

Business and the Future of Immigration in 2021 Transcript

Pre-Roll [00:00:00] Hello, podcast listeners, and this special podcast brought to you by the Home Office and Intelligence Squared, Director of Border and Immigration Policy at the Home Office, Phillippa Rouse, Head of Immigration Policy at the Federation for Small Business, Emelia Quist and Partner at Fragomen law firm, Ian Robinson, discuss the UK's new points-based immigration system and what it will mean for business and individuals. Hosted by broadcaster Linda Yueh, the panel delves into the key changes and dates businesses need to look out for, and the guidance that's on offer to steer them through the process. And if you'd like more information after listening to the podcast, please go to [GOV.UK/HiringFromTheEU](https://www.gov.uk/hiring-from-the-eu).

Linda Yueh [00:00:48] Welcome to this Intelligence Squared podcast sponsored by the U.K. Home Office on the new immigration system. I'm Linda Yueh, Economist and Broadcaster, and it's my pleasure to host this discussion about the changes to the immigration system which comes into effect on January 1st. We'll cover what's changing and how it affects businesses. To do this, I'm joined by a brilliant panel: Emelia Quist Senior Policy Adviser at the Federation of Small Businesses, Ian Robinson, Partner at Fragomen, an immigration law firm. And Philippa Rouse, Director of the Future Border and Immigration System Directorate at the Home Office. Welcome to you all.

Linda Yueh [00:01:35] I'm going to start with you, Philippa. If you could just outline for us this new immigration system the government is introducing in January and how it transforms the immigration system.

Philippa Rouse [00:01:45] Thank you, Linda. Some big changes are coming up for the UK immigration system. From 1st of January, free movement with the European Union will end and the UK will introduce a points-based immigration system, and the big change that goes alongside that is that EU citizens will be brought under the same immigration system controls as the rest of the world. Why that's such a big change at the moment under the current free movement rules is EU nationals are able to move to the UK to look for any type of worker, any type of wage level. Under the new points system, anyone coming to the UK from anywhere around the world to work must apply for a visa and meet a specific set of requirements for which they must score some points.

In most cases, people coming to the UK will need a job offer from an employer who has already been sponsored by the Home Office as part of this points-based system and then visas will be awarded to those who gain enough points. So, this will be quite a big change for employers who recruit EU nationals from outside the UK who will need to adapt to this change, but this will also be new for employers who recruit non-EU nationals from around the world, because they should find the new system more flexible and simpler than the current system we have for non-EU migrants.

One of the key messages to get across is that if an employer or business does want to recruit someone from outside the UK's resident labour market, they'll need to register as a licensed sponsor with the Home Office.

I should say this is the first part of a really big transformation of our border and immigration system. The priority this year is to end free movement of EU nationals and to bring in the new points-based system, but this is just the first step and we are intending to streamline and digitise the border and immigration system, giving the UK much greater control over borders, but at the same time with a real aim to make it much simpler and easier for individuals and businesses to navigate our immigration system.

Linda Yueh [00:03:44] What is the reasoning for the government opting for a skills-based immigration system and what are their global comparators?

Philippa Rouse [00:03:52] So why is it a skills-based immigration system? So, one of the challenges with free movement, as with European Union, is that to a large extent the decision to migrate, to move to the UK is up to the migrants themselves rather than the UK. So, one of the challenges that brings is that with free movement, there's no guarantee that migration to the UK is in the interests of UK residents, so the switch to the points-based system is really about making sure that we've got simple and flexible arrangements for skilled workers from around the world to come to the UK, but to do specific jobs.

So, this is all about really putting it into the hands of the employers in terms of who they want to bring to the UK to fulfil particular jobs, and is very much focused on really trying to provide roots to the UK for the kind of skills and talents that we need as a country to really complement our current workforce, and really to move away from this big difference between the immigration systems, between EU and non-EU nationals, and to ensure that we have a system where it's, in effect, neutral to where people from around the world are coming from.

Linda Yueh [00:05:01] So just on global comparators, is this similar to what other countries have?

Ian Robinson [00:05:07] So actually the new immigration system, it's never going to be as simple for employers as free movement – it can't be, but that's what happens when one free movement comes to an end. But when we look at it, the UK's skilled immigration system will genuinely be one of the best in the world.

