Indefinite leave to remain
University of Lancaster

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Agenda for today

- Brexit – the implications
- Indefinite leave to remain
  - Eligibility requirements
  - Application process
- Practical tips
- Questions
‘Brexit means Brexit’

- Recent developments
- The current status of EEA nationals
- Possible future developments
- Actions EEA nationals should consider
  - Confirming permanent residence
  - Registration certificates
  - Naturalisation
Indefinite leave to remain

- Settled status – no restrictions on stay in UK
- Different requirements depending on immigration category leading to settlement
- Focus on Tier 2 (General) route under points based system (PBS)
  - But can use combination of categories
Lawful continuity of residence and absences and future work
Continuous residence

- Need continuous period of 5 years lawfully in the UK
- Detailed requirements apply
  - Employment
  - Absences and purpose of absences
  - Overstaying
Employment

- Must have been employed in UK continuously throughout 5 years in accordance with terms of leave
  - Breaks disregarded if applied for new leave within 60 days of leaving previous employer
Absences and purpose

- Absences for a period of 180 days or less in any of the five consecutive 12 calendar month periods preceding the date of the application acceptable, provided absences for a purpose consistent with permitted employment

- Only whole days count
Overstaying

- Overstaying between periods of leave of up to 28 days acceptable provided fresh application made within the 28 day period
Other relevant points

- Time between issue of entry clearance and arrival in UK
- Where 180 days exceeded discretion rarely exercised
- Date of lodging of application
- Unspent conviction requirement no longer applies
Practicalities

- Schedule of absences
- Evidence for absences
  - Employer letters
  - Passport stamps and travel records
Key work requirements

- Must be paid gross annual salary at least equal to SOC Code rate and at least £35,000
  - Note minimum salary changes from 6 April 2018

- Certification in writing from employer that required for foreseeable future and salary will be paid for foreseeable future
Knowledge of life and language in the UK
KOLL in the UK

- Sufficient knowledge of
  - English language
  - Life in the UK

- Limited exemptions
  - Under 18 or over 64 at date of application
  - Mental or physical condition
KOLL in the UK - language

- English language requirement can be met in different ways
  - National of majority English speaking country
  - Speaking and listening qualification at Level B1 CEFR
  - Academic qualification at Bachelor’s or above
    - Taught or researched in English
    - Taught or researched in UK or majority English speaking country (other than Canada)
KOLL in the UK - language

- National of majority English speaking country
  - Current passport or travel document showing national Of Antigua and Barbuda, Australia, Bahamas, Barbados, Belize, Canada, Dominica, Grenada, Guyana, Jamaica, New Zealand, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tobago, USA
KOLL in the UK - language

- Speaking and listening qualification at Level B1 CEFR
  - Approved Home Office test (speaking/listening qualification)
    - IELTS, but also others
    - See GOV.UK website
  - Taken no more than 2 years before date of application
  - Include reference number on application form
KOLL in the UK – language

- Academic qualification at Bachelor’s or above
  - Qualification obtained in UK – degree certificate
  - Taught or researched in majority English speaking country – degree certificate and NARIC statement confirming standard of Bachelors or above in UK
  - Taught or researched in other country – degree certificate and NARIC statement confirming standard of Bachelors or above in UK and taught or researched in English
KOLL in the UK – life in the UK

- Study official handbook
- 60 test centres, take ID
- Book online at least 7 days in advance
- See GOV.UK website
- 75% pass requirement
- Pass notification letter on day of test
When did Britain become permanently separate from the continent by the Channel?

A About 5,000 years ago
B About 10,000 years ago
C About 20,000 years ago
D About 30,000 years ago
KOLL in the UK - multiple choice

- When was the first Union flag created?
  A 1506
  B 1556
  C 1606
  D 1656
Loss of ILR

- ILR will lapse if absent from the UK for more than 2 years
- In limited circumstances, people may be granted indefinite leave as a returning resident
- Detailed requirements apply
Practicalities

- Application form SET(O) and guidance notes
- Eligible dependants can apply on same form
- Modernised Guidance
- Documents
- GOV.UK website
- Biometrics
- Premium Service Centres
Dependants
Overview

- Partners and children are also potentially eligible to apply for ILR
- Detailed requirements apply
Partners

- Spouses
- Civil partners
- Unmarried or same sex partners who can evidence have lived with partner for 2 years immediately prior to application
Partners

- Partners of PBS migrant are able to apply for ILR if
  - Have leave as partner of main applicant
  - Living with main applicant in UK in marriage, CP or relationship similar to marriage / CP for continuous period of
    - At least 2 years if initial leave as dependant granted before 9 July 2012
    - At least 5 years if initial leave granted on or after 9 July 2012
Partners cont.

- Marriage / CP / relationship subsisting on date of application
- Intend to live permanently with each other
- Meet KOLL requirements
- Not in breach of immigration laws and do not fall for refusal under general grounds
Partners cont.

- If not eligible to apply for ILR at same time as partner, can apply for further leave to remain in existing category
  - But lack of clarity in rules/guidance
Children

- Children are able to apply for ILR if
  - Are child of parent who has, or is at same time, being granted ILR as PBS migrant or partner of PBS migrant
  - Have leave as child of, or were born in UK to, PSB migrant or partner of PBS migrant who is being granted ILR
  - Not married or in CP
  - Not formed independent family unit and not leading independent life
Both parents lawfully settled in UK or being granted ILR at same time, unless
- PBS migrant is sole surviving parent, or
- PBS migrant has and has had sole responsibility for upbringing, or
- Serious and compelling considerations why application should not be refused, or
- One parent is at the same time being granted ILR as a PBS migrant, the other parent is lawfully present in UK or being granted leave at same time as them, and they were granted leave as child of PBS migrant under rules in place before 9 July 2012.
Children cont.

- Meet KOLL requirements if 18 or over
- Not in breach of immigration laws and do not fall for refusal under general grounds
Naturalisation
Naturalisation

- Consider, but…..
- Dual nationality not permitted by all countries
- Some countries have procedural requirements
- Can result in applicant or family members losing citizenship of other countries
- May also affect tax position and pension eligibility
Naturalisation - routes

- Two main categories depending on whether applicant is spouse of partner of a British citizen
  - No British citizen spouse – 6 year route
  - British citizen spouse – 5 year route
- Different requirements apply to each route
- Separate naturalisation sessions
Questions
thank you