

PREPARING FOR THE END OF THE TRANSITION PERIOD: A GUIDE FOR UNIVERSITIES

28 September 2020

The post-Brexit transition period will come to an end on 31 December 2020.

The UK government and the EU are currently engaged in negotiations on a possible future relationship, covering a vast range of matters from trade to security. However, there remains a risk that no agreement will be reached by the time the transition period ends. This would have many implications for universities' students, their staff, their international partners and their operations.

Universities must prepare for this possibility and take appropriate action to minimise the risk of disruption. This briefing covers the key issues and corresponding actions universities should consider in preparation for a possible 'no trade deal' scenario at the end of 2020. It will be updated as new advice and risks become apparent.

This briefing covers key developments and proposed actions in the following areas:

- [Immigration rule changes](#)
- [EU/EEA/Swiss student finance rules](#)
- [Research collaboration \(including EU Framework Programmes\)](#)
- [Student and staff mobility \(including the EU's Erasmus+ programme\)](#)
- [Other EU programmes relevant to universities](#)
- [UK transnational education in the EU](#)
- [UK-EU qualification/degree recognition](#)
- [Data protection](#)
- [Operational and financial risks for universities](#)

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Immigration rule changes

UK immigration policy affecting all non-UK nationals coming to the UK will change with effect 1 January 2021, **regardless of whether an agreement is reached on the future relationship** by that date. The only exception is for Irish nationals and those covered by the [Common Travel Area](#).

Arrangements for EU/EEA/Swiss students and staff living in the UK by 31 December 2020

EU, EEA and Swiss nationals who already live in the UK (or who arrive by 31 December 2020), will be able to apply for the EU Settlement Scheme to preserve their existing rights. Individuals will be granted either 'settled' or 'pre-settled' status, depending on how long they have been living in the UK for when they apply.

Settled status is open to anyone who has five years' continuous residence in the UK and will enable individuals to live, work and study in the UK for as long as they like, with the ability to leave the UK for up to five years without endangering their [settled status](#). Five years' continuous residence means that for five years in a row you have been in the UK, the Channel Islands, or the Isle of Man for at least six months in any 12-month period. There are some exceptions for leaving the UK within this period, such as for study, family reasons or emergencies. Further details on the rules around continuous residency are available on the [gov.uk website](#).

If you do not have five years' continuous residence when you apply, you will usually get pre-settled status. This provides the same benefits as settled status. However, if you have pre-settled status, you can only spend up to two years in a row outside the UK without losing your status to remain.

The Settlement Scheme opened in March 2019. Those eligible can apply via the [gov.uk website](#). Individuals must have arrived in the UK by 31 December 2020, but you have until 30 June 2021 to apply to the scheme.

Suggested actions for universities:

- Encourage EU staff and students to secure pre-settled or settled status as soon as possible. The EU Settlement Scheme is live and the Employer Toolkit provided by the Home Office can be used to publicise it.
- Encourage EU staff and students who will be travelling to the UK in January 2021 to consider arriving by 31 December 2020 to ensure eligibility to the EU Settlement Scheme.

What is changing for students and staff?

From 1 January 2021, the UK will introduce a new points-based immigration system which will cover all non-UK nationals. This means there will be changes to the current Tier 2 and Tier 4 visa routes. Further details on these changes are included below, but more information is available on the [gov.uk website](https://www.gov.uk).

The new Skilled Worker route will replace Tier 2 and applicants will need to demonstrate they meet a specific set of requirements for which they will score points. To enter the UK and be awarded points:

- applicants must have an offer of a job from a licensed sponsor;
- the job must be at or above the minimum skill level (defined as RQF level 3, which is A Level and equivalent), and
- they must speak English to an acceptable standard.

These requirements are all mandatory for all applicants.

Further points can then be awarded to applicants to ensure they meet the threshold required to come to the UK. A combination of points can be obtained for the salary level of the job, if the job is deemed to be in a shortage occupation or if the individual holds a relevant PhD. For details on the further points available, see the [government's introduction for employers](#).

The new Student route will build on Tier 4 and require sponsorship at a licensed provider, demonstration of English language ability and the ability of the student to support

themselves in the UK. The new Student route will be rolled out in autumn 2020 and will feature improvements that will further streamline the immigration process. These include:

- extending the window in which prospective students can make visa applications from three to six months
- removing study time limits at postgraduate level
- allowing all students to switch to any other type of visa from within the UK

On top of this, the government is also introducing a new Graduate route which will be launched in summer 2021 to provide international students the opportunity to stay in the UK to work or look for work after they graduate. Undergraduate and master's degree students will be able to stay for two years under the route, while PhD students will be able to stay for three years. For details about the Student route and Graduate route, please see the [government's information for EU students](#).

