

New Immigration System - 1 January 2021



Graeme Ross
Head of Immigration and Compliance

graeme.ross@admin.cam.ac.uk

Agenda

- Overview
- Reminder of EU Settlement Scheme
- Reminder of Global Talent visa route
- Introducing the 'Skilled Worker Visa'
- Processes and procedures
- Visitors
- Right to work checks

Overview

- Free movement for EU/EEA/Swiss nationals ends on 31 December 2020. **No change** to rights of EU/EEA/Swiss nationals resident by 31 December 2020 (i.e. no change for visitors, workers, employees etc.)
- EU/EEA/Swiss nationals resident by 31 December 2020 can access EU Settlement Scheme and apply by 30 June 2021
- ‘New’ immigration system in effect from 1 January 2021 for all new arrivals of EU/EEA/Swiss nationals from this date
- Exception is Irish nationals who will never need a visa to come to UK
- Tier 2 will be rebranded as ‘Skilled Worker visa’
- All other immigration routes (e.g. Global Talent visa, Tier 5 etc.) remain intact, and accessible by new arrivals of EU/EEA/Swiss nationals from 1 January 2021

EU Settlement Status Scheme - overview

- EU nationals and family members who, by **31 December 2020**, have been continuously resident in the UK for at least five years will be eligible for **settled status** (also known as 'indefinite leave to remain').
- EU nationals and family members who, by **31 December 2020**, have not been continuously resident in the UK for at least five years will be eligible for **pre-settled status**, which is granted for 5 years and leads to settled status.
- **Eligibility requires 'physical presence in UK':**
 - If employed by us abroad but not physically present in UK by 31/12/20 – cannot qualify
 - A job/address in the UK is not required to qualify but *helps* to prove residence (i.e. not just a tourist)
- Both statuses provide unlimited right to live/work/study in the UK.
- All applications free of charge. Deadline to apply: 30 June 2021

Status of EU nationals after exit

EU/EEA/Swiss nationals who are resident in UK by or before 31 December 2020 (i.e. all current staff)

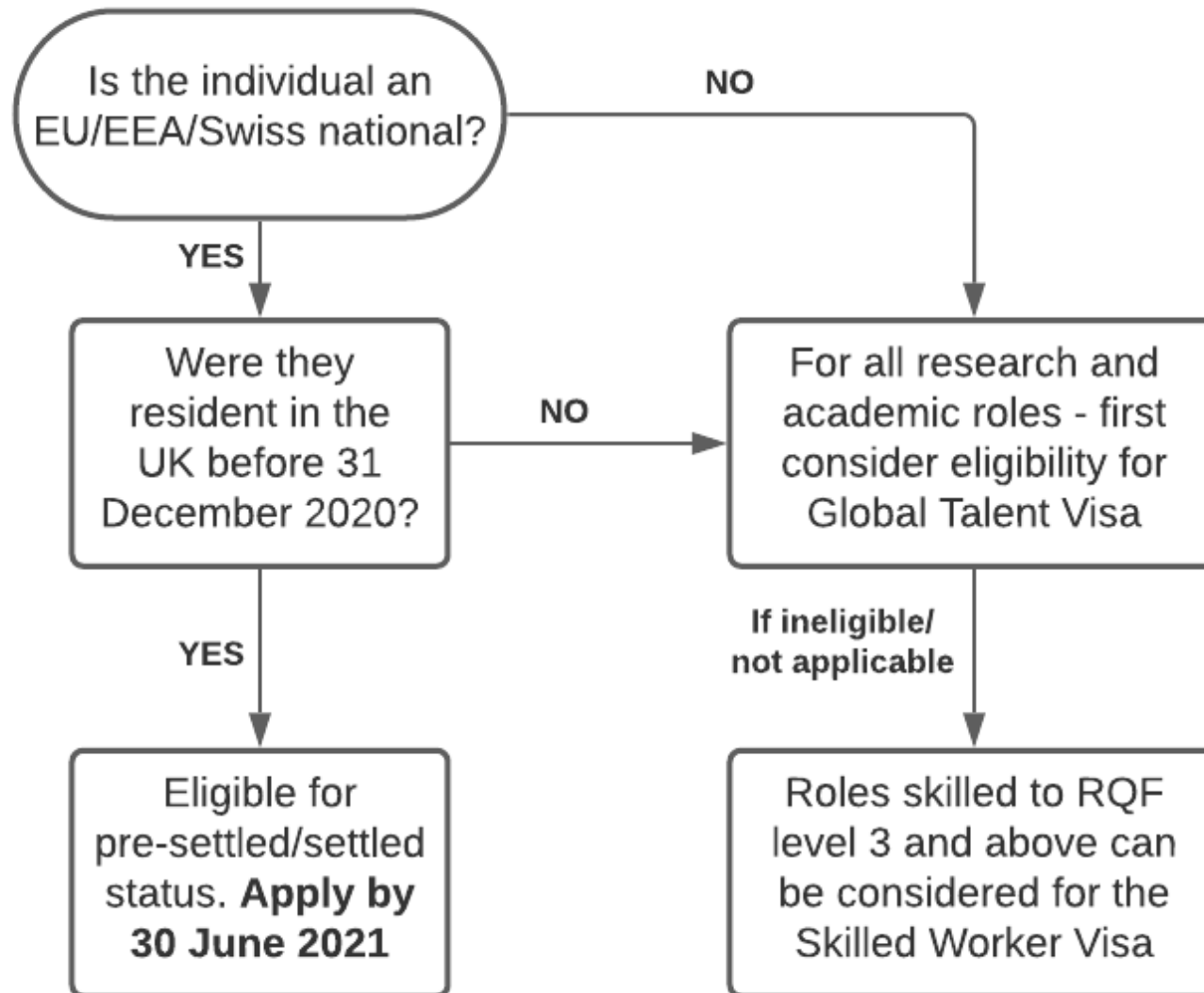
- Eligible for pre-settled/settled status. Must apply by 30 June 2021 **not** 31 December.
- **If travelling outside the UK between 31 December 2020 and 30 June 2021**, they can secure re-entry using only their passport or ID Card – **no requirement** to prove they hold status and **no requirement** to carry additional evidence at the border (e.g. employment contracts etc.)
- Right to work status does not change and **no requirement** to get a work visa
- **No requirement** to check if pre-settled/settled status has been gained

