

**HR Club: Legal Update**  
Tuesday 5 December 2023  
8:30 am to 10:00 am



# WELCOME

*We will start shortly ...*

# Meet the host





**Pia Dekkers**  
HR expert

# Meet the speakers





## **Melanie Stancliffe**

Employment Partner, Cripps Pemberton Greenish



## **Ben Maitland**

Senior Associate, Vanessa Ganguin Immigration Law

# A word from our sponsor



HR CLUB SESSION

FRENCH CHAMBER OF  
GREAT BRITAIN

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5<sup>th</sup> December 2023



*Make an impact*

## KEY FIGURES



**5**  
campus



**8,600**  
students including 35% of  
international students



**+120**  
partners companies



**23**  
programmes



**110**  
nationalities



**+50,000**  
Alumni worldwide



**39**  
double degrees

## RANKINGS

**1<sup>ST</sup>**

CAREER CENTRE &  
ALUMNI NETWORK IN FRANCE  
*FINANCIAL TIMES 2023*

**2<sup>ND</sup>**

BBA IN FRANCE  
*CHALLENGES 2023*

**3<sup>RD</sup>**

GRANDE ÉCOLE IN FRANCE  
*CHALLENGES 2023*

**7<sup>TH</sup>**

EUROPEAN BUSINESS SCHOOL  
*FINANCIAL TIMES 2023*

**9<sup>TH</sup>**

MASTER IN FINANCE WORLDWIDE  
*FINANCIAL TIMES 2023*

Challenges

**FT** FINANCIAL  
TIMES



## BACHELOR IN BUSINESS ADMINISTRATION (BBA)

- Business Management BBA Track
- Global Business BBA Track
- Online BBA Track

## MASTER IN MANAGEMENT & MSc

### FINANCE

- International Finance
- Accounting & Finance
- Corporate Finance & Banking
- Financial Engineering
- Climate Change & Sustainable Finance

### BUSINESS MANAGEMENT

- Creative Business & Social Innovation
- Data Analytics & Artificial Intelligence
- Entrepreneurship & Innovation
- Global & Sustainable Business
- LL.M in Law & Tax Management
- Management & Leadership
- Marketing Analytics
- Marketing Management
- Strategy, Organisation & Consulting

### GLOBAL ECONOMIC TRANSFORMATION & TECHNOLOGY (GETT)

#### MASTER 1:

- S1 : Lille, France
- S2 : Séoul, South Korea (SKK Business School)

#### MASTER 2:

- S5-S6 : San Francisco Bay Area, USA (Berkeley Haas)

## MASTER OF BUSINESS ADMINISTRATION (MBA)

- Global MBA
- Executive MBA

## SUSTAINABILITY



### 2 dedicated programmes

MSc in Global & Sustainable Business  
MSc in Climate Change & Sustainable Finance



### EDHEC-Risk Climate Impact Institute

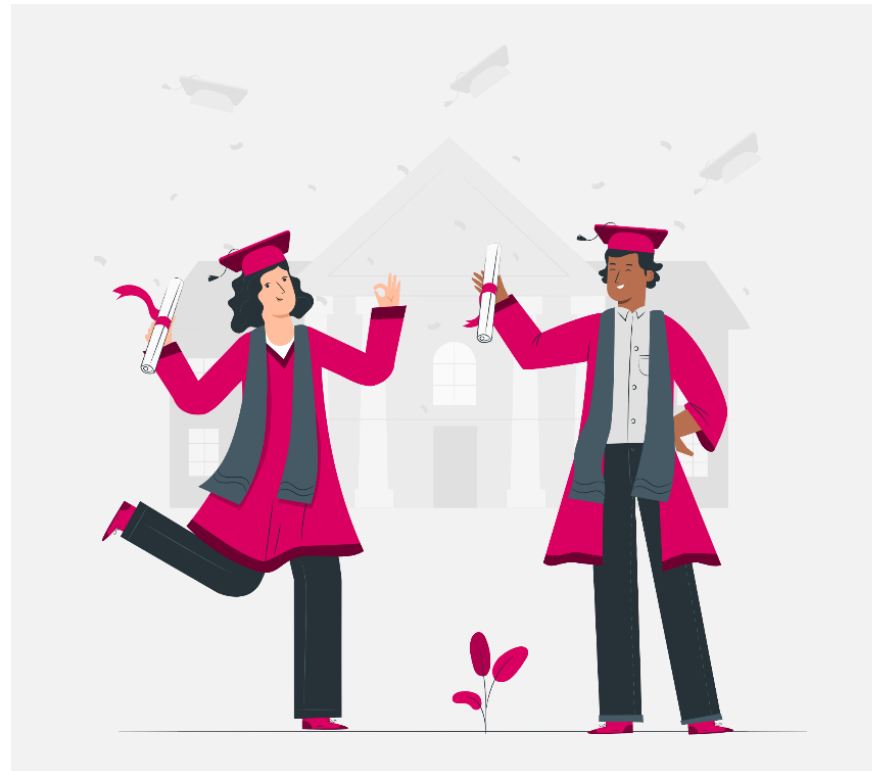
helps decision makers manage climate-related financial risks and makes the best use of financial tools to support the transition to low-emissions and climate-resilient economies.



