

HAMBLETON DISTRICT COUNCIL

Report To: Audit, Governance and Standards Committee
21 March 2017

From: Director of Finance (s151 Officer)

Subject: **BREXIT AND 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 of the implications on local authorities of the UK's decision to leave the European Union.
- 1.2 The decision was made to leave the European Union on 23 June 2016 and since that time as everyone is aware there has been discussion at National Level with the Prime Minister confirming that she will start the process of leaving the European Union by the end of March. This will commence with the triggering of 'Article 50'
- 1.3 Since 23 June 2016 the economic and market environment position in the UK has been more positive than economists originally anticipated. The process of exiting the European Union is still at an early stage and attached in Annex A is a list of some of the potential implications identified that could affect Local Authorities.
- 1.4 The process of exiting the European Union is a long term exercise and further implications will become apparent in due course over the coming years. The effect of Brexit on the UK is still unknown and the implications on local government finances are uncertain at this stage.

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 AND IMPLICATIONS FOR LOCAL AUTHORITIES

1.0 Introduction

- 1.1 Ever since 23 June 2016 when the UK voted to leave the European Union, Brexit has divided the nation and raised significant uncertainty among businesses and the public.
- 1.2 In October 2016 the government finally provided a time frame and revealed that Article 50, the mechanism to trigger the UK's withdrawal from the EU, would be enacted at the end of March 2017.
- 1.3 On 17 January 2017 the Prime Minister – Theresa May – outlined her plan for Brexit, with the first point of her 12-point plan to “provide certainty about the process of leaving the EU”
- 1.4 The following sections of this report cover the development of the implications for local authorities over the past nine months since the vote to leave the European Union:
 - Brexit Plan
 - Government White Paper - 20 July 2016
 - Local Government Association Briefing - Local Government and the EU – 22 December 2016
 - Local Government Association Briefing - The United Kingdom's exit from and new partnership with the European Union – February 2017

2.0 Brexit Plan

- 2.1 The Prime Minister revealed her plan for Brexit stating:
- 2.2 “I want this United Kingdom to emerge from this period of change stronger, fairer, more united and more outward-looking than ever before.
- 2.3 “I want us to be a secure, prosperous, tolerant country – a magnet for international talent and a home to the pioneers and innovators who will shape the world ahead.
- 2.4 “I want us to be a truly Global Britain – the best friend and neighbour to our European partners, but a country that reaches beyond the borders of Europe too. A country that goes out into the world to build relationships with old friends and new allies alike”
- 2.5 The following 12 points outlines part of the process of leaving the EU:
 1. Provide certainty about the process of leaving the EU
 2. Control of our own laws
 3. Strengthen the Union between the four nations of the United Kingdom

4. Maintain the Common Travel Area with Ireland
5. Brexit must mean control of the number of people who come to Britain from Europe
6. Rights for EU nationals in Britain and British nationals in the EU
7. Protect workers' rights
8. Free trade with European markets through a free trade agreement
9. New trade agreements with other countries
10. The best place for science and innovation
11. Co-operation in the fight against crime and terrorism
12. A smooth, orderly Brexit

3.0 Government White Paper 20 July 2016

- 3.1 This initial paper in July 2016 highlighted some areas in which leaving the European Union may impact on local government, with regard to devolution deals; EU structural funds; compliance with EU law; and medium-term financial and service delivery/demand implications.

3.2 Powers

- **Representation in Brexit Negotiations**

The Prime Minister, Theresa May, appointed Sajid Javid MP as Secretary of State for Communities and Local Government on 14 July 2016, replacing Greg Clark MP. In the first few days after the Brexit Vote on 23 June 2016, Greg Clark, the former Communities and Local Government Secretary argued that English local government should be part of the negotiations on the terms of the UK's exit from the EU to ensure that the powers are not simply transferred to Whitehall. Melanie Dawes, Permanent Secretary at DCLG, also suggested that some powers could be 'devolved' from the EU to local government. Lord Gary Porter, Chair of the Local Government Association, suggested that this approach could consider new powers around recycling, food hygiene and air quality.

- **Devolution**

Some uncertainty has been expressed about the future of the 'devolution deals' following the EU referendum result. The Mayor of London has called for extended devolution of power to London, particularly around powers over fiscal responsibility including tax raising powers, more control over business and skills, housing and planning, transport, health, and policing and criminal justice.

3.3 Investment Funding

- **EU Structural Funds**

The UK was due to receive around £5.3 billion in European Union structural funds in the 2014-2020 programming. It is not yet clear for how long instalments of these funds will be paid, and it is likely to depend on the eventual date on

which the UK leaves the European Union. Areas benefiting from structural funds have demanded that the Government should ensure that equivalent sums continue to be invested in their areas.

- **European Investment Bank**

The European Investment Bank (EIB) has invested some €42 billion in the UK over the past ten years. Membership of the EU is not required to access loans, but it may lead to greater requirements for guarantees and potentially a more onerous application process, and a number of green infrastructure projects currently being considered by the EIB could be impacted by the on-going uncertainty.

