



Construction
Leadership
Council

No Deal Contingency Planning Report:
Labour and skills recommendations and actions

February 2019

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Foreword from Mark Reynolds

During the past 18 months, I have been working closely with my industry colleagues to establish a Construction Leadership Council Skills Strategy and Action Plan which was published in July 2018. It sets out how we will tackle our skills and labour challenges while creating a future industry that is more productive and meets the infrastructure and housing needs required to sustain the UK economic growth. This report did not envisage a 'No Deal' Brexit scenario.

Following the Construction Leadership Council's Brexit Contingency Planning Conference held on Monday 28 January 2019, it was agreed that the CLC Skills Workstream would form a working group to provide recommendations and actions to ensure that the sector faces as little disruption as possible should there be a 'No Deal' Brexit.

The working group convened to examine in detail the specific skills and labour issues presented to the sector by a 'No Deal' Brexit, taking on board comments and concerns from private businesses, trade bodies and other organisations.

I would like to thank everyone who joined us at the conference and to the members of the working group for their time on this important issue. I would also like to thank everyone who has contributed to and reviewed this document prior to its publication.

It is clear that a 'No Deal' has the potential to be extremely disruptive to the UK construction sector, particularly in regards to its access to skilled labour and the supply of materials and services. More than 165,000 people from the EU work in our industry. The highest concentration of EU citizens working in the UK construction sector is in London and the South East, where the need for new homes is the most acute.

The construction sector is, at times, accused of not speaking with a single voice. This report builds on a huge amount of collective work from all of our major trade bodies and a number of major employers in the sector and as such is an excellent example of what can be achieved when we work together. This simply is not an issue we can address as individual companies.

The recommendations and actions in this paper set out a clear way forward for industry and the Government to work together to minimise the disruption to the UK's construction sector in the case of both a 'No Deal' Brexit or if we secure a deal. I look forward to working with my colleagues and all stakeholders across the sector to ensure the industry continues to thrive and achieve the goals set out in the Construction 2025 Strategy.



Mark Reynolds
CLC Skills Workstream Lead and Mace Chief Executive

Executive summary

The Government has been clear that EU citizens currently living and working in the UK are welcome and will be able to continue to live and work here by applying for 'settled status'. They have also proposed temporary measures to ensure that there is no change to people crossing the UK border on the day we leave the EU if we do so without a deal. It has published its vision for the UK's future immigration system, which will apply to people from anywhere in the world and has committed to consulting with industry.

However, the reality is that a 'No Deal' Brexit will generate uncertainty and may make it less likely that EU workers already in our sector will want to stay here in the UK. As well as making it significantly harder to recruit the labour and skills we need to deliver our projects.

Leaving the EU without a deal will mean that the timeline to apply for 'settled status' under the Government's new scheme will be shorter. It is therefore important that companies promote the awareness of this scheme and support their employees through the application process. Whilst a 'No Deal' Brexit creates the greatest risks, it should be noted that our recommendations regarding the UK's future immigration system are still valid whether we leave the EU with or without a deal and complements the Construction Leadership Council Skills Strategy and Action Plan launched in July 2018.

The recommendations and actions from this report comprise:

- The industry should be proactive and support its EU employees with information on how to secure settled status in the UK, as well as helping to provide any additional evidence that may be requested by the Home Office for the application.
- The CLC and industry will promote the Government's guidance to workers in the sector, including introducing information centres at some major UK project sites.
- Government and industry to work together to ensure that all of the eligible EU citizens currently living in the UK and working in the construction sector (including the self-employed) are able to register for settled or pre-settled status.
- The Government needs to review the proposed future immigration system to ensure it is fit for purpose for construction and avoids dramatic labour shortages in our sector which will impact the delivery of important projects across the country. Specifically:
 - Reduce the required qualification level for a skilled worker to NVQ Level 2 to reflect the industry skilled worker status.
 - Add the occupations identified in *Shortage Occupations in Construction: A Cross Industry research* report to the Migration Advisory Committee to the Shortage Occupation List.
 - The Home Office must reduce the threshold to significantly below £30,000, in line with median UK salaries for skilled trade workers.
 - Adjust the temporary short-term workers visa to 24-months with a 12-month cooling off period. With the possibility of a path to a skilled work visa at the end of that period.
 - Ensure that in the event of a 'No Deal' Brexit the mutual recognition of qualifications across the EU and UK is prioritised.