**37%** Work on projects with a CSR dimension

## DIVERSITY

- ◆ Diversity & Inclusion Chair created in 2016 and led by Hager Jemel-Fornetty
- ◆ Inclusion and Diversity Challenge
- ◆ CSR courses across the programmes
- ◆ 25% of EDHEC budget used for scholarships
- ◆ Talents Summer Bootcamp



## FINANCE

**Prestigious Finance Master track in Nice with 5 specialisations:**

- Climate Change and Sustainable Finance.
- Financial Engineering
- Accounting & Finance
- Corporate Finance and Banking
- International Finance

## EDHEC NEW GEN TALENT CENTER

EDHEC Business School's centre of expertise on the career aspirations, behaviours and skills of new generations of talent

## ENTREPRENEURSHIP

**Center for Responsible Entrepreneurship (CRE)**

- :
- Research
  - Programmes
  - Incubators: Station F in Paris, Campus Jean Arnault in Lille, TechForward in Nice.

## DATA

**New Data and AI Master track with 2 specialisations:**

MSc in Data Analytics and Artificial Intelligence

MSc in Marketing Analytics

## RECRUITMENT & BRANDING

- ◆ Internship & Job Offers
- ◆ Talent Sourcing & CV Books
- ◆ Events: Finance Career Days, Recruitment sessions, CSR and Diversity series, On-campus interviews...
- ◆ Events Abroad: **Company Treks**



## PARTNERSHIPS

- ◆ EDHEC International Business Club
- ◆ Corporate Programme Sponsors
- ◆ Learning Partnerships



## TALENT DEVELOPMENT

- ◆ Open Innovation
- ◆ Career Booster Programme : Assessment Centre, Events and Workshops
- ◆ Inclusion & Diversity Challenge



## Attraction and Retention of Young Graduates: The key role of lifelong learning

### SPEAKERS



**Sachin Kamble**

**EDHEC Professor**

Foresight, Innovation and Transformation  
Chair Member



**Anne Zucarrelli**

**Associate Dean**

Educational Experience and Operations



## THANK YOU

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Contact us for more information at:

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*Make an impact*



# HR Club

## Immigration Law Update



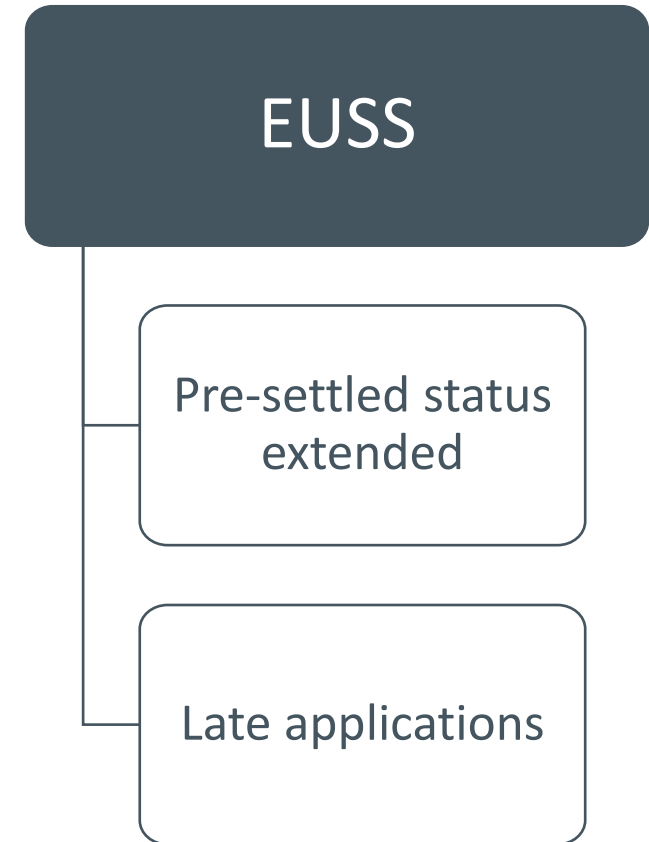
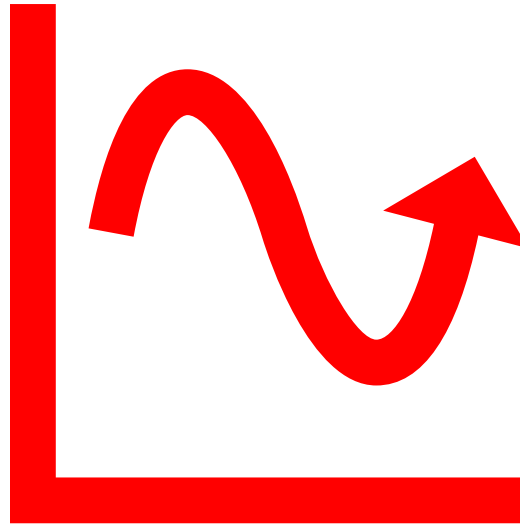
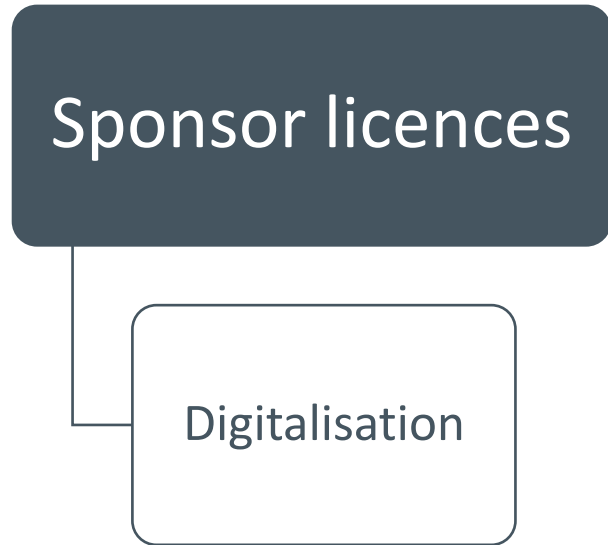
vanessa ganguin  
immigration law

# What will we cover?

- 1 Application processes
- 2 Right to work
- 3 Common pitfalls



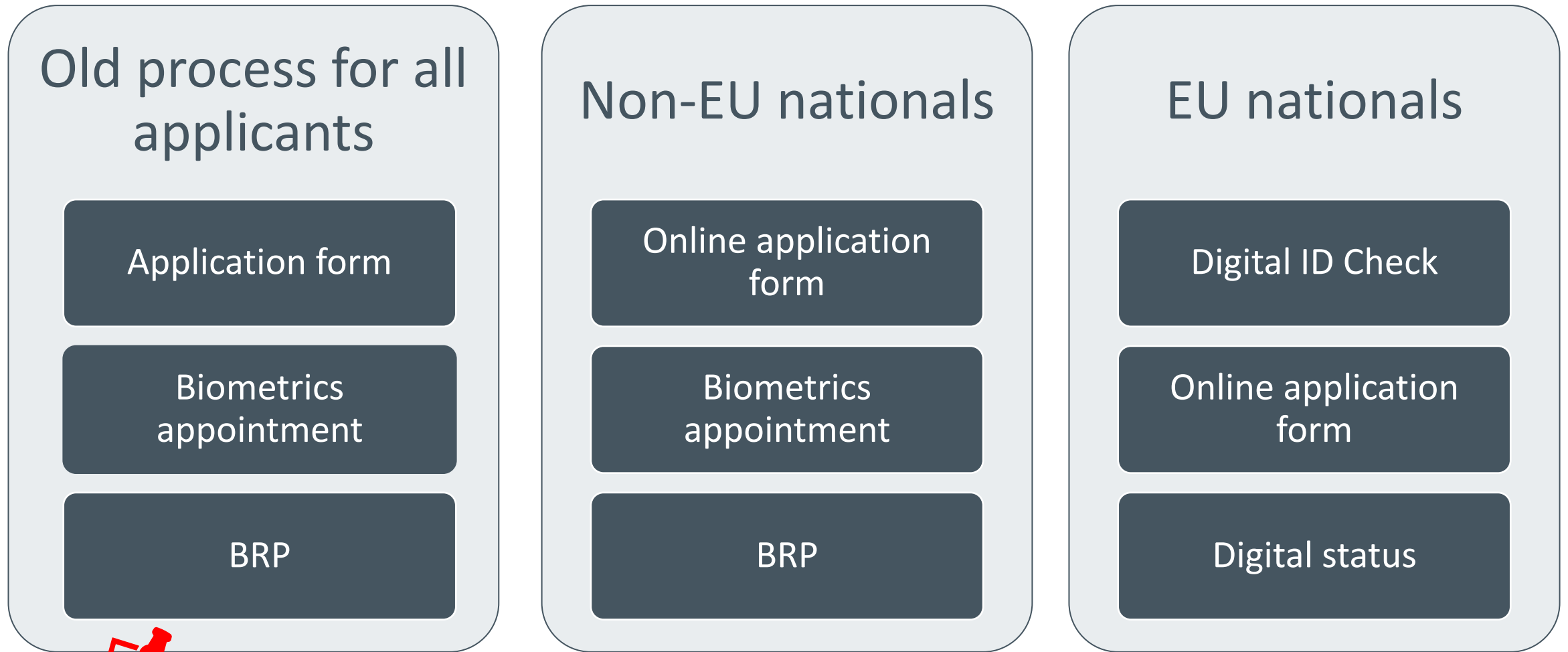
# The law in flux...





