
NORTH AYRSHIRE COUNCIL

29 January 2019

Audit and Scrutiny Committee

Title: Brexit Risks Update

Purpose: To update the Committee on risks from Brexit and work of the Council to mitigate such risks.

Recommendation: To note the report and receive a further quarterly report.

1. Executive Summary

- 1.1 On 29 May 2018 the Audit and Scrutiny Committee considered a report on the work of the Council to mitigate potential risks from Brexit. The Committee agreed to receive a quarterly update and this report provides that update.

2. Background

- 2.1 Following the UK's vote to leave the EU, the UK Government triggered Article 50 in March 2017, starting a two year negotiation on a Withdrawal Agreement. In the absence of agreement by the UK and EU to extend the negotiation period, on 29 March 2019 the UK will leave the EU and all EU law will transfer into UK law.
- 2.2 A phased approach has been taken to the UK/EU negotiations. In December 2017 the first phase concluded, with progress on citizens' rights, the UK's contribution to the EU budget and participation in EU programmes and the Ireland/Northern Ireland border arrangements. The second phase concluded in March 2018, with agreement for a 21-month transition period until December 2020 where current arrangements will continue. The provisional agreements reached in relation to areas such as the status of EU citizens and the transition period only apply in the event that the overarching withdrawal agreement is ratified. The Brexit deal negotiated between the EU and the UK Government was approved by the EU on 25 November 2018, but rejected by the UK Parliament on 15 January 2019. On 29th January there will be a further vote on a Government motion, and amendments. The focus of these is likely to be on the Irish 'backstop' and a 'no-deal'.
- 2.3 A number of pieces of legislation will implement the UK's withdrawal from the EU. These include the European Union (Withdrawal) Act 2018, a Trade Bill which would allow the UK to operate its own trade policy after Brexit, a Taxation (Cross-border Trade) Bill which will replace EU customs rules and allow the UK to impose its own tariffs after Brexit, and an Immigration Bill. The Scottish Parliament's 'UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill' is not yet law. Following a reference under section 33 of the Scotland Act 1998, the Supreme Court ruled that some provisions of the Bill are

now outwith the legislative competence of the Scottish Parliament. As a result the Bill cannot be submitted for Royal Assent in its unamended form.

- 2.4 The risks to North Ayrshire depend on what form Brexit takes. Unfortunately there is significant uncertainty as to this. Following the UK Parliament's rejection of the deal brokered by the Prime Minister, it is difficult to foresee how this will play out. Whilst negotiations are ongoing there remains the potential risk for the UK to leave the EU in March 2019 with no deal, moving to World Trade Organisation (WTO) rules.
- 2.5 In broad terms there are two types of deal which have been considered from a risk perspective:-
- A negotiated deal which retains free trade between the UK and the EU. As free trade is based on principles which involve open procurement, free movement of labour etc. many existing EU rules, such as those on procurement, state aid, employment protection and data protection will continue to apply.
 - A 'no deal' whereby the UK would move to World Trade Organisation (WTO) rules, and try to negotiate bespoke trading deals with other countries such as the United States. In terms of risk, this has the greatest impact and is considered from 2.15 onwards.
- 2.6 The UK and EU could also agree to extend the negotiation period. The main additional impacts of any such extension are:-
- It extends the period of uncertainty, which could result in a further slowdown in business investment and a reduction in productivity and economic growth;
 - The extension means the UK is still in the EU on 23 May 2019, which under the current circumstances triggers an election to the European Parliament.
- 2.7 There are other constitutional scenarios, most of which involve a further period of uncertainty and similar risks to those in 2.6. At this time, no further planning around a further referendum or General Election is taking place beyond our normal state of preparedness.

