



VALEMUS

# THE BRIEF



Welcome to the December 2018 edition of Valemus Law's monthly news bulletin.

The Brief brings you topical legal updates affecting business as well as news of developments in Valemus Law's services.

Valemus Law is a full service, cost effective commercial law firm with nationwide coverage achieved through the use of modern technology.

Valemus Law's solicitors are senior commercial lawyers specifically selected for their exceptional strategic commercial knowledge and entrepreneurial spirit.

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# WHO'S WHO AT VALEMUS LAW



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Career History: Linklaters; Shoosmiths

### JANE BUNCH

Career History: Olswang

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### KIM HUGGINS

Career History: DLA Piper



## CMA response to super-complaint from Citizens Advice on the loyalty penalty

**On 19 December 2018, the CMA published its response to a super-complaint from Citizens Advice asking it to investigate excessive prices for disengaged consumers.**

### Background

Under section 11 of the Enterprise Act 2002 a designated consumer body may make a complaint to the Competition and Markets Authority (CMA) that any feature, or combination of features, of a market in the UK is or appears to be significantly harming the interests of consumers. The CMA must publish a response to such a complaint within 90 days, stating what, if any, action it proposes to take.

On 28 September 2018, the (CMA) announced that it had received a super-complaint from Citizens Advice, a designated consumer body for the purposes of section 11 of the Enterprise Act, asking it to investigate excessive prices for disengaged consumers.

Citizens Advice raised concerns about long-term, loyal and disengaged customers (often on default or roll over contracts) paying more for goods and services, which it refers to as “the loyalty penalty”:

- The loyalty penalty is widespread, as a large number of people are on uncompetitive deals, paying more for a service than a new customer would.
- Consumers do not realise that they are being penalised for staying with their supplier and face obstacles when trying to switch or shop around to get a better deal.

- Consumer inertia is being exploited through long lasting automatically renewing contracts that allow price increases at renewal.
- Consumers in vulnerable situations are disproportionately impacted by the loyalty penalty.

Citizens Advice identified five key markets where it has concerns, covering telecoms and financial services (mobile, broadband, savings accounts, mortgages and household insurance). Citizens Advice asked the CMA to undertake a thorough, cross-sectoral market study to consider the loyalty penalty wherever it occurs and propose recommendations and remedies that can be implemented by the CMA, sector regulators and the government.

Citizens Advice claimed that deep, structural price discrimination against disengaged and loyal consumers has been a persistent feature of essential markets for many years, and presented evidence regarding the failure of competition to make markets work for loyal and unengaged consumers in essential markets.

The penalty paid by loyal consumers has been well-established in the energy market (as a result of work by Ofgem and the CMA’s energy market investigation). However, Citizens Advice considered that excessive prices for disengaged consumers can be just as high, if not more so, in other essential markets, and estimates that, across the markets for broadband, mobile phones, home insurance, fixed-rate mortgages and

# CMA response ...continued

savings, loyal consumers are overcharged almost £900 a year.

The CMA published its response to the super-complaint on 19 December 2018.

## CMA response

The CMA notes that many services are paid for through automatically renewed or rolled over contracts, which, although can be convenient for customers, also increases the risk that customers who get rolled over year after year will pay a loyalty penalty. Overall, it has found that the loyalty penalty is significant and impacts many people, including those who can least afford it. The CMA considers that there needs to be a step-change to tackle the problems more effectively.

It has proposed a significant package of reforms, both across markets and in the five markets identified by Citizens Advice, also noting that the Financial Conduct Authority (FCA) and Ofcom are actively looking at this issue in the same five markets. The CMA has found:

- **The size of the problem.** Estimates suggest the loyalty penalty paid by consumers each year could be around £4 billion in total across the five markets. The number of people who pay a penalty varies by market, with estimates ranging from under 1 million in mortgages to over 12 million in home insurance. The CMA comments that this does not mean that prices are too high overall because some people are paying much lower prices, but some people are clearly paying too much.
- It also notes that there are gaps in the evidence base, and collecting and publishing information regularly on the size of the loyalty penalty and who pays it in key markets will improve understanding by regulators, raise public awareness and hold businesses accountable.
- The CMA considers that the loyalty penalty is likely to be a much wider issue potentially arising in many other markets, for example, potentially in pay TV, roadside assistance, many other insurance markets, pensions and other subscription services such as online gaming, software and magazines.
- **Why does the loyalty penalty arise?** Many services are paid for through contracts which automatically renew or roll over, often on a higher rate, with the result that customers pay more for the same service unless they actively intervene. Thus, in some markets there is a sharp increase after the introductory price (price jump) like in energy; in others there are successive price rises (price walking) as in insurance; and elsewhere customers on older tariffs sometimes pay higher prices for similar services (legacy pricing) as in broadband.
- The CMA considers that there are many different reasons why customers remain with their supplier. They are not necessarily being actively loyal to a particular brand or supplier. Some people wrongly believe that staying will pay off in the long term, do not know they could make significant savings or do not think about switching.
- **When is it most problematic?** The CMA states that offering introductory deals is not necessarily harmful as it can encourage people to shop around and try out new services, as well as allow new businesses to attract new customers. The loyalty penalty raises particular concerns when suppliers make it more difficult than it needs to be for customers to exercise choice and then exploit those who do not switch; the price gap is large, with some paying very high prices, or it affects many people; it particularly harms those who may be vulnerable such as the elderly, those on low incomes, or with physical disabilities or poor mental health or it happens in 'essential' markets
- **Who is hit hardest by the loyalty penalty?** The loyalty penalty affects many consumers across different markets and at different points in time. The exploitative practices used by some suppliers can cause serious problems for all consumers, who do not have the time or are not able to take the steps necessary to avoid paying a penalty. The most vulnerable consumers can have even greater challenges engaging in markets, such as those on low incomes, people who struggle to use online services, or people with poor mental health who may avoid or fear change. This means they may be more at risk of paying the loyalty penalty, and may be least able to afford it. It is, therefore, important that the needs and capabilities of vulnerable consumers be taken into account when looking at tackling the loyalty penalty.
- The role of businesses in the problem. Suppliers can be a big part of the problem, as well as being a key part of the solution to enable customers to get better deals. Businesses across a wide range of markets can make it much more difficult for existing customers to engage and penalise them if they are not constantly checking the deals they are getting. The CMA has identified a range of practices it considers unacceptable, including:

# CMA response... continued.

- ❖ making it more difficult to leave a contract than it is to sign up;
- ❖ rolling over customers onto new contracts without sufficient warning;
- ❖ imposing 'stealth' increases in price on renewal year after year, which can lead to very significant price increases without customers being aware of it; and
- ❖ requiring customers to auto-renew or get rolled over when they take up a service or buy a product: in most markets there should be a choice.
- ❖ Auto-renewal can benefit consumers, particularly when there are harmful consequences from not renewing, but suppliers must stop taking advantage of their existing customers by charging much higher prices, misleading people about their offers and making it much more difficult for customers to get good deals than it needs to be.
- ❖ Action has been taken by regulators and the CMA to try to tackle these problems. However, the prevalence of these issues across many markets shows that there is much more to be done to stop these types of practices by businesses.
- ❖ The CMA states that as a first step in a wider enforcement it is taking action in the anti-virus software market.
- ❖ It will also be considering whether existing law should be changed to ensure these practices are stopped.

## CMA recommendations for reform

The CMA states that it, regulators and government must together tackle the problems identified head on. Action that has been taken to date has expected too much of consumers, and not enough from businesses. It considers that the best ways to achieve change are:

- Providing genuine support to consumers through the use of 'smart data' (data-driven technologies and services to help consumers), using intermediaries (including price comparison websites, automatic switching services, or local face-to-face advisory services) and 'collective switching' which offers exclusive tailored deals.
- Enforcement against businesses to tackle harmful and unacceptable practices.
- Considering targeted direct pricing interventions either to limit price differences, such as restricting price walking, or price caps, where there is clear

harm, in particular to vulnerable consumers.

