



# Brexit and the EU Settlement Scheme





# The KPMG Team with you today



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# Pre Brexit rights for EEA Nationals

# Pre-Brexit Rights for EEA Nationals

- ☐ Generally, EEA nationals and their family members are permitted to enter the UK for up to three months without restriction
- ☐ They may remain in the UK with their family members for more than 3 months provided they become a:
  - ☐ Worker
  - ☐ Self-employed person
  - ☐ Self-sufficient person
  - ☐ Student
- ☐ “Permanent Residence” can be acquired following 5 years of continuous residence





What has  
been agreed  
so far?



# Background to the EU Settlement Scheme (1)

- The EU/UK “Agreement in Principle” (December 2017) and Draft Withdrawal Agreement (March/November 2018) sets out details regarding citizens’ rights. UK enshrined this into legislation by adding Appendix EU to the Immigration Rules (July 2018)
- Deal: “Free movement” to the UK for EU Nationals continues to 31 December 2020 (if there is “No Deal”, this will end on 29 March 2019)
- Every EU National (and, if applicable, their non EU family members), residing in the UK, MUST make an application to remain in the UK





# Background to the EU Settlement Scheme (2)

- Irish citizens are an anomaly – they do not HAVE to make an application, but can do so if they wish
- The current deadline to make an application is 30 June 2021 (31 December 2020 if there is “No Deal”)
- If an application is not made, the person is likely to have no proof of their right to live and work in the UK
- Cross border workers, (e.g. those who live in the Republic of Ireland, but work in Northern Ireland) will apply under a different scheme





**What if there  
is “No Deal”?**

# The impact of “No Deal (1)”

- The deadline for an application under the EU Settlement Scheme is brought forward to 31 December 2020
- “Free movement” to the UK for EEA Nationals will end on 29 March 2019
- EEA citizens will still be able to enter the UK as they do now (i.e. without a visa), however if they want to stay longer than 3 months they must apply for “European Temporary Leave to Remain”
- This will allow the EEA National to remain in the UK for a further 36 months





# The impact of “No Deal (2)”

- The position of Irish citizens and cross border workers will remain the same, whether there is a “Deal” or a “No Deal”
- Once the EEA National’s “European Temporary Leave to Remain” expires, they will be required to make an application under the post Brexit immigration system (which will take effect from 1 January 2021)
- It is not envisaged that a person who has European Temporary Leave to Remain will be able to make an application under the EU Settlement Scheme



# Background to the EU Settlement Scheme

- ❑ There are an estimated 3.8 million EU Nationals who reside in the UK
- ❑ The Scheme is being gradually phased in, and will be open to all potential applicants by 30 March 2019
- ❑ It is currently being trialled, and as part of the trial employees can make an application from 21 January 2019 (however applicants must pay a fee of £65 to apply).
- ❑ “Deal” or “No Deal” this scheme is scheduled to come into force



# Who is eligible – deal?

- ❑ EU Nationals resident in the UK by 31 December 2020 (29 March 2019 if there is a “No Deal”)
- ❑ Non EU Nationals (including the non EU family members of Irish nationals) who are:
  - in the UK on the basis of EEA Law and
  - resident in the UK by 31 December 2020
- ❑ “Close family members” of an EU National who are resident in the UK by 31 December 2020, even though that “close family member” is not resident in the UK
- ❑ Those who are not a *“serious or persistent criminal; or a threat to national security”*





# Who is eligible? – “No Deal”

- ❑ EU Nationals resident in the UK by 29 March 2019
- ❑ Non EU Nationals (including the non EU family members of Irish nationals) who are:
  - in the UK on the basis of EEA Law and
  - resident in the UK by 29 March 2019
- ❑ Until 29 March 2022, the “close family members” of an EU National who are resident in the UK 29 March 2019 even though that “close family member” is not resident in the UK
- ❑ Those who are not a “*serious or persistent criminal; or a threat to national security*”



A close-up photograph of a person's hands and arms. The person is wearing a dark suit jacket over a light blue shirt. They are holding a black pen in their right hand and writing on a white document. Their left hand is resting on the document. The background is blurred, showing what appears to be a window with greenery outside.

# The application process

- Online application system
- Application must be completed from within the UK

1. Provide proof of identity
2. Provide proof of address
3. Declare criminal convictions
4. No Fee



# The Common Travel Area

# Political Declaration (November)

Political Declaration setting out the framework for the future relationship between the EU and the UK on mobility:

“

Any provisions shall be without prejudice to the Common Travel Area (CTA) arrangements as they apply between the United Kingdom and Ireland.

