

READY FOR THE FUTURE ISSUE 1

“ 50% of businesses we surveyed, based in the south west, have senior managers who are not UK nationals. ”

**A PASSION
FOR PEOPLE**

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S O L I C I T O R S

8 Steps to



Compliance

Are you hiding behind it?

1 Consent

How are you seeking, obtaining and recording consent?

You must be able to demonstrate that consent has been freely given and is specific, informed and unambiguous. It must be given on an 'opt-in' basis. You may need to update existing consents now if they do not comply. Special rules will apply to obtaining consent for processing children's personal data.

2 Communication

Are your privacy notices GDPR compliant?

In addition to the current information you are required to give when you collect personal data, you will need to set out your legal basis for data processing and your data retention periods, as well as advise individuals that in addition to other rights, they have a right to complain to the ICO. This information must be communicated clearly and concisely.

3 Holding and Processing Data

What information do you hold and what is your legal basis for processing it?

Under the GDPR you are required to maintain records of your processing activities. You may need to carry out an information audit to ascertain what information you hold, where it came from, what you do with it and who you share it with.

4 Rights of Individuals

Do your procedures comply with individuals' new rights under the GDPR?

Individuals will have greater rights in relation to their data under the GDPR, including rights of access and data portability, to have inaccuracies corrected, to have information erased, to prevent direct marketing and to prevent automated decision-making and profiling.

5 Subject Access Requests (SARs)

How will you comply with the new rules on SARs?

You will now have just a month to comply with a subject access request and will only be able to refuse or charge for requests if they are manifestly unfounded or excessive. Consider what systems you may need to implement to meet the challenge of having to deal with requests more quickly.

6 Data Protection Impact Assessments (DPIAs)

Do you have a strategy for dealing with the new DPIA requirements?

DPIAs will become mandatory in some cases, e.g. where new technology is deployed, where profiling is likely to significantly affect individuals or where processing is large-scale and involves special categories of data. Where a DPIA identifies high-risk processing, you will need to consult the ICO. Take steps now to identify how DPIAs will be carried out and by whom.

7 Data Breaches

Do you know what to do if you detect a data breach?

Make sure you have procedures in place to detect, report and investigate a personal data breach. The GDPR will require you to notify the ICO of certain types of data breach and, in serious cases, the individual affected.

8 International

Do you carry out cross-border data processing within the EU?

If so, map out where your organisation makes its most significant decisions about data processing to determine who your lead data protection supervisory authority is and document it.

Visit www.hcrlaw.com/GDPR

Do you want to get your business ready for BREXIT ?

By Nicolas Groffman,
Head of International

Brexit negotiations continue, with gifts and barbs being exchanged in equal measure, and still it is not clear whether we are heading for a hard or soft exit.

EU law affects nearly every aspect of national life, from grand concepts like constitutional law and foreign relations down to fine detail such as the shape of valves and how multi-national families can stay together. No single person can be an expert in all these matters, and it would be simplistic to suggest that the UK must choose between the 'Norwegian model,' the 'Swiss model', the 'Canadian model' etc - there are a myriad of ways that the UK's future could be shaped, and only a small part relates to the outcome of Brexit negotiations.

Our approach to international trade now needs to be both flexible and courageous - for centuries, Britain looked far beyond its borders, even when this meant dangerous journeys in square-rigged ships. Ironically, when global communications are easier than they have ever been, the nation appears trapped in a Eurocentric bubble. The EU accounts for approximately 15% of the global economy, so from a legal, regulatory and treaty making viewpoint, there is greater benefit in exploring the more difficult but more lucrative non-EU markets.

There is a genuine, and justified, concern from British lawyers that regulations are too complex to be negotiated in just two years. In particular, the UK's income is so dependent on our financial services industry that any major shift could have very serious ramifications. But the positive effects of successful FTA negotiations globally, and, more importantly, of UK businesses creating commercial links outside the EU, will potentially far outweigh any negative impact.

Immigration is of considerable significance since it directly affects individuals. The only fair way to treat immigrants is with equality, based on the concept of natural justice. If we need immigration quotas, let them be equally applied. If free movement is the price of staying in the Customs Union, it is not a price worth paying as it is inherently unfair on non-EU immigrants. At the same time it would be equally unfair to deny EU citizens currently residing in the UK their existing rights.

So, whilst a "hard" Brexit will probably involve a short-term economic downturn, it will also allow the UK to once again espouse natural justice, and will force us to seek to cooperate with major nations. This is already happening – we see many SMEs now putting effort into research and links beyond the EU, while Commonwealth countries, and China, are anticipating greater cooperation with the UK.

Our team at Harrison Clark Rickerbys is already seeing interest from international investors in UK businesses and institutions – we can call on our own in-house experts to support clients in their transactions across many sectors, from education or health and social care, to advanced manufacturing and defence.



If you would like advice on international trade as Brexit continues please contact Nicolas

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What's your passion?

By Derek Jones,
Restructuring
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Learning - I love learning and have completed numerous courses in order to understand the challenges faced by healthcare professionals. This means I can provide expert advice when my clients are making decisions on how they can mitigate future risks connected to Brexit and the minimum wage.

