# *Brexit: What Will It Mean For Employers?*

**Predictable. Adj. 'Able to be foretold or declared in advance'. 2016 proved to be anything but. In fields as diverse as sport (speak to Leicester City and Chicago Cubs fans), entertainment, business and politics, the year was full of surprises.**

24 June 2016 might become one of those dates that make people instinctively recall where they were and what they were doing; it was confirmed on that day that the people of the United Kingdom had voted to leave the European Union. At time of writing, Prime Minister May is set to trigger Article 50 on 29 March 2017, an event which will culminate in the UK's exit from Europe two years later.

The Global Employer Services team within Deloitte provide individual and employer tax compliance and consulting services to domestic and international organisations across all industries. In this article we have brought together input from leaders in our Immigration, Reward, Mobility, and Location Strategy teams to explain today's landscape, recognise some of the hurdles to be overcome, and identify best practices.

## Immigration

Arguably the central issue of the Brexit debate, both before and after the referendum, has been immigration. Net migration to the UK has exceeded 100,000 every year since 1997 [1] and in her 17 January 2017 'Plan for Britain' speech, Prime Minister May told us that the public's message had been clear: "Brexit must mean control of the number of people who come to Britain from Europe". The government's white paper on Brexit 'The United Kingdom's exit from and new partnership with the European Union' published on 2 February 2017, has since reaffirmed that commitment. So, what levers do Mrs. May and the Minister of State for Immigration, Robert Goodwill, have at their disposal?

On 5 September 2016, the Prime Minister rejected expansion of the 'Australian style' Points-Base System currently in place for most non-EU nationals coming to the UK, saying it would not adequately let Britain control the numbers arriving. Similarly, proposals for regional visa schemes, notably a post-study work scheme for Scotland, put forward by the House of Commons Scottish Affairs Committee, and a London-only work visa championed by Mayor of London, Sadiq Khan, have been rejected by Mr. Goodwill.

At present, we have very few clues about how the UK might seek to limit migration from the EU-27. There are various options that could be considered - increased levies and higher charges on businesses; new tiers or categories for new EEA workers; a US style system with specific visa categories, annual limits on numbers, and caps on permanent migration; a quota system for low-skilled migration – but it's not clear which one the government will favour.

Until the uncertainty starts to clear, employers should focus on being ready to react. Some employers have prepared employee 'FAQ' documents or manned 'immigration hotlines' to help inform their employees and distil the most helpful information for them. Audits of the status of staff, both inside and outside the UK, to identify nationality/dual nationality/familial nationality as well as qualification against the criteria for Permanent Residence, are also recommended, as is help to proactively manage the risks for certain individual employees.

## Reward And Executive Pay

As the post-vote story has unfolded, two principal questions have emerged in the context of Reward and Executive pay:

- Long-Term: what will be the UK's approach once outside the EU?
- Short-Term: what, if anything, should an organisation do now in response to the Brexit vote?

The former is still a matter of debate, but there are important considerations to bear in mind in the context of the latter.

## Long-Term

What is worth noting, if we contemplate what approach the UK will adopt to executive pay once outside the EU, is that much of the current EU regulation concerning executive pay has been influenced by existing UK legislation. Furthermore, in certain areas (deferral for instance) UK domestic law goes further than the EU regulations require. Perhaps, therefore, it is hard to see a complete U-turn in approach once the UK leaves the EU – a relaxation of the agenda towards executive pay might be unpalatable to the public – but, were major EU cities to successfully court UK business and incentivise movement of business out of the UK, are these levers that could be pulled?

## Short-Term

In recent years media stories of shareholder activism abound. Stakeholders and the public have demanded a more forensic review of pay, performance and the quality of the link between the two. Changes to the performance conditions attributed to awards can be perceived extremely negatively but, in the wake of a major external political event like Brexit, were a company to decide to change its strategic focus, it might make good sense to realign performance conditions to ensure they are still realistic and fit for purpose. We have discussed this difficult subject with many organisations and a 'best practice' that emerges is that stakeholder engagement is key.

Companies are finding answers to many questions relating to employee and executive reward catalysed by the referendum, such as:

- Currency movement has affected our bonus pools, how should I respond?
- What changes might we see for companies issuing UK share awards to EU employees and vice versa?
- More generally, should a company's reward strategy respond to any changes in its overall business strategy?

No one answer fits all organisations, but the best answers will have involved multiple stakeholders and align most closely to company philosophy.

## Location Analysis And Mobility

It seems, since Brexit, for every headline declaring a major corporate exit from the UK into Europe, there's another announcing major plans to invest. But a consistent theme emerges: for many companies, part of the strategic response to Brexit's opportunities will be found in the flexibility of the workforce and the quality of the employee mobility programme.

Brexit is just one of several major disruptors in today's modern business landscape: predictions suggest 6% of all jobs in the US will be eliminated by robotics by 2021; [2] an increasingly demanding and agile workforce put pressure on employers to provide the work/life balance they expect, while the skills demanded of that workforce are changing more rapidly now than ever before; continued growth in outsourcing and shared service centre (SSC) models with many companies expressing plans to expand use of SSCs with 'knowledge-based' as well as administrative processes. So 2016's political shocks and the uncertainty surrounding 2017's various European national elections, overlay on an era already awash with enormous and rapid change.

