EU BRIEFING
MARCH 2015

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Flexicurity: Does employment protection = employment security?

> Getting to grips with the different components of flexicurity and understanding the diverging approaches of member states remains a very real challenge.

Background

Towards the end of 2014 the CIPD commissioned The Work Foundation in the UK to conduct an analysis of employment regulation in OECD countries. The study (*Employment Regulation and the Labour Market*, January 2015) was primarily undertaken to help inform what has become a polarised debate in the UK about the extent to which its employment rights framework provides the right balance in providing flexibility for employers and job and economic security for individuals.

While the research findings indicate some valuable policy pointers for the UK's direction of travel for labour market regulation and workplace practice, it also provides a number of helpful insights in the context of the EU's 'flexicurity' agenda. This briefing highlights some key findings for OECD countries and EU member states – notably the relationship between employment protection legislation (EPL) and employment security for workers.

What is 'flexicurity'?

'Flexicurity' as a concept has been at the heart of the EU's employment strategy since the 1990s, but it can be traced as far back as 1899 when Denmark introduced its 'September Compromise' model, revised in more recent decades with the central aim of reducing structural unemployment. The model combines active labour market policies to foster flexibility with generous welfare provision but higher taxation.

There is no universally accepted definition of flexicurity. The European Commission describes it as *'an integrated system for enhancing, at the same time,* ***flexibility*** *and* ***security*** *in the labour market; it attempts to reconcile employers' need for a flexible workforce with workers' need for security – confidence that they will not face long periods of unemployment.'* As the Commission acknowledges, flexicurity is not an easy subject. The idea may be straightforward enough, but getting to grips with the different components of flexicurity and understanding the diverging approaches of member states remains a very real challenge.

The Commission's 2007 Communication (*Towards Common Principles of Flexicurity: More and better jobs through flexibility and security*) highlights the importance of employment security, as opposed to job security, in its model – that is, the possibility to easily find a job at every stage of active life. Flexibility for the worker, therefore, is about successful transitions during one's life course. For the employer, flexibility is not limited to more freedom for companies to recruit or dismiss and it does not imply that open-ended (permanent) contracts are obsolete. Flexibility is also about flexible work organisations, capable of quickly mastering new productive needs and skills and about facilitating effective work–life balance.

The Commission points out that there is no 'one-size-fits-all' approach for flexicurity and encourages member states to develop their own tailor-made model. Some national governments may consciously pursue a flexicurity strategy and implement far-reaching structural reforms. However, at a micro level individual employers can also develop workforce policies that could be characterised in terms of flexicurity even if not part of a deliberate flexicurity agenda – for example by introducing effective flexible working practices and encouraging inclusion from marginalised groups to improve business performance.

The four policy components of flexicurity highlighted in the EU's Communication make clear the far-reaching nature of the Commission's flexicurity vision:

- *flexible and reliable contractual arrangements* (from the perspective of the employer and the employee, of 'insiders' and 'outsiders') through modern labour laws, collective agreements and work organisation

Rankings in 2013 highlight the UK alongside the US and Canada as lightly regulated labour forces, with Germany, France and Italy as some of the most highly regulated labour markets in the OECD.

- *comprehensive lifelong learning (LLL)* strategies to ensure the continual adaptability and employability of workers, particularly the most vulnerable
- *effective active labour market policies (ALMP)* that help people cope with rapid change, reduce unemployment spells and ease transitions to new jobs
- *modern social security systems* that provide adequate income support, encourage employment and facilitate labour market mobility.

The CIPD's study (*Employment Regulation and the Labour Market*) relates to the first policy component, flexible and reliable contractual arrangements, so by its nature provides a narrow focus on flexicurity. But its findings shed an interesting light on aspects of flexicurity across OECD countries, such as the link between the stringency of employment regulation and labour market outcomes such as productivity and job/employment security.