There are also a number of other new routes, such as the Global Talent route, which are designed to ensure the UK can continue to attract people from around the world. For more information about these routes, including the Skilled Worker, Student and Graduate routes, please see [further details from the government](#).

Suggested actions for universities:

- Ensure staff are aware of the new requirements under the points-based system and can advise prospective staff and students on the different routes.
- Ensure prospective international students – particularly EU, EEA and Swiss nationals – are aware of the new requirements under the new points-based system, as well as the new Graduate route.

[Issues still requiring clarification from the UK government](#)

The new immigration system goes live on 1 January 2021 and, while the government has outlined the broad framework for the new immigration system, further details on how the system will be operationalised still need to be made clear.

For example, the new Student route will be among the first of the new routes to open (in autumn 2020 to facilitate students beginning programmes in January 2021) but questions

remain over how the application process will operate. UUK is encouraging the government to provide further information to universities and prospective international students, as well as improving communications in this area. Universities should continue to check for the latest information on [gov.uk](https://www.gov.uk) and [UKCISA's website](https://www.ukcisa.org.uk).

EU/EEA/Swiss student fees and finance

At universities across the UK, EU/EEA/Swiss students starting a course in the 2021/22 academic year will no longer be eligible for home fee status or access to financial support. These changes are taking place **regardless of whether an agreement is reached on the future relationship between the UK and the EU** by the end of the transition period.

Arrangements for EU/EEA/Swiss students starting a course in the 2020/21 academic year

There will be no changes to the fee/loan status of EU/EEA/Swiss students starting a course in 2020/21. This has been confirmed by governments across the UK. Such students starting a course at any point in the 2020/21 academic year will still be eligible for 'home' tuition fee status and able to access financial support from the Student Loans Company as in previous years. These rules will apply for the duration of these students' degree courses, even if the course starts after the transition period but still within the 2020/21 academic year.

Who will still be eligible for home fee status in England even if starting a course after the transition period?

The following students will still be entitled to home fee status provided they meet [published eligibility requirements](#):

- Irish nationals living in either the UK or Ireland (due to the Common Travel Area arrangement).
- Individuals who have benefitted from Citizens' Rights under either the EU Withdrawal Agreement, the EEA EFTA Separation Agreement or Swiss Citizens' Rights Agreement.
- UK nationals living in the EEA or Switzerland and who return to England to study **on a course that starts before 1 January 2028.**

For universities in England, UK nationals living overseas can receive home fee status and support from Student Finance England provided:

- the course starts before 1 January 2028 and
- they have lived continuously in the EU, Iceland, Liechtenstein, Norway, Switzerland, the UK or Gibraltar between 31 December 2020 and the start of your course, and
- they are living in the EU, Iceland, Liechtenstein, Norway or Switzerland on 31 December 2020, and either:
 - lived in England immediately before moving there, and have resided in the EU, Iceland, Norway, Liechtenstein, Switzerland, the UK or Gibraltar for at least the last 3 years before starting a course in the UK; or
 - did not live in the UK immediately before living there, and have lived in the EU, Iceland, Norway, Liechtenstein, Switzerland, the UK or Gibraltar for at least 3 years before starting a course in England.

Arrangements for EU/EEA/Swiss students starting a course in the 2021/22 academic year:

With the exception of students listed above, EU/EEA/Swiss students **starting** a course in 2021/22 will not be eligible for home fee status. Relevant announcements can be found below:

- [England](#)
- [Northern Ireland](#)
- [Scotland](#)
- [Wales](#)

Suggested actions for universities:

- Ensure descriptions of fee/loan arrangements for 2021/22 starters (eg in prospectuses) reflect the latest UK or devolved government advice and communicate proactively with applicants about fee status.

Research collaboration (including EU Framework Programmes)

The UK will remain a full member of Horizon 2020 until the programme ends, but no agreement has yet been reached on the UK's participation in Horizon Europe, due to start 1 January 2021. Should the UK not associate, the UK government has committed to fund international research collaboration in place of Horizon Europe participation.

UK participation in the remainder of Horizon 2020

UK-based researchers remain eligible to participate in Horizon 2020, even if funding secured through the programme runs beyond the transition period.

What will happen from 2021?

If an agreement on programme association is reached by the end of the transition period, then UK-based researchers will be able to participate fully in Horizon Europe from the outset.

If no agreement is reached, or if the UK government opts not to associate to Horizon Europe, then the UK government has [announced](#) it will:

- make funding available to support participation by UK researchers in Horizon Europe projects as a third country
- establish a 'Discovery Fund' to support researchers at all career stages to pursue discovery-led, ground-breaking research, as well as scaling up certain existing domestic grant schemes.

