

APSE Facilities, catering and cleaning management seminar – 26 January 2017

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 @WMemployment

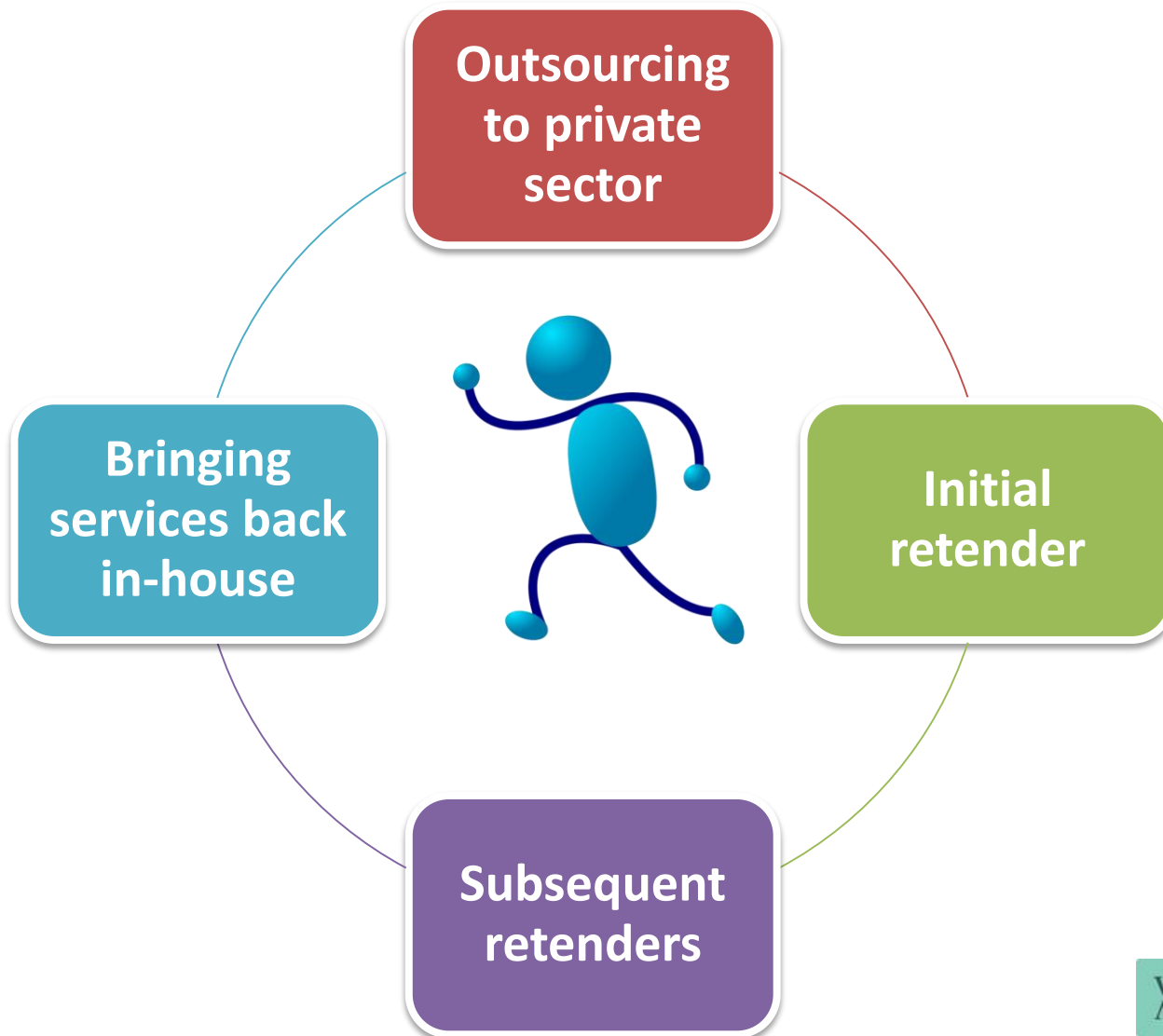


Our menu for today...


