



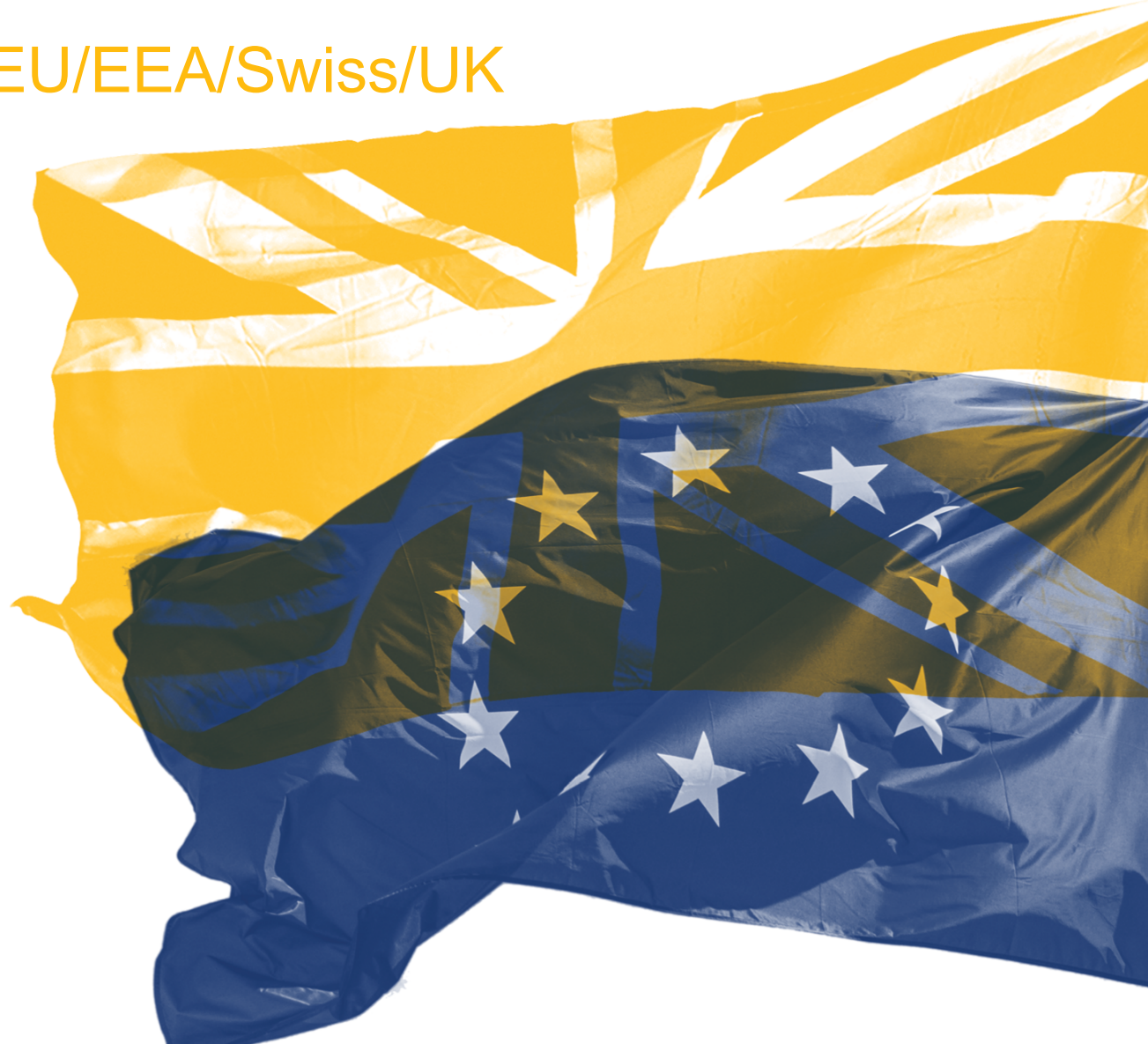
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Brexit Update

