

Brexit – How to deliver for Usdaw members

Foreword

By John Hannett, Usdaw General Secretary



Usdaw is a union operating solely in the private sector and has around 440,000 members employed in industries such as Retail, Warehousing, Transport, Food Manufacturing, Call Centres and Wholesale. Usdaw has been a strong advocate of a social Europe intended to benefit the livelihood of our members through increasing economic growth, strong employment rights protections and lower consumer prices. Usdaw has experience of working with European organisations to meet these aims as well as utilising the protections offered through the EU for the benefit of our members.

Whilst Usdaw campaigned for a vote to remain during the referendum, we are now committed to ensuring the best outcome following the vote to leave. Usdaw is clear that working people should not pay the costs of Brexit and will be launching a campaign to protect the interests of our members throughout the negotiation process.

A handwritten signature in purple ink that reads "John Hannett". The signature is written in a cursive, flowing style.

John Hannett
General Secretary

Our Future Relationship with the European Union

Usdaw believes the United Kingdom should maintain a close and effective relationship with the EU. The EU has clearly brought wide-ranging benefits to the UK over many years of membership and every effort should be made to ensure that these benefits are not removed or watered down as a result of withdrawal.

It has been estimated that over 4.5 million jobs rely, directly or indirectly, upon trading with the EU. Our membership of the single market helps the UK to attract the second highest level of foreign direct investment in the world. Furthermore, 45% of all exports from the UK go to the European Union. Our membership of the EU currently delivers significant contributions to the UK economy which must be protected as far as possible during negotiations on Brexit.



Alternatives to EU Membership

None of the current alternative models would appear to fit the UK's requirements for a post withdrawal relationship with the EU. Usdaw firmly believes that the UK requires continued access to the free-trade area. Any deal for withdrawal containing continued access to the free-trade area is likely to require maintenance of the direct competencies currently held by the EU.

The relationship that the UK has enjoyed with the EU over the past 40 years has brought about significant benefits for Usdaw members. Usdaw members across the UK have benefited from increased trade, job opportunities and employment rights that our membership of the EU has brought about. Usdaw is deeply concerned that workers will end up paying the costs of a distant relationship between the UK and the EU. Usdaw therefore believes that throughout the negotiations, the benefits that working people have derived from our EU membership should be protected. Usdaw would like to see a future relationship that maintains employment protection and commits the UK Government to implementing future workplace legislation created within the EU.

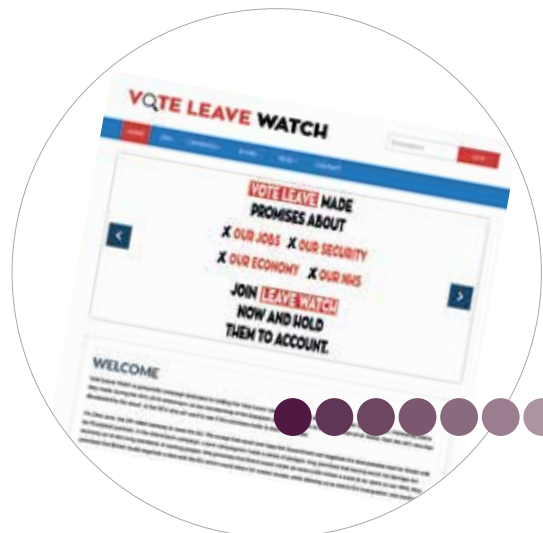


The Withdrawal Process

How the withdrawal process might be managed at the EU and UK level – Usdaw accepts the democratic decision taken as part of the referendum for the UK Government to undertake negotiations aimed at leaving the European Union. Whilst the outcome of the referendum was in favour of these negotiations, this was based on a small majority. Furthermore, Usdaw believes that large sections of support for the Leave Campaign were based on questionable statements such as a £350 million a week saving and a guaranteed reduction in immigration levels. Such statements have already started to unravel. Usdaw is supporting the Vote Leave Watch Campaign to scrutinise the claims made by Brexit campaigners during the referendum and hold them to account for their overblown promises. Usdaw believes that it will be in the interests of working people to ensure that this campaign attracts broad support.