Four areas of focus have emerged concerning Brexit for Global Mobility professionals: Social security; the fall in Sterling; mobility programme complexity; and location strategy of the wider business.

## Social Security

The guiding EU principle in the context of social security is that a person covered by the relevant regulations should be subject to the legislation of a single Member State. It's unclear how this might change when the UK exits the EU.

Once outside the EU the UK's ability to conclude bilateral agreements with each individual European country should, broadly, maintain the status quo. However, each separately negotiated agreement could have its unique elements making maintaining compliance in reporting, withholding, registering for, and payment of, social security across Europe, potentially, a much more complex task than at present. Furthermore, we would recommend employers proactively review mobility policy to determine the level of protection of home benefit entitlement and/or double coverage, which is provided to workers.

## Fall In Sterling

Since the vote to leave the EU, and as of 28 February 2017, Sterling has lost nearly 17% of its value against the US Dollar and a Lloyds Bank report of Sterling's performance against 60 global currencies over 2016 showed Sterling fall against 56 of them [3]. Employees temporarily assigned to a new work location may continue to be paid in their home currency providing an unexpected economic windfall for overseas expatriates working in the UK but a significant blow to UK employees overseas. Many mobility policies include foreign exchange rate clauses designed to provide protection for employee and employer against exchange rate movement. However, many do not, and in any case enforcement of the clause can prove difficult. Global Mobility professionals need to consider how to effectively communicate any changes in this area.

## Mobility Programme Complexity

Aggregated together, Brexit and unrelated changes and challenges are unlikely to make the professional life of the Global Mobility professional any simpler. Businesses will need to rely on the expertise and insight of internal Global Mobility teams as much as ever to identify cost savings, raise awareness of unidentified employee and corporate risks, and help shape strategic decisions.

## Business Location Strategy

In Davos, Switzerland, in January this year, Mrs May declared "Britain is, and will always be, open for business" while, last year Mr Khan launched the campaign "#LondonIsOpen" . To date, we have not seen large scale movements of roles or employees out of the UK and, indeed, there have been several examples of companies deciding to locate significant new activities and operations in the UK, particularly in the distribution and high tech sectors. The job creation data we have gathered certainly appears to support those statements.

But it must also be recognised that were the UK to lose direct access to the single market, particularly, but not exclusively, the rights of passporting for the Financial Services industry, many companies would need to consider whether to make strategic and structural business changes to remain competitive; once again, insight from Global Mobility teams will offer an invaluable contribution.

We see that an important factor in the long-term success of a corporate relocation is the need for adequate short, medium and long-term workforce planning. Those demands are generally supplied, respectively, by assignees from the home country, locally sourced and trained talent, and the future local talent pool from universities and colleges. The availability of suitable housing and schooling are also extremely important drivers – a company will struggle to relocate teams if their families cannot be looked after adequately.

Of course the costs of relocating are a prime consideration. Businesses often underestimate the financial costs of moving groups of employees to a new location so proactive and detailed cost modelling is a valuable exercise in location analyses; comparisons of headline tax and social security rates provide only limited insight. Tax bandings, filing statuses, recognising the availability of local expatriate tax incentives (e.g. Spain, France, The Netherlands), differences in approaches to executive reward, and an appreciation for non-income tax costs (e.g. wealth tax regimes) are all important elements to build into cost comparisons.

Location analyses can be as thorough as you have the time to commit to them – employment law, mobility policy, housing, schooling, talent, social welfare coverage, state and personal pension provision, real estate, corporate taxes – there is an almost limitless number of factors to consider. Experience tells us that the most valuable analyses for a business are those that start with, and maintain a particular focus on the individual drivers that are of premium importance to the business as a whole.

## Summary

**Immigration -** Be ready. Consider auditing the immigration status of your workforce in the UK and across the EU so that you can respond quickly and effectively, managing impact to the business when the future landscape becomes clear.

**Reward –** review forward. Look at incentive plans in the context of strategic changes. Are current performance measures and targets still appropriate?

**Mobility –** Cost modelling can help gauge the financial and administrative costs of employee relocation. It also presents the opportunity to 'stress test' the 'fitness' of current relocation policies.

**Location Strategy –** although some corporate structural changes may be seen, the UK remains an attractive place for business.

As UK PLC considers its post-Brexit actions, HR, Mobility and Reward teams will be important stakeholders and should ensure their seat at the table developing and supporting business strategy, and facilitating the opportunities that will presented.

References:

[1] *www.migrationwatchuk.org/statistics-net-migration-statistics*

[2] *www.theguardian.com/technology/2016/sep/13/artificial-intelligence-robots-threat-jobs-forrester-report*

[3] *www.lloydsbankinggroup.com/globalassets/documents/media/press-releases/lloyds-bank/2017/20170108-currency-review-2016-final.pdf*

**ANDREW VINCETT**

Andrew is a Director in Mobility Tax within Deloitte's Global Employer Services group. He specialises in the Financial Services industry and in US and UK expatriate tax matters but also has a thorough understanding of employment taxes, the taxation of equity reward, and payroll compliance matters. Over his career, which has included time working in both the US and the UK, he has worked on some of the world's largest and most complex global mobility programmes.

Telephone: +44 20 7007 0722

Email: avincett@deloitte.co.uk