



# Managing the impact of Brexit on your workforce

**What to do now that Article 50 has been triggered**

**Immigration – Legal Services**

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A man in a white shirt and striped tie is looking out a large window at a cityscape. The window is the central focus, showing a blurred view of buildings and greenery. The man is on the left side of the frame, looking towards the right. The title 'Contents' is written in a large, blue, serif font in the upper right quadrant of the page.

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# Introduction

## Issue

On 29 March 2017 the UK formally confirmed its intention to leave the European Union (EU). The details of the UK's withdrawal will be subject to negotiation although we now have a clearer timeline on the two-year Brexit negotiation period. There remains uncertainty regarding practical considerations, such as how the withdrawal may affect the UK's immigration system and the status of current EU nationals in the UK exercising their free rights of movement. We know there will be an impact on workers and their families, we just don't know yet exactly what that might be. This will become clearer over the coming months.

Although the Government plans to negotiate early, on a reciprocal agreement for EU nationals in Britain and UK nationals in other EU member states, many EU nationals are still likely to feel anxious due to this uncertainty.

There are currently approximately 3.5 million EU nationals living and/or working in the UK. Many of them will have EU partners and children, or non-EU partners and children. While their status has not and will not change in the short term, there will almost certainly be changes in the long term, especially after the UK has left the EU.

The current UK Government has previously announced that EU nationals and their family members who have spent five or more years in the UK would be entitled to stay. This is not, however, guaranteed unless and until the UK receives reciprocal agreement on UK nationals in the EU. We anticipate that the UK Government will require EU nationals and their dependants to make themselves known to the authorities at some point to confirm their permanent residence status, or for those who have not met the 5-year threshold, to stipulate certain criteria they have to meet in order to be able to remain in the UK beyond Brexit.

In view of the above, employers may wish to consider recommending and encouraging employees to apply for permanent residence/registration to declare their immigration status in order to provide some sort of identification to prove their right to live and work in the UK once the UK leaves the EU.



# Managing the impact of Brexit on your workforce

## The current position

The EU has rules allowing the free movement of nationals of the European Economic Area (EEA) and Switzerland. These rules allow EU nationals to move between EEA countries with their family members and live, work, study or start businesses in these countries.

Currently, under the Immigration (European Economic Area) Regulations, permanent residence is automatically acquired following five years of continuous residence.

The UK Government has indicated that it will not permit free movement in its current form after the UK leaves the EU. This means that there will be some form of restrictions on the free movement of EEA nationals to the UK post Brexit and they may have no free movement rights at all.

Some employers would like to support their EU nationals in some way. However many feel that due to the continuing uncertainty regarding their status post Brexit they cannot commit to picking up the full cost of sponsoring permanent residence applications for all of their EU nationals at this point in time. Some employers are paying for their employees to have application forms completed, whilst others are only paying the fee due to the Government as part of the application process. It is important to note that these rules also apply to students and self-employed persons.

## What does this mean for your business?

It is best practice to assess the impact of Brexit on current affected employees and the future workforce requirements of the business. Below are examples of the initial considerations that should be taken into account.

- How many EU nationals do you employ?
- What data do your HR systems hold?
- What is the impact to your business if you lose your EU nationals due to future regulations or personal choice?
- What skill-sets do you risk losing?
- What can be done now to alleviate the pressure post Brexit? Will the business sponsor permanent residence/registration applications to certify employees' status to live and work in the UK?
- What can you do as a business to reassure all your employees – EU and non-EU?
- What communications are you or will you be providing to your current workforce? Will you adopt a proactive approach or a reactive approach to employee communication?
- Will your EU and non-EU national employees receive the same level of support in relation to their UK immigration status? How will you ensure you are not discriminating against sections of your workforce on the grounds of nationality?



# Your options

It is recommended employers make use of the certainty which currently exists under EU law and support EU nationals and their families in applying for a **Document certifying Permanent Residence** (if they have been in the UK for five years or more). This will take the form of either an endorsement in a passport or a free-standing document. The Document certifying Permanent Residence is valid for ten years, after which it will need to be renewed (unless the individual naturalises as a British citizen).

Those who have not accumulated, or will not accumulate, five years in the UK pre-Brexit are likely to be dealt with under transitional arrangements that will be confirmed in due course. However, it is possible to make an application for a Registration Certificate now to prove a right to live in the UK. The Registration Certificate will take the form of either an endorsement in a passport or a free-standing document. A Registration Certificate is valid for five years. After five years, an individual may be eligible to apply for a Document certifying Permanent Residence in the UK.

Whilst a Registration Certificate does not give EU nationals additional rights to remain and work in the UK, they may be useful if transitional rules are implemented for EU nationals or to support future permanent residence and naturalisation applications.

As British businesses face new challenges through the Brexit process and beyond, KPMG is here to support you in supporting your employees.

