

Poll reveals: EU citizens at risk

Business not ready for changes to UK immigration law

The Government's long-term ambition is to go digital in public administration, including immigration control. For employers and workers, this includes replacing physical document right-to-work checks with digital, online verification. At the same time, employers will have to familiarise themselves with a new immigration regime they have had no experience of - the points-based system.

We are concerned by the breakneck speed with which the Government decided to go down this route and move to a new immigration regime with little opportunity for the British public to sufficiently adapt. Specifically, in the case of EU citizens, there is no transition period for employers and applicants to get used to it - they will go from "no immigration checks allowed" (beyond looking at an EU passport or national identity card) until 30 June 2021, to "digital-only checks obligatory" on the following day, 1st July. EU citizens will have to make do with a digital-only proof of their right to work, without any physical backup.

Australia is the only country in the world to have achieved a digital-only right-to-work checking system, and in contrast to the UK's approach, they took care and time to get everyone used to it. They included an eight-year period where citizens could receive a physical document at no cost, followed by a further three years where they could do so for a fee. The UK aims to implement this change overnight for EU citizens.

The UK Government is about to launch the expansion of its points-based system to include EU citizens. This will see a drastic change in recruitment methodology for most employers in the UK. With little time left, there is a concerning level of ignorance about the new immigration regime and what this means for EU citizens already living in the UK and those who will wish to come in the future.

the3million has commissioned an online poll of professionals with authority over hiring decisions, and we highlight some of the results below. It makes alarming reading for anyone with digital-only status.

It is worth noting that the picture is likely even worse when considering **all** employers in the UK - the fact that the poll was an online poll means there will be a certain amount of oversampling of employers who are more comfortable with digital technology. It is also important to state that whilst this affects EU (and EEA/Swiss) citizens in the immediate short term, the Government aims to roll out the digital-only status to an ever-expanding group of immigrants.

Key findings from the poll:

- There is huge **uncertainty** and **lack of knowledge** amongst employers around right-to-work checks in general, and the **new points-based system rules for employing EU citizens** after the end of this year.
- The **hostile environment** policies mean that at the same time, employers are very concerned about the consequences **of getting it wrong**. This creates an incentive to 'play it safe' and avoid recruiting people from outside the UK.
- **This risk of discrimination is high**, with many EU citizens likely to be overlooked in favour of those who can prove their right to work with a physical document. Such discrimination is notoriously difficult to evidence in individual cases.

- **Digital-only proof for EU citizens creates additional barriers to employment for many; almost one in five employers prefers inspecting physical documents.** This affects millions of employees in total, among them hundreds of thousands of EU citizens.
- Notably, those with **experience of using the Government’s digital right-to-work trial showed a stronger preference for physical documents** than those who had not experienced digital checks. This trial was only for non-EU citizens, who *have* physical proof of status, and it concluded that physical proof should be retained. There will be no such trial for EU citizens.

DETAILED POLL ANALYSIS

Inadequate knowledge of right-to-work checks

- Employers showed lack of clarity around the new rules of employing EU citizens after free movement ends. Only 14% of all companies said they were ‘very clear’ on the rules and just as many were ‘not at all clear’. The self-declared lack of clarity was highest among the smallest businesses, with **59% saying they were ‘not at all clear’ or ‘not very clear’** (23% and 36% respectively).
- Only **just over half**, 53%, of all employers **correctly identified the penalties** associated with employing a person without the right to work in the UK. Knowledge decreased with the size of the company and was the lowest amongst smaller businesses. Only 41% of employers with turnover less than £500k were able to identify the penalties correctly. This indicates that, despite this information being readily available on its websites, **the Government is failing to communicate effectively to employers.**

High fear of inadvertently getting it wrong

- 61% of all companies were concerned about **inadvertently breaching the right to work checks**. There was considerable variation across sectors with highest concern (83%) within the transport and storage sector and lowest (49%) within the construction sector.
- Importantly, among those who had experience of digital checks (through using the Government’s trial [Right to work checking service](#), launched in April 2018), 72% were ‘very concerned’ (35%) or ‘fairly concerned’ (37%) about inadvertently breaching the right to work checks. Their increased concern about inadvertent breaches positively correlates with knowledge and experience of right-to-work checks.

Great confusion about the rules during the grace period January - June 2021

- When asked what evidence EU citizens needed to show in order to take up new employment during the grace period, **only 13% correctly answered that a European passport or identity card is the only proof** required. 54% of respondents thought that a card showing explicit right to work might be required, 31% thought they needed to start doing online checks during the grace period, and 17% of all respondents admitted they were not sure.
- In contrast, **only 36% of employers knew that after the end of the grace period, an online verification was applicable to EU citizens.** This fell down to just 17% amongst small businesses with turnover under £500k, which means over four in five of such employers is not aware how right to work checks will work under the new system.

Knowledge, confidence, and hiring of EU citizens during the grace period is low

Our poll results show that EU citizens are at risk of large-scale discrimination during the grace period, as the Government's messages to prevent such discrimination are clearly not getting through. This discrimination is likely to differently affect different sectors of the labour market. Results from small businesses are particularly concerning, as they have lower capacity to adapt to changing rules and lower turnovers to draw on if being fined for inadvertent breaches. Employers, already fearful of getting it wrong, are likely to favour those with British passports or a physical leave to remain card.

- When faced with a prospective employee holding a **British passport**, **86%** of employers were confident that they could offer this person a job.
- If an applicant produced a **physical card or permit**, stating they had Leave to Remain or Indefinite Leave to Remain, **73%** of employers were confident that this person had a right to work in the UK.
- However, despite the fact that an EU passport or national identity card is sufficient to prove the right to work during the grace period, **a staggering 50% of employers are not confident that they can offer this person a job**. This rises to 63% amongst small businesses, with 38% 'not very confident' and 25% 'not at all confident' they can hire an EU citizen only having checked their passport or identity card. (The [Government website](#) tells employers that until 30 June 2021 "EU, EEA or Swiss citizens can use their passport or national identity card" and "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.")

Those who have used digital checks have a higher preference for physical documents

A digital right-to-work check was launched by the Government in April 2018, for non-EU citizens with leave to remain or indefinite leave to remain. It is important to realise that these citizens had a physical backup proof of their status - their residence card or permit. When Government Digital Services [reported on the trial scheme](#), they said "There is a clearly identified user need for the physical card at present, and without strong evidence that this need can be mitigated for vulnerable, low-digital skill users, it should be retained." Their recommendations included "Removing the card without effective mitigation could have a significant impact on vulnerable users."

- Despite this digital right to work scheme being launched in April 2018, **only 21% of employers said they had ever used a digital check**. Unsurprisingly, this percentage was highest amongst the largest employers, but only 10% of companies with turnover less than £500k had used a digital check.
- We asked all respondents whether, in the abstract, they had a preference for checking applicants' right to work using a digital check or by inspecting physical documents. **19%, almost one in five, of all employers prefer inspecting physical documents**. Interestingly, this figure **rises to 25%, or one in four, amongst those who had experienced digital checks**. This represents the employers of millions of people in total and hundreds of thousands of EU citizens.

Methodology statement

Number Cruncher [online poll of 500 UK professionals with authority over hiring decisions](#) was carried out between 14th and 24th August 2020. Responses are weighted by organisation size, sector and region to be

representative of UK employers, using targets derived from the ONS Business Register and Employment Survey and Business Population Estimates. Tables will be available on the Number Cruncher Politics website.