## Cross-cutting recommendations

The CMA recommends a package of eight key reforms to address the problems related to the loyalty penalty, under several headings. These apply to all market sectors examined.

- Stopping harmful business practices. The CMA and regulators should continue to take action against suppliers whose business models are harmful to consumers, using existing consumer enforcement powers and the powers regulators have to intervene directly, and strengthening these powers where needed:

- ❖ **Recommendation 1: Bolder use of existing enforcement and regulatory powers by regulators and the CMA to tackle harmful business practices.**

The CMA has launched an investigation in the anti-virus software market, to examine whether the business practices and terms and conditions associated with the automatic renewal of subscriptions are fair. In particular, the investigation will consider whether automatic renewal is set as the default option; whether notification of renewal is sent and, if so, the timing of the notification and when renewal payments are taken and whether the renewed subscriptions are charged at a different price to the original subscription. The CMA expects to provide an update on the investigation in early 2019.

- ❖ **Recommendation 2: Legislative and/or regulatory change may also be needed to effectively tackle these practices and the CMA will be exploring this further, alongside new powers for the CMA to seek substantial fines where law is breached.**

The CMA has developed a set of core principles for businesses to follow across markets and will be building on these, alongside considering whether these should be explicitly covered in existing law. These include exit/entry equivalence (people must be able to exit a contract at least as easily as they can enter it); auto-renewal should generally be on an 'opt in' basis upfront, and include a clear and prominent option without auto-renewal in most markets; exit fees should not be used after any initial minimum/fixed term; auto-

# CMA response... continued.

renewal onto a fresh fixed term should not generally be used; customers must be sufficiently informed about the renewal and any price changes (through sufficient notifications) in good time; and switching should generally be managed by the gaining supplier so that customers do not have to contact their existing supplier if they want to move.

- **Publicising the loyalty penalty to hold suppliers to account.** Reputational measures designed to put pressure on businesses can have a real impact in markets. In this case, data on the scale and size of the loyalty penalty, and which suppliers have the highest price differences, can put pressure on them to reduce this gap:
- ❖ **Recommendation 3: Publish the size of the loyalty penalty in key markets and for each supplier. This could be done, for example, by an annual joint loyalty penalty report.**
- **Giving people more help in getting better deals.** The CMA and regulators have relied too heavily on information remedies to help consumers, which have had limited impact:
- ❖ **Recommendation 4: Empower intermediaries to support switching. This could be done by giving a greater role to local consumer-facing advisory organisations, such as Citizens Advice, who could more actively support switching for vulnerable consumers.**
- ❖ **Recommendation 5: Press ahead with the Smart Data Review and rolling this out in those markets such as telecoms, where it has the greatest potential to transform markets.**
- ❖ **Recommendation 6: Capture and share best practice on 'nudge' remedies that have been tested and shown to work or not. Some remedies (such as requiring suppliers to give last year's price on renewal) could be rolled out across markets and potentially strengthened.**
- Protecting consumers from harm, particularly vulnerable consumers. The CMA considers that regulators have in the past been reticent to introduce price caps because these can distort markets. However, where people who are unable or find it very difficult to switch are paying significantly higher prices, the case for targeted intervention is stronger:
- ❖ **Recommendation 7. Consider targeted pricing regulations such as limiting price differentials or price caps, alongside other measures where there is clear harm, particularly to protect vulnerable consumers.**
- Better understanding of the loyalty penalty

across markets. It is also important to have more robust data on the extent of the loyalty penalty across a number of key markets and who is paying it. This is currently assessed only on an ad hoc basis through specific market studies. This does not enable comparisons across markets, nor does it allow regulators to identify whether the same individuals are worse off across markets and over time:

- ❖ **Recommendation 8: Assess the feasibility of matching price data to a recurring, large scale UK survey to improve understanding of who pays the loyalty penalty across markets, and whether vulnerable consumers are particularly adversely affected.**

## Specific recommendations for the individual markets examined

Alongside the cross-cutting recommendations, the CMA also looked at each of the five markets highlighted by Citizens Advice. It considered what actions have previously been taken, what can be learnt from its review and what more can be done to tackle the loyalty penalty in these markets.

