

HAMBLETON DISTRICT COUNCIL

Report To: Audit, Governance and Standards Committee
23 October 2018

From: Director of Finance (s151 Officer)

Subject: **BREXIT UPDATE ON IMPLICATIONS FOR LOCAL AUTHORITIES**

All Wards

1.0 PURPOSE AND BACKGROUND:

- 1.1 The purpose of this report is to provide the Committee with the current position for local authorities of the UK's decision to leave the European Union. Attach at Annex A is a briefing note on Brexit and the implications for local authorities.
- 1.2 The update is based on the latest Government White Paper "The Future Relationship between the UK and the EU" published on 12 July 2018 and also the technical notes setting out the impact of a 'no deal' scenario published by the Government over the summer.
- 1.3 It details the key issues for local government from the White Paper focusing on the most important opportunities and risks for local government that the Local Government Association (LGA) has identified as critical from a council perspective, resulting from the UK's exit from the European Union (EU). It also looks, where relevant, at the impact of a "no deal" scenario.
- 1.4 Information surrounding Brexit is continually changing; meetings between the UK and EU are ongoing. The EU's Chief Negotiator Michel Barnier recently said "an agreement had to be "within our grasp" if talks are to conclude at next week's summit of European leaders". The EU Summit takes place on 18 October 2018.

2.0 RISK MANAGEMENT:

- 2.1 There are no risks associated with approving the recommendation.

3.0 RECOMMENDATIONS:

- 3.1 It is recommended that Members note the report.

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Background papers: None

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BREXIT UPDATE ON IMPLICATIONS FOR LOCAL AUTHORITIES

1.0 Introduction

- 1.1 On 12 July 2018, the Government published, 'The Future Relationship between the UK and the EU'. This is a White Paper which clarifies the UK negotiating position. It provides the most detailed UK position to date. In addition, over the summer of 2018, the Government also published a number of technical papers setting out the impact of a 'no deal' scenario and how the country should prepare for such a scenario. The Government and the European Union have both stressed that 'no deal' is a least-preferred option.
- 1.2 Information surrounding Brexit is continually changing where meetings between the UK and EU are ongoing. The EU's Chief Negotiator Michel Barnier said "an agreement had to be "within our grasp" if talks are to conclude at next week's summit of European leaders". The EU Summit takes place on 18 October 2018.
- 1.3 This update sets out the key issues for local government from the White Paper. It focuses on the most important opportunities and risks for local government that the Local Government Association (LGA) has identified as critical from a council perspective, resulting from the UK's exit from the European Union (EU). It also looks, where relevant, at the impact of a "no deal" scenario.
- 1.4 This is not a comprehensive list of every opportunity and risk for local government but summarises the issues which have been established through widespread consultation with Local Government. Following the July 2018 LGA conference ministers have set up a Delivery Board with local government through which the LGA will be seeking to ensure Council key issues are addressed.

2.0 Opportunities and Risk for Local Government from the Government White Paper published July 2018

Local impact

- 2.1 The White Paper sets out the UK's proposal for the future economic relationship between the UK and the EU. It proposes the alignment of the UK and EU markets in goods, based on a 'common rule book' to provide for frictionless trade in goods. The jurisdiction of the European Court of Justice will end, but the UK proposes to 'pay regard to' its decisions in areas where the common rules are in force.
- 2.2 The new arrangements for services will provide regulatory flexibility. In particular this includes new economic and regulatory arrangements for financial services, meaning that the UK and EU will not maintain the current level of access to each other's markets in services. The onus will be on councils and their local partners to provide evidence on likely impacts locally of this proposed new relationship and provides the opportunity for discussions with Government.
- 2.3 The LGA will be ensuring that this differential picture is discussed with ministers and forms part of the national debate. The LGA continue to consult widely with the sector, further building an evidence base to support the exit negotiations to maximise the available opportunities and mitigate the risks to achieve the best possible outcome for local communities.

Devolution

- 2.4 Taking decisions over how to run local services closer to where people live is key to improving them and saving money. Mayoral Combined Authorities have already begun to demonstrate the value of devolving powers to leaders close to the concerns of local people. Local authorities in the UK currently hold legal rights and responsibilities in the EU law and policy-making process.
- 2.5 The Government has recently committed to publishing a written ministerial statement with the details of how local government rights and responsibilities will be implemented once transferred from the EU to the UK. The statement is awaited.
- 2.6 The White Paper does state that 'the UK Government will work with the devolved administrations to ensure that processes are put in place which reflect the devolution settlements and provide for appropriate input from all parts of the UK'. Local Government now have the opportunity through the proposed written ministerial statement on 'the transfer of local government rights and responsibilities to the UK' to take account of this new commitment. This will involve 'all parts of the UK' in the new institutional and governmental framework post-Brexit and the LGA will be working with Ministry of Housing, Communities and Local Government on this issue.