## Level of support:

### 01 Information only:

Provide staff across all locations with written information explaining the EEA application process for registration, permanent residence and citizenship. Can include:

- Email communications outlining Brexit impact
- WebExs and/or training sessions on making EEA applications and process for obtaining British citizenship
- Regular, tailored email updates on the developing immigration position post Brexit

### 02 Selective assistance:

Provide staff across all locations with individual application requirements in addition to information. Can include:

- Immigration surgeries for one to one support on eligibility assessments and/or questions
- Immigration queries inbox open to staff for queries/ongoing support

### 03 Full support:

Provide direct assistance with the registration, permanent residence and British citizenship processes for all impacted employees (and family members), in addition to information. This can be broken down further to suit your business needs, for example: a VIP level support which can offer a full personalised level of support on permanent residence/registration applications (depending on eligibility).

### 04 European support:

Support for British Nationals in offices across the EU. Can include:

- Project management and oversight of specialist support provided to British nationals in the EU by KPMG's global immigration network
- Attendance by KPMG Project Manager in each EU office in conjunction with local immigration specialists for each respective country

# Factors to consider

Additional factors to consider when deciding on the level of support you will offer to your workforce include:

## **Cost**

Consider the overall cost of support to the employer and/or the employee of the above options. An impact/cost assessment needs to be made. Employers may wish to offer full support on applications to every employee, but is the financial impact justifiable? Employers need to factor in recruitment costs, new hires and training.

## **Timing**

At which point do you offer support? Many employers remain on a 'wait and see' status as we progress through the negotiation period. However, is waiting until new systems are implemented too late for many employees? Will your competitors take advantage of your delay?

## **Language barriers**

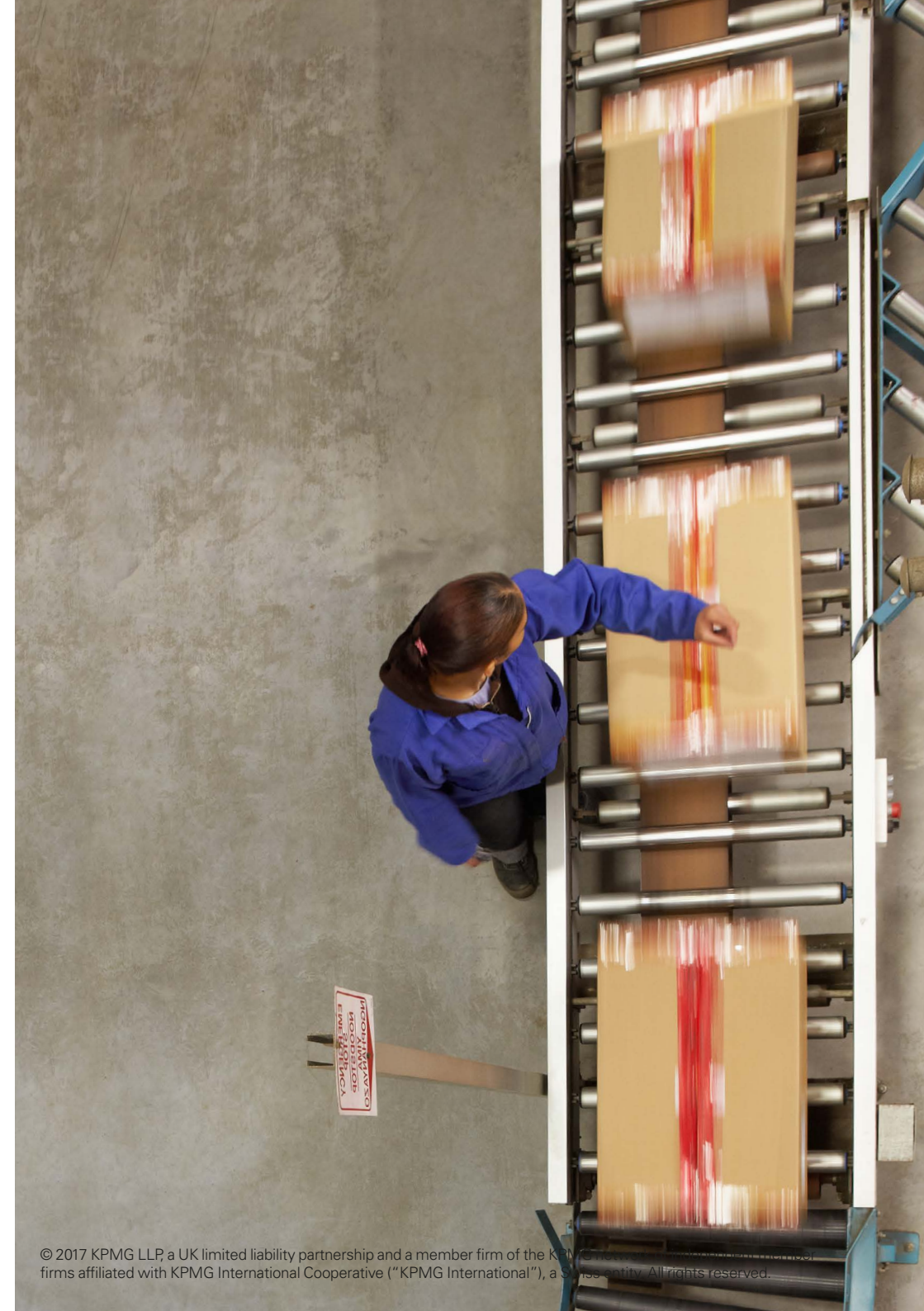
For how many of your EU nationals is English a first language, which may prevent them making these applications themselves?

