

Brexit: Update Report

Purpose of report

For information.

Summary

This paper offers an update on the LGA's work on Brexit.

It also sets out the general principles behind our work. As our exit from the European Union is just over a year away, members are asked to consider our current work priorities.

Recommendation

The LGA Leadership Board is asked to note the updates in the report.

Action

As directed by Members.

Contact officer: Ian Hughes
Position: Head of Policy
Phone no: 0207 664 3101
Email: ian.hughes@local.gov.uk

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Background

1. This paper offers a review of recent LGA work on Brexit and the general principles underpinning our work.

The LGA's work on Brexit

2. The LGA took a position of neutrality during the referendum in June 2016. Once the result was known, we took a proactive approach to ensure that there was a prominent voice for councils as negotiations to leave the EU started. We wanted to ensure that the risks and opportunities for local communities and local economies were understood and influencing the Brexit settlement.
3. Given the likely fluidity of the negotiations, members adopted some broad principles to steer our work:
 - 3.1 We needed a "seat at the table" to ensure a local government voice was heard.
 - 3.2 We needed to promote a new local/central settlement in the UK, arguing against a centralisation of repatriated powers in Whitehall (and the devolved Governments).
 - 3.3 We needed to identify those local government laws which originate from the EU and make suggestions for keep, amend or delete.
 - 3.4 The resources for local communities and economies which were currently secured from the EU needed to be replaced with UK programmes of at least equal value, but with the opportunity for resources to be devolved to local communities.
 - 3.5 Public services and communities needed stability. We should highlight the contribution that non UK EU citizens made currently to local public services and we needed to highlight the role that councils played to bring communities together.
 - 3.6 The onus was on councils and the LGA to bring evidence of the differential risks and opportunities of Brexit at a local level. There was likely to be a well-documented and robust debate on the national impact of Brexit. Our contribution was to ensure that the differential local impact was higher on the agenda of Government.
4. Our neutrality on the central issue of our membership of the EU has continued. Our focus has been to ensure that the risks and opportunities faced by councils and their communities were on the record and addressed by those negotiating and advising on our exit. Central to this has been our "seat around the table". Whilst we were initially offered a tangible seat, the reality of the negotiations have meant that we have had to create proactively our own platforms. For example, in alliance with the other three local government associations in Wales, Scotland and N Ireland, we requested quarterly meetings with DEXEU ministers. These have been taking place since mid-2017, offering a unique UK-wide view. Through this and other approaches such as press campaigns, Select Committee evidence and meetings with departments across

Whitehall, the big issues for councils and their communities are being placed on the record as negotiating strategies are developed in Whitehall.

5. We are unlikely to have clarity on the likely outcome of the UK's negotiations soon and many issues of detail may not be resolved until the end of a transition period. As such, we have a long-term role as advocates for local government and its communities on Brexit. Given that we are just over a year away from the exit date of 29 March 2019, it would be helpful for Members to review the general principles behind our Brexit work and advise on whether such principles still stand or whether we need to consider other issues to guide our work.
6. In the following sections of the report we set out the headlines of our current work.

Providing a voice of local government.

7. The biggest milestone in the last quarter was December's Phase 1 agreement between the EU and UK. We provided a full on-the-day briefing detailing the impact on councils and their local communities¹. We commented in particular local funding and local employment. This has been provided to Government and Parliamentarians.
8. We have briefed on all stages of the Withdrawal Bill in the Commons. The Bill has now completed its passage in the Commons and has started its scrutiny in the House of Lords. Briefings have been provided for Second Reading and we are preparing to brief members of the Lords during Committee stage.
9. The Chair of the Task and Finish Group has attended and spoken at a number of events including: evidence to the MHCLG and other Parliamentary Committees, DCN and CCN conferences and a seminar with the Department of International Trade. The LGA's Brexit Task and Finish Group continues to include all of UK's local government associations to ensure a strong UK-wide voice for councils.
10. The leaders of the four associations (LGA, COSLA, WLGA, NILGA) met with DExEU ministers on 1st February. These meetings take place quarterly. The February meeting concentrated in the UK successor to EU funds, the risks and opportunities to councils from future reviews of EU law and the differential impact of Brexit across communities in the four nations.

Securing funding currently sourced from the EU

11. We have been working to highlight the £5.3 billion that was to be received by England's local communities from the EU until the end of 2020. This funded local regeneration and skills training. We have had a number of important lobbying successes to ensure that funding for local regeneration continues, including the Chancellor's commitment to replace the funding in some form.

