

Local Government preparedness for Brexit

Purpose of report

For discussion.

Summary

This report updates members of the LGA Executive Advisory Board on 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.

To note: This report is written on 20 November whilst UK/EU negotiations on the trade deals continued. There will be an oral update at the Executive Advisory Board should there be a conclusion to the trade talks.

Recommendations

That the members of the LGA Executive Advisory Board:

- Consider the work on preparedness and any further work that the LGA might need to do.

Action

Officers to take forward any actions identified.

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Background

1. 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. There have been regular meetings with Government ministers and officials where LGA leaders have raised key issues.
2. This report focuses on the end of the EU transition period on 31 December 2020 and the preparedness of local government for the anticipated changes from January. The Government has recently written to all Chief Executives outlining what councils need to do to prepare.
3. Through our work in recent months, we have been assessing whether councils have adequate information and resources to prepare for the end of the transition period. We have ensured that the Government is fully briefed on the risks and opportunities to councils and their communities.
4. The headline messages that the LGA has been giving on council preparedness are as follows:
 - 4.1. Councils face many challenges in the coming months. The EU transition period 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 at this unprecedented time is severely limited.
 - 4.2. The trade talks have yet to complete and there is still much uncertainty at this late stage on the quantum of services that councils may have to deliver (e.g. for Port Health Authorities) and whether some new UK systems will be needed (e.g. state aid).
 - 4.3. Most of the additional responsibilities from EU transition will fall on our regulatory services and these members of staff are at the frontline of our work on COVID. They are also having to deliver important statutory services such as food hygiene and trading standards. There are already skill shortages in these professions and councils are reporting severe difficulties in recruiting new staff.

- 4.4. We still need to grasp some of the opportunities for change as a result of our exit from the EU in January 2020, for example the development of a locally focused replacement to EU funds and a more flexible approach to procurement to support local economies.
5. Whilst the headlines above give an overview of the messages from the LGA, this report goes on to provide the more detailed issues that we have raised with Government on behalf of councils. It looks at those issues which relate to the outcome of the UK/EU trade agreement and those issues where UK policy already applies as a result of our exit in January 2020 and where we continue to work with Government on risks and opportunities.
6. Members of the Executive Advisory Board are asked to comment on the report and offer any other issues that need to be raised with Government urgently.

Issues directly related to the UK/EU trade negotiations

7. The next section looks at the key risks and opportunities for councils relating to the ongoing trade talks in Brussels.

Preparedness of regulatory services

8. As stated above, our regulatory services will be at the forefront of our work on EU transition.
9. A concern was the conversion of EU law into UK law, as much of the legal base for regulatory services was EU law. We have been assured that EU regulations have been converted into UK law and will continue in January. Services will have to reference the new UK law from 1 January 2021, assuming all the relevant Statutory Instruments are in place which we believe to be the case.
10. There is some concern about business readiness for the changes in January. For example, in completing export paperwork. The changes are likely to lead to increased demands for councils to provide advice to businesses, as well as to directly support businesses wishing to export to the EU through signing export health certificates (EHCs) and potentially the inspections of business premises. These demands will fall on local regulatory services. The LGA has highlighted that regulatory services are already dealing with local compliance and enforcement work and supporting local track and trace systems. The competing demands on these key services, where there are pre-existing capacity issues and a shortage of additional qualified staff to recruit, needs to be recognised. Skills shortages cannot be addressed by January 2021.
11. New IT systems and infrastructure will also be needed to support changes in regulatory regimes, especially in Port Health Authorities (PHAs). We have raised that councils will need new resources for these changes, including training, and the assurance of the readiness and robustness of key IT systems, for both PHAs and traders. DEFRA has

provided some assurance about training to be provided and the LGA has asked for details of the scale of the training provided.