Repatriation of power – Procurement

- 2.7 There are opportunities to keep or make amendments to EU laws that affect councils to help strengthen local communities. On public procurement for example, the LGA along with Local Authorities seek a less bureaucratic system which would do more to support local social and economic development. The sector would like to see an increased ability to specify local apprenticeships and employment in public contracts for example, whilst still ensuring fair competition as well as an increased ability to pursue more concrete 'Small Medium Enterprise' business preference policies. The White Paper's proposals open the way for such new procurement arrangements.
- 2.8 The proposed agreement foresees a harmonised state aid policy with the EU and commits to maintaining a 'common rule book'; this is not necessarily what the LGA and Local Authorities would have liked to see. It means in the current regulations that competition in procurement is fair across the UK and Europe and this is likely to remain within the procurement regulations going forwards. Therefore it is important for Local Authorities through Government to maximise the aid opportunities for community groups, the voluntary sector, and small businesses and reduce the bureaucracy they face in applying for aid.
- 2.9 Government's intention is that the agreement underpinning the future relationship should not cover how food products are presented to consumers. If agreed, this could open the way for traffic light labelling on food products in the UK which is something that the LGA and councils have called for as a means of promoting healthier lifestyles and reducing obesity.
- 2.10 Withdrawal from the EU provides the opportunity to revise the UK's approach to waste management while maintaining a national commitment to a circular economy and recycling and Local Government can work with government to achieve best positive outcomes.

Free movement of people / supplying the skills our local economies need

- 2.11 The Government's White Paper confirms that free movement of people will end in December 2020 and that the Immigration Bill will bring migration under UK law.

- 2.12 Labour markets are local. Councils have a unique insight and interest in ensuring the needs of employers in the local economy – both large and small, public and private – are understood and met. Councils continue to provide valuable insight into the potential shortages of workers post-Brexit, within local government and the wider public sector. This includes social care and health, and local industries such as agriculture, catering, hospitality, construction, retail and tourism. A steady skills supply is critical to business continuity of our local economies.
- 2.13 Social care is one of the sectors most vulnerable to migration rule changes. It is underfunded, faces growing demand, and has long faced recruitment and retention challenges, even before the Brexit ‘effect’.
- 2.14 A national system simply cannot identify and address the unique challenges and opportunities within and between places. The LGA’s positive solution is ‘Work Local’. This is a one-stop, locally rooted, employer-led system integrating and devolving careers advice and guidance with the delivery of employment, skills, apprenticeships and wider support for individuals and employers. It would be delivered by councils / combined authorities, working with local and national partners. The LGA continue to call on the Government to embrace this ‘place-based’ approach, which is now critical to the skills challenges and opportunities of Brexit and the Industrial Strategy.

Funding

- 2.15 The Government has acknowledged the importance of replacing EU regional funding, currently worth £8.4 billion (2014-20), with the UK Shared Prosperity Fund (UKSPF).
- 2.16 Councils and local areas need to know quickly how they will be able to bid, and receive guarantees that the UKSPF will at least match the funding they receive from the current European Structural and Investment Funds, this will be released in due course. As yet local communities have not received guarantees that future regeneration funding will match levels when funding was sourced from the EU.
- 2.17 The LGA and Local Authorities have also called on the government to keep the door open for the UK to ‘buy into’ certain EU programmes, such as the Horizon Europe research programme and Erasmus+, as well as programmes which share best practice and expertise in urban development. The Government has adopted this position through the ‘cooperative accords’ and other commitments. This should allow the UK to buy into joint EU programmes that are beneficial to local areas. This includes a number of fields, some relevant to local government, such as:
- science and innovation,
 - culture and education,
 - defence research and capability development,
 - space.
- 2.18 The government recognises that, in order for this partnership working to be successful, each ‘accord’ will need to have its own governance arrangements between the parties concerned. It is therefore essential that local areas are included in this arrangement to ensure that the programmes are meeting local economic objectives and provide opportunities to build on existing activity or new forms of cooperation. Further information will be available in due course.

Trade

- 2.19 The White Paper highlights the opportunity for the UK to chart a new independent trade policy in line with its priorities and sovereign interests. It is also proposed that the UK's future approach to trade will align with its modern Industrial Strategy, to ensure the benefits of trade are more widely shared. It is clear that different parts of the country will be affected differently by changes to the scope and scale of trade in goods, digital and other services both with the EU and the rest of the world.
- 2.20 Engagement from Government to develop a Local Industrial Strategy in a timely manner is key in this area and is now a question that must be urgently addressed. Under the terms of the draft Withdrawal Agreement with the EU, the UK would be free to negotiate, sign and ratify Free Trade Agreements during the implementation period and bring them into force from January 2021. Councils are uniquely positioned to build trade and investment links with cities and regions across the world, with an ability to leverage access to local markets, businesses and investors and draw on a deep understanding of local assets and investment priorities. LGA has already raised this with Government and opened doors initially for discussion.

2019 local elections

- 2.21 The White Paper does not comment on reciprocal voting rights. Uncertainty about the rights of EU citizens to stand and vote in local elections from 2019 remains a key issue for local democracy. The draft Withdrawal Treaty states that relevant clauses in the EU Treaty will not apply after March 2019. However, these rights are enshrined in UK law under the Representation of the People Act, which will remain. The LGA are seeking clarity on this as it is a fast-approaching issue because parties will be beginning to select their candidates for 2019.