Suggested actions for universities:

- Ensure that the government commitments are well communicated to all researchers and encourage them to share this information with EU collaboration partners.

Issues still requiring clarification from the UK government:

There are a number of questions relating to the government's commitments to replace access to Horizon Europe.

Third country participation funding guarantee

If full association to Horizon Europe is not possible, the government has confirmed that '[they] will make funding available to allow UK partners to participate in European schemes open to third countries.' This wording differs from their commitment to fund third country participation if association is merely delayed ('we would provide funding to UK partners who are successful in bidding to programmes open to third country participation'). This leaves open the possibility that the third country participation funding guarantee if the UK does not associate will not cover all researchers. For instance, there is a possibility that the government could choose specific topic areas where they will guarantee funding in order to limit the cost.

UUK is strongly urging the Government to guarantee funding for all third country participation by UK researchers if the UK does not associate to Horizon Europe.

Discovery Fund

The government has not yet confirmed the details of the Discovery Fund that it proposes to introduce if the UK does not associate to Horizon Europe. This information is critical for universities who are concerned about retaining and attracting staff who plan to apply for European Research Council (ERC) awards. Open questions include:

- What eligibility rules will apply?
- How will applications be assessed?
- What will be the terms and conditions for these grants?
- Will it be open to applications from all disciplines?
- How quickly will the calls be opened?
- Which domestic calls will be uplifted in the meantime?

UUK is developing a set of proposals for future funding of international collaboration in response to the Research and Development (R&D) Roadmap, including a Discovery Fund-style programme, which will be published in the autumn.

Student and staff mobility (including the EU's Erasmus+ programme)

The UK will remain a full member of the current Erasmus+ programme until it ends in 2020, but no agreement has yet been reached on the UK's participation in the next Erasmus+ programme, which is due to start 1 January 2021. Should the UK not associate, the UK government has committed to fund international student and staff mobility through a new UK-wide national scheme as a replacement to Erasmus+ participation.

The UK government has not committed to replace the non-mobility aspects of the Erasmus+ programme, or reciprocal incoming mobility, should a new national scheme be necessary.

UK participation in the remainder of the current Erasmus+ programme

UK universities remain eligible to participate fully in the current Erasmus+ programme until the end of their current contracts (including under the Erasmus+ 2020 call), even if funding secured through the programme runs beyond the transition period. UK-based students and staff will therefore be able to participate in exchanges as normal (subject to public health and other requirements) through funding awarded before the end of the transition period. Students and staff in other Erasmus+ participating countries also remain eligible to come to the UK via the programme during the same period. In effect, this means staff and students can complete mobility periods and receive funding up until the end of the 2021/22 academic year. UK and EU students will, however, be subject to new immigration regulations from 1 January 2021 if there is no agreement on the mobility of persons (see below).

Any existing Key Action 2 strategic partnership cooperation projects, European University Alliances or Erasmus Mundus joint master degree projects awarded funding in the current Erasmus+ programme will continue to receive funding until the end of these contracts, even if these go beyond the transition period. The new Erasmus+ programme will provide scope to allow non-associated countries to lead Erasmus Mundus joint master's consortia.

What will happen from 2021?

If an agreement on programme association is reached by the end of the transition period, then UK-based students and staff will be able to participate in the next Erasmus+ programme (also titled Erasmus+). Depending on when formal association is agreed, it may not be possible for the UK to participate in the first year of the new programme. For example, this will be the case if formal association agreements are not signed until after the 2021 call for funding has closed.

If no agreement is reached on the ‘mobility of students for the purpose of exchanges’ outlined in the UK-EU Political Declaration on a future relationship, UK and EU students on Erasmus+ exchanges will be subject to new immigration regulations.

For outbound students

UK nationals will be eligible to stay in the EU for no more than 90 days in any 180-day period without a visa. Beyond 90 days it will be down to the immigration rules for each EU27 member state. Universities UK [produced this table](#) last year, which outlines some of the key immigration policies in European and Erasmus+ destination countries. This will not apply to Ireland where regulations are governed under the Common Travel Area.

For inbound students

EU students (excluding those from Ireland) on Erasmus+ study or work placements in the UK will be subject to the new points-based immigration system:

- Erasmus+ students on study placements in the UK for six months or less can enter the UK under the short-term study route.
- There is currently no dedicated route in place for inbound Erasmus+ students who are studying for a full academic or calendar year (more than 6 months). Under the current immigration guidance, Erasmus+ students would be required to secure the same visa (Student Route) as a student seeking to study a full-length degree in the UK.
- Although the Erasmus+ scheme was previously listed under the government’s Tier 5 Government Authorised Exchange (GAE) Scheme which facilitated work placements up to 12 months, it is unclear which schemes will be included on the new GAE list.

