

MANAGING BREXIT



A TOOLKIT

VICTORIA TAYLOR

EDITED BY BECKY WRIGHT

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Unions 21

Unions 21 exists to support unions to increase their influence, impact and effectiveness within the world of work. We will do this by working with unions, supporters and stakeholders to create an open space for research, innovation and activity to assist unions to secure a better life for working people. This paper is part of its work on new economies, new workers.

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With thanks to Norman Crowther, Senior Fellow for Research and Development (on secondment from NEU/ATL) for his assistance on the production of the toolkit.

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Previous to her post at Unions 21, Becky spent five years as the Director of the TUC's Organising Academy and was responsible for the development and delivering of the Academy's training programme for union organisers and officers. Following activity in local community and women's campaigns, in 2001, she joined the TSSA as an Academy Organiser and then went on to take national and regional organising projects for Prospect, NATFHE and ATL. Becky holds a BA(Hons) in Politics, an MRes as well as a Diploma in Education and has also studied Contemporary European Labour Studies at Masters level at the Universiteit van Amsterdam.

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INTRODUCTION

Victoria Taylor with Becky Wright

Brexit is politically charged, complex and negotiations are very much ongoing. There are a lot of questions to ask about what it will actually mean for those living and working in the UK. Many answers won't become clear until negotiations are complete and political decisions have been made. Unions, much like any other organisation operating in the current climate, will be considering how best to prepare themselves for whatever type of Brexit that will eventually be delivered.

In order to assist unions in preparing for Brexit, Unions 21 has created this toolkit with the aim to provide some prompts and suggestions on how your union can best prepare – from big picture strategy and bargaining to contracts and training. This document will encourage you to think about big issues from your union's perspective. Right now, we're asking the questions that unions need to consider; this toolkit does not provide all of the answers. No matter the size or scope of your union, the details given here will provide your union with the space to think about what you need to make the best of Brexit.

Externally, unions will be considering the economic and industrial landscape that they will find themselves in. The Department for Business, Energy and Industrial Strategy consulted on a new Industrial Strategy earlier this year and is currently working through the feedback. A new industrial strategy, challenged with influencing how business will work post-Brexit, should be a catalyst for conversations about relationships with unions across all sectors. With this in mind, we encourage unions to seek open and honest collaborative meetings with employers to discuss issues around skills utilisation, job evaluation and skills gaps and to come up with ways of working that influence decision making going forward in the interests of all. Trade unions understand the strengths and capabilities of their workforces better than anyone else, and are an essential voice employers should listen to ensure a successful and more harmonious Brexit.

Internally, unions will also need to consider some of the challenges to their organisational effectiveness that Brexit may pose. There is a possibility that contracts currently established in certain areas may become frustrated, and therefore that financial investments should be considered carefully. Similarly, it's important to have accurate data on membership and the resources available to train staff and reps in the most effective and targeted way. We hope that by thinking about some of these internal issues early, unions will be able to allocate resources to the most appropriate place for them.

It's not our intention to rehash the arguments that led us to the vote to leave on the 23rd June 2016, but you will find a flavour of what pre-Brexit life is like for a number of EU nationals working in the UK. Whether a German engineer or a French actress, the concerns of union members on what Brexit will mean for them are very real. The case studies are shared to help unions consider how their members may be affected, not just on deadline day - whenever that is - but now, too, and how best we can provide the support they need.

EXTERNAL CONSIDERATIONS FOR UNIONS

The reemergence of Industrial Strategy

In November, the government released the details of a new industrial strategy which aims to increase productivity.

The strategy focuses on five foundations:

- Ideas
- People
- Infrastructure
- Business environment
- Places

And prioritises long term strategic deals for four sectors which are seen as having growth potential: construction, life sciences, automotive and artificial intelligence. There is also a plan for the creation of an independent watchdog to monitor outputs. Brexit will have an impact on the development of industries and a union/collective voice will be key. It will require unions to be forward thinking in using new initiatives like the white paper, however flawed, to push the views of union members.

For three decades, as the focus on industrial policy has ebbed and flowed, the massive underpinning of it has been our belonging to a single European market in which labour of all skill levels can flow pretty effortlessly to wherever there is demand for it.

After Brexit, this will be gone and the implications are serious. Any UK industrial strategy will need to focus much more on the supply of labour – verging on a return to some sort of workforce planning. Analysis in our report shows many sectors face challenges either because they have a high proportion of young EU staff or because they have an ageing workforce.

<http://blogs.lse.ac.uk/brexit/2017/05/26/post-brexit-industrial-strategy-a-curious-complacency-hovers-over-the-general-election>

Regardless of Brexit, understanding employment trends is key for unions when undertaking strategic planning. It would be simple to say that Brexit is so unknown that labour market trends are useless. However, while the type of Brexit is unknown, there are five key disruptors which have an impact on workforce levels:

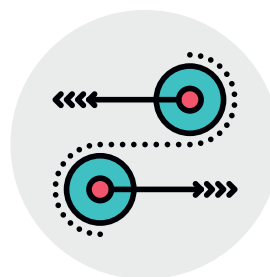
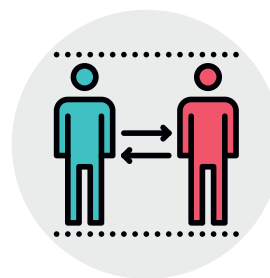
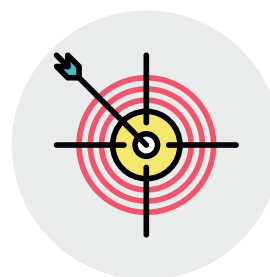
1. Demographic change
2. Technology and automation
3. Productivity growth
4. Globalisation and migration patterns
5. New contractual arrangements.

While any projections can never be definitive, we recommend that unions use the information found in our Changing World of Work document to help map out their own industry/ies to identifying key changes and potential ramifications.

Secondly, the focus from the Secretary of State on productivity is worth considering; it is anticipated that there will be an increased focus on the use of skills and overall efficiency. This gives unions an opportunity to assess potential labour and skills shortages in their industry. Brexit has the potential to exacerbate existing shortages as well as create new gaps. Industrial strategy will need to reflect this.

To assist unions, Unions 21 commissioned research to identify the proportion of EU born workers in particular industries in the UK labour market. Overall, there are 2.97 million working age EU nationals – 7.2% of the working age population. Crucially for unions, there are significant differences across industries and occupations which you can see in Appendix 1. This is important as unions consider how unions can use potential shortages to extend reach and influence.

