

Workforce recruitment and labour supply from 2021



This guide has been produced by the Association of Labour Providers in partnership with the UK Home Office.

THE ASSOCIATION OF LABOUR PROVIDERS (ALP)

The Association of Labour Providers (ALP) is the specialist trade association for labour providers that supply the workforce for the consumer goods supply chain. This includes the food processing, horticultural and wider manufacturing, industrial, warehousing and distribution sectors.

The ALP promotes responsible recruitment and works to ensure that the provision and management of agency and seasonal labour in these sectors is recognised as a model of good practice.

ALP members range from small local labour providers to the largest multi-sector suppliers. All companies in the UK labour supply chain are welcomed as Associate Members.

UK HOME OFFICE

The first duty of the government is to keep citizens safe and the country secure. The Home Office has been at the front line of this endeavour since 1782. As such, the Home Office plays a fundamental role in the security and economic prosperity of the United Kingdom.

The Home Office is the lead government department for immigration and passports, drugs policy, crime, fire, counterterrorism and police. They are supported by a number of operational commands including:

- Border Force
- HM Passport Office
- Immigration Enforcement
- UK Visas and Immigration

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PURPOSE

The UK left the EU on 31st January 2020 and entered a transition period which came to an end on 31st December 2020.

From 1st January 2021 EU citizens* and their family members no longer have the automatic right to work in the UK and there is a new points-based immigration system that is equally applied to all migrant workers, irrespective of where they come from. The points-based system opened for applications on 1st December 2020.

As a transition measure, employers must continue to accept the passports and national identity cards of EU citizens as evidence of their right to work up until 30th June 2021. Eligible EU citizens and their family members have until this date to apply to the EU Settlement Scheme and so employers must not insist on seeing proof of UK immigration status before 1 July 2021.

This document provides specific, practical guidance for all recruiters, HR professionals and employers on actions that must and should be taken in respect of their existing workforce and future recruits in response to Brexit.

It supports labour providers and employers to:

- Consider what actions to take to help secure continuity of labour supply
- Correctly signpost current EU workers to what action they need to take to safeguard their rights, and the rights of their families, to remain living and working in the UK
- Understand the new immigration system including:
 - Routes to employment in the UK
 - How to become a sponsor
- Understand what action to take to remain compliant with right to work legislation, both in respect of existing workers and new applicants

This document has been written according to the information available on 19 February 2021 and is produced for information only. It is not exhaustive, nor a substitute for legal advice. ALP and its advisors exclude liability, or any claim or loss alleged to have arisen from or in connection with the use of the information included within.

Use the links in the side bar to navigate between sections.

Please [contact the ALP](#) if you have any questions about the contents of this guide.

Go to [GOV.UK](#) for personalised guidance on what Brexit means for your business.

**For the purpose of this guide, EU, EEA and Swiss citizens are referred to as 'EU citizens'.*

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- Optimising your existing workforce
- Working with your labour provider – due diligence to ensure good practice
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UK WORKFORCE FROM 2021

The new immigration system will not include a general route for lower skilled workers.

Recruiters and employers formerly reliant on free movement of EU workers will need to develop new strategies to source, recruit and retain workers from 2021. The available recruitment populations in 2021 are represented in the UK Labour Recruitment Pool wheel below.

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THE 2021 LABOUR RECRUITMENT POOL

The list below makes up the potential UK labour pool from 2021.

Local labour pool

Local labour pool – your local resident workforce, including migrant workers with the right to work in the UK. This document gives advice on optimising your current workforce as well as finding new sources of workers.

People with EUSS status

People with EUSS status – EU, EEA and Swiss citizens, and their family members, have the right to work in the UK if they have been granted settled or pre-settled status under the EU Settlement Scheme (EUSS), or they were lawfully resident in the UK by 31st December 2020. At the time of writing there have been over 5 million applications to the EU Settlement Scheme. These workers all have the right to live and work in the UK. Many workers with status under the EUSS have returned to their home countries as a result of the coronavirus pandemic. These workers continue to have the right to live and work in the UK as long as their status remains valid.

Skilled Worker route

Skilled Worker route – one of the routes in the UK's new points-based system, this route replaces the old Tier 2 system and applies to skilled workers who have a job offer from an approved employer sponsor. It includes [Health and Care Worker visas](#) which allow medical professionals to come to or stay in the UK to do an eligible job with the NHS, an NHS supplier or in adult social care. The Skilled Worker route is not available to labour providers who wish to recruit skilled workers to supply on a temporary basis to labour users.

Family members of migrants

Family members – dependants of many migrants coming to the UK under the new [points-based immigration system](#) can take up employment in the UK. Foreign spouses of British citizens, with leave to remain can take up employment in the UK.

Students

Students – UK students and those with status under the EUSS are able to undertake work alongside their studies. International students with a valid Student visa on an eligible full time course sponsored by a licensed higher education provider are able to work restricted hours during term time and unrestricted hours during holidays.

Graduate 2 year visa

Graduates – this new route will launch in summer 2021 and allow all those granted leave under the route to work, or look for work, at any skill level for two years after successfully completing their studies. PhD graduates will be given 3 years.

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Seasonal Workers Scheme - a pilot scheme for those wanting to come and work on UK farms in the edible horticulture sector, for a period of up to six months. The pilot has been extended into 2021, with up to 30,000 visas available.



Frontier workers - Qualifying frontier workers have the right to come to the UK to work in any type of job, including self-employment, as long as they are not primarily resident in the UK provided that they worked in the UK prior to 31 December 2020 and their employment is continuous. From 1st July 2021, Frontier workers will require a permit..



Youth Mobility Scheme - currently for around 20,000 young people who want to live and work in the UK for up to 2 years. They need to be aged 18 to 30, have £1,890 in savings, have certain types of British Nationality or be from certain countries and meet the other eligibility requirements.



Refugees - are permitted to work without any restrictions and can apply for permanent residence after 5 years.



Asylum seekers - An asylum seeker is a person who claims to be a refugee but whose claim has not yet been evaluated. Asylum seekers are not normally allowed to work, but they can apply for permission to work if they have not received an initial decision within 12 months.



UK Ancestry route allows Commonwealth citizens with a UK-born grandparent to come and live and work in the UK. The migrant will be able to come to the UK for five years and do any kind of work (including self-employment), at any skill level. Holders can apply to settle permanently in the UK after five years' continuous residence.



British Nationals Overseas (BNO) - British nationals (overseas) from Hong Kong, and their family members can apply for a British National (Overseas) visa. This is known as a BNO visa and allows holders to live, work and study in the UK.

The Intra-Company Transfer route enables businesses to transfer a worker from a part of their business overseas to work for them in the UK. Applicants will need to be existing workers who will undertake roles that meet the skills and salary thresholds.

There are also more specialised visa routes for people like innovators, investors, sportspeople, Ministers of Religion and domestic workers. Find a full list of all visa routes for working in the UK [here](#).

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OPTIMISING YOUR EXISTING WORKFORCE

Optimising your existing workforce saves time and resources on unnecessary recruitment and improves skills and retention by making better use of the people you already have.

Use the questions below to help you to determine how to better utilise your existing workforce.

1.	For labour providers - is your available worker database clean? Labour providers often have out of date databases comprising lists of workers who are no longer available, or databases much larger than needed meaning that workers are under-utilised. A large database of available workers is not efficient unless you are utilising those workers effectively and regularly removing those that have become unavailable.
2.	Are you getting honest worker feedback? Your existing workers are your best source of information on how you can improve as an employer. Do workers trust that they can bring issues to you in confidence and be listened to? Do you act, and are you seen to act on workers ideas and concerns? See ALP's Communication and Engagement for Agency Workers to find out how to improve.
3.	Are labour planning processes optimised across the whole business? Planning labour across the whole business leads to more efficient utilisation of workers. If you leave your labour planning up to individual managers, you run the risk of under-utilising workers in one area of the business, whilst being short of labour in another. See our later pages on labour planning for guidance.
4.	Are current workers getting the amount of work they want? Make sure you know what each worker wants and try your best to meet their requirements. The ONS Labour Force Survey estimates that 8.7% of UK workers are underemployed – not getting as much work as they want. Conversely 10.1% of workers are estimated to be overemployed – working more hours than they want.

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5.	Are assignments and overtime allocated fairly?
	Ensure fair allocation of work, holidays or other benefits. Where individual staff members allocate workers without a fair process, it is possible for either conscious or unconscious bias to influence which workers are given more work, or prime assignments. This can lead to poor utilisation of workers and increased turnover as workers leave for fairer opportunities.
6.	How can workforce attendance be improved?
	Improve attendance, and you will reduce the need for cover. Every absence costs money. If you don't need to cover a workers' absence, then you didn't need that worker in the first place. See ALP's Absence Management Resources for a Template Absence Management Policy and Procedure and supporting documents.
7.	Does your workforce have flexible skills?
	Do your training and development processes ensure that you have a pipeline of workers with the appropriate skills to cover short term needs across departments? There is no reason why appropriate training and development opportunities cannot be extended to agency workers, particularly where they are on medium or long term assignments.
6.	Do you have a good level of worker retention?
	Do you measure retention and ensure that you engage with workers so that they want to continue to work with you? It costs money to recruit workers and it makes sense to keep them as long as possible – find out more in our later page on retention.

Find further support through the ALP webpages on [Access to Labour](#) and [Open to Opportunity](#).



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WORKING WITH YOUR LABOUR PROVIDER – DUE DILIGENCE TO ENSURE GOOD PRACTICE

Using a labour provider should provide a valuable resource for your business. The flexibility of temporary agency work allows labour user businesses to cover for sickness, holiday and other shortages and react quickly to additional labour requirements, production variations and seasonal fluctuations. Agency workers also provide a valuable source of experienced permanent employees.

