

Business After Brexit:
Immigration Impacts Explained – BATM Webinar

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With You Today



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Today's Agenda

End of the Transition Period

Sponsorship, Skilled Workers and the Points Based System

Sponsor Licensing - process, compliance and related matters

Business Visitors into the UK

Q&A

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Business After Brexit –
EU Nationals to UK

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Brexit, EU Settlement Scheme (EUSS) and New Rules

- Withdrawal Agreement signed Jan 2020
- Free movement rights under the transitional arrangements following Brexit ("Transition Period") came to an end at 23:00 on 31 December 2020.
- EU nationals residing in the UK on or before 31 December 2020 with an intention to remain in the UK must apply for Pre-Settled or Settled status under the EU Settlement Scheme.
- The deadline to apply under the EU Settlement Scheme is 30 June 2021.
- EU nationals travelling to the UK after 31 December 2020 will need to obtain a visa prior to arrival for all categories other than as a short term visitor (both business or leisure).
- Now considered 3rd Country nationals

Those arriving in the UK for work purposes from 1 January 2021 will require a work visa under the new 'Skilled Worker' system, replacing the existing Tier 2 system.

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Post-Brexit Immigration rules

Skilled Worker (permanent hires)

- No advertising
- No annual limits
- Minimum salary reduced
- Skill level reduced to “A” Level equivalent
- English language requirement
- Path to permanent residence

Intra Company Transfer (temporary assignments)

- No advertising
- Minimum salary £41,500
- Skill level set at Degree equivalent
- Limit of 5 years in any six on a rolling basis
- English language exempt
- No path to settlement

“Frontier Workers”

- EU, EEA or Swiss citizens
- Worked in the UK BUT living elsewhere
- Work must have been “genuine and effective”
- Must be active pre 1 January 2021
- Must possess FW permit from 1 July 2021
- Valid for 5ys can be renewed



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UK Sponsor License requirements

All UK companies must hold a Sponsor License

Applying now

- Pre-requisite to employing foreign nationals
- Gather significant company documentation
- Requires appointment of Key UK based Personnel
- Understand compliance obligations
- Build robust processes to manage obligations
- Submit a “perfect” application
- Lead time approx. 6-8 weeks



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Sponsor Licence Refresh

Existing Sponsor License holders ensure your licence is fit for purpose

- Key personnel remain in place and have access
- Overseas entities are linked to the license
- UK offices are linked to the license
- Sufficient certificates of sponsorship to manage expected spike in applications
- Do you have both Skilled Worker and Intra Company Transfer tiers on the license
- Keep an eye on License renewal date
- Ensure in-house teams are au fait with new immigration landscape

Processing times are typically 10-18 weeks (limited expedited services)

Don't get caught on the back foot!

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Business Visitors

From 1 January 2021, EU nationals are subject to immigration rules inc Business Visits.

Overview

- End of free movement represents a marked *shift* in working culture of European operations
- EU nationals DO NOT require a Business Visa
- Potential immigration compliance risk
- Greater scrutiny of intra-office business travel from EU to UK offices will be paramount
- Risks
  - Individual's refused entry, removed and banned
  - Direct impact on sponsor status, including loss of licence and sponsored skilled workers
  - Findings of illegal employment (attracting penalties of up to £20,000 for each illegal worker)
  - Reputational damage

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Business Visitors – General principles

Visitors can……

- Travel to the UK for “reasonable” periods of time
- Conduct ‘permissible activities’
- Travel to the UK frequently
- Keep in contact with their overseas employer while in the UK
- Receive reasonable travel & living expenses from sources in the UK but **must** remain on overseas payroll

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Business Visitors – Permissible Activities

Attend meetings, conferences, seminars, interviews

Give a one-off or short series of talks and speeches provided these are not organised as commercial events and will not make a profit for the organiser

Negotiate and sign deals and contracts provided any work agreed to is carried out either outside the UK, or by UK colleagues with the correct work permission to do so

Attend trade fairs, for promotional work only provided you are not directly selling

Carry out site visits and inspections

Gather information for employment overseas – this can include discussions with clients or UK colleagues

Be briefed on the requirements of a UK based customer provided any work for the customer is done outside the UK

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Intra-Corporate Activities

Intra-corporate activities, i.e. where employed by a group company overseas, may include:

- **Advise and consult**
- **Troubleshoot**
- **Provide Training** on internal matters (**not** training to clients);
- **Share skills and knowledge internally**
- **Provide *internal* regulatory or financial audits at a UK entity of the same group of companies as the visitor's employer overseas**

Intra-corporate activities should be:

- A short duration (1+ month could attract suspicion of perceived abuse);
- Linked to a specific project
- Not involve the visitor directly working with or for clients
- Should be based mainly at the UK company offices and not at client sites, unless attending meetings with clients

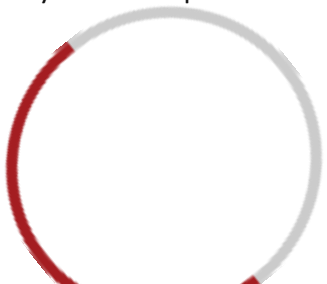
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Business Visitors – Prohibited Activities

Business Visitors cannot……

- Take employment in the UK
- Establish/run a business either as self-employed or on behalf of an overseas employer
- Undertake a work placement or internship
- Provide temporary cover/ short term cover for a UK role
- Sell goods directly to the public
- Provide services unless otherwise “permitted”
- Where the visitor is already employed and paid outside the UK, they must remain so.



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Practical Tips for successful business travel

EU nationals (including nationals of Iceland, Liechtenstein, Norway, or Switzerland) will not require a visa prior to travel.

Evidence to carry during visit:



Valid passport (with validity remaining to enable ongoing travel)



An EU national ID card up (until 1 Oct 2021 only)



Justification for travel (e.g. letter from UK business confirming nature of 'permissible activities')



Evidence of financial means for duration of stay



Itinerary – including details of accommodation and outbound travel

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Impacts, Considerations & What To Do Now.

Impacts

- Ease of travel changing significantly Free Movement vs Immigration Rules
- Significant visa costs
- Timelines longer when seconding
- Start dates impacted/hiring process much longer
- Added scrutiny around Business travel
- Mind-set shift

Considerations

- Assess the need for a Sponsor License
- Re-evaluate in-house resources/capacity
- Sponsor compliance is more critical than ever to maintain access to EU talent

What to do now

- **Apply for a Sponsor License** to ensure continued ability to hire talent from outside the UK
- **Review** of existing Sponsor License
- **Educate** internal stakeholders - GM, HR, Travel & Recruitment Teams
- **Review/Develop processes** to build-in discussion around proposed Business Visitors to include an assessment of the proposed business activities to ensure compliance with UK immigration rules

***Remember** that all work, no matter how short the proposed period is for, cannot be undertaken as a Business Visitors*

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How does the CIBT Post-Brexit Assessment Tool Help?

Developed in conjunction with our client base to address the grey area that Brexit has created between Short-Term Travel and Global Mobility.

Ensures that your travel population travel compliantly to and from the EU and UK.

Filters out your true Business Travellers, providing them with a Business Support Letter aiding their passage through Passport Control.

Remaining Travellers will require immigration assistance.

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Questions & Answers

Company-specific questions or scenarios?

Email us:
enquiries@newlandchase.com

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