The CIPD¹ have found that 11% of business have seen the number of EU nationals they've employed since the referendum decrease. This is a concern across all roles, but a particular pressure point arises in some of the low/semi-skilled jobs where employers struggle to recruit UK born applicants. CIPD² have also found that where an employer doesn't have a good skills training budget they'll struggle to recruit.

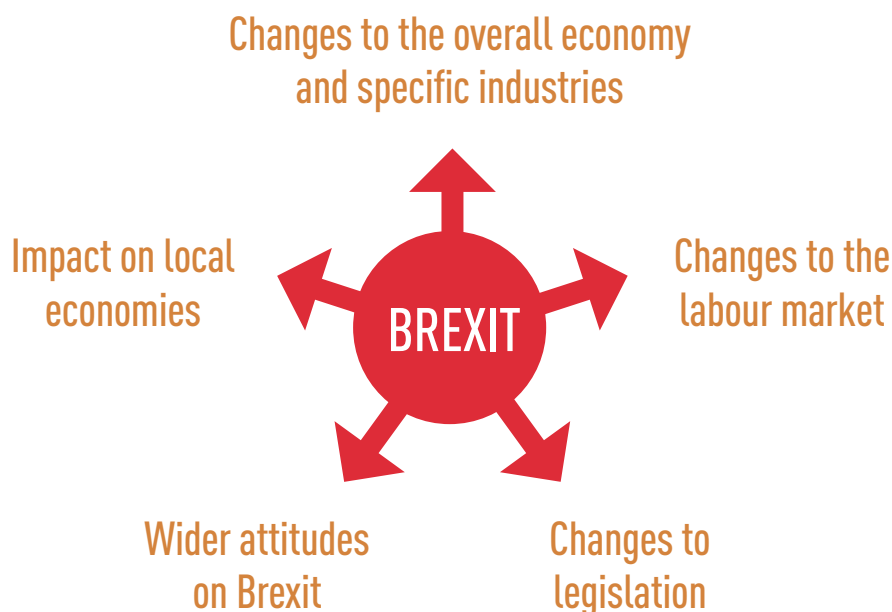


¹ <https://www.cipd.co.uk/knowledge/fundamentals/emp-law/recruitment/post-brex-it-skills-shortages#>

² <https://www.cipd.co.uk/news-views/brexit-hub/workforce-trends#23772>

KEY QUESTIONS FOR UNIONS TO ASK EXTERNALLY

When thinking about how Brexit will affect a union, there are five key areas to consider:



The hardest part of navigating a pathway that is unknown is knowing where to start. This framework acts as a guide for unions to assess the external factors that will affect a union come Brexit.

Changes to the economy and specific industries

- What is the prognosis at the moment?
- What is the relevant government department saying?
- What are the relevant stakeholders saying about industrial strategy?

Changes to the labour market

- Where will people be working?
- Will your industry/ies see a rise or fall in numbers?
- What are the potential skills shortages in your industry/ies?

Changes to legislation

- What is the government saying in relation to your industry/profession?
- What areas of workplace/union legislation may be affected?

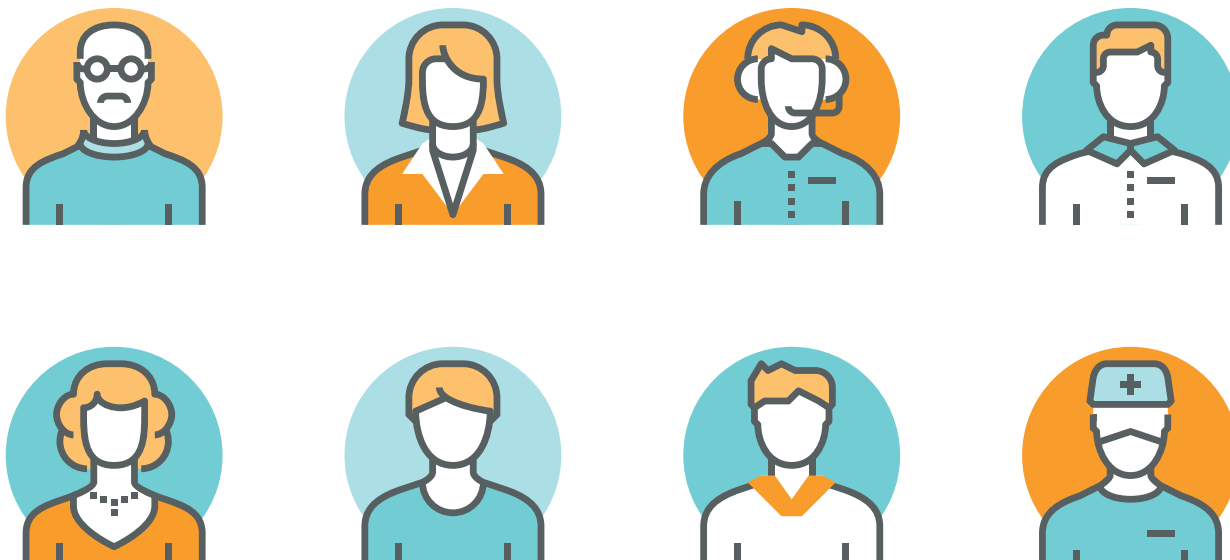
Attitudes on Brexit

- What is your industry view on Brexit?
- What are your employers lobbying for?
- What is the view of the wider workforce on Brexit?

Impact on local economies

Are there areas within the UK that will be affected more by Brexit?

UNIONS ADDRESSING EXTERNAL PRESSURES: OPENING A DIALOGUE



Businesses, organisations, and employers in general, will all be considering how Brexit will impact their particular area of operation. We're in uncharted territory about what will happen post-Brexit. Imagine you were an employer, what sort of questions would you be considering?

Unions are in a prime position to engage in conversations about what the world of work might look like, for each employer, post Brexit. Starting open dialogue about the many unknowns, and the areas of shared concern from your toolkit analysis can help to maintain and build influence and trust with employers. Many unions will have started talks to discuss how Brexit may impact a particular workplace or sector, but if you haven't already begun a conversation, now is a good time to reach out to the employer to formally request talks about the future. Writing to an employer early allows unions to set the tone; requesting transparent, sustainable platforms to allow for genuine engagement and a collaborative approach to tackle whatever Brexit sends our way.