## **Family**

Will the advice and support given to help individual employees be extended to family members of employees?

## **Avoiding discrimination**

Will advice and support be offered to other non-EU employees or families who are affected by Brexit?



# KPMG's managed services solution

We have worked with our Managed Services team to create a bespoke tool which can allow employers to support their EU employees with permanent residence/registration applications whilst helping to ensure cost efficiencies for their business.

## How does the tool work?

KPMG's tool is designed so that we can advise and interact with you and your employees via an online automated tool to complete the permanent residence/registration application process for large numbers of employees.

## Our proposition

### We bring together:

- Regulatory insight and subject matter expertise
- An efficient and effective operation
- In-house leading edge workflow technology

### KPMG's tool is designed to:

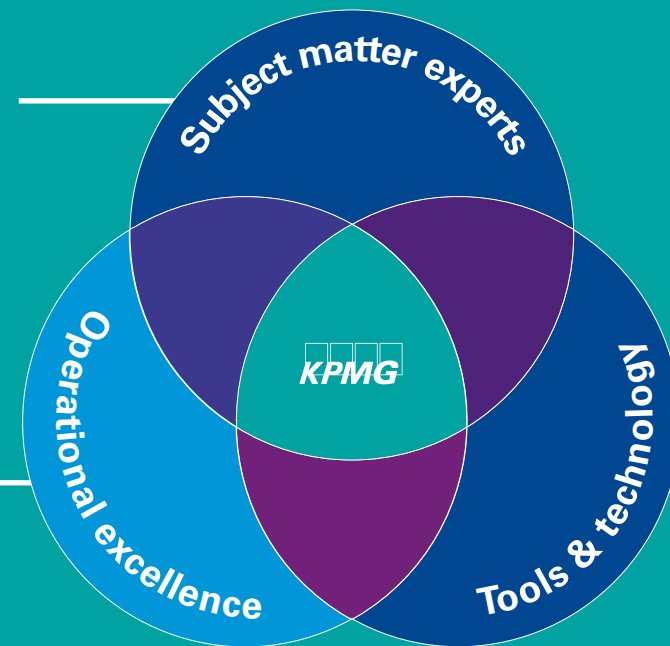
- Provide consistency and repeatability
- Be scalable and flexible
- Support continuous improvement
- Ensure robust operational risk management
- Ensure careful cost management
- Allow growing capability from within the operation
- Reduce the management control required by global mobility
- Be an easy and reliable system which automates the application process

We draw upon the **deep knowledge** and **understanding of the regulatory environment** from our Risk Consulting colleagues and can introduce **bespoke subject matter experts** to support your requirements and help ensure robust remediation is conducted.

- Our Corporate operations can **deliver at scale** across both our onshore and offshore locations
- We have **proven operational processes** driving comprehensive management information and reporting
- We have a **robust and mature control and quality framework**

We have built **in-house proprietary assets** to support the mobilisation and delivery of the managed services tool, with examples such as:

- Our **case management tool** to manage all workflow activity, helping to ensure applications are handled efficiently
- Our **Technology workstream capability** which helps ensure we gain seamless, secure access to systems and establish and integrate all necessary technology infrastructure
- Our **modelling expertise**, which has been used to analyse and segment data populations to enhance delivery





## Notes

1. The EU includes the following countries: Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK.
2. The EEA includes all EU member states plus Iceland, Liechtenstein and Norway.
3. Swiss nationals are able to travel and work freely in the rest of the EEA but Switzerland imposes work restrictions on non-Swiss EEA nationals in Switzerland. As a result, this document does not provide guidance to UK nationals in Switzerland. Please contact KPMG for assistance with these situations.
4. Family members of an EEA national who automatically gain rights under EU free movement rules are:
  - Spouse
  - Registered partner (e.g. civil partner) if the host member states treats registered partnerships as equivalent to marriage
  - Direct descendants who are under 21 and dependant direct relatives in the ascending line of the EEA national or his/her spouse or registered partner

Unmarried partners in a durable relationship and other family members who are dependants or members of the household of the EEA national can also gain rights as family members. They must first be recognised in their host country as having the required relationship by making an application for suitable documentation. People who care for EEA nationals in another EEA country can also gain rights but these are not within the scope of the information in this document. If you have questions about the rights of family members please contact KPMG.
5. Article 50 was triggered on 29 March 2017. The negotiating period is two years, likely followed by a phased implementation period. For this reason it is not expected that restrictions on free movement of EEA nationals in the UK will to apply before 28 March 2019, or later at a predetermined negotiated date.



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