Negotiated Deal Risks

- 2.8 At the time of the last report to the Audit and Scrutiny Committee in September 2018, the risks considered largely related to those of a negotiated deal which retained free trade. The risks and actions identified in Appendix 1 to that report still remain valid for that scenario, however should a deal be agreed these will be updated to reflect the actual agreement.
- 2.9 EU Settlement Scheme- The settlement scheme states that EU citizens legally residing in the UK as at 29 March 2019 will be allowed to stay in the UK and vice versa for UK citizens living in the EU. The Scheme now being piloted will require EU citizens living in the UK to apply for 'settled status' if they wish to continue to live within the UK after June 2021. For those who have continuously lived in the UK for 5 years, they will be able to apply for 'settled status'. For those who haven't lived in the UK for 5 years they will be able to apply for 'pre-settled status'. On 21 January 2019 the Prime Minister announced

that applications would not incur a fee. The Settled Status Scheme is currently being piloted for health and social care workers, with the full scheme going live from 30 March 2019. COSLA is currently working with the Scottish Government and the UK Government to consider how best to communicate arrangements around the Settlement Scheme.

- 2.10 A full assessment of the workforce has been undertaken. North Ayrshire Council employs 30 Non-UK EU workers, with 14 working within Educational roles. This equates to 0.4% of the total workforce.
- 2.11 Impact on contractual arrangements- In terms of impact on existing procurement and contractual processes within the Council, it is unlikely that significant issues will emerge in the short term, if a deal which maintains free trade can be agreed. However this will require to continue to be assessed on an ongoing basis to consider any exposure to increased risk from fluctuations in currency prices where contracts in euros are in place, to assess impact on workforce as a result of migration issues and in relation to the operation of the supply chain in terms of goods such as food and construction materials in particular. In the longer term, future trade arrangements agreed could have an impact on contract renewals and negotiations. Instances could arise where suppliers challenge contractual arrangements on the basis of “force majeure” provisions. That is, Brexit has created such a substantial change to existing circumstances that there is a legal basis to alter the contract.
- 2.12 UK Shared Prosperity Fund -The UK Government has indicated that it intends to establish a UK Shared Prosperity Fund to replace the EU Structural Funds. A number of issues remain unresolved in relation to this Fund, regardless of the exit scenario. Specific issues include how much funding will be available through this route, how it will be allocated and what it will be used to fund. The key objective of the new fund will be to tackle inequalities between communities, by “strengthening the foundations of productivity”. The fund will operate across the whole of the UK and the UK Government will be required to engage with the devolved administrations.
- 2.13 Economic Uncertainty- In its recent Scotland’s Budget Report 2018, the Fraser of Allander Institute noted that the economic uncertainty which is linked to the Brexit negotiations, is weighing heavily on the financial outlook for both the UK and Scottish level economies. Regardless of the outcome implemented, the current uncertainty is a disincentive to investment.
- 2.14 In setting the UK Budget on 29 October 2018, the Chancellor of the Exchequer noted that overall spending would go up by 1.2% but noted the possible implications of Brexit on spending plans. In wider statements, the Chancellor noted that an emergency budget may be required should the UK leave the EU without a deal and noted that the October budget was set on the assumption of an “average type free trade deal” being reached, with clear fiscal headroom in place to address a no-deal scenario. Treasury officials confirmed that £4.2bn had been set aside as reserves in the event that a no deal scenario would result. In the event of an exceptional UK Budget in Spring 2019 the Scottish Government will also revisit budget assumptions and present revised proposals to the Scottish Parliament. It is currently unknown how large the consequential from an exceptional UK Spring Budget would be. The Fraser of Allander Institute in its “Scotland’s Budget 2018” report reiterated a view that a “no-deal” withdrawal outcome would

represent a significant shock to the UK economy with slower growth anticipated and the requirement potentially for intervention by the Bank of England to take measures to stabilise the economy. Alternatively if a 'positive' deal is reached whereby a favourable trade agreement and an appropriate transition period is agreed, the report notes the view of the Chancellor that resulting higher growth levels and the unlocking of the reserves held for Brexit would be a significant boost to the economy, with forecasters having mixed views as to the speed at which this will feed into the economy.