12. The LGA has been engaging with regulatory services leads across different councils to understand the key issues and to feed into government planning. We have participated and raised these concerns at officer level through the Borders and Protocol Delivery Group.
13. Our LGA EU Exit Taskforce has been raising councils concerns directly with DEFRA ministers. In addition, the Chair of the Taskforce, Cllr Kevin Bentley, has given evidence to the Future Relationship with the EU Select Committee on Border Preparedness.
14. 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.

Increased infrastructure demands on port towns

15. As port health authorities, some councils are legally responsible for undertaking checks of certain high-risk food and feed products, and live animals, as they enter the country at designated border inspection posts or designated ports of entry.
16. Controls will now be applied to EU imports not currently subject to inspection, with physical checks taking place from July 2021. There is uncertainty about the volume of checking that will need to be undertaken, given that goods can currently move freely into the UK and are therefore not tracked. To assist councils in their preparations, the LGA has asked the Government to share their projections in these areas and to provide more information on the methodology used.
17. Undertaking additional checks will require new staffing resources and substantially increase the work of port health authorities. DEFRA has provided funding for port health authorities, but the grant is only available to March 2021 whereas the key impact on PHAs will be from July 2021. This leaves councils facing a significant financial risk in terms of recruiting additional officers. There needs to be upfront investment to recruit staff to carry out a significant number of additional checks, as well as recognition that the required number of staff simply may not be available to recruit.
18. The Government has confirmed the 10 inland sites (see page 24 for more details in the ['The Border with the European Union'](#) PDF) that they are intending to use, as well as the border functions expected at these points. The inland ports are likely to have implications on traffic, construction and utilities work and there is a need for local communities to influence and shape this policy. Clarity is also needed on any new responsibilities' councils will have on these inland ports.
19. The LGA has also raised the issue of transport infrastructure at ports of entry, especially in areas where existing local roads and infrastructure would be unable to deal with queues without disruption to local communities and local transport networks. We have

pressed to see national planning scenarios and for adequate funding for the relevant councils.

20. As stated above, the LGA has been engaging with regulatory services leads across different councils to understand the key issues. Our LGA EU Exit Taskforce has been raising councils' concerns directly with DEFRA ministers.

Tariff costs

21. The Government has launched a proposed tariff regime that will come into effect should the trade talks not conclude by 31 December 2020. The tariff regime is likely to have an impact on councils' procurement activities and costs, and for impacts on exporting SMEs which may need support to adapt.
22. There is uncertainty in this area. First, the tariffs will only apply if there is no conclusion to the trade talks. Secondly, it is very difficult to understand if there could be any future changes to costs that councils may incur as there are a number of variables to consider, especially where services are commissioned. The LGA has raised this as an issue with MHCLG and stated that we will need to deal with the issue should councils be able to demonstrate significant changes in costs in 2021.

Opportunities to reform procurement

23. Councils' procurement rules have been based on EU law. Whilst these EU rules will be converted into UK law from January 2021, there is the opportunity now to reform the rules to allow more flexibility to support local economies. The trade talks have not prioritised discussions on procurement but we need to await the conclusion of the talks to understand the range of options for reform in the UK.
24. Discussions about opportunities to introduce new flexibilities and allow stronger support for local economies and jobs are being pursued with Government, as well as ensuring contracts can support environmental and social goals through the procurement process. LGA policy work has shown that councils need a simple and efficient public procurement regime which ensures the best value for public money and respects local decision-making. Shorter timescales, lighter-touch advertising requirements and award procedures, a speedier way of dealing with legal challenges, greater negotiation with suppliers, and a new focus on SMEs and Voluntary Community and Social Enterprises (VCSEs), would also be of benefit.
25. Government may launch a consultation on reform of the public procurement regime in the coming months, including a statement of national policy objectives which will encourage additional consideration of social value to be achieved through the procurement process, the publication of forward plans and policies on improving procurement capability.
26. 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

27. 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.
28. 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.
29. State aid is currently a major issue in trade talks and we need to await the conclusion to understand the options available to the UK in this area.

