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Beyond Brexit: The UK's plans for a new immigration system | JULY 2020

The UK government has released more detail on [plans for a new immigration system](#), to take effect when freedom of movement between the EU and the UK has ended on 1 January 2021. While we don't have full detail of the new system just yet, the Home Office's policy paper contains a lot of food for thought.

This note suggests key messages for your business, illustrates how the new system will work and provides a plan to help you prepare. Much of this will be familiar – there have been a few tweaks, but the government's plans are very much in line with the content of our [January 2020](#) and [February 2020 Beyond Brexit briefings](#).

This note will help you prepare for the change. It will be a big job – you will need to understand the impact and put contingency plans in place (potentially fundamentally changing your business model). You will also need to communicate with key stakeholders in your business. In addition, you may need to amend your mobility and recruitment policies to comply with a new system. Much of this is likely to be on top of your day to day job. Please do get in touch if you would like to discuss the impact on your business and how we can help you prepare.

KEY MESSAGES

- ▶ Despite Brexit taking effect on 31 January 2020, there will be no practical changes to immigration between the UK and the EU until 1 January 2021.
- ▶ EU employees in the UK and UK employees residing in an EU country before 1 January 2021 will be able to stay but may need to make an application to register their status, as will their family members. UK citizens in Ireland and Irish citizens in the UK remain unaffected - they both enjoy rights of residence and work in each country regardless.
- ▶ We can provide employees in the UK with application support and guidance and will offer support to employees in Europe when application/registration guidance is published.
- ▶ On 1 January 2021, free movement rights will end for UK nationals travelling to the EU and vice versa.
- ▶ A new UK immigration system will be introduced in 2021. We can expect:
 - EU and non-EU nationals will be treated equally. For skilled EU workers, this means slower recruitment, substantial government fees and minimum salary requirements
 - A faster and simpler system for non-EU workers, with lower salary and skill level requirements
 - A new post study work visa allowing graduates of UK universities to stay in the UK for a minimum of two years, unsponsored
 - No visa category for low skilled workers, other than agriculture
- ▶ From 1 January 2021, UK nationals will require work permission in EU, except in Ireland. We can expect between one and six months, sometimes longer in specific circumstances, to land them.
- ▶ You can take measures to mitigate these challenges.