However, the ALP Fair's Fair toolkit [How Unfair Procurement Practice is Driving Agency Labour Exploitation](#) details the many and varied practices applied by unscrupulous labour providers to illegally undercut compliant operators. HMRC warns in its [Supply chain due diligence principles](#) that:

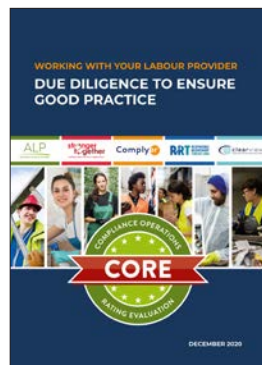
'Failing to take reasonable action to make sure that your supply of labour is legitimate can lead to significant legal, financial and reputational risks to your business. It could even stop your business from operating entirely.'

You may be liable for unpaid taxes and National Insurance contributions. You may be unable to recover VAT payments and you could be criminally prosecuted with an unlimited fine if someone acting on your behalf facilitates tax evasion.

Proper checks are also important for protecting workers and preventing modern slavery.'

Labour users should agree and monitor standards with their labour provider that meet good practice and statutory requirements under all tax, health & safety and employment laws including the [Conduct Regulations](#), [Gangmasters Licensing Act](#), [Modern Slavery Act](#) and [Agency Workers Regulations](#).

The Compliance Operations Rating Evaluation 'CORE Score' checklist, provides labour users with an accessible tool to monitor all the elements of a compliant and successful labour provider service, explaining the standards required and linking to further guidance and support.



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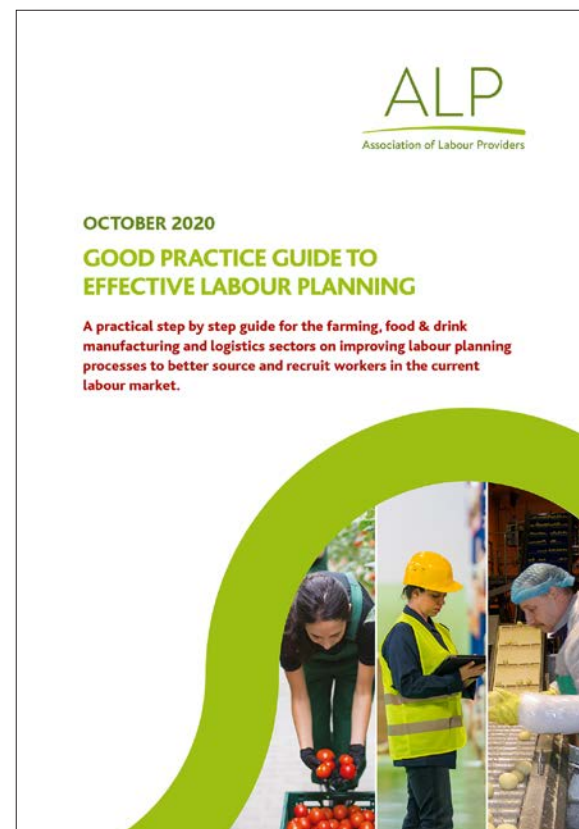
EFFECTIVE WORKFORCE FORECASTING AND PLANNING

Labour users with effective labour forecasting and planning processes will give labour providers the best chance of ensuring that the right numbers of workers with the right skills are recruited at the right time to meet their labour requirements.

Improving your labour planning process and having an accurate and up to date labour plan will help labour users to:

- Achieve the numbers and quality of workers required
- Improve efficiency and reduce the time and cost spent on wasted recruitment activity
- Minimise risks in the recruitment supply chain (recruiting in a hurry leads to an increase in risk)
- Increase the efficient utilisation of workers, controlling and reducing overtime and downtime
- Improve retention as workers get better, more timely information and more hours

To make the most efficient use of labour, information from across the whole business must be collated together in one place, at a level senior enough to make decisions for all. Find more guidance in the [ALP's Good Practice Guide to Effective Labour Planning](#)

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MAXIMISE YOUR POTENTIAL LABOUR POOL

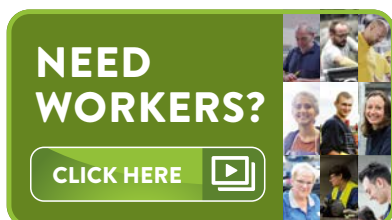
Attracting as many of the right workers as possible to apply for your vacancies gives you a wider choice of applicants making it more likely that you will find the quality and quantity of workers you need.

Finding the right workers starts with looking closely at why someone would come to work for you. Are you seen as an employer of choice and would your current workforce recommend you?

Although unemployment is expected to rise sharply in 2021, the impact of the end of Free Movement on the food industry, where up to 90% of the contingent workforce is from the EU will necessitate significant change. Recruiters will need to find new sources of workers which may mean adapting and/or updating processes and investing in the training and development of their recruitment teams. Food businesses may use the ALP 'Working in the UK Food Industry' video as part of their attraction process.

As applicants are less likely to walk into a high street branch, recruiters need to be much more proactive and creative about where to find workers and how to use the different methods and technology available.

Check our top tips on the following page and find further support in [ALP's Good Practice Guide to Sourcing Workers](#).



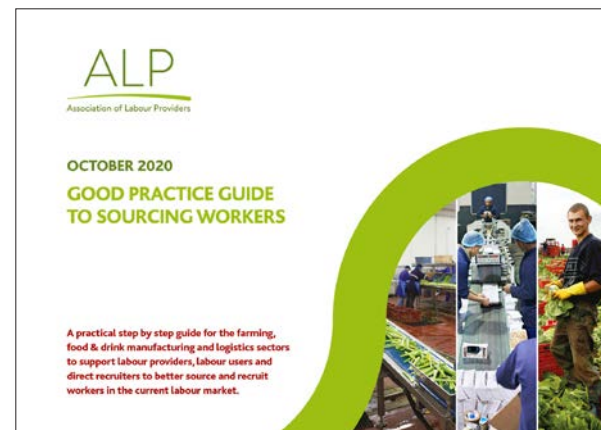
The '[Working in the UK Food Industry](#)' video is available for use by all food industry employers and labour providers to:

- Use in recruitment campaigns to promote work in the UK food industry
- Encourage people to consider the UK food industry for their next job
- Share what real food workers feel about working in the food industry.

The [Extra Workers Needed Portal](#) enables businesses that need extra workers to be contacted by GLAA licenced labour providers that can supply them.

Only ALP labour provider members can view and contact posting organisations.

Watch the demonstration video [here](#) and register on the site [here](#).



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TOP TIPS FOR MAXIMISING YOUR POTENTIAL LABOUR POOL

Become an employer of choice	Perhaps the most important element of worker attraction is making sure you provide a great place to work. Talk to your workers and find out why people like working for you. Ask them what you can do to improve their experience and act on the information. Define your brand values and make sure you live them; use them in advertising and marketing and make sure people know why they should come to work for you.
Check how easy it is to find and apply for your jobs	<p>Check that your advertising is reaching the populations you are targeting.</p> <p>Put yourself in the shoes of a jobseeker and try to find appropriate work opportunities through the channels that your workers use. Search job boards using only location rather than your company name to see how easy it really is for jobseekers to find the opportunities you have available.</p> <p>Don't forget local press, community centres and shop fronts and check out more ideas in the Good Practice Guide referenced above.</p> <p>Make sure you work with your local Jobcentre and that all your vacancies are advertised on the government's 'Find a Job' service.</p> <p>Engage with the many social media groups devoted to job hunting and make sure you feature up to date job adverts on your website.</p>
Work with your existing workforce	<p>Don't ignore your existing workforce as a source of applicants – make sure they know when you are recruiting and actively ask them to recommend your business to their networks.</p> <p>If you are a great place to work, then your existing workforce will already be engaged and advocating your business to friends and family.</p>
Work with your supply chain	<p>Labour providers and labour users should work together to promote temporary opportunities on the labour users' website and social media channels as well as those of the labour provider.</p> <p>Make sure that there is a process to respond swiftly and professionally to applicants who make speculative visits, calls or emails to the site.</p>
Work with your community	Do you have strong relationships within your community? Local faith organisations, charities, schools and universities can help you to promote your business and the opportunities you have available.
Engage with Government schemes	The governments ' A Plan for Jobs ' introduced a number of new initiatives designed to get people back to work such as the Kickstart Scheme for young people, and expanded upon many existing schemes such as apprenticeships, traineeships and sector based work academies. Speak to your local Jobcentre in the first instance about what support may be available for your business.

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Provide innovative transport solutions	<p>Making it easier to get to work can open up recruitment into new geographical areas. Many businesses are poorly served by public transport, particularly for early, later and weekend shifts and the risks of coronavirus infection mean people are more reluctant to travel on public transport.</p> <p>There are businesses offering innovative and cost-effective approaches to transporting workers safely and efficiently, including car-sharing, smart bus services and integrated software platforms. More details can be found in ALP Support Services and in ALP member webinars.</p>
Examine accommodation options	<p>The provision of quality accommodation is a key attraction in many agricultural environments. If you provide accommodation, make sure that it is not only safe and compliant with regulations, but that it is somewhere where people can be comfortable to live for several months. Good accommodation will make people return. Find out more in ALP's Accommodation resources.</p>
Remove unfair and unnecessary barriers to work	<p>There are more than 8.6 million people aged 16 to 64 who are not in the labour force, referred to as economically inactive. Most of these people are students, those with long term illnesses or disabilities, early retirees and people looking after their family or home.</p> <p>Many of the economically inactive have barriers to employment which prevent them from working. Barriers could be anything from lack of training and experience, to restrictions on the number of hours they are able to work, or the type of work they can do.</p> <p>Open recruitment involves removing unfair and unnecessary barriers to job applicants – opening up opportunity to all people from all kinds of backgrounds to contribute to your organisation. There is an indisputable moral case for adopting an open recruitment policy – everyone should have a right to equal access to employment, training and development based on merit – but the business benefits of adopting this approach go much further than that:</p> <ul style="list-style-type: none"> ■ Open recruitment can help to resolve skills and labour shortages by widening your potential candidate pool ■ Businesses employing a wide range of people have access to more voices, ideas, viewpoints and experiences, reflecting the communities they trade in and with ■ Two thirds of employers say becoming more inclusive has boosted skill levels across the workforce and almost 60% said it had improved employee engagement and satisfaction <p>Find out more about Open Recruitment with the ALP's Open to Opportunity programme.</p>

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Access statistical data

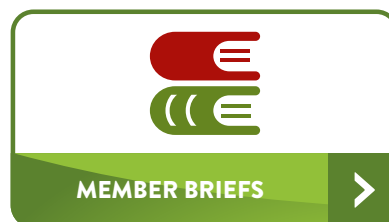
Nomis is an online service provided by the Office for National Statistics (ONS) which provides statistical data about your locality and compares it against the national average. It's completely free of charge and can help you to find populations of local people looking for work, to inform your sourcing strategy.