Data Protection

30. The Government is seeking "adequacy" decisions from the EU under both the General Data Protection Regulation (GDPR) and the Law Enforcement Directive (LED) which, if secured by the end of the EU Exit transition period on 31st December 2020, will allow for the free flow of personal data between the UK and the EU to continue uninterrupted.
31. 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.
32. In September, the LGA brought together a number of council Data Protection leads to comment on current Government advice. New Government guidance was then sent to all Chief Executives on 9 October, and we are expecting further advice from MHCLG very soon.
33. There will continue to be uncertainty in this area until there is an "adequacy" decision.

Domestic Post-Brexit Policy Issues

34. This next section looks at the outstanding risks and opportunities resulting from UK exit in January 2020. These policy areas are not subject to any changes as a result of trade discussions.

EU Funding and the UK Shared Prosperity Fund

35. Further detail of the UKSPF is expected to be announced following the Spending Review on 25 September. A verbal update will be given at the meeting.
36. 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. The LGA has offered to help speed the development of the detail and to codesign the new fund (with councils and combined authorities).
37. In making the offer of co-design, we have set these principles:
- 37.1. Councils and combined authorities should be the vehicle to drive the UKSPF
 - 37.2. The UKSPF should be driven and allocated by “local need” and locally determined outcomes
 - 37.3. The UKSPF and growth funding should move towards a single pot of funding.
38. The LGA has restated these offers at recent Government meetings at ministerial and officer level. We have also undertaken press work to highlight the need for the details of the UKSPF to be launched and for the ESIF programme to be maximised locally.

EU Settlement Scheme

39. The LGA and councils are working with their communities and the Home Office to ensure that residents and workers can apply for settlement within deadlines. There have been 4.06 million applications but there is no data to understand if this is reflective of actual populations of EU nationals in our communities. The Home Office’s attention is now on the most vulnerable EU nationals and the LGA have continued to ask for Government guidance if vulnerable people miss the deadline to apply.

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

40. 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.
41. 7% of the social care workforce have been non-UK EU nationals and not subject to any migration rules to date.
42. The Government’s new points-based immigration system that was announced in July will have a significant impact on the future of the social care workforce. 72 per cent of social care occupations do not meet the qualification threshold of an A Level equivalent and most earn significantly below the new salary threshold of £25,600. Around 750,000 care workers earn below £20,480 – the absolute minimum salary threshold of the future points-based system. 55 per cent of the adult social care workforce are care workers who fall outside of the scope of this review.

43. The EU Exit Taskforce has raised concerns with ministers about the implications for the social care workforce and stressed the need for parity with NHS workers. The Government has indicated that they will review the impact of the new points-based immigration system before considering additional changes.

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).

44. We are continuing to work with MHCLG for a non-statutory replacement for the work that was developed by the EU Committee of Regions.

Development of Freeports

45. The Government has launched its [Freeports Bidding Prospectus](#) which invites councils and local partners to submit bids for support and seed funding by early February.
46. Following our response to HM Treasury's freeports consultation and through the oral evidence given by Cllr Kevin Bentley at the International Trade Committee, Government has now committed to considering more than 10 freeports if bids are particularly strong. It will also provide seed capital to address local infrastructure constraints and will ask bidders to outline how they will ensure the scheme creates new opportunities for local people rather than encouraging the economic displacement of other UK domestic businesses.

Join up with other Policy Initiatives

47. The LGA has worked with Government to stress that the economic and social impact of a trade deal will be different across the UK and customised local economic programmes will be needed. There is of course a much bigger discussion on economic and social recovery now. The LGA has made a number of proposals to Government on skills, green jobs and transport to ensure that the important role of local government in driving economic and social renewal is clear.
48. We have stressed the importance of Government plans joining up across all the areas of winter pressure, including COVID and EU transition. This is particularly important for regulatory services as different parts of Whitehall tend to request work within their policy areas rather than collectively and with an understanding of capacity at a local level and the need to prioritise.

Wales

49. 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.