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## **NORTH Ayrshire Council**

**29 September 2020**

### **Audit and Scrutiny Committee**

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**Title:** **UK withdrawal from the European Union (Brexit)  
Update report**

**Purpose:** To provide an update on the current position regarding the UK's withdrawal from the European Union on 31 December 2020.

**Recommendation:** It is recommended that the Committee note (a) the current position in respect of the UK's withdrawal from the European Union; and (b) proposals to step-up the Council's EU Preparedness Group.

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## **1. Executive Summary**

- 1.1 This report provides an update on the UK's withdrawal from the European Union (Brexit).

## **2. Background**

- 2.1 Following the EU Referendum on 23 June 2016, the UK submitted notification of its intention to withdraw from the EU, in accordance with Article 50 of the Treaty on European Union, on 29 March 2017. In April 2019 an extension to Article 50 was agreed until 31 October 2019.
- 2.2 Following ratification of the Withdrawal Agreement by both the EU and the UK Government in October 2019, the UK withdrew from the European Union on 31 January of 2020. The UK did this by way of the EU (Withdrawal Agreement) Act 2020. This Act also sets in UK law that the present Transition Period must end on 31 December 2020. Until then, while the UK is no longer a Member State, the EU budget, EU law and rules on areas such state aid and freedom of movement, continue to be binding on the UK.
- 2.3 The Withdrawal Agreement allowed for the Transition Period to be extended for two more years, if the UK and the European Union agreed to this by the end of June 2020. The UK Government did not seek to extend the Transition Period.



- 2.4 On 16 July the UK Government published its White Paper on the Internal Market. This aims to standardise open market trading arrangements across the whole of the UK, by proposing to enshrine in law two principles to protect the flow of goods and services in the UK's Internal Market: the principle of mutual recognition, and the principle of non-discrimination. The UK Government's view is that this is required to support our international competitiveness and maintain our attractiveness for international investment.
- 2.5 The Scottish Government have criticised the Internal Market proposals as a 'power grab' from the Devolved Administrations. Certainly, on the basis that England has 85 per cent of the UK population, it is likely to be English standards, set by the UK Government, which will prevail. Some of these standards will be set so as to facilitate trade deals with other countries, meaning that these imports will be freely available across the UK, whatever standards are set in Scotland and Wales. As an example, had such arrangements previously been in place, this would have stopped the Scottish Government from introducing minimum unit pricing of alcohol. Similarly, were the Scottish Parliament to introduce measures designed to tackle obesity, such as requiring producers to reduce the sugar content of food and drink or have bolder labelling on recommended daily intakes, or restrict certain marketing activities, these rules would not apply to goods or service providers entering the Scottish market which satisfied less strict regulations set in other parts of the UK
- 2.6 The extent of the impact will depend on how far the UK Government use these powers to standardise the UK on free market principles. In turn, while this could facilitate a trade deal with countries such as the United States, that would further embed a free market philosophy, probably at the expense of social policies which have been one of the hallmarks of EU membership.
- 2.7 The Internal Market Bill, currently before the UK Parliament gives effect to the White Paper's proposals. The government has also used this bill to give Ministers powers to amend how the UK could implement the Northern Ireland Protocol already agreed as part of the Withdrawal Agreement, if it can't reach key decisions with the EU. The UK Government has said that it will use the Finance Bill to give Ministers further powers with relation to the Northern Ireland protocol. While this would breach the UK's international treaty obligations, in the longer term the bigger issue is likely to be the standardisation of free market rules across the UK. Potentially this would limit the ability of both the Scottish Government and the Council to develop social policy tailored to the needs of communities, such as community wealth building.



- 2.8 As regards the current state of negotiations between the UK and the EU, discussions still continue, in spite of threats of legal action by the EU over breach of the Withdrawal Agreement. The current deadline for negotiations to be finalised is the EU summit on 15 October, although the final European Parliament meeting is 14 December. It is understood that any deal which extends beyond fisheries, trade and competition policy, (areas where the EU has exclusive competence in Europe) will require approval not only by the EU, but by national and sub-national parliaments across the EU. Even if a comprehensive agreement is reached, full implementation could take months or years. The UK will take time to adapt to Brexit in virtually every policy area and is likely to be affected in ways that are currently unforeseen, the current pandemic being a good example
- 2.9 At this stage it is very difficult to know how close we are to a deal. It appears that the most controversial areas are fisheries, the level playing field and the Irish trade border. The 'level playing field' issue is that as a sovereign nation the UK insists on the right to set its own standards and regulation. It therefore refuses to accept EU rules or to be bound by the European Court of Justice. The UK government contends that it is asking for nothing more than the EU grants under its other trade agreements, notably with Canada. The EU's argument is that trade agreements need to reflect geography and levels of trade. The UK is a neighbouring state and trades heavily with the EU. Therefore, the UK is asking for far greater access than granted to any other trade partner. Since the UK is asking for such far-reaching access to the single market, the EU needs to be sure that there is a mechanism in place to ensure that European businesses are protected against future regulatory change that would give UK businesses an uncompetitive advantage, such as lower labour market or environmental standards, or from public subsidies.
- 2.10 Therefore a 'no deal' remains a possibility. This could involve trading on World Trade Organisation (WTO) rules. Whilst a 'no deal' future relationship would be less problematic than a 'no deal' in the Withdrawal Agreement, the UK would still be exposed to considerable disruption and uncertainty in many areas of the economy. UK exports would be subject to tariffs, which would increase prices and reduce margins for UK producers, border checks would be introduced to ensure safety compliance, and some UK services could no longer take place within the EU. Even if the UK and the EU were able to introduce unilateral measures or minimum agreements on some or all of the areas covered in the Political Declaration, which include aviation, financial services, and fisheries, they could be highly rudimentary and short-lived.
- 2.11 In terms of the Council's risk arrangements for Eu-Exit, Members will recall that detailed reports were previously presented to the Audit and Scrutiny Committee. These addressed the worst-case scenario which related to a 'no deal'. In broad terms, the closer a deal is to a 'no deal', the worse the expected economic impact on the UK. A 'no deal' remains the worst-case scenario, and many of these risks remain relevant.