Unions 21 supporters have pinpointed a lack of communication and engagement from employers. EU nationals and British workers are keen to understand what Brexit might mean for them; unions can raise concerns about lack of communication from employers in talks, and also help to get key messages out to staff on priority areas. Why not push for a post Brexit strategy group now?

CASE STUDY

Cavendish Coalition

One of the challenges that Brexit throws up for decision makers in the NHS is potential workforce constraints. There are over 20,000 NHS nurses in England who are from elsewhere in the EU, 1,200 surgeons, 800 paediatricians, 300 cardiologists, 200 cancer specialist doctors, 200 paramedics, and many others. In maternity services, around 1,400 NHS midwives in England are nationals of other EU Member States. That many midwives, employed full-time, could provide care for 40,000 women per year. They make a massive contribution to the maternity care provided by

the NHS each year.

But EU nationals trained and ready to work as midwives in the NHS have already, pretty much, stopped coming to the UK. The regulator, the Nursing and Midwifery Council, has published numbers of how many people from elsewhere in the EU are registering to practise as midwives in the UK. In June last year, 36 EU midwives registered; in June this year, it was two. That is a 94% drop in 12 months. In March and April, just one single midwife per month from another EU Member State registered with the NMC.

This has left health unions with a mountain of questions to answer. If the Government changes the rules on which staff can come here, how much will that affect supply and to what extent and how should we expand our domestic capacity to compensate? Would we have enough health lecturers? If not, are enough being trained now? Are there enough available clinical placements? And how is all of that impacted by the pre-referendum decision to introduce tuition fees for healthcare students and abolish their bursaries? Does that need to change? If it does, how will that be paid for? Issues like these are just some of those that unions, employers and others are grappling with.

To help push for answers on these issues, some health unions have joined the Cavendish Coalition. This is a group of health and social care organisations that seeks to influence and lobby on the issues we face as a result of the vote to leave the EU. The group seeks to provide those leading the negotiations with expertise and knowledge on the issues affecting the health and social care workforce. Most recently it has submitted evidence to the Migration Advisory Committee as it attempts to map out the contribution of EU nationals to the entire UK workforce.

As a group of organisations the coalition are committed to working together to ensure a continued domestic and international pipeline of high calibre professionals and trainees in health and social care in a post-Brexit Britain. One question the group has looked at, for example, is when the cut-off date should be for free movement as it affects health and social care staff? Every organisation argues it needs to be as late as possible.

The coalition is perhaps a useful blueprint that other sectors may wish to look at. Brexit is a massive undertaking, and it is consuming a sizeable chunk of the Government's capacity to develop policy.

CASE STUDY

ATL (NEU) Transformers Project

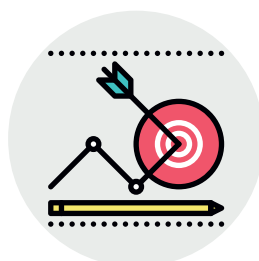
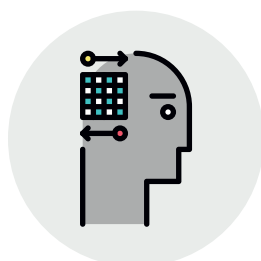
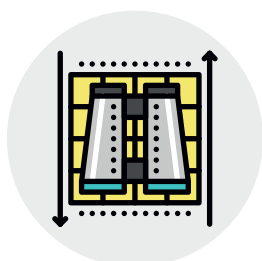
ATL is currently working in partnership with the Education and Training Foundation, the Association of Employers and Learning Providers, and higher education institution researchers at Kings College London and St Mary's University on a unionlearn funded project which aims to advance the status of those people who support and develop others in the workplace.

The project developed confidential training and productivity online surveys for employers who either want new ideas about productivity, skill development, or wish to support staff who educate or support learners in the workplace.

The results have helped to:

- Discover the full range of skills used by a workforce
- Recommend ways to make better use of existing skills
- Discover how current training may be helping or hindering productivity
- Recommend areas for training development
- Recommend productivity advances

What ATL have discovered is that employers (large and small) are more than happy to explore their skill utilisation, their training opportunities and needs, and job progression within the firm. The project works because of the intensive conversations that have built up between the Senior Project Officer and the heads of firms who just needed to understand 'why' a trade union were interested in supporting workplace learning and training. The subsequent reports show the difference that such work can do for firms, for worker engagement and interest, and for the wider profile of trade unions being part of the solution, not the problem. Taken more widely the team believe that this model can only benefit any trade union that wants to develop this approach in their workplaces and plants.



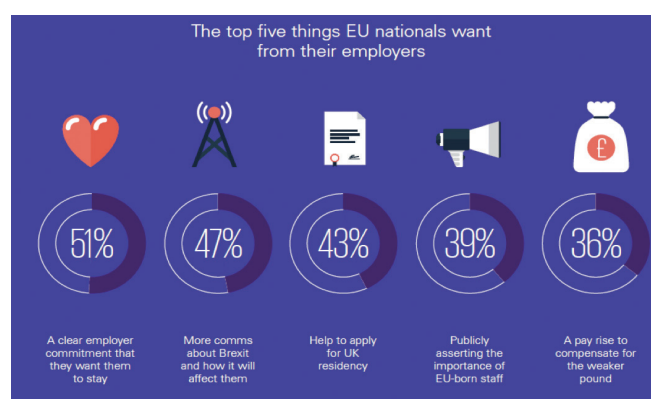
INTERNAL ADJUSTMENTS

Once a union has understood its position in the external environment, it will be important to assess the health of the union internally, with an eye on the externalities.

Keeping the health of the union

In the previous section, we encouraged you to map out labour market trends as part of your external analysis. In its most simplistic term, can your union answer the question as to how many members come from the EU that are non-UK nationals? Understanding how many members are affected by the decision to withdraw is important to know. Having this information will give an indication as to what potential case work could arise, how many members might be asked to leave and therefore cease membership and lastly could indicate a potential activity deficit as experienced activists return home. If your union faces decline, does it know where and why this will occur and how it could be mitigated? Crudely, consider the figures and what that could mean to subscriptions. We know that 7% of the workforce are EU citizens. However, this percentage differs across industries and occupations. Using the industry specific information from previous section or commissioning more in-depth work, consider what the worst-case scenario would be in relation to this area. KPMG recently surveyed EU workers on their likelihood of staying in post-Brexit Britain – 35% of were considering leaving the UK. This figure might have a great impact on a union.

