

What HR needs to know if the UK votes to leave the EU

What does a 'vote leave' mean for me as an HR practitioner immediately in my day job?

The biggest immediate challenge is likely to be trying to reassure your staff that any significant changes in employment rights and rights to work in the UK are highly unlikely to happen in the short-to medium-term.

It will be important to communicate clearly with employees, stressing that there will be no imminent changes and that your organisation will keep the workforce closely informed about any potential changes as the negotiation over the UK's future relationship with Europe progresses and the likely implications become clearer.

If your organisation is more immediately affected by a vote to leave because it already has contingency plans to, for example, relocate its headquarters or operations from the UK to elsewhere in Europe, then the emphasis should be on early and meaningful consultation with staff.

This will mean consulting so that employees' views can be taken into account before decisions are taken, that people feel that they have genuine voice, and that they are involved in the change process. There is also a responsibility to ensure that any processes are fair and balanced to take account of the views of multiple stakeholders across the business.

Finally, any major change can create uncertainty, stress and anxiety, which means employers should be extra mindful of their duty of care to staff and ensure that appropriate support is available for those that are worried or are struggling to cope with stress. A key part of any response needs to be very clear and consistent communication about changes happening in the business. Managers at all levels need to be equipped with the right information and where necessary provided with guidance and support to ensure they can respond appropriately to employee concerns.

Regardless of how well change is managed, it is likely that the wellbeing of staff will be adversely affected, which is why the provision of early access to occupational health services such as counselling are important to help people cope with pressure and manage and address any mental health problems.

Will there be big changes to employment law/workers' rights?

A significant body of employment law in the UK derives from the EU, and over the past decades this has affected workers' rights across the economy. While a leave vote could in *theory* allow the Government to amend employment law if it could gain Parliamentary approval, the *reality* is that the legal framework under which EU-derived employment law is transposed into UK law is complex and will not be straightforward to dismantle even if there is the political will to do so.

There will be legal and practical challenges associated with any attempt to unravel EU-derived requirements from non-EU-derived requirements, especially where case law has drawn on domestic courts' interpretation of EU Directives and on ECJ rulings.

The future of EU-derived employment law will also depend on the political and economic relationship that the UK negotiates with the EU. Trade agreements such as the European Free Trade Area (EFTA) or joining the European Economic Area (EEA) could require the UK to still accept the majority of EU regulations.

One point to bear in mind is that the UK already has more flexibility than is sometimes realised over employment law. It has very different regulation on protection from unfair dismissal and on collective labour disputes to that in place in much of Europe, because these aspects are principally left to Member States. This degree of flexibility has enabled the UK to maintain one of the most lightly regulated labour markets in the OECD in terms of employment protection legislation. In the view of the CIPD, we have the right balance of flexibility in terms of employment regulation and will be making the case for maintaining the status quo.

What is likely to happen to immigration policy?

The Vote Leave campaign has pledged that the new immigration system would end the automatic right of all EU citizens to come to live and work in the UK. Following negotiations over the nature of the future relationship between the UK and the EU, it is highly probable that employers will in the future no longer benefit from free movement of labour within the EEA. It is also possible that EU citizens that enter the UK between now and the formal separation will not have a permanent right to live and work in the UK. These negotiations will take time so any changes to the status quo are unlikely in the short-to-medium-term.

The Vote Leave campaign has also advocated the benefits of an Australian-style points-based system and so it is possible a similar system will be introduced in the UK at some point. One option is for the Government to adapt the existing points-based immigration system for non-EEA workers and extend it to cover all migrants. Under the existing arrangements, entry to work for non-EEA nationals is limited to people identified to be of value to the UK economy, such as skilled workers in "shortage occupations" or wealthy entrepreneurs and investors. Migrants with sought-after skills gain more points towards their visa. Under the system, employers have to register as sponsors and pay various costs that will include a new immigration skills surcharge from April 2017. In addition, employers are subject to a rigorous compliance regime.

The current points-based system comprises several routes. Employers are primarily concerned with the Tier 2 route, through which employers recruit skilled non-EU migrants because they cannot find people with the right skills and experience from the resident labour market. Points are awarded on the basis of age, earnings, work experience and qualifications. We would expect the Government to activate the Tier 3 route for un-skilled workers, which has not been used to-date because of the strong labour supply from EEA countries, to allow employers to fill specific temporary or seasonal labour shortages.