Employment protection legislation

We commissioned the research against a backdrop of what has become an intense debate in the UK about employment protection legislation (EPL). According to the Commission's Communication on flexicurity, EPL refers to various regulations determining if and how a job contract ends – so including individual and collective dismissal laws. As the Commission's above model makes clear, EPL is but one piece of the flexicurity jigsaw, but in the UK the public policy debate has focused on this area. Some commentators argue that the UK suffers from a lack of regulation, especially around protections at work, that encourages poor treatment and high levels of insecurity. In contrast, some employer organisations express concern at increasing regulatory burdens on business and reducing flexibility, especially at a time of economic crisis, and call for further limits on employment rights.

The purpose of the CIPD research is to provide a balanced perspective on how modern labour markets are regulated and the associations between the degree of regulation and what impact that has on labour market and workplace outcomes. It explores whether or not there are strong associations between more liberal and more restrictive employment protection policies and macro-economic outcomes (productivity and employment) and workplace outcomes (employee perceptions of workplace conditions and job quality). This EU Briefing highlights the findings in relation to EPL and perceived employment security, and touches briefly on the economic outcome of productivity.

The OECD's employment protection index – comparing countries

Our research draws on the OECD's employment protection index (including its revised measure), one of the most widely quoted measures in the public and political debate about labour market flexibility and employment protections.

The OECD indicators of employment protection are based around three measures: the protection of permanent workers against dismissal; specific requirements governing collective dismissals (redundancies); and the regulation of temporary contracts. (Note: The longest consistent data series are for protection against individual dismissal and regulation of temporary work, from 1985 onwards, based on the original version of the OECD index. These results have to be somewhat qualified, taking into account the OECD's own strictures about use of such measures as a reliable guide to country comparisons.)

The relative rankings in 2013 highlight the UK alongside the US and Canada as lightly regulated labour forces, with Germany, France and Italy as some of the most highly regulated labour markets in the OECD.

- *Individual protection*
  The OECD average score for individual protection is 2.0. At 1.1, the UK scores low on the protection of individuals, along with other Anglo Saxon economies such as Canada (0.9) and the US (0.5), which tops the table in terms of low protection for individuals. In contrast, protection is significantly higher in Germany (2.7), France (2.6) and Italy (2.4). Portugal has the highest score (3.0).
- *Collective dismissal*
  Protection against collective dismissal is less clear cut in terms of the OECD's league table: regulation in the UK, US and Canada is close to the OECD average of 2.9 (2.9, 2.9 and 3.0,

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respectively). The European country nearest to the top of the table (reflecting less stringent regulation) is Finland (1.6), followed by Portugal (1.9) and the Czech Republic (2.1). Towards the bottom of the table (with stricter protection) are France (3.4), Germany (3.6) and Italy (3.8). Belgium has the highest score (5.1).

- *Temporary work*
  The OECD average for temporary work is 2.1. The contrast between countries in respect of individual protection is also true for temporary work, with very strict regulation in Spain (3.2), France (3.8) and Italy (2.7) and very light regulation in Canada (0.2), the US (0.3) and the UK (0.3). However, the report also notes that the UK has a high share of permanent employment compared with other OECD countries – 79% of UK workers were on a permanent contract in 2013, compared with 77% in Germany and 65% in Italy.

The research notes that, in European OECD countries, the main changes in EPL since 1985 have been in two areas. Firstly, some but not all countries significantly eased restrictions on the use of temporary work, including Germany, Sweden, Belgium, Italy, Portugal, Spain and Greece. Secondly, a small number of countries reduced individual protections significantly, including Spain, Portugal and Greece, which in the mid-1980s had very high levels of individual protection. But in most of the rest of the OECD, movement was limited and, for many countries, levels of protection against individual dismissal in 2013 were not that different from those prevailing 30 years ago.

Flexibility versus security?

At the heart of the Commission's vision for flexicurity is the premise that a more flexible labour market for employers and workers does not necessarily spell less security for workers. As the Communication makes clear, *'the flexicurity approach provides important answers to the question of how to meet modern labour market challenges and at the same time improve security.'*

The CIPD's study picks up this crucial debate. As it points out, the critical feature of flexible labour markets is that they quickly reallocate labour from declining sectors and failing enterprises to areas of new employment opportunities. This allows them to generate high levels of employment and lower unemployment. Critics point out they may also lead to greater wage inequality and insecurity, especially for those with little bargaining power, and encourage a 'hire and fire' culture that militates against long-term investment in skills and weakens commitment and loyalty to firms.