Food, drink and tobacco process occupations	Industrial cleaning process occupations	UK Average
Weekly Pay £430 Hours/Week 43h Hourly Pay £10	Weekly Pay £390 Hours/Week 42h Hourly Pay £9	Weekly Pay £505 Hours/Week 37.5h Hourly Pay £13
Workforce Change (projected) Continuation -7.5% Replacement 24.8%	Workforce Change (projected) Continuation 0.1% Replacement 26.8%	Workforce Change (projected) Growth 0% Replacement 39.5%
The workforce is projected to contract by -7.5% over the period to 2024 creating 1,874,000 jobs. In the same period 34.1% of the workforce is projected to leave creating 8,882 job openings.	The workforce is projected to grow by 0.1% over the period to 2024 creating 8,000 jobs. In the same period 22.5% of the workforce is projected to leave creating 6,000 job openings.	The workforce is projected to grow by 0% over the period to 2024 creating 1,874,000 jobs. In the same period 39.5% of the workforce is projected to leave creating 10,144,000 job openings.
You might find this job in: Food products Wholesale trade Food & beverage services Retail trade Beverages & tobacco	You might find this job in: Food products Services to buildings Wholesale trade Retail trade Land transport, etc.	
More info Clear card	More info Clear card	More info Clear card

LMI for All is a careers labour market information (LMI) database that is provided by the Department for Education and can be accessed free of charge on the [ALP website](#).

The user can input job types and see data compared with the UK average. Recruiters can use this benchmark data to ensure their recruitment is locally competitive and understand the size of the local workforce. This can be seen in the example shown.

Find further support through the [ALP Help Centre](#), including our pages on Access to Labour and Open to Opportunity as well as our range of Member briefs, videos and webinars



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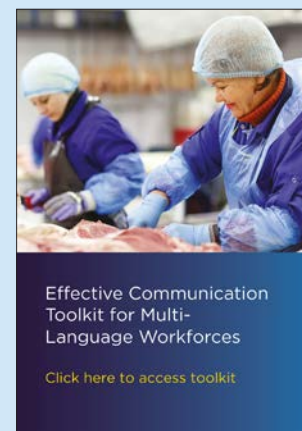
EFFECTIVE RECRUITMENT

The recruitment process converts your applicants into workers. It can include booking appointments, the application process, interviews, onboarding and induction and lasts until the worker has passed their probationary period. Is your recruitment process as good as it could be?

Think about your applicant and how you can make the process swift, simple and engaging. Getting recruitment right gives you a better chance of making the right decisions on who to appoint, improving worker engagement and reducing turnover.

Check our top tips below, and find further support in [ALP's Good Practice Guide to Sourcing Workers](#)

Treat applicants with respect	Applying for work can be daunting and what is a daily process for your staff can be very intimidating to the applicant. Be welcoming and professional, return phone calls, stick to appointment times and make sure applicants have privacy during their interview.
Make the application process as streamlined and relevant as possible	<p>How much time does your application process take? Review every part of the process to determine whether it's relevant to the vacancy and adds value.</p> <p>Do you need to know all the information on the application form? How many documents need to be read and signed and can they be consolidated and refined? Are any tests relevant and are the required scores appropriate to the job content?</p> <p>If you haven't already done so, think about how much of the application process can be moved online and undertaken away from your premises where your applicant will have more time and feel more comfortable.</p>
Consider literacy and language	<p>Are your documents reviewed to make sure they are written in plain language wherever possible? What support do you give to people with reading difficulties, or those for whom English is not their first language? Do you make important documents available in the workers first language?</p> <p>Find out more from the Effective Communication Toolkit for Multi-Language Workforces.</p>



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Comply with the Equality Act	Ensure that your pre-employment health questionnaires ask only relevant information and are completed at an appropriate point in the process. See ALP Brief The Equality Act and Pre-employment Health Related Checks for more guidance, including a template pre-employment questionnaire.
Provide accurate information	Review your contracts and onboarding process to ensure they reflect the reality of work in your business. Recruitment resource is wasted if the new worker leaves early because the job was not as they expected.
Promote download of Just Good Work	Just Good Work is a free app which helps all jobseekers and workers understand their employment rights, recognise poor treatment at work and access remedy. This demonstrates your commitment to responsible recruitment to your workers by providing convenient and consistent up to date information in several languages. There's even video for those who prefer to watch rather than read. Encouraging download of the app at interview or induction provides a straightforward modern slavery check by evidencing that workers have access to, and control of their own mobile phone.
Pay for induction and training time	Health and safety training must take place during working time. This means that workers must be paid for their time whilst attending such training. Some organisations seek to avoid paying workers by building training into the worker selection process. If workers are not paid, then this could be withholding of wages and a breach of National Minimum Wage legislation.
Find out what can be improved	Speak with applicants and your existing workers to find out how the recruitment process can be improved. Ask open ended questions designed to elicit honest answers e.g., 'What three things would make our recruitment process better?'. Act and be seen to act on the answers.
Measure and improve	There are several ways you can measure the success of your recruitment processes. How many of your applicants arrive for interview? How many of your interviews become workers? How much time does it take from interview to starting work? How many new starters leave in the first week? Build key performance indicators (KPIs) and use them to measure your success and set targets for improvement.

Find further support through the [ALP Help Centre](#), including our pages on Access to Labour and Just Good Work



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TAKING ACTION TO IMPROVE WORKER RETENTION

Reducing the number of workers who leave, reduces the need to recruit replacements and keeps valuable skills and experience within your business.

The actual cost of leavers varies from company to company but will include the time and money spent on administration, recruitment, selection, onboarding and training of replacements, covering the position whilst there is a vacancy, and reduction in productivity whilst the new worker gets up to speed.

High turnover also has an impact on your existing workers who may have to work harder to cover leavers and new starters during their training.

Defining the cost of turnover for your business allows you to understand just how much money could be saved by implementing positive processes to improve retention such as those already discussed in this document and those that can be found in our [Good Practice Guide to Retaining Workers](#).

Improved worker retention means saving time and money by backfilling less often and delivers benefits from the increase in productivity and therefore profits associated with a more engaged workforce.

Engaging your workforce turns them into advocates for your business – word of mouth has always been a powerful recruitment and sales tool and never more so in today's era of social media where opinions can be read at the click of a button.

Find out more on how to engage your workers with [Communication and Engagement for Agency Workers](#), and explore the retention resources available on our [Access to Labour](#) page.



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SUMMARY CHECKLIST

1.	Understand your labour recruitment pool from 2021	
2.	Optimise your current workforce	
3.	Work collaboratively with your clients/labour providers	
4.	Review current labour requirements – how effective is your workforce planning strategy?	
5.	Maximise your potential labour pool	
6.	Develop your workforce recruitment and retention strategy and policy	
7.	Train recruiters and other relevant personnel	
8.	What needs to improve in your attraction, recruitment and retention processes? Ask your workers and feedback to them where appropriate	

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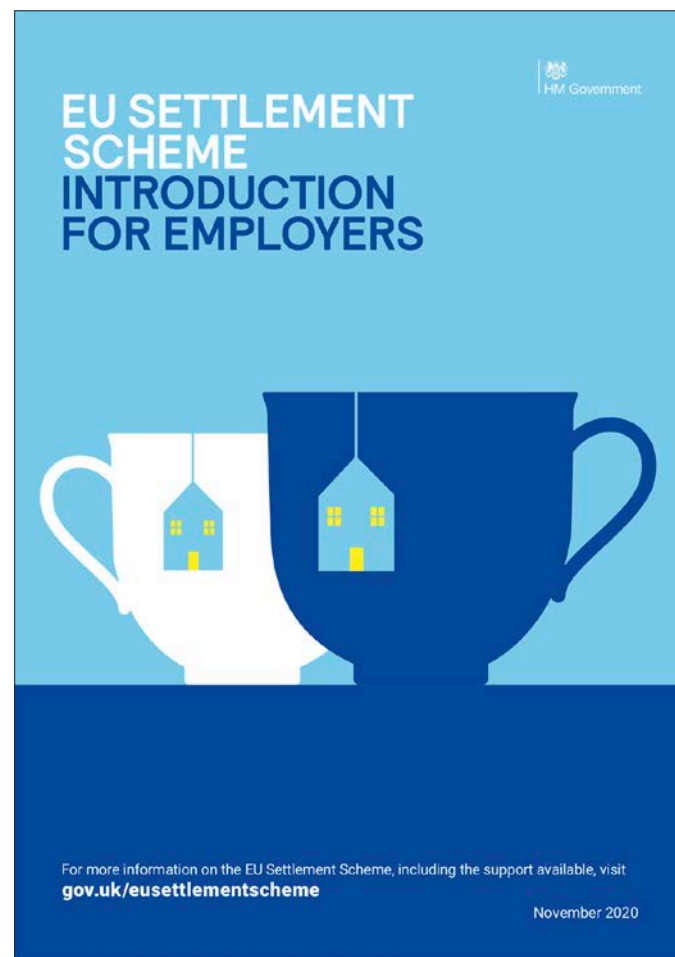
INTRODUCTION

Freedom of Movement with the EU came to an end at 11pm GMT on 31st December 2020. EU, EEA or Swiss citizens who were resident in the UK by 11pm GMT 31st December 2020 and their family members will need to obtain an immigration status in order to provide evidence of their right to work, study and apply for housing and benefits in the UK after 30th June 2021.

