

Brexit - No Deal Planning

While there remains a risk of the UK leaving the EU without a deal, it's important that members continue to plan for a No Deal scenario after 31 January 2020. This factsheet comprises guidance received from the Government so far.

The Government has issued full [No Deal Readiness](#) guidance and three specific sets of guidance of relevance to ABO members:

- [Preparing for no deal Brexit if you work in arts, culture or heritage](#) – a 10 point checklist to understand what you need to do to prepare for no deal Brexit if you work in the arts, culture or heritage sector.
- [Touring Europe if there's no Brexit deal](#) which provides advice for arts, cultural, creative, heritage and sports organisations on touring Europe after a no Brexit deal
- [Organisations, businesses and individuals in the creative, cultural, and sport sectors - what to expect on day one of a no-deal Brexit](#)

General guidance for businesses and individuals on planning for a No Deal Brexit can be found at the government's dedicated [Public Information Campaign](#).

IMMIGRATION

Freedom of movement will cease whether the UK agrees a deal with the EU or not. We recommend viewing the ABO's [Immigration Webinar](#) with Alison Hunter of Wesley Gryk.

The future immigration system will be determined by the Immigration White Paper: [The UK's future skills-based immigration system](#). The future skills-based immigration system white paper sets out the government's plans to introduce a new single immigration system, ending free movement. There will no longer be one immigration system for non-Europeans and another for EU citizens ie. a new Points Based System for Migrant Workers will apply to all. This will not, however, come into play immediately after the UK leaves the EU, but will take time to design and implement.

During the Implementation Period (if we have one), the UK will implement the EU Settlement Scheme (see below). This gives EU citizens already here, and also those who arrive in the UK during the Implementation Period, the opportunity to secure their future residence in the UK.

If we leave without a deal, there will be different arrangements for EU citizens – see [here](#).

For those EU citizens who are residing in the UK before the UK's exit from the EU, further information about these arrangements can be found [here](#).

The movement of people, rights, pensions, healthcare etc., for **Irish** citizens in the UK and vice versa [will not change](#) whether a no-deal is the outcome or not.

The Government has also published advice on [Visiting the UK after Brexit](#).

Settled and pre-settled status for EU citizens and their families

The [EU Settlement Scheme](#) establishes the principle that EU citizens must obtain a specific, individual permission to stay on in the UK after the end of the Implementation Period. EU citizens and their families will be able to apply to the EU Settlement Scheme to continue living in the UK after 30 June 2021.

EU citizens' rights (and their family members) for those living lawfully in the UK before the end of the Implementation Period will be as follows:

- EU citizens who have been living in the UK continuously for five years will be eligible for settled status in UK law.
- EU citizens who arrived before the end of the Implementation Period, but who have not been here for five years, will be eligible for pre-settled status, enabling them to stay until they have accumulated five years, after which they may apply for settled status.
- The Withdrawal Agreement will also allow close family members who live in a different country to join an EU citizen at any time in the future under current rules, if the relationship existed before the end of the Implementation Period.
- EU citizens protected by the agreement will continue to be able to work, study and establish a business in the UK as now.
- EU citizens with settled status or pre-settled status to stay may access healthcare, pensions and other benefits and services in the UK, as they do currently.
- Frontier workers (EU citizens who reside in one state, and work in the UK) will continue to be able to enter the UK to work under current rules, if they started this work before the end of the Implementation Period.

The EU Settlement Scheme opened fully on 30 March 2019. The deadline for applying is 30 June 2021.

UK nationals travelling to the EU

If the UK leaves the EU without a deal, the rules for travelling or working in Europe will change after 12 April 2019. See [UK nationals travelling to the EU: essential information](#). Unfortunately this guidance is not hugely helpful in explaining how each of the EU nations will deal with short term working.

The European Commission has proposed that in a No Deal situation, British citizens will not need a visa for short stays in the Schengen area or elsewhere in the EU, and will be able to stay for up to 90 days in any 180-day period. Visits to the Schengen area within the previous 180 days before your date of travel will count against the 90-day limit. The 90 day visa period, however, does not entitle third country citizens to work in the Schengen area, and many countries will require a work permit.

If you are intending to stay in the Schengen area for longer than 90 days, or your stay would take you over the 90 days in the 180-day limit, you may need to get a visa before you travel.

We are unable at present to advise as whether work permits will be required to work in EU countries. Work permits are within the national competence of each EU member state. Some may have exemptions for artists or very short-term employment. We recommend having a conversation with the promoter as they should be able to advise and have experience of bringing in ensembles from existing non-visa countries such as the USA and Japan.

Other issues of relevance to ABO members are:

- you may need to renew your passport earlier than planned.
- you should continue to take out appropriate travel insurance (including health cover) before travel abroad.
- using your mobile phone in the EU may be more expensive.
- if you intend to use a bank card or other financial services in the EU after exit, this may be affected.
- if you intend to drive in the EU after exit, you may need a green card from your insurer.
- you may need an International Driving Permit to drive in the EU after exit.

