

Are you ready for Brexit: Immigration update for schools and academy trusts

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EU, EEA and Swiss citizens resident in the UK before the end of this year, can and should continue to register under the EU Settlement Scheme before the 30 June 2021 deadline. The Scheme allows EU, EEA and Swiss citizens and their family members to get the immigration status they need to continue to live, work and study in the UK once transition period has ended. Those planning to enter the UK from 1 January 2021 will be subject to the new immigration system and will require a visa before arrival to live, work or study in the UK.

The Government has provided details of the new immigration system that will apply from 1 January 2021, which will treat EU and non-EU nationals equally for immigration purposes therefore the same rules will apply. At present, UK employers must be granted a sponsorship licence by the Home Office before they can employ skilled workers from outside the EU. From January 2021 under the new immigration system, employers will also require a sponsor licence before they can employ nationals from the EU.

EU Settlement Scheme

The Government has stated its intention to preserve the rights of EU and EEA nationals residing in the UK before 31 December 2020 by implementing the EU Settlement Scheme (EUSS).

The deadline to apply under the EUSS is 30 June 2021, however it is strongly advised to apply as soon as possible/immediately on arrival to avoid delays in the process as there will be many other applicants and it is unclear how authorities will treat those who have not secured their status after June 2021.

Right to Work Checks

You should continue to check a job applicant's right to work in the UK in the same way as now until 30 June 2021. This means that EU, EEA and Swiss citizens can still use their passport or National Identity Card to evidence their right to work.

New Immigration System

The new immigration system that will apply from January 2021 proposes amendments to the existing points-based system rather than a complete overhaul. Most economic routes to the UK remain unchanged, however the 'Tier 2 General route' is the exception and is being replaced by a 'skilled worker route.'

Schools, colleges, academies and trusts will need a sponsor licence to employ foreign workers from January 2021 and those who already hold one are likely to be making greater use of it from January 2021 as it will also cover future sponsorship for EEA nationals.

The main differences between the current Tier 2 (General) route and the new skilled worker route include:

- Removal of annual cap
- There will no longer be a requirement to undertake a Resident Labour Market Test.
- The general salary threshold is being lowered from £30,000 a year to £25,600 a year.
- The minimum skill threshold is being lowered from graduate occupations (RQF level 6) to RQF level 3, roughly equivalent to A-levels or Scottish Highers.
- There will be no limit on the length of time which can be spent under the skilled worker route and the 'cooling off' rules will no longer apply.
- It will be possible to switch into skilled worker route from Tier 5 and other visa routes without leaving to apply from outside the UK.

The new system will reduce the low skilled workforce from outside of the UK; there will not be a temporary route as previously promised. For vacancies without skills or salary requirements, employers may therefore only consider non-settled workers who are eligible to live and work in the UK based on another visa category, for example Tier 5, which is limited to a certain list of countries and not EEA nationals or if a migrant holds a visa in another category with work permission that is not limited to a specific sponsor.

What can you be doing now to prepare?

Schools, colleges, academies and trusts should act now to avoid the surge in applications, so you are in a good position to hire from 2021. Our advice is too:

1. Review and plan ahead
2. Check or get a sponsor licence
3. Communication with existing staff
4. Review guidance

If you would like any further advice or support with your obligations and responsibilities as an employer with regards to the key issues and impact that Brexit responsibilities please get in touch us or email us: brexitenquiries@brownejacobson.com.

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