- **Public/private staff transfers**
- **Pressure on payroll costs**
- **Brexit and employment law**




TUPE and public/private transfers




What is TUPE?

- 
- Transfer of contracts of employment on a service provision change or asset sale

- 
- Employees transfer on existing terms and conditions
 - Post transfer protections - changes to terms and dismissals

- 
- Employee liability information

- 
- Measures information from new employer
 - Existing employer must inform and consult with appropriate reps

Planning a transfer



What issues do we need to consider?

What issues do we need to consider? (1)

1 Information

- What information is required from the existing employer?
- How can we require service providers to provide this on any re-tender?

2 Splitting the employee liabilities

- How do we protect our organisation against liabilities relating to the transfer?
- How do we split the employee liabilities on future transfers?

What issues do we need to consider? (2)

3 Controls

- What controls do we need during:
 - Contract period?
 - Retender period?

4 Relations with staff/unions

- How best to manage the transfer?

5 Impact on other areas

- Pensions
- New Joiners

NB Welsh and Scottish Codes

TUPE - conclusion



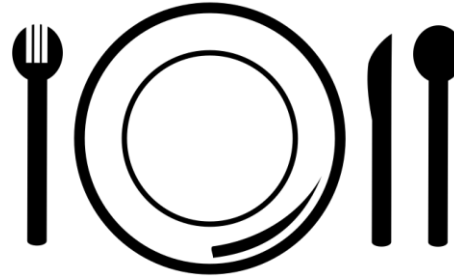
Be prepared:

- Review information and evaluate liabilities before enter into discussions
- Consider what will happen on a retender or if you bring services back in-house
- Think carefully about staff relations

Increasing costs

Taxation
changes

Exit
payments



Pay and
gender

'Worker'
claims

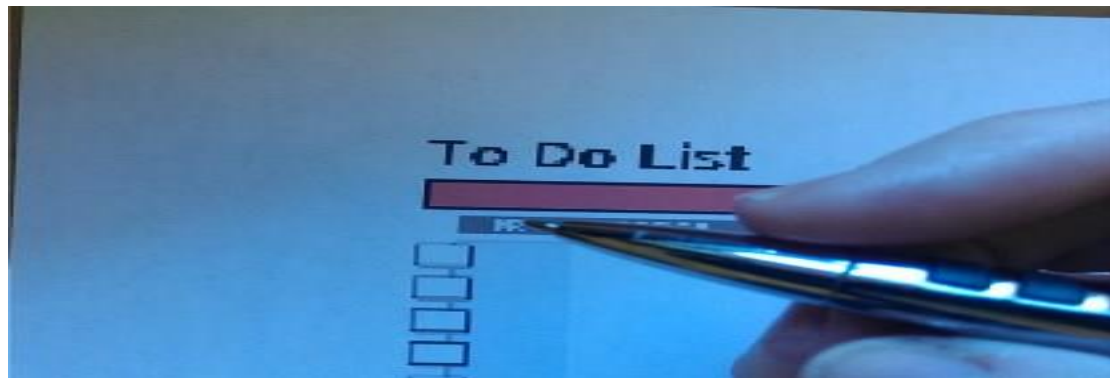
Holiday pay

IR35 – contractors and tax

- IR35 changes from April 2017
- If IR35 tests met, engager must account for tax/NICs and report information to HMRC

IR35 changes - preparation

- Carry out an urgent review on on-going and future contracts
- Obtain necessary information
- Inform the contractor/PSC



Public sector termination payments

- Cap on termination payments
- Recovering of termination payments
- Review of exit payments in the public sector



Increasing costs - legal claims

- **Focus on pay equality** – equal pay litigation and gender pay gap reporting
- **Holiday pay** – overtime should be included in ‘average pay’ when calculating holiday pay
- **Worker status** – Tribunals increasingly questioning whether an individual is entitled to ‘worker’ rights e.g. Uber, Citysprint

“Brexit means Brexit”

No change for the moment...but:

Scope for deregulation in some areas?