No Deal Risks

- 2.15 Given the uncertain nature of the arrangements, the UK Government has published a range of contingency planning advice notes. The technical notes published are intended to support businesses and organisations to prepare for the potential outcome of a "no deal" Brexit, whereby a withdrawal agreement is not reached prior to the UK leaving the EU. A no-deal Brexit is likely to have significant implications in terms of:
- Business confidence and growth
 - Trading arrangements
 - Supply chains
 - Uncertainty experienced by EU nationals living and working within the UK and for UK nationals that are resident abroad.
- 2.16 At a regional and national resilience planning level, advisory groups that include representatives from Police, Fire, NHS and Councils have been actively considering this issue. At a local level, the Council and its partners have a range of well-developed and regularly tested contingency plans for incidents that address the 'consequences not causes' of disruptive events. The impact of a no deal Brexit could however be that a number of these consequences might happen together or in quick succession– requiring the Council and in particular national partners to respond effectively.
- 2.17 In December 2018 all Scottish local authorities completed a Brexit Preparedness Document detailing the main issues facing each authority in the case of a no-deal Brexit, and the action or mitigation to be taken. National Resilience coordinators have combined these to provide a national picture. This Council's response is attached at Appendix 1. Key issues identified include the following.
- 2.18 A negative impact on the national and local economy in terms of employment, investment and growth- National growth, or lack thereof, impacts on the monies available to fund public services. Recession or lower growth is likely to result in less funding for the public sector at a time of increased demand and greater cost (e.g. wage inflation, actuarial revaluation of pension funds etc.). Within Scotland there is nothing to suggest that cuts will not continue to be targeted at the local authority sector. There is also the potential for the increased cost of borrowing through higher interest rates and the initial reduced liquidity of Money Market Funds (MMF).
- 2.19 Costs could increase as a result of supply chain disruptions, the rising cost of goods through delays in importing, higher tariffs on good and services, weak pound, currency

fluctuation and labour shortages, particularly in agricultural sector (currently UK only produces 60% of what it needs to feed itself). Uncertainty discourages investment resulting in reduction in both productivity and overall growth. It will result in an increased requirement for business support from the Council, which, depending on funding, may not be possible. Business failure, unless replaced with new business will obviously result in higher unemployment, greater deprivation and greater demand for Council services.

2.20 To prevent unsafe goods entering the EU, the Council has powers under UK law to seize and detain EU goods in free circulation. Should the UK leave the EU without reaching a withdrawal agreement, there is likely to be an impact on the checks that are required on goods to and from the UK.

- In terms of food standards specifically, environmental health officers are responsible for ensuring food standards are maintained and this currently involves the issuing of export certificates for foodstuffs or products of animal origin leaving the EU. This will increase should the UK not be part of the single market, to goods that are destined for the EU.
- UK airlines currently have access to the European Common Aviation Area through the UK's membership of the EU. As airlines typically schedule flights at least 6 months in advance, there may be disruption to flights in the period after which the UK leaves the EU without agreement.

2.21 The UK Government previously indicated that the UK intends to 'opt-in' on police and justice matters on a third country basis. This would apply to instances of sharing intelligence in relation to matters such as terrorism and serious and organised crime. There is potential for these arrangements to be impacted should the UK leave the EU without a joint agreement.

2.22 Elections - If the negotiation period is extended beyond 23 May 2019, this will trigger elections to the European Parliament on that date. A General Election could also be a possibility, and in due course further referenda cannot be ruled out. All of these have to be organised by the Council

2.23 Council officers will continue to be involved in planning for Brexit through joint working with the Scottish Government, COSLA, and the West of Scotland Regional Resilience Partnership.

