

## Employment Policy and Law

8 December 2017

To: Heads of Institution, HR Directors

### EU citizens' rights – joint report from phase 1 of EU/UK negotiations

#### Executive summary

A Joint Report has been presented today by the negotiators of the European Commission and the United Kingdom Government to record progress made in the first phase of Brexit negotiations. This Update is to alert members to the Report and to set out the key points made within it relating to the rights of EU citizens in the UK and UK citizens in the EU.

#### The joint report

A 'Joint Report from the Negotiators of the European Union and the United Kingdom Government on Progress during Phase 1 of Negotiations under Article 50 of the Treaty on European Union on the United Kingdom's Orderly Withdrawal from the European Union', has been published. On the basis of this Report the European Commission has recommended to the European Council to conclude that sufficient progress has been made in the first phase of the Article 50 negotiations with the UK. The European Council is due to make its decision on 15 December. The [Joint Report](#) sets out agreement reached on three priority areas; this Update covers the key issue for the HE sector of 'protecting the rights of Union citizens in the UK and UK citizens in the Union'. A [technical note](#) expressing the detailed consensus of the UK and EU positions was published alongside the Report.

It is proposed that the joint commitments set out in the Report shall be reflected in the Withdrawal Agreement in full detail. It is important to note that this is under the caveat that *nothing is agreed until everything is agreed* and that adaptations could be made to transitional arrangements in the second phase of negotiations.

#### EU citizens in the UK and UK citizens in the EU

The Joint Report sets out an overall objective of the Withdrawal Agreement with respect to citizens' rights "to provide reciprocal protection for Union and UK citizens, to enable the effective exercise of rights derived from Union law and based on past life choices".

[UCEA Update 17:086](#) provided members with details of the Government's technical document setting out the latest published proposed administrative procedures for EU citizens obtaining settled status. On the matter of administrative procedures for applications, both for EU and UK citizens, the Joint Report states that they will be "transparent, smooth and streamlined" and sets out ways in which this will be achieved. This section refers back to the technical document in respect of arrangements in the UK and states that the Government will continue to develop it over the coming months.

The Joint Report confirms that, where individuals are required to make an application, they will have at least two years from the specified date to do so. It also provides welcome clarification on the specified date, which will be the date of the UK's withdrawal from the EU.

The Report also contains more detail on the rights of family members, providing that, irrespective of their nationality, family members on the date of exit and children born after this date will be entitled to join EU nationals in the UK, and vice versa, for the lifetime of the right holder, under the

same conditions as under current UK law. However, partners who marry after the specified date will be subject to the immigration rules in place post-Brexit.

Another key provision of the Report states that citizens already holding a permanent residence document issued under EU law (such as, in the UK, Indefinite Leave to Remain status) at the specified date, will have the document converted into the new document free of charge, subject only to verification of identity, a criminality and security check and confirmation of ongoing residence. Those who acquired permanent residence rights in the host State under the Withdrawal Agreement can be absent from the territory for a period of not exceeding five years, without losing these rights.

### **Legislative process**

The UK Government will bring forward a Bill, the Withdrawal and Implementation Bill, to implement the Withdrawal Agreement. Once the Bill has been adopted the provisions of the citizens' rights part of the Agreement in the UK will have effect in primary legislation.

The Report states that the UK courts will continue to pay "due regard" to relevant European Court of Justice rulings on citizens' rights for at least eight years after the date the UK leaves the EU.

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