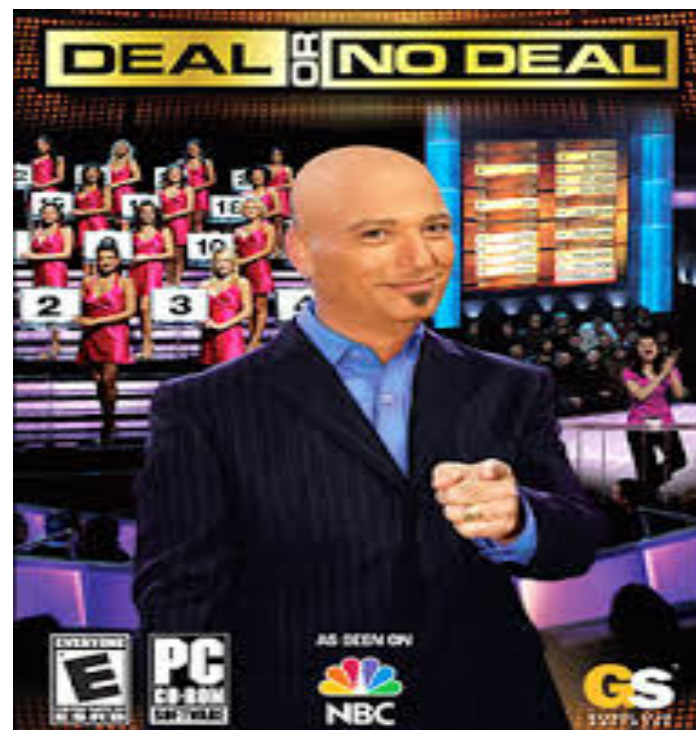
Immigration and EU/EEA/Swiss/UK Citizens' Rights

Andrew Tingley

June 2019



The "B" Word - Latest position on Brexit and Article 50



Brexit Update: Immigration and Citizens' Rights

- Latest position on Brexit
- The potential impact of Brexit for US Companies.
- Rights of EU/EEA/Swiss citizens if a deal and an overview of the EU Settlement Scheme
- Rights of EU/EEA/Swiss citizens if no deal and an overview of European Temporary Leave to Remain



Brexit Update: Immigration and EU Citizens' Rights

- Current position on UK nationals living in EU/EEA/Switzerland
- Update on EU/EEA/Swiss citizens' rights post-December 2020 and an overview of the proposed new UK Immigration System
- Some suggestions on how to plan for Brexit