THE NEXT UK IMMIGRATION SYSTEM

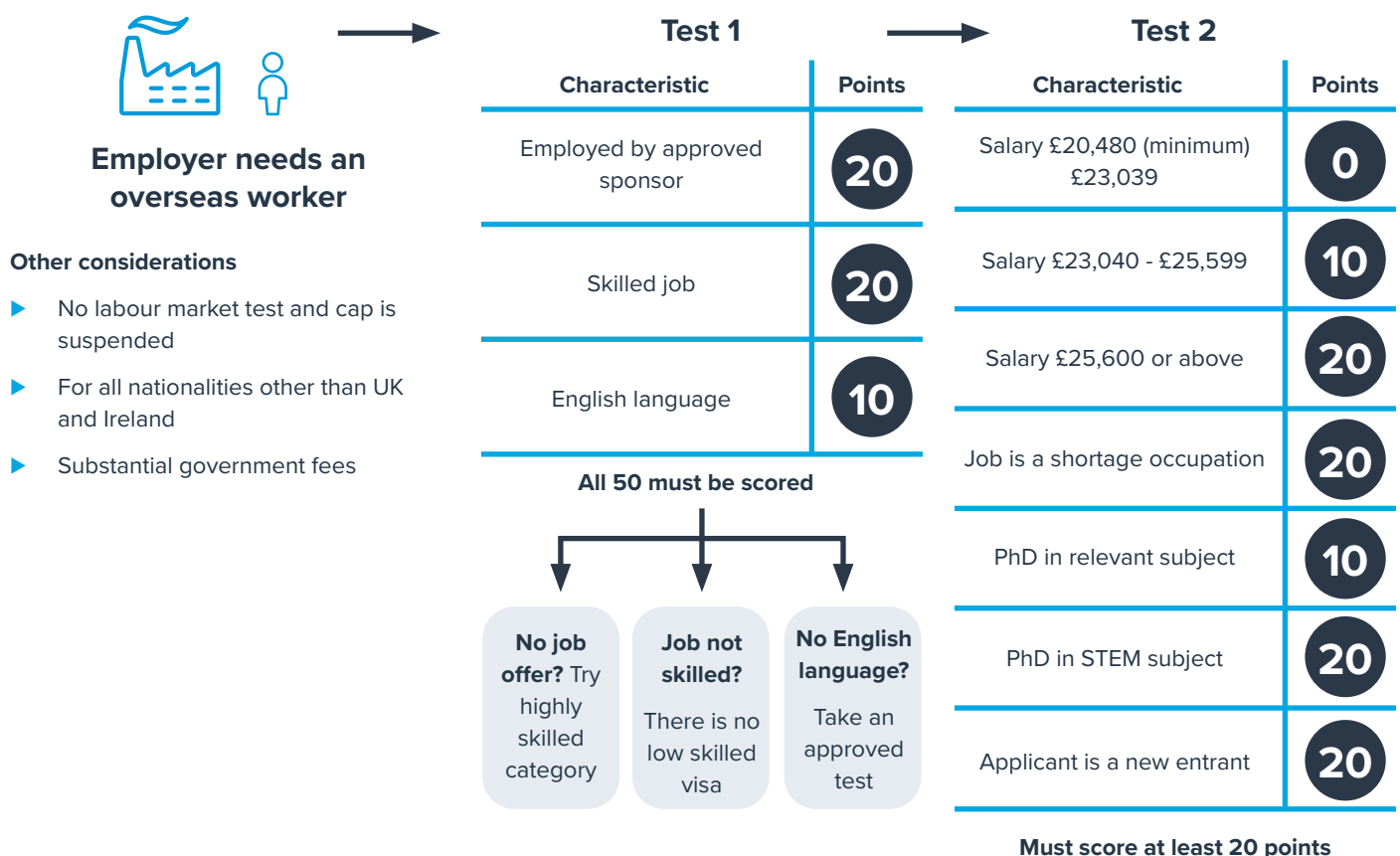
We now have a clearer idea of how and whether workers will be able to enter the UK under the new immigration system.

There will be three main Points Based Systems:

- ▶ A Skilled Worker visa for people with a job offer, based on the Tier 2 General visa category
- ▶ An Intra Company Transfer visa for assignees, based on the Tier 2 Intra-Company Transfer visa
- ▶ The government will explore a highly skilled work visa for people without a job offer and could allow self-employment, albeit the category will not take effect on 1 January 2021

There will not be an immigration category for low skilled workers. The government has said that 'employers will need to adjust and that employers must move away from a reliance on the UK's immigration system as an alternative to investment in staff retention, productivity and wider investment in technology and automation'. The last government's plans for a one year visa allowing low skilled work have been scrapped. The paper leaves the doors open for a youth mobility scheme programme to be agreed with the EU. That could helpfully enable EU nationals to work in low skilled jobs for two years, but it is not clear whether it will happen.

