

Agenda

People & Places Board: Supplemental Agenda

Tuesday 12 January 2021

1.00 pm

Online via Zoom

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Local Government preparedness for EU exit

Purpose of report

For discussion.

Summary

This report updates the People & Places Board on UK-EU Trade and Cooperation Agreement, and the work that the LGA has been undertaking to support councils in preparing for Britain's exit from the EU and the end of the transition period.

The report sets out our forward work priorities as we seek to address the risks and opportunities for councils.

Recommendations

That the members of the People & Places Board:

1. Comment on current work being undertaken by the LGA.

Action

Officers to take forward any actions identified.

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Local Government preparedness for EU exit

Background

1. On Christmas Eve, the Prime Minister and the President of the European Commission announced the outcome of the negotiations between the UK and the European Union and a deal on future trade arrangements. The [full text of the agreement](#) has been published along with a [summary of its content from the Government](#).
2. The deal was agreed by the UK Parliament on 30 December and the EU will implement it provisionally, with the European Parliament agreeing it in January.
3. Since the referendum on EU Membership in 2016, the LGA has taken a neutral stance on the issue of EU exit. We have worked consistently with Government highlighting both the opportunities and risks of EU exit for our diverse, local communities on behalf of councils. Our work has been led by the all-party LGA EU Exit Taskforce. They met with the Secretary of State and other Government Ministers and officials in early January where LGA leaders raised the key issues in this report.
4. This report sets out the headlines of the deal, the biggest issues for councils and the challenges and opportunities that we have consistently raised with Whitehall.

The UK-EU Trade and Cooperation Agreement

5. The headlines of the agreement are:
 - 5.1. No tariffs or quotas on UK/EU trade
 - 5.2. A new agreement on fisheries, with the UK's departure from the Common Fisheries Policy
 - 5.3. State aid and procurement policies becoming UK domestic policies
 - 5.4. An agreement to join some future EU funding programmes (for e.g. the Horizon research programme) and to leave others (e.g. the Erasmus education scheme).
6. There are outstanding issues for local government arising from the Agreement, including:
 - 6.1. The impact the framework for mutual recognition of qualifications
 - 6.2. There is a decision still to be made about data adequacy in the next six months.
7. The LGA will continue to monitor these issues and engage with government on any concerns local government may have.



Local Government issues

8. Before the agreement, the LGA had provided advice for councils on preparation for the end of the EU transition period (via its web), signposting to all relevant Government guidance. MHCLG had also written to all councils in November outlining what they needed to do to prepare for the end of the transition period.
9. Following the agreement, the LGA has been in discussion with the Government about the challenges and opportunities for local government.
10. The biggest issue that the LGA has been raising with government is that councils face many challenges in the coming days and weeks. The start of the new trade arrangements will take place amongst multiple pressures on councils over the winter months. Our support for local communities against COVID and our statutory services (such as children's services) are the priority, and we have stated that the capacity to undertake additional new work during this unprecedented period is severely limited.
11. Most of the immediate council responsibilities will fall on our regulatory services as a result of some new checks on goods and the support needed to business (for example, new export certificates). Controls will now be applied to EU imports not previously subject to inspection, with physical checks taking place from July 2021. These members of staff are at the frontline of our work in the pandemic. They are also having to deliver important statutory services such as food hygiene and trading standards.
12. There are already skills shortages in these professions and councils are reporting severe difficulties in recruiting new staff. In order to address some of the skill shortages in the longer term, the LGA has worked closely with Government to set up the [Environmental Health Together](#) initiative, to provide a mechanism for councils to recruit qualified environmental health staff.
13. The LGA will monitor the pressures that regulatory service and port towns may experience and continue to raise any issues with Government. There will be longer term lessons undertaken regarding border preparedness.

Specific policy issues to be pursued

14. In early January, the LGA met with ministers to discuss the specific immediate and longer-term issues facing councils. These issues include the UK replacement for EU funds and, as set out above, the responsibilities of regulatory services staff to undertake more checks and to support business with exports.