# Application processes

# Visa application processes



BRPs are being phased out, to be replaced by some form of digital status

**Right to work checks**

# 1. Manual checks

Obtain  
**original**  
documents

Check validity

Maintain a  
record



Manual checks can also be completed via live video link, but you will need to have the **original documents** in front of you



## 2. IDVT via IDSP



British and Irish citizens only

Must use a certified provider

Mitigates fraud

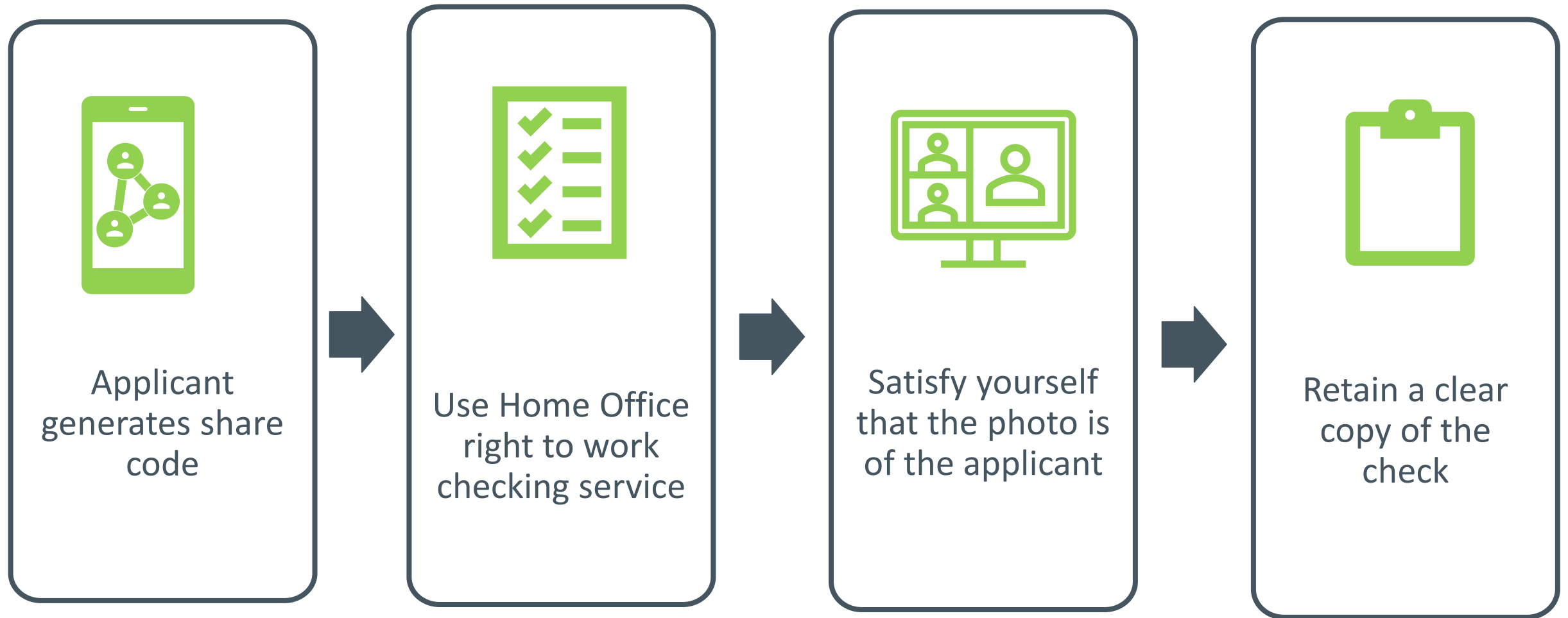
### Definitions:

**IDVT:** Identification Document Validation Technology

**IDSP:** Digital Identity Service Providers



### 3. Online checks

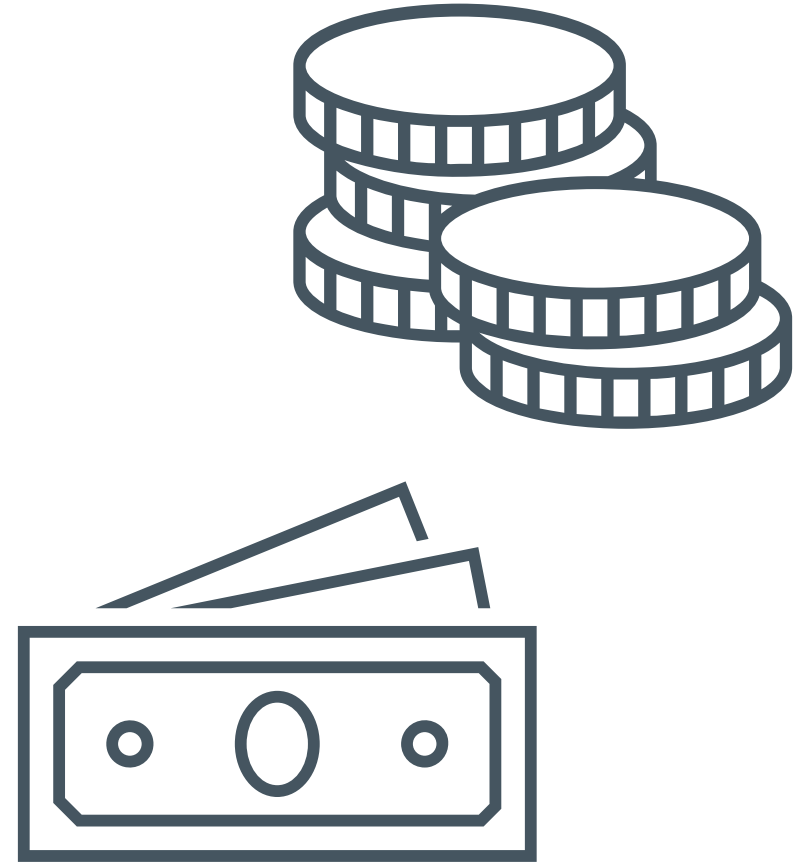


# Civil penalties

Civil penalties will increase from **early 2024**

First offence: *From £15,000 to up to **£45,000 per illegal worker***

Repeat offence: *From £20,000 to up to **£60,000 for repeated breaches***



# Common pitfalls



I'm a digital nomad – I can work from anywhere...

**DON'T**

- If in the UK as a visitor, generally cannot work remotely in the UK

**DO**

- Can carry out permitted activities
- Generally, will need a work visa



One of our key personnel has left the business...

DON'T

- Sponsors must always have an AO and L1U in place

DO

- Make key personnel changes before the AO or L1U leaves the business



It's been over the time limit, and we haven't reported a trigger event...

**DON'T**

- Fail to report

**DO**

- Put sufficient internal reporting lines in place
- **ALWAYS REPORT**



We have assigned the CoS but there have been delays. We don't think we will make the start date...

DO

- Add a sponsor note to the CoS with updated start date
- **Once leave is granted, if the start date is postponed by more than 28 days, you must report to the Home Office**



Questions?

# Thank you



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Your lawyers for business and life.