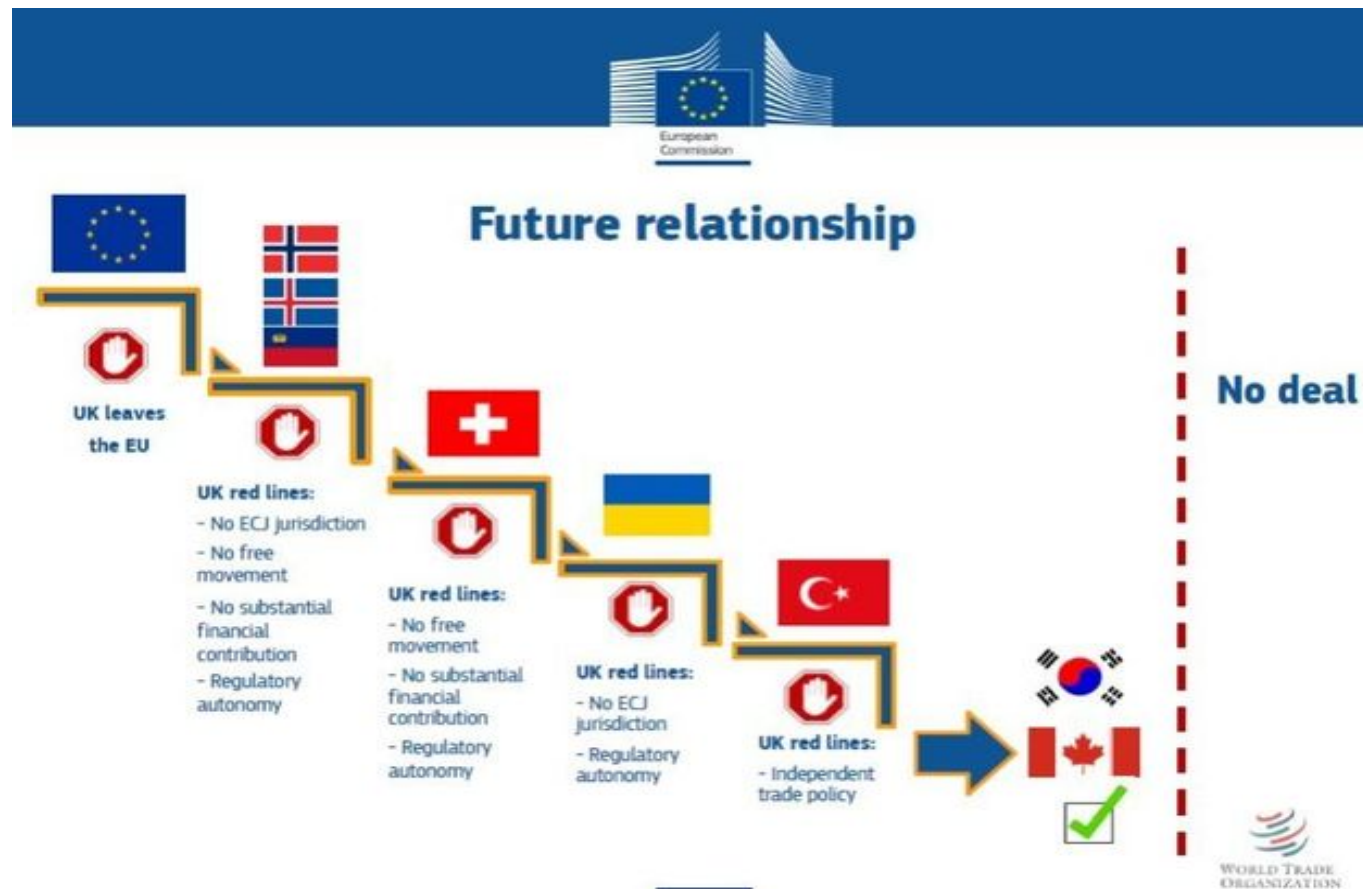


Latest position on Brexit and Article 50

- Brexit has been extended until 31 October 2019
- This is the date we will formally leave the EU (unless a deal is agreed earlier)
- Elections for a new Conservative Party Leader and Prime Minister
- Options still on the table
 - Leave the EU with a deal
 - Leave the EU without a deal
 - Second Referendum
 - Revoke Article 50