Status of EU nationals after exit

EU/EEA/Swiss nationals who arrive in the UK for the very first time on or after 1 January 2021 (i.e. prospective staff)

- Not eligible for pre-settled/settled status.
- EU/EEA/Swiss nationals entering UK on or after 1 January 2021 can do so using only their passport or ID card but where they do so, they will be granted 6 months entry as a **visitor only** – employment prohibited.
- Where a job offer is made, individual must obtain an applicable work visa in advance of travel to the UK in order to hold the right to work
- For intended new starters from 1 January – **get in by 31 December if possible**, otherwise they need a visa to work.

Employment visa routes



GTV overview



GTV conditions & benefits

- Unlimited right to work in the UK.
- Can choose a 1-5 year visa. Not tied to employment or grant length.
- Can obtain ILR after 3 years. Absences over 180 days a year waived if for 'research purposes'
- From 1 December, can switch from any visa type (except visitor) into GTV from inside UK
- Cost of visa: £608 'flat rate', plus NHS Surcharge
- No English language requirements
- Family members (spouses, partners and children) can apply for equal length of dependant visa

Skilled Worker Visa (SWV)

- Replaces Tier 2 (General) visa route. SWV goes live from 9am on 1 December. Tier 2 closes same time.
- SWV thereafter accessible by EU and non-EU nationals on same basis.
 - Non-EU national already issued Tier 2 CoS applying before 1 December, will be issued a Tier 2 visa.
 - Non-EU national already issued Tier 2 CoS applying after 1 December, will be issued a SWV. 'Sponsor note' required.
 - Non-EU national issued SWV CoS after 1 December will be issued a SWV
 - EU national issued a SWV CoS after 1 December will be issued a SWV no earlier than 1 January 2021.

SWV - features

- No change to visa conditions for existing Tier 2 visa holders. At point of extension/change of employment would be issued a Skilled Worker visa.
- Reduced skill level (now RQF level 3+ roles). Reduced salary level.
- Relaxed switching rules. Can apply inside the UK whilst holding any other UK visa type/status except visitor or short term study visa.
- From 1 December 2020 - no Resident Labour Market Test:
 - **No immigration scrutiny of adverts.** No further requirement to advertise for 28 days
 - Must still be a 'genuine vacancy', and University Recruitment Policy must be followed.
 - Free to appoint best person **regardless of nationality**

SWV – features cont.

