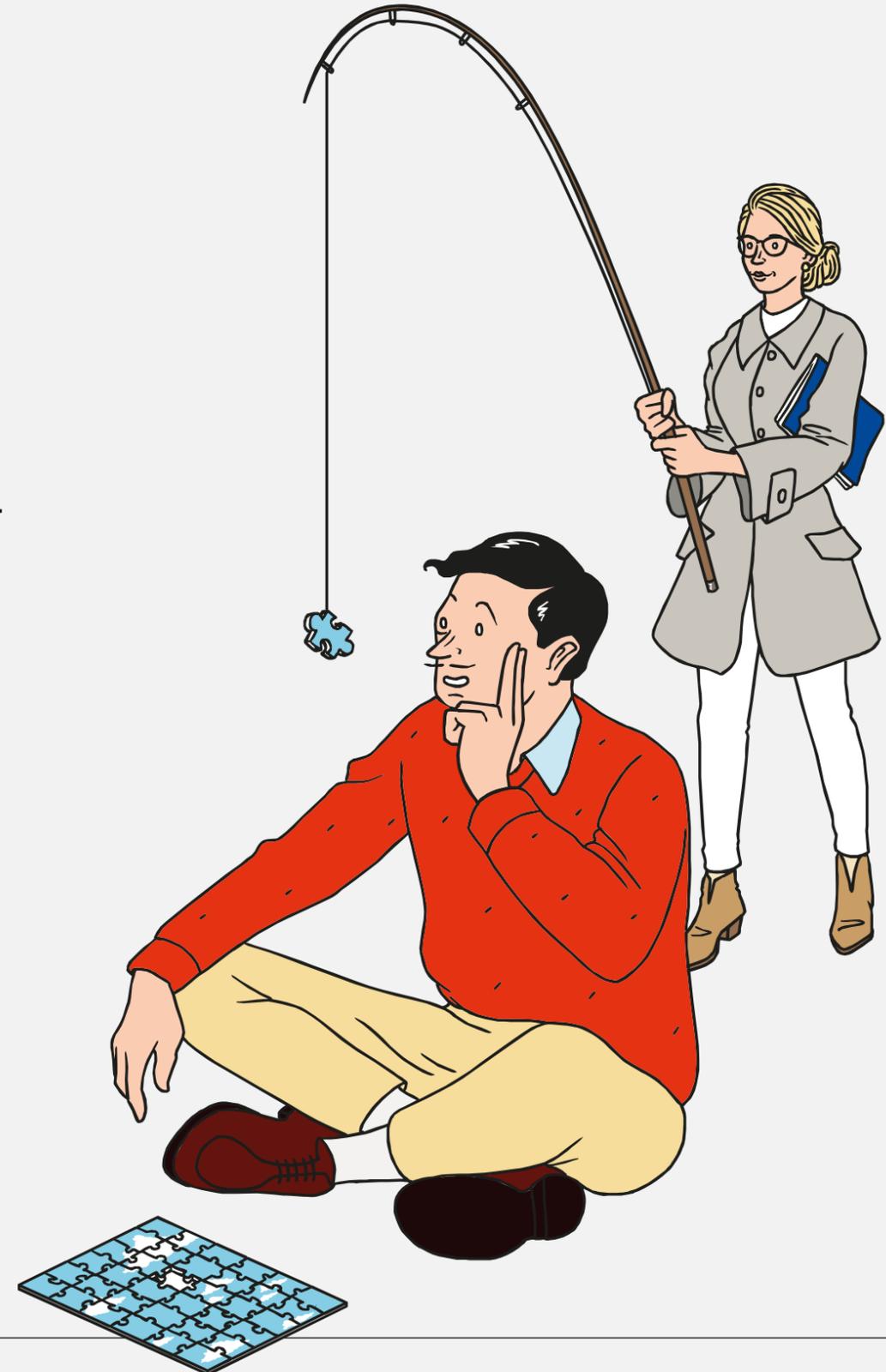

Capital

Brexit

A practical application to the law

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Agenda

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01 Brexit —where are we today?

Deal or no deal?

—“it's clear Brussels is not yet ready to find the compromises required for a deal, so no-deal remains a real possibility - as the gap we need to bridge remains quite large” —*a source from the UK government*

—However, Mr Johnson remains “cautiously optimistic“

Leaving on the 31st October?

— “ I see no point whatever in staying on in the EU beyond October 31st and we're going to come out”

—*Mr Johnson*

BBC News

02

What will be the impact of Brexit on Employment Law?

