

Briefing note to Motion 11

Implications of Brexit for Wiltshire Council

1. Brexit has the potential to impact on many of the services Wiltshire Council is delivering. At the moment assessing the implications is made more complicated because the shape of the UK's future relationship is still not known. The two main scenarios considered in this paper are:
 - The Chequers proposal – or a variation of it negotiated and agreed with the 27 other EU governments, implemented with a transitional phase that lasts until the end of 2020 (an additional 21 months during which EU law would continue to apply and to negotiate the shape of future relations).
 - No deal – with the UK leaving the EU and trading on WTO rules from 29 March 2019.

Chequers

2. The government's current negotiating position is based on the [Chequers Proposal](#). The proposal was agreed by the UK Cabinet in July 2018. It was designed and promoted as a compromise to ensure the UK leaves the EU while minimising the potential economic disruption of decoupling from the Single Market and the Customs Union. The Chequers Proposal is a negotiating position and as such is subject to alteration as a deal with the EU is constructed.
3. Under the proposal EU citizens will no longer be able to come and go as they please: but there will still be a way for people to apply to come to the UK as tourists, students, or workers. The detail of this scheme is not yet available as the government has said the visa arrangements could be tied to future trade deals. Depending on the details there is the potential for Wiltshire Council's recruitment to be constrained. The default position is that free movement will end and EU nationals will be subject to the same points based system as for non-EU nationals. Whatever scheme is put in place there may be delay and administrative costs to recruiting EU nationals.
4. No more direct payments will be made to the EU budget beyond any transition period agreed (currently covering till the end of 2020). The government has undertaken consultation on a Shared Prosperity Fund to address future regional policy. It is not yet clear whether there will continue to be access to EU funding and research schemes that are of mutual benefit to the UK and EU in future but this is the subject of negotiation.
5. The Chequers proposal is that the UK leaves the customs union but continues to collect tariffs on behalf of the EU. This involves a common rule book for goods, without the same level of UK input to the EU institutions responsible for the formation of those rules, alongside a 'joint institutional framework' to provide for consistent interpretation of UK-EU arrangements and a joint committee to resolve disputes. This framework would pay 'due regard to EU case law' developed through the European Court of Justice.
6. Any change to the customs model will require businesses that import, export or both to change their practices. Under the Chequers proposal these changes would be minimal

but there may be a role for Wiltshire council in sharing and promoting new procedures with Wiltshire businesses.

7. Parliament can challenge EU rules if it sees fit. Parliament has the ultimate say in whether the UK binds to EU regulations. The result of Parliament choosing to reject a single regulation may be that all parts of any agreement cease. This could impact on data protection and procurement legislation and regulation although it would require the UK government making those specific changes.
8. In addition to the points mentioned above the Chequers proposal also outlined the following aims:
 - No 'hard' border in Northern Ireland
 - Continued close cooperation on security
 - An independent foreign and defence policy for the UK
 - Leaving the Common Agricultural Policy (CAP) and the Common Fisheries Policy

No Deal

9. The EU Withdrawal Act implements the entire body of EU law (the *acquis communautaire*) into UK law upon leaving in March 2019.
10. During September, the government released dozens of technical papers setting out the impact of 'no deal' key areas of government and daily life. This builds on a [summary](#) of next steps and a series [of technical papers](#) already published by the European Commission in July.
11. The two sets of papers are broadly considering the same issues but in comparison the UK notices propose a general way forward but not the detailed design or implications of any new policies, whereas the EU notices set out at length what will no longer be possible and identify the existing rules that apply to third party countries. That is to be expected given the different purposes of the briefings, but it can make comparison of the legal position as understood by both sides less straightforward.
12. Four tranches of UK [technical papers](#) have been published (with the last on 12 October) which include the following areas:
 - Applying for EU funded programmes
 - Civil nuclear and nuclear research
 - Farming
 - Importing and exporting
 - Labelling products
 - Money and tax
 - Regulating medicines
 - State aid
 - Studying in the UK or EU
 - Workplace rights
 - Travelling between the UK and the EU
 - Seafaring
 - Satellites and Space
 - Regulating Energy
 - Medicines.
 - Environmental Standards
 - Data Protection
 - Business Regulations
 - Civil Legal Cases
 - EU Funding
13. Within the papers published some of the most relevant to local government are:
 - [The government's guarantee for EU funded programmes](#) The government will guarantee EU projects agreed before we leave the EU; and there are technical helplines run by several departments for local authorities if needed
 - [European Regional Development Funding if there's no Brexit deal](#) and [European Social Fund \(ESF\) grants if there's no Brexit deal](#) – these notes affirm the funding guarantees