1.0 Introduction

This report is a product of the CLC's Skills Workstream, and builds on data and contributions from a wide cross section of the construction industry, including all of the major trade bodies.

The UK's construction sector is already facing a significant shortage of skills and labour and is competing for labour with countries across the European Union. These countries are also facing their own skills shortages and are finding ways to incentivise construction workers working abroad to return home. An immediate tightening of the rules governing so-called 'lower skilled' workers will make it much harder for construction to attract the workforce it needs to deliver new housing, commercial buildings, infrastructure and sustainable economic growth that our country needs.

The industry has already developed the Construction Leadership Council Skills Strategy and Action Plan that outlines how the industry plans to improve how it attract, trains and retains the skilled workforce it needs in the longer term. The Construction Sector Deal's focus on modernisation and productivity will also help to reduce its reliance on lower skilled workers and reduce the barriers to training. However, it cannot make these changes overnight.

In the short-term, it is particularly important to ensure that as many as possible of the current EU nationals working in our sector, secure their rights to work in the UK after Brexit and our sector is given the breathing space it needs to address the loss of its current skilled labour pool.

A 'No Deal' also poses a number of other challenges to the construction sector such as movement of goods, product accreditation and data adequacy. The recommendations and actions in this report are only intended to address labour and skills risks and concerns. This report details the short and medium-term measures.

Regardless of how we exit the European Union, it is vital that we continue to innovate and build the pipeline of UK construction skills and expertise to ensure we can continue to drive the sustainable growth of the sector. The CLC Skills Workstream Strategy and Action Plan, published in 2018, outlines how we propose to address the longer term labour and skills requirements for our future industry.

2.0 The Government's current immigration proposals

The Government has published details of a number of significant developments that will affect the UK construction sector's access to labour and skills from the European Union after Brexit.

These include measures for EU citizens currently living and working in the UK, the temporary system that will apply to those who want to move here after we leave the EU (whether that is with or without a deal) and the proposed future immigration system the Government will introduce in 2021.

This section provides summary details of each system, who they apply to and the current status of each set of proposals.

2.1 For EU citizens currently living and working in the UK

The Government has been clear that EU citizens and their family members living in the UK **will be welcome and able to continue their lives in the UK much as before**. They will have the same rights to work, study and access public services as they do now.

The current guidance states that:

- Irish citizens in the UK and British citizens in Ireland will continue to have the same rights and entitlements to public services, including access to employment, healthcare, education, social welfare and benefits without having to do anything.
- EU citizens and their family members who, by 31 December 2020, have been resident in the UK for at least six months in each of the last five years will be eligible for 'settled status', enabling them to stay indefinitely. This application is free.
- EU citizens and their family members who arrive by 31 December 2020, but have not yet have been continuously resident here for at least six months in each of the last five years, will be eligible for 'pre-settled status', enabling them to stay until they have reached the five-year threshold. They can then apply for settled status.
- EU citizens and their family members with settled or pre-settled status will have the same access as they currently do to healthcare, pensions and other benefits in the UK.
- Close family members (a spouse, civil partner, durable partner, dependent child or grandchild, and dependent parent or grandparent) living overseas will still be able to join an EU citizen resident here after the end of the proposed 'transition' period, where the relationship existed on 31 December 2020 and continues to exist when the person wishes to come to the UK. Future children are also protected.
- Further details of the requirements for each status can be found here: <https://www.gov.uk/settled-status-eu-citizens-families>.

There is no application fee for settled or pre-settled status.

The scheme is already open to some EU citizens and their family members who are taking part in a trial. It will open fully by 30 March 2019. The deadline for applying will be 30 June 2021 with a deal, or 31 December 2020 if the UK leaves the EU without a deal.

2.2 For EU citizens moving to the UK after a 'No Deal' Brexit

For EU citizens travelling to work in the UK after a 'No Deal' Brexit, current Government policy is that there will be **no change at the UK border**.

The temporary policy proposed to be introduced immediately after the UK exits the EU will be:

- EU citizens will still be able to enter the UK with a passport or European ID card.
- On arrival in the UK, EU citizens will be automatically granted three months' leave, including the right to work and study.
- To stay in the UK longer than three months, EU nationals will need to apply for a new form of status: "European temporary leave to remain".
- European temporary leave to remain will only last three years and require a fee to apply for. It will be subject to security and criminality checks, but not other criteria (e.g. employment or salary).
- Employers, landlords and "other third parties" such as the DVLA and banks will not be "asked" to enforce this new status: all EU nationals will be able to evidence their right to be in the UK with a passport or ID card.
- Further details of the proposed temporary measures can be found here: <https://www.gov.uk/guidance/european-temporary-leave-to-remain-in-the-uk>

2.3 The Government's proposed future immigration system

A new immigration system will be implemented from the start of 2021, ending the temporary arrangements (outlined above).