There is also a question on what members want in relation to Brexit themselves. In the same KPMG poll, the survey group was asked what they wanted from their employers, particularly focusing around Brexit.³

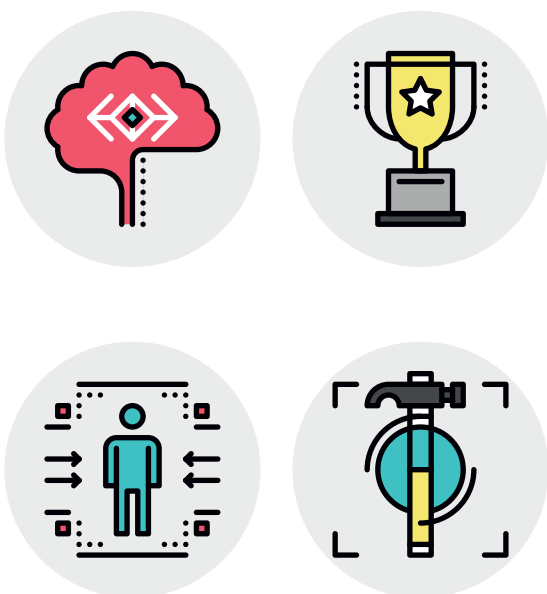


Of course, not every union member voted against Brexit, so not every union member will be reflected in this data set. However, for those members who are directly affected, these issues are incredibly important. They tell us that they are worried about their family and personal lives, their career and their homes. In times of uncertainty, members often reach out to their union in the hope of some clarity and advice. Unions can actively campaign on these type of issues. If you've got a high density of EU nationals working in a particular section of the union, you might want to think about hosting sessions in the workplace, or facilitating online advice sessions or seminars. Some unions are setting up EU workers networks which feed in to formal negotiating platforms – giving EU workers the opportunity to raise their concerns directly with their employer is really important.

³ <https://home.kpmg.com/uk/en/home/insights/2017/08/the-brexit-effect-on-eu-nationals.html>

Understanding the needs of your members in this area leads to discussions on the advice unions may need to give to members as they come forward with concerns around visas and immigration. This could impact on the demands on reps in the workplace, through to more senior paid staff. Unions may want to consider undertaking assessments on their current legal provisions and training. Informal learning sessions for staff which covers the latest legal, economic and political positions will ensure that they're up to speed and are in the best possible place to provide advice, guidance and reassurance to members.

The commercial impact of Brexit will be as relevant to unions as it would be to any other organisation. Linklaters, with PLC Magazine, have considered the financial hardship that might arise from changes to exchange rates, as we saw in June 2016. They've also noted the impact the imposition of new tariffs could have on businesses and organisations, along with the additional costs and delays that could be imposed if new customs checks are introduced. The potential labour impact is also considered, with potential for shortages following changes to freedom of movement or unemployment where businesses relocate to the continent.⁴



"Most unions are already quite proactive when it comes to reviewing their assets and investments, adopting a multi-asset approach to financial management, the aim being to use a broadly diversified blend of investments in order to minimize risk. This also helps to preserve capital whilst delivering consistent returns above inflation.

There are a number of 'What If?' scenarios the impact of Brexit may have on unions— whilst in the short term, this may well be felt more directly by employers, it doesn't take long to conclude that unions do take the need to be vigilant."

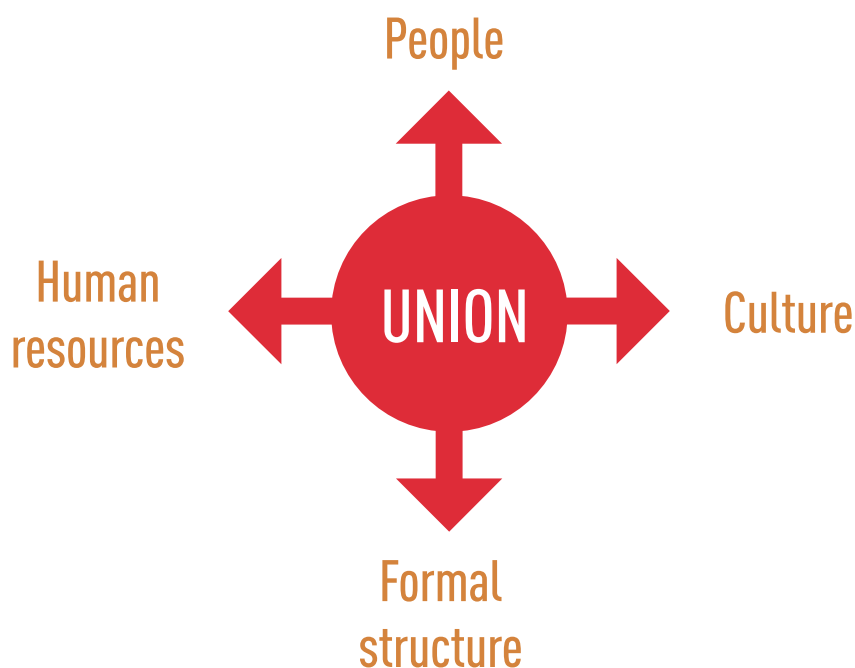
Marion Colverd, TUFM

Another key internal consideration for unions to think about is any contractual obligations they may have. Unions need to ensure that careful decisions are made around the current contracts, and this won't change after Brexit. That being said, it's important to consider the impact the decision to leave the EU may have on existing contracts and, where possible, think about future-proofing new contracts to avoid unnecessary uncertainty. Linklaters LLP have produced some guidance on Brexit and Commercial Contracts which poses a number of scenarios, set against a 'hard' Brexit outcome, where the UK is no longer part of the customs union and no longer needs to comply with EU law. As with many elements of Brexit, the details are unknown at this stage, but it's useful to think about what the most extreme outcome may be.

⁴ This article was first published in the November 2016 issue of PLC Magazine and include a link to our homepage <http://uk.practicallaw.com/resources/uk-publications/plc-magazine>

KEY QUESTIONS FOR UNIONS TO ASK INTERNALLY

Unions will need to begin to consider internal adjustments needed to cope and take advantage of the changing external environment.