and sets out that in the event of no deal UK Managing Authorities would administer the guarantee through existing national and local arrangements, modified and simplified as appropriate in line with wider rules on public spending. Organisations should continue applying for and delivering funding under current arrangements with confidence that the funding guarantee applies if there is no negotiated agreement between the UK and the EU.

- [Receiving rural development funding](#) Defra and devolved administrations would ensure an uninterrupted flow of funding to farmers, rural businesses and communities
- [State aid](#) existing rules will be transposed into UK law and enforced by the Competition and Markets Authority
- [Workplace rights](#) EU law will be part of UK law – some protection for UK/ EU employees under insolvency arrangements may have to be negotiated
- [Labelling tobacco products](#) new domestic systems to allow producers to notify tobacco products and e-cigarettes in accordance with existing rules will be developed; new picture warnings for tobacco products will come from the Australian government as the copyright for the existing picture library is owned by the EC.
- [Accessing public sector contracts if there's no Brexit deal](#) – setting a commitment to establish a replacement UK-specific e-notification service instead of OJEU/TED in the event of no-deal. Changes to the procurement rules will be made via amendments to existing legislation, to ensure continued operability. Those contracting authorities and entities who are currently working with a third party such as an 'E-Sender' or 'E-Publisher' to publish to OJEU/TED should be able to continue to work with their provider to publish on the UK e-notification service. Contracting authorities and entities that place their contract opportunities directly on to OJEU/TED will be contacted to ensure that they are familiar with the new UK e-notification service. Further advice on procurement underway is expected nearer the time.
- [Upholding environmental standards if there's no Brexit deal](#) - The EU Withdrawal Act 2018 will ensure all existing EU environmental law continues to operate in UK law, providing businesses and stakeholders with certainty as we leave the EU. The UK government and devolved administrations will amend current legislation to correct references to EU legislation, transfer powers from EU institutions to domestic institutions and ensure we meet international agreement obligations.
- [Data protection if there's no Brexit deal](#) – confirms that regulation of GDPR and Data Protection would continue to apply. However, if there is no confirmation that the European Commission believes UK data protection to be adequate, EU organisations may require a legal basis to be able to share personal information with UK organisations. The paper suggests establishing contractual obligations would provide a way forward. This could be important to consider within programmes such as Army basing (relocating troops from Germany to Wiltshire).
- [Handling civil legal cases that involve EU countries if there's no Brexit deal](#) – sets out changes to the legal framework of parental responsibilities and family law. The technical paper asserts that in many cases the Hague Conventions provide an effective alternative to the EU rules. All parts of the UK would unilaterally recognise incoming Civil Protection Measures from EU countries, to ensure that vulnerable individuals would continue to be protected.

14. The LGA is maintaining a detailed [assessment](#) of the implications for councils as further technical notices are published and inviting further comment in the event of gaps. MHCLG will be organising 8 regional events across the country between now and Christmas in order to further engage with local authorities.

15. Of all these areas, most so far seem to have only a small effect on council business given the incorporation of EU law into UK law. One area which may require further work is ensuring that for EU funded programmes (or UK replacement funding) there are no problems in the timing or availability of match funding from HMT. Close working between Wiltshire Council and the Local Enterprise Partnership will be important here.
16. Other notices set out the basis on which businesses can make preparations to continue to export and operate in the EU. Business representative groups such as the British Chambers of Commerce have set out [checklists](#) for local business planning at operational and board level. Surveys from organisations such as the CBI and IoD have indicated that businesses are preparing for Brexit although larger firms are more advanced than smaller ones. Many also view the idea of a transition period positively but are concerned about the distraction from profitability and growth. The Lloyds Bank business barometer in August 2018 stated that a third of UK companies believe that Brexit uncertainty is having a negative effect on their business.
17. Locally, agricultural producers may have to re-apply for UK Protected Designation of Origin (PDO) status to replace EU designations for West Country Beef, Lamb and Farmhouse Cheddar if these are not automatically confirmed.