If no agreement on Erasmus+ participation is reached, if the UK government opts not to associate, or if the UK is not able to participate in the first year of the new programme, the Department for Education is accelerating plans to introduce a ‘UK International Educational Mobilities Scheme’, a national alternative scheme to facilitate international student mobility. The Department for Education has advised that this scheme will be ambitious, UK-wide and global in its reach. However, several urgent questions remain on the design of this programme, including the scale of funding that will be available for it, subject to the Spending Review, and when details of the scheme will be made available to universities to ensure that there is no break in mobility funding for 2021/22.

Universities UK International (UUKi) have been involved in a number of stakeholder consultations on the principles and design of a national alternative to Erasmus+ and have submitted to the Department of Education [a 2020 annex](#) to its previous paper, [Developing a government-funded, large scale mobility programme](#). The paper outlines how a national alternative to Erasmus+ should be designed and implemented.

Suggested actions for universities:

- Take stock of the immigration requirements for UK outgoing Erasmus+ students studying or on work placements beyond 31 December 2020 and ensure that students are advised of the various national guidance for third country nationals.
- Be mindful of the changes in immigration regulations for incoming students (both study and work placements) after the end of the transition period.
- Consider advising inbound EU nationals to arrive in the UK before 31 December 2020 to simplify their visa requirements.
- Be mindful of the Competition and Markets Authority (CMA) guidance: a higher education provider must give prospective students ‘clear, intelligible, unambiguous and timely information’ so they know ‘in advance what is being offered and can compare different courses and higher education providers’. This includes ‘information about the composition of the course and how it will be delivered’, ‘the location of study or possible locations’ and ‘other extra costs the students are likely to incur’. Universities should therefore be careful of advertising periods abroad as an ‘Erasmus+ year/period’ or an ‘Erasmus+ funded period abroad’, or even when advertising certain destinations without caveating that the partnership may be dependent on the UK’s position on the Erasmus+ programme, or other similar phrases.

- Ensure students on study or work placements in the EEA for 6 weeks or more apply for a Student EHIC before departure to ensure they have the appropriate healthcare cover. Where students depart to their EU country before 31 December 2020, their student EHIC will be valid for the rest of the time they are in that country.
- Ensure UK students abroad are covered by institutional insurance policies (particularly in the context of Covid-19) in the event EHIC cards become invalid, by liaising with insurance officers.

Issues still requiring clarification from the UK government:

- The government should ensure that there is a supportive and clear immigration route in place to ensure that incoming students can continue to use Erasmus+ to study or undergo work placements in the UK and facilitate exchanges for a national alternative scheme. **This is important as Erasmus+ students are due to arrive in the UK to undergo second semester study from the 1 January 2021.**
- UUKi recommends the introduction (to come into effect from 1 January 2021) of a new 'Educational Exchange Immigration Route' to be established by **October 2020** which allows study or work placements (paid or unpaid) for up to 12 months, for inbound EU and international students if on Erasmus+ or a future domestic scheme. This should ensure:
 - Minimal application fees
 - No requirements to prove English language skills
 - No requirement to pay the NHS surcharge
- The government should also liaise with UUKi with the aim to update a future Government Authorised Exchange Route annex, to include existing EU27 government schemes (eg DAAD placements which take place in the UK but are internships funded by the German government)
- The government should confirm the structure, funding levels and framework of the proposed national alternative to Erasmus+ as soon as possible in 2020.

- The government should ensure that any national alternative scheme to Erasmus+ will:
 - provide funding levels commensurate with the trajectory of growth in outward student mobility in recent years and reflect the growing amounts the UK would have received from the Erasmus+ programme
 - ensure that there is no gap in funding available for UK universities for mobility
 - provide mobility opportunities to UK and international staff and students to Europe and beyond for study or work placements
 - continue institutional top-up allocations and maintenance loans for mobility placements, with consideration to how these operate within the devolved nations
 - reflect or improve existing systems to ensure it is as easy for institutions/exchanges to continue with Europe
 - incentivise inbound mobility, through a supportive immigration regime, government to government engagement and a promotional campaign to international partners
 - be flexible on mobility options, mobility type, destination countries
 - reflect the different contexts of all UK nations; and avoid heavy levels of administration and reporting

Issues still requiring clarification from the European Commission

- The European Commission needs to provide clarity on the UK's eligibility to possess the Erasmus Charter for Higher Education, a quality assurance marker required for participation in the new Erasmus+ programme. The Commission should ensure that the UK's current ineligibility to possess the Charter does not delay UK participation in the future programme, should association be agreed.