It will be more certain than the US or the Canadian system, to some extent more certain than the Australian system. It will be quicker than most. Only Singapore will routinely issue visas as quickly as we could, based on government processing and the admin that goes beforehand. And overall, we have a good story to tell on how the system will work. There's a lot that employers need to be ready for that will come to for it to work well, that we have a positive story to tell here.

Linda Yueh [00:05:50] Before we get to more about how it affects businesses, Philippa, can you also just tell us who is affected and who is not affected?

Philippa Rouse [00:06:07] That's a really important point to clarify, so thank you. We're very much talking about designing a new system for people to move to the UK from the 1st of January 21 and onwards. EU citizens currently resident in the UK are protected under the Withdrawal Agreement with the EU so they can continue to live and work in the UK as they do now. We have put into effect the EU Settlement Scheme, which allows EU nationals to apply to us to confirm their status. We've had over four million applications into

that scheme already; people will have until the end of June 2021 to apply to confirm that status.

And so absolutely, EU residents already resident here, we have been really clear from that referendum vote that we're really keen that they stay, that they can continue to contribute to the UK in the terrific way that they have done already.

Irish citizens are dealt with separately. Our arrangements with Ireland predate the EU and so Irish nationals will not need to apply into the new system. Their rights will be protected in UK law and in effect, will be able to come and live and work in the UK as a British citizen would. And then there are some other groups that might be affected, so anyone of any nationality who has been living in the UK long enough to get settled status, get settlement in the UK. Again, they won't be affected by these new rules and they will have full access to the labour market as they do now.

Linda Yueh [00:07:44] Thank you very much. Ian, how will things be different for employers from the way they currently recruit staff from abroad?

Ian Robinson [00:07:52] So if you're an employer that regularly recruits from outside of Europe, right now, you're going to find a system that is a little bit more expensive than it has been but is much quicker and more straightforward than what we have at the moment and that's really good.

However, if you typically recruit from Europe, whereas right now free movement means you can make a job offer on a Friday and start work on Monday, there are going to be extra steps. You need to be thinking about whether or not the person will qualify for the job that they're doing for a work permit. You need to be thinking about are paid enough, how you will split government fees with them and work out how that is paid, and also just ensuring that you understand your responsibilities after the fact with compliance. So, it will be more complicated than free movement and employees need to be ready for that really.

Linda Yueh [00:08:48] Emelia, how will this new system significantly impact recruitment plans?

Emelia Quist [00:08:53] As Ian has outlined that the system will add a considerable amount of time and additional work for small business employers, so they will need to factor that in in terms of their recruitment plans and how long it will take to get on board someone and bring them in to ensure that they're meeting all of the necessary criteria and checks that the Home Office has in place. So, that will be quite a change for many small businesses, but I think the FSB is wanting to work with the Home Office and we are wanting to provide as many services and assistance to small businesses to make that process as easy as possible.

Linda Yueh [00:09:35] I think it would be very useful if we could just highlight some of these changes. What is the salary and skills threshold for recruiting talent from abroad?

Philippa Rouse [00:09:46] So there are, I think, five criteria for recruiting talent from abroad. So firstly, they have to have a job offer. Secondly, they need to meet our criminality thresholds, so not be a criminal. Thirdly, they need to speak English to a standard, so, at an intermediate level. The final two are around the skills and salary, so they need to be doing a job that's at so-called RQF3 level, so that's at A level or above.

Now it's the job that is at that level rather than the person's qualifications, but the job level needs to be at at least A level. And we publish lists of all the different job types, and what qualification levels they are at.

And then for salary, there are two basic salaries – so, a minimum of £25,600 or the going rate for the job. So, an engineering role, for example, the going rate in the UK is approximately £35,000, and so someone coming in to do an engineering role will need to be earning that level of wage. Within the salary threshold, there is a little bit of flexibility, so people are able to come in and earn less than the going rate or the £25,600 level, if three things: if they are working in a role that is deemed to be in shortage and we publish lists of roles in shortage; if they have a PhD that is relevant to the job that they are doing, or thirdly, if there are new entrants to the job market. So, in particular to reflect the fact that people earlier in their careers tend to earn less than that than the going rate. So that is that the new points-based system in a nutshell.