The deadline for applications to obtain this status is 30th June 2021, unless the family member is joining an EU, EEA or Swiss citizen in the UK on or after 1st April 2021 or unless certain other exceptions apply

Any EEA citizen, even those who had a right of permanent residence under EU law before free movement rules ended at 11pm GMT on 31st December 2020, who wishes to continue living in the UK after 30th June 2021, will either need to [apply to the EU Settlement Scheme](#) or, if they prefer and are eligible, [apply for British citizenship](#).

Access the updated [Employers Toolkit](#) to provide tools and support for EU citizens and their employers on the EU Settlement Scheme. You can also access the [EU Settlement Scheme translated information materials](#) in 26 languages and Welsh and Irish for EU citizens.

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WHO SHOULD APPLY?

Except in a few cases, people should apply if:

- they're an EU, EEA or Swiss citizen
- they're not an EU, EEA or Swiss citizen, but their family member is (or is an eligible person of Northern Ireland)

The EEA includes the EU countries and also Iceland, Liechtenstein and Norway.

EU, EEA and Swiss citizens need to apply even if they:

- were born in the UK but are not a British citizen
- have a UK 'permanent residence document'
- are a family member of an EU, EEA or Swiss citizen who does not need to apply - including if they're from Ireland
- are an EU, EEA or Swiss citizen with a British citizen family member

Applicants with children need to apply for them separately.

EU, EEA or Swiss citizens with a family member who is an eligible person of Northern Ireland, may be able to choose which way to apply.

Who does not need to apply?

Applications are not required from people with:

- indefinite leave to enter the UK
- Irish citizenship (including British and Irish 'dual citizenship')
- indefinite leave to remain in the UK
- EU, EEA or Swiss citizenship who moved to the UK before it joined the EU

You only need to apply if you do not have indefinite leave to remain. If you do have indefinite leave to remain, you'll usually have a stamp in your passport or a letter from the Home Office saying this.

Who else can apply?

People who are not an EU, EEA or Swiss citizen may be able to apply if:

- they used to have an EU, EEA or Swiss family member living in the UK (but are separated, they've died or the family relationship has broken down)
- they're the family member of a British citizen and lived outside the UK in an EEA country together
- they're the family member of a British citizen who also has EU, EEA or Swiss citizenship and who lived in the UK as an EU, EEA or Swiss citizen before getting British citizenship
- they have a family member who is an eligible person of Northern Ireland
- they're the primary carer of a British, EU, EEA or Swiss citizen
- they're the child of an EU, EEA or Swiss citizen who used to live and work in the UK, or the child's primary carer

Read guidance on how to apply if you're not an EU, EEA or Swiss citizen.

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SETTLED AND PRE-SETTLED STATUS

EU citizens and their family members who apply to the scheme and are successful will be awarded either settled or pre-settled status.

Settled status

Most EU citizens will get settled status if they:

- started living in the UK by 11pm GMT on 31st December 2020
- have lived in the UK for a continuous 5-year period (known as 'continuous residence')

Five years' continuous residence means that for 5 years in a row they have been in the UK, the Channel Islands or the Isle of Man for at least 6 months in any 12-month period. The exceptions are:

- one period of up to 12 months for an important reason (for example, childbirth, serious illness, study, vocational training or an overseas work posting)
- compulsory military service of any length
- time spent abroad as a Crown servant, or as the family member of a Crown servant
- time spent abroad in the armed forces, or as the family member of someone in the armed forces

EU citizens can stay in the UK as long as they like if they get settled status. They will also be able to apply for [British citizenship](#) if they are eligible.

Pre-settled status

EU citizens who do not have 5 years' continuous residence when they apply, will usually get pre-settled status and will then have the right to live and work in the UK for a further 5 years.

They can then apply to change this to settled status once they have 5 years' continuous residence.

For both settled and pre-settled status, EU citizens only needed to be in the UK before 11pm GMT on 31st December 2020 in order to apply to the scheme. Applications may be made [from outside the UK](#).

Workers who are not resident in the UK at the time of application, will usually be required to evidence that they have been resident in the UK in the last 6 months before application, and prior to 11pm GMT on 31 December 2020.

Losing EU Settlement Scheme status

There are a number of situations where status can be lost or cancelled:

- Time outside the UK exceeds the allowable amount (see table below)
- Status has been gained through deception
- EU citizen is convicted of a serious criminal offence
- It is deemed conducive for the public good due to the EU citizen's post-exit conduct

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STATUS CONFERRED BY THE EU SETTLEMENT SCHEME

Under the EU Settlement scheme, EU EEA and Swiss citizens are able to:

- work in the UK
- use the NHS
- enrol in education or continue studying
- access public funds such as benefits and pensions if they are eligible for them
- travel in and out of the UK

Time spent outside of the UK

EU, EEA and Swiss citizens will be able to spend time outside of the UK without losing their status as follows:

Status	Time outside the UK without losing status
Settled status	Up to 5 years in a row
Settled status – Swiss citizens	Up to 4 years in a row
Pre-settled status	Up to *2 years in a row

*Workers with pre-settled status spending years outside the UK may find that this impacts their ability to accrue 5 years continuous residence in the UK and therefore makes them ineligible to apply for settled status.

Children's rights

EU, EEA and Swiss citizens children will have the following rights under the EUSS:

- Any children born in the UK to a parent with settled status will automatically be British citizens
- Any children born in the UK to a parent with pre-settled status will be automatically eligible for pre-settled status. They will only be a British citizen if they qualify for it through their other parent



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Close family members

EU citizens have the right to bring close family members to the UK after 31 December 2020 if both of the following apply:

- The relationship with them began before 31 December 2020
- They are still in the relationship when they apply to join them

Swiss citizens have the right to bring their spouse or and civil partner to join them in the UK before 31 December 2025 if their relationship began between 31 December 2020 and 31 December 2025 and they are still in the relationship when they apply to join.

If they cannot bring their family member under the EU Settlement Scheme, they may still be able to come here in a different way, for example on a family visa.

To qualify as a 'close' family member they must be the EEA citizen's spouse, civil partner or durable partner, or related to them (or to their spouse or civil partner) as their:

- child or grandchild under 21 years old, or dependent child or grandchild of any age
- dependent parent or grandparent

Family members who are adopted under an adoption order that is recognised in UK law are regarded the same as natural family.

Other family members may still be eligible in specific circumstances. Full details can be found on the [EU Settlement Scheme application page](#).

EUSS or EEA family permits

The family members of EU, EEA or Swiss citizens or an eligible person of Northern Ireland may be able to get a [family permit](#) to come to the UK. The family of some British citizens can also get a permit.

Family permit holders may come to the UK and whilst the permit is valid, may work, study and come and go as many times as they please. Applications must be made from outside the UK.

There are two different types of permits:

- [The EU Settlement Scheme family permit](#)
- [The EEA family permit](#)

The EEA family permit is ending. After 30 June 2021 they will no longer be valid and no new applications will be accepted.

An EUSS family permit is valid for six months, unless:

- the family member plans to arrive in the UK on or after 1 April 2021
- the application is approved more than three months ahead of the planned arrival date

In this case, it's valid for four months from the planned arrival date.

Staying in the UK after the family permit expires

Eligible close family members who come to the UK on or after 1 January 2021 can [apply to the EU Settlement Scheme](#) by 30 June 2021 or within three months of their arrival, whichever is later. Eligible family members living in the UK by 31 December 2020 can [apply to the EU Settlement Scheme](#) by 30 June 2021

Other family members who come to the UK on or after 1 January 2021, will usually need to [apply for a visa](#) to live, work or study.

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THE APPLICATION PROCESS

Applicants need to complete a short online application form using a computer, tablet or mobile phone. It is free to apply to the EU Settlement Scheme. For applicants unable to apply for the EU Settlement Scheme online, assistance is available through the [EU Settlement Resolution Centre](#).

Applications are saved automatically, which means that applications can be started and then completed at another time.

Application guidance including [video](#), can be found on [GOV.UK](#)



There are three ways to make an application:

1. Using the [ID document check app](#)
2. Send documents in the post to the Home Office - [start the application process online](#) including uploading a digital photograph. Guidance will be provided via the online application of where to send passports, ID cards and any required documents
3. [Visit an ID Scanning Location](#)

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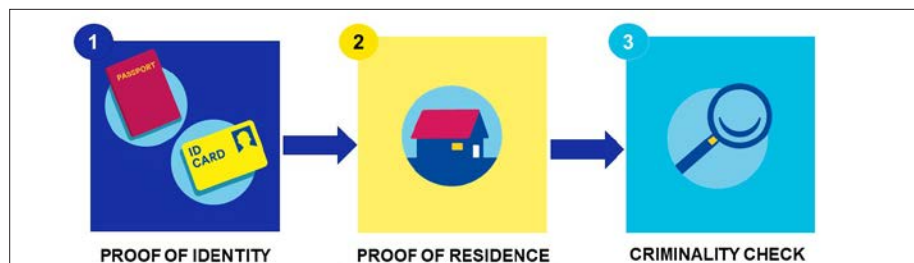
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The most popular application method is via the app. The app is in English, but there are [translated information leaflets and videos](#) available to help EU citizens and their family members through the process:

“We are digital” (see [Assisted Digital Service](#) for more information) have produced a comprehensive [EU Settlement Scheme Application Handbook](#), which provides detailed information and screenshots on the ID document check app and the postal application process.

Applicants will be taken through a three-step process:



If HMRC records do not provide accurate evidence of the period of residence, EU citizens and their family members will need to provide other evidence to support their application. There is comprehensive guidance available on [the range of documents accepted to prove UK residence](#).