- 2.12 The potential economic impacts of a no-deal also require to be considered against the background of expected COVID impacts. For example, on 13 September British and European car manufacturers warned of £100bn losses in the industry over the next 5 years if a Brexit trade deal is not struck. This comes on top of the £100bn impact of the COVID epidemic on that industry. Both COVID and EU-exit are expected to have negative economic impacts in terms of unemployment and increased levels of deprivation. Both will increase the demand on public services. Similarly, the financial cost to Government of dealing with COVID is likely to restrict their ability to intervene to minimise the economic impacts of EU-Exit. Attempts to reduce public sector expenditure are also likely to further extend austerity at a time of greater demand.
- 2.13 Similarly, the ability of the Council to respond will also be influenced by COVID, not merely in financial terms but in terms of capacity. An obvious example is Environmental Health. In addition to their normal duties, they now enforce COVID legislation, and trace potential COVID cases of behalf of the NHS. A no-deal will give rise to a need to support local businesses to obtain the required export certificates. Similarly, many of the officers who would normally be involved in planning for the risks of Eu-Exit are those dealing with COVID. Preparing for the potential risks to the Council from the UK's exit from the European Union, whilst at the same time continuing to manage the Council's response, renewal and recovery work related to the Pandemic will have significant implications for all Services.
- 2.14 The impact of the UK leaving the European Union features in the Council's Corporate Risk Register and is subject to regular review. When considered alongside the impact of the Covid-19 Pandemic, the potential risk to the Council and our communities is significant.
- 2.15 Given the continuing uncertainty around a number of areas including trade agreements, the Council is maintaining its heightened state of preparedness and will continue to do so pending further developments in the period up to 31 December 2020. The Executive Leadership Team will shortly consider stepping-up the multi-service EU Exit Preparedness Group to further assess risks and plan for Eu-exit. The work to date on COVID Recovery and Renewal, as reported to Cabinet on 8 September 2020, is also relevant to the potential risks of a no-deal. Accordingly, it will be important that these two streams of work align. The remit of the EU Exit Preparedness Group will be:-
- Considering the Scottish and UK Government's emerging Planning Assumptions;
  - establishing information on likely impacts on service delivery resulting from different EU exit outcomes;
  - identifying any actions required to mitigate potential negative impacts;



- working with partners to understand any shared risks and any joint response appropriate to manage any potential impacts;
- taking the lead for North Ayrshire in negotiations with the European Union via COSLA, Solace (Chief Executives), ALRP (Ayrshire Local Resilience Partnership), and WoSRRP (West of Scotland Regional Resilience Partnership);
- Liaising with and supporting national reporting structures established through the Multi-Agency Co-ordination Centre (MACC) and the Scottish Government's Resilience Room (SGoRR), and
- researching the activities and approaches of other local authorities and relevant bodies across the UK and to identify any best practice approaches.

2.16 The Scottish Government have confirmed that the Multi-Agency Control Centre for EU-exit will be re-established at Bilston Glen from 7 December. The Council will feed into this through the Ayrshire Civil Contingencies Team (ACCT). The Ayrshire Local Resilience Partnership (ALRP) are also establishing a multi-agency EU-Exit Sub-Group chaired by Police Scotland, which will feed into ALRP meetings.

### **3. Proposals**

- 3.1 Leaving the EU will have implications for North Ayrshire Council, its partners and North Ayrshire as a whole. The Council had previously identified a number of potential risks from exiting the EU that could impact on communities, local businesses, council service delivery and operations. These potential risk areas remain and, when considered against the concurrent impacts presented by the Covid-19 health pandemic, will increasingly require the attention of the Council, all of our Services and our Partners.
- 3.2 The Committee is asked to note the current position and the structures in place to identify and plan for risks, especially those of a no-deal. It is recommended that a further report is submitted to the next Committee, providing more detail on the expected risks and actions to reduce their impact. By that time, it is hoped there will be further clarity on the terms of any deal.

### **4. Implications/Socio-economic Duty**

#### **Financial**

- 4.1 Officers continue to monitor the impact of the EU Withdrawal process on the Council's budget position. The financial impact of COVID may in the medium to longer term detrimentally impact on Council finances, at a time when there is greater demand for Council services



4.1.2 In 2019/20, the Council received £50k from the Scottish Government as our share of £1.6m (£50k per council). COSLA, on behalf of all Scottish Councils, has made a request to the Scottish Government for this funding to be allocated again in 2020/21.

### **Human Resources**

4.2 There are no human resource implications arising from this report, other than the issues of organisational capacity referred to in the report.

### **Legal**

4.3 The terms of the UK's exit from the EU, the means by which it standardises the internal market and the conditions on which the UK Government enter into trade deals have the potential to effect every area of the law. It is likely that a move to a free market philosophy, away from