Linda Yueh [00:11:32] Thank you, in a nutshell, are all businesses eligible to become sponsors?

Philippa Rouse [00:11:38] Pretty much, provided you haven't broken our immigration rules previously and you are a genuine business and not a criminal then broadly, yes.

Linda Yueh [00:11:49] Thank you. So, Ian, I want to come to you and just talk us through what this new system means in terms of recruiting globally, are there benefits here? Are there challenges?

Ian Robinson [00:12:02] Yes. So actually, if you're an employer in India, in the US and Canada, somewhere outside of the EU and sending staff to the UK, actually you're going to find that it's more straightforward than we have at the moment. Right now, if I was advising a client on landing a worker who will stay permanently, I'd probably say it would take three to four months. Ultimately, it could be as quick as a month under the new system, far, far, far, far faster.

It will also be possible under the new system to move between work visa categories, which hasn't been possible in the past, and that will give extra flexibility. So, all of a sudden, a one year assignment that you might have been able to extend to five years, but then the person had to go home; you'll be able to turn it into a permanent move if the person loves it in the UK and you want to stay here permanently. For regular users of the non-European system, it will seem an awful lot slicker than what we have right now.

Linda Yueh [00:13:03] Thank you, Ian. I think, understandably, businesses have had to focus a great deal on this pandemic COVID-19 this year. You've already outlined why it is important to focus on this new immigration system. I think just briefly, if you could just add, how will it significantly impact recruitment plans, and so just kind of talk us through the planning side of it? Then I want to bring in Emelia as well on this question as to why it's important to just carve out some time to focus on this immigration system, but Ian, first.

Ian Robinson [00:13:41] Yes, and actually, this is largely about recruitment and it's also about retention. So, on the recruitment side, whereas now if I needed to recruit somebody in February to come and work in my team, and they were European, as it stands the moment that we make the job offer, notice periods allowing they could start work, so long as they present a European passport when they start. On the current law, that would be

enough and, they would have the permission to work us and I'm sure they would do really well. From the beginning of next year, that individual will also need to hold permission to take that job, so long as they aren't from the UK or Ireland, in which case they are exempt. But getting that permission will mean a fair amount of legal assessment, making sure people are doing the right sort of job, paid enough money and so on.

They will need to make an application, generally speaking by visiting a visa centre, making an application online. You as an employer and your employee need to think about fees and there are several fees that can add up associated to UK immigration. And then once they're in the U.K, it's about sponsorship and the deal with the Home Office on sponsorship is we will make it easy relative to some European countries, in particular, for you to employ migrant workers once they're here. But in return, we need you to make sure that you're tracking where they live, where they work, and that you can report to us if you have any concerns or if we do.

And on the retention side, it really is about making sure that your employees, whether European and here before the end of the year, understand that they ought to apply under the Settlement Scheme. And none of this is rocket science – for retention, begin by reassuring them that they can stay, go on to educate them as to the process, really straightforward process – they don't need a lawyer. And then be direct, as you get closer to the end of June, 2021 deadline, be more directive about why it's important to apply.

Linda Yueh [00:15:42] So Emelia, same question to you. Businesses have a lot on their plate, so just kind of talk us through why it's so important for employers, especially I think small employers who just have a lot happening to focus on this immigration system in terms of recruitment, in terms of retention. So over to you.

Emelia Quist [00:16:00] Thank you. Yes. So, it is a very challenging time right now for smaller businesses, for small business employers, they're grappling with a number of challenges in relation to COVID. But one thing is clear that we know from our research that we have done at the Federation of Small Businesses, is that around 26 percent of our members employ at least one person who is an EU citizen. So, they have EU workers within their workforce. It's definitely a component, and so, they want, we want, to ensure that they know what to do in terms of ensuring that those workers have EU settled status or pre-settled status.

And also, if they're considering expanding their workforce in the future from the EU, they know what steps to take. So, it's a real challenge, I think, for all of us at the moment in trying to ensure businesses are aware of all of the steps to take following 1st of January and also dealing with the challenges around the COVID pandemic. But we're doing all we can at the FSB in terms of working with the Home Office in sending out various messages and the various guides and pieces of guidance and, things like today, the podcast, trying to inform businesses of what's around the corner.