All sorts of documents from payslips and bank statements to domestic bills can be used. The list is not exhaustive, anything can be used that proves residence. In addition, [the EU Settlement Scheme Resolution Centre](#) can provide support and guidance.

Applications can be made from outside the UK. If EU citizens and their family members have returned to their home country, they can still apply to the scheme using the app. Please see [GOV.UK](#) for more guidance.

Approval

Subject to the application checks, applicants will be granted settled or pre-settled status depending on how long they have lived in the UK. They will receive a digital proof of their status through an online service. In most cases their new immigration status will be granted within a couple of weeks. They can track the progress online or by contacting the [EU Settlement Scheme Resolution Centre](#) using an online contact form or by phone:

Inside the UK: 0300 123 7379 Outside the UK: +44 203 080 0010

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EU WORKERS WHO HAVE NOT APPLIED TO THE EU SETTLEMENT SCHEME

For your EU workers, the consequence of not applying to the EU Settlement Scheme, means that with effect from 30th June 2021 they will be working in the UK unlawfully and liable to enforcement action including detention and removal from the UK.

Responsible employers will not employ workers who cannot evidence their legal right to work in the UK. Those seeking employment without a suitable immigration status could attempt to access fake ID from criminal gangs, work for friends, family or in the informal economy or risk exploitation by working for employers who are prepared to use undocumented workers.

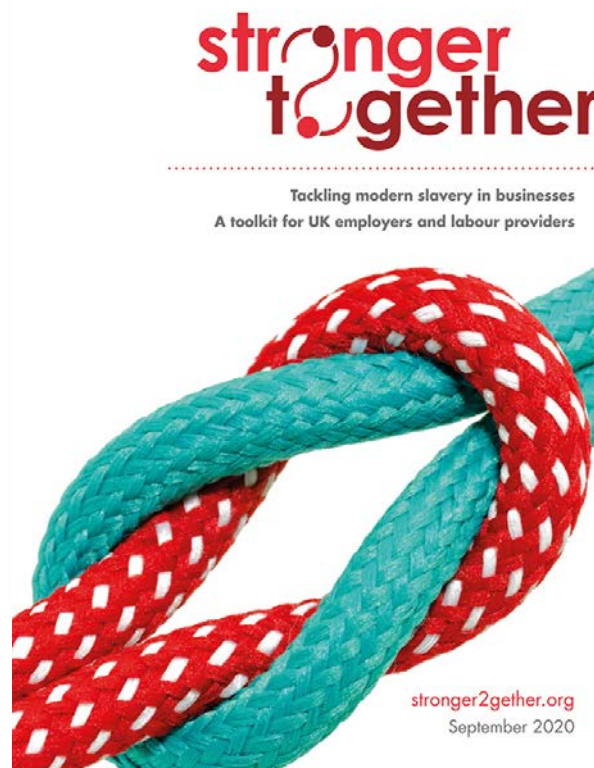
Such workers may feel that to avoid detection, they or their families should not travel abroad, use the NHS or other services, enrol in education or training or claim benefits. This could lead to health issues, poverty and the risk of exploitation, as well as potentially putting workers under enormous personal strain.

Materials are available on [GOV.UK](https://www.gov.uk) should you wish to assist your workers with understanding and accessing the EU Settlement Scheme.

The Home Office will consider late applications from those with reasonable grounds for missing the deadline. Staff are committed to ensuring the most vulnerable are not put at risk.

Charities and voluntary organisations across the UK are being funded to provide help and information to vulnerable EU citizens and their families applying to the EU Settlement Scheme. Practical support is available for a range of needs including disabled people, those with severe mental health conditions, victims of human trafficking or domestic abuse, those without a permanent address and those who are elderly or isolated. The [EU Settlement Scheme list of organisations providing community support for vulnerable citizens](#) provides contact details.

Learn more about the risks of worker exploitation and how to handle them at the ALP's sister organisation [Stronger Together](#).



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SUPPORT AND ASSISTANCE

Assisted Digital Service

The following help is available:

- telephone support from a skilled adviser to complete the application form online
- face to face support at a centre to access and complete the online form – contact We are Digital to book an appointment
- face to face support at home to complete the form – a ‘We Are Digital’ tutor will visit EU citizens in their home to provide help to complete the online application form
- online via [GOV.UK's](https://www.gov.uk/get-help) ‘Get help’ page

We are Digital contact details:

Phone: 03333 445 675 Text message: text the word “VISA” to 07537 416 944

Find further support through the [ALP Help Centre](#), including our page on Immigration and Right to Work and through the employer toolkit available on [GOV.UK](#).



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SUMMARY CHECKLIST:

The deadline for most applications to the EU Settlement Scheme is 30th June 2021. Understand the impact the end of free movement will have on your existing and future workforce. We suggest you:

1.	Communicate with all your EU workforce and encourage and support them to apply under the EU Settlement Scheme to secure their right to remain. Download a range of tools to help with this from the Employer Toolkit	
2.	Communicate with your EU workers who have returned home in the last six months and may still have the right to apply	
3.	Talk with EU staff regarding any questions or concerns they may have	
4.	Encourage your EU Workers to provide a share code for you to use the employer portal on the digital checking service to check their EU Settlement Scheme status. This is voluntary for EU workers until 11pm GMT on 30 June 2021, and will be mandatory thereafter	

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USING THE POINTS BASED SYSTEM TO RECRUIT SKILLED WORKERS

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- [The Skilled Worker route](#)
- [Becoming a sponsor](#)
- [Costs](#)
- [Recruitment fees](#)
- [Preventing discrimination](#)
- [Options for labour providers](#)

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INTRODUCTION

The [UK's Points-Based Immigration System Policy Statement](#), [further information](#) and a [statement of changes](#) set out the government's plans from 1 January 2021 to:

- End free movement
- Assert full control over who comes to this country
- Reduce overall levels of migration

through:

- A firm and fair points-based system to attract the high-skilled workers we need
- That treats EU and non-EU citizens equally
- With top priority to those with the highest skills and the greatest talents and with
- No route for general low-skilled or temporary workers

to deliver:

- A high wage, high-skill, high productivity economy
- That works in the interests of the whole of the UK and
- Protects individuals from exploitation by criminal traffickers and unscrupulous employers.

Applications under the new system are open now and government information for employers is available [here](#).



Listen to the Home Office's new podcast on the points-based system 'Business and the future of immigration in 2021'.

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THE SKILLED WORKER ROUTE

All applicants, both EU and non-EU citizens, will need to demonstrate that they have sufficient points to be eligible to make an application. A total of 70 points is needed to be able to apply to work in the UK.

All applicants will need to demonstrate that:

- they have a job offer from a Home Office approved sponsor
- the job offer is at the required skill level – RQF 3 or above (A Level and equivalent)
- they speak English

This will give them 50 points. A further 20 points must be obtained on salary, [Shortage Occupation List](#) (SOL) jobs or educational qualifications, as demonstrated in the table below:

Characteristics	Tradeable	Points
Offer of job by approved sponsor	No	20
Job at appropriate skill level	No	20
Speaks English at required level	No	10
Salary of £20,4809 to £23,039	Yes	0
Salary of £23,040 to £25,599	Yes	10
Salary of £25,600 or above	Yes	20
Job in a shortage occupation, as designated by the Migration Advisory Committee	Yes	20
Education qualification: PhD in a subject relevant to the job	Yes	10
Education qualification: PhD in a STEM subject relevant to the job	Yes	20

RQF is the Regulated Qualification Framework for England and Northern Ireland. Scotland and Wales have equivalent qualification frameworks in place. These make up the national qualification frameworks. A full list of the different qualifications levels is available [here](#) and [Appendix J](#) provides information on the current jobs at RQF 3 and above.

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Skill Level	Qualification/Experience	RQF Level
Highly skilled	Degree level and above e.g. Engineers, Directors etc.	RQF 6 and above
Skilled	Requiring a degree/HND & experience e.g. Production/Operations/HR Managers	RQF 5 – 6
Semi-skilled	Requiring experience and training e.g. Skilled trades	RQF 3 – 4
Lower skilled	Requiring some training/experience e.g. Process operative, skilled field workers	RQF 2
Unskilled	Requiring minimal training/experience, e.g. Elementary roles, picking, packing etc	Entry Level/RQF 1

If the job pays more than the required minimum salary threshold of £25,600 then the additional 20 points for that salary level means that the application will have reached the required 70 points.

Applicants will still be eligible if the job pays £20,480 and is a shortage occupation or they have a PhD relevant to the job.

The [Shortage Occupation List](#), known as the SOL, is a list of occupations that are in shortage.

Occupations on the SOL have a corresponding Standard Occupational Classification (SOC) code. Employers do not need to assess the qualifications required for a job but instead match the job to the relevant SOC code.

The [ONS Occupational Coding Tool](#) should be used to identify the relevant SOC code for a job.

Example

Skilled worker in a shortage occupation earning £20,480	
Job offer	20
RQF 3 or above	20
English language	10
Salary	0
Shortage occupation	20
Total	70



Lower salary traded for occupation being in shortage

The government has released a new [employers guide](#) to the points based system and launched an [employer information campaign](#) including short videos on sponsoring a skilled worker and hiring people from outside the UK.

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BECOMING A SPONSOR

Employers will need to be approved as a sponsor to recruit workers from outside the resident labour market from 1 January 2021. The standard processing time for an application is usually 8 weeks.