Under the proposed new system:

- Those with 'European temporary leave to remain' will keep it but will have to apply for some other form of visa to stay longer than their original three years.
- For people moving to the UK to work here after Brexit, the Government has proposed two different visas that will be open to people from any country, including the EU: a 'skilled workers' visa and a 'temporary short-term workers visa'.
- These are proposals from the Government White Paper "The UK's future skills-based immigration system" and have not yet been legislated. The Government has committed to consulting on the details of the White Paper.
- Further details of these proposals can be found here:
<https://www.gov.uk/government/publications/the-uks-future-skills-based-immigration-system>

3.0 Recommendations and actions

This report outlines a list of recommended mitigation measures and actions that the CLC will be addressing in the coming months. These recommendations and actions assume that the UK will leave the EU on Friday 29 March without agreeing a deal (a 'No Deal') and hence without a transition period. However, many of the recommendations and actions are likely to still apply if the UK does secure a deal with the European Union.

3.1 Short-term recommendations and actions

These short-term recommendations and actions are intended to deal with the pressing issue of securing the right to work and live in the UK for the current 165,000 EU nationals working in the construction sector. The intention is for these to be implemented within the next six months.

Although a 'No Deal' Brexit will make these measures significantly more urgent (the deadline for EU citizens to apply for the settled and pre-settled status programme is reduced in a 'No Deal' situation), the steps will still be required under the terms of any potential deal or transition arrangement agreed with the European Union.

Sector recommendations and actions
<ul style="list-style-type: none"> Get ready <p>Companies employing foreign workers to review all of their employees to establish how many Irish, EU and non-EU international workers they employ and how many of those are eligible and need to apply for settled and pre-settled status.</p> Support and enable <p>Companies employing EU citizens should support and help their staff to secure settled and pre-settled status by promoting the guidance published by the Government.</p> <p>The CLC and industry will promote the Government's guidance to workers (including those who are self-employed) in the sector more widely, including introducing information centres at some major UK project sites to offer guidance and advice.</p> Provide information <p>If EU citizens cannot prove their eligibility for the settled and pre-settled status scheme using their national insurance number, the Home Office has indicated that letters from employers will be adequate.</p> <p>Companies and recruitment agencies should make it as straight forward as possible for current and previous employees to prove their work history in the UK for applications for settled and pre-settled status.</p>

- Get ready**

Companies employing foreign workers to review all of their employees to establish how many Irish, EU and non-EU international workers they employ and how many of those are eligible and need to apply for settled and pre-settled status.

- Support and enable**

Companies employing EU citizens should support and help their staff to secure settled and pre-settled status by promoting the guidance published by the Government.

The CLC and industry will promote the Government's guidance to workers (including those who are self-employed) in the sector more widely, including introducing information centres at some major UK project sites to offer guidance and advice.

- Provide information**

If EU citizens cannot prove their eligibility for the settled and pre-settled status scheme using their national insurance number, the Home Office has indicated that letters from employers will be adequate.

Companies and recruitment agencies should make it as straight forward as possible for current and previous employees to prove their work history in the UK for applications for settled and pre-settled status.

Recommendations for Government

- **Clarify and review**

The settled and pre-settled status programme is currently in a trial phase and will not be fully opened to all EU citizens until 30 March 2019. Further clarity is required from the Government on how the process for securing settled and pre-settled status will work once the system is open.

The Home Office needs to work closely with the CLC, trade bodies and businesses to review any queries and concerns from employers, and directly and self-employed workers.

3.2 Medium term recommendations and actions:

These medium-term recommendations and actions attempt to address concerns regarding the Government's proposed post-Brexit immigration system. These are due to be introduced by January 2021.

The UK is already facing significant challenges in recruiting and retaining skilled labour, and will continue to require access to a mix of international labour to deliver construction projects and infrastructure programmes well into the next decade.

A number of elements of the proposed system are likely to cause significant disruption to the UK construction sector and its ability to deliver the current housing and infrastructure pipeline to support the UK's sustainable economic growth. In particular, there are concerns regarding the classification of qualifications that define a skilled worker and the length of time and cooling off period allowed by the temporary short-term worker visa.

