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# Horizon planning for **key issues**

## Brexit – what are the main issues for recruiters?

### Financial reporting

With the UK having now Brexited, financial reporting has become more complex than ever. The Financial Reporting Council and the Department for Business, Energy and Industrial Strategy (BEIS) issued guidance on changes to the UK's corporate reporting framework from 1 January 2021.

### No passporting – freedom of establishment

Under the new Brexit deal, the Trade and Co-operation Agreement (TCA), the UK has lost its passporting rights, i.e. once a company is established within one EU country, it can sell its products or services to all other EU states without the need to have a branch or subsidiary there. It is worth mapping out where your client base is across the wider European Economic Area (EEA) to identify the potential impact on your business and what might need to change in 2021.

### End to free movement

Freedom of movement for UK nationals within the EU27 ended on 31 December 2020. The TCA includes temporary mobility rights but these are limited by comparison. We recommend recruiters check local restrictions for any EU country they are placing candidates.

### No mutual recognition of professional qualifications and equivalence status

Under the TCA, the UK has lost its mutual recognition of professional qualifications apart from the medical profession. The TCA has left it up to individual regulatory bodies to sort this out themselves. There is ongoing uncertainty and there has been a lot of lobbying on this issue from professional bodies in the UK.

### Data and privacy

Movement of data/GDPR is a key issue in the recruitment sector. Pre-Brexit, the UK had alignment with the EU through their GDPR legislation. The TCA says there will be a roll over of existing data provisions until 30 June 2021. After this, we may see changes. This is something to keep an eye on so we don't fall foul of any GDPR divergence.

Unsure where to begin? Read our summary highlights on what you need to consider around Brexit and financial reporting [here](#).

Read more on taxation, strategic business planning, talent and people matters, as well as regulatory impacts and trade deal announcements on our [Brexit hub](#).

## Remote workers – what are the main global risks?

Since the Coronavirus pandemic, there has been an increase in the number of companies adopting remote working and hiring practices across different countries and jurisdictions. When one (or more) employee works overseas, employers need to consider the following:

**Payroll reporting and employer obligations** The company may need to register as an employer and complete monthly payroll reporting. This is often the case even though payroll reporting is already in place in the 'home country.'

**Social security** Social security treatments differ to tax, and social security may be due (employer and employee) on earnings without appropriate coverage. Particular attention needs to be paid to this post Brexit.

**Individual tax returns** The employee may trigger personal tax filing and registration obligations with the local tax authorities.

**Corporate issues** There may be a risk that the employee creates a corporate tax Permanent Establishment (PE) in the overseas country. Every country will have a slightly different threshold for what will trigger a PE but once this happens then this will trigger corporate reporting in country.

**Immigration considerations** The employee must hold the correct right to work documents in the respective country. This is especially the case post Brexit.

**Employment law** Local regulations differ in each jurisdiction with respect to employment rights and employer/employee obligations, such as national minimum wage, pensions, holidays, redundancy.

**Other considerations** Health and safety measures, insurances for global coverage and global tax policy documents.

For further guidance on managing global remote working and policies read more [here](#).

## HMRC's updated VAT guidance for the recruitment sector

On 9 October 2020, HMRC published extensive new guidance covering the application of VAT across the recruitment sector. For the first time, HMRC has highlighted their technical understanding and stance across various staffing models adopted by the market. The guidance aims to address issues around the VAT status across the range of employment models currently adopted by the sector:

- Personal Service Companies (PSCs);
- direct engagement models (DEMs);
- umbrellas and joint employment; and
- the nursing concession.

We have summarised key highlights from HMRC's VAT Taxable Person Manual [here](#)

## IR35 update

On 9 December 2020, Lee Knight, from our team of IR35 specialists, spoke at APSCo's IR35 panel event, where the following themes were highlighted by participating agencies:

**There were misunderstandings about the meaning of 'outsourced services' and 'statements of work.'** The recipient of a fully outsourced service does not need to consider IR35 in respect of that supplier. However, services provided under a statement of work may or may not be a fully an outsourced service. There seemed to be confusion about the meanings of these terms, with clients and agencies confusing the two and potentially believing that a statement of work arrangement is always an outsourced service, therefore, outside the scope of IR35, which may be wrong.

**There were lots of questions about the use of umbrella companies** from 6 April 2021 and whether this falls outside the scope of IR35. For clarity, from 6 April 2021, the use of umbrella companies will fall outside IR35 if the workers are employed directly by the umbrella and the umbrella operates PAYE/NIC (assuming HMRC/the Government correct a current drafting mistake in the legislation which has incorrectly resulted in umbrellas falling within the definition of an intermediary). It looks like we will see the use of umbrellas increasing. However, clients will need to do their due diligence to understand how the workers are being engaged by the umbrella and to confirm that PAYE is being operated. The concern being that clients will always assume using an umbrella is outside IR35, without doing their due diligence.

**There were many questions about how to assess status and issuing Status Determination Statements.** It appears clients are struggling to decide between the use of CEST or the status tool of a third-party provider. CEST was felt to have limitations but might help to demonstrate reasonable care, whereas a third-party tool may less likely to satisfy the reasonable care requirement.

Agency panellists and attendees alike highlighted the concern that clients are not talking to agencies about IR35, and that preparations are being left until the last minute.

For dedicated recruitment sector guidance on how to prepare for IR35, visit our [IR35 hub](#)

## Governance - stay ahead of trends and regulations that may impact the way your company works

### Securing your future

Effective governance is critical for an organisation to stay ahead, retain staff and make ethical, sustainable decisions. In our 'Securing your future' guide we outline how governance cannot be a tick box exercise and that effective cultural change needs to start at the top and infiltrate an entire organisation.

**Environment, social and governance (ESG)** plays a key role in ethical governance. ESG isn't a new concept, but it is a significantly more strategic investment decision than it ever has been. ESG calls for organisations to consider, and more importantly control, their environment, social, people and ethical impact. It is fast becoming a key criteria for investors, stakeholders, employees and existing staff. Organisations are being asked which environmental standards they hold themselves accountable to: how they positively impact their communities; how they positively impact diversity and inclusion; who is in their supply chains; and whether they hold themselves to the same ethical standards. Financial results are no longer the only benchmark of success. Companies in the recruitment sector will need to stay ahead of these demands to remain competitive.

For further information on how your company can approach effective corporate governance download our [Securing your future guide](#)

## Find out more

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