

BREXIT Briefing

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Brexit: UK Government Publishes EU Exit Plan *Official policy document outlines agenda on laws, workers' rights, trade and free movement of people*

The UK Government published its long-awaited official policy document on Brexit – the UK's withdrawal from the European Union (EU) – on 2 February, 2017, which outlined many of its goals for the Brexit process.

The Brexit process comprises a two-year period of negotiations between the UK Government and the EU, and the UK only ceases to be a member of the EU at the end of this two-year period. From a legal perspective there is no change to UK law until expiry of the negotiations. The UK government has indicated that it intends to trigger the commencement of the Brexit process in March of this year.

The White Paper, titled "The United Kingdom's exit from and the new partnership with the European Union", sets out 12 principles that will guide the Government in negotiating the UK's position as it leaves the EU. Broadly, most of these principles can be grouped under the important themes of laws, free trade and movement of people.

Much of the White Paper sets out overarching strategic aims of Brexit, for example a smooth and orderly exit, without setting out the specific mechanisms by which they will be achieved. However, the White Paper expressly notes that the UK Government recognises the importance of providing businesses and the public with certainty wherever possible.

In the White Paper, the Government commits to providing as much Brexit information as it can without undermining the national interest before and throughout the negotiations. Some of the key aspects of the Brexit policy include:

- **UK rules will not change significantly overnight upon Brexit**

The Great Repeal Bill was announced to the UK Parliament at the end of last year. In brief, the Bill repeals the European Communities Act 1972 but preserves EU law where it stands at the moment before the UK leaves the EU so that EU rules are part of UK domestic law on the day after the UK leaves the EU. The UK Parliament will then, over time, decide which elements of EU law to keep, amend or repeal. This approach gives certainty

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to businesses and individuals that their rights and obligations will not be subject to sudden change overnight.

- **Workers' rights will be unaffected by Brexit**

The White Paper states that UK employment law already goes further than many of the standards set out in EU legislation, for example UK domestic law provides for 5.6 weeks of statutory annual leave, compared to the 4 weeks in EU law. Such rights do not depend on EU membership and will therefore be unchanged by the UK's exit. The body of EU law will also be converted into domestic legislation where necessary giving certainty and continuity to employers and employees.

- **The UK will not be seeking membership of the Single Market and the EU/UK trade agreement will not follow an existing model**

The White Paper clearly states that the UK will not be following any of the current existing models, deployed by the likes of Norway and Switzerland, or seeking membership of the Single Market. Instead, it will be pursuing a strategic partnership with EU member states to give the freest possible trade in goods and services, on the basis that, because the UK and the EU are each other's largest export markets, have harmonised regimes for matters such as product rules on toy safety, a reciprocal and comprehensive free trade arrangement would be in their mutual interests. Such an arrangement will also include a new customs agreement.

A comprehensive and reciprocal arrangement is particularly important for financial services. The UK and EU financial services markets are very interconnected and collective steps have been taken since the financial crisis to strengthen cross-market oversight of the sector. Further, some 5,000 UK firms utilise 'passports' to provide financial services to the EU and some 8,000 European firms have 'passported' into the UK. In the White Paper the UK Government states that it would not be in the UK or the EU's interest to renege on these arrangements and, as there are already provisions in place to allow 'third country' firms to provide financial service in the EU if their relevant domestic regulations are deemed to be equivalent, free trade for financial services can be achieved through some form of deemed equivalence or otherwise.

The White Paper also emphasises that the UK will be looking to forge new trade agreements with countries outside of the EU, such as, among others, the US which is the UK's single biggest export market on a country-by-country basis, and South Korea, China, Brazil and Mexico which represent the UK's fastest growing export markets in recent years. A new government department, the Department for International Trade, has been set up for this purpose.

- **The Free Movement Directive will no longer apply.**

The White Paper confirms that the Free Movement Directive will no longer apply which means that EU citizens will no longer enjoy the automatic right to live and work in the UK. In addition, the White Paper does not provide any more information regarding what the removal of free movement of EU nationals to the UK will mean for those EU nationals already residing and working in the UK, and for UK nationals living and working in other EU member states.

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