Other EU programmes relevant to universities

There are other EU programmes relevant for UK universities. The UK's current status and the implications of not having a deal on these programmes are detailed below.

Creative Europe

UK participation in the remainder of the current Creative Europe programme

The UK continues to have access to the current Creative Europe programme, which means that UK organisations can continue to apply for Creative Europe funding until the end of the current programme in December 2020. We encourage universities to continue to bid for funding under the current programme. A list of available funding opportunities can be found [here](#). Any funding already awarded, and funding awarded during the transition period, will cover the entire duration of the project (including projects that continue after 1 January 2021).

What will happen from 2021?

The UK will not seek to participate in the next Creative Europe programme, due to start in January 2021. This will not affect projects funded under the current programme, as explained above. The Creative Europe Desk UK will continue to support the UK sector until the end of the current programme. For more information and updates, please visit the [Creative Europe Desk UK website](#).

Euratom Research and Training

UK participation in Euratom until 31 December 2020

During the transition period, the EU treats the UK as if it were a Member State which means that the UK continues to participate in Euratom, and its rules and arrangements will continue to apply until 31 December 2020.

What will happen from 2021?

The UK Government has stated in its [negotiating mandate](#) that it wants to negotiate close association to Euratom. If such an agreement is reached by the end of 2020 then the UK can continue to be a part of Euratom from 2021 onwards. If the UK and EU fail to reach an agreement, then the UK will have reduced access to nuclear fuel, there may be interruptions to the supply of medical isotopes and there is reduced participation in nuclear research.

Issues still requiring clarification from the UK Government:

If the UK leaves Euratom completely on 1 January 2021, then the UK government needs to give guidance for universities involved in research projects on the status of their participation and which activities they have to undertake to accommodate the changes.

Other programmes

There are a few other programmes UK institutions may have been involved in, such as Copernicus and Galileo. For more information about these programmes, please visit the [gov.uk website](https://www.gov.uk) for guidance.

UK transnational education (TNE) in the EU

UK universities' TNE provision could be impacted by the type of relationship agreed on services, (specifically UK education services being provided in the EU).

What are the implications for UK TNE?

UK universities operate a wide range of collaborative models for TNE, including supported distance learning, franchising, validation, twinning and dual and joint degrees. How no deal at the end of the transition period would affect this provision will depend on range of factors, mainly:

- the nature of the agreement (or lack thereof) reached with the EU
- the specific TNE arrangement
- the territory where TNE is delivered

Bearing in mind provisions for each specific arrangement, and **in the absence of an agreement** that grants enhanced protection to UK TNE, universities should consider the following:

- **The legal basis for delivering programmes in each specific territory.** Universities UK International (UUKi) with Farrer & Co published [guidance on transnational education regulation](#) affecting the rights to provide education services and to establish an educational centre in nine of the top 10 EU destinations for UK TNE activity: Greece, Ireland, Cyprus, Germany, Spain, Malta, Romania, Austria,

and Italy. This guidance should be read together with the British Council and UUKi joint document on [provisions affecting the authorisation to set up an academic centre \(freedom of establishment\) and to offer courses under validation or franchise \(freedom of movement of services\)](#) and with universities' own legal advice on provisions regulating non-EU TNE provision for their specific type of TNE in the territory where it is delivered.

- The framework for the recognition of professional qualifications.** University staff travelling for professional purposes and graduates of TNE programmes will cease to be protected by the EU Directive 2005/36/EC on the recognition of professional qualifications. The British Council and UUKi have jointly identified the [provisions affecting recognition of professional qualifications](#) in 16 EU Members States plus Switzerland. This document should be read jointly with universities' consideration of what authorisations may be necessary for their staff to travel to EU countries on TNE business, and what processes will apply for TNE graduates to have their qualifications recognised to practice in EU member states.
- Quality assurance requirements.** In the EU, exporting Member States are responsible for the organisation and evaluation of the courses and degrees granted by their higher education institutions, including those delivered in another Member State. This may no longer apply from the end of the transition period, when TNE may be subject to local quality assurance processes. The British Council and UUKi have jointly identified [provisions affecting quality assurance](#) in 16 EU Members States plus Switzerland. This document provides a high level overview of accreditation, quality assurance or qualifications recognition of programmes, franchises or campuses of non-EU universities that may apply to UK universities after the transition period.
- Implications for existing and future students.** Students currently studying on TNE programmes in the EU, and prospective students, may see changes to their rights following the end of the transition period. The recognition of their professional qualifications, their immigration status or their right to work in the EU may be altered depending on the status of the programme and institution. Universities should check with local authorities and partners if the rights of students will be

affected, and what provisions regulate their responsibility vis-à-vis students and prospective students in the territory where TNE is delivered (including consumer law provisions).