Future Relationship

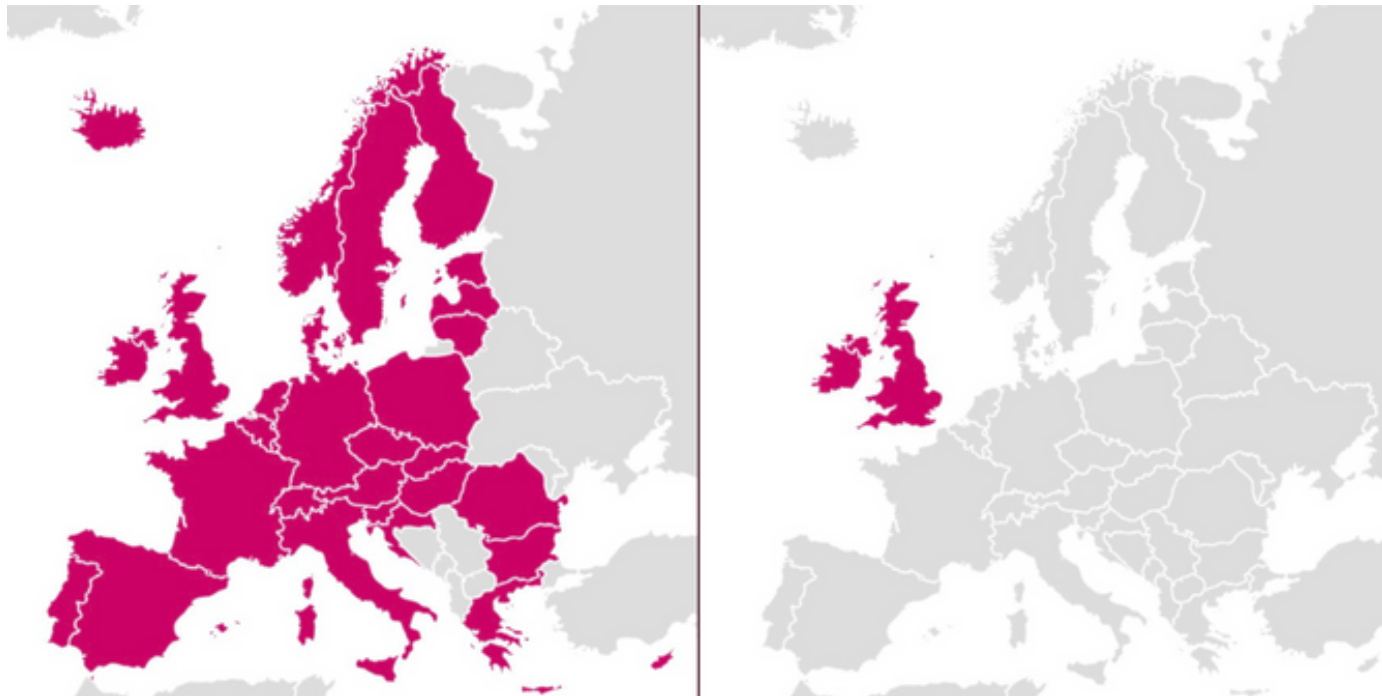


Freedom of Movement – The Basics

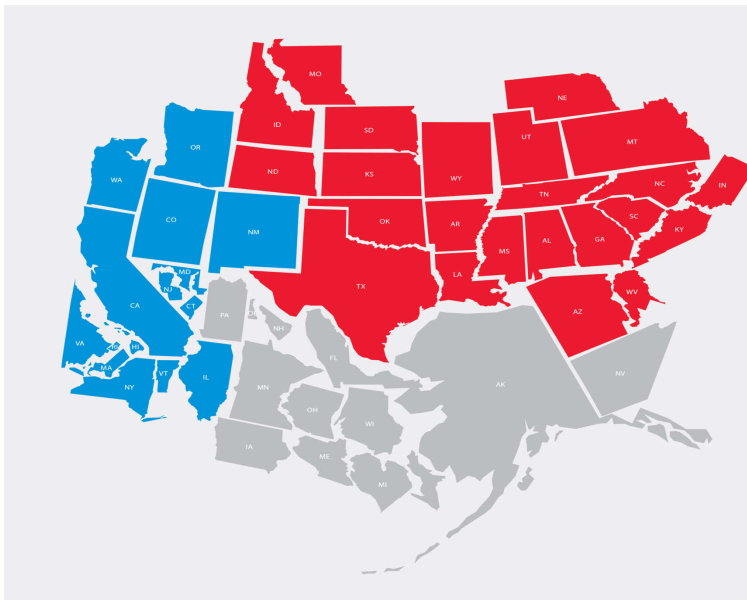
- Employment
- Self – Employment
- Student
- Self Sufficient
- Comprehensive Sickness Insurance (CSI)



Freedom of Movement – Before and After



US Equivalent – Time for the US to break up?



Impact of Brexit on US Companies

- Estimated to be up 5.2 million US citizens with dual citizenship
 - Greek, Irish, Italian, Polish etc
 - Easier to transfer staff and/or family members
- UK staff – rights to work
- Difficulties recruiting and retaining skilled EU employees due to the new proposed Immigration system (2021 onwards)