HM Government

Employers guide to becoming a licensed sponsor of skilled migrant workers

- 1. Check your organisation is eligible**
 - Check the people you want to hire are eligible to come to the UK under the new **points-based immigration system**
 - Ensure you are able to provide the **necessary supporting documents** for your sponsor licence application, e.g. details of your organisation and intended jobs you wish to fill
 - To get a licence, you cannot have unspent criminal convictions for immigration offences or certain other crimes, such as fraud or money laundering
- 2. Ensure your organisation can manage its licence**
 - You need to appoint people within your organisation to manage the sponsorship process when you apply
 - They will be responsible for ensuring your organisation remains compliant within the requirements of the licence
 - You will need to **keep record of your staff that you sponsor** for reporting to UKVI (UK Visas and Immigration)
- 3. Apply – allow 8 weeks**
 - 1. Apply online and pay the fee**
 - The fee is dependent on the type of licence(s) you are applying for and the type and size of your organisation. It will either be £536 or £1,476
 - Send your supporting documents to UKVI
 - Confirm how many staff you plan to recruit through the sponsorship system for the current financial year
 - Each staff member sponsored costs £21 or £199, in addition to the usual visa application fees

✓ If successful, your licence will be valid for 4 years
- 4. Sponsor a worker**
 - Once you have selected a candidate, they must make a **visa application** to work in the UK
 - You must first endorse your prospective employee's visa through your sponsor licence account by requesting then issuing an electronic 'certificate of sponsorship'
 - Pay the Immigration Skills Charge. This is £1,000 for the first year of work in the UK plus £500 for each additional 6 months, or £364 and £182 respectively for small businesses or charities
 - The employee must then submit a visa application under the same category as your licence

✓ If the prospective employee's visa application is granted, they may travel to the UK and start working

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COSTS

The Border, Immigration and Citizenship System currently costs the Government £2.8 billion a year to run – including asylum and enforcement costs – and they raise **£2.3 billion** a year in visa and passport fees. Income generation through fees and charges will continue to underpin the future system, contributing significantly towards funding. The estimated cost for the Government to process a visa is around £423.

The following sponsorship fees are current as of January 2021 and are subject to change. Visit [GOV.UK](https://www.gov.uk) for the latest fees.

Type of licence	Fee for small or charitable sponsors	Fee for medium or large sponsors
Skilled worker	£536	£1,476
T5	£536	£536
Skilled worker and T5	£536	£1,476
Add skilled worker to an existing T5	No fee	£940
Add T5 to an existing Skilled worker	No fee	No fee
Skilled worker Certificate of Sponsorship	£199	£199
T5 Certificate of Sponsorship	£21	£21
Skilled worker Immigration Skills Charge	£364 per year	£1,000 per year

Sponsors are required to pay the **Immigration Skills Charge** when issuing a Skilled Worker visa.

A small business is usually defined as a business with an annual turnover of £10.2 million or less, with 50 or fewer employees. Contact the UK Visas and Immigration businesshelpdesk@homeoffice.gov.uk if unsure of your category.

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A sponsor must assign an electronic certificate of sponsorship record to each foreign worker they employ. Each certificate has its own number which a worker can use to apply for a visa. [Annex A](#) of the “UK’s Points Based Immigration System Further Details” provides details of the visa costs. The [visa application fee tool](#) can be used to check the cost of any visa from any country. Here are some examples:

Visas	Applying from overseas	Applying in-country
Skilled Worker	Up to 3 years: £610	Up to 3 years: £704
	Over 3 years: £1,220	Over 3 years: £1,408
	Shortage occupation up to 3 years: £464	Shortage occupation up to 3 years: £464
Healthcare visa	Up to 3 years: £232	Up to 3 years: £232
	Over 3 years: £464	Over 3 years: £464
Global Talent	£608	£608
Start Up	£363	£493
Innovator	£1,021	£1,277
Student	£348	£475
Youth Mobility	£244	£244
Family	£1,523	£1,033
UK Ancestry	£516	£1,033

Applicants (with some [exceptions](#)) need to make an [Immigration Health Surcharge \(IHS\)](#) on-line payment as part of their immigration application and payable for each year of the visa. For those on a Skilled Worker visa, this is currently £624 per annum.

Applicants may also be faced with a range of additional charges, in their home country.

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RECRUITMENT FEES

Under UK employment law there is no general provision which prevents employers from charging recruitment fees and related costs to those they recruit. Employers seeking to pass on the costs of the system to workers through either direct fees or wage deductions should be aware of these restrictions:

- Under the Employment Agencies Act 1973 [section 6](#), employment agencies cannot, “request or directly or indirectly receive any fee from any person for providing services (whether by the provision of information or otherwise) for the purpose of finding him employment or seeking to find him employment”
- In the supply of labour to agriculture, SE3.9 of the [Workers and Temporary Workers: guidance for sponsors: sponsor a seasonal worker](#) states that “[the sponsor] must not place any additional charges on participating workers, beyond the costs of administrating the scheme.” The “costs of administrating the scheme” are not defined.
- A labour provider must have a GLAA licence to work in the regulated sectors, it is a [criminal offence](#) to supply workers without a licence or use an unlicensed labour provider. The Gangmasters and Labour Abuse Authority Licensing Critical Standard 7.1 “Fees and providing additional services” requires that:
 - a licence holder must not charge a fee to a worker for any work finding services
 - a licence holder must not make providing work finding services conditional on the worker:
 - using other services or hiring or purchasing goods provided by the licence holder or any person connected to them, or
 - giving or not withdrawing consent to disclosing information about that worker other than what is required for the work finding services

The GLAA has produced [GLA Brief 38 - Job Finding Fees and Providing Additional Services](#) which provides further detail regarding how it will apply Licensing Standard 7.1.

However, what constitutes ‘fees’, ‘charges’ and ‘costs’ are not defined - leading to potential evasion, circumlocution and lack of enforcement.

- The International Labour Organisation published its [Definition of Recruitment Fees and Related Costs](#) in 2019
- The Institute for Human Rights and Business (IHRB) developed the [Employer Pays Principle](#) which requires that “no worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer.”
- [The Responsible Recruitment Toolkit](#) annually updates its [Guide to Eliminating Worker Paid Recruitment Fees and Related Costs \(Third Edition\)](#)

To comply with these standards, responsible recruiters should not charge any element of the recruitment cost to workers and should reimburse any expenses incurred in the process including for visas, travel or the Immigration Heath Surcharge.

Workforce recruitment and labour supply from 2021

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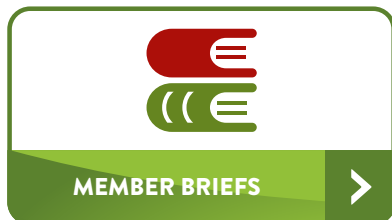
PREVENTING DISCRIMINATION

For a Skilled Worker sponsor employer to follow a non-discriminatory procedure and provide a legitimate defence to any potential discrimination claim, it must be able to demonstrate that the person recruited was the best person for the job whether UK or foreign national.

To achieve this, it would need to:

- advertise the vacant roles within the UK, such as on the Find a Job website
- assess the applications received
- provide genuine reasons why any UK resident applicant was not suitable or qualified

Find further support through the [ALP Help Centre](#), including our brief and webinar on Preventing Discrimination in Labour Provision.



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OPTIONS FOR LABOUR PROVIDERS

Labour providers cannot sponsor a Skilled Worker and then supply them to another organisation, regardless of any genuine contractual arrangement between the parties involved. Recruitment companies found to be supplying labour to another organisation will have their sponsor licence revoked.

There are two potential services that a labour provider can offer:

- **'Recruitment Service'** – The client must hold the Sponsor Licence, be responsible for agreeing and paying the migrant's salary and have genuine responsibility for deciding all the duties, functions and outcomes, or outputs of the job the migrant is doing. Labour providers are contracted to source the workers and manage the process
- **'Contractor Service'** – Labour providers hold the Sponsor Licence, are responsible for agreeing and paying the migrant's salary and provide a full contracting rather than just a labour only service

Further resources

- Government has developed [guidance on becoming a sponsor](#)
- ALP Briefs, FAQ's and webinars can be accessed from the [ALP Immigration and Right to Work](#) webpage



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STUDENTS AND GRADUATES

Student Visa – students with a valid visa on an eligible full-time course sponsored by a [licensed higher education provider](#) that holds a track record of compliance will be able to work restricted hours during term time:

Type of study	Employment conditions
Student following a full-time course of degree level or above study: <ul style="list-style-type: none"> ■ Sponsored by a higher education provider with a track record of compliance; or ■ Sponsored by an overseas higher education institution to undertake a short term study abroad programme in the UK 	20 hours per week during term time (full time employment permitted outside of term time)
Student undertaking a full-time course below degree level study sponsored by a higher education provider with a track record of compliance	10 hours per week during term time (full time employment permitted outside of term time)
All other study, including all part-time study	No employment permitted

The education provider is the sponsor.

The new [Graduate route](#) will be open to all international students in summer 2021 who have a valid UK immigration status as a student and have successfully completed a degree at undergraduate level or above at an eligible UK Higher Education Provider. The visa will allow eligible students to work, or look for work, at any skill level, for two years after completing their studies. PhD graduates will be given 3 years.

During that time, they will be able to switch onto the skilled work visa at any point if they find a job which meets the skill requirement of the route. Further details will be announced in due course.

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THE SEASONAL WORKERS' SCHEME

In March 2019, the government introduced a Seasonal Workers Pilot for 2019 and 2020. Its purpose was:

- to trial a new immigration subcategory for seasonal workers to the edible horticulture sector
- To test the pilot's ability to alleviate some of the shortages of seasonal workers in the edible horticulture sector by allowing two Pilot Operators to sponsor the entry into the UK of migrant seasonal workers for up to 6 months, in 2019 and 2020.

In 2019 the pilot meant that UK fruit and vegetable farmers were able to employ up to 2,500 non-EU migrant workers for seasonal work for up to 6 months. In 2020 the pilot was quadrupled to 10,000 places and in 2021 tripled again to 30,000 places.

