

What a Labour government means for legal migration

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Supinder: Hello and welcome. On The Agenda today, join us, Supy and Naomi, for our post-election special on what a Labour government means for legal migration in and to the UK. I hope you've managed to get some sleep because today we'll be covering the broad brushstrokes of what we can expect based on policy announcements thus far. We will be doing a more detailed webinar in September once the government has had some time to put some more detailed policy announcements out there and in time for the usual autumn changes to the immigration rules. You can sign up for that webinar in the link in the podcast description. We've also included a link to our Lewis Silkin Election Hub, which is a great tool for employers covering policy areas, including immigration, employment, data and more.

Naomi: Thanks, Supy. The Election Hub is really worth taking a look at because we're intending to keep that updated so that you can see how the governments start implementing those policies and whether they develop over time. I'm really interested to see whether or not Labour will now start announcing any big changes in direction or approach, or if they're likely to go for some more subtle tweaks to the existing plan, at least in some areas.

Supinder: It's going to be good for employees to have some certainty on what's coming down the line so they can start adjusting that immigration strategy and budgets. We've been given some idea about what Labour has in mind through what they've released to date, but there hasn't been much detail in their election manifesto. Maybe this is because immigration can be such an emotive subject and they wanted to avoid giving other parties too much opportunity for criticism. But now they'll need to be getting to work to prioritise any quick wins in this area and to head off any potential political car crashes. What we do know is that we'll still be hearing about whether net migration is coming down under the new Labour government or not.

Naomi: I think we can already see a subtle shift from Labour's government to say that they're more inclined to bringing down net migration generally, but not towards a specific target, the way that the Conservatives tied themselves into. Good news for the Labour government is that net migration figures are expected to fall anyway, unless there are some more unexpected shocks coming up. For the conservatives, it was very unlucky that they had post-pandemic returns to the UK happening at the same time as big movements of people to the UK under the Ukraine and Hong Kong schemes. Previously, we also had opening up of work migration to sort of breach those skills gaps that we had particularly in construction and care workers. The care sector in particular had benefited from EU freedom of movement and then had to bring those skills in from elsewhere. So all of those really pushed up the figures previously.

We've not been seeing as big numbers of people coming across from these sources even in the last 12 months. So Labour saying that they want net migration to be down to maybe a couple of hundred thousand a year might be entirely achievable without bringing in some very drastic policies to do this. Do you think that's a sort of fair expectation, Supy?

Supinder: Thanks, Naomi. Well, I hope so, but it's hard to predict global events. Labour seem to be avoiding committing to any target. So, you know, the tens of thousands which the Conservative government have or even the hundreds of thousands. Which will be seen as a sensible approach, so nobody has any figures to hang them by in the next few years. It may also be that the policies we've seen under the five-point plan throughout this year are too restrictive for business, especially those wanting to sponsor people early in their career, or for jobs below graduate level, and for families. So, it is also good that Labour might review some of these.

We still need to make the UK the global economy it has been to-date, and overly restrictive immigration policy may not be great for our economy going forward. A lot of these changes that we have seen earlier this year were all rushed through without any real economic analysis of the impacts and without proper stakeholder engagement. So, it would be great for them to be looked at in a more methodical way and rather than just responding to an electorate just to make some headway with them. I suspect the new Labour government will have quite a pile of 'last gasp' policies to

go through and make sense of them coming over the months and just not in our area. There's lots of stuff they'll be looking into.

Naomi: Yeah, I absolutely agree, Supy. I think that over more than a decade, the political parties are bringing in immigration changes that are knee-jerk reactions to get votes for what they think people want to see, whether or not that's based on research and good evidence, both economically, culturally, and for business. So, the slightly reserved approach that Keir Starmer is being renowned for could serve immigration policy very well. The Labour government have already said that they want to enlist the Migration Advisory Committee (or the MAC's) involvement in informing immigration policy far more. They have also said that they are establishing a new skills council. There'll be bodies like the Industrial Strategy Council and the Department for Work and Pensions involved in immigration policy far more going forwards.

Supinder: So cross -government working is a bit of a holy grail though and something that successive governments have struggled a lot with. The problem is that whereas one government department may want to increase immigration to bring in tax receipts or to prop up sectors such as health and care, education, construction, business services, IT and communications, or even agriculture. And if you've been following Jeremy Clarkson, he is saying instead of national service, send the young'uns to his farm to help out there or to facilitate cultural exchange. Another may want to reduce it to force improvements in pay and working conditions and shortage sectors to encourage investments in productivity and improvements and to reduce pressure on public services and housing. So, we'll have to see how all of this pans out, right?