For further details on National Brexit Information and Preparedness in each EU country visit https://ec.europa.eu/info/brexit/brexit-preparedness/national-brexit-information-member-states_en.

TOURING

In addition to its guidance on Touring, the Government has published guidance on [Providing Services to EEA and EFTA countries after EU Exit](#). This confirms that if the UK leaves the EU without a deal, the UK will no longer operate under the European Economic Area (EEA) regulations for the cross-border trade in services. It also includes links to specific guidance for each EU country.

SOCIAL SECURITY AND AIs

The Withdrawal Agreement and Political Declaration on the future relationship between the UK and the EU includes provisions for the continued co-ordination of social security systems.

In the event of No Deal, however, social security co-ordination, including access to the AI certificate system, is likely to switch off. This puts ABO staff and musicians in danger of double deduction of irrecoverable social security contributions when posting their workers into the EU, until such time as the UK negotiates co-ordination agreements with EU countries.

The UK Government has published four draft Statutory Instruments in relation to the social security treatment of individuals in case of a 'No Deal' Brexit. In general, the draft legislation is an attempt to maintain the current EU principles and rules on social security coordination as a result of the UK's withdrawal from the EU in the event that there is no withdrawal agreement and no future relationship agreement.

However, any lack of formal reciprocity with EU/EEA countries could lead to social security liabilities in two countries for cross border workers.

The draft legislation mirrors existing EU social security regulations whereby UK NICs remain payable for postings to EU member states not exceeding 24 months from exit date and UK NICs shall not be payable for postings to the UK from a member state for up to 24 months. The regulations also adopt EU regulation principles for multi-state workers.

However, as this is unilateral UK domestic legislation, there is no similar requirement or mechanism for the various EU/EEA member states to reciprocate and mirror the UK rules.

This could potentially impose the following on posted workers:

- For UK outbound workers there could be dual UK and host country social security arising for a UK employee seconded to work in the EU/EEA for the first 24 months from exit date;
- For inbound individuals seconded to the UK there will an exemption from UK NICs and potentially an exemption under home country legislation as well.
- Dual UK and EU social security liabilities will arise for many employees with multistate working arrangements.

ABO members should consider and plan for potential significant additional contributions and administration costs.

On 4 April 2019, HMRC published its [guidance](#) and policy paper on [rights](#) in relation to social security. This does not resolve the risk of double social security liability.

Following a letter from the ABO to the Financial Secretary of the Treasury, we have received confirmation that, in the event of a No Deal Brexit, the UK Government intends reaching reciprocal arrangements with EU member states to extend current social security co-ordination arrangements for a transitional period until 31 December 2020.

Unfortunately, France has confirmed it will not recognise UK-issued AI certificates in the event of a No Deal Brexit on 31 October. The only EU country that has agreed to reciprocate the UK's offer to extend social security co-ordination to December 2020 is Ireland.

The UK and Switzerland have agreed a [transitional agreement](#) for social security after the UK leaves the EU. This includes a provision that UK nationals will continue to be subject to only one country's social security scheme at a time, meaning a worker will only have to pay into one country's scheme, until December 2020.

CUSTOMS

The UK Government has recently reissued its [Partnership Pack](#), compiled by HMRC, on border processes after EU exit. This pack provides a high-level guide to processes and procedures that are likely to apply to cross-border activity between the UK and the EU in a 'no deal' scenario. It includes a [leaflet](#) for arts, sports and culture organisations.

Customs procedures if the UK leaves the EU without a deal - this [guidance](#) brings together regulations, explanatory memoranda, and an impact assessment in preparation for day 1, if the UK leaves the EU with no deal.

Customs, VAT and Excise regulations if the UK leaves the EU without a deal - this [guidance](#) explains the simplified customs processes for UK businesses trading with the EU in the event that the UK leaves the EU without a deal.

Moving goods to and from the EU through roll on roll off ports or the Channel Tunnel - this [guidance](#) outlines arrangements for importers or exporters, using roll on roll off ports or the Channel Tunnel to transport goods between the EU and the UK in the event that the UK leaves the EU without a deal.

Members should prepare themselves for the need to obtain ATA Carnets for temporary imports and exports between the UK and the EU. The London Chamber of Commerce has provided some useful [guidance](#) for ATA Carnet customers.

If moving goods through the Port of Dover and Eurotunnel with an ATA Carnet, for leaving the UK, to have your ATA Carnet processed you will need to go to either:

- North Weald Airfield
- Ebbsfleet International Rail Station car park D
- Stop 24

Entering the UK through Eurotunnel - you will need to go to Ashford to have the Carnet processed.

Entering the UK through the Port of Dover - you will need to go to Dover Western Docks to have your ATA Carnet processed.

If using the Port of Holyhead, it cannot process ATA Carnets so you will need to go to Roadking Truckstop.

Members carrying musical instruments that reach or exceed specific age and monetary value thresholds will no longer require individual licences for export out of the UK. The UK Open General Export Licence will continue to operate, meaning that an individual export licence will not be required to despatch musical instruments to any destination other than certain embargoed destinations (currently Iraq and Syria). See: <https://www.gov.uk/government/publications/exporting-objects-of-cultural-interest-if-theres-no-brexit-deal/exporting-objects-of-cultural-interest-if-theres-no-brexit-deal>.