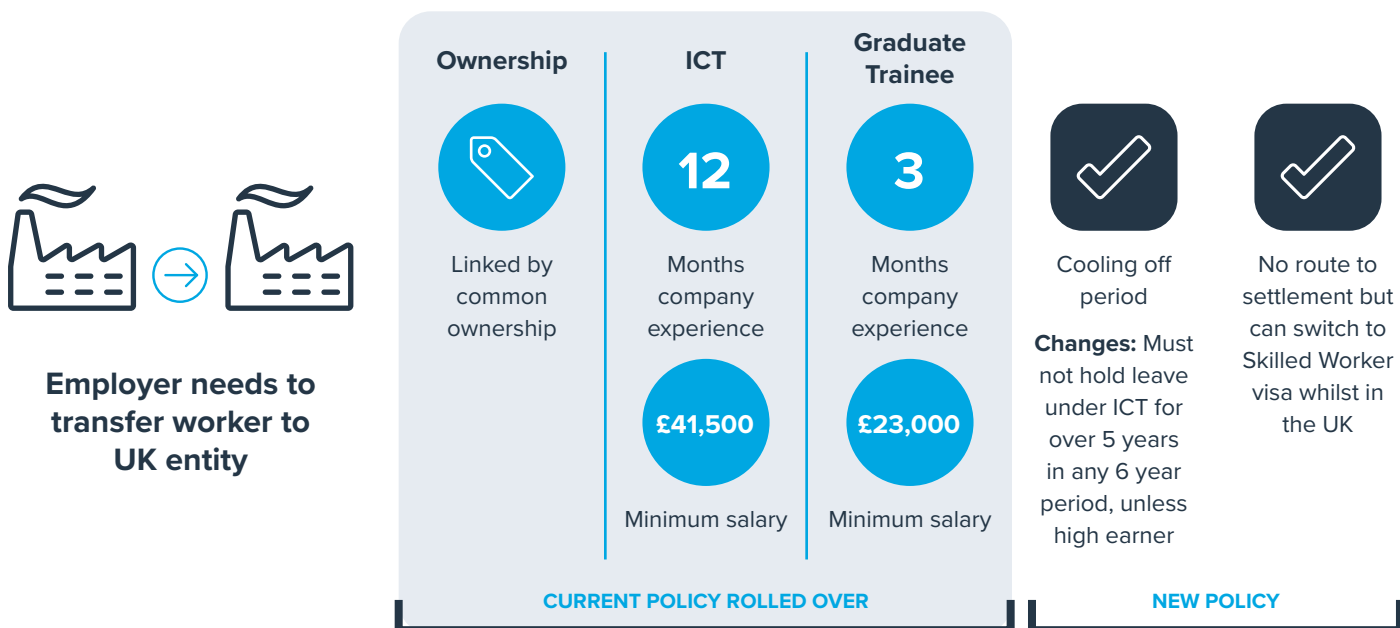
SKILLED WORKER VISA FOR PEOPLE WITH A JOB OFFER:



A going rate will be set for every job in the labour market and employers will need to pay at least that amount to a worker or the minimum salary for points, whichever is higher. The going rate for a job will be lower for younger workers and other new entrants to the labour market. New entrants will include those aged under 26 and those switching from the student or graduate routes.

INTRA COMPANY TRANSFERS

The Intra-Company Transfer category will largely be rolled over to the new system, without much change. However, two helpful new policies will make the category more flexible.