As an expert in resolving disputes, I represent service providers tackling the regulators as well as local authority and NHS commissioners in England and Wales.



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In fines would have been raised by the Information Commissioner's Office (ICO) in 2016 if the pending General Data Protection Regulation (GDPR) had been applied.

Do you employ any EU nationals in your business?

By Claire Thompson,
Head of Immigration

The government has finally shed some light for EU citizens who are living in the United Kingdom. The snappily titled policy paper 'Safeguarding the position of EU citizens in the UK and UK nationals in the EU' sets out the proposals.

All treaty rights up to the point of the UK's exit from the EU will be honoured, but there will be changes from a cut-off date yet to be fixed but between 29 March 2017 (the date when Article 50 was triggered) and the date when we formally leave the EU (Brexit). Whilst the proposals are subject to change, we set out below the headlines.

EU citizens arriving in the UK post-Brexit will be subject to whatever new rules the government imposes under our domestic legislation.

EU citizens residing in the UK pre-Brexit

There are a number of proposals:

- They will be required to obtain immigration status under UK law by applying for a residence document.
- Their right to remain in the UK after Brexit will be determined by reference to their years of continuous residence in the UK at the cut-off date. This is so even if they have already been granted permanent residence because that permission was granted under EU law which will not be valid after Brexit.
- EU citizens who have lived in the UK for five years or more before the cut-off date will be able to apply for settled status under UK law. This gives them the right to stay in the UK indefinitely.

- EU citizens who arrive in the UK before the cut-off date but have not lived in the UK for more than 5 years by Brexit will be allowed to remain but will need to apply for temporary permission to stay after Brexit. When they have reached 5 years they can apply for settled status.
- EU citizens who arrive in the UK after the cut-off date but before Brexit will be allowed to remain in the UK for a 'grace period' which starts at Brexit and is currently expected to last for up to two years. If they wish to remain longer they will have to apply under the domestic UK immigration rules in force at that time. The government has stated that anyone arriving after the cut-off date should have no expectation of guaranteed settled status.
- EU citizens and family members with settled status will lose their status if they leave the UK for more than two years. If they wish to return to the UK they will then be subject to the UK's domestic immigration rules.

The above arrangements will not apply to Irish citizens. Their existing rights will be preserved after Brexit.

How will family members be treated?

Family members who join a qualifying EU citizen in the UK before the cut-off date will be able to apply for settled status after 5 years in the UK, irrespective of the cut-off date. After Brexit the rights of family members who wish to join an EU citizen in the UK will depend on their nationality. They will be caught by the post-Brexit immigration arrangements agreed between the UK and the EU if they are EU nationals, or by the rules that apply to non-EU national family members.

If both the EU citizen and their family member arrive in the UK after the cut-off date, their rights will be subject to the post-Brexit immigration arrangements determined by the UK government.

Getting ready for the future



If you want to know more, come along to one of our events, hosted by our sector experts.

- Ensure your business remains agile to respond to market conditions in the real estate and construction markets, with our expert panel discussions
- GDPR – for schools has huge implications particular as a significant amount of their data is for children, our conferences will ensure anyone responsible for data in schools knows what they need to do

To book visit www.hcrlaw.com/events



If you would like to be kept informed of Immigration developments please contact Claire
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The rights of students

EU citizens who are studying in the UK will be able to continue their studies. EU citizens who are starting courses in the 2017/18 and 2018/19 academic years will continue to be eligible for student support and 'home' fee status for the duration of their course. This will allow students to complete their studies in the UK.

What rights will go with the new status?

EU nationals who have settled status will have the same entitlement to public funds as British citizens. This is essentially the same as for an individual who has been granted indefinite leave to remain in the UK under the immigration rules.

However, EU nationals who have temporary status in the UK will have similar entitlements to EU nationals who are currently lawfully present in the UK but have not acquired permanent residence.

Application form and fees for settled status and temporary status

The government has not mentioned the likely fees for applying for settled status and temporary status. The fairness of requiring EU nationals to pay for settled and temporary status is questionable. We await more detail from the government.

What should EU citizens do?

We recommend that EU nationals who have resided in the UK for 5 years apply for permanent residence now and, after completing 6 years of residence, go on to apply for British citizenship. Once an EU national has been naturalised as a British Citizen they are not subject to the government's future proposals and will avoid any post-Brexit rule changes or fee hikes and their right to remain in the UK is protected.

Issues for employers

Employers relying on EU citizens to fill job roles may find that the current uncertainty deters those citizens from coming to the UK. The mechanism for applying for settled status is not in place yet and the cost and process is yet to be confirmed.

Immigration applications are complex and document-heavy. The government's stated aim is to make the application process streamlined and user-friendly. Until details of the process and the evidential requirements are published, EU citizens should be diligent about their retention of financial, travel and residence documents in particular from the date of arrival in the UK until the date of application, as these will need to be produced.

It is estimated that the Home Office will need to process more than 3 million applications for settled status. EU citizens should make those applications as soon as possible to get into the queue well before the end of the grace period.

Want to find out more?

Call us on 0845 900 7830

Email campaigns@hcrlaw.com

We'd love to have a chat.

Quote on front page:

HCRC survey conducted August 2017

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