As a result, the CMA has made recommendations to the FCA and Ofcom on measures to tackle the loyalty penalty in the five markets, which should be considered as part of their current work in these markets, alongside any other potential remedies.

### Mobile

The CMA does not consider that providers should continue to charge customers the same rate once they have effectively paid off their handsets at the end of the minimum contract period. It welcomes Ofcom's recent consultation on end-of-contract and annual best tariff notifications.

The CMA states that it supports a requirement on mobile providers to move customers on bundled handset and airtime contracts onto a fairer tariff when their minimum contract period ends. In addition, Ofcom should seek to increase the engagement and awareness of consumers by pushing forward with implementing smart data, supporting the development of innovative intermediaries, and tackling low levels of awareness of SIM-only deals.

### Broadband

The CMA comments that loyalty penalty problems in the broadband market must be thoroughly investigated and it welcomes the review recently launched by Ofcom of pricing differentials in fixed broadband market. As part of Ofcom's review, the CMA recommends that Ofcom consider a number of possible pricing interventions, including tackling broadband legacy pricing and targeted safeguard caps to protect vulnerable

consumers, alongside measures to increase engagement such as the use of smart data and exploring the feasibility of collective switching.

## Cash savings

The CMA notes that the FCA has recognised that interventions to date have had limited impact on addressing the harm to longstanding customers, and it is currently considering a 'Basic Savings Rate', among other potential interventions (see Legal update, FCA discussion paper on price discrimination in the cash savings market). It welcomes this further work and recommends that if the FCA implement the Basic Savings Rate, it evaluates whether this has had the intended impact and if not, consider further pricing interventions such as a targeted absolute price floor in cash savings.

The FCA should also consider whether collective switching can be applied.

## Insurance

The CMA states that evidence suggests that many longstanding customers are paying much more than newer customers, with businesses repeatedly increasing prices year on year. Therefore, it welcomes the FCA's market study on general insurance pricing practices. As part of that study, the CMA recommends that it investigate insurance pricing practices and consider pricing interventions that limit price walking, for example rules to restrict this practice.

The FCA should also explore how intermediaries can continue to benefit the home insurance market (for example, where 'semi-smart' solutions can improve the existing infrastructure of price comparison websites).

## Mortgages

The FCA is conducting a market study on competition in the mortgage sector and is taking immediate action to tackle those who cannot switch in this market (mortgage prisoners) by helping these customers move onto better tariffs, where feasible. The CMA states that it strongly supports that work, but there are still 10% of longstanding customers who could switch and make significant savings but do not.

It recommends that the FCA find out more about mortgage customers who could switch but do not, and look at what measures can be taken to help or protect them if needed.

## CMA's next steps

The CMA states that it will be undertaking further work on the loyalty penalty, working closely alongside regulators, government, business and organisations such as Citizens Advice. This project will take forward in particular:

- Recommendation 1, where the CMA is launching enforcement cases.
- Recommendation 2, with a review of the case for changing consumer law in addressing the loyalty penalty.
- Recommendation 8, exploring the feasibility of matching price and survey data.

The CMA will provide an update on its progress to the newly-established joint government-regulator Consumer Forum, led by the Minister for Consumer Affairs, in six months.

The FCA and Ofcom will also provide an update on their progress in the five markets.

Citizens Advice requested that the CMA undertake a market study into the loyalty penalty across the five markets, but the CMA does not believe this is the right approach at present, given the work it has already done and the project it will be undertaking to take forward its cross-cutting recommendations. In relation to the five markets, the CMA's recommendations to regulators can be taken forward in their ongoing work without the need for a market study.

The CMA will look at whether sufficient progress has been made in taking forward its recommendations over the next 12 months. At that stage, it will reconsider what next steps are necessary, such as whether a market study is needed.

## FCA statement

The FCA has issued a statement saying that the issue of longstanding customers being charged more for some financial products than new customers is a priority for the FCA. It welcomes the CMA's review and agrees that harmful practices should be tackled robustly. It will continue to engage with the CMA as it considers how to act on its recommendations.