¹ [LGA UK-EU joint report: Phase 1 Negotiations Briefing](#)

12. We have highlighted the impact in communities if the £5.3 billion funding from the EU is not replaced by a domestic funding arrangement. Our concern is also to ensure that any future UK fund is local and of at least equal quantum to current EU funds. In July we published a number of [pro-active proposals](#) on behalf of councils, with an additional call in our [2017 Budget submission](#). This received a significant amount of media attention.
13. As set out in para 7, the EU and the UK made an agreement on the first stage of the negotiations in December. From the perspective of local funding, there was a clear lobbying success for the LGA. The December agreement stated that the UK would continue to participate in EU programmes to the end of the current funding programme (2014-20). This secures local funds to the end of 2020 (provided that there is a final deal between the EU and the UK). The key issue now is to ensure that there is a UK replacement for the Structural Funds which is fully funded and operational by Jan 2021.
14. Two case studies show the benefits of a local model and how a centralised model would undermine current devo deals.
 - 14.1 Essex County Council has delivered a report, "Taking back control – Essex's local solution to post Brexit economic growth", challenging the weakness of centralised control and proposing a more localist future for this funding post Brexit. It estimates that ESIF funding (2014-2020) will have an economic impact in Essex of c. £300-364m by 2021 - a return of £6.50 per £1 of public investment. Through fully devolved budgets without the central administrative overhead, it shows that the yield to Essex could have been 10-15% or £33-50m higher by 2021.
 - 14.2 Greater Manchester and other Mayoral Combined Authorities already have a devolved EU funding programme. Any central model for a UK replacement would undermine the current devolved model in England.
15. Councils also benefit from a range of other EU funding initiatives (such as Erasmus and Interreg). The PM has suggested that the UK may buy into some of these initiatives after 2020. We will continue to lobby on this issue.
16. The objective at the moment is to focus on the UK replacement for Structural Funds and the way Government consults on a successor scheme. We anticipate that there may be amendments in the House of Lords regarding the future of Structural Funds and the UK replacement. We will be working with LGA Group Offices to ensure that, through our Lords briefings, we can maximise our support to all councils. This is currently work-in-progress and we are unlikely to have the full picture until late-February.
17. One particular issue that has resonated in many of the non-met seminars that we have run is the future of the Common Agricultural Policy and rural subsidies. Michael Gove has recently been on record setting out an agenda of radical reform. We have put on record our interest in this policy reform.
18. The European Investment Bank (EIB) is the EU's bank and is owned solely by the 28 Member States. The UK owns 16% of the bank. The December 2017 'Phase 1' joint agreement between the UK and the EU outlined that the UK would withdraw from the European Investment Bank on the day of withdrawal (likely 29 March 2019), and UK

projects will no longer be eligible for further EIB loans and guarantees. The bank committed over €36 billion to UK projects between 2011 and 2016. There is also the possibility that a different special arrangement will be secured between the UK and the EIB for the transition period (likely 29 March 2019 to 31 December 2020). The UK wishes to explore these possibilities in the second round of negotiations which recently began. We are now developing work to assess preferred options for councils with regards to future EIB arrangements.

Changing the way the UK makes decisions

19. We have been championing a new local/central settlement in a post-Brexit UK, ensuring that powers are devolved to local communities and beyond Whitehall, Cardiff Bay, Stormont and Holyrood. We have created a number of work streams to pursue these goals, including preserving local government's current formal role in EU law-making post-Brexit (currently through the Committee of Regions (CoR)). We have initiated proactive discussions with Whitehall about how this role can continue in the UK. As there has been a promise that there will be no change to any devolution settlement and no change to EU laws, we are seeking to transfer local government's rights and responsibilities into the UK legal framework. All four associations have stated publicly that they do not want to replicate the CoR, but that this is the opportunity create a better and more formal local/central relationship.
20. The key issue is that local government role in the law-making process should be formalised, with a role in advising Parliament on all draft legislation that affects local government. An amendment to the Withdrawal Bill in the Commons to preserve CoR powers was tabled but not pushed to a vote, and the Government did not make a response. There have been two government statements (and a reference in a CLG Select Committee letter) since New Year which set out positively that the Government is in discussion with the four associations to find a non-legislative alternative. The issue has also been raised in the Lords. In the Second Reading, Baroness Eaton (Con) welcomed the discussions and asked for progress to be reported. Lord Wallace (LD) was concerned that amendments to the Bill could be needed if the Government was not making sufficient progress. An amendment has been tabled in the Lords and is due to be debated later in March. It provides an opportunity for the Government to state formally in Hansard that the EU rights of responsibilities of local government will be preserved post-Brexit. We have also highlighted this issue in a recent LGC article.
21. As reported in the last update report, we have also been giving consideration to options for a continuing political voice and influence in Brussels, once we have left the EU, given the high probability that councils will continue to apply EU-derived laws (eg waste) during a transitional period. The European LGA (CEMR) will continue to be a statutory consultee on important legislation and we will prioritise this body for our lobbying work. We are also examining other options to ensure that we can influence EU policy during any transition period. For example, we are looking at the relationship of EFTA nations (eg Norway and Iceland) with the EU how their LGAs exert influence. At this stage of negotiations, we are ensuring that various options are discussed with the local government family in Brussels so that we are able to pursue relevant options quickly once the shape of the final UK/EU deal is known.

