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Human Resources & Health and Safety



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Do you employ staff?

### Brexit and the Right to Work

It has now been confirmed that Brexit will take place on or before 31<sup>st</sup> October 2019. As a deal is yet to be agreed it is unclear what many aspects of Brexit will mean in practice, but we do know that Free Movement is coming to an end, and we know how Brexit will affect EU nationals currently living in the UK.

#### Your Responsibilities

As an employer you are legally responsible for checking that your employees have the right to work in the UK. A failure to adequately do this can result in a fine of up to £20,000 per employee and negative publicity to go with it, both of which can be damaging to your Company. Understandably, Brexit has caused many employers to become anxious about how the laws / their responsibilities towards pre-employment checks will change. Luckily, this is one area that has already been agreed upon in Government.

After Brexit takes place, regardless of the deal reached, there will be no immediate changes when it comes to checking the right to work of EU nationals. Your responsibilities will remain the same up until 1<sup>st</sup> January 2021. There will be no need for you to differentiate between employees who were residents in the UK before Brexit and those who travel to the UK after Brexit takes place. After January 2021, the Home Office will be introducing a new system that will enable you to check an individual's right to work. The Home Office are yet to release details of this new system, but it has confirmed that it will be an online service.

#### Employee Responsibilities

As above, after Brexit takes place, EU nationals will be free to remain living and working in the UK as they currently are up until January 2021. After that, however, their rights will change to reflect the end of Free Movement. The

change in Free Movement will affect EU nationals differently, depending upon the length of time they have spent living and working in the UK, if they have at all.

Individuals who have accrued five years' continuous residence by the 31<sup>st</sup> December 2020 will be able to apply for "settled status". Once approved, they will be granted the right to remain in the UK indefinitely.

Individuals who arrive in the UK on or before the 31<sup>st</sup> December 2020, but who have not had five or more years' continuous residence, will be able to apply for a "pre-settled status". Once granted, this will allow the individual to remain in the UK and accrue the necessary five years' residency that would enable them to apply for "settled status".

The application process for settled or pre-settled status is now open, although there is no immediate rush for people to apply. Applications can be made up until 30<sup>th</sup> June 2021 and must include proof of identification, information on the applicant's current living arrangements, and confirmation of any previous criminal convictions. The Government has made it clear that status applications will only be refused if the person's continued stay in the UK would put the public at risk, i.e. if the individual has shown severe examples of criminality.

Any EU national who arrives in the UK on or after the 1<sup>st</sup> January 2021 will only be able to remain in the UK for a temporary period, dependent on future immigration rules. These are still yet to be finalised and more information will be published when it becomes available.

## Home Office Assistance

The Government understands that this is a confusing time with many employers and employees feeling anxious and uncertain. Because of this, the Home Office has created an "Employer's Toolkit" that contains several helpful guides for both employers and employees. Some of these guides have been created so they can be given straight from the employer to the employee without the need for editing or tailoring. Employers who wish to reassure and support their employees may choose to provide these guides in the workplace, so everyone understands their rights and responsibilities as soon as possible. Follow this link to access the toolkit: [www.gov.uk/government/publications/eu-settlement-scheme-employer-toolkit](http://www.gov.uk/government/publications/eu-settlement-scheme-employer-toolkit)

## How Can We Help?

If you have any queries relating to any of the above, please don't hesitate to contact us at [hradvice@hasslefreehr.co.uk](mailto:hradvice@hasslefreehr.co.uk)