The OECD Employment Outlook for 2013 presents a comprehensive review of the literature. Many studies in the past have failed to find a link between the strictness of employment protection legislation on aggregate employment and unemployment. The reason for this, it was said, is that while strict employment protection made firms reluctant to hire, it also made it difficult for them to fire, with the two effects more or less cancelling each other out over time. However, more recent work suggests small but negative impacts primarily because of the reduction in the efficiency with which labour can be reallocated.

Regulation can also lead to substitution among different groups in the labour market if protections favour one group over another. Some studies that look at partial liberalisation for some groups but not others have shown significant substitution effects – for example, temporary workers replacing permanent workers when restrictions on temporary workers are eased but permanent workers remain highly protected. Employers expand temporary work at the expense of permanent contracts, so the share of permanent jobs in the workforce declines.

Employment protections ought to increase job security for existing workers, especially those in permanent contracts and those covered by collective agreements. But as the OECD notes, *'the empirical relationship between EPL and job security is however complex'.* One study shows that workers feel more insecure in countries with strict employment protections, while another shows that workers feel they are in less danger of losing their jobs in countries which constrain dismissals. These findings can be reconciled because, while strict protection makes incumbents feel safer, it also makes them more anxious about the consequences should they be dismissed.

Comparisons of this sort can also be tricky because we are comparing subjective views

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between groups of workers in different countries rather than objective measures, our study points out. Moreover, answers may be driven as much by the state of the external labour market at the time as the workplace status quo – so in recent years we will have seen heightened concerns about job security in some southern European economies even where there has been no change in the degree of protection afforded to permanent workers. The OECD has recently published a job security index which draws on more objective measures and we report on these results below.

Job and employment security

The issue of job insecurity has gained a great deal of traction in the public debate in the UK and across Europe, particularly since the economic crisis. Across the EU in particular there has been general concern at the growth in temporary labour in some economies (although across the EU28 temporary work has contracted, both in absolute terms and as a share of employees, since 2008).

It is important to distinguish between employment security and job security. The Commission's common principles for flexicurity make a clear distinction between the two and highlight the importance of employment security. Flexicurity aims at ensuring that EU citizens can enjoy a high level of employment security, says the Commission – that is, *'the possibility to easily find a job at every stage of active life and have a good prospect for career development in a quickly changing economic environment'.* Our study points out that employment security is a measure of how quickly workers can find another job at roughly comparable rates of pay, while job security is how secure they feel in their current employment. According to the literature, employees may have high levels of job security in their existing permanent job as a result of strong employment protection but have low levels of employment security if they think they will struggle to either get back into work at all, or can only get less skilled and lower-paid temporary work.

Employment insecurity across OECD countries

The OECD index for 2012–13 shows that employment insecurity is extremely high in some southern and eastern European economies, such as Spain, Greece, Hungary and Poland, driven by very high job insecurity and relatively less generous unemployment benefit. However, most of these economies also tend to rank highly on the employment protection index and the suggestion is that high levels of protection increase job security but decrease employment security. However, we find that the relationship is less straightforward.

Table 1: Employment insecurity across the OECD in 2013: Insecurity index

Norway	1.0	Sweden	4.5
Switzerland	1.1	Belgium	4.7
Iceland	1.2	Mexico	4.8
Netherlands	1.3	Canada	5.1
Finland	1.6	Slovenia	5.2
Luxembourg	1.7	Italy	5.4
Austria	1.8	Ireland	5.5
France	2.0	UK	6.0
Germany	2.3	US	6.5
Korea	2.6	Chile	7.4
Australia	3.1	Hungary	8.6
New Zealand	3.5	Poland	9.0
Denmark	4.0	Turkey	10.9
Czech Republic	4.1	Slovakia	13.2
Israel	4.2	Estonia	13.8
Japan	4.2	Greece	14.1
Portugal	4.3	Spain	17.1

Source: OECD Employment Outlook 2014

Another measure of employment security is to look at how much employment is in insecure forms of employment such as temporary work and self-employment.