3.0 Headline issues for local government under a 'no deal' scenario

- 3.1 The UK government have published around 100 technical notes on a 'no deal' scenario at the end of September 2018.
- 3.2 A No Deal outcome is "one where the UK leaves the EU and becomes a third country at 11pm GMT on 29 March 2019 without a Withdrawal Agreement and framework for a future relationship in place between the UK and the EU."
- 3.3 Government argues that the general purpose of this planning is to: "prioritise stability for citizens, consumers and business, to ensure the smooth operations of business, infrastructure and public services and to minimise any disruption to the economy.... The technical notes identify where government would act unilaterally to provide continuity for a temporary period in a 'no deal' scenario to protect and minimise disruption for UK citizens and businesses, irrespective of whether the EU reciprocates."
- 3.4 Department for Exiting the European Union (DExEu) and Ministry for Housing, Communities and Local Government (MHCLG) have stated they will be engaging with councils through a programme of teleconferences and round tables with recognised local government stakeholder groups in England – these are: The LGA, Key Cities, Core Cities, County Councils Network, District Councils Network and Metropolitan Authorities (SIGOMA) to ensure that there is continuity in such an event.
- 3.5 Key initial soundbites from the technical notices impacting on local areas, economies and local government are as follows:

- EU funded programmes: “UK organisations would no longer receive future funding for projects under EU programmes, such as the European Regional Development Fund and Horizon 2020.” The UK government has agreed to guarantee payments covering the full 2014-20 Multiannual Financial Framework allocation for structural and investment funds, the payment of awards where UK organisations successfully bid directly to the European Commission on a competitive basis while we remain in the EU, the payment of awards under successful bids where UK organisations are able to participate as a third country in competitive grant programmes from Exit day until the end of 2020.
- Farm Payments: “Defra and the devolved administrations are preparing domestic legislation. This preserves the EU law as it currently stands, and ‘fixes’ the legislation so that it is operable once we’ve left the EU. This will require beneficiaries to conform to the same standards as they do currently, in order to receive payments. This will include on-site inspections to UK farms receiving payments, which will continue as normal. All of these rules and processes will remain the same until Defra and the devolved administrations introduce new agriculture policies.”
- Rural Development Funding: “any projects where funding has been agreed before the end of 2020 will be funded for their full lifetime... Defra and the devolved administrations can continue to sign new projects after the UK leaves the EU during 2019 and 2020, up to the value of programme allocations.”
- Trade Remedies: “The Trade Remedies Authority (TRA), a new arm’s length body, will investigate complaints of unfair trading practices and unforeseen surges in imports if the UK leaves the EU with ‘no deal’”
- Trading with the EU: “businesses importing goods from the EU will be required to follow customs procedures in the same way that they currently do when importing goods from a country outside the EU. This means that for goods entering the UK from the EU an import declaration will be required, customs checks may be carried out and any customs duties must be paid.” “Businesses exporting goods to the EU will be required to follow customs procedures in the same way that they currently do when exporting goods to a non-EU country.”
- Banking, insurance and financial services: “For UK-based customers who access banking, insurance, investment funds and other financial services with European Economic Area firms currently passporting into the UK, the temporary permissions regimes will enable these firms to continue to provide those services to UK customers for up to three years after exit. This will allow time for these firms to apply for authorisation to continue operating in the UK”
- Procurement: “The government will create a UK-wide subsidy control framework to ensure the continuing control of anti-competitive subsidies.” The UK procurement rules currently in place with the EU ensure fair competition across the European Union; this will remain in place. “The EU state aid rules will be transposed into UK domestic legislation... This will apply to all sectors; and will mirror existing block exemptions as allowed under the current rules, including the Agricultural Block Exemption Regulation, and the Fisheries Block Exemption Regulation.” UK public authorities will need to notify state aid to any undertaking, through either the block exemption or through a full notification to the Competition and Markets Authority instead of the European Commission. Existing approvals of state aid, including block exemption approvals, will remain valid and will be carried over into UK law under the Withdrawal Act.

- Workplace rights: “government will make small amendments to the language of workplace legislation to ensure the existing regulations reflect the UK is no longer an EU country. These amendments will not change existing policy. This will provide legal certainty... and will ensure that employment rights remain unchanged, including the employment rights of those working in the UK on a temporary basis”. This specifically includes Working time Regulations, TUPE provisions, Health and Safety, protections for agency workers and workers posted to the UK from EU states, employment protection of part-time, fixed-term and young workers; information and consultation rights for workers, including for collective redundancies.
- Local impact: ‘There is already much speculation and little agreement about the national impact of a ‘no deal’ scenario. Since the referendum, the LGA and councils have produced evidence that, under any scenario, the impact of Brexit will differ depending on the local economy. This will be the case under a ‘no deal’ scenario. In this spirit, the LGA continue to call upon Government to work with councils and their local partners to consider local as well as the national impact of ‘no deal’.