In light of the small mandate and questionable Leave Campaign, Usdaw believes that future negotiations on withdrawal will require close Parliamentary scrutiny and oversight. Usdaw would like to see the Government involving all Parliamentary parties, as well as employers, trade unions and representatives from devolved administrations, in developing a strategy for when Article 50 will eventually be invoked. Such a strategy must be developed and agreed prior to the Government invoking Article 50. Furthermore, Usdaw believes that the UK Government must actively involve representatives from employers' associations and trade unions in the negotiations on withdrawal.

Upon completion of negotiations, Usdaw would expect that the UK Government seeks a democratic endorsement of the outcome. It is clear that people voted for the UK to undertake negotiations to leave the European Union. As part of the referendum, there was no clear picture offered to the electorate on what the outcome of such negotiations would be. If, arising from these negotiations, there are substantial changes to the current relationship with the EU, or it becomes likely that the overblown promises of the Leave Campaign cannot be delivered, Usdaw would welcome a debate on the possibility of putting such a deal to a referendum to ensure that the electorate were supportive of the outcome.

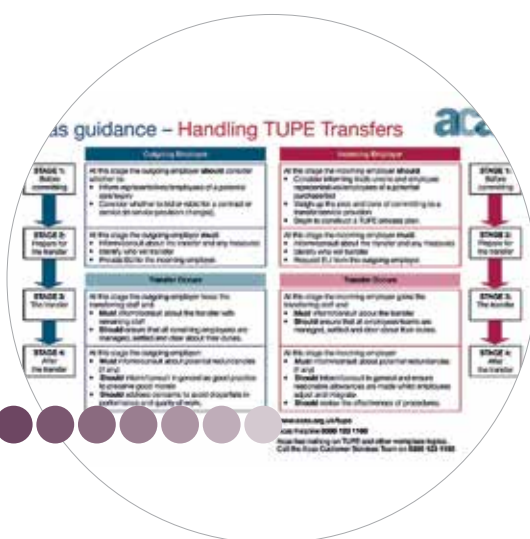


What Steps Would be Involved in this Process and How Individual Policy Fields Might be Dealt With

Usdaw members have benefited greatly through many areas of the EU's work. One of the key outcomes from the EU for Usdaw members has been the provision of additional employment protections. Usdaw members rely on protections guaranteed by the EU such as, the Working Time Directive, TUPE, protection from dismissal, part-time and fixed-term workers' rights as well as the Information and Consultation Regulations. Usdaw is clear that the campaign to encourage people to vote to leave the EU did not outline any reductions to these entitlements. In fact, politicians from both sides defended these rights as part of the referendum campaign. As such, current employment protections should be guaranteed as part of negotiations on withdrawal. As outlined above, Usdaw would also like to see the UK Government commit to implementing future workplace legislation created in the EU such as the forthcoming Pillar of Social Rights. Without such a guarantee, Usdaw is concerned that the UK workforce will become victims of a race to the bottom on employment rights.

Usdaw believes that, in addition to where employment rights are protected through EU Directives, any negotiations on withdrawal from the EU must protect workers' rights which are guaranteed through judgements of the European Court of Justice. As a result of ECJ rulings, Usdaw members now benefit from the right to accrue holidays when off on sick leave and, more recently, employers must now take into consideration overtime when calculating holiday pay.

As well as employment protections, Usdaw members have enjoyed a range of further benefits as a result of EU membership. In 2011, the European Commission estimated that the benefit to consumers of having a greater variety of goods, without trade tariffs, is equivalent to around £450. The EU has delivered further benefits, on issues such as climate change commitments, the European Health Insurance Card and caps on mobile phone roaming charges. These benefits did not form part of the leave campaign and Usdaw believes that these entitlements should be guaranteed during the negotiations on withdrawal.