People

- What impact does this have on membership? How many members will be affected? How many reps will be affected?
- Do those members have specific issues that will need to be addressed by the union?
- How will you address recording specific queries about Brexit?

Culture

- How do EU members feel about the process, the industry and the union? What engagement needs to happen?

Formal structure

- To what extent will this affect union finances?
- Are certain areas of the country more affected in terms of membership or industry?
- Does the union need to explore working on skills shortages within an industry?

Human resources

- How many union staff will be affected by Brexit?
- Do you have a policy on how to handle the changes likely to take place?
- Are there any gaps in skills in your union to cope with the changes?
- If you contract out any services, can these still be fulfilled in the light of Brexit?

CASE STUDY

Listening and reflecting the voice of members

Transnational working is a major part of the experience of creative union members and the creative unions are predicting that Brexit will have large ramifications for its members in significant ways. In terms of funding, during 2014- 2020 the European Social Funding and European Regional Development Fund were due to invest around €11.8bn across the UK and as yet, there is very little chance of any shortfall being picked up by local authorities or central government.

Equity member Di Christian is the Creative Director of Wicked Fish, a performing and creative company in Liverpool. The performers in Wicked Fish all have Learning Difficulties and have the opportunity to join Equity as student members. Transnational funding and collaboration has given companies like hers a wealth of opportunities to collaborate, make new theatre, develop and share new methodologies across sectors. In the past, the company has worked with other learning disabled performers and artists in Spain and Portugal, those who work with migrant workers in Lithuania, returning learners in Germany and recovering addicts in The Netherlands. These projects have been an integral and hugely influential part of their ability to create jobs. A fear for them is that any restrictions that will be placed on freedom to travel and work will mean the loss of funding and opportunities to work on projects that benefit those who often do not have entry ways into the industry.

The other aspect which concerns members is the guarantee to travel and work easily within the EU.

The Musicians' Union (MU) is taking the lead amongst the creative unions in campaigning for reciprocal free movement for musicians and performers across the EU's 27 member states in the form of an exemption from visa and work permit rules for performers. They are encouraging MPs and peers to sign up to a pledge – to ensure that professional musicians and performers continue to be able to travel easily across Europe post-Brexit for time-limited activities such as touring and performing with minimum administrative burdens which could arise following the loss of these visas.

In the light of potential changes to visas, Equity already administers a US/UK exchange agreement for members and works in partnership with employers in agreeing codes of practice which set the standard for bringing in non EEA workers.

The example above shows the Musicians' Union campaigning to support free movement, something their members have told them is vital to their work. It's also worth thinking about the opportunities you might have for new reps to give their time to work on specific work that'll help you later – be it updating existing members contact details, or hosting networking sessions for EU nationals, making the most of passionate individuals is crucial.

WHAT NEXT?



Time to start planning

We face a period of uncertainty on trade, immigration and the health of our economy and labour market. The lack of preparation pre triggering Article 50 has left us with a mountain of questions and no definite answers. On the face of it, the task ahead is somewhat overwhelming not just for us, but other stakeholders too. This means that there is a tremendous opportunity for unions and others to step in and influence the decisions that will be made about life in a post-Brexit Britain.

Unions will be key to the whole process in voicing the concerns of members, and in addressing some of the key issues facing industries. Now is the time to be proactive in defining the agenda and answering questions the Government was not and is not even aware of, all the while remembering that there are also many areas we need to protect and defend too.

However, in order to do that effectively, unions need to consider the internal changes that are going to be needed in the short, medium and long term. As a first step, use the information and the questions posed here as a starter to assess the external landscape as a way to inform you internal challenges. Consider developing clear Brexit policies for the industries you represent and building in house capacity to respond to consultations and communications on this. But also ensure that operational staff are also gearing up for possible changes with risk assessments for staffing and contractual arrangements. Ensure that in a stormy sea, the union voice is one of reassurance and visibility.

RESOURCES

You might also find it useful to link in to the work other organisations are doing on Brexit.

THE3MILLION

The3million is a not for profit group and support network which campaigns to safeguard and guarantee the rights of EU citizens in the UK.

www.the3million.org.uk

RIGHT TO REMAIN

Right to Remain is a UK-based human rights organization who provide information and resources to groups and individuals working to establish the right to remain. They also campaign for migration justice. Their Brexit section includes legal updates and answers commonly asked questions.

www.righttoremain.org.uk

JCWI

The Joint Council for the Welfare of Immigrants has also produced a guide for EEA nationals and their families. They also have information on how to provide for UK citizenship.

www.jcwi.org.uk

FREE MOVEMENT

Free Movement was founded in 2007 to provide updates, commentary and advice on immigration and asylum law. There is a specific section on their website on EU Free Movement which includes free ebook application guides and information on which forms to complete and the service also offers legal advice (for a fee).

www.freemovement.org.uk

ILPA

The Immigration Law Practitioners' Association produces information sheets which provide a short and accessible overview of EU rights of residence and other issues affecting citizens from the European Economic Area, in the context of Brexit. The information sheets include details for workers, the self-employed, students and their families.