Provisions likely to apply in both scenarios

18. The government has committed to leaving the Common Agricultural Policy (CAP) and has agreed to maintain current agricultural subsidies for two years after Brexit, until 2021. Defra envisage that direct payments could continue with progressive reductions until 2027. Payments made under the CAP - which are based on the amount of land farmed - will be redirected to a new system of incentivising efficiency and paying farmers public money for public goods - such as promoting biodiversity, high animal welfare standards and improved soil health. The Agriculture Bill was laid before Parliament on 12 September 2018 to enable this and the timeline for transition and impact are set out in the policy statement for the Bill entitled '[Health and Harmony – the future of food, farming and the environment in a green Brexit](#)'.
19. Defra [figures](#) in the impact assessment for this indicate that in the absence of direct payments 19% of farms would not have been able to cover their production costs (between 2014/15 and 2016/17, excluding asset depreciation). However, this is not the same as saying that they would go out of business without direct payments and the government's proposals are to transition from a system of direct payments that in some cases are paid to already wealthy landowners to payments for producers that are promoting public goods.
20. Prior to the release of the technical notices the government also issued a [statement of intent on migration](#) for an EU settlement scheme which will enable non-UK EU nationals to apply for settled citizen status over the next two years from March (in addition to existing provisions for British citizenship). The default process for applications will be using an app on a smartphone to take a selfie for identification purposes and to scan passport chips. At present, there is however no advice on residency and employment rights of non-UK EEA residents under a no deal scenario. Government has published a [toolkit](#) for employers to use to promote the settlement scheme with their staff and announced that the scheme will be open to health and social care workers from late November.

Council Preparations

21. Across the council preparations are in hand to mitigate the risks and maximise the opportunities associated with Brexit - including:
- Working with the LGA to clarify the post-Brexit electorate for future local elections and by-elections
 - Working with the Swindon and Wiltshire Local Enterprise Partnership (LEP) to consider appropriate business support - including to major importing and exporting firms (particularly where duplicate UK and EU licences might be required for sector specific produce such as fertilisers and chemicals)
 - Working with the LEP on the use of EU funding and the future UK shared prosperity fund; and to finalise an industrial strategy that shapes the future deployment of funding for skills, employment, apprenticeships, growth and investment and attracting inward investment
 - Working with the Local Resilience Forum (LRF) on contingency planning exercises and community reassurance
 - Considering the requirement for increased food testing if there is a loss of access to EU wide alerts on contamination and for additional animal health certificates for exporters (if necessary highlighting this to government as a new burden)
 - Considering the opportunities to lobby government for changes on procurement, state aid, de minimis, food labelling and waste regulations in due course
 - Workforce planning for health and social care as part of the Bath & NE Somerset, Swindon and Wiltshire Sustainability and Transformation Partnership; alongside checking for existing non-UK EU citizens in the social care workforce to publicise the early application process for settlement.
 - Checking for EU citizens in care and preparing to support them with applications for the EU settlement scheme; providing an assisted digital application scheme via the Wiltshire Council library service for citizens who do not have the appropriate access, skills or confidence to complete an online immigration application form.
 - Working with Visit Wiltshire to increase tourism. The weak pound has helped attract international visitors and overall numbers have increased from 1.84m staying visitors in 2015 to 1.94m staying visitors in 2017 (provisional figures).
22. Whilst no specific public meetings focusing solely on Brexit have been held to date by Wiltshire Council, the potential impact is already being considered through a range of committees as well as mainstream business planning processes (including at Extended Leadership Team level); and through working in partnership with organisations such as the LEP and LRF. Once the shape of the final arrangements are known further work can take place to consider the detailed implications.

Wiltshire Council