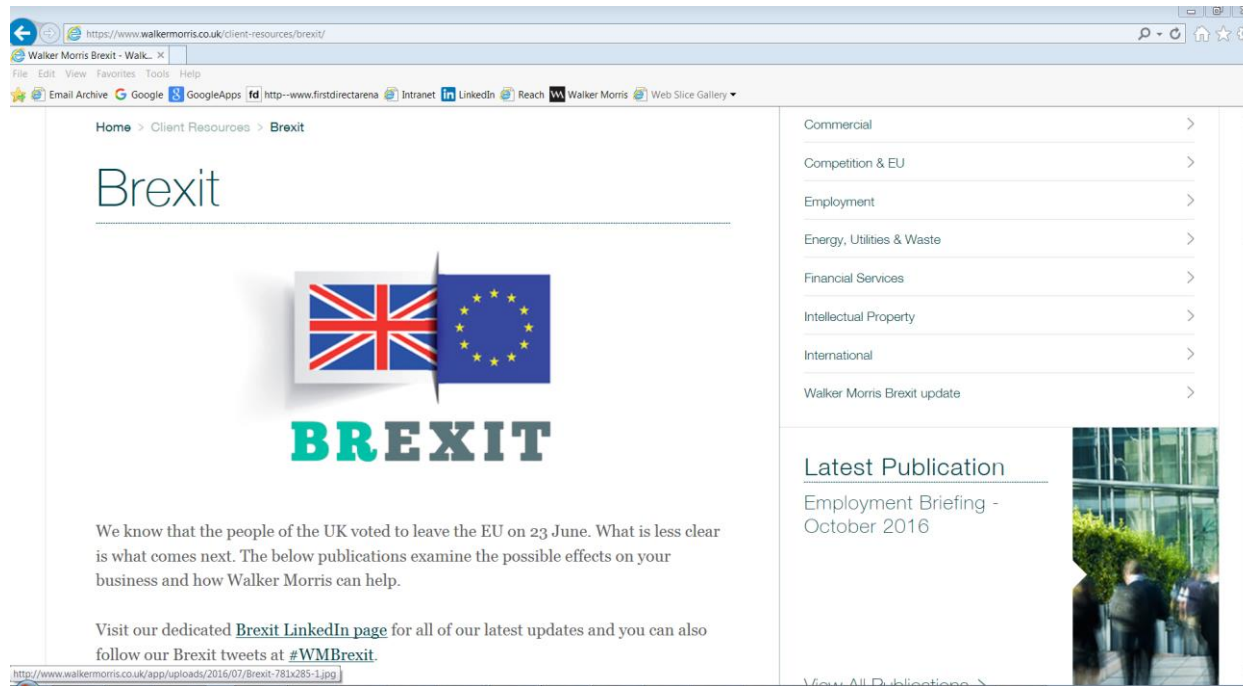
- e.g. working time, TUPE, agency workers

Immigration and freedom of movement

- depends on model adopted



Updates available on our dedicated Brexit website



<https://www.walkermorris.co.uk/client-resources/brexit/>

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little green book of employment law



The little green ibook of Employment Law

A useful guide to set out the key issues that develop during an employment relationship.

Walker Morris launches second edition of its handy guide to the employment journey

Knowing the law is one thing; applying it, in the right manner, is quite another. This statement is particularly pertinent for businesses given the ever-evolving and increasingly complex UK employment legislation.

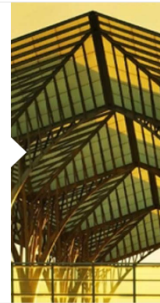
That's why Walker Morris has published the second edition of its handy little green book of employment law. It is designed to help businesses navigate their way through the employment law minefield, covering a full range of issues that develop during the life of the employment relationship; from recruitment and equality through to disputes,

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Any questions?



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