Naomi: Yeah, absolutely. It is interesting the Labour government are saying like successive governments before them, they want to prioritise work opportunities for the people already in the UK, but Labour are going to directly link it to the ability to sponsor workers from outside the local labour market, for example. They're saying they're going to use workforce plans and fair pay agreements in key sectors where they have seen an ongoing skill shortage. So for example, construction, IT, engineering and the care sector. This sounds like a very good plan in theory, and could mean better working conditions, making the jobs more desirable. But I have to say that's also the policy that the MAC have had for a number of years saying if we just keep increasing pay, then it will attract people. And I don't think that addresses the entire picture. It's also making those roles seem more appealing, have more career development opportunities and so on within them.

The big problems are as always, who will pay for this to happen? Because the additional involvement of more agencies, that's going to cost a lot of money. Labour's manifesto looks like it will place a cost burden on businesses, either through a reformed apprenticeship levy, which is paid by large businesses already, or through higher wages under a fair pay agreement, or by removing access to the skilled worker route for businesses that aren't doing enough on workforce training. They also say that they'll take occupations off the immigration salary list if a sector isn't engaging with its workforce plan, although maybe they'll allow individual businesses to be exempt if they can show they are engaging sufficiently with it. That's a really complex system to administer, costly for both business and the government, and requires a huge amount of assessment of the somewhat 60,000-odd sponsors already on the register.

Supinder: It will be. Great comments there. You know, the new government is going to have to square the circle on a lot of cost factors. An expanded role for the Migration Advisory Committee would need a bigger budget for them. The Home Office and other government departments would also probably have to invest in new data sets to inform decision making by the Migration Advisory Committee. Workforce plans and enforcement of these would be cost heavy, especially if there will be some kind of assessment process for business to apply to be recognised as complying with a workforce plan.

And don't forget that public sector and publicly funded care sector are the, possibly the largest users of the work visa system. So having fair pay agreements will impact wage spend for the government. Labour also wants to set up an employment rights enforcement body to tackle worker exploitation and to revoke sponsorship for businesses not doing enough to train their workforce. In principle, this is great – we all do not want the immigration system to be abused – for people trafficking, illegal immigration. But their efforts to date have only made the process far more complex and

costly for legitimate sponsors and to some extent, slowing down the ability to bring talent into the UK. So, any reform of that would be fantastic.

All of this ultimately will need to be funded. Where are they going to get the new caseworkers from? Where will they get the new auditors from? And how much more can we see immigration fees go up to cover those costs? Assuming existing projects that digitise the immigration system and upgrade IT technology for sponsors will still be going ahead, that's going to add up to a very big bill. With digitisation in mind, and something some of my clients have been asking me, is that a project the Home Office are absolutely committed to? Do you think there will be any change in policy direction on phasing out physical immigration documents?

Naomi: I mean, I completely echo everything that you've just said and perhaps phasing out of physical documents is seen to somehow assist in some of that resourcing problem that the Home Office will have with all of these policies going forward. I just want to really emphasise what you said about sponsorship regime having a lot of complicated requirements around it that come down to how they are then implemented and enforced. And whilst we've seen some really quite heavy handed and intelligence-led enforcement of those requirements on sectors that are known to be misusing their employees, it's not out there enough talking to the sponsors that are doing their best, but still have a lot to work on because the guidance is hugely complex and long and not all pointed together. So people can't find the information that they need and they just get sort of almost ignored if they're not a sort of 'high risk' industry. We want to see better compliance in the areas that are clearly abusing the system and then more help and simplicity for the others who are really trying their best but they've become this unworkable system for them.

So if we do phase out the physical documents, maybe that will be helpful, or maybe that will just create more of those problems. I think I saw a headline just this weekend gone about the EU's policy to introduce fingerprints when arriving and that they're expecting queues for years. You can equally see that happening with our digitised system. And my fear as a somewhat of an old school practitioner who used to review bundles of a hard copy paper is that one day the systems just won't work. They'll be down. IT always has functionality problems. Every time we've rolled out a new system, there have been some problems with it. So I still advise people to keep a hard copy with them when they're traveling, just so they have an alternative way to prove their status as well.

The new government might want to assess at what stage that process is, because at the moment, it's only just in the beginning phase of rolling it out. Not everybody has been invited to do what they need to do as the first steps to becoming a digitised status rather than a hard copy one. Do they have enough time to get all of that done by Christmas, essentially? Perhaps they do, perhaps they don't. I think the line is still that they do have the time. But if I was in the incoming government, I'd want to make sure that it's going to go smoothly so that I don't end up with one of those really bad publicity moments. They could perhaps just look at something that's a little bit more forgiving, and it is mostly digital, but there are still alternatives for a little bit longer. Is there anything on your wish list, Supy?