www.ilpa.org.uk

APPENDIX 1

Table One: Number of working-age EU nationals in the UK, by country of birth

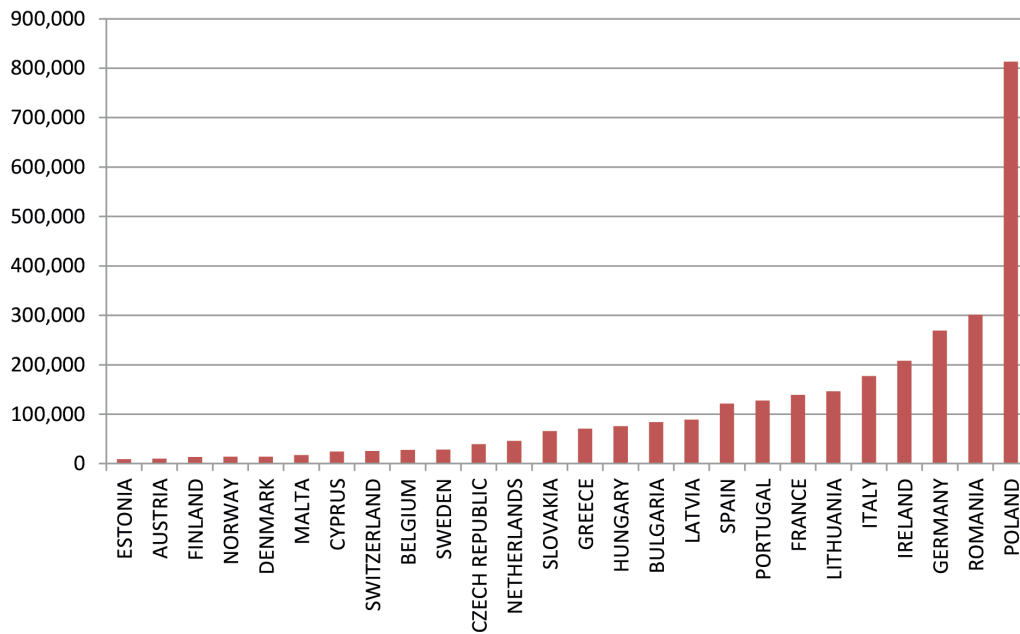


Table Two: Number of British, Non-EU and EU nationals working in the Banking and Finance Industry, by occupational group.

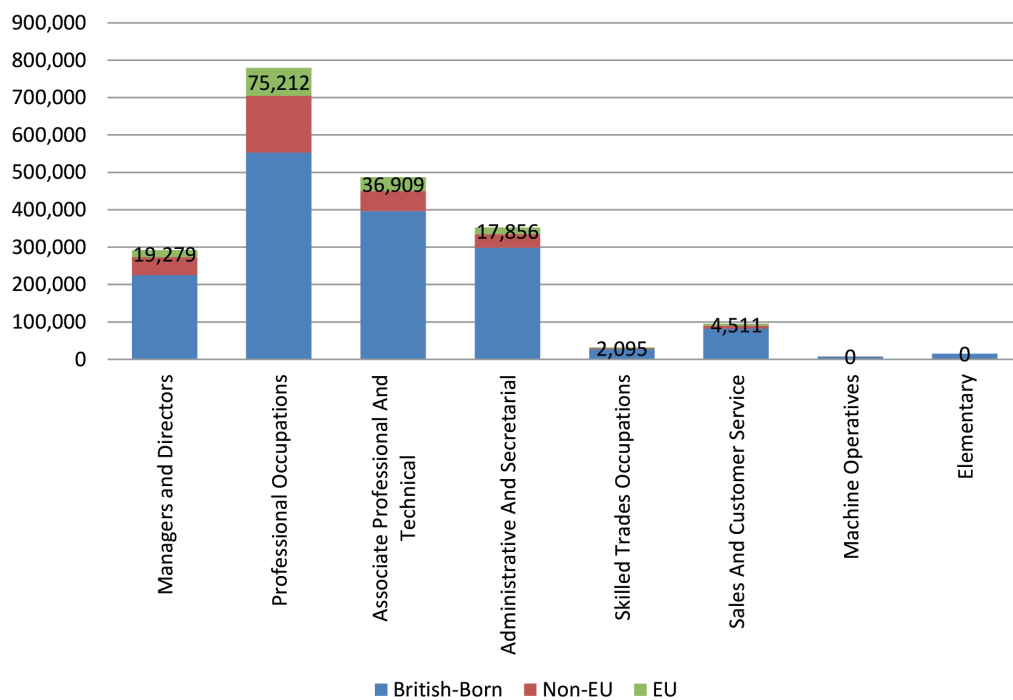


Table Three: Number of British, Non-EU and EU nationals working in the Creative Industries, by occupational group.

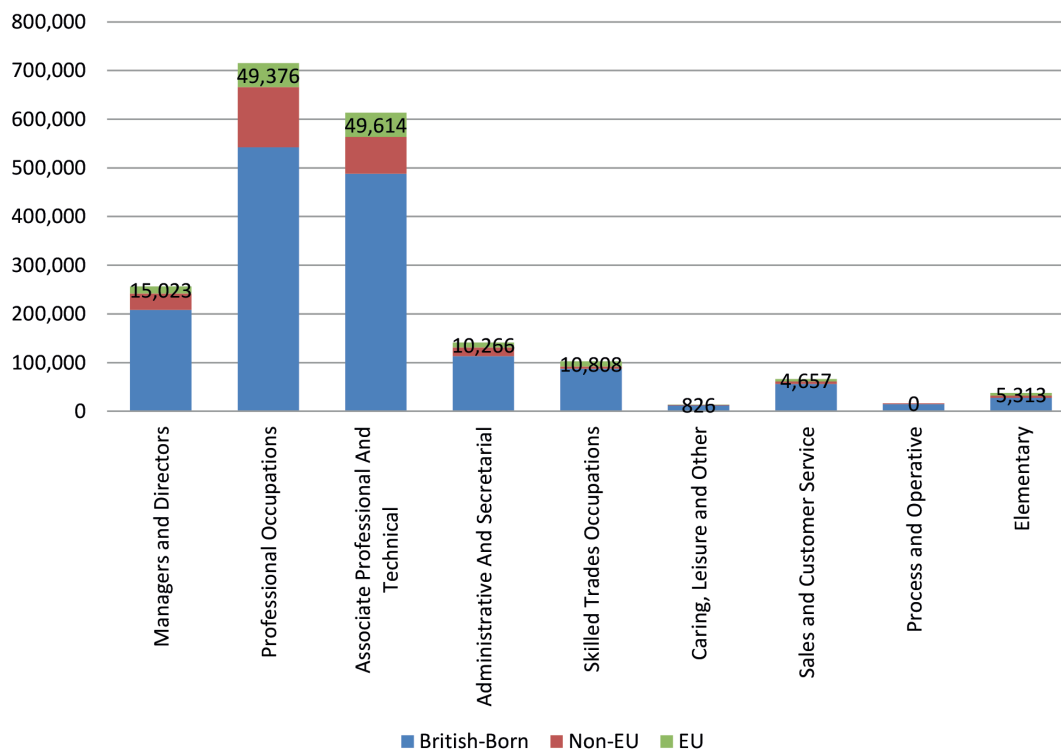


Table Four: Number of British, Non-EU and EU nationals working in Education, by occupational group