- Dependent on the terms of the UK's future trading relationship with the EU
- Many of the UK's employment laws do not stem from the EU (ie rights to national minimum wage)
- The UK has already committed to maintaining certain laws (ie GDPR)
- Future law and policy dependent on future UK Government
- No right is off limits from repeal / reform due to Parliamentary Sovereignty
- Potential for reform of less popular EU derived legislation such as TUPE, Agency Worker and Working Time protections

03 And if there's a general election leading to a Labour Government?

Jeremy Corbyn announced numerous employment law reforms in the event of a Labour Government, including:

- creating a Ministry for Employment Rights, along with a Workers' Protection Agency to enforce those rights
- creating a single status of 'worker' for everyone apart from those genuinely self-employed
- ending the “Swedish derogation” which permits employers to pay agency workers less than regular staff for the same work
- introducing a civil enforcement system to ensure compliance with gender pay auditing

03 And if there's a general election leading to a Labour Government?

- giving all workers the right to seek flexible working, and placing a duty on the employer to accommodate the request
- introducing a statutory Real Living Wage of £10 per hour by 2020 for all workers aged 16 or over
- banning unpaid internships
- banning zero hours contracts
- giving trade unions the right of entry to workplaces
- repealing the Trade Union Act 2016

04 How could changes to Immigration affect (a) your workers and/or (b) your tenants?

What is the EU Settlement Scheme?

Scheme to protect the rights of EU citizen's to remain living and working in the UK once Freedom of Movement ends following Brexit.

Scheme fully open from 30 March 2019

- More than 5 years in the UK at point of application
 - granted settled status
- Less than 5 years in the UK at point of application—
 - granted pre-settled status for 5 years and apply for settled status at the end of this period.

All EU citizens will need to apply, even if they already have permanent residency in the UK (unless they have Indefinite Leave to Enter/ Remain).

Criminal records will complicate applications.

05 EU settlement scheme- deal

If Withdrawal Agreement reached and Exit Day is 31 October 2019:

- Deadline to apply under EU Settlement Scheme is **30 June 2021**
- Only EU citizens and family members resident in the UK on or before 31 December 2020 are eligible to apply for settled or pre-settled status
- New entrants on or after 1 January 2021 will be subject to a new points-based system to be determined, similar to non-EU migrants

06

EU settlement scheme- no deal

—What if there is No Deal and Exit on 31 October 2019?

- Uncertain: no legislation in place—only policy papers.
- Only those resident in the UK on or before 31 October 2019 eligible to apply (not 31 December 2020).
- Deadline to apply brought forward to 31 December 2020 (from 31 June 2021).
- Those entering after 31 October 2019 and before 1 January 2020 free to enter for 3 months only. For longer periods, they must apply for European Temporary Leave to Remain valid for a maximum of 36 months which cannot be extended, and must pay an application fee.
- Those entering 1 January 2021 or afterwards subject to points-based immigration system.

07 How will the checks affect your (a) your workers and/or (b) your tenants?

—EU Settlement Scheme checks

Rights to Work Checks (assuming there is a deal)

- Employers can continue to rely on valid EU passport/ID card until 31 December 2020.
- If granted settled/pre-settled status, post-2020 employers can check an online profile.
- For post-2020 migrants, right to work subject to work permits/sponsorship etc., similar to non-EU workers now.

If No Deal and Exit on 31 October

- Impossible to check if employee entered on or after 31 October if eligible employee has not applied yet: Govt guidance is to continue with usual checks until 31 December 2020.

08 What should RSL's be doing as employers?

- Analyse workforce—are any parts of the organisation reliant on EU workers?
- Constant dialogue with workers over options
- Reassure them
- Offer assistance with applications.

09 Immigration and Asylum Act 1999

How does this Act affect tenants?

- The Secretary of State can arrange support for asylum-seekers or dependants of asylum-seekers who appear/likely to become destitute within a certain period of time (s95(1))

What does the Act mean by ‘destitute’?

- Dependant on whether the individual has adequate accommodation and/or meets his other essential living needs (s95(3))

How does this Act affect RSL’s?

- The Secretary can ask RSL’s to provide support through accommodation (s96(1)(a))
- RSL’s must co-operate to the extent it is reasonable in the circumstances (s100(2))

10 Immigration and Social Security Co-ordination (EU Withdrawal) Bill

What does this mean for tenants and workers of RSL's if the bill is passed?

- Free movement will come to an end
- Will not affect the EU settlement scheme
- EU citizens and their family members living in the UK would need to follow UK immigration law

11 How will Brexit impact employment in Social Housing in Wales?

Effects on tenants and workers of RSL's

- Due to the uncertainty, EU citizens may decide not to live or work in the UK leading to a reduction in the amount of employees and tenants
- The reduction in the value of the pound could be a disincentive for EU citizens to work and live in the UK, again decreasing the number of employees and tenants
- Two areas of employment within social housing which are likely to be effected the most by Brexit include construction and social care i.e RSL staff

Community Housing Cymru

Questions?



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Thank you.