



Brexit: Will anything really change for UK Employment Law?

Much of the Brexit debate has centred on whether leaving the EU will allow the UK to reduce the burden of business regulation. Both sides of the debate have cited employment law as a key example, with the Remain camp painting a frightening picture of a Britain without any workers' rights, and the Leave campaign describing a libertarian utopia where businesses are free from the shackles of discrimination law, unfair dismissal rights and even TUPE.

We think that the truth is rather less dramatic. When it comes to employment law, major change in this area following Brexit is highly unlikely. Just as with Switzerland and Norway, this is both because the UK's arrangements with the EU post Brexit are likely to prevent it, and because wholesale changes to workers' rights are politically impossible.

The two most discussed models for the UK's departure from the EU are Norway and Switzerland. Both of these countries are bound by the vast majority of EU employment law:

1. Norway is required to implement EU regulation in this area in the same way as EU member states. Compliance is a condition of Norway's access to the EU's common markets.
2. Switzerland's free trade agreement with the EU also requires it to implement all of the key provisions of EU employment law. Again, compliance with these treaty obligations is necessary to maintain access to the common markets.

No one knows precisely what the UK's relationship with the EU would look like after Brexit, but it seems most likely that it would fall close to one of these two models. This will mean that major changes from EU regulation will probably not be an option for the UK government.

In the alternative, if the UK did somehow secure a freer hand to scrap some or all of EU-derived employment law, dramatic change would still be very difficult because of political pressure to maintain the existing protections. For example, the UK's unfair dismissal protections do not rely on EU law, and the coalition government declined to scrap / amend them when this was recommended by the

Beecroft review in 2012.

It is very difficult to imagine any mainstream political party campaigning on a promise to 'end paid maternity leave now' or 'make racism legal'. Whatever the outcome of the referendum, we will not see anything like US style employment at will. That said, some tinkering is likely: changes to the weekly working time limit (a long standing bugbear of successive governments), the bankers' bonus cap and/or collective redundancy rules are all possible.

Overall, the Brexit debate is unlikely to have very exciting consequences for day to day life for UK employment lawyers and HR professionals – we'll have to wait for Government's next round of legislative reforms for that...