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Analysis: How will Brexit impact retail employment in the UK?

As a shocked UK descended into confusion following the Brexit decision, retailers have sought to reassure staff from EU countries.

While uncertainty remains about when, or even if, Article 50 will be triggered and Britain's formal departure from the EU begins, what is certain is that significant change will not happen for at least two years. According to Richard Isham, employment partner at law firm Wedlake Bell, no legislative change is likely before October 2018 at the earliest. "All laws remain, all EU laws remain, so everyone must continue as usual," he says.

"The full array of EU rights and obligations will continue to apply in the UK for the foreseeable future" Helen Dickinson, BRC British Retail Consortium chief executive Helen Dickinson also emphasises that for now the UK remains an EU member. "That means the full array of EU rights and obligations will continue to apply in the UK for the foreseeable future. During this period, the legal obligations of UK employers flowing from the EU treaties will remain the same," she points out. In the short term, however, there is concern that any downturn in consumer confidence sparked by the Brexit vote – and sentiment is already considered to be fragile – will be caused by the lack of clarity about what will happen next.

Downturn coming? Speaking ahead of the referendum, Waterstones chief executive James Daunt warned that a vote to leave would likely trigger a "significant retail downturn" and that would inevitably lead to job cuts. "The simplest way to look at it is that retailers under increased cost pressures have less impetus to employ more staff"

Andy Stevens, Verdict

"The simplest way to look at it is that retailers under increased cost pressures have less impetus to employ more staff," says Andy Stevens, senior retail analyst at Verdict. "There will be lower levels of recruitment and potentially staff and less hours, but that will vary depending on costs and sector."

Once the UK has exited, says Emma Bartlett, employment partner at Charles Russell Speechlys, there may also be restrictions on recruiting from the EU. "As private sector employers, that will most likely lead to higher wage costs [for retailers], which is significant for an industry under pressure from the national living wage. On the flip side, there will be staff rationalisation because a lack of investment will mean a need to cut costs."

Dickinson argues that retail will not be as deeply affected as other sectors. She maintains: "It is too early to say what longer-term impact Brexit will have on retail jobs in UK retail. What we do know is the retail industry has relatively low exposure to migrant labour from elsewhere in the EU. Around 4% of retail jobs are accounted for by EU nationals, compared with an average of 5% for all industries and 9% for accommodation and food services."

"A manpower shortage will promote automation over the very long term and that will also reduce head count" Richard Isham, Wedlake Bell

Where a removal of freedom of movement would cause serious problems is in the lower-skilled, lower-paid jobs, such as in distribution centres and warehouses, says **Kathryn Bradbury**, immigration partner at Payne Hicks Beach. "I would certainly expect there to be gaps in the labour market," she warns.

Both Bartlett and Isham believe over the long term that a dearth of lower-skilled workers will quicken a shift to automation. Isham observes: "A manpower shortage will promote automation over the very long term and that will also reduce head count."



Kathryn Bradbury
Partner and Head of
Citizenship & Immigration

James Daunt Waterstones customer experience 2016 Waterstones CEO James Daunt warned a vote to leave would likely cause a “significant retail downturn”

Leaving the UK Meanwhile, according to job site Indeed, job searches out of the UK spiked on Friday as people grappled with the outcome. Ireland was the top country job-seekers searched in, while EU search traffic to Ireland also increased at the expense of the UK.

Mariano Mamertino, economist for EMEA at Indeed, says the trend mirrored patterns seen in Greece after its referendum in 2015. “The share of job-seekers looking for opportunities outside of the UK in European countries doubled in the 48 hours that followed the announcement of a Brexit, just as it did for Greece,” says Mamertino.

“These could be early signs of British job-seekers’ collective vote of no confidence. Given how close the EU referendum vote results were, this is perhaps unsurprising. UK employers’ loss is Ireland’s gain, with a significant spike of inbound searches from the EU countries – could Ireland overtake the UK as a leading talent magnet?” “If freedom of movement is removed, EU citizens will become foreign nationals and that means they will be subject to visa and work restrictions, so it is worth looking at your staff now and what nationalities you have”

Kathryn Bradbury, Payne Hicks Beach

While there is so much uncertainty about exactly what will play out next, there are steps retailers can take to prepare particularly for changes in legislation. Bradbury predicts that EU workers who are already here will be subject to an amnesty because “it is very difficult to apply laws retrospectively”. What is not clear, she says, is what it will mean for people who arrive between the date of the referendum and the UK’s exit. “Businesses need to conduct an assessment of staff now – who are EU citizens? Who are family members of EU citizens? Who is on a visa? Some staff may need to apply for documents to prove they have residency. “If freedom of movement is removed, EU citizens will become foreign nationals and that means they will be subject to visa and work restrictions, so it is worth looking at your staff now and what nationalities you have. It is important to identify your future needs and how you will solve that going forward.” Points system Bradbury points out that under the UK’s existing points-based immigration system there is a provision – called Tier 3 – specifically aimed at dealing with lower-skilled workers, but there are no criteria because it has not been needed to date. Bradbury explains: “It is just a matter of fleshing that out in terms of requirements and conditions, length of stay and whether some level of skills will be required.”

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Many EU employment laws are almost certain to remain in the form of UK laws

The system already deals with skilled, graduate-level workers – under Tier 2 – although employers have to prove they have carried out a resident labour market test, proving the job could not be filled by a UK candidate, before a foreign national can take the job. There is a cap of 20,700 workers who can enter the UK this way each year. As businesses apply pressure on the Government to retain some free movement of people, and the EU unlikely to allow access to the single market without it, it could be there are fewer restrictions on migrant workers coming to the UK than anticipated.

MP Andrea Leadsom, a prominent Brexit supporter, said earlier this week she would not expect to see significant deregulation of employment law.

Isham notes that many EU directives, such as those on discrimination and working time, have become “part of our fabric... I can’t see those disappearing any time soon.” That said, there could be some clarification in some areas, such as the calculation of holiday pay, and minor changes to the Acquired Rights Directive, which Isham says could be made more user-friendly, and even changes to the rights of agency workers.

“There are some controversial pieces of legislation,” concludes Bartlett. “Some will stay but there are EU cases that as employment lawyers we followed but that we will step away from now, which could create a less progressive outlook on legislation.”

At the moment employers, like the UK as a whole, remain in the dark about what exactly Brexit will mean.

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