Linda Yueh [00:17:08] Thank you. Could you also just talk us through what businesses can expect over, say, the coming five years as a result of these changes?

Emelia Quist [00:17:16] So I think for most small businesses, as Ian has highlighted, that the current immigration system can be quite complex, and for most small businesses, they don't recruit from outside of the EU, so, they're very much used to the freedom of movement and the simplification that it provides in terms of recruitment. So, the changes

coming in are going to be quite substantial for small businesses who themselves they tend not to have an actual person within their business. So, grappling and understanding of all the forthcoming rules will be down to the business owner themselves. And maybe unlike the Settlement Scheme, we know that the immigration rules can be quite complex and difficult to grasp. So, for a small business, that's going to be a big challenge, so having simple and easy to understand, pieces of guidance from the Home Office will be essential.

Most of the small businesses that we know don't currently have a sponsor licence, so again, getting to grips with the compliance approach is key. As Ian mentioned, there are quite severe sanctions if businesses get things wrong. And I think that's one thing that for a small business, they often are quite concerned if they do things incorrectly because they don't have the necessary support and guidance. So, trying to ensure the compliance approach that it works for them in the future, I think is key over the next few months and years.

And also, as we've mentioned, the labour market at the moment is changing quite substantially. So small businesses will want to know that the Home Office is recognising the changes within the labour market and maybe responding and adapting the future immigration system to meet those necessary changes.

Linda Yueh [00:18:56] Thank you very much.

Philippa, what has the Home Office done to minimise the burdens on businesses, including SMEs and the self-employed, because I suppose a big concern is whether SMEs might be put off by the fees and the registration time?

Philippa Rouse [00:19:14] We've done a lot of engagement with lots of employers and SMEs to try to kind of understand where some of the issues and challenges might be. As Emelia's already set out, one of the concerns of small businesses, in particular, is the complexity of the immigration system and the immigration rules, the legal framework that sets all of that out. So, the first step is we're doing a lot of work to significantly simplify the immigration rules. It might be quite a technical thing, but actually rewriting them in plain English in ways that are structured nice and simply, so you can actually pick up the rules and read them and follow them – and also by simplifying them by taking out lots of the – kind of – unnecessary elements. That is a really big step, and we are doing that for all the new points-based system routes that we roll out this year.

The second point is to take out some of the complexity from the sponsor licence process. So, a couple of the burdens that we are taking out of the system, which have already been touched on, is removing the resident labour market test, so the requirement that businesses need to advertise the role first in the UK, lots of research around it and it just pointed out it just suggested that it wasn't working as intended as a mechanism to prompt employers to look to the labour market for resident labour first.

We've taken out caps, so that had two potential impacts. So firstly, by capping the volumes of people that could come in through a particular immigration route, it, kind of, creates a degree of uncertainty. But also it was slowing down the process because our current process for non-EU is that every month we have to have a panel to see how many applications we've had to make sure the cap isn't breached and then a system of prioritising within that cap. So it's now in the new system that will be in place later on this year, it will take out a good eight weeks in terms of the time it takes to recruit a migrant

from overseas. And then, as I've already touched on, longer term, I think it's a lot more that we can do what we can and will do to simplify the sponsorship process even further.

Linda Yueh [00:21:22] Great. Emelia, your reaction to that and in terms of worries that small businesses might have over this system?

Emelia Quist [00:21:28] It's definitely good to hear that the Home Office intends to simplify the system to help businesses, especially SMEs. That's definitely a good, positive step. And we know from our research that the criteria that's in place in terms of the new skill level and the lower salary threshold will definitely be a benefit to many small businesses. However, once a business has identified in terms of the skill level and the salary threshold, the biggest obstacle is actually the costs of the visa system. So, from the research that we've done, we know nearly half of our 48% small businesses won't be able to afford the current fees, which will be in place from 1st January. So that's a major obstacle in that if a business actually meets a salary threshold, meets a skill level, has identified an applicant who fits all of that criteria and they want to hire them if they have a skills shortage within that business, the cost of the current immigration system actually stops them doing so. So, we'd like to see maybe over time those costs reduced to make it more accessible for smaller businesses, especially those who have small margins. And it's quite difficult to meet those quite significant costs.