The points-based system is currently regularly reviewed by the Migration Advisory Committee (MAC), an independent, non-departmental public body that advises the government on migration issues and we expect this arrangement to continue.

Another option available to the government is to adopt Australia's General Skilled Migration (GSM) approach. This system allows prospective migrants to lodge an Expression of Interest (EOI) through the Department of Immigration and Border Protect (DIBP's) 'SkillSelect' system. Applicants must meet the following criteria:

- be under 50 years of age at time invitation;
- have at least 'competent' level of English;
- plan to work in an occupation from the relevant skilled occupation list; and
- have obtained a sufficiently positive skills assessment for their nominated occupation.

A key difference between the current UK points-based system for non-EU workers and the Australian immigration systems is that in Australia you do not need sponsorship from an employer, meaning you can find a job when you arrive.

What will it mean for employers' ability to access scarce skills?

Changes to immigration policy designed to reduce net migration could make it harder over-time for employers to address recruitment difficulties and skills shortages by recruiting migrant workers. The cost and resource implications of complying with a points-based system for all migrant workers is also likely to deter some organisations, particularly smaller employers, from hiring overseas workers. However, it is very unlikely that any major changes will be able to take place in the short to medium-term here.

What will it mean for the EEA nationals I employ?

There is no significant threat to the rights of EEA workers already in the UK to live and work here so you should reassure your existing EU workers that they don't face any risk to their job security. It seems likely that there will be some sort of worker registration scheme introduced in the future for EEA nationals that are already in the UK to protect their right to continue to live and work in the UK. However, it is uncertain whether people from the EEA who enter the UK between now and the UK's formal separation from the EU will have a permanent right to live and work in the UK.

The UK Government is likely to tread cautiously as any move against another country's citizens would need to be carefully thought through and managed to avoid tit-for-tat measures, for example against British citizens enjoying retirement in Spain.

Looking further ahead, EEA workers that would like to come to the UK to live and work in the future are likely to be subject to the requirements of a points-based visa system that is likely to reduce employment opportunities.

What does a vote to leave the EU mean for other areas of UK employment and skills policy?

Aside from employment law and immigration policy, there are no expected changes to existing employment and skills policies that will be coming into force, such as the National Living Wage and the Apprenticeship Levy.

Among the key challenges facing the UK economy and workplaces remain our poor productivity record and a number of associated skills problems, for example the mismatch between the skills generated by the education and skills system and the skills that employers' need and the poor utilisation of existing skills due to a relatively long tail of poorly managed organisations in the UK. The CIPD will continue to make the case to Government to help address these issues and to listen to our members, drawing on their knowledge and expertise.

What if I'm a HR professional living and working in the Republic of Ireland?

While a 'leave' vote will not have the same direct implications for you as a HR practitioner working outside the UK, clearly there are many issues that the Irish Government will need to resolve regarding the relationship with the UK, while making sure its voice is heard in the establishment of a new relationship between the UK and the EU.

In the short-term, decisions by UK organisations to expand in Ireland will increase demand for certain skills, so a programme to proactively retain key skills will be important, along with tight management of any pay cost pressures. Irish firms who are significantly exposed to the UK market may need to develop the capability to expand beyond that into additional market places going forwards.

The vote will have significant implications for Northern Ireland on a number of fronts. CIPD Ireland will seek to collaborate with our HR colleagues in Northern Ireland to navigate the significant people and labour market issues that will emerge in this new landscape.

What if I'm a CIPD member living and working elsewhere outside the UK?

A 'leave' vote will have little or no implication for you as a HR practitioner living or working outside the UK in the short-term. Subject to future negotiations over the UK's relationship with Europe, there could be restrictions on UK nationals' ability to live and work in the EU but any changes will not happen quickly and even then, there are likely to be transitional arrangements. As soon as further information is available the CIPD will communicate the latest analysis and advice to members.

Where can I go to find out more information/ get advice?

The CIPD will be analysing what is going on and putting together information for members on the implications of any reforms.

We will do this as quickly as we can as soon as more information becomes available, so please bear with us and keep an eye on our website. We will also be communicating to members through all of our various channels.

The UK Government will very likely put up useful information for employers so checking the Government website will likely be helpful (Gov.uk)