3. Proposals

3.1 It is recommended that the Committee notes the contents of this report and agrees to receive a further quarterly report

4. Implications

Financial:	A no-deal Brexit has potential implications for the Council, in terms of increasing demand for services, while reducing finance, and increasing borrowing and other costs.
Human Resources:	There are limited human resources implications.
Legal:	There are no current legal implications for the Council.
Equality: Children and Young People:	A key issue is whether the UK remain signatories to the European Convention on Human Rights, and if not, what will replace it. The financial impact of a no-deal Brexit in reducing Council funding is likely to result in less services to support children and young persons.
Environmental & Sustainability:	Much of our environmental legislation comes from Europe. In the short term this will continue, but the longer term impact is more uncertain.
Key Priorities:	A no-deal Brexit is likely to result in increased demand, e.g. support for businesses, in the care sector and through higher unemployment. It is also likely to result in less funding and higher borrowing costs, all of which will have a detrimental impact on the Council's key priorities.
Community Benefits:	There are no community benefit implications.

5. Consultation

5.1 Executive Directors were consulted in the preparation of Appendix 1

A handwritten signature in black ink, appearing to be 'CH', written over a horizontal line.

Craig Hatton
Chief Executive

For further information please contact Andrew Fraser, Head of Democratic Services on **01294 324125**.

Background Papers

Appendix One – Brexit No Deal Preparedness

Brexit Preparedness

The following section seeks information on issues relating to **Workforce**. You are asked to identify whether each issue is of high, medium or low priority for your council. You might also include any information on the actions that have been taken to mitigate the effects for each issue and list any additional support required, from the Scottish Government or elsewhere, to best mitigate the issue.

A number of prompts are included which can be used when identifying the priorities for your area (please note that they are not an exhaustive list and you may include any issues you believe are relevant):

WORKFORCE: <u>No Deal Specific (ie short-term impacts):</u> <ul style="list-style-type: none">• The parts of your workforce (sectors/skills/services/areas) that are most at risk from the impact of EU withdrawal• Any particular workforce issues that are specific to your local area• The number of Non-UK EU workers in your organisation <u>Medium to longer term impacts:</u> <ul style="list-style-type: none">• The implications of EU withdrawal in your long-term workforce planning• The implications for the local workforce in your economic strategies• Effect on your organisation of reduced access to EU Labour• Effect on your ability to recruit were there to be a reduction in the currency value		
ISSUE	ACTION/MITIGATION	PRIORITY (High/Medium/Low)
No of Non-UK EU Nationals within North Ayrshire Council	<ul style="list-style-type: none">• A full assessment of the workforce has been undertaken. North Ayrshire Council employs 30 Non-UK EU workers, with only 14 working within Educational roles. This equates to 0.004% of the total workforce.• Each Directorate is responsible for workforce planning and where relevant will consider and address impact.	Low
Importance of migrants to local business, particularly tourism and Arran hospitality.	<ul style="list-style-type: none">• Hosted pan Ayrshire event with Scottish Government and CoSLA for EU migrants, stressing the value placed by government Ministers and Ayrshire Council Leaders on migrant contribution to local and regional economy.• Engaging in pan Ayrshire approach to raising awareness of EU Settled Status Scheme and supporting EU migrants who wish to continue to work in UK.	Medium

	<ul style="list-style-type: none"> Supported SG commissioned research with EU migrants to identify key needs and aspirations re future migration policy (Arran workshop). 	
Longer term issue for business to attract skilled labour.	<ul style="list-style-type: none"> Ayrshire Growth Deal and regional skills programme give priority to inclusive growth and to developing skills in the region. 'Economic Strategy for North Ayrshire' and 'Fair for All' identify skills development as a key component of the strategy to secure inclusive economic growth in North Ayrshire. 	Medium

Brexit Preparedness

The following section seeks information on issues relating to **Goods, Services and Supply Chains**. You are asked to identify whether each issue is of high, medium or low priority for your council. You might also include any information on the actions that have been taken to mitigate the effects for each issue and list any additional support required, from the Scottish Government or elsewhere, to best mitigate the issue.

