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Brexit Update – The Current Status of the Common Travel Area

When it comes to what the post-Brexit landscape will look like for employers with British employees on Irish soil (and vice versa), the question of immigration status remains high on the agenda. To date such workers have benefitted from freedom of movement, living and working in any EU member state without the need for passport stamps or visas. The border controls from an immigration perspective post-Brexit remain uncertain – with the possible exception of Ireland.

Irish and UK citizens living and working in the UK and Ireland welcomed news this month on the status of the Common Travel Area (the **CTA**). Their governments have entered into a Memorandum of Understanding (the **MOU**) that places the current CTA on more concrete footing. In short, regardless of the outcome of the UK's Brexit discussions with the EU, the historical rights of British and Irish citizens to live and work freely between Britain and Ireland have been gold-plated.

We summarise below what this means for employers of British and Irish citizens working in Ireland and the UK.

What is the CTA?

Prior to either the UK or Ireland being members of the EU, the CTA was an informal, historical arrangement granting Irish and British citizens certain rights and privileges. The CTA allowed Irish and UK citizens to travel, work, study, claim benefits and even vote in the UK (and vice versa). When Ireland and the UK subsequently became members of the EU, the rights of their citizens to move and work freely across all EU member states stemmed from EU legislation.

At present, one of the most concerning questions for employees (and employers) is the free movement of workers. In a post-Brexit world, where the UK is no longer a member of the EU, will the same freedom of movement exist or will such workers be subject to much stricter visa and immigration controls?

From Ireland's perspective, both Governments have pointed to the existence of the CTA, which pre-dates their membership of the EU and, arguably, is not conditional on continued EU membership, to provide reassurance to affected citizens of the default

position post-Brexit. In short, the unique arrangement in place between Irish and British citizens living and working in their respective countries will remain protected by the CTA regardless of the deal done between the UK and the EU.

What is the MOU?

Despite the commitment of both Irish and UK governments that the provisions of the CTA would continue to be honoured post-Brexit, the informal nature of this arrangement had resulted in uncertainty. There were concerns about what could happen in practice – particularly in a 'no deal' Brexit scenario.

These concerns have been addressed to some degree by the MOU. This is a more formal agreement which clearly affirms that Irish citizens in the UK (and British citizens in Ireland) will continue to benefit from the same rights as they do now post-Brexit.

Comment

The MOU is a good news story and confirms the special and unique relationship between Ireland and the UK.

Although not legally binding, the MOU underlines the commitment of the UK and Irish governments to ensure the continuation of these reciprocal rights post-Brexit. From a practical perspective, British citizens working in Ireland (and Irish citizens working in the UK) will take comfort that no actions are required on their part to regularise their immigration status post-Brexit. This may not be the case for other EU nationals living and working in the UK. Businesses on either side of the Irish sea will no doubt welcome the MOU as a positive and progressive step in their Brexit preparations.

For more information in relation to this topic, please contact [Ailbhe Dennehy](#), Senior Associate, or any member of the A&L Goodbody [Employment](#) team.