Outline of the Withdrawal Agreement

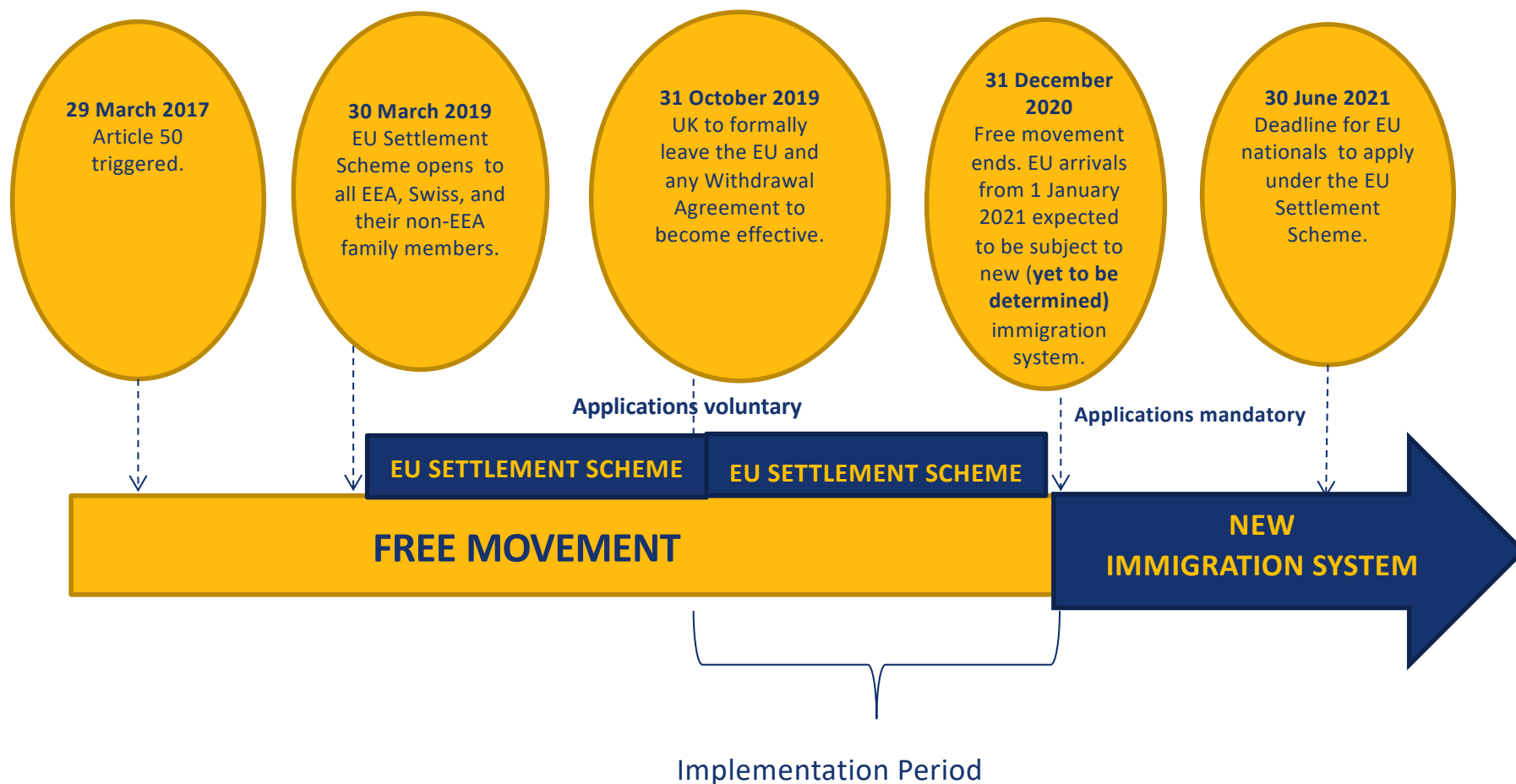
- EU citizens' rights in the UK will be protected and maintained
- Implementation period until 31 December 2020
- Free movement continues until end of implementation period
- Duty to obtain residence status leading to settled status (EU Settlement Scheme)
- Residence status entitles EU citizens to live, work and study in the UK



Withdrawal Agreement and EU Citizens' Rights

- EU citizens and their family members living in the UK by 31 December 2020 will have until **30 June 2021** to make an application for "status" under the EU Settlement Scheme
- EU citizens and their family members who have been continuously resident in the UK for **5 years or more** by 31 December 2020 will be allowed to stay in the UK indefinitely (and will have the same rights) by obtaining "**settled status**"
- Any EU citizens who arrive in the UK prior to 31 December 2020 but have **not met the 5 year threshold** will be eligible to apply for "**pre-settled status**" and, again, will have the same rights
- Close family members will be able to join EU citizens and apply for settled status or pre-settled status provided the relationship existed on or before 31 December 2020

Immigration – Key Dates – Deal



New Immigration Rules – Appendix EU

- Based on continuous residence
 - 6 months in any 12 month period
 - Exceptions include: one period of up to 12 months for an important reason (for example, childbirth, serious illness, **study**, **vocational training** or an overseas work posting)
- Application process
 - No fee
 - Digital document
 - 3 step process
 - Criminality checks
- Irish citizens
- Losing status








Settled Status – The Process

The EU Settlement Scheme is open and it is free to apply. You can access the application at gov.uk/apply-eu-settled-status.

Basic information

Provide basic information such as your name, date of birth, contact details and nationality.