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# Government publishes White Paper on the UK's future skills-based immigration system

**On 19 December 2018, the government published its long awaited White Paper on the UK's future skills-based immigration system, post-Brexit. This update focuses on the implications of the proposals from a business immigration perspective.**

The White Paper has been eagerly anticipated since the Migration Advisory Committee (MAC) published its final report on EEA migration (MAC report) in September 2018. Despite considerable concern that the publication of the White Paper would be postponed at least until after Parliament's vote on the draft Withdrawal Agreement between the UK and the EU (now scheduled to take place in the week commencing 14 January 2019), political pressure has led to its earlier publication.

The White Paper assumes the implementation period provided for under the draft Withdrawal Agreement will run until 31 December 2020, with proposed visa routes to be published in the Immigration Rules in autumn 2020. The White Paper does not set out the Government's proposals in the event of a no-deal Brexit.

The Government has stated that it will continue to engage and consult on key aspects of the new immigration system for the next 12 months.

## Key provisions

The White Paper makes it clear that the Government has accepted many of the recommendations of the MAC report. The key provisions of the White Paper include the following:

- Freedom of movement will end on 31 December 2020.
- The Government will aim to reach reciprocal agreements for short-term visits and intra-company

transfers between UK and EU companies.

- The same UK immigration rules will apply to all migrants from 2021 and the government will continue to work to reduce net migration to "sustainable levels".
- Skilled and highly-skilled migrants' applications will be considered under Tier 2, which will be further reformed. The White Paper states that the skills threshold will be lowered, the resident labour market test will be abolished and the annual cap of 20,700 will be removed. However, the decision on salary threshold for sponsorship has been put back for further consultation.
- Certain routes under Tier 2 will lead to settlement.
- Employer sponsorship will be on a lighter-touch and more straightforward basis, so that in most cases, the aim will be for employers to recruit migrant workers in two to three weeks.
- A temporary worker route will be available as a transitional measure for lower skilled jobs, for up to 12 months at a time, with a 12-month cooling off period to prevent further applications for leave, and no requirement for sponsorship. This route will have conditions restricting access to public funds, switching and making applications to extend, and will not lead to settlement. A full review of this route will take place in 2025.

## End of freedom of movement

Free movement will end on 31 December 2020. This means that all nationals, including EU nationals, will require permission to live, work and study in the UK from 1 January 2021.

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However, the Government has repeated its stated aim to preserve visa free travel for short-term visits, including for tourism and for business. This may be achieved by simply adding EU countries to the list of non-visa national countries or by creating a new category for visa-free travel to the UK.

In addition, the Government will look to reach reciprocal agreements with the EU to enable UK and EU companies to post workers into the UK and into the EU for intra-company transfers.

EU citizens wanting to stay in the UK beyond the end of the implantation period will need to apply for settled or pre-settled status under the EU Settlement Scheme. This is due to open more widely for applications on 21 January 2019.

## A unified immigration system

The White Paper contains rhetoric of an intention to create a unified immigration system, with the same UK immigration rules applying to all migrants. However, the future rules are also said to be expected to be "flexible and provide for different treatment for certain migrants". This suggests that some difference in treatment may be expected where international or bilateral agreements are struck with international trading partners.

The government will consult businesses and stakeholders for the next 12 months on the proposed immigration rules that will implement the new system. The new rules are expected to be in place by autumn 2020.

The government will continue with its stated aim to reduce net migration, but this is now expressed as reducing net migration to "sustainable levels" rather than to below 100,000.

## Skilled and higher-skilled workers under Tier 2

Employers who wish to recruit skilled migrant workers will need to sponsor them, primarily under Tier 2 of the points-based system.