- Removal of 6 year visa limit ‘cap’. Tier 2/SWV -> ILR within 5 years
- No cap on numbers of CoS per year. No cooling off period
- SWV dependants can enter on the same basis/rules as Tier 2 dependants
- No change to fees. EU nationals will be required to pay the same level of fees as non-EEA nationals:
 - £610/£704 for three year SWV visa
 - £1220/£1408 for three-five year SWV visa
- NHS Surcharge: Now £624 per year (£470 for under 18s)
- Timeframes for visas: 3 weeks from abroad/8 weeks inside UK

Immigration Skills Charge (ISC)

- ISC introduced in 2015 for Tier 2 route and will be transferred into SWV route.
 - £364 per year of CoS validity (i.e. 5 year CoS: £1820)
 - Payable at time of CoS assigning on top of CoS fee (£199)
- Exemption for roles in PhD level SOC Codes and where switching into any role from Tier 4/Student visa
- Recruitment consideration – no legal basis to refuse sponsorship for an eligible role to an individual where the only reason would be not wanting to pay the Skills Charge
- Selection must be made on the basis of the selection criteria. Right to work should not be considered until later stages.

Skilled Worker Visa points

- Minimum of 70 points required to gain Skilled Worker visa:
 - Offer of a job by an approved sponsor 20 points
 - Job at an appropriate skill level 20 points
 - English language at level B1 10 points
 - Minimum Salary requirements met 20 points
- ***New*** - For salary, it will be possible to 'trade points' where paid below the salary threshold provided salary is not below min. £20,480.
Designed to give flexibility to employers.

Maintenance/Financial requirements

- Maintenance requirements renamed the 'Financial requirements'
- No points awarded for this aspect but must be met as part of SWV application
- Requirement to hold funds reduced from 90 days to 28 days:
 - Main applicant - funds of £1,270
 - Partner - funds of £285
 - First child - funds of £315
 - Each additional child - funds of £200
- 'A rated' sponsors can still 'certify' on CoS

Job offer/skill level – 40 points

- 20 points for “Offer of a job by an approved sponsor” – University of Cambridge meets this requirement.
- 20 points for “Job at an appropriate skill level.” **Skill level requirement lowered from RQF level 6 to RQF level 3.** SOC Codes continue to be used to define roles eligible for sponsorship.
- All sponsored roles will require a Certificate of Sponsorship. As now, cannot be issued more than 3 months before intended job start date.
- Can undertake supplementary employment (rules unchanged).

SWV – examples of eligible roles

- **All** research and academic roles

- **Managerial roles:**

e.g. Director, Senior management, project management, IT management, Finance management

- **Some Administrative roles at Grade 5 and above:**

e.g. Grant, Departmental, Recruitment, Project etc.

- **Operational roles:**

e.g. HR Advisors, IT development/design roles, Comms/public affairs co-ordinators, Festival/events co-coordinators, etc.

- **Technical and Specialist roles:**

e.g. Lab Technicians, IT support, Veterinary nurses, Animal Technicians etc.

Ineligible roles

Example of roles ineligible for a SWV (skill and/or salary level):

- Administrative roles below grade 5, including HR administrators
- Administrative assistants
- Finance/Accounts Assistants
- Library Assistants
- Receptionists
- Caretakers, Cleaners, Custodians
- Catering and bar staff

English language requirements – 10 points

- Must be met to score 10 points. ‘Applicant-led’.
- Remains largely unchanged to current rules. Can be met as follows:
 - Being a national of a majority English speaking country; or
 - Having an academic degree taught in English (& NARIC if overseas degree); or
 - Passing a secure English language test at B1 or above; or
 - For non-EEA nationals – having met the required level in a previous successful immigration application.

Salary requirements – 20 points

- Must score 20 points for minimum salary requirements
- From 1 December 2020, £30k minimum rate scrapped
- **New ‘general’ salary threshold of £25,600**
- Roles paid **the higher** of either £25,600 or the ‘going rate’ for role, can *automatically* score 20 points.
- Introducing a new ‘going rate’ requirement depending on job role (SOC Code). Based on national average pay at 39 hours per week.
- If salary less than that – but above the £20,480 baseline – they could still gain the necessary salary points by ‘trading’, via:
 - holding a PhD relevant to the job; or
 - a job in a shortage occupation; or
 - being a ‘new entrant’ to the labour market

Table 1:

General salary threshold	Going rate	Points
Salary of at least £20,480	At least 80% of the going rate for the profession (70% if a new entrant).	0
Salary of at least £23,040	At least 90% of the going rate for the profession.	10
Salary of at least £25,600	At least the going rate for the profession.	20

Table 2:

Characteristic	Points
Education qualification: PhD in a subject relevant to the job	10
Education qualification: PhD in a STEM subject relevant to the job	20
Job in a shortage occupation (as designated by the MAC)	20
Applicant is a new entrant to the labour market (as designated by the MAC)	20