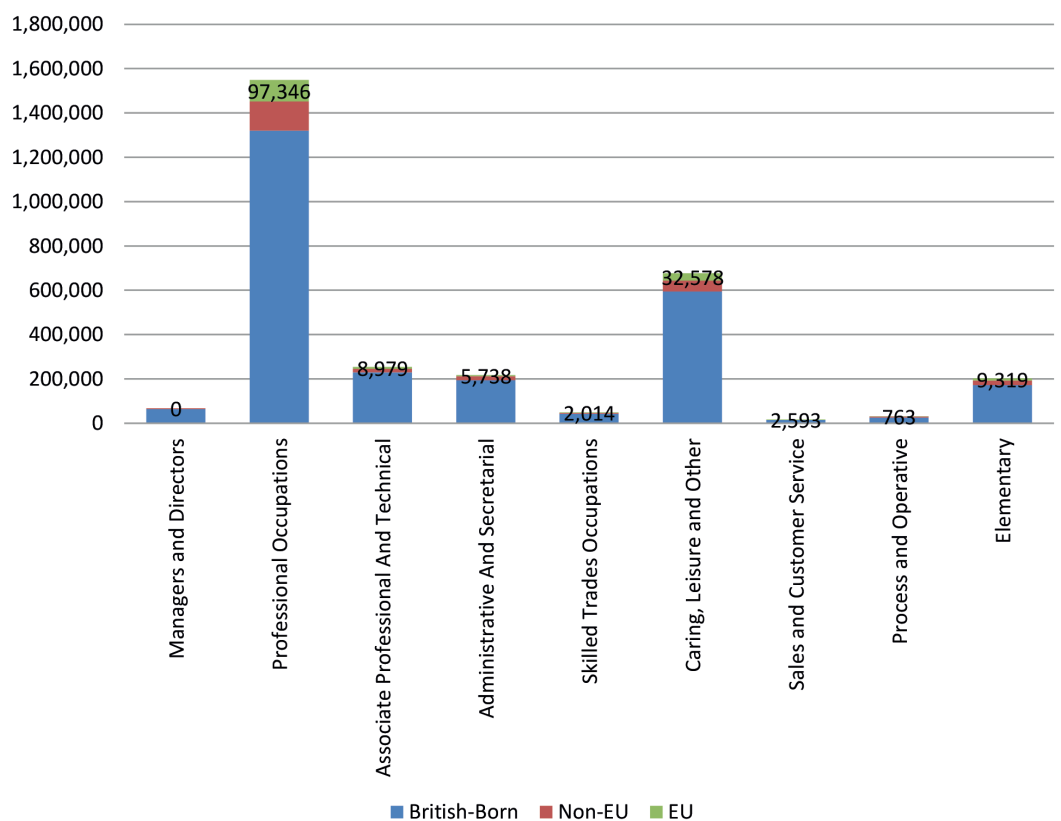


Table Five: Number of British, Non-EU and EU nationals working in health, by occupational group

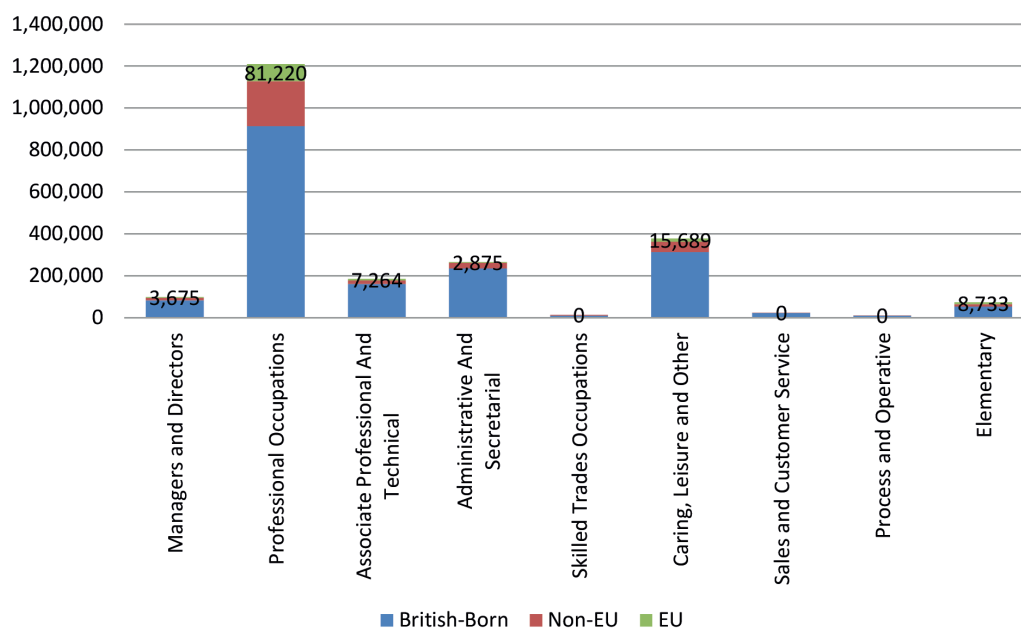


Table Six: Number of British, Non-EU and EU nationals working in retail, by occupational group