Supinder: I don't think we're scheduled for an epic length podcast, so I can't go through all my list. But one thing I would like to see back in the spotlight is the sponsorship roadmap. We've had a lot of activity happening on sponsor compliance and a lot of rhetoric around hitting sponsors hard if they do something wrong, for example, making them ineligible to reapply to join the sponsor register for a longer period of time, which is fair enough. But by and large, sponsors are trying to do their best to navigate a sponsorship system that is 15 years out-of-date IT wise, could work faster and is incredibly expensive. They could be hugely helped by access to an upgraded sponsor management and application system, clearer guidance and a more streamlined application process and a review of sponsorship application fees.

Now, credit where credit is due – there have been some improvements in the digitisation, particularly with the rollout of biometric gaps and people not having to physically attend the centre. But they're few and far between in this digital age. All of these things were promised under the road map, but we've heard almost nothing about progress on this set of reforms. And for a good couple of years now, they've been silent on it. I know that sponsor license renewal processes were dropped a few months ago, which again was great for sponsors. It saved them a little bit of cash, which they didn't have to pay every four years. And that does cut out one of the processes for sponsors. That was done very quietly without any hoo-ha from the government. And our new government could really build on some

goodwill post-election by shifting the dial back towards talking much more about what they are doing to improve the user experience and when this will happen.

We're getting close to the end of our podcast, but is there anything else that you would like to highlight which should be higher on the agenda for the new government, Naomi?

Naomi: As you say, Supy, there's a long list of things we'd love to see changed and some of them are more pie-in-the-sky, big thinking. But on a more immediate basis, I think that the European nationals with pre-settled status need some more guidance. For a lot of people who obtain pre-settled status, they're unsure about when they might break continuity of residence, both in order to get settled status or to lose their pre-settled status. For many of them, given that it was a huge body of people applying at the same time, with a huge mindset shift from having a completely freedom of movement-based ability to come and go in the UK to suddenly having restrictions. I think some of the messaging perhaps didn't come across as clearly as the Home Office intended it to. So the Home Office will need to make some decisions on whether it's proportionate to cancel pre-settled status where continuous residence has been broken. And whilst they've said that they will look at proportionality, they haven't really defined what that might mean.

So, it's not clear to individuals whether it will apply to them or not. The Lib Dem's solution in their manifesto was to grant settled status to all EUSS participants, which is not something Labour has suggested that they would entertain. But I'd at least really like to see a policy where participants are broadly assured that their pre -settled status will not be cancelled due to excess absences, which perhaps gives them longer to rack up the continuous five years residence to be granted settled status.

If it takes longer for a person to rack up the continuous five years of residence to be granted settled status, then that's fair enough. But it would seem to me really heavy-handed for them to just fall out of the scheme altogether because they've accidentally spent a little bit more time outside of the UK than they perhaps intended to. Of course, it might be a little bit different if you're looking at people who never really took up residence in the UK.

Supinder: Absolutely. Something that will probably need to be dealt with at a ministerial level, particularly if we want to forge a better position post-Brexit with our trading relationships with the EU.

Naomi: And on that, I still find it really disappointing that neither Labour nor Conservative government before them have really pursued that youth mobility scheme with the EU, which to my mind is one of the most important sort of schemes that we have in terms of cultural exchange and allowing a continuing close relationship with our geographical neighbours. We do see them as doing some improvement to the arrangements around touring performers. So that could be great for the creative sector though.

Supinder: Great. So, we are almost out of time, but on the off chance our new Home Secretary is a fan of our podcast, is there anything else you want to put out there before we sign off?

Naomi: Well, it might be worth considering whether we want to remain the most expensive immigration system in the world. The Conservative government had said that they wanted to continue to raise fees by around another 25%. In my view, I think they're already quite high enough. Whilst I appreciate that it's deliberately aimed at being a deterrent, the UK is already multiples ahead of the rest of the world for the cost of a work visa. And increasing that minimum earning for spouses at the same time – we're all about just making it unliveable and unattractive to business, but we do want to still see our economy boom, I would think.

Supinder: I totally agree with you on that point. Whilst our system is quicker than most others out there, I think the cost does need to come down.

And on that note, it's time for us to wrap up. If you'd like to see what the new government has promised to put in the pipeline across a range of legal areas, we have a new hub that you can check out by clicking the link in the notes below.

Naomi: You can find the link to sign up to our September webinar when hopefully we will know a lot more of the detail for the government's plans and have a bit of a heads up for what should be happening in the autumn changes. We

would also love to know what you thought of today's episode. So please leave us a review wherever you get your podcasts.

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