

What Family Offices can do to protect EU Employees' rights now that Britain has voted to leave the EU

Many Family Offices with operations in London and other parts of the UK employ EU citizens across the range of their activities. Since the release of the results of the EU referendum on 24 June 2016, those EU employees are now anxiously awaiting confirmation that their right to live and work in the UK will be preserved, when Britain finally withdraws from the EU.

For most Family Offices, recruitment concerns are outweighed only by the more immediate fear of potentially losing their existing, often highly skilled, EU staff, once Britain finally withdraws from the EU.

This is drawn into sharp relief by [a July 2016 Report from Social Market Foundation](#), an independent British public policy think-tank, that suggests that more than 500,000 of the 3.6 million EU residents currently living in the UK, may not have qualified for permanent residency by the time of Brexit.

According to most business and immigration experts, any future agreement that is reached between the UK and the EU will almost certainly preserve the rights of EU citizens presently working in the UK and the rights of those UK citizens elsewhere in the EU. The alternative would be a disaster for both the UK and the EU and both sides know this.

However, it will be some time before the Government makes any definite immigration policy announcements.

In the past, the UK has utilised a transitional Workers Registration Scheme (WRS), designed to restrict and monitor the impact of immigration from new EU countries; the scheme effectively closed in April 2011.

Many expect a similar WRS system to be adopted for European Economic Area (EEA) workers presently residing in the UK.

There are though some very practical steps that Family Offices can take, in order to try and protect EU employees' rights after Brexit and ensure that their family members and colleagues are registered as 'Qualified persons' in the UK.

Registering 'Qualified persons' and their families

Under existing EU policy, 'Qualified persons' from the EEA and their families are entitled to certain working-related rights and other entitlements in the UK.

A qualified person is defined as an EEA citizen in the UK who is either:

-) working;
-) self-employed;
-) self-sufficient;

-) studying; or
-) looking for work (if certain conditions are met).

'Qualified persons' do not have to register in order to receive their EEA 'free movement' entitlements but they may register their rights if they choose to and obtain a registration certificate.

Registration has previously been utilised by those seeking to prove their right to work in UK, mainly for claiming benefits and other services.

UK companies are now making registration applications to ensure the rights of EU employees and their families are recognised after Brexit.

Immediate family members of 'Qualified persons' can also apply for registration. These include:

-) spouses or civil partners of 'Qualified persons';
-) children or grandchildren under 21 who are dependants of a 'Qualified person' (or the children or grandchildren of a spouse/civil partner); and
-) dependent parents or grandparents of a 'Qualified person' (or the dependent parents or grandparents of spouses/civil partners);
-) 'Extended family members' may also apply, if the family member has lived in the same house as the 'Qualified person' prior to coming to the UK or has a serious medical condition and requires the personal care of the 'Qualified person'.

Extended family members include the following relatives of a 'Qualified person' or their spouse/civil partner:

-) a brother or sister;
-) a cousin;
-) an aunt or uncle; and
-) a niece or nephew.

For student 'Qualified persons', only spouses/civil partners and dependent children can be registered as immediate family. All other relatives must apply as extended family members.

Unmarried partners of a 'Qualified person' can also apply as extended family members if able to demonstrate that they are in a lasting relationship.

The two routes:

1. Applications to register as a 'Qualified Person'

Applications for registration as a 'Qualified Person' are made directly to the Home Office using Form EEA (QP). Supporting documents, biometric information and a fee of £65 must accompany the application.

2. Applying for permanent residence

As a further way of protecting EU employees' rights after Brexit, any EEA citizen who has lived in the UK for five years as a qualified person has the right to make an application for permanent residence.

This status confirms that the holder has the continued right of permanent residence in the UK under the Immigration (European Economic Area) Regulations 2006 ('the EEA Regulations').

Eligible family members and extended family members who have lived in the UK with their qualified person family member for five continuous years also have a right to apply.

Family members who have switched to a 'retained right of residence' (available where a relationship with a qualified person ends in certain circumstances) who have stayed in the UK for a continuous period of five years or more also have the right to apply.

In some cases, permanent residence applications can be made even where the applicant has not lived in the UK for five years. This applies where an applicant has been living with an EEA qualified person but the qualified person ceases work because of death, retirement, permanent incapacity or because they have become self-employed in another EEA state but remain a UK resident.

As with qualified person registration, applications are made directly to the Home Office with supporting documents, biometric information and the prescribed fee of £65.

All applicants under the age of 16 must be accompanied by the application of a parent, guardian or person over the age of 18 with legal responsibility.

Seeking certainty after Brexit

Permanent residency is the best measure an EU employee can take to secure their future in the UK.

While it is unlikely a future immigration policy will extinguish the rights of existing EU workers in the UK, in the face of uncertainty, it is prudent for Family Offices to take whatever steps they can to mitigate risk.

If you require further information about this or would like a sounding board on what your Family Office can do to protect EU employees after Brexit, please contact:

Charles Avens of Druces LLP's **Employment & Immigration** team.

E: c.avens@druces.com

T: +44 (0)20 7216 5568

Notes:

The firm's Employment & Immigration team regularly advises both employers and individuals on immigration options and is led by one of the UK's pre-eminent immigration legal advisers, **Graeme Kirk**.