3.4 **Possible Financial/service Impacts**

- **Business Rates**

The Government's plans to scrap local authorities' Revenue Support Grant by 2020, with local government collectively retaining 100% of business rates revenue, will mean that as local authorities would raise most of their revenue locally, they would become more exposed to falls in tax revenue resulting from economic downturns. This may result in increased difficulty of forecasting, potentially making long-term financial planning trickier.

- **Affordable Homes**

The referendum result has prompted warnings across the construction industry about the impact of prolonged uncertainty on house prices and the cost of borrowing. This industry is highly reliant on migrant labour (between 2007 and 2014, the proportion of EU migrants in the construction sector rose from 3.65% to 7.03%). Limits on free movement could, therefore, have an adverse impact on building costs and supply, at least in the short to medium term. Local authorities with a development programme will want to ensure that their plans are sustainable in the current environment.

- **Access to Housing**

As there is no automatic entitlement to social housing in the UK, changes to the free movement of EEA nationals may impact on their eligibility to apply for social housing. According to recent DCLG statistics on social housing lettings in the past year with reference to nationality, the vast majority of lettings were made to UK nationals. Based on this data, the impact of EU migration on demand for social housing is limited. Although changes to free movement may reduce demand, much will depend on whether UK nationals living in the EU are forced to return.

- **Credit Ratings**

Some local authorities, as well as Transport for London and a number of housing associations have seen their ratings downgraded following the EU referendum result.

3.5 **Possible Legal Impacts**

- **Waste Collection and Disposal**

The key piece of EU legislation is the Waste Framework Directive which sets out key definitions and duties relating to how waste must be collected, transported,

recovered and disposed of. It also introduced recycling and recovery targets to be achieved by 2020. As the majority of EU waste management law has been transposed directly into UK domestic law, the relevant legislation and requirements on local authorities will not be automatically or immediately affected by the UK's exit from the EU. However, if the UK leaves the EU and does not become a member of the EEA, then the UK Government will be able to amend and/or repeal the domestic legislation that gives effect to EU waste legislation.

- **Energy Efficiency**

Local authorities must manage their buildings and procurement in line with energy efficiency rules based on EU law. The basis of these is the 2012 Energy Efficiency Directive which is transposed into UK law via a number of pieces of secondary legislation. The Directive places a requirement on public authorities, which includes local councils, to ensure they purchase energy efficient buildings, products and services. In the past, councils have raised concerns that such a requirement places additional costs on council procurement activity.

- **Trading Standards**

As with waste directives, most trading standards legislation consists of EU directives transposed into domestic law: therefore, this would not be repealed automatically on leaving the EU.

- **Procurement**

Local government must comply with EU public sector procurement rules. The most significant requirement is for all public contracts over €209,000 to be published in the Official Journal of the European Union (OJEU), thus making them accessible to suppliers from across the EU. In the medium term, public procurement rules more generally will remain in place as they have been implemented via UK law.

- **State Aid**

European regulations prevent the Government from providing state aid to companies of over £200,000 in any three-year period. Tax reliefs and exemptions also fall into the definition of state aid. It is likely that some form of state aid provisions would remain in place post-Brexit, as it is required both by membership of the World Trade Organisation (WTO) and the European Free Trade Association (EFTA).

4.0 Local Government Association Briefing - Local Government and the EU – 22 December 2016

- 4.1 In December 2016, prior to the Government's exit plan being published, local government leaders identified a series of themes and recommendations that should be utilised to inform decision-making. These headline priorities from the Local Government Association Briefing are detailed below:

- **Autonomy of local government**

Responsibilities repatriated from the EU cannot be centralised in Whitehall. Councils have a democratic mandate to lead their communities. We need new devolution settlements in England and across the UK to bring new powers to communities through local democracy.

- **Developing a new legal base for local government**

There are many EU laws that affect the day job of local councils. The future review of UK laws of EU origin must be informed about their real world impact. It must lead to new legislative freedoms and flexibilities for councils so that local communities, businesses and consumers can benefit.

- **Securing investment that is currently sourced from the EU**

The Government needs to begin developing a growth policy which must be fully funded to deliver its ambitions and be locally driven post-Brexit. This must be designed and delivered by local areas as an integrated replacement for EU funding and existing national schemes to support infrastructure, enterprise, and social cohesion.

- **Community cohesion**

Councils play the leading role in bringing communities together and will be important in tackling challenges such as the retention of skilled workers. For example, the adult social care workforce has a unique set of skills, but struggles with recruitment and retention. With 7 per cent of existing adult social care staff from other EU nations, securing a sustainable adult social care workforce and excellent care skills must be a priority for the Government. We are calling for urgent guarantees from Government to reform Whitehall's national approach to commissioning employment and skills funding, worth £10.5 billion a year. It is currently fragmented, costly, and fails to address the challenges faced by residents and employers.

- **Addressing place-based impacts**

In partnership with the Local Government Association, government departments must begin to evidence and address the real and varied impacts and opportunities of Brexit at the local level, in both urban and rural areas. We are consulting widely and building our evidence base to support the exit negotiations.

5.0 Local Government Association Briefing - The United Kingdom's exit from and new partnership with the European Union – February 2017

- 5.1 This Local Government Association Briefing in February 2017 builds on the briefing of 22 December 2016 and sets out analysis of the new policy announcements and how the Local Government Association will pursue the needs of local government throughout the Brexit negotiations. The key messages from the Local Government Association are:

- 5.2 **Double devolution:** The White Paper states that the Government will ‘continue to champion devolution to local government and are committed to devolving greater powers to local government where there is economic rationale to do so.’ⁱ The Local Government Association called for this immediately after the referendum and welcomes the approach and will continue to work closely with the Local Government Associations of Scotland, Wales and Northern Ireland to develop the detail of ‘double devolution’ to ensure that powers repatriated from the EU do not stop at Whitehall, Stormont, Cardiff Bay and Holyrood.
- 5.3 **Developing a new legal base for local government**
Many laws of EU origin affect the day job of councils. In the Local Government Association’s December 2016 briefing, we set out 10 areas of law where communities would benefit from powers and responsibilities being held closer to the citizen through ‘stronger local government’ after the UK exits the EU.
- 5.4 The Great Repeal Bill, which is due to be published in the next Queen’s Speech, will transpose all existing EU laws into UK law upon our exit. After we leave, the UK Parliament will then be able to decide which elements of this body of law to keep, amend or repeal.
- 5.5 Through the White Paper, the Local Government Association knows that the Government intends to ‘bring forward a White Paper on the Great Repeal Bill that provides more detail about [their] approach’. Local Government Association also know that the Great Repeal Bill ‘will enable changes to be made by secondary legislation to the laws that would otherwise not function sensibly once the UK has left the EU.
- 5.6 The Local Government Association has already set out where post-Great Repeal Bill reviews would be of benefit to local communities and have been briefing MPs and ministers on local government’s ‘asks’. More detail of such benefits will be provided over the coming months.
- 5.7 **Local regeneration funding:** Councils welcome the reaffirmation in the White Paper that European funding for local regeneration will be guaranteed up to the point the UK exits the European Union (EU). It is crucial that central and local government now work together to develop a locally driven UK replacement for EU ‘regional aid’.
- 5.8 **Community cohesion**
The Local Government Association’s December 2016 briefing set out the role that councils’ can play as leaders of their place, and the future demand for skilled workers in public services.
- 5.9 The negotiations will be closely monitored from the perspective of the three main policy principles set out in the December 2016 briefing:
- Strengthening social cohesion, and avoiding social and economic exclusion.
 - Ensuring public service standards are maintained through a supply of trained workers for key posts.
 - Developing skills in those communities that have felt no benefit from past growth programmes.

5.10 Local impacts

The risks and opportunities of leaving the EU will be different in different areas of the UK. As such, the Local Government Association has been working with numerous Government departments to ensure that their analysis of Brexit is informed by the different needs of different local areas. The Government's receptiveness to this Local Government Association approach is reflected in the White Paper's acceptance of the principle that:

'[The Government] will need to understand the potential impacts of any proposed changes in all the parts of the UK. So we will build a comprehensive picture of the needs and interests of all parts of the UK and look to develop a system that works for all.'

- 5.11 Councils and LEPs have been working with their local communities, universities and businesses to assess the risks and opportunities of Brexit and they have already submitted much place-based evidence.
- 5.12 As the Government's negotiating position is now clearer, we will encourage councils and local partners to refresh their evidence to ensure that any new opportunities and risks are being captured and understood by policy makers. For example, it is clear that the Government's negotiating position does not favour general inclusion in the Single Market, yet the White Paper states that the final UK-EU agreement:

'May take in elements of current Single Market arrangements in certain areas as it makes no sense to start again from scratch when the UK and the remaining Member States have adhered to the same rules for so many years.'
- 5.13 Councils should provide evidence of the consequent risks and opportunities of this stance. The Local government Association is committed to ensuring that this information forms part of the Government's and Parliament's evidence base for decision making. For example, immediately following the referendum Local Government association worked with government officials to craft a specific 'call for information' identifying key areas where it would be mutually helpful to feed analysis from local authorities into government work.. Subsequently Local Government Association has highlighted key place-based issues to relevant government departments, and at the same time have worked with government officials to organise a series of seminars on the place-based impacts of Brexit that have been held with councils and LEPs across the country. This programme of seminars continues in addition to regular meetings of the Brexit Sounding Board, which brings together chief executives and senior officers from a range of councils.
- 5.14 **Trade:** It is clear from both the Prime Minister's speech on 17 January 2017 and the White Paper that the work to develop new trading links is taking place. Councils have a long track record of building successful European and international relationships that have secured trade and investment, boosted jobs and infrastructure and helped attract visitors up and down the country. Local government therefore has an important role to play
- 5.15 The White Paper makes no reference to the relationship between trade agreements and public services such as social services and health. There is clearly a role for

local government expertise to inform this debate, in partnership with other interested stakeholders such as business and public sector partners. The Local Government Association is now working in more detail to build a balanced evidence base that demonstrates the essential role of councils in securing investment and growing local economies.