

Sherbornes  
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# BREXIT IN BUSINESS LAW

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# BREXIT IN BUSINESS LAW

Difference between

- i. Civil and political rights (Mostly from ILO)
- ii. Socio-economic rights (Mostly EU)

Both influenced by a British 'Fair Play'

# CIVIL RIGHTS GENERALLY

- Human Rights Act 1998, from ECHR (convention on HR)
- Bill of Rights
  - Proposed in Queen's Speech
  - ECHR influence will diminish 'Gold Plating'

# THE MARLEASING DUTY

- Loss of radical impact
- Purposing approach
  - TUPE
  - Pregnancy comparator
  - Associative discrimination
  - Working Time Regulations

**Lawyers will get more work!**

# KEY EU EMPLOYMENT LAWS

Only at risk in de-regularised market

Full list of EU laws at [www.sherborneslaw.co.uk/brexit/](http://www.sherborneslaw.co.uk/brexit/)

## Most vulnerable

- Collective consultation
- Working Time Restrictions (Holiday Pay)
- Some health and safety
- TUPE
- Protection for atypical workers
- Equal pay awards
- Insolvency protection

## AREAS **NOT** FROM EU

- Minimum wage
- Discrimination
- Unfair dismissal
- Right to strike
- Whistle blowing
- Anti-bribery



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# ASSUMPTION 1

## A VOTE “OUT” MEANS CHANGE

UK has to give 2 years notice to quit

Government propaganda says up to **10 years** for UK to “unpick  
its relationship with the EU”

What exactly does “Out” look like?



## 4 FUNDAMENTAL ISSUES

- Trade – Imports and Exports
- Regulation/Laws – Red tape and Legislation
- Cost of EU – Money in vs Money Out
- Immigration – net migration, welfare, benefits etc.

## 4 FUNDAMENTAL FREEDOMS

- Free Movement of Goods
- Free Movement of Services
- Free Movement of Capital
- Free Movement of Citizens and Workers

# THE BREXIT CAR WASH...

- Platinum Service – EEA Member
  - Out of EU but remain in European Economic Area (EEA) and member of European Free Trade Association (EFTA)
  - Like Norway, Iceland & Lichtenstein
  - Still have to contribute to EU budget (£7.2bn in 2013) and bound by most EU laws
  - Still have to subscribe to the 4 Fundamental Freedoms
  - Not part of Common Policies on Agriculture, Fisheries, Transport, Energy and Security.

# THE BREXIT CAR WASH...

- Gold Service – EFTA Member
  - Out of EU, out of European Economic Area (EEA) but remain member of European Free Trade Association (EFTA) and have bi-lateral trade agreements.
  - Like Switzerland – 120 separate bi-lateral agreements with the EU on various sectors
  - Imports, Exports & Investments Still have to comply with EU laws
  - Expectation of contribution to EU as EFTA Member
  - Still have to subscribe to the 4 Fundamental Freedoms

# THE BREXIT CAR WASH...

- Silver Service – Free Trade Agreement
  - Out of EU, out of European Economic Area (EEA) out of European Free Trade Association (EFTA) but negotiates a Free Trade Assoc. with EU.
  - Similar to Switzerland, but could negotiate a single trade agreement rather than the 120 sector by sector agreements.
  - Expectation of contribution to EU budget & freedom to set its own laws
  - No participation in common policies (agriculture, fisheries etc.)
  - No influence on rules within internal market
  - Highly likely that any negotiated agreement would include subscription to the 4 Fundamental Freedoms

# THE BREXIT CAR WASH...

- Bronze Service – Customs Union
  - Out of EU, out of European Economic Area (EEA) out of European Free Trade Association (EFTA) but has a Customs Union.
  - Like Turkey – customs union on industrial and agricultural products
  - **No contribution to EU budget**
  - **No obligation to subscribe to 4 Fundamental Freedoms**
  - Still have to comply with EU trade policy and impose the EU tariffs on imports from outside the EU
  - Lose right to provide financial and professional services on equal terms with EU members.