 Proof of identity	 Proof of residence	 Criminality check
Using a valid passport, national identity card, or biometric residence card (if you are a non EU citizen) you can verify your identity in several ways: <ul style="list-style-type: none">• use the EU Exit ID Document Check app• send your identity document by post to the Home Office• visit an ID document scanning service location. For a list of locations offering this service, visit gov.uk/eu-id-scanner-locations. You will also need to provide a digital photo of yourself, so it can be checked against your identity document.	Provide your National Insurance number, if you have one. If you do not have one, do not worry, a list of suggested evidence that is accepted can be found at gov.uk/eu-evidence-of-residence .	Declare any criminal convictions. Only serious or persistent criminality will affect your application. This will not affect the vast majority of EU citizens ¹ and their family members.

Approval

Subject to application checks, you will be granted settled or pre-settled status, depending on how long you have lived in the UK.

You will get digital proof of your status through an online service. In most cases your new immigration status will be granted within a couple of weeks. You can track the progress of your application online or by contacting the EU Settlement Resolution Centre.

Once you receive your status, details will be provided by email on how to access it on GOV.UK.

Pre-settled status

If you have less than five years continuous residence in the UK, you will be eligible for pre-settled status (also known as limited leave to remain or enter). This means you can stay in the UK for a period of five years, until you are eligible for settled status.

Settled status

If you have five years or more continuous residence in the UK, you will be eligible for settled status (also known as indefinite leave to remain or enter). This means there is no time limit on how long you can stay in the UK.

To prove your identity you can:

Use the EU Exit: ID Document Check app:

Currently this is only available on Android devices with NFC capability. An easy way to check if your Android device has NFC capability is whether your device has the technology to make contactless payments.

You can use a friend or family member's Android device to download the EU Exit: ID document check app and complete the identity verification step.

If you do not have access to the EU Exit: ID Document Check app, or if you prefer, you can:

Visit an ID document scanning service location:

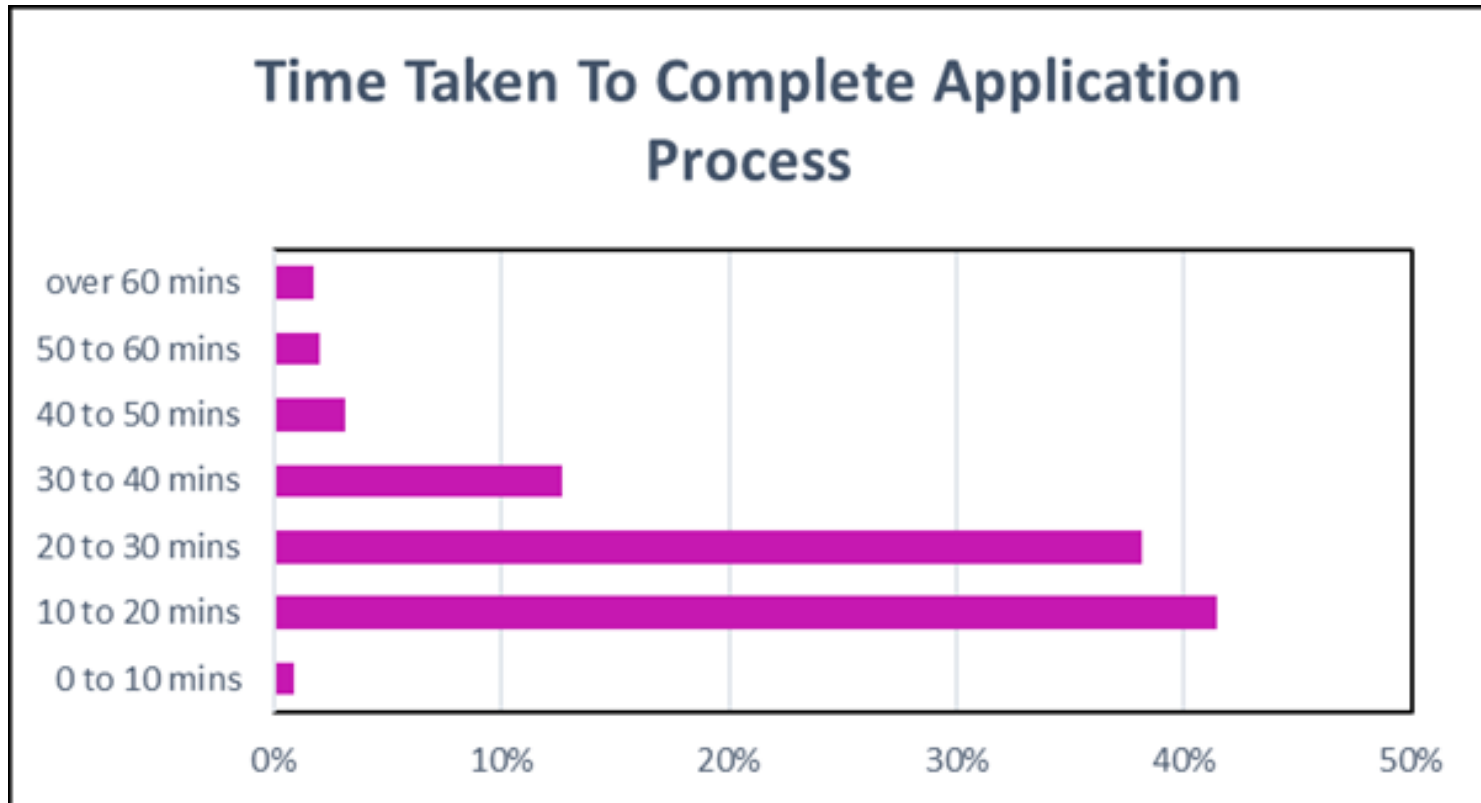
Visit an ID document scanning service location which provides access to an Android device to scan your biometric identity document and complete the identity verification step.