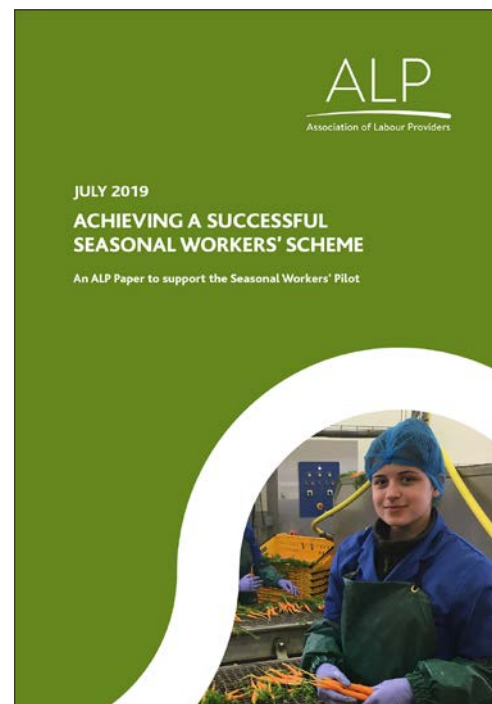
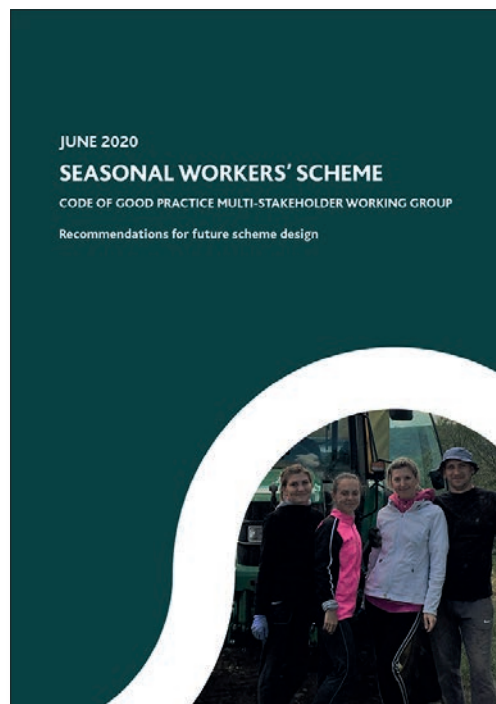
Two scheme operators were originally licensed to manage the pilot and are responsible for identifying suitable workers and matching them to UK farmers. They are also required to ensure the welfare of the workers whilst they are in the UK.

In 2021, the government has instigated a competition to add a further two GLAA licensed labour provider operators to manage the pilot, bringing the total number of operators to four.

ALP is involved in the Defra Seasonal Stakeholder Forum and will be inputting into the evaluation of the scheme. We are also leading a multi-stakeholder group to develop a code of good practice for scheme operators.

Our policy paper; [Achieving a Successful Seasonal Workers' Scheme](#) is available on the ALP website.

[Seasonal Worker Scheme Multi-Stakeholder Group Report](#) is available from the ALP website and includes recommendations for future scheme design.



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FRONTIER WORKERS

A frontier worker is an European Economic Area (EEA) or Swiss citizen who is employed or self-employed in the UK but resident elsewhere.

Qualifying frontier workers have the right to come to the UK to work in any type of job, including self-employment, each year provided that they worked in the UK prior to 31 December 2020 and their employment is continuous.

There are no language, salary or hours requirements, and no sponsorship is required.

There is no deadline to apply, but frontier workers will need a permit to enter the UK to work from 1 July 2021. Until that date, EU citizens can continue to use their passport or ID card to evidence their right to work in the UK.

There's no fee to apply for the permit, and frontier workers have the right to access benefits and services as they did prior to Brexit, including NHS healthcare.

Frontier Worker Permits last for up to five years and are renewable meaning they offer a route to ongoing right to work in the UK for EEA workers who are not resident in the UK and are therefore ineligible for settled or pre-settled status under the EU Settlement Scheme.

The Frontier Worker Permit Scheme opened to applications on 10 December 2020. Further details can be found in a [comprehensive guide on GOV.UK](#).

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BRITISH NATIONALS (OVERSEAS)

British nationals (overseas) citizens from Hong Kong aged 18 or over, and their family members can apply for a **British National (Overseas) visa**. This is known as a BNO visa and allows holders to live, work and study in the UK. Holders of BNO visa's can work in any job, (except as a professional sportsperson or sports coach) but cannot apply for most benefits (**public funds**).

Applicants may apply to stay for either 2 years and 6 months, or 5 years and visas can be extended multiple times.

At the point of application, the applicants permanent home must be:

- in Hong Kong, if they're applying from outside the UK
- in the UK, Channel Islands, Isle of Man or Hong Kong if they're applying in the UK

Applicants must pay the visa application fee, the healthcare surcharge and prove that they have enough money to support themselves and their family for at least 6 months in the UK.

Family members can apply for a BNO visa if they're eligible but must apply at the same time as the main applicant.

After living in the UK for 5 years on a BNO visa, people can apply to settle in the UK (known as '**indefinite leave to remain**') meaning they can stay in the UK without any time limits.

After one year of gaining indefinite leave to remain, people will usually be able to apply for **British citizenship**.

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INTRA-COMPANY TRANSFERS

Businesses may transfer a worker from a part of the business overseas to work for them in the UK, through the Intra-Company Transfer route. Applicants will need to be existing workers who will undertake roles that meet the skills and salary thresholds.

From 1 January 2021, workers transferring to the UK will need to:

- be sponsored as an Intra-Company Transfer by a Home Office licensed sponsor
- have 12 months' experience working for a business overseas linked by ownership to the UK business they will work for
- be undertaking a role at the required skill level of RQF6 or above (graduate level equivalent)
- be paid at least £41,500 or the 'going rate' for the job, whichever is higher

Permission for workers transferred to the UK on the Intra-Company Transfer route is temporary. Workers can be assigned to the UK multiple times, but they cannot stay in the UK for more than five years in any six-year period.

Workers paid over £73,900 do not need to have worked overseas for 12 months and can stay for up to nine years in any ten-year period.

Workers who are transferred to the UK as part of a structured graduate training programme for up to one year can apply for the Intra-Company Graduate Trainee route. The requirements are the same except there are different rules on length of overseas experience and salary.

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SUMMARY CHECKLIST

Labour providers

- | | | |
|----|---|--|
| 1. | Decide whether you will employ a Recruitment Service or Contractor Service in order to recruit workers using the Skilled Worker route | |
|----|---|--|

All employers

- | | | |
|----|---|--|
| 1. | Apply for sponsorship status if you wish to recruit migrant workers under the Skilled Worker route | |
| 2. | Apply for sponsorship status if you wish to transfer workers under the Intra-Company Transfer route | |
| 3. | Decide how you will prevent the risk of discrimination claims | |
| 4. | Commit to the Employer Pays Principle and ensure that migrant workers are not burdened with the costs of their recruitment and employment | |
| 5. | Ensure recruitment staff understand the employment conditions of the student and graduate routes | |

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INTRODUCTION

The new points-based immigration system and the ending of Freedom of Movement introduces changes to the way employers are required to carry out their right to work checks for EU nationals after 30th June 2021.

From 1st January 2021 to 30th June 2021 there will be a grace period in which EU nationals who have been resident in the UK by 31st December 2020 will still be able to apply for the EU Settlement Scheme. New guidance on how to conduct right to work checks on EEA citizens after 30th June 2021 will be provided by the Home Office in advance of this date.

Employers will remain liable for a civil penalty of up to £20,000 per worker that does not have the legal right to work, unless they carry out compliant right to work checks prior to employment and in certain cases during employment to establish a Statutory Excuse. Details of the civil penalty are contained at [Illegal working penalties: codes of practice for employers](#).

If the employer knew, or had reasonable cause to believe that the worker did not have the correct right to work status at any time during the period of employment, the Statutory Excuse does not apply and the employer could be prosecuted for the criminal offence of knowingly employing a worker who does not have the legal right to work which carries an unlimited fine and/or up to 5-year imprisonment under [The Immigration, Asylum and Nationality Act 2006](#).

Labour providers are liable for ensuring that temporary workers supplied to their clients have the right to work in the UK. Where a candidate for permanent employment is introduced by a labour provider, the liability lies with the client as the employer.

ESTABLISHING THE STATUTORY EXCUSE

Although employers are not legally required to carry out right to work checks, they do have a duty to ensure those working in their business have the legal right to do so. Employers who follow the prescribed process as set out in the [Employers guide to right to work checks](#) when carrying out right to work checks will establish a statutory excuse against the liability for a civil penalty in the event that they employ someone who is not permitted to work.

An employer who knowingly employs someone who does not have a legal right to work in the UK may be liable for criminal prosecution. The criminal offence is generally reserved for the most serious cases of non-compliance with the right to work scheme. The Home Office confirms that it is not intended for employers who have employed EEA citizens in good faith during the grace period and have completed a right to work check in the prescribed manner. Prosecution may be considered in the most serious cases where it is deemed the appropriate response to the non-compliance encountered.

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The Statutory Excuse can be established in two ways: either by checking and copying specified original documents in accordance with the prescribed process or alternatively through the Home Office [online checking service](#).

In all cases, the Excuse must be established before the employment begins. Repeat checks only enable employers to retain the original Excuse, as it cannot be established after employment has started.

The Home Office guidance: [Avoiding discrimination while preventing illegal working: code of practice](#) advises that to avoid risk of unlawful discrimination to apply the same checks to all potential workers without any assumptions on grounds of nationality, ethnicity, colour or period of residency.

For manual checks, the Statutory Excuse is not established where:

- the check is performed by an individual who is not employed by you
- it is reasonably apparent that the person presenting the document is not the person referred to in that document, even if the document itself is genuine. You may be liable to prosecution if you know or have reasonable cause to believe that the individual does not have immigration permission to work
- you know that the individual is not permitted to undertake the work in question
- you know that the documents are false or do not rightfully belong to the holder
- you have not recorded the date on which the right to work check was conducted or retained & copied the documents you have checked

For online checks, the Statutory Excuse is not established if the employer:

- has not retained evidence of the online right to work check in the prescribed format; or
- has not used the employer part of the service to access the right to work information
- has viewed the information from the migrant part of the Home Office online checking service
- has employed an individual when the online right to work check has not confirmed that the individual has the right to work in the UK and to undertake the work in question
- has not checked that the photograph on the online right to work check is of the individual who is presenting themselves for work

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ELIGIBILITY TO WORK IN THE UK FROM 2021

EU citizens and non-visa nationals will not require a visa to enter the country when visiting.

