

The 'Brexit Effect' on employment in the UK

STRAIGHTFORWARD HR ADVICE AND SUPPORT



It's difficult to avoid Brexit

It's in the newspapers, on TV, discussed online, debated on social media and a major topic of conversation. Some of us would rather forget about the whole thing or put a plan in place to deliver it. However, a large portion of people across a variety of industries and sectors are wondering "how will Brexit affect me?"

Employment is often one of the first issues that people think about. So, what does Brexit mean for employment in the UK? How can business owners, managing directors and HR teams ensure they are prepared to answer employees' questions about it?

Arm yourself with Information

Amongst all the uncertainty about Brexit, this might be easier said than done. However, there is information out there and the best approach is to be as informed as possible. By doing so, you can consider the potential implications and draw up a plan, rather than waiting, panicking and being reactive.

The [gov.uk](https://www.gov.uk) website is a great starting point and provides a wealth of information. There is a diagnostic tool on 'preparing your business or organisation for the UK leaving the EU'. The tool helps you find out:

- what your business or organisation may need to do to prepare for the UK leaving the EU
- what's changing in your industry
- information on specific rules and regulations
- There some simple questions you'll need to answer in order to get guidance relevant to your business or organisation.

Implications on Employment

The [Institute of Employment Studies](#) is another good resource for understanding the possible impact of Brexit, with working rights and the availability of labour being two key issues.

Approximately 2.15 million EU nationals are currently working in the UK, making up 7% of the workforce. However, changes to living situations will affect this number.

This means that low-skilled jobs may be left vacant. Or, that EU nationals are left feeling less secure and will need to be fully informed of their position in a company.

Assuming free movement of EU nationals ends after Brexit, the Migration Advisory Committee (MAC) report suggests the UK's current Points Based System for immigration should be extended to cover EU migrants. It should also be altered so that more skilled, rather than lower-skilled workers, gain permits to work here.

The Tier 2 (General) category would lose its cap on the number of permits issued and would be widened to include medium and highly skilled workers. The £30,000 salary threshold for this category would remain, as would the immigration skills charge of £1,000 per worker. More occupations would be eligible for this type of sponsorship.

Employers would not have to advertise non-shortage occupation roles domestically for 28 days before offering the job to a foreign worker.

Only the agricultural sector would be given its own scheme to enable lower-skilled workers to come and work here.

Employer groups from the retail, hospitality, health and social care sectors are already expressing concern. They feel the MAC

recommendations won't help labour shortages without further reforms to the system.

EU Nationals Working in the UK

The picture for EU nationals already working in the UK is clearer. They can apply to remain here indefinitely which is called 'settled status.' This is if they have been here for five years or will have been by the end of 2020.

Those that have been here for fewer than five years by that time can apply for pre-settled status. This will allow them to accrue the necessary years to qualify for full settled status.

Further information on EU citizens' rights can be found [here](#).

Pay

Some businesses will shift operations overseas to remain a part of the single market. We have already seen £1 trillion of capital from the financial sector move out of London so as to remain unaffected. Pay may be affected either way: if immigration increases to fill the low-skilled jobs, pay will take a cut. If, however, the low-skilled jobs need workers, pay may increase in order to incentivise British nationals to take up some of these jobs.

Employment Law

Whilst as part of the transition period, as set out in the Repeal Bill White Paper, to ensure a functioning statute book once we have left the EU all current EU laws will return and be managed by UK institutions. It will then be down to Parliament to decide, post-Brexit (assuming it ever happens!), whether these employment protection

laws continue as they are. This also covers other EU laws with direct effect, like the General Data Protection Regulation.

Areas that are being muted for reform post-Brexit could include discrimination compensation which is currently uncapped. Not only that but harmonising terms and conditions after a TUPE transfer, holiday accrual and pay, and the Agency Workers Regulations.

However, a future trade deal with the EU will likely depend on established principles of employment protection. The government has proposed in a white paper that the UK and EU should commit to the “non-regression of employment law standards”.

CIPD [research on employment regulation](#) shows that employers probably wouldn't want major changes to employment law after Brexit. The CIPD has its own [Brexit Hub](#). This is another fantastic resource for employers to ensure they are up-to-speed and fully informed on the implications.

Summary

Amongst all the uncertainty, the one thing that is certain is change, and with change comes risk but also opportunity.

So, what are the top Brexit risks employers should plan for:

1. Continue to or start to promote Diversity & Inclusion

Diversity and inclusion have been under attack with an undercurrent of intolerance widely reported in the media.

EU nationals generally feel less welcome in the UK than they did prior to the vote, and this undoubtedly affects their engagement and productivity at work.

Make them know that they are a valued and integral part of your workforce.

2. Free movement of workers

Businesses may be at risk as a result of losing workers, either by virtue of the number of affected workers or because they occupy key roles.

Take steps now. Identify which of your staff are EU nationals, or who have partners who are EU Nationals, who live and work in the UK, those who have accumulated rights to remain in the UK/EU and those who could be vulnerable. The same exercise should apply to UK nationals living and working in the EU.

Then establish who of these potentially affected workers occupy key positions by virtue of seniority, revenue generation or unique skill sets. This exercise will enable you to identify areas of risk. Also, to consider contingency plans to retain or replace key affected workers if this proves necessary following Brexit.

3. Upskilling and Relocating Workers

There is a risk of developing a skills deficit. Either as EU workers or UK nationals who have EU partners anticipate developments and choose to leave or are forced to do so once the UK leaves the EU.

Is there a shortage of homegrown talent to fill this skills deficit?

Identify key skills likely to be affected. Begin planning how to provide the training and experience to plug the skills gap.

If this isn't possible, begin planning to ensure the retention, and facilitate possible relocation of such workers.

The timeline for such steps should be considered now. These will involve taking into account commercial, practical and legal issues under UK employment law and the local employment and other laws jurisdiction.

4. Agree your Recruitment Strategy

Will you be fishing in the same pond as your competitors or similar businesses?

What is your employee value proposition, and will it make you more attractive than your competitors?

What lead in times will you need to maintain production – service level performance levels and build these into your plan:

- Longer processes: in procuring a visa etc. for EU nationals in UK and vice versa
- Higher costs: visas are expensive (circa £9,000 for a Tier 2 visa valid for 5 years). You need to make budgetary provision for this.

5. Review your HR Policies and Documentation

Do you refer to specific EU law in your policies or HR documents? Be mindful of any contractual provisions.

Think about the future enforceability of your employment contractual protections, notably post-termination restrictions.

Enforcing such protections across borders is complicated by the fact that some jurisdictions treat such provisions as being matters of domestic public policy and either enforce them narrowly or not at all

in accordance with their own laws, especially where injunctions are sought

6. Jumping the Gun

If you imagine risks arising from possible immigration changes, it would be natural to start replacing likely affected workers. Not only that but to cease recruiting EU nationals to work in the UK and vice versa. This approach might be objectively justified in some cases. However, until the UK leaves the EU, the UK will remain subject to applicable EU and current domestic laws. This approach runs the risk of giving rise to discrimination claims.

7. Relocating currently Outsourced or Offshore Services

You may face difficulties if certain aspects of your business are delivered from different countries. For example, accounting, IT and HR and legal services, which requires the transfer of data in and out of the UK. There is a risk that aspects of these shared services may be affected by the terms on which the UK leaves the EU and any subsequent changes to UK legislation and the current EU legal standards.

Are you ready for Brexit?

For further support and advice, visit the Petaurum Solution website. Both Adam and Mark would be happy to chat with you about your queries or concerns over Brexit so please get in touch

East Midlands: 01522 719438

East Anglia: 01728 726501

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