



# Countdown to Brexit Series

What should you be doing now?

The seventh in our series of Countdown to Brexit -  
Workforce planning

Careful workforce planning is key to ensuring that your business has the necessary resource to keep delivering through this period of uncertainty. We look at some of the employment issues to bear in mind when assessing your next steps.

### **Need more staff?**

Given the uncertainty of the status of EEA nationals post-Brexit, you may be concerned about resourcing gaps.

- Weigh up the relative risks and benefits of recruiting “standard” employees against more “atypical” workers such as home workers, zero-hour workers, agency workers, apprentices or independent consultants or contractors. If you do seek to recruit in this way, ensure that you understand the upcoming IR35 changes for contractors, the risks around employment status and your obligations in relation to agency workers.
- Ensure you are talking to your current EEA workforce and encouraging them to apply for settled status. Keep up to date with any new or proposed immigration rules in order to mitigate any difficulties in recruiting EEA nationals post-Brexit. Consider whether a sponsor licence is required to fill skilled roles in order to tap into a wider resourcing pool.
- Take time to review your recruitment, induction and training processes. Is your recruitment process compliant with equality legislation or does it disadvantage or detract any protected group?
- Consideration should also be given as to how to protect the business if employees leave. Review employment contracts and ensure that they contain enforceable intellectual property, confidentiality and garden leave clauses. For employees who are particularly senior and have the ability to solicit business from you, make sure appropriate restrictive covenants are included.



### **Need to retain and incentivise staff?**

Brexit could create a more competitive labour market in some industries, leaving businesses competing for the best people. Consider what steps you can take to retain and incentivise staff.

- Review salaries and bonus structures to see if they are in line with market practice. Consider offering cash benefits, such as bonus schemes, share options or long term incentive plans for high performers or increase employer pension contributions to enhance overall remuneration packages.
- Don't underestimate the value of offering soft benefits too. Offering benefits such as additional holidays, employee awards, gym membership, agile working or dress down days can make a big difference to an employee's day-to-day job satisfaction.
- Don't forget to share good news – publicise work perks and HR 'wins' such as high retention rates, an improving gender pay gap and industry awards.

## Need more operational flexibility?

Uncertainty can result in peaks and troughs in demand for your products or services, resulting in operational difficulties.

- Consider making changes in working or shift patterns or redeploying employees to different parts of the business. Changing terms of employment is rarely straightforward and will require careful consultation. Changes are likely to be more palatable if incentives are offered. Be aware of numbers involved in the changes and potential collective consultation requirements.
- Don't forget to check remuneration structures for any existing provisions in relation to overtime payments, relocation payments and shift allowances.
- Review your contracts to see what is currently permitted under mobility clauses or clauses which allow for changes to working patterns. When seeking to exercise such clauses, consult with staff and ensure that changes are implemented in a reasonable way – transitional arrangements are often helpful.
- Consider whether a bigger change is needed – should your business model be shifting? Would a “gig economy” workforce suit your business or do you already rely heavily on workers, independent consultants or contractors? If so, ensure you are up to date with the current risks surrounding worker status and the IR35 changes which, if unchecked, could leave your business with unexpected financial liabilities.

## Need to restructure, relocate or make redundancies?

Uncertainty in the market and in respect of trading arrangements could ultimately result in your business needing to restructure or make redundancies.

- Consider who will manage any potential TUPE, restructuring or redundancy process – is your HR team adequately resourced?
- Do you need to sell part of the business, conduct an intra-group transfer or outsource part of your operation? Model the different options to assess the risks and rewards, not forgetting to factor in potential TUPE implications. Bear in mind the additional protections that TUPE affords to employees in respect of their terms of employment and protection against dismissal.
- If you are making redundancies consider if collective or individual consultation is required, plan ahead so that consultation can take place in good time and ensure you have an up to date and relevant selection procedure in place.
- While you can calculate the financial costs of making redundancy payments, you should also bear in mind the risk of receiving potentially costly tribunal claims. Consider whether settlement agreements are required to mitigate the risks.

## Contact



### **Shakeel Dad, Partner**

Employment

+44 (0)113 399 1779

[shakeel.dad@walkermorris.co.uk](mailto:shakeel.dad@walkermorris.co.uk)



### **Charlotte Smith, Associate**

Employment

+44 (0)113 399 1891

[charlotte.smith@walkermorris.co.uk](mailto:charlotte.smith@walkermorris.co.uk)