# Franco-British Chamber of Commerce – Employment law Update

Melanie Stancliffe

5 December 2023



# Agenda

1. What the latest Tribunal statistics reveal
2. New legislation
3. Hot topics

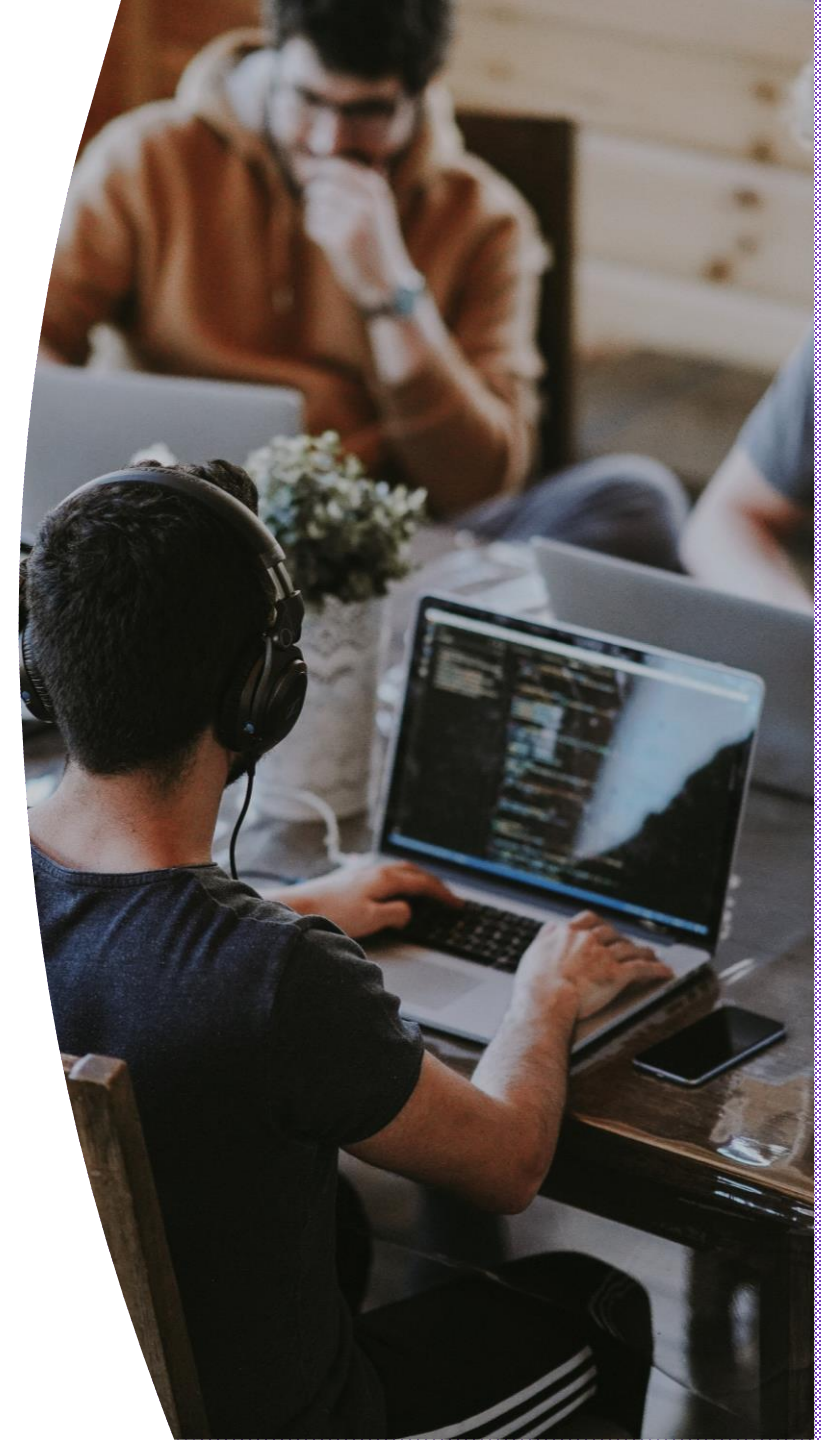


# The latest Tribunal statistics

- [Single Cases](#)
  - Tribunal received 8,100 claims
  - Tribunal disposed of 9,000 claims
  - 37,000 open at end March 2023
- [Multiple Cases](#)
  - 15,000 multiple claims received
  - 11,000 disposals
  - 440,000 cases open at end March 2023



From April 2022 to March 2023



# Tribunal Awards 2022/23

## Discrimination

- highest award - £1,767,869
- average award - £45,435 (median £15,634).

## Unfair dismissal

- highest award - £184,200
- average award - £11,914 (median being £6,201).