- **Other administrative barriers placed on third countries offering TNE.**

The protections of Directive 2006/123/EC on services in the internal market will no longer apply. UK universities will be subject to local regulations at the national or sub-national level applying to third country providers following the end of the transition period. Ensuing discriminatory measures could include equity ceilings, nationality requirements, restrictions on foreign teaching staff, subsidies to local providers, authorisation for establishment, economic needs tests, requirements to use a local partner and taxation of licensing/royalty payments.

It is possible that even in the case of the transition period ending without a negotiated agreement, jurisdictions where the provision of certain forms of TNE is not authorised for UK providers (eg franchise or validation) agree to explore reviewing their provisions to grant continuity to UK TNE. It is also possible that, even if provision is no longer authorised, local authorities will agree a teach-out period to expire. The above should however not be taken for granted, and reassurance should be sought promptly from authorities.

The TNE team at UUKi has set up [a form](#) to log specific issues related to TNE. UUKi's activity has already helped identify specific regulatory issues in countries such as Cyprus and some German länder (Bavaria and Schleswig-Holstein). In some of these territories, notably Cyprus, regulatory action has helped ensure that different modes of TNE such as franchise and validation continue to be accepted after the end of the transition period. Please share [this form](#) with your partners in the EU or use it to log any issue you may become aware of.

Suggested actions for universities:

- Check the requirements for cross-border provision of higher education for third countries in any EU jurisdictions where you operate transnational education programmes, including any collaboration with EU partners.

- Check the provisions for graduates to have their qualifications professionally recognised in the EU territories where they intend to practice their profession.
- Check the provisions affecting quality assurance of TNE programmes delivered by non-EU institutions in the territory where it is delivered.
- Assess the impact that modifications on the status of the programme or provider may have on the immigration or employment status of students studying in your TNE programmes in EU countries.
- Assess the impact any administrative barriers, including tax status changes, may have on your transnational education work

Issues still requiring clarification from the UK government:

The negotiation of the future UK-EU relationship on professional and business services provides an opportunity to devise a system that keeps the UK's position as a partner of choice in the EU and recognises the importance of TNE for the UK economy.

In order to do so, the UK government should seek an agreement that:

- a) Avoids the cliff-edge situation of falling back on WTO rules, ie ensures transnational education services are protected by a comprehensive agreement.
- b) Grants market access and national treatment to UK higher education service providers, covering rights of establishment and rights to provide higher education through franchise and validation.
- c) Protects the recognition of UK professional qualifications, including where those qualifications have been obtained in third countries.
- d) Enables the mobility of professionals, including early career academics and graduate trainees, with minimal administrative barriers.

UK-EU qualification/degree recognition

The Mutual Recognition of Professional Qualifications (MRPQ) Directive, the process where UK and EU nationals benefit from a simplified recognition procedure for certain regulated professions and automatic recognition for sectoral professions, (doctors, nurses, dental practitioners, pharmacists, veterinary surgeons, lawyers, architects or engineers), will cease to apply in the UK after the transition period.

There will no change for the reciprocal recognition of qualifications between the UK and Ireland which is governed by the regulations outlined in the Common Travel Area (CTA).

Which qualifications will remain eligible under the MRPQ Directive, even after the transition period?

- The recognition of academic qualifications is overseen by the Bologna Process and the European Higher Education Area (EHEA). The UK's participation in the EHEA will not change as a result of any future relationship with the EU, and academic qualifications will continue to be recognised in the same way as currently.
- For regulated professions, under the terms of the withdrawal agreement, the UK and EU will continue to ensure UK nationals who are resident or working in the EU (and vice versa for EEA nationals in the UK) will continue to have their professional qualifications recognised, as long as they obtained a recognition decision before the end of the transition period. This will include individuals who applied before the end of the transition period but do not receive a recognition decision until after 31 December 2020.
- Swiss nationals will continue to have their professional qualifications recognised in the UK, as long as they obtained or applied for a recognition decision by the end of a four-year grace period following the transition period.

What will change for qualifications recognition after the end of the transition period?