However, the following discrete changes will be made to Tier 2:

- The annual cap on new hires of 20,700 will be removed.
- The annual cap applies to certificates of sponsorship (CoS) that are currently referred to as restricted certificates of sponsorship. The annual quota is allocated on a tapered monthly basis over the financial year (6 April to 5 April). This change will likely mean that all CoS will be "unrestricted" and the end of the monthly restricted CoS allocation process. Currently, unrestricted CoS are only available for higher earners (those earning £159,600 gross a year or more), for those eligible to switch in to Tier 2 from within the UK and those making an application to

extend their current leave under Tier 2 for the same job with the same sponsor. This should speed up the process of recruiting a migrant worker in many circumstances and reduce burdens on the Home Office.

- The resident labour market test (RLMT) will be abolished.
- This means that employers will no longer need to factor into the recruitment process a Home Office mandated recruitment exercise before sponsoring a skilled migrant worker. This should also serve to speed up the process of recruiting a migrant worker in many circumstances and reduce the burden on the Home Office.
- The MAC is due to report on the effectiveness and suitability of the current Shortage Occupation List in March 2019. Given the prospective abolition of the RLMT, it is unclear how the SOL would feature in sponsorship from 2021.
- The skills threshold for Tier 2 will be lowered from Regulated Qualifications Framework (RQF) level 6 (degree level) to RQF level 3 (A-Level).

This will dramatically increase the number and type of jobs that will qualify for sponsorship. Importantly, the government has shied away from wholeheartedly supporting the MAC recommendation that the minimum salary threshold under Tier 2 should be £30,000 gross a year. It has been reported that this proposal faced opposition from within the Cabinet and the threshold will now be set following additional consultation and engagement with businesses and stakeholders over the next 12 months. Critics have also claimed that this proposal, with no regional variation, favours London and the South East where higher salaries are paid on average compared to the rest of the UK.

Additional significant points of interest are that students (at bachelor's level or above) will have:

- Post-study leave of six months (masters' and bachelor's level) and 12 months (PhD level).
- The ability to switch (so apply in-country) into skilled work three months before the end of their course and to apply for leave to enter the UK (from outside the UK) for two years after graduation.

## Settlement under Tier 2

The White Paper refers to certain routes under Tier 2 leading to settlement. This is likely a reference to the difference between Tier 2 (General), (Sportsperson) and (Minister of Religion) on the one hand and Tier 2 (Intra-Company Transfer) on the other. Currently, migrants under Tier 2 (Intra-Company Transfer) cannot generally apply for settlement.

# Skills-based immigration system... continued.

Given the proposed continued discussion about the salary threshold, there may also be changes to the levels of salary required for settlement under Tier 2 (currently £35,500 gross a year and due to rise to £36,900 for applications made on or after 6 April 2021 and to £37,900 for applications made on or after 6 April 2022).

## Streamlined sponsorship

It is clear that under the new proposals Tier 2 will become the main route through which European nationals will apply to enter the UK for work from 2021. Therefore, the Government has recognised that more employers are likely to require sponsorship licences to meet their recruitment needs.

The White Paper sets out a commitment to reducing the administrative and financial costs of sponsorship, by making it more straightforward and a lighter touch system. The upshot is that employers should be able to sponsor a migrant worker in two to three weeks in most cases, which is a significant reduction in the overall time. Currently, where a RLMT and restricted CoS is required, the process can easily take two to three months.

To assist with this, the White Paper suggests that migrants from certain "low-risk" countries (such as Australia, New Zealand, USA, Canada and South Korea) may be able to switch into Tier 2 whereas currently they would be required to apply for leave to enter from abroad. It is not clear which categories of migrants this will apply to, but it could be extremely useful if it applied to visitors or those in the UK under Tier 5, for example.

## Transitional scheme for lower skilled workers

This scheme picks up a recommendation from the MAC report to extend the current Youth Mobility Scheme (YMS) under Tier 5 to EU nationals.

The proposal is for a 12-month grant of leave for work for nationals of low-risk countries, with a cooling-off period of 12 months (meaning they cannot apply again under the route for 12 months after the migrant has left the UK with permission under this route).

This route would be subject to restrictions on:

- Access to public benefits.
- Bringing dependants.
- The ability to make an application to extend or to switch into other routes (whether this is for work or otherwise is unclear).
- The ability to apply for settlement with leave under this route.