# Prevent sexual harassment

- New duty on employers to:-
  - to take “reasonable steps”
  - to prevent sexual harassment of employees
  - In the workplace
- Breach- compensation increased by up to 25%

## Third Party harassment

- Employer's not liable for harassment by third parties





# Predictable Working Patterns

- Law expected in Sept. 2024
- **Workers** have right to request a more predictable pattern
- Likely to need 26 weeks service
- Applies to workers with:-
  - a) uncertain hours or times of work
  - b) workers on fixed term contracts of 12 months or less
  - c) agency workers
- 2 applications can be made in any 12 months
- Businesses must:-
  - deal with any requests in a “reasonable” manner
  - Give the decision within 1 month



# Flexible Working - Changes

- Changes to current regime
- Expected to apply from Summer 2024
- Employees:-
  - can make 2 requests in 12 months (not 1)
  - don't need to cover effect on business
- Employers must:-
  - consult before rejecting a request
  - respond within 2 months (not 3)



# Changes to holiday pay, TUPE and working time.

- Likely to come into force 1 January 2024
- Key changes :-
  - a) simplifying holiday pay calculations
  - b) confirming that EU case law will remain in respect of carrying over annual leave
  - c) defining 'normal remuneration' for holiday pay
  - d) removes record keeping for working hours & rest periods
  - e) amendments to TUPE for small businesses



# Spent convictions

Type of conviction	Previous length of time required to disclose	New length of time required to disclose
<b>Custodial sentence of over 4 years</b>	Never spent	7 years (excl. 'serious violent, sexual and terrorism offences' –never spent)
<b>Custodial sentence of 2 ½ years - 4 years</b>	7 years	4 years
<b>Custodial sentence of 1 - 2 ½ years</b>	4 years	4 years
<b>Custodial sentence of 6 months - 1 year</b>	4 years	1 year
<b>Custodial sentence of up to 6 months</b>	2 years	1 year

- Does not impact roles needing basic or enhanced DBS checks
- Update your forms and systems





# Mrs L Bristow v Craigard Care Ltd

“Don’t think you can just swan in here when you feel like it and say you’re coming back to work. It doesn’t work like that; we don’t have light duties.

If you can’t do a full shift, there’s no job here for you”. Don’t think you can just swan in here when you feel like it”.

- she was awarded £29,218.88 of unfair dismissal





# Glover v Lacoste UK Ltd

- Store manager wants to change her working hours
- Employer's rejection of flexible work request twice
- Is indirectly discriminating against the employee
- Employer cannot rectify this by changing their mind before she returns to work
- Even if a compromise is offered before she returns to work

## Pimlico Plumbers v Smith



# Chief Constable of the Police Service of Northern Ireland v Agnew

- Police claimed underpaid holiday pay
- The NI employer agreed they had been underpaid
- Relied on 3 month gap to break the chain of deductions
- Supreme Court decided the deductions were factually linked by the “common fault or unifying or central vice”
- Workers in Britain can now challenge linked underpayments even if there’s 3 month (or more) gap between them
- Significant increase employers’ exposure to historic claims



# Ponticelli UK Ltd v Gallagher

- Does the obligation to provide a Share Incentive Plan (SIP), not mentioned in the contract of employment, transfer under a TUPE to the new employer?
- Yes in this case the EAT found:-
  - Mr Gallagher would be financially disadvantaged by the non-transfer of the SIP so it was part of his terms and conditions.
  - the SIP arose “in connection with” his contract
  - new employer must provide a replacement scheme of substantial equivalence



# New ACAS Guidance

## Fit notes

- an employee off sick for 7 calendar days+, should get a fit note
- even if they would not have worked some of the 7 days.

## Mental health – Employers have:-

- a ‘duty of care’ & must do all they reasonably can to support employees’ health, safety and wellbeing
- to make reasonable adjustments to help reduce or remove disadvantage
- to have a policy in place to cover mental health

**Handling flexible working requests – ACAS’s guidance will be updated in 2024 to reflect the new law on flexible working**



# Updated figures

- **National minimum wage**
  - largest increase to minimum wage
  - from April 2024 to £11.44/hour
- **Statutory redundancy pay (cap per week)** – now a maximum of £19,290 (as the cap is £643/week)
- **Increase in maximum award for unfair dismissal** – now a maximum of £105,707