Guidance document



- <https://www.hr.admin.cam.ac.uk/hr-services/visas-immigration/working-uk/skilled-worker-visa/swv-minimum-salary-requirements>

Key learning points



- For any given role there are multiple ways in which the minimum salary requirement can be met
- **For F/T roles, you won't need to work this out.** Check the salary guidance in the first instance
- Where a role is not listed, or where a part-time salary calculation is required, contact the HR Compliance Team (complianceteam@admin.cam.ac.uk)

Processes and procedures

- Current CoS forms to be adapted for SWV use.
- Updates to Web Recruitment (TBN)
- No change to process of submitting/returning CoS
- Loan scheme to be opened to SWV
- All current Tier 2 sponsor duties will 'port' across to the SWV route. These may be reduced as we progress in 2021.
- Recruitment – for new EU starters in January/February 2021, encourage to enter before 31 December to avoid a visa.

Visitors

- EU/EEA/Swiss nationals will be able to seek entry as a visitor at the border from 1 January 2021 using only passport/ID card
- Treat in the same way as non-EEA visitors, i.e. 'permitted activities' and payment of expenses only
- Will be able to use the e-gates to enter. All visitors will have 6 months max. entry to the UK
- Can be issued with a visitor invitation letter
- Visitor guidance: <https://www.hr.admin.cam.ac.uk/hr-services/immigration/visiting-uk>
- Creates contradiction in RTW rules for period up to 30 June 2021

Right to Work checks

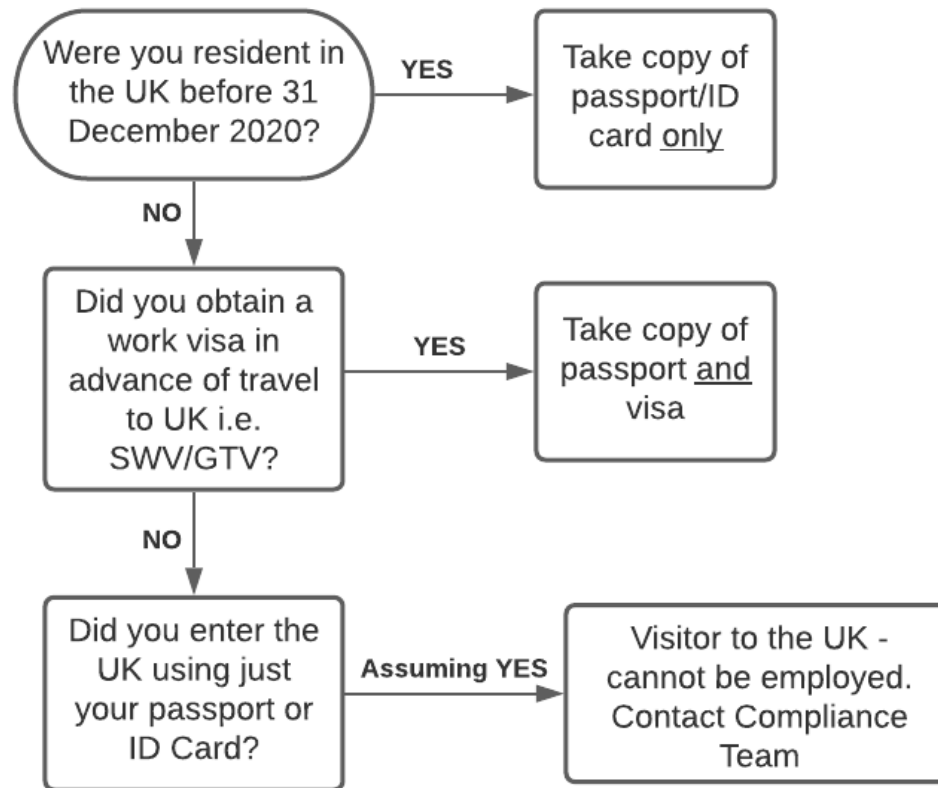
“You have a duty not to discriminate against EU, EEA or Swiss citizens. You cannot require them to show you their status under the EU Settlement Scheme until after 30 June 2021.”

<https://www.gov.uk/guidance/employing-eu-citizens-in-the-uk>

- Until 30 June 2021, new employees can prove their right to work in the following ways:
 - EU/EEA/Swiss citizens can use their passport or national identity card only
 - Non-EEA citizens continue to prove right to work by way of their Passport & visa/BRP
 - No retrospective RTW checking of any EU/EEA/Swiss workers/employees

Right to work checks cont.

- Questions at RTW stage for new EU employees/workers **up to 30 June 2021**:



Questions