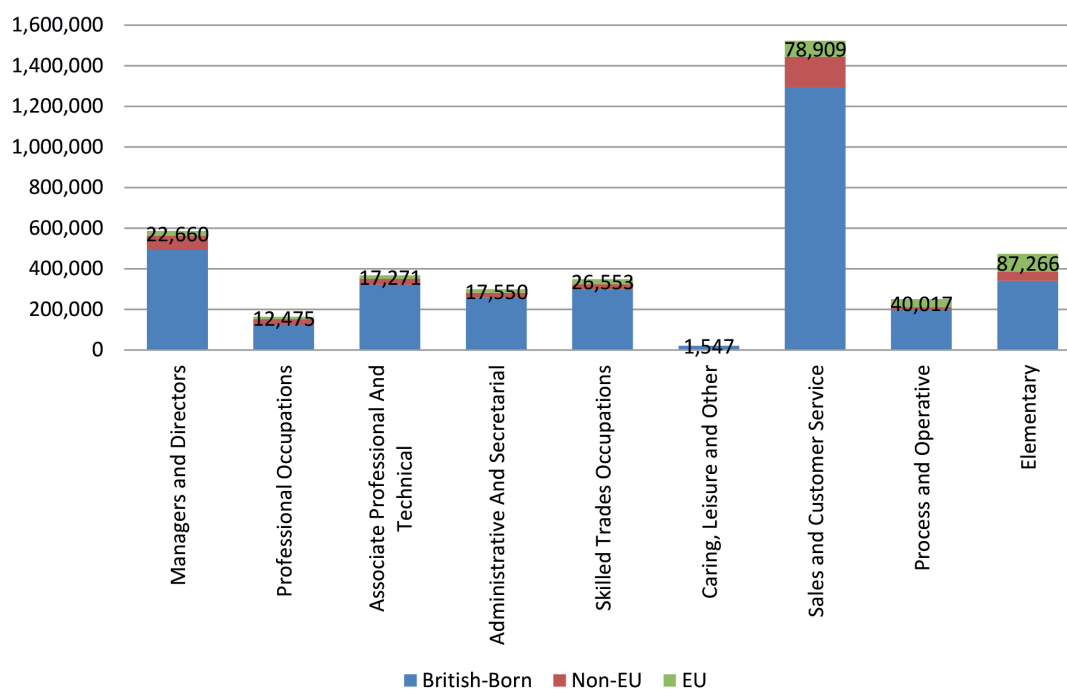


Table Seven: Number of British, Non-EU and EU nationals working in science and technology, by occupational group

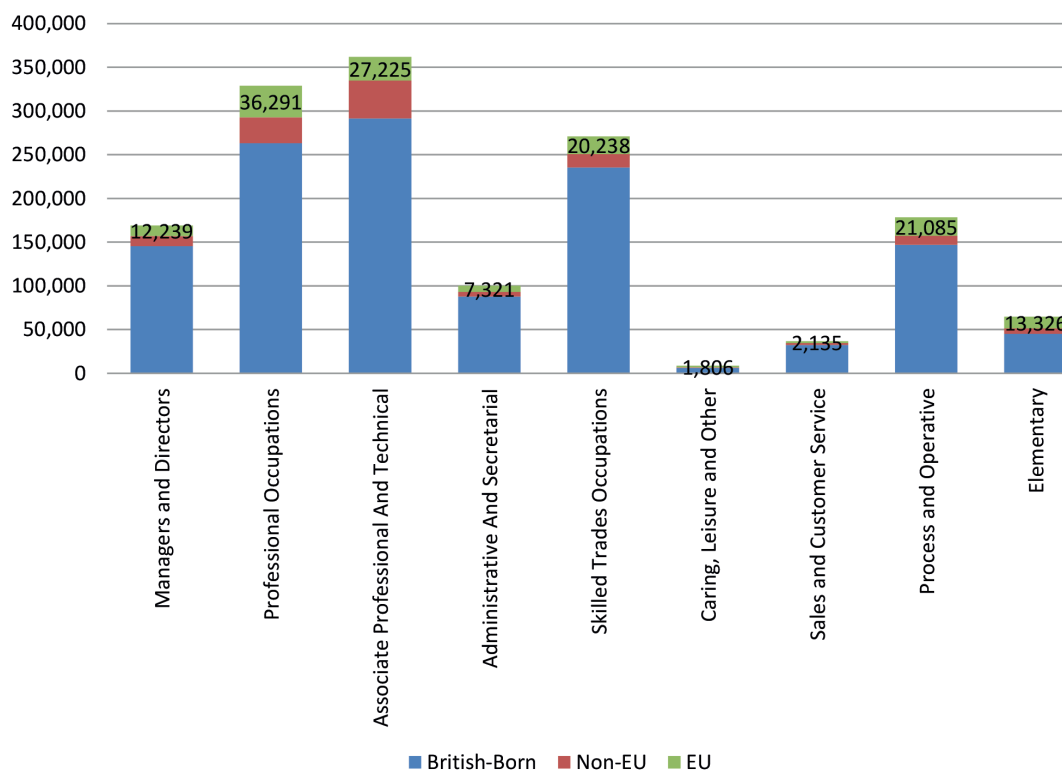
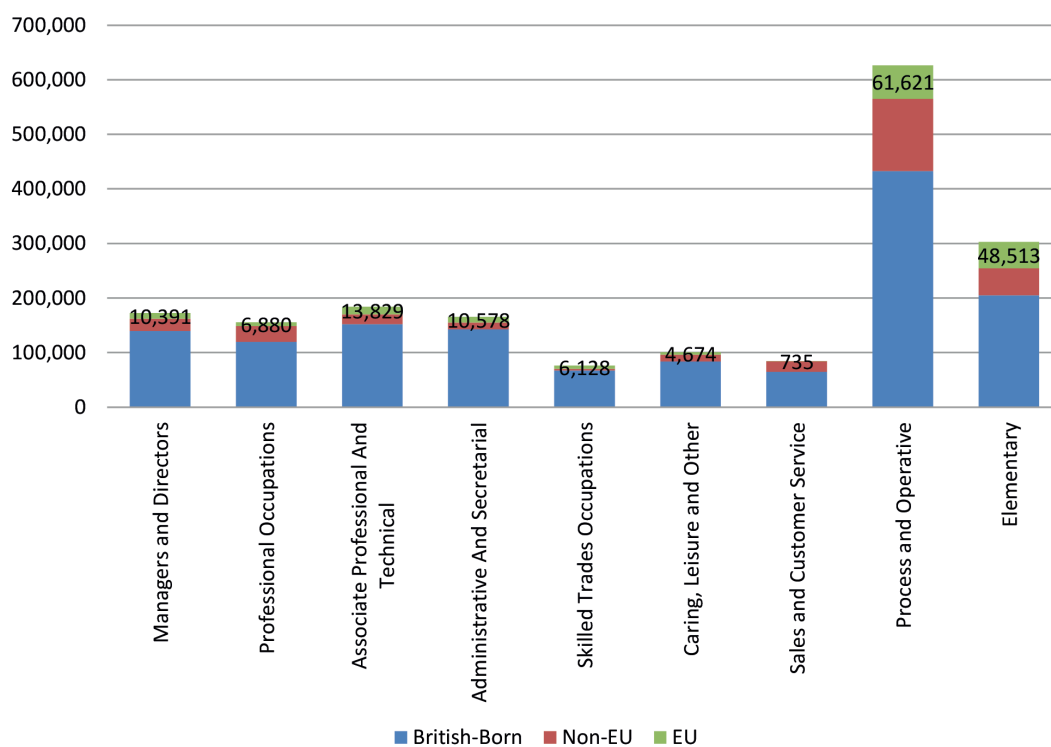


Table Eight: Number of British, Non-EU and EU nationals working in transport, by occupational group



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