All migrants (excluding Irish citizens) looking to enter the UK to work will need to apply for permission in advance. Anyone who comes to the UK as a visitor will not be able to apply for a visa to work once in the country.

Under the Common Travel Area agreement, British and Irish citizens and those from the Crown Dependencies (Bailiwick of Jersey, Bailiwick of Guernsey and the Isle of Man) can continue to move freely and reside in either jurisdiction and enjoy associated rights and privileges, including the right to work, study and vote in certain elections, as well as to access social welfare benefits and health services.

EU Citizens - between 1st January 2021 and 30th June 2021

Transition arrangements apply as detailed at [Employing EU citizens in the UK](#).

- Right to work checks for EEA and Swiss citizens will not change until after 30th June 2021. Until then, EEA and Swiss citizens can use their passport or national identity card to evidence their right to work
- Employers will not be expected to differentiate between EEA citizens resident in the UK before the end of the transition period (31st December 2020) and those arriving after, in the grace period from 1st January to 30th June 2021
- EEA citizens with status under the EU Settlement Scheme or the new points-based immigration system may choose to use the Home Office online service to evidence their right to work
- Employers must not discriminate against EEA citizens who choose to evidence their right to work using their passport or national identity card, and neither can they insist EEA citizens use the online service
- Employers are not required to carry out a retrospective check on EEA citizens who were employed on or before 30th June 2021 and who presented their passport or national identity card as evidence of their right to work
- Employers will maintain a continuous statutory excuse against liability for a civil penalty if the initial right to work checks were undertaken as prescribed and set out in the [guidance](#)
- If an EEA citizen has not applied to the EU Settlement Scheme by 30th June 2021 or does not hold any other form of leave, they will be in the UK without lawful status. Therefore, they will not have a right to work from that date and may be liable to Home Office enforcement action

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- However, where someone is eligible for status under the EU Settlement Scheme and has reasonable grounds for missing the application deadline, they will be given a further opportunity to apply before enforcement action is taken. As in other areas of the EU Settlement Scheme, the Home Office will take a flexible and pragmatic approach, but they will not be able to work until they have resolved their status
- New guidance on how to conduct right to work checks on EEA citizens after 30 June 2021 will be provided in advance of this date

Non-EU Citizens from 1st January 2021 and EU Citizens From 1st July 2021

The new immigration rules will apply and all migrants (with the exception of Irish citizens) coming to work in the UK will need to have obtained a visa in advance of their arrival.

Job applicants will be required to use the [View and prove your immigration](#) status digital option to demonstrate their right to work to employers. Employers will need to check an applicants immigration status using a share code and [View a job applicant's right to work details](#) via the employer portal.

RETROSPECTIVE CHECKS

Employers are not required to carry out retrospective checks for workers employed on or before 30th June 2021. If employers choose to carry out retrospective checks, they must ensure that these are carried out in a non-discriminatory manner.

This means carrying out checks on every worker irrespective of their nationality.

If as a result of these retrospective checks, migrant workers are found to be working illegally, their employment should be ceased until such time as immigration status has been gained, or their employment must be terminated entirely, and they may be subject to Home Office enforcement action.

An EU citizen eligible for settled or pre-settled status who fails to make an application to the EU Settlement scheme prior to 30 June 2021, and has no other valid immigration status, will be working illegally.

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MANUAL RIGHT TO WORK CHECKS

Acceptable documents are specified in Home Office guidance.

No other document, even those with a photograph such as a UK Driving Licence, CIS or SIA card will establish the Statutory Excuse.

Employers may download and use the Right to Work Checklist for each person recruited and to regularly check whether it has been updated.

Further guidance is available at:

- [Guidance for employers](#)
- [Right to work checks: employer guidance](#)
- [Right to work checks: an employer's guide](#)
- [Guidance on examining identity documents](#)
- [Basic passport checks](#)

ONLINE RIGHT TO WORK CHECKS

Under the new immigration rules, online right to work checks will replace many of the current manual checks.

The online process in summary is as follows: the job applicant enters their relevant details at the [Prove your right to work to an employer](#) webpage and provides the prospective employer with a 'share code' valid for 30 days. The prospective employer enters the share code and the individual's date of birth at the [View a job applicant's right to work details](#) webpage which enables an employer to access the information.

There are three steps to conducting an online right to work check:

1. Use

Individuals wishing to share their right to work with an employer using the [Prove your right to work to an employer](#) route will provide the "share code" to the employer directly or from the service, in which case, the employer will receive an email from right.to.work.service@notifications.service.gov.uk.

Workforce recruitment and labour supply from 2021

The image shows a 'Right to Work Checklist' form from the Home Office. It includes sections for 'Name of person', 'Date of check', and 'Type of check'. Below these, it lists 'Step 1 for physical check' with two main categories: 'List A' and 'List B'. 'List A' includes documents like a passport, Biometric Residence Permit, and Immigration Status Document. 'List B' includes documents like a Certificate of Application, Accession Residence Card, and Immigration Status Document. The form also mentions 'List C' for certain family members.

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To view the individual's right to work details, the employer will type in the share code and the individual's date of birth at [View a job applicant's right to work details](#). Only viewing the details provided to the individual on the migrant part of the service will not provide employers with a Statutory Excuse.

2. Check

Check that the photograph on the online right to work check is of the individual presenting themselves for work i.e. the information provided by the check relates to the individual and not an imposter.

Employers must only employ the person (or continue to employ an existing employee, if they are conducting a follow-up check) if the online check confirms they have the right to work and are not subject to a condition preventing them from doing the work in question.

If the online right to work check does not confirm that the individual has the right to do the work in question or if it is reasonably apparent from the photograph that the individual working is not the individual to whom the information provided in the check relates, employers will not have established a statutory excuse.

3. Retain

Employers must retain the 'profile' page (the response provided by the Home Office online right to work checking service) confirming the individual's right to work. This includes the individual's photo and date on which the check was conducted.

Employers will have the option of printing the profile or saving it as a PDF or HTML file. For internal control purposes it will be prudent to identify and record the person conducting the check as well. Employers should store this securely, electronically or in hardcopy, for the duration of employment and for two years afterwards. The file must then be securely destroyed.

Should illegal working be identified, employers will need to be able to evidence that they have conducted a right to work check in order to have a statutory excuse and avoid a civil penalty. By retaining evidence of the check as above, they will be able to present this to an immigration officer in the event of illegal working.

Where an employer can demonstrate that it has complied with these requirements, it will have established the Statutory Excuse even if it transpires that the employee was working illegally as long as the employer did not knowingly employ a worker who does not have the legal right to work.

The Home Office has an audit record of online checks conducted by employers using the service. This record does not include the name of the individual user.

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PERSONS NOT ENTITLED TO WORK

If, having carried out right to work checks it is established that the prospective worker is not permitted to work, then the employer is entitled to refuse employment to that person. It is up to the prospective worker to demonstrate that he or she is permitted to do the work offered.

If a false document, or one falsely claimed to refer to an individual, is presented it may be reported to the Home Office via the [Report Immigration Crime link](#) or by calling the Helpline on 0800 788 887.

STUDENTS AND GRADUATES

International students who are permitted to work will have a clear endorsement in their passport or Biometric Residence Permit, or a digital status that can be checked through the online right to work checks process, stating they are permitted to work and the number of hours of work permitted during the term time e.g. 10 hours or 20 hours and full time during vacations and during the period of permission that is granted before a course begins and after the course ends only applies if they are following, or have completed, the required course of study.

To establish a statutory excuse, the employer must carry out an online right to work check and have on record evidence of the academic term and vacation dates applicable to the course being followed, from the educational establishment sponsoring the student.

Other changes in their circumstances (e.g. changing course, switching to another sponsor, stopping studying or having their permission to study curtailed) can impact on their right to work.

Some courses contain Work Placements as an integral and assessed part of the course. This is entirely separate to any entitlement to work. An employer offering work placement to international students is strongly advised to retain a written agreement with the student's education institution about the work placement as evidence that the student's work placement does not exceed the time permitted for them.

To establish a statutory excuse for workers on a Graduate route, the employer must carry out an on-line right to work check.

WINDRUSH GENERATION

In some circumstances, individuals referred to as the "Windrush generation" (those who arrived in the UK before 1973) and those non-EEA nationals who arrived in the UK between 1973 and 1988, may not be able to provide documentation from the acceptable document lists to demonstrate their entitlement to work in the UK.

The Home Office has established the Windrush Help Team which is handling applications under the Windrush Scheme for confirmation of indefinite leave to remain, including a biometric residence permit or applications for British citizenship. Information is available at:

[Employers: right to work checks on long-resident non-EEA nationals and Windrush generation](#)

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TEMPORARY CHANGES DUE TO CORONAVIRUS

Temporary changes were introduced from 30 March 2020 as a result of coronavirus, allowing employers to carry out checks remotely.

Job applicants and existing workers can send scanned documents or a photo of documents for checks using email or a mobile app, and employers can check these documents against the physical appearance of the applicant on a video call.

Once these temporary changes come to an end, employers will be required to carry out retrospective full right to work checks on existing employees who underwent an adjusted check.

The Home Office is currently carrying out an evaluation of the adjusted checks and reviewing the potential impact of not requiring employers to complete retrospective full right to work checks. The outcome of the review is expected early in 2021. Until then, these temporary changes will continue.

SUMMARY CHECKLIST

1.	Understand how to establish a statutory excuse for each immigration route	
2.	Keep up to date with new information – updated guidance on right to work checks after June 2021 is expected early in 2021	
3.	Train recruiters and other relevant personnel	
4.	Be prepared to carry out full retrospective RTW checks on workers who started working during the temporary measures due to coronavirus, when these measures come to an end	

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