The UK Shared Prosperity Fund

15. The Heads of Terms for the UK Shared Prosperity Fund was announced at the Spending Review. This includes a £220 million pilot for 2021/22 before the fund will be introduced fully. We are expecting in the coming weeks a prospectus for the fund to be launched.
16. The LGA has been lobbying since the referendum for a replacement for EU funds. Whilst we secured a commitment to a new UKSPF and a promise that there would be no change in quantum, details are still to be developed. There is now an urgency to this issue as we approach the end of the current EU funding programmes.
17. The LGA has offered to help speed the development of the detail of the new fund by offering to set up task groups with Government departments to help codesign the fund. We understand the Government has agreed in principle to this and we are working to determine how this will operate.

UK immigration policy and the consequence for key local government services such as social care

18. Social care is one of the sectors most affected by migration rule changes as a significant proportion of the workforce are not UK nationals. It is a largely commissioned service with relatively few direct local government employees. As the main commissioners of services, councils have a strong interest in ensuring workforce stability as a key factor in good quality social care provision. Recruitment is already difficult in this sector. 7% of the social care workforce have been EU nationals and not subject to any migration rules to date.
19. The EU Exit Taskforce has raised concerns with ministers about the implications of the new points-based system for the social care workforce and stressed the need for parity with NHS workers. We will continue to raise this issue with Government.

Data Protection

20. The Government continues to seek an “adequacy” decision from the EU under both the General Data Protection Regulation (GDPR) and the Law Enforcement Directive (LED) which the Christmas trade agreement has provided an additional six months for the EU to make that decision. It will allow for the free flow of personal data between the UK and the EU to continue uninterrupted.
21. The LGA has been asking Government to ensure they provide the right guidance mitigating actions councils should take in case the free flow of personal data is interrupted.
22. New Government guidance was then sent to all Chief Executives on the 9th October, and we are expecting further advice from MHCLG very soon. There will continue to be uncertainty in this area until there is an “adequacy” decision.

Opportunities to reform procurement

23. Councils' procurement rules have been based on EU law. Whilst these EU rules have now been converted into UK law, there is the opportunity now to reform the rules to allow more flexibility to support local economies. Government [Guidance](#) for Public Sector bodies was pushed in December.
24. The Government has launched a **public consultation by a Green Paper on 'Transforming Public Procurement'**. The Green paper sets out long-planned changes to UK's procurement rules, putting value for money and transparency at the heart of the new approach and includes plans to help unleash wider social benefits from public money spent on procurement in line with the existing spirit of the Public Services (Social Value) Act that councils have been following since 2012.
25. The proposals also include measures that councils have been calling to assist them with their procurement:
 - 25.1. providing more scope to exclude suppliers for poor past performance, and corruption-related matters
 - 25.2. reforming the remedies system, through making the court review process faster and less costly, capping damages, and further investigating the feasibility of tribunals.
26. The LGA's Procurement team and National Advisory Group (NAG) for Procurement has worked to ensure the issues and concerns of the sector were raised and included in the proposed changes to the way we procure as a sector. We therefore encourage all those involved in public procurement to have their say and respond to the consultation by the 10 March 2021.
27. To note, the LGA has been working with Cabinet Office to allow access to contract management training for council officers. More than 1000 local government employees have undertaken the free training so far. LGA is promoting the training to councils and anyone interested can contact productivity@local.gov.uk for more details.

Opportunities to reform state aid

28. The LGA has stated that EU exit provides an opportunity to reform how grants and public subsidies work. Any new state aid rules must be based on local government's experience of what works on the ground.
29. Processes can be simplified by introducing flexibilities for councils. A flexible regime allowing councils to tackle the impacts of COVID and support economic recovery continues to be essential. Any future changes to the UK state aid policy could also allow support for non-profit-making activities or social enterprises who reinvest surplus back into the local community. Organisations operating in the culture, heritage, arts, or non-profit sports sectors may also merit a more flexible approach.

UK legacy of the Committee of the Regions to ensure councils have a continued formal role in law-making (i.e. transfer of councils' EU legal rights to UK).

30. The new trade agreement creates a new UK/EU institutional framework. Based on recent LGA lobbying, ministers have agreed to a UK non-statutory replacement for the work that was developed by the EU Committee of Regions – i.e. local government's ability to comment on draft laws that impact at a local level and to advise Parliament on those issues. We understand their intention is to incorporate this as part of the Devolution White Paper later in the 2021.

Wales

31. We continue to develop our work on Brexit in partnership with the Welsh Local Government Association, Convention of Scottish Local Authorities and Northern Ireland Local Government Association, ensuring a united UK local government voice in the debate.