Send your identity document to the Home Office by post:

If you do not have a biometric passport or the app cannot read your biometric identity document (or if you prefer) you can use the postal route. Once you start your application you will be provided with the address. The Home Office will return your document.



Settled Status – The Process

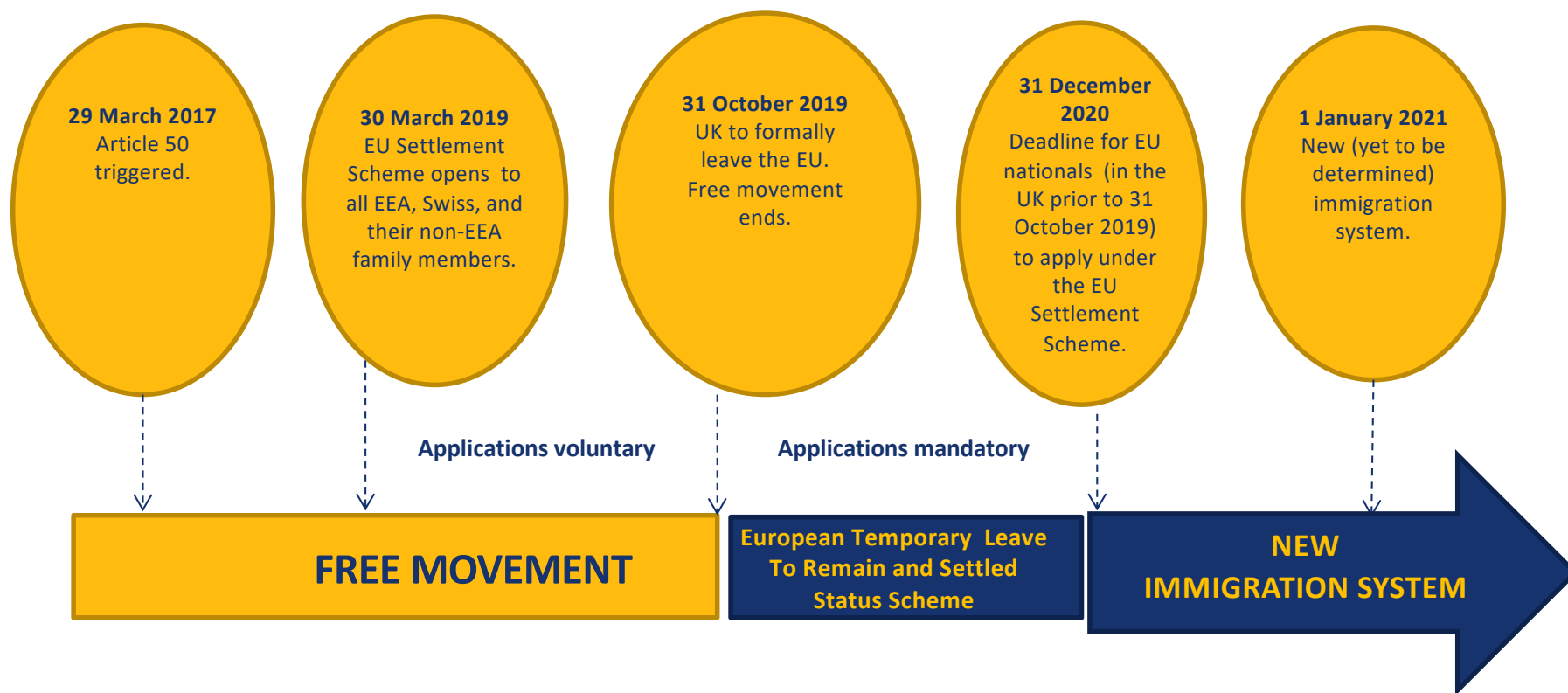


EU citizens' rights if no deal

- Free movement will end on 31 October 2019
- No intention to "turf out" EU citizens already in the UK by 31 October 2019
- Those individuals can still use the EU Settlement Scheme – deadline to apply is 31 December 2020 (not 30 June 2021)
- EU citizens who arrive after 31 October 2019:
 - Less than 3 months – no visa required
 - More than 3 months - European Temporary Leave to Remain
 - New UK Immigration Rules will apply post January 2021



Immigration – Key Dates – No Deal



No deal and European Temporary Leave to Remain

- European Temporary Leave to Remain
 - Must register if stay is longer than 3 months
 - Leave granted for 36 months
 - No right to extend
 - Family members will need to apply for a family permit
 - Fee to be determined



Rights of UK nationals living in the EU

- **Deal - Withdrawal Agreement**
 - Reciprocal rights provided to UK citizens in the EU/EEA/Switzerland
 - Free movement continues until 31 December 2020
 - Application process in other Member States
- **No Deal**
 - Position is still unclear – Except EEA and Switzerland
 - No right to move freely between Member States
 - Rules will vary from country to country
 - Some countries have stated their intention to provide reciprocal arrangements
- Business / short-term travel – Schengen Code – **90 in 180 days**



UK Immigration White Paper – Key points

- Key Points from the Immigration White Paper
 - An end to the free movement of EU/EEA/Swiss workers
 - Unified immigration system
 - New system based on skills and sponsorship still required