In the view of the CLC, the Government's proposals for temporary short-term workers are likely to make it very difficult for the UK construction sector to attract the labour it needs to deliver important projects across the country. It should be noted that most major construction projects last for at least 24 months.

If workers in construction occupations where the UK faces significant shortages are only able to work in the UK for 12 months before a 12 month cooling off period, the churn forced on construction sites will negatively impact construction productivity and output.

The CLC will provide evidence to the Government for changes to the proposed system to ensure the sector has the adequate time it needs to source and develop a mixed labour force and prevent disruption to the delivery of projects across the UK.

The CLC will continue to work on the delivery of the CLC Skills Strategy and Action Plan, published in July 2018. This sets out a set of cross industry objectives to be delivered in collaboration with the Government, the CITB and trade bodies to address the industry's skills challenges in the UK.

However in the shorter term, continued access to labour from the EU is crucial to give the sector breathing space it needs to address the loss of a skilled labour pool.

Sector recommendations and actions

Gather data and information

- With the support of the CITB and trade bodies, the CLC will provide the Home Office with a range of data to support our concerns around the proposed future immigration system for the UK:
 - Gather and submit data about the UK's construction workforce and how many EU and non-EU international workers fall into the categories listed as skilled workers under the new migration system, and which trades/regions they are working in.
 - Gather and submit data about construction labour availability, shortages and visa terms across the EU and surrounding nations.
 - Gather and submit data to Government about the potential financial and productivity impact on businesses – particularly SMEs – of the additional complexity and risks involved in confirming right to work status for many more employees.

Recommendations for Government

‘Skilled workers’

- In the view of the CLC, the Government’s proposed future migration system will not enable the UK’s construction sector to attract the necessary people to continue to effectively deliver the UK’s housing and infrastructure pipeline.
- The Home Office needs to alter the required qualification level for a skilled worker to NVQ Level 2, to recognise the average skill level of the construction sector. Data from the CITB (see appendix 1) shows that the while people on projects are extremely skilful they may not yet have that formally recognised with an NVQ Level 3 qualification.
- The Home Office needs to add the occupations identified in the *Shortage Occupations in Construction: A Cross Industry research* report submitted to the Migration Advisory Committee to the Shortage Occupation List.
- If there is to be a salary requirement for skilled workers, the Home Office must adjust the threshold to significantly below £30,000, in line with median salaries for skilled trade workers, to avoid dramatic labour shortages in the construction sector. e.g set at the median UK salary level for those trades recommended the cross-industry research report provided to the Migration Advisory Committee (see appendix 1).

‘Temporary short-term workers’

- The Home Office must review the temporary short-term workers visa and adjust it to a 24 month working period with 12 month cooling off period. This would reduce project disruption and help to ensure that the UK remains a competitive working destination for construction labour from inside and outside the EU. There should also be a pathway for a temporary visa to become a skilled visa after the 24 months.

Qualifications recognition

- Ensure that in the event of a ‘No Deal’ Brexit the mutual recognition of qualifications across the EU and UK is prioritised in order to ensure that projects and programmes are not disrupted as skilled workers are unable to work in their resident states.

4.0 References and links

Useful documents

- **Build UK pack:** www.builduk.org/brexitguide
- **Partnership Pack: preparing for changes at the UK border after a 'no deal' EU Exit:** <https://www.gov.uk/government/publications/partnership-pack-preparing-for-a-no-deal-eu-exit>
- **No Deal technical papers:** <https://www.gov.uk/government/collections/how-to-prepare-if-the-uk-leaves-the-eu-with-no-deal>
- **Settled and pre-settled status for EU citizens and their families**, published by the UK Government: <https://www.gov.uk/settled-status-eu-citizens-families>
- **EU Settlement Scheme: employer toolkit, published by the UK Government:** <https://www.gov.uk/government/publications/eu-settlement-scheme-employer-toolkit>
- **EU Settlement Scheme: applicant information**, published by the UK Government: <https://www.gov.uk/government/collections/eu-settlement-scheme-applicant-information>
- **The UK's future skills-based immigration system**, white paper published by the UK Government: <https://www.gov.uk/government/publications/the-uks-future-skills-based-immigration-system>

Appendix 1

CITB evidence on skilled workers

A large percentage of migrant workers in UK construction are in roles that would be traditionally considered ‘low skilled’ (level 2 and below), many can also be found in the mid skilled range.