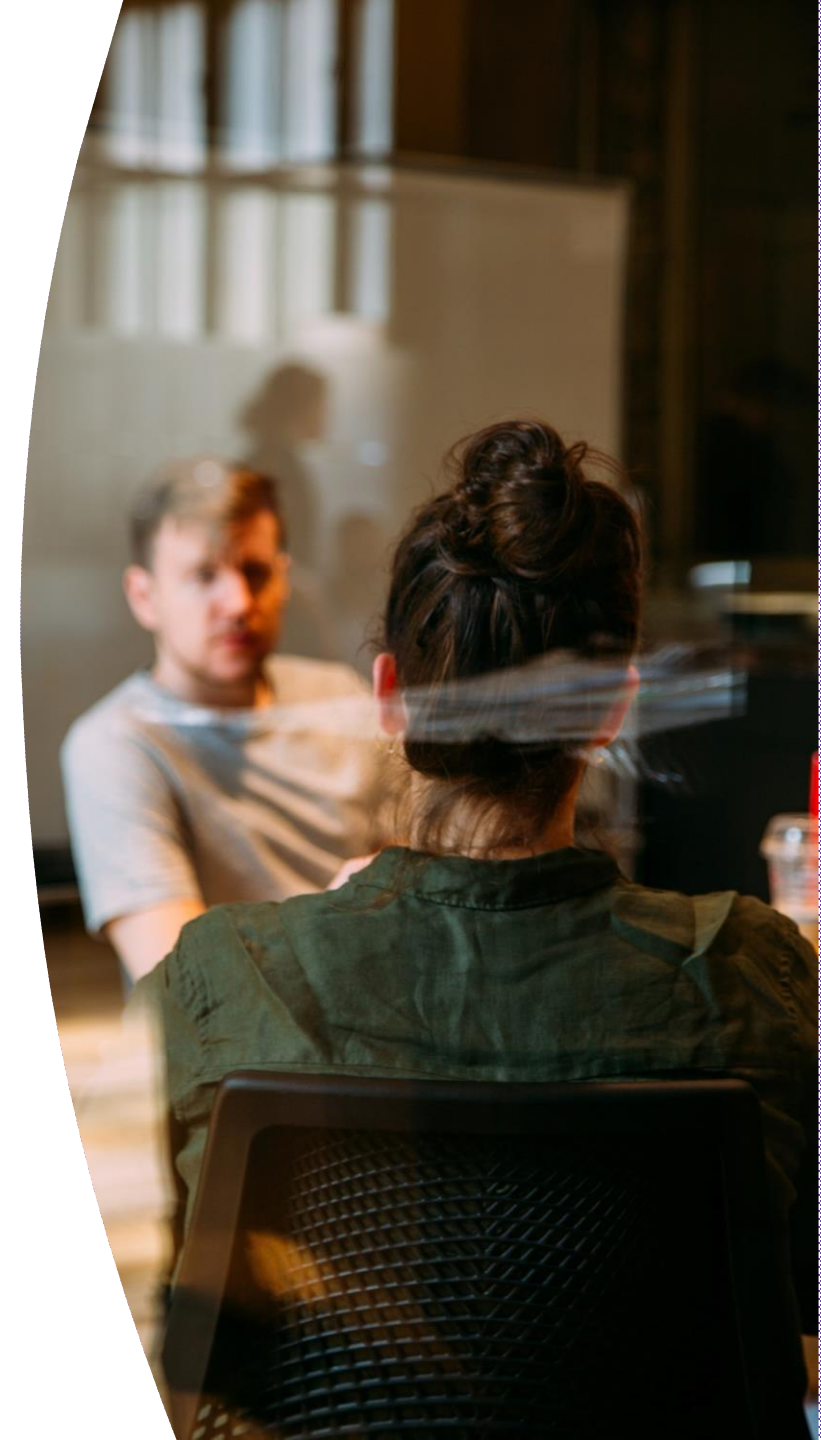
# IR35 and off-payroll working

- Determine the status of a contractor working through their own company
  - each time you engage/re-engage them
- 79% use HMRC's CEST tool
- If contractor is within IR35, you need to :-
  - provide the Status Determination Statement **before** they start
  - put them on payroll
  - pay employers' NIC and deduct tax and NIC
  - put in contract that you can audit the full contractual

Beware of:-

- mini umbrella company fraud
- claims for holiday pay, minimum wage, pension

To avoid penalties - using reasonable care & keep records



**Thank you for attending  
today**





# Get in touch

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# Q&A SESSION



What themes would you like to explore in our next sessions?

# OUR SPONSORS AND PARTNERS



Save the date!



Our next session

HR for HR : supporting HR mental health

Thursday 1 February 2024

9:00 am to 10:30 am

@ Louis Vuitton

17-20 New Bond Street London W1S 2RB



# THANK YOU