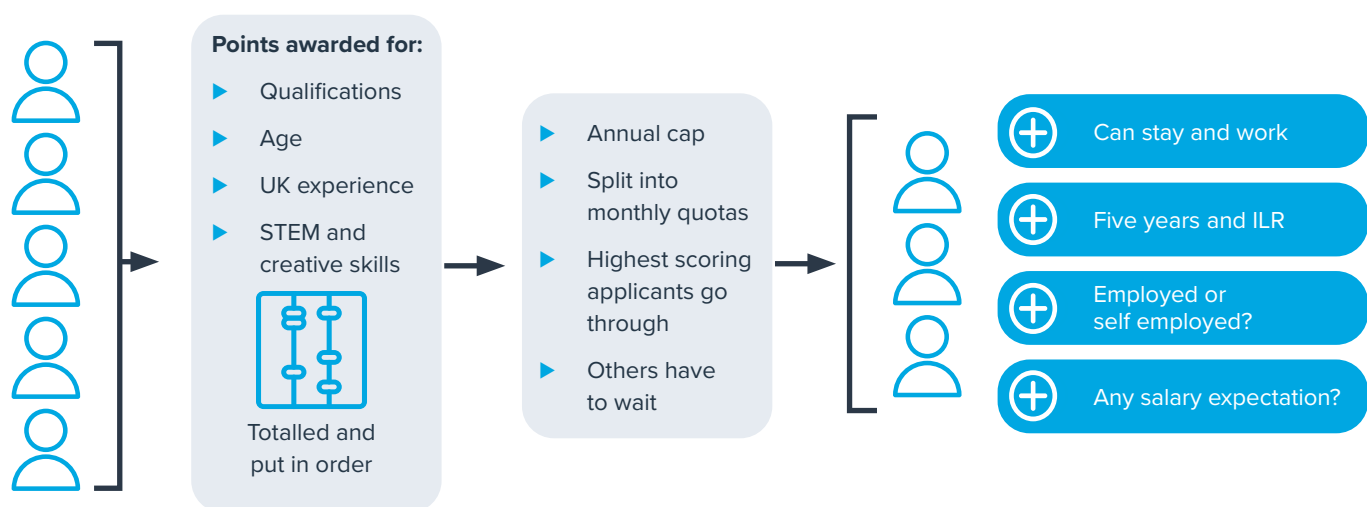
It remains to be seen how relevant the Intra-Company Transfer category will be when the cap is suspended and Resident Labour Market test requirements are removed in the new Skilled Worker route. It may be as quick to move people in that route, while enabling people to stay longer.

The absence of an English language requirement for the ICT route could still make it a favourable option in some circumstances.

It remains unclear if current Tier 2 ICT holders will be able to switch to Skilled Worker, or just those entering under the new system from 2021.