The OECD's index for employment insecurity also covers indices for the risk of becoming unemployed and the relative generosity of unemployment insurance measured as a share of previous earnings, but here we reproduce just the insecurity index. This shows that the UK and US score badly, ranked twenty-fifth and twenty-sixth, respectively.

The UK and the US also score badly on the risk of unemployment – which the OECD defines as the risk of being unemployed times the probability of duration – as might be expected in more flexible labour markets, as a key impact of employment protection is to reduce the possibility that workers will be dismissed and a key advantage of lightly regulated economies is that workers are reallocated to new jobs more frequently. However, all the other G7 economies (Canada, Italy, Germany, France and Japan) have significantly lower scores on this measure, as do other low employment protection economies such as New Zealand and Australia.

Employment security and insecure forms of work

Another measure of employment security is to look at how much employment is in insecure forms of employment, such as temporary work and self-employment. This is a proxy measure, as the assumption that all forms of non-permanent work are insecure and that all forms of permanent contract are secure is not one that always holds, especially in economies such as the UK where the differences between the protections offered to permanent and temporary workers are relatively small.

The OECD has found (in its 2014 Employment Outlook) that in countries with strict employment protection for permanent workers, employers tend to use both temporary workers and 'dependent' self-employed as substitutes to circumvent permanent worker protections. In principle, it could be argued that if the national government makes it very easy to hire temporary workers, employers will hire more of them and increase the casualised workforce. However, it is the gap between the level of protection of temporary workers and permanent workers that seems to matter more – the bigger the gap, the more incentive employers have to employ more temporary workers.

By comparison with other OECD countries, the UK has a very high share of permanent employment – around 80% of all those in work in 2013 were on a permanent contract. Germany is not far behind the UK, compared with southern and some eastern European economies, where permanent work varies from between 64% in Italy to just 56% in Poland. This is also where some of the Nordic economies (Sweden and Finland) appear to do less well, with significantly fewer permanent jobs than in the UK or the US.

What also matters is whether temporary work is being provided because employers need the extra flexibility or because people want to take advantage of the flexibilities that temporary work can offer. Some caution is needed in interpreting the data as we only have consistent data from the European Labour Force Survey on whether temporary work is involuntary. However, as Table 2 shows, it is clear that, in almost all EU states, including the UK, the share of 'involuntary' temporary workers is high and the share of people who did not want a permanent job is low.

The share of involuntary temporary workers varies somewhat with the economic cycle in some EU states: in the UK the share is edging back towards the pre-recession rate. However, in many other European states, high shares of involuntary temporary working appear to be a structural feature of labour markets where access of temporary workers to permanent work is limited. The current high shares seen in countries such as Italy, Greece, Spain and Portugal are little different from those rates that prevailed before the recession.

Germany at first glance appears to have embraced temporary work, with only 21% saying they took a temporary job because they could not find permanent work. A more in-depth analysis of the reasons for working on a temporary basis is helpful. It shows that, in Germany, most people say they were in temporary work because of education/training or because of a probationary period. These two reasons accounted for 75% of responses from temporary workers in Germany compared with just 17% in the UK. The share of temporary workers in Germany who were doing temporary work because they did not want a permanent

Table 2: Involuntary temporary work (as a % of all temporary) EU28 2013

Austria	8	Poland	66
Germany	21	Latvia	68
Estonia	35	Bulgaria	70
Netherlands	40	Italy	73
Croatia	50	Hungary	73
Malta	51	Czech Republic	76
Denmark	51	Belgium	77
UK	55	Slovakia	85
Slovenia	56	Portugal	86
Sweden	56	Romania	88
France	60	Greece	88
Lithuania	64	Spain	92
Ireland	65	Cyprus	95
Finland	65		

Source: OECD employment databases, Eurostat, TWF estimates

> There is no direct correlation between workers' perception of their employment security and the level of EPL in their country.

job is tiny – only 4% of respondents, against 28% in the UK. Similarly, in the Netherlands 44% of temporary workers say it is because they are serving a probationary period compared with just 6% in the UK. However, it is hard to know how far these variations reflect underlying differences in the structure and use of temporary work and how far they reflect different national perceptions of temporary work and hence the responses to the question.

