans who entered the UK after a no deal Brexit may of course be limited to three years' stay.

The change will come on 1 January 2021, when the UK implements an entirely new immigration system for Europeans and non-Europeans alike (although Irish nationals will be free from immigration controls). The new system will be much quicker and slicker than the UK's Points Based System for non-EU nationals, but inevitably slower, more complex and more expensive than free movement. Also - we are not sure what the student visa process will look like.

We will release our latest guide on planning for the new system shortly after Brexit and will be on hand with workforce planning and assessment tools.

EARLY 2020

- ▶ **Detail of new UK immigration system announced**
- ▶ Educate the business on access to students and workers, cost and delay
- ▶ Adapt processes
- ▶ Apply for new licence or similar (if required)

31 DECEMBER 2020 OR 20 JUNE 2021

- ▶ **Deadline for applying under EU Settlement Scheme**
- ▶ Six months ahead, three months ahead, and shortly before, remind employees of requirement, process and consequences of not applying





FRAGOMEN

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