Critics have questioned why migrants under this category will be unable to access public funds, particularly as they will be paying tax on their UK earnings to fund such benefits.

This route will be reviewed in 2025. It is unclear if this route is to sit alongside Tier 5 YMS or to replace it.

## Tier 1

The White Paper does not provide any firm proposals on the future of Tier 1. However, it refers to the start-up visa route (announced by the Home Secretary in June 2018), labelled as an "innovator route", and to continued reform of the routes under Tier 1.

## Maintaining the Common Travel Area

The White Paper maintains the Government's commitment to the Common Travel Area and freedom of movement between the UK and the Republic of Ireland.

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# Employment news round-up December 2018

## Acas publishes latest early conciliation statistics

Acas has published statistics on its early conciliation (EC) service for the period from April to September 2018. The total number of individuals covered by notifications in this period was around 85,400 (taking into account group notifications), a significant increase from approximately 57,000 in the equivalent period in 2017. The proportion of closed EC cases leading to an employment tribunal claim (23%) was similar to that in the equivalent period in 2017 (24%).

## EHRC report: Companies failing to publish gender pay gap action plans

A report published by the Equality and Human Rights Commission (EHRC), Closing the gender pay gap, has revealed shortcomings of the gender pay gap reporting regime. Analysing 440 gender pay gap reports from a variety of sectors, the EHRC found that only around 20% of employers had produced an identifiable action plan in their gender pay gap report that was time-bound and included target-driven activities. However, only 11% of the sample group had set themselves targets that would enable them to measure the progress of their plans year-on-year. These statistics contrast with those in a report by the Government Equalities Office in October 2018 which indicated that 48% of in-scope employers had published an action plan. The EHRC found that in many cases, employers' action plans made a general reference to improvement measures, such as "reviewing flexible working policies", without stating when they might do this or, in some cases, their purpose for doing so.

Although employers are not currently required to publish action plans, the EHRC has urged employers to create

measurable targets and timescales to help reduce the gap and demonstrate to stakeholders a commitment to making improvements. Rebecca Hilsenrath, the Chief Executive of the EHRC, said "as we head towards the second year of reporting, the attention now needs to shift towards employers who must play their part in reducing the gap, starting with publicly setting out how they intend to address it in their organisation".

## UK reaches agreements with EEA EFTA states and Switzerland on citizens' rights post-Brexit

On 20 December 2018, the government announced that it had reached agreements with Iceland, Liechtenstein, Norway and Switzerland on protecting citizens' rights and resolving separation issues post-Brexit. The agreements protect the rights of 57,000 UK nationals residing in the EEA EFTA states and Switzerland and 29,000 EEA EFTA and Swiss nationals living in the UK. The agreements largely mirror the Withdrawal Agreement agreed with the EU, meaning that UK and EEA EFTA and Swiss citizens living in each other's countries at the end of the implementation period will be able to continue enjoying broadly the same rights as they do now.

This includes arrangements on residency, healthcare, pensions and education, social security coordination and mutual recognition of professional qualifications. It also means that EEA EFTA and Swiss nationals living in the UK will be able to apply to the UK's Settlement Scheme in the same way as EU citizens.

The agreements will be concluded before 29 March 2019 and, alongside the EU Withdrawal Agreement, will be legislated for through the EU (Withdrawal Agreement) Bill.

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To guarantee that demand can be met without diminishing the quality of our business legal advice, Valemus Law only engages partner-level lawyers with at least 10 years experience. Our lawyers all hail from the Top 50 UK law firms and blue chip organisations and their exceptional expertise is recognised across the commercial sector. As a result, we include among our clients some of the biggest names in the automotive, air transport, oil and gas, defence, energy and environment and publishing industries. We also enjoy a reputation for helping to launch a number of successful start-ups in a range of industry sectors.




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*Valemus Law provides access to all the business legal services offered by regular commercial law firms, but we go the extra mile to deliver value. From litigation advice to contract drafting, whether you are a sole trader or an executive within a global corporation, our goal is the same as yours: success.*

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