



## Brexit: Employing EU citizens in the UK Q&A

**If we recruit someone from 1 July would they have to have pre-settled status, settled status or do we have to sponsor them?**

As of the 1st of July 2021, any EU nationals whom you recruit must have either gained settled or pre-settled status or have their application pending. If not, they will require a work permit in the same way that an individual from outside the EU would under the old system.

**Are there any specific regulations about employing people from other countries who remain in their home countries and work from a distance?**

The new immigration rules relate only to individuals who want to live and work in the UK. Scheme.

**Can you tell me a bit more about checking status from 1 July?**

From 1 July 2021, employees will need to continue carrying out sufficient right to work checks on all staff they employ. For EU nationals living in the UK, this will mean requesting proof that they have either settled or pre-settled status.

The exact details have not yet been released but we do know that employers will be able to request a code from the recruit.

That will enable the employee to send the employer a confidential and secure link to a government website, which will contain the proof of their right to work.

**Do I need to keep confirmation of settled status or pre-settled status on file?**

Yes, employers should make a copy of the information they receive from the employee which details their right to work. It is also important for employers to make a note of the date on which they obtained the information.

We would recommend checking the government website and ensuring that the copy you take complies with their guidance once it is released.

It is likely that a screenshot of the information would suffice, if there is not an option to download the right to work information.

**If I do not have written employment contracts for my staff, do I need to create one for EU staff with settled or pre-settled status?**

It is a legal requirement that all employees be issued with written contracts of employment. Once they provide sufficient proof of their right to work in the UK, EU nationals should be provided with a written contract containing the terms of their employment in the same way all employees should.

If you employ and staff who have not been given written terms of employment, this should be rectified as soon as possible.



## What happens if an employer realises on 1st July that a current EU employee has failed to apply for status?

The employee will not have the right to work in the UK and you will be in breach of immigration law by employing them. The penalties for this breach (if you are found to have known or ought reasonably to have known) that the employee no longer had the right to work in the UK, are you can be liable for an unlimited fine or up to a 6 month custodial sentence.

It is important that you ascertain quickly whether this is definitely the case. You should not simply suspend the employee if they do not have the right to work, as this does not end the employment relationship.

To avoid breaching immigration law you should meet with the employee, confirm their immigration status with them and explain that due to them no longer having the right to work in the UK, you are dismissing them with immediate effect. If you wish to retain the member of staff you will need to arrange to rehire them through the sponsorship route.

## How should I communicate this to my staff?

Every business is different in terms of size and number of EU nationals, so there is no 'one-size-fits-all' approach to communicate the upcoming changes to your staff. The key is to ensure that you approach your EU national staff with care and an understanding that they may find the process intimidating or overwhelming. It may be preferable to spread the communication campaign over a few months building up to the end of June.

Make it clear that you are not pressuring them to apply for settled or pre-settled status, but if they do not apply then they will be unable to work in the UK from 1 July 2021.

Provide any support or information you can and where necessary signpost them to the Government website - <https://www.gov.uk/settled-status-eu-citizens-families/> - which will be able to offer additional guidance.

Get in touch to see how we can help:

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