

What are the Challenges Facing Corporate Immigration in the UK?

In the wake of Brexit and shifting government policies, corporate immigration in the UK has seen a number of changes. The most recent of these is the April introduction of the new Global Business Mobility visa routes. We hear from Joanne Taylor, partner in Magrath Sheldrick's immigration team, who sheds light on the state of these and other UK visa routes and the wider challenges facing businesses and immigrants in the country.

Parliament recently made substantial changes to immigration rules in the UK, including the introduction of a new, modernised Business Mobility suite of work schemes from April 2022. What will be the most common implications of this for UK businesses?

The new Global Business Mobility (GBM) visa routes came into effect on 11 April 2022. For the most part, this is a rebranding of existing Intra-Company Transfer and Sole Representative of an Overseas Business visa routes, with some tweaks. The Secondment Worker route opens up more options for businesses to transfer individuals not currently employed by them overseas to work on a contract in the UK.

With the introduction of the Skilled Worker (SW) route in December 2020, which has lower salary thresholds and

a pathway to settlement, it is unlikely that the GBM visa routes will be attractive to most UK businesses, other than in very specific circumstances. However, it does provide options to transfer existing employees into the UK faster than under the SW route (as there is no need for a defined CoS and no need for the English Language requirement) and then potentially switch them once within the UK if they intend to live in the UK on a long-term basis.

The GBM visa route contains five immigration subcategories for individuals to enter the UK for business activity. Why are these different subcategories necessary and how does the immigration process vary between these subcategories?

The GBM route contains five immigration subcategories for

individuals to come to the UK for the purpose of business activity. These routes do not lead to settlement in the UK. They are as follows:

- **Senior/Specialist Worker** – This replaces the current Intra-Company Transfer route, with very similar provisions regarding 12 months prior employment abroad (unless the salary is in excess of £73,900). The minimum salary will increase slightly to £42,400 per year.

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- **Graduate Trainee** – This route replaces the Intra-Company Transfer Graduate Trainee visa category; it will be for individuals enrolled on graduate trainee programmes for their multi-national employer who are paid at least £23,100 per annum or 70% of the pro-rated going rate for the occupation, whichever is higher.

- **UK Expansion Worker** – This route will replace the Sole Representative of an Overseas Business visa route;

this category will facilitate moves to the UK to undertake work related to business expansion into the UK, including establishing subsidiary entities and branch offices. The entity will need a provisional sponsor licence to set up in the UK. The Sole Representative of an Overseas Business route will be discontinued, and the new scheme will enable more than one worker per business to enter the UK. One major drawback of this change is that it will no longer lead to settlement in the UK.

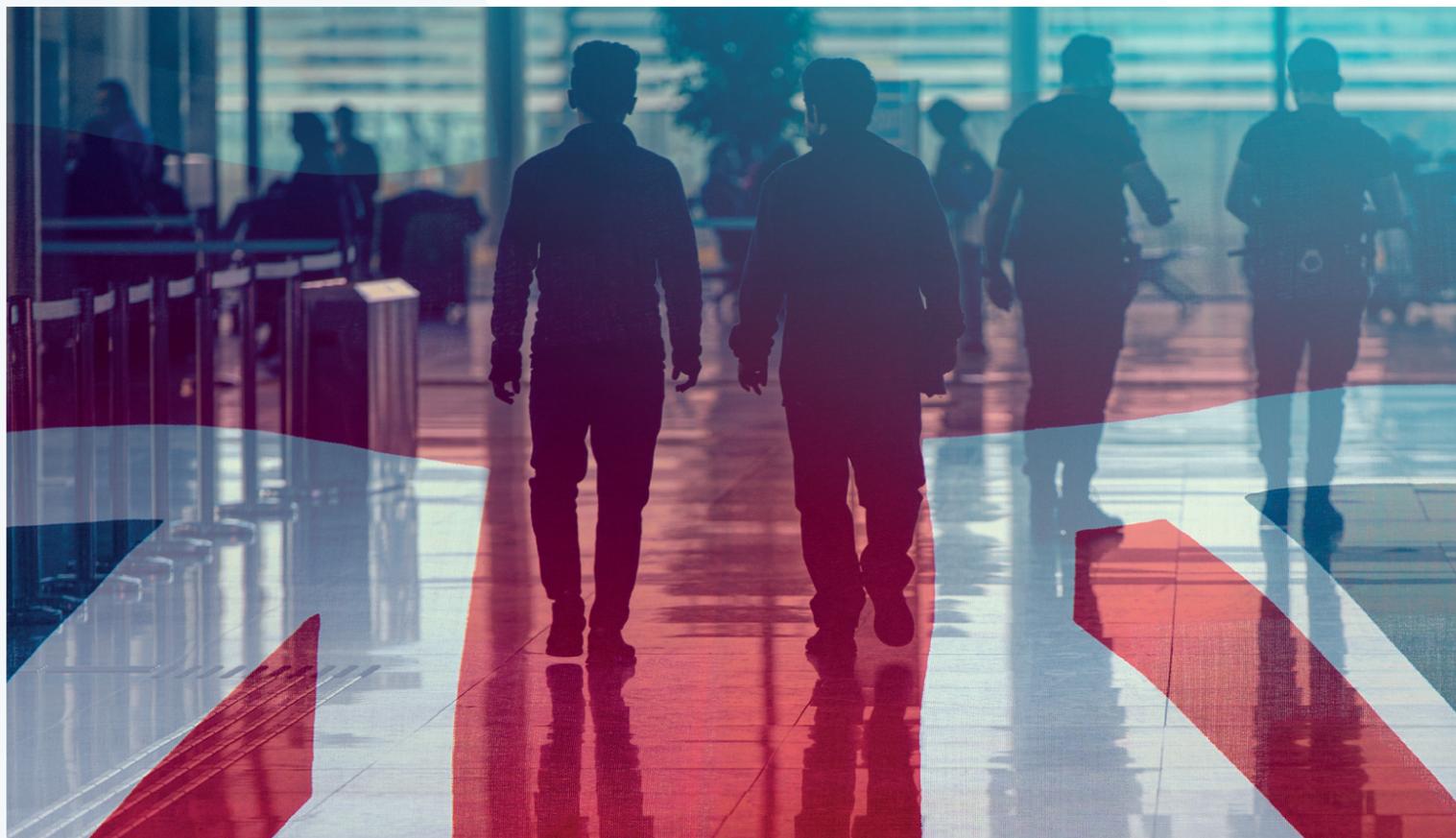
- **Service Supplier** – This is a new route for overseas employed and self-employed persons coming to the UK to provide services covered by one of the UK's international trade commitments. This will also replace some of the Tier 5 temporary work visa routes.