A number of prompts are included which can be used when identifying the priorities for your area (please note that they are not an exhaustive list and you may include any issues you believe are relevant):

GOODS, SERVICES & SUPPLY CHAINS: This section should be used to outline the issues identified within your authority in relation to the goods and services both required and delivered by the council . <u>No Deal Specific (ie short-term impacts):</u> <ul style="list-style-type: none">• The critical areas that may be impacted due to interruption to supplies (including care homes)• The availability of resources and any requirements for stockpiling• Relationship with 3rd sector providers and links to your contingency planning• Discussions with suppliers directly or through Scotland Excel• Effect on trading standards if mutual recognition ends between UK and EU• Effect of new import and export checks that may be required <u>Medium to longer term impacts:</u> <ul style="list-style-type: none">• The implications of any change to the state aid rules and/or processes• Effects on your contracts of major currency fluctuations• Resilience of your supply chain• Particular goods or services that your local area rely on from EU countries• Any opportunities for collaboration with or to help your suppliers		
ISSUE	ACTION/MITIGATION	PRIORITY (High/Medium/Low)
Providers in care home sector may face recruitment difficulties, driving up salaries in an area where there are already shortages.	All services considered critical have contingency plans in place	Medium

Supply chain disruptions, rising cost of goods through delays in importing, weak pound and labour shortages, particularly in agricultural sector (currently UK produces 60% of what it needs to feed itself)	<ul style="list-style-type: none"> • Working with CoSLA, Government and agencies to improve understanding of issues and preparatory work required. • All services considered critical have contingency plans in place 	High
Regulatory standards and consumer protection- need for more checks and accreditation with accompanying delays in exports	<ul style="list-style-type: none"> • Working with COSLA, regulatory and other networks to monitor developments, identify and pursue preparatory actions required by local authorities. 	Medium
State aid rules and processes.	<ul style="list-style-type: none"> • Held training session for Council officials with SG State Aid Unit, examining regulatory framework up to Brexit and what may happen beyond. A report will be considered by Executive Leadership Team in early 2019. 	Low
Pressure on social enterprises.	<ul style="list-style-type: none"> • Investment in programme to grow and sustain social enterprise in North Ayrshire. 	Low
Impact on procurement- increased demand for currency fluctuation conditions, contracts being terminated due to currency fluctuation, suppliers only willing to offer short-term contracts	<ul style="list-style-type: none"> • Business and procurement teams collaborating to increase local suppliers' awareness of procurement opportunities, and their ability to engage. 	Medium

Brexit Preparedness

The following section seeks information on issues relating to **Place**. You are asked to identify whether each issue is of high, medium or low priority for your council. You might also include any information on the actions that have been taken to mitigate the effects for each issue and list any additional support required, from the Scottish Government or elsewhere, to best mitigate the issue.

A number of prompts are included which can be used when identifying the priorities for your area (please note that they are not an exhaustive list and you may include any issues you believe are relevant):

<p>PLACE: This section should be used to outline the issues identified in relation to your wider place.</p> <p><u>No Deal Specific (ie short-term impacts):</u></p> <ul style="list-style-type: none">• Issues identified through discussions you have had with your CPP partners• Issues identified through discussions or work you have undertaken with private sector partners• Any dialogue you have had with your communities about possible effects of a no deal or plans to do so <p><u>Medium to longer term impacts:</u></p> <ul style="list-style-type: none">• Effects outwith your organisation – eg any particular sectors in your area that rely on Non-UK EU workers• Your priorities for providing support and assistance to communities• Impact on transport networks• Impact of large numbers of UK citizens returning from other parts of the EU		
ISSUE	ACTION/MITIGATION	PRIORITY (High/Medium/Low)
Vulnerability of local businesses to recession, increased costs, currency fluctuation, delays in import/export and skills shortages- profit margins are already very tight	<ul style="list-style-type: none">• Strong commitment to 'Team North Ayrshire' connection with business, regional and strategic partners, and key decision makers.• Engaging North Ayrshire businesses with SE, HIE and Business Gateway for Brexit preparedness.• Working with Ayrshire Chambers to promote Brexit related information to local and regional business base• Investigating potential development of export partnership in Ayrshire and consideration of export hub. Joint visit to France with Ayrshire Chamber.• SDI workshop for Business team advisers to increase skills and knowledge to enable them to assist local business with action planning	High