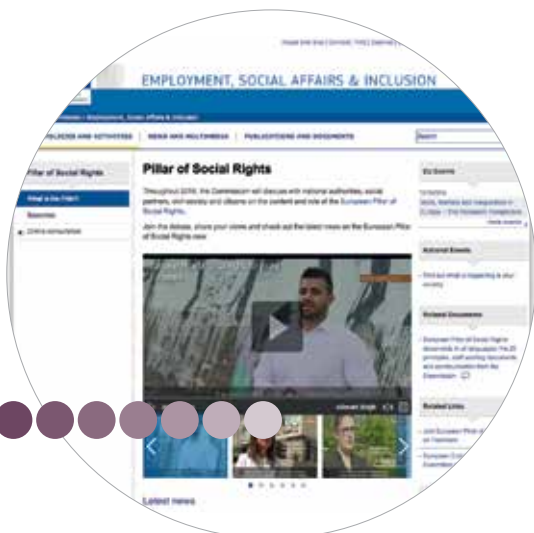


The amount of time that might be required to deal with the negotiations – Usdaw is concerned that the negotiation process may well take more than two years to complete effectively. The UK’s current relationship with the EU is the result of over 40 years membership along with significant work in the lead up to our membership taking effect. There are a number of issues relevant to Usdaw members, such as the Posted Workers’ Directive and Driver Cabotage that require complex negotiations to ensure continued protection for UK workers outside of the EU. It is likely that, within the two year negotiation period outlined within Article 50, negotiators will not have the time or ability to comprehensively negotiate proper outcomes on these areas as well as the thousands of other topics up for discussion. Usdaw does not want to see negotiations take place within a backdrop of an absolute two year time limit and believes that the UK Government should seek an agreement that whilst negotiations will be completed as quickly and efficiently as possible, no conclusion will be reached until comprehensive negotiations have been concluded.

At the same time, the Government needs to ensure that preparations are made for trading relationships once the withdrawal is complete both with the EU and with those countries with which we currently enjoy a trade deal through the EU. This will require, as a minimum, a temporary agreement to be put in place.

How the interests of the other constituent parts of the United Kingdom can be best represented in those negotiations – Usdaw believes that the views of working people will be best represented in any negotiations by ensuring that trade union representatives take an active part within the negotiations. Furthermore, through ensuring a clear Parliamentary mandate for the UK Government’s negotiation strategy, Parliamentarians will be able to establish clear guidelines on what we want out of the discussions. Usdaw also sees the benefit of running awareness raising campaigns to ensure that working people raise concerns with Parliamentarians and ensure that those individuals who campaigned for a vote to leave are held to account on the promises they made during the referendum campaign.

The positions likely to be taken by other Member States – Usdaw is aware of anecdotal reports of stakeholders in other Member States being concerned over the UK securing any further perceived special treatment as part of the forthcoming negotiations. In light of these reports, other Member States, along with representatives from the EU Commission, are unlikely to be willing to offer the UK negotiating team substantial concessions.



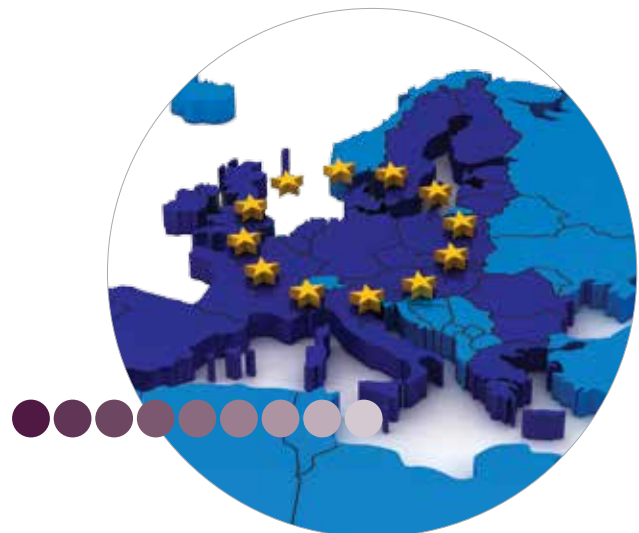
The Domestic Process for Dealing with a Withdrawal from the EU

The implications for law of a withdrawal from the EU, particularly the need to repeal legislation and prepare new legislation to fill the gaps left by EU legislation – Usdaw believes that as much legislation as possible should be left un-amended in the event of a withdrawal from the EU. In this scenario, Usdaw is in favour of retaining the European Communities Act 1972 whilst only repealing the relevant sections to remove the nation from the European Union. Maintaining the remainder of the Act would ensure that all secondary legislation reliant on the Act would be retained. Usdaw is deeply concerned that if the entire Act is repealed, any secondary legislation that has been passed under the Act will disappear in line with the *Watson v Winch* decision.