Industry is in the process of modernising the way it works, introducing modern methods like offsite construction and BIM. While this will create a range of new higher skilled roles in the sector, it will also change the focus of some lower skilled roles. However even significantly increased adoption of MMC will not remove construction’s substantial need for lower skilled labour.

In total around 80% of migrant workers in construction would not qualify under the current Tier 2 regime on skill level grounds. The Immigration White Paper states that if free movement ends, the Tier 2 (general) minimum skill level should be lowered to level 3. This still excludes 66% of the construction migrant workforce.

Qualification level	Whole workforce ¹	Migrant Workforce ²
No qualification	7%	22%
Below NVQ level 2	11%	19%
NVQ Level 2	13%	25%
NVQ Level 3	17%	13%
NVQ Level 4 and above (inc First degree)	35%	5%
Other	9%	6%

¹ LFS

² CITB Migration Research

Lower paid workers

Of the five occupations most commonly carried out by migrant workers in construction, four have a median salary below the Tier 2 threshold and below the minimum threshold recommended by the Immigration White Paper (both £30,000).

Main occupations of non UK workers (percentage of total migrant workforce) ³	Median directly employed salary of occupation ⁴	25 th Earnings percentile of directly employed occupation	75 th Earnings percentile of directly employed occupation	Including self-employed workers
General labourer (40%)	£21,500	£17,000	£28,000	NA
Architect (16%)	£37,000	£30,500	£47,000	NA
Bricklayers (11%)	£24,000	£21,000	£27,000	£39,000
Carpenters (8%)	£26,000	£20,000	£30,500	£47,000
Plant operatives (7%)	£21,000	£17,000	£29,000	£44,000

Average salaries increase when self-employed workers are considered. However there is currently no proposed for the majority of migrant self-employed construction workers to work in the UK after Brexit.

Self-employed workers

The Immigration White Paper makes no allowance for mid to lower skilled self-employed workers. Compared to the UK economy as a whole, construction is particularly reliant on workers not directly employed (self-employed, sub contracted etc). In 2016 41% of workers in construction were self-employed. Over the past three decades an average of 37% of the UK construction workforce has been self-employed at any one time. This is second only to agriculture in comparison to other UK industries.

LFS data shows for 2015 that migrant workers in construction were far more likely to be self-employed (57%) than UK-born workers (38%). CITB research revealed that migrants value the increased flexibility self-employment offers, as it enables the workers to pick up extra work to earn more, move from site to site as opportunities arise, or periodically travel to their country of origin. Employers value to flexibility afforded by taking on workers for a shorter period of time on a particular site.

A new migration system tailored to the needs of construction would enable European workers to move swiftly and easily between working on different projects, often for different clients.

³ CITB Migration Research

⁴ LFS

Appendix 2

Working group participants

Name	Role	Organisation
Tony Howard	Director of Training	Building Engineering Services Association
Gavin Fraser	Policy Advisor	Cabinet Office
Alasdair Reisner	Chief Executive	Civil Engineering Contractors Association
Sarah Beale	Chief Executive	Construction Industry Training Board
Stephen Radley	Policy Director	Construction Industry Training Board
Brian Berry	Chief Executive	Federation of Master Builders
Sarah McMonagle	Director of External Affairs	Federation of Master Builders
Monika Slowikowska	Chief Executive	Goldenhouses
David Hendy	Senior Communications Manager	Mace
Tom Lees	Head of Corporate Affairs	Mace
Michael Nathan	Emerging Talent Lead	Mace
Mark Reynolds	Chief Executive	Mace
Brian Morrisroe	Founder and Chief Executive	Morrisroe Group
Davina Debidin	Head of People and Responsible Business	Morrisroe Group

Contributors

Name	Role	Organisation
Hannah Vickers	Chief Executive	Association for Consultancy and Engineering
Paul Raby	Group HR Director	Balfour Beatty
Suzannah Nichol	Chief Executive	Build UK
Chris Cassley	Policy Manager	Construction Plant-hire Association
Fergus Harradence	Deputy Director, Construction	Department for Business, Energy and Industry Strategy
Andrew Stanley	Head of Education Policy	Institute of Civil Engineers
Carol Hosey	Group HR Director	Mace
Will Jeffwitz	Policy Leader	National Housing Federation
Ann Bentley	Global Board Director	Rider Levett Bucknall
Marion Marsland	Chief Executive	Thermal Insulation Contractors Association



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