What do these findings mean for flexicurity?

Given the UK's relatively low score on labour market insecurity shown above (Table 1), we might expect workers to be more fearful of losing their jobs than in countries with strict employment protection. This is not consistently supported by the survey evidence. Workers in the UK did not seem to be much more fearful than workers in countries with stricter employment protections (2010 European Working Conditions Survey). The share of people who said their job might end in six months was similar in the UK, Germany, France and Italy, at 12–14% of all respondents.

Moreover, workers in the UK in 2010 along with the Nordics and the Netherlands were relatively more optimistic than in most other European countries that they would easily find another job at a similar wage. Over 40% of respondents in the UK said they were either very optimistic or optimistic that they could find another job at a similar wage. French workers also seemed equally optimistic, while German and Italian workers were much less so, with 30% and 24% saying they would find it hard to find another job at the same wage.

These findings go to the heart of a key aspect of the flexicurity debate and the link between EPL and perceived employment security. They indicate that there is no direct correlation between workers' perception of their employment security and the level of EPL in their country. Further, we might expect that in the UK we would see a bigger increase in people saying they might lose their job than in more tightly regulated economies, reflecting the greater ease firms have in firing workers, but this trend is not borne out by the survey statistics of the EWCS in 2005 and 2010. For example, job insecurity increases in France, the UK and Italy between 2005 and 2010 by about the same amount in percentage points, though with relatively little change in Germany – suggesting no discernible difference in workers' attitudes between tightly or loosely regulated labour markets. However, these findings have to be considered in parallel with the OECD's employment insecurity index, where the UK does not fare well compared with countries with more stringent EPL, such as France – further emphasising the complexity of the issue.

> There are so many factors that could impact on employment security in different national contexts, such as the level and transferability of skills across the labour market as well as the extent of welfare provision.

Conclusions

The CIPD/The Work Foundation analysis covers just some elements of the flexicurity agenda, and this EU Briefing highlights just a selection of those, primarily the link between EPL and perceived employment security on the part of workers. Our study also looks at labour market outcomes such as productivity (which also relates directly to the competitiveness element of flexicurity) and other workplace outcomes such as job satisfaction and the quality of employment, which it is not possible to cover in this EU Briefing.

It is clear that the link between labour market and workplace outcomes and employment protection outcomes is complex. What emerges is that it is questionable whether at current levels EPL matters as much as some might think in the more productive economies and better-performing labour markets across the OECD. Interestingly, the OECD proposes 'moderate EPL'.

For the UK, what we think this report is pointing to is that workplace practice matters much more for good work than legislation strengthening employment rights. This conclusion is also supported by the research findings on productivity – the UK performs poorly on productivity compared with many of its international peers. However, there seems to be little association between labour market regulation and productivity. Between 1985 and 2013, relative productivity compared with the US fell in the relatively lightly regulated UK, New Zealand and Canada. Among the more highly regulated economies, relative productivity fell in Italy and increased slightly in France and Germany.

For the wider perspective relating to flexicurity, the findings relating to the strength of EPL and impact on workers' perceptions about employment security underline the importance of moving away from a narrow focus on employment protection. There are so many factors that could impact on employment security in different national contexts, such as the level and transferability of skills across the labour market as well as the extent of welfare provision and the support available to help people move from unemployment into work. This brings us back to the importance of the Commission's integrated flexicurity model – our analysis indicates that attention needs to be paid to all four policy components if employers and workers are going to be in a position to benefit from a country's tailor-made approach to flexicurity.

Further information

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