Philippa Rouse [00:22:39] We do understand the potential barrier that immigration fees could create for employers, but the charges are that play a vital role in Home Office's ability to run a sustainable immigration system and, of course, to minimise the burden on the taxpayer. It is actually intended to be more expensive to hire migrants from overseas in order to protect the resident labour market, which we do think is particularly important at the moment, not least because of the increasing unemployment being created by the response to the coronavirus pandemic.

We do believe it's right that the immigration system is as funded as much as possible by the user, but we do in some instances try to reflect some differences in our fees. So, for example, the fee to become a sponsor is £536 for small businesses and £1,476 for medium sized businesses, and we think this is fair. These are broadly in line with the levels set by our competitors and are really there to ensure the integrity of the system is maintained. But of course, we will always keep things like these under review.

Linda Yueh [00:23:57] I think it's actually really hugely important Philippa, that we look out at this question of sponsorship, so what does it mean to be a Home Office registered sponsor? What is it allowed employers to do? And how do businesses know whether or not they need to become a Home Office licensed sponsor?

Philippa Rouse [00:24:18] All very good questions. So, I think as Ian has already highlighted that the concept of sponsorship is quite simple. An employer needs to check the eligibility to become a sponsor, and in particular, there are some rules around criminal convictions and also any previous immigration offences. The sponsor will need to choose, the employer will need to choose, what type of licence they want to apply for. So, it depends on whether they want to bring in general skilled workers or workers through the intra-company transfer route.

They will need to, an employer will need to, decide who will manage sponsorship within the business, so that goes to Emelia's point about some small and medium enterprises will

clearly have to do this work for themselves. And then I think as we've already touched on, there will be a set of criteria that they'll need to follow through in order to manage the migrant they've recruited.

The kind of basic concept behind sponsorship is that the businesses that are benefiting from bringing that migrants to the UK should have some kind of responsibility towards ensuring that the migrant themselves are coming in to do what they said they were going to do. But once a sponsor – once an employer has become a sponsor – they are then able to bring in migrants, provided they fulfil the criteria that Ian has already set out around basic skills level, basic salary levels and the need to be intermediate English. Then they will be able to bring in as many, or as few migrants, to that route as they need to, to fill jobs in their business.

Linda Yueh [00:25:40] Thank you. Ian, can I pose this question to you: if a business is already a sponsor because you as a firm recruit talent from other parts of the world, do you need to apply again? Or is this about extending the current sponsorship scheme to include those coming from Europe?

Ian Robinson [00:25:59] No. If you already hold a sponsor licence, you don't need to reapply. Do keep an eye on the expiry of your licence. Many are expiring right now as that happens, but you don't need to reapply. It's only really if you haven't held a sponsor licence in the past. You might want to look at if, all of a sudden, you will be transferring people from your European offices. You might want to add to the sponsor licence. No need to apply fresh if you already hold one.

Linda Yueh [00:26:26] Emelia, do you get a sense that in this new system there is actually a desire to recruit talent in the national labour market first before looking abroad, to recruit?

Emelia Quist [00:26:37] Yes, definitely, I think you're already in the existing system, so we know that 72% of our members, if they have recruited someone, they've already recruited them within the resident labour market. So very few small businesses are actually actively going outside of the UK to seek workers. If they are doing that, it tends to be more within the higher skilled roles, so maybe there is a specific skill shortage that they've identified in the UK resident labour market and they haven't been able to source that talent there. And I think very much within small businesses, they look to the domestic labour market. We know from the recruitment patterns of smaller businesses, they look to their communities to fill gaps within their businesses, and also, they try to invest maybe in those in training and also looking at apprenticeships as a means to fill skills gaps. But where there is a gap and where they do seek to identify talent outside of the UK, we don't want to see kind of too greater barriers in stopping smaller businesses from doing that.

Linda Yueh [00:27:38] Ian, I want to come to you in terms of advice or guidance for businesses that currently rely on EU migrant labour. What should these businesses do to prepare for the new immigration system? And indeed, what advice would you give them to minimise any disruption to their business?