If it is not possible to leave the EU and retain the ECA 1972, Usdaw believes that the UK Government must pass supporting legislation that would protect all secondary legislation reliant on ECA 1972. Since we joined the EU, there have been tens of thousands of pieces of legislation passed as Statutory Instruments under s2 ECA 1972. Supporting legislation to protect these Statutory Instruments must be passed prior to, or as part of, any moves to repeal the ECA 1972.

Beyond the ECA 1972, there are a number of pieces of primary legislation which implement indirectly effective EU legislation. As part of a withdrawal from the EU, the UK Government, and devolved administrations in cases where powers have been devolved, may have the opportunity to revisit and amend the provisions of this legislation. Usdaw would expect the relevant Government to undertake a comprehensive review and consultation period prior to revisiting such legislation.

In advance of this, Usdaw would encourage the relevant Parliamentary/Assembly committee to undertake an audit of all legislation that falls under the powers of that body and is pursuant to implementing current EU requirements.



The Position of EU Citizens Following Withdrawal

The position of EU citizens in the event of withdrawal from the EU – Usdaw firmly believes that current legal provisions allow EU nationals the right of nationality after living in the UK for at least five years under the British Nationality Act 1981. However, the process of applying for such citizenship is complex, expensive and long-winded. Usdaw would appreciate a review of the process for EU nationals to apply for permanent residency in light of the unique circumstances of a withdrawal from the EU.

Whilst the current Conservative Government has refused to clarify that all current EU migrants, ie those who have not lived in the UK for at least five years, will be entitled to a right of residency. Usdaw believes that it would be immoral to use these migrants as bargaining chips during negotiations. Usdaw supports all EU migrants currently in the UK being given the right of residency.

The UK needs to move on from the divisive nature of the referendum campaign. It is deeply disturbing that some people have taken the vote to leave the EU as a green light to abuse others who they believe don't have the right to be in the country. That is utterly unacceptable behaviour and needs to be stamped out immediately. Usdaw believes that it is important for politicians, campaigners and all members of society to step back from inflammatory rhetoric and work towards promoting the many benefits that migrants have brought to our economy, culture and wider society.



The contribution that EU citizens make to the UK's economy and society – Usdaw is clear that migrants have continually made a positive contribution not only to our economy but also to the society and culture of the country. A study from the University College London demonstrated that EU migrants made a net contribution of £20 billion to the UK economy between 2001 and 2011.

Figures from the Health and Social Care Information Centre show that 20% of the NHS workforce is non-British. This rises to 30% of doctors, when locums are included. According to figures from NHS Professionals, over and above this non-British staff also account for a significant proportion of agency staff working in the NHS, as approximately 31% of nursing shifts covered by agency staff over the past year were worked by foreign staff on temporary visas.


The positive impact that migrants have had on UK society and culture is clear to see.

John Hannett
General Secretary
Udaw
188 Wilmslow Road
Manchester
M14 6LJ

For further information please contact:

Fiona Wilson
Head of Research and Economics
Udaw
188 Wilmslow Road
Manchester
M14 6LJ

Telephone No: 0161 249 2450
email: fiona.wilson@usdaw.org.uk



Usdaw
*Union of Shop, Distributive
and Allied Workers*



Improving workers' lives – Winning for members

Usdaw, 188 Wilmslow Road
Manchester M14 6LJ

Printed on environmentally responsible paper.
Promoted by John Hannett on behalf of Usdaw, both of 188 Wilmslow Road, Manchester M14 6LJ.
Printed by Usdaw, 188 Wilmslow Road, Manchester M14 6LJ.