# THE BREXIT CAR WASH...

- The “Ryanair” Car Wash – a World Trade Organisation (WTO)
  - Out of EU, out of European Economic Area (EEA) out of European Free Trade Association (EFTA) - UK becomes a World Trade Organisation.
  - No negotiated agreements with EU – same as China or USA.
  - **No obligation to contribute to EU budget**
  - **No obligation to subscribe to 4 Fundamental Freedoms**
  - No influence in any common policies or legislation
  - No influence on rules within internal market
  - All EU exports would be subject to EU technical standards/import tariffs.

## ASSUMPTION 2

A VOTE “IN” MEANS NO CHANGE

REALLY?

# THE NO BREXIT CARD GAME...

- UK has played its joker first...
  - No to the Euro
  - Retain Border Controls
  - Not part of further European Political Integration
  - New restrictions on access to welfare/benefits
  - Commitment to reduce EU red tape
- Why are we arrogant enough to think that we are the only country to have a joker?

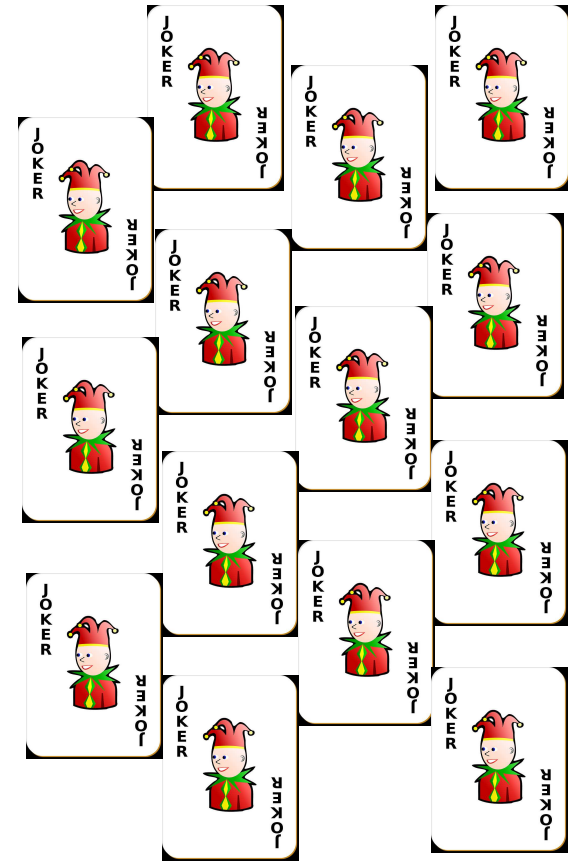




# THE NO BREXIT CARD GAME...

- What happens when Germany, France, Spain, Italy and the rest of the 23 other EU countries decide to play their jokers?
- What conditions will they impose?
- What will the EU look like then?
- When will this take effect?

It won't take 10 years...



# ASSUMPTION 3

## WE SHOULD DECIDE “IN” OR “OUT”

- UK has a well-established process...
  - The electorate elects MP's
  - The MP's (House of Commons) forms a Select Committee of MP's
  - The Select Committee investigates and reports back to the House of Commons
  - It allows an enhanced form of decision making, based upon well researched, factual evidence.
- Instead of this well-established process...

THIS MAN...



MADE THIS MAN...



SO SCARED OF THIS HAPPENING...



THAT IN ORDER TO GET RE-ELECTED

HE DID THIS

THE  
LUNATICS  
HAVE TAKEN  
OVER THE  
ASYLUM

# THE GREAT BRITISH PUBLIC...

- 4 out of 5 people admit to not knowing enough to make a decision on the EU referendum
- On average, 3 out of every 5 people entitled to vote actually do so on a referendum.
- If we accept that 1 person in 5 actually has enough information to vote and does so, that means the other 2 voters (or 66% of the voters) don't have enough information.



# THE GREAT BRITISH PUBLIC...

- 10% think HTML is a Sexually Transmitted Disease
- 51% think stormy weather "affects" Cloud Computing
- 26% think the Sun goes around the Earth
- 15% said that software is "comfortable clothing"
- 75% cannot find Israel on a map of the Middle East
- 30% thought that the Brighton Pavilion was the Taj Mahal
- 2% think they are of less than average intelligence.

THESE ARE THE VERY PEOPLE WHO WILL DECIDE OUR FATE



Questions?