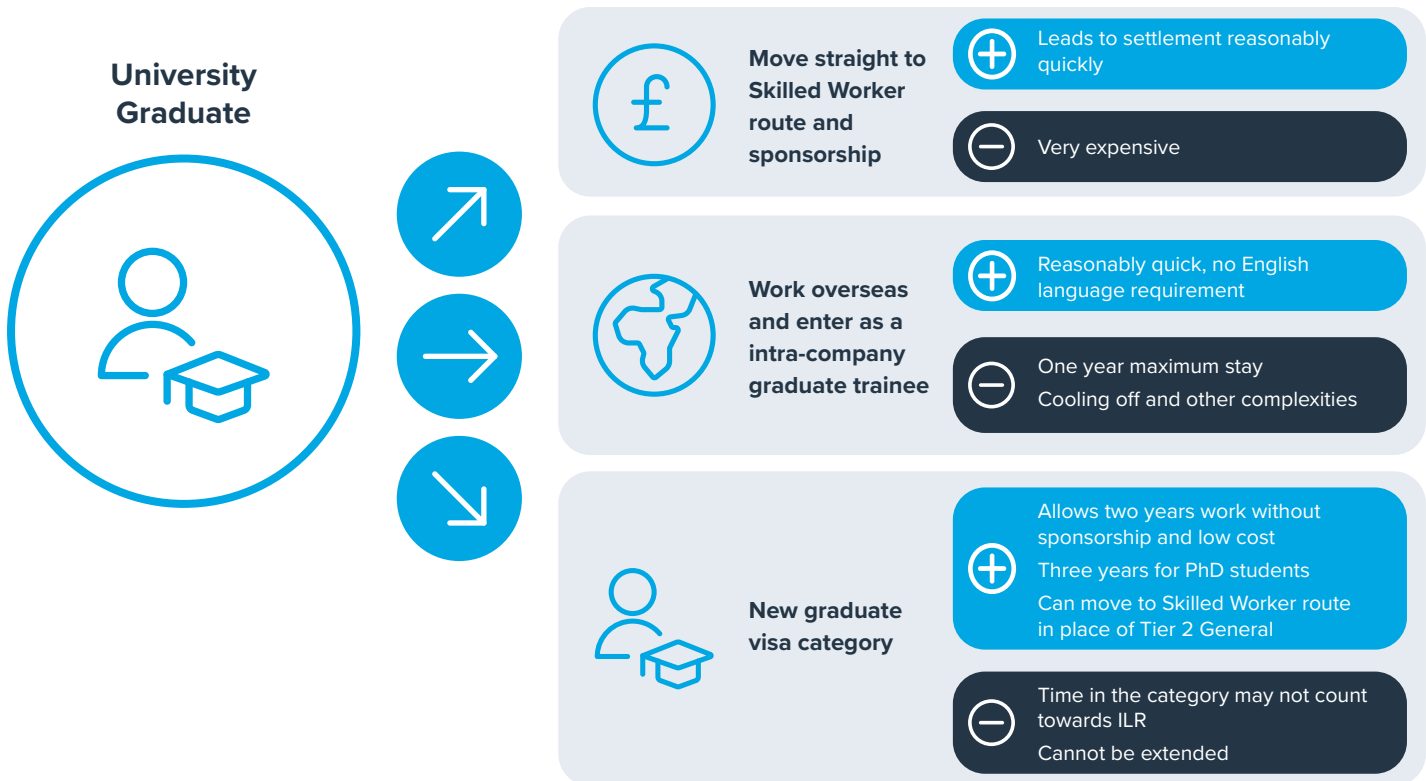
WORKERS WITHOUT A JOB OFFER

The government will consult with stakeholders on a highly skilled route. This route will not be implemented by 1 January 2021. Here we illustrate the Migration Advisory Committee's recommended structure.



OPTIONS FOR GRADUATES

The arrangements for graduates will need to be carefully considered when the detail of the policy is released. On the face of it, there will be three main options for graduates.



We can help you manage the Brexit transition. Here is how we are helping our clients:

Although this note is concerned with the new immigration system, existing employees will be your first priority. This is how you can plan for both:

	Workers employed before 2021	Workers employed from 2021 onwards
Assumptions		
	Impacted people: EU nationals in the UK, UK nationals in the EU and their family members	Free movement will end for the UK and EU nationals on 31 December 2020
	Residence will be protected if entered before 2021	A new UK immigration system will restrict EU nationals' right to work in the UK while simplifying the system for non-EU nationals
	An application will be needed, with different processes in each country	In the EU, UK nationals will fall under the rules for non-EU citizens, such as US or Canadian nationals
Useful data		
	EU employees in UK	Current employment, employee and vacancy data for workforce planning, mapped against policy assumptions
	UK employees in the EU	Prospective employment and employee data for planned recruitment cycles, e.g. graduate programme, mapped against policy assumptions
	Qualifying employees with family member status	Recent immigration spend
	Impacted employees on assignment	

Short to medium term

	Reassure, educate and direct employees		Collect/ audit necessary data
	Make useful resources available to employees		Brief leadership on challenges and opportunities
	Reaffirm right to work policies and update onboarding policies		Undertake workforce impact assessment: cost, constraints, risks and opportunities
	Brief leadership on volumes, locations and plans to support		
	Develop tailored plans for commuters, business visitors and other cross border workers		

Before the end of the year

	Direct (remind) employees to make their application, explaining the consequences of missing deadlines		Ahead of UK free movement rights ending, adjust mobility policies
	Reactive communications where necessary, directing employees to stock resources		Headcount planning: assess whether impacted moves due in 2021 can be brought forward
			Ensure recruiters, line managers and other stakeholders are fully apprised of policy changes

Early 2021

	Direct (remind) employees to make their application, explaining the consequences of missing deadlines	1 — 2 — 3 —	New immigration system takes effect: Plan for transition reporting, if appropriate
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We hope this note is useful. There is an awful lot here, at a time when priorities may be elsewhere.

Please contact your Fragomen account lead if we can help or email us at brexit@fragomen.com. We can assist, whether you want to take this all on at once or divide the issue in to more manageable chunks.