- Excluding those covered by the Withdrawal Agreement, UK nationals wishing to practise regulated professions in the EEA, irrespective of where they acquired their qualifications, and EEA citizens with qualifications acquired in the United Kingdom will need to have them recognised in the relevant Member State on the basis of that country's rules for third-country nationals and/or third-country qualifications.
- For EEA nationals after the transition period, the UK government introduced the Recognition of Professional Qualifications (Amendment etc.) (EU Exit) 2019 Statutory Amendment to ensure that professionals arriving in the UK with EEA and

Swiss qualifications after the exit date will have a means to seek recognition of their qualifications. The amendment stipulates that a future system of recognition will be based on the qualification being from the EEA, rather than based on an individual holding EEA nationality. Authorities will assess that the professional qualification is equal in level, and that the scope and content of the training is equal to UK qualifications.

- For EEA nationals possessing a qualification in a sectoral profession (doctors, nurses, dental practitioners, pharmacists, veterinary surgeons, lawyers, architects or engineers) amendments have been introduced for each sector. For sectoral professions in healthcare, the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (for the recognition of sectoral healthcare professions) states that automatic recognition will be retained for two years, followed by a review by the relevant competent authorities.

What mechanisms might be in place after the transition period on MRPQ

Even if a free trade agreement between the UK and EU is reached, this will most likely not cover Mutual Recognition Agreements, but could pave the way for these Agreements to be reached in the future in line with existing free trade agreements the EU holds with other countries.

Suggested actions for universities:

- In order to not breach CMA guidelines, universities should make sure they are not advertising their courses in a way that implies they will be eligible for automatic recognition where the MRPQ Directive applies currently.
- Ensure that EEA students studying regulated or sectoral professions graduating after the transition period are made aware of the changes in regulations and proactively communicate these changes to any incoming cohorts of students.
- Ensure that UK students studying regulated or sectoral professions graduating after the transition period are made aware of the changes in regulations should they wish to practise in the EU, and proactively communicate these changes to any incoming cohorts of students

Issues still requiring clarification from the UK Government

The UK government should:

- Ensure a future trade agreement provides a pathway for continued Mutual Recognition of Professional Qualifications and automatic recognition of sectoral professions to be mutually recognised across the UK and EU as far as possible.
- Clearly outline the regulations for third country/national recognition for UK acquired degrees in each EU27 member state following the end of the transition period.
- Provide targeted guidance to EU students wishing to study as sectoral professionals, clearly explaining the rules of recognition on graduation. This is important particularly for UK universities attracting EU students to their courses usually covered by this directive.

Data Protection

The General Data Protection Regulation (GDPR) will cease to apply to the UK after the transition period, and no agreement has yet been reached on data protection from 1 January 2021. Without an ‘adequacy’ decision from the EU, personal data flows between the EU/EEA and the UK will become restricted without sufficient safeguards (eg Standard Contractual Clauses, Binding Corporate Rules) in place. The adoption of an adequacy decision is the process through which the EU determines whether a country outside the EU offers an adequate level of data protection. When an adequacy decision is granted to a third country, personal data can flow from the EU to that third country without any further safeguarding necessary.

What are the key risks?

Key risks to consider include a possible delay or failure to obtain an adequacy decision. This will affect transfers of data from the EU to the UK, and could result in a possible halt on the free flow of personal data between the UK and EU/transfers of data and disruption to the use of clouds based outside the UK.

Suggested actions for universities:

- Consider reviewing data transfers: what, who to/from, how much/often, which mechanisms? Review contracts e.g. references to data transfers within the EU.
- Other mitigations could include inserting new clauses into existing contracts to deal with the 'adequacy' issue.
- Consider all data flows and transfers from the EU/EEA to the UK with the following as some examples:
 - cloud services based in the EU/EEA
 - HR and payroll services outsourced within the EU/EEA
 - research data and databases based in the EU/EEA that are needed for research within the UK

Operational and financial risks for universities

There are wider operational and economic risks requiring consideration in preparation for the end of the transition period. UUK will seek to develop further advice on these issues.

Where available, links are provided to UK government advice.

Accounting: guidance may be found [here](#).

Business travel requirements: guidance may be found [here](#).

Health insurance: government advice states that 'EHIC might not be valid from 1 January 2021. Buy travel insurance that comes with healthcare cover before you travel. The rules for passports, driving, pet travel and more may also change'. More guidance on EHIC is [here](#).

Procurement, supply chains: key risks to consider relate to: continuity of supply (shortage of supply in labour, raw materials, delays to supply arising from changes in customs clearance at ports/driver licence requirements for transporting goods). Universities should focus on creating resilient supply chains, and in doing so evaluate existing contracts in place now, recognising whether they present high, medium or low level of risk.