CITES

Of particular importance to ABO members is the [guidance](#) on trade in, or travel with, endangered animals or plants, or their products. This includes a list of CITES-designated points of entry and exit.

Following pressure from the ABO, DEFRA has confirmed that this list will now include some high volume ports ie. **Dover-Calais**, **Eurotunnel** and **Holyhead**. It does not however include Immingham and Newcastle.

In relation to entering the EU, the designated ports for entry and export are published at: http://ec.europa.eu/environment/cites/info_entry_points.htm

The European Commission is planning to update this list as there are some Member States which are identifying further ports of entry as part of their preparedness programmes for Brexit. In case of doubt we encourage members to contact the competent authorities of the relevant Member State (<https://cites.org/eng/cms/index.php/component/cp>).

To import CITES specimens into the UK through Eurotunnel you must present your CITES documents for endorsement at Ashford. You must [make a customs declaration on the CHIEF system](#) before you transport them.

If you're exporting specimens from the UK through Eurotunnel, you should prepare for it to be very busy. You may present your CITES documents to Border Force at Ebbsfleet, but if possible present it at another [suitable designated point of entry and exit](#) away from Kent before you travel through Eurotunnel.

For Dover, the documents will need to be presented at Dover Western Docks.

Eurostar is not designated for CITES.

We recommend that members try to avoid the need for Musical Instrument Certificates altogether by requiring their musicians to have second instruments that do not contain CITES-listed materials.

ROAD HAULAGE

This [guidance](#) outlines what lorry and goods vehicle drivers from the UK may need to do to drive in the EU and EEA after the UK leaves the EU.

The Government has also issued guidance on [ECMT International Road Haulage Permits](#). Of importance to ABO members is that under Article 9 of Chapter 2 of the User Guide on ECMT Multilateral Quota there is an exemption from permit requirements for “transport for non-commercial purposes of properties, accessories and animals to or from theatrical, **musical**, film, sports or circus performances, fairs or fetes, and those intended for radio recordings, or for film or television production”.

We have had clarification from the Freight Transport Association that at a meeting of the International Transport Forum in March 2019, the definition of “non-commercial” was changed to:

- 1. The purpose of the carriage, as specified in articles 8) and 9) of Chapter 2 of the User Guide is not to directly or indirectly generate any profit, such as where the goods are provided on a charitable or philanthropic basis, or is for personal use; **or***
- 2. The products moved are for the purposes as specified in articles 8) and 9) of Chapter 2 of the User Guide and are returned to their home country of origin without alterations. Where customs procedures apply these products are admitted temporarily (consistent with World Customs Organisation's principles).*

We have also had clarification that at this meeting, Germany removed its previous reservation to this exemption, such that it now applies to all ECMT countries.

There is further guidance on [EU Community Licences for International Road Haulage](#) which confirms that licences remain valid until 30 July 2020 if the UK leaves the EU without a deal.

INTELLECTUAL PROPERTY

This [guidance](#) explains how parts of UK intellectual property law will change when the UK leaves the EU. This will affect your business if you:

- currently own IP, such as copyright, patents, designs and trade marks
- are involved in the secondary trading of IP-protected goods between the UK and EEA markets
- operate or rely on cross-border services involving copyright-protected content in the UK and EU

DATA PROTECTION

The Government is urging businesses to check they won't lose access to vital data if the UK leaves the EU without a deal. See some [simple steps](#) to do this from the ICO along with detailed [guidance](#).

If the UK leaves the EU without a deal, existing arrangements on the flow of personal data would no longer apply. The Government has put in place legislation to ensure there would be no immediate change to the UK's high data protection standards and has taken action to allow the free flow of personal data from the UK to the EU/EEA if we leave without a deal.

In order to allow the ongoing free flow of personal data from the EU/EEA to the UK, the European Commission is able to adopt adequacy decisions under the General Data Protection Regulation (GDPR) and the Law Enforcement Directive (LED) for third countries. Adequacy decisions are the EU's central legal mechanism for enabling the transfer of personal data from the EU/EEA to non-EU/EEA countries. The Commission does not plan to adopt adequacy decisions with regard to the UK at the point of exit as part of their pre-exit contingency planning.

Therefore, organisations receiving personal data from the EU/EEA need to make alternative legal arrangements. As advised at the ABO Get Ready for Brexit workshops, ABO members will need to liaise with EU promoters on including data sharing arrangements in their contracts.

CREATIVE EUROPE

On 30 January 2019, the European Commission announced in a [press release](#) that it has published a final set of no deal contingency proposals regarding the EU budget, which "enable the EU to be in a position, in a "no-deal" scenario, to honour its commitments and to continue making payments in 2019 to UK beneficiaries for contracts signed and decisions made before 30 March 2019, on condition that the UK honours its obligations under the 2019 budget and that it accepts the necessary audit checks and controls." See Creative Europe Desk's [Brexit guidance](#).