 - Skills threshold lowered to include medium skilled jobs
 - Salary threshold will still apply - £30,000?
 - No cap on the number of visas
 - No resident labour market test
 - Immigration skills and health surcharge will still apply
 - Mobility concessions – business and visitor travel



Immigration White Paper – Low Skilled Visa Route

- Overview of the low skilled visa route
 - Temporary visa – only open until 2025
 - Only applies to low risk countries
 - No requirement for a definite job offer or sponsorship
 - Time restricted to 12 months
 - Cooling off period applies
 - Limited benefits
 - No right to bring family members
 - No access to benefits
 - No path to settlement



Brexit Update: Immigration and EU Citizens' Rights

- Right to work checks
 - No additional checks until 31 December 2020
 - EU passport or national identity card
 - Conflict with Immigration Rules?
 - Criminal and civil sanctions
- Internal Audits
 - Train Key Personnel on the Immigration rules / guidance
 - Ensure on-going compliance – keep records!
 - Have proper HR / recruitment systems in place



Preparing for Brexit

- Audit the workforce
- Assess skills and labour shortages
- Increased costs
- Consult with EU workers
- Brexit team
- Discrimination and harassment claims



About the Speaker

- Andrew Tingley has over ten years of experience working as an immigration lawyer, advising a wide range of clients in professional services, the third sector, SME start-ups, entrepreneurs and high net worth individuals. He has particular experience and a strong track record in dealing with complex and sensitive immigration cases.
- His wealth of experience is crucial to the growth of the firm, particularly in London, as we continue to advise clients on a wide range of complex high value matters, such as Brexit related and global mobility issues.
- Learn more about Andrew here: <https://www.womblebonddickinson.com/uk/people/andrew-tingley>.



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