When considering where to focus activity throughout institutions, procurement divisions are advised to:

- Assess existing local contracts for the level of risk they present – e.g. ‘bottleneck’ supplies, key service disruptions, manufacturing delays or financial uncertainties and exchange rate fluctuation.
- Consider carefully which products may need to come into the UK during the months of December, January and February and consider ordering earlier or later to avoid import delays.
- Talk to all key suppliers about their no-deal plans and the possible implications.
- Check with local partners and relevant managing authorities about existing structural funds projects and future funding opportunities.
- Talk to local tax teams or seek formal advice on import, export and customs duties which may, post 1st January 2021, be applicable.
- Review [the ICO guidance on data protection and Brexit](#) and think about which contracts involving data transfer to and from the EU might need new ‘adequacy’ clauses.

Universities or anyone interested in procurement matters can contact their regional consortium with details available at www.ukupc.ac.uk, or contact the Higher Education Procurement Association ([HEPA](#)).

Tax: key risks to consider include: customs/VAT changes at the border (higher cost of bringing in goods from the EU); potential delays at the border which can particularly affect short-life/time-sensitive materials being imported for research.

Updates on tax-related risks are available to BUDFG members in their [newsletter](#) and [Brexit advice](#).

Pensions: key risks to consider include:

- the Resaver pension scheme no longer being available to UK-based researchers, as only EU/EEA based researchers are eligible;
- potential knock on impacts on pensions schemes, such as the impact from shocks to the employer's business and to their strength of covenant, and the impact on the scheme's investments;

- administrative issues, such as banks potentially closing UK accounts of EU nationals. If these are receiving a UK pension into a UK account, an alternative may need to be found;
- EU-based members paying into UK pensions schemes may not be able to remain in such schemes, depending on the regulations of the relevant EU country. Universities would need to communicate the issue and consider alternative provision.

European Research Infrastructures and e-Infrastructures: UK researchers currently have access to a range of European Research Infrastructures and e-Infrastructures providing large scale scientific instruments, environmental observatories, research datasets, and compute and simulation platforms. Most of these resources are available to third countries; however, these are heavily subsidised by the European Commission through its Framework Programmes. There is a high risk that, should the UK fail to associate with future Framework Programmes (e.g. Horizon Europe), UK researchers would incur increased costs to access these resources, as they would no longer be eligible to benefit from the EC subsidies.

Many of these resources tend to be used by European Consortia funded via Framework Programme project funding. In the case of not associating with the Framework Programmes, the loss of opportunity and funding by UK researchers to participate in these consortia will be a primary concern to universities.

Chemicals: post-transition period, there is a risk to supply of certain chemicals and isotopes should there be transport delays due to new customs arrangements; another risk is represented by longer-term burdens from the gradual divergence between UK and EU Registration, Evaluation, Authorisation & restriction of CHEMicals (REACH) if two different regimes develop.

Intellectual property: the Intellectual Property Office (IPO) will convert almost 1.4 million EU trade marks and 700,000 EU designs to comparable UK rights at the end of the transition period. These will come into effect on 1 January 2021.

From 1st January 2021 existing EU trade marks (EUTMs) will no longer protect trade marks and Community registered designs (CDRs) will no longer protect designs in the UK, although they will continue to provide protection in EU member states.

On 1st January 2021, the UK Intellectual Property Office will create and record a comparable UK registered trade mark for every existing registered EUTM and a comparable UK registered design for every existing registered Community Design at no initial cost to rights owners. These registrations will retain the same filing and renewal dates as the original EUTM or registered CRDs from which they are derived.

Additionally, any existing unregistered community designs existing on 1st January 2021 will be given protection in the UK as a continuing unregistered design for the remainder of its 3 year duration, and a new supplementary unregistered design right will be created to offer similar protection to the unregistered community design, for the UK only, going forward. These will sit alongside the UK unregistered design right which already exists.

With regards to patents, Brexit should have no direct impact on the filing and registration processes, and European patents will continue to be enforceable in the UK. EU copyright law will continue to be valid law in UK from 1st January 2021, although the extent to which the UK courts may diverge in future remains unclear.

Universities which have existing EUTMs should also give careful consideration to the maintenance of their EUTM registrations which will continue to offer protection in the EU. Where Universities have only used their EUTMs in the UK, arrangements should be made to start using their EUTMs in as many EU member states as commercially possible or face the possibility of their registrations being susceptible to a future attack for non-use.

Further updates to this advice

UUK will update the advice as set out here in response to developments in UK-EU negotiations, considering domestic policy developments, and in light of universities' own feedback.

If you would like to comment on the advice as set out, please contact Dan Hurley at UUK via daniel.hurley@universitiesuk.ac.uk