Ian Robinson [00:27:58] Yeah, so there are a few parts to this. The first part has got to be workforce planning and workforce assessment. What parts of your business have a high number, a high proportion of European workers and what are those people doing?

If you have a high proportion and a particular job that is skilled, from there, you're ensuring that you are sufficiently skilled to qualify for a work permit and then budget planning. Budget planning is really, really hard this year because who knows what the labour market and the working world will look like next year, but it is possible to make certain assumptions.

For jobs that are skilled, you also need to be looking at salary, making sure that you will meet the minimum salary for the visa. We've said that's about £25,600, but also the going rate for the job, and this is published on the GOV.UK website.

For lower skilled jobs, where are you, where are you finding the European people who are taking those low skilled jobs? Because if they tend to already be in the UK, they should have a settled status and it should be fine for the short term, at least. If you are recruiting from overseas, then the simple fact of it is that you will not be able to run your business like that anymore; there will be no low skilled visa route to or from overseas. But then look at what more you can do to attract local workers. Think about whether or not you can automate (and of course, everyone is) and it is part of the world that we're all working out how we can automate better, but do you need to accelerate those plans? And also, is the UK the best place to do that particular work? If you are reliant on low skilled workers, you can't access because of the system, look elsewhere as well, that, they tend to be the conversations we are having with clients at the moment.

Linda Yueh [00:29:43] Thank you. I think as we wrap up, Philippa, what should businesses do to find out more information and make sure they're up to date about changes to the immigration system?

Philippa Rouse [00:29:55] Employers can do a number of things to find out more about the new system. In particular, we've got a lot of materials on our website, so employers should go to [GOV.UK/HiringFromTheEU](https://www.gov.uk/hiring-from-the-eu). That has all the information on how to become a sponsor, on how to go about recruiting migrants from overseas and what to expect from the changes. We're also running a number of media campaigns at the moment to get the information out, with a particular focus on SMEs, given that, as we've really touched on a kind of real target audience for helping them understand what's changing.

Linda Yueh [00:30:33] Emelia, your advice on how businesses and what they should be doing to find out more?

Emelia Quist [00:30:39] Well, for small businesses, especially, we have a transition hub on our website that's accessible to all small businesses, so they want specific information on how the immigration system may impact them they can go there. For FSB members also, we are providing services to help them adjust to the new system, especially once it comes in place. And we're also holding webinars with key stakeholders to provide key information and answer any questions that small businesses have about the new system.

Linda Yueh [00:31:10] Thank you all. So, before I let you all go, briefly, what is the one message you would like listeners to take away from today's discussion? Ian I'll start with you.

Ian Robinson [00:31:25] As busy as we all are. This is important. If you don't have a sponsor licence, think seriously about whether or not you need it. And look at your

workforce and begin to think about what the new system will mean and whether or not you need to change the way that you staff up.

Linda Yueh [00:31:42] Thank you, Emelia?

Emelia Quist [00:31:44] I think if you have EU workers within your business already, ensure that they've applied for EU settled status or pre-settled status. Ensure that you understand the criteria and how it may work for you. And if you are considering taking on a sponsor licence, start that process now. And if you have any questions, reach out to organisations such as the FSB and look at the government guidance that's available.

Linda Yueh [00:32:07] Thank you. And final word to you, Philippa.

Philippa Rouse [00:32:10] Well, I think I have covered it. So, encourage employers to take the time to understand the changes that are coming up. As we have already said, there's lots of good materials on GOV.UK and elsewhere to help with that. And also, do encourage your current employees to apply to the EU Settlement Scheme at the earliest opportunity. Thank you.

Linda Yueh [00:32:31] Thank you all. Phillipa Rouse, Ian Robinson and Emelia Quist. Really interesting discussion. And I would also encourage all of you who are listening and have tuned in to please the weblink in the podcast description, for more information. To find out more, go to [GOV.UK/HiringFromTheEU](https://www.gov.uk/hiring-from-the-eu). Thanks very much again to the panelists. Thank you to the Home Office for sponsoring this episode. And thank you all for tuning in to listen to this Intelligence Squared podcast – I'm Linda Yueh.