”





# The Post Brexit immigration landscape

# The “hostile environment” policy

*“We would like to see net immigration in the tens of thousands rather than the hundred of thousands”*

David Cameron, January 2010

*“The aim is to create...a really hostile environment for illegal migration”*

Theresa May, whilst Home Secretary, 2012





# Post Brexit Possibilities based on the MAC Report and “Immigration” White Paper

- ❑ MAC recommendations reportedly unanimously accepted by UK cabinet on 24 September 2018
- ❑ “The UK’s future skills-based immigration system” (December 2018)
- ❑ No preferential treatment for EU workers
- ❑ “Free Movement” will end
- ❑ Specific regional policy to assist economy in NI is not “*very attractive*”
- ❑ Increased burdens for employers (e.g. Sponsor Licence, Immigration Skills Charge, minimum salary requirements)





Why an  
employer  
should act

# How does this impact employers?

- If employees do not make an application, they may lose their right to work in the UK
- This means that an employer could potentially be faced with:
  - ☐ Civil penalties up to £20,000
  - ☐ Criminal sanctions/unlimited fines
  - ☐ Loss of production
  - ☐ Inability to replace the workers
- Immigration advice can only be given by those registered to do so
- No discrimination: current “Right to Work” checks apply to the end of 2020



# The risk workers will do nothing

- EU citizens in the UK are at risk of failing to secure their rights after Brexit
- EU citizens will need to:
  1. know about the EU Settlement Scheme and the need to apply;
  2. be able to navigate the system and make an application; and
  3. be able to demonstrate that they have been living in the UK



# What can employers do to minimise Risk?

- ❑ Assumptions may be made that a certain percentage of the workforce will not make an application under the EU Settlement Scheme
- ❑ Employers can minimise the risk of losing workers due to inertia by engaging trusted advisors to inform, advise and assist Management, HR and individual workers to maintain their right to work





# Strategic options for employers



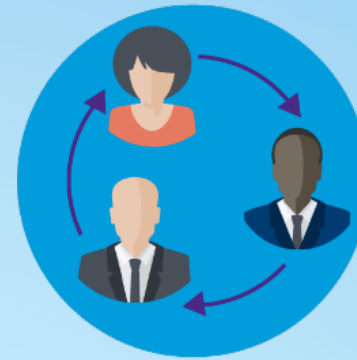
# The need to start planning to secure skills



Availability of  
labour is already  
declining



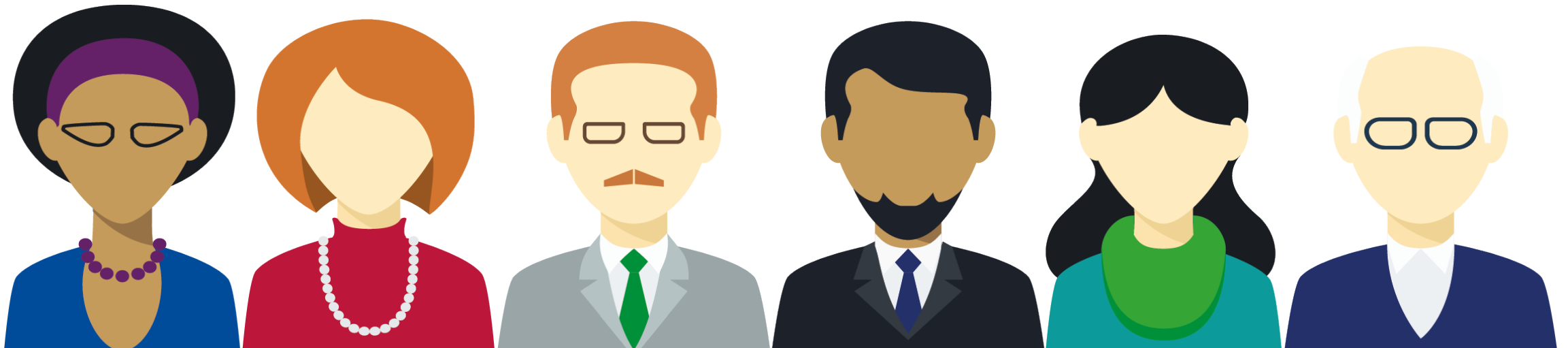
Scenario planning  
provides an effective  
way to manage  
uncertainty



Taking the right  
strategic decisions early  
confers competitive  
advantage

# Managing Uncertainty

- Have you planned for additional immigration and recruitment administration costs arising from Brexit?
- Have you planned for your employees travelling to the EU after the 29 March 2019 ?
- Have you conducted an impact assessment on how your staffing is affected by Brexit?
- How can you deal with your employees' concerns?
- What is the appropriate recruitment/retention strategy to adopt?



# Examining your future exposure

**Baseline  
workforce**

**Explore existing workforce  
demographics and outcomes**

**Plan  
for the future**

**Model workforce scenarios  
to meet business strategy**

**Develop  
interventions**

**Develop HR interventions to  
deliver future workforce**

**Execute  
and measure**

**Implement and  
assess effectiveness**

- How many EEA Workers do you employ?
- What is their role?
- Where are they located?
- What is the impact on your business if you lose your current EEA Workers?



- Can you provide support to give more certainty to your EEA Workers?
- What are your competitors doing?
- What is the cost of doing nothing compared to supporting your EEA Workers?

# What can employers do for their EU Workers

## Information only

- Email communication outlining Brexit impact and current situation
- Regular, tailored email updates on the developing immigration position, including post Brexit

## Provision of guidance

- Simplified application guidelines
- WebEx training session on making EEA applications and obtaining citizenship
- Provision of a “Frequently Asked Questions” guide to relevant staff

## Selective assistance

- Interactive training session on the rights of EEA nationals in the UK, making EEA applications and obtaining citizenship
- Immigration clinics for one to one support
- Queries drop box for ongoing support

## Individual assistance

- Direct assistance with applications for employees and their family members



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