Uncertainty discourages investment (including investment in growth deals) resulting in reduction in both productivity and overall growth	<ul style="list-style-type: none"> • Strong commitment to 'Team North Ayrshire' connection with business, regional and strategic partners, and key decision makers. • Engaging North Ayrshire businesses with SE, HIE and Business Gateway for Brexit preparedness. • Increased public sector support required for businesses 	High
NHS concerns over staffing levels and medicine imports will result in greater levels of ill health and greater demand for care in the community, increasing demand on local authorities	<ul style="list-style-type: none"> • Work with NHS, Government and partners 	Medium
Impact on capital projects- 40% of those involved in construction in London are EU nationals. If they leave London will draw others, resulting in regional shortages in construction labour	<ul style="list-style-type: none"> • Monitor, particularly in relation to contract prices, number of tenderers • Contract monitoring. Particularly of timescales 	Long term
Government awareness of key local and regional issues	<ul style="list-style-type: none"> • Engaged with Cabinet Minister Mike Russell via Joint Ayrshire CPPs meeting and meeting with islanders on Arran. UK Government engagement (see Funding). • Provided written responses to seven Brexit related consultations. 	Low
Potential for unemployment rate to rise, depending on economic impact	<ul style="list-style-type: none"> • Investing in North Ayrshire Employability and Skills programmes and increasing support for Modern Apprenticeships. 	Medium term

Brexit Preparedness

The following section seeks information on issues relating to **Funding**. You are asked to identify whether each issue is of high, medium or low priority for your council. You might also include any information on the actions that have been taken to mitigate the effects for each issue and list any additional support required, from the Scottish Government or elsewhere, to best mitigate the issue.

A number of prompts are included which can be used when identifying the priorities for your area (please note that they are not an exhaustive list and you may include any issues you believe are relevant):

FUNDING: This section should be used to outline the issues identified in relation to finance or funding . <u>No Deal Specific (ie short-term impacts):</u> <ul style="list-style-type: none">• Impact of any fluctuations in the currency rate to your income (eg council tax, non-domestic rates)• Impact of any fluctuations in the currency rate to your expenditure <u>Medium to longer term impacts:</u> <ul style="list-style-type: none">• Impact of the loss of any EU Funding (eg European Structural Funds)• Impact on future economic growth• Impact on any infrastructure and regeneration projects and plans• Impact on social inclusion issues (eg welfare fund)		
ISSUE	ACTION/MITIGATION	PRIORITY (High/Medium/Low)
Recession means less funding for the public sector at a time of increased demand and greater cost (e.g. wage inflation). Local government is the service most vulnerable to government cuts	Liaise via COSLA and the Review of Local Governance with Government regarding the budget settlement and greater financial empowerment	High
Increased cost of borrowing through higher interest rates	In liaison with financial advisers to keep a close watch on markets and Council funding requirements	Medium
Post Brexit regional policy and funding frameworks including	<ul style="list-style-type: none">• Maximising benefit from current EU social, rural and regional development funding• Council has effective audit and compliance procedures in place.	Medium

uncertainties around the UK Prosperity Fund.	<ul style="list-style-type: none"> • EU funding level of support for business, skills & employability, regeneration, tackling poverty, rural projects relatively safe given UK Treasury guarantee. 	
Increased demands on council services eg to mitigate potential economic impact	<ul style="list-style-type: none"> • Applications submitted to extend EU support for local skills & employability and business growth programmes to 2022. 	High
Access to future EU programmes eg Erasmus, Horizon, Interreg, Cross Border	<ul style="list-style-type: none"> • Working with local and strategic partners to influence government thinking on benefits of securing access to education, innovation and regional cooperation programmes post Brexit. 	Medium