- **Secondment Worker** – This is a new route for workers seconded to the UK as part of a high-value contract of investment by their overseas employer.

These new routes are arguably necessary to provide greater clarity around the activities and business objectives that can be pursued in short-term work categories. Global Business Mobility provides an overarching framework that covers a lot of business needs. It can be developed and flexed over time as the labour market evolves with the “Global Britain” (post-Brexit) policy initiatives. Generally, the immigration process is the same for each of the sub-categories, with increased reliance on biometrics and digital application.

From May 2022, a “High Potential Individual” visa is set to come into force as a new route to attract “the brightest and the best” to the UK. How will this benefit businesses and do you foresee any drawbacks with the HPI visa?

This route is for recent graduates of top global universities following the successful completion of an eligible



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course of study equivalent to UK bachelor's degree level or above within the previous five years. There is no need to have a job offer in the UK to apply for the visa. The initial permission is granted for two years for applicants relying on a qualification equivalent to a UK Bachelor's or Master's level degree, or for three years where the applicant holds a qualification equivalent to a UK PhD. There are no extensions and no route to settlement.

This route aligns with the UK's ambition to attract talent from around the world and will provide businesses with access to top graduates as part of the talent pool. It will allow them to be hired on a temporary basis in the UK. However, the lack of extensions or a route to settlement may not be attractive to individuals and sponsorship under the SW route will therefore be required to retain the individuals in the country over the long-term.

What do Parliament's changes mean for Magrath Sheldrick as a firm?

Whilst the changes are not as radical as the SW scheme (introduced in December 2020) or completely in line with the Migration Advisory Committee's recommendations (for an ICT scheme to lead to settlement), the changes will enable our clients to access a wider range of talent from outside the UK. We

are seeing an increase in immigration activity from a wide range of clients due to many factors including Brexit and the competition for global talent.

What are the most common challenges faced by your UK corporate immigration clients?

I would categorise the challenges into three main areas:

1. Costs – The costs involved in engaging with the UK Immigration system have increased exponentially over the past years. For a family of four, government fees and charges can run into tens of thousands of pounds. The Immigration Skills Charge (up to £1,000 per year of sponsorship) and Immigration Health Surcharge, together with various application fees, can be a barrier to some organisations accessing the system.

2. Competition for Global Talent – In recent years the UK Immigration Rules have created a hostile environment for migrants attempting to come to the UK. Since the UK left the Single Market, the government has had to develop a system that addresses concerns about immigration whilst also providing the country with the supply of skills and entrepreneurship that we need to compete globally. A shortage of skilled workers across the world means that competition among global businesses will intensify to attract the talent that we need. The changes being introduced will not have an immediate impact and it may take some time for the UK to attract global talent, whilst also facing competition from governments looking at ways to retain their homegrown talent. In short, to ensure success in the global market for talent, businesses need to be strategic when considering their corporate immigration needs.

3. Compliance Obligations – Holding a sponsor licence under the SW or GBM visa schemes requires companies to comply with a set of obligations, these range from legal right to work checks to monitoring and reporting on migrant activity. There is a significant compliance burden, with associated risks, imposed on employers.

What are some of the most interesting business immigration cases Magrath Sheldrick has worked on in recent years?

We are often involved in advising large multinational companies in relation to strategic options for senior hires in the UK. Additionally, Magrath Sheldrick have been involved in lobbying the government on changes to immigration rules in response to our clients' needs and feedback on existing arrangements. For example, during the pandemic we were central in advising in relation to concessions for the doctors and nurses in the NHS. We aim to be strategic advisers as well as service providers.



About Joanne Taylor & Magrath Sheldrick LLP

Joanne Taylor is a partner at Magrath Sheldrick LLP with over 10 years' experience in corporate immigration, assisting many large and medium enterprises with all their UK Immigration needs.

The Immigration department at Magrath Sheldrick LLP is headed up by esteemed lawyers Chris Magrath and Ben Sheldrick and has consistently been recognised by Legal 500, Chambers and Partners Guide to the Legal Profession and other recognised legal directories as a top-ranked immigration practice. It was one of the first designated “business immigration” departments in the United Kingdom. As a firm, Magrath Sheldrick has three decades of experience in providing advice and assistance in all areas of immigration and nationality law.

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