The return of EU powers

22. We have reviewed the main EU laws which impact on local government services and have identified which policy areas are in need of urgent review. We have begun a press campaign on these issues to highlight local government's interest. We have highlighted where there is the opportunity to amend EU laws to help local government better pursue local economic objectives (through procurement reform for example) and we have highlighted where EU laws help protect the public and where they could now be strengthened (e.g. food hygiene);

22.1 [Simpler rules regulating procurement.](#)

22.2 [Strengthening food hygiene laws.](#)

23. No Government reviews of EU-origin laws will take place until after we exit from the EU (or after any agreed transition period). Our work is to register our interest for such reviews in the longer term and highlight the importance of prioritising reviews that could enhance the responsibilities of local communities, post-Brexit.

24. It is pleasing that the recently published Lords EU Committee report on competition and State² aid quotes our evidence that the current State aid regime is too complex and our recommendations for a replacement policy. It also quotes us on successor funding and on broadband.

Community cohesion and workforce

25. We have highlighted that councils play a vital role in protecting their communities from harm and after the referendum we advocated strongly the role that councils were playing to bring divided communities together.

26. We have also established the number of 'continuing EU' workers that deliver vital public services. For example, 7 per cent of English adult care staff are currently (non UK) EU nationals. Our role in analysing the consequences of UK and EU negotiation stances will be very important over the coming months. The LGA has an associate relationship with the Cavendish Coalition which is a group of health and care employer organisations examining the effects of Brexit; as part of this arrangement we have co-funded a research project on the health and care labour market post-Brexit that is being carried out by the National Institute of Economic and Social Research.

27. The December EU-UK agreement was an important milestone in this debate. The details are in the LGA briefing⁹ mentioned at para 7. In summary, there will be a reciprocal agreement between the EU and the UK which allows rights for EU citizens residing in the UK (on a specified date) and UK citizens residing in the EU. The LGA welcomed the agreement as providing some assurance for business continuity in the short to medium term. We also highlighted that even without Brexit and the potential reduced reliance on EU workers, we face a range of skill challenges as a symptom of a centrally controlled skills system. We have been particularly proactive in this area. [Work](#)

² [EU Internal Market Sub-Committee Report on Brexit: competition and State aid](#)

[Local](#) (developed by the Cities Regions and People and Places Board) offers a solution to this national crisis through a localised approach to skills and training.

Place based impacts

28. The onus is on the LGA and councils to ensure that the differing place based impacts of Brexit influence Whitehall's approach to negotiations. We have organised a number of local seminars to ensure that such evidence is available. The evidence from councils had been submitted to Whitehall.
29. The policy papers published by the Government and the December agreement have started to define some of the boundaries of the negotiations and the exit deal. Consequently, we have [renewed our call for evidence](#) on a series of specific issues, in relation to the next phase of negotiations, so that the risk and opportunities continue to be on the record.
30. In our evidence from localities, we have balanced both risks and opportunities. We have also been clear that, under some Brexit scenarios, there could be a new financial pressures on councils which need to be recorded. An example is an issue that we have raised about ports of entry. Councils have important statutory responsibilities at ports of entry, including food and animal hygiene. The Safer and Stronger Communities Board has developed work in this area to identify any new or additional responsibilities which could fall to councils once we leave the EU. In its evidence to the MHCLG Select Committee, the City of London has estimated that Brexit would see an increase in workload of 25% were imports from the EU subject to the same checks as imports from elsewhere³. Such impacts would require the implementation of change strategies, which given their differing characteristics will be radically different between the port authorities managed by the City of London and the rest of England and Wales more widely. Whilst we have not commented on or taken a stance on "no deal" or the customs union, we have set out any new pressures on councils under particular scenarios and demonstrated that without the advice of local government, important risks and opportunities in scenario planning may be overlooked. Whilst we know that "no deal" is clearly not a preferred option for Government, we have opened a discussion to ensure local government issues are on the table and any new financial burdens understood.

Next stage of UK/EU negotiations

31. Phase Two of negotiations between the UK Government and the EU are now underway. This week (week commencing 26 February), the EU is expected to publish the first draft of its preferred legal agreement (for consideration by the 27 Heads of Government) and the Prime Minister is expected to make a speech setting out the UK position. The key issues for debate will be the detail of the EU/UK trade deal (including the free movement of labour), the financial agreement and the transition period. The negotiation stances are likely to be refined over the few months with the late March 2018's European Summit a milestone to note whether progress is being made. The

³ <http://democracy.cityoflondon.gov.uk/documents/s92388/Brexit%20update%20March%202018%20-%20Appendix%201.pdf>

LGA will be monitoring these discussions as they develop and briefing on the most important issues for councils as negotiating positions are refined. The European Summit in October is where a deal is expected to be agreed, followed in early 2019 by debates in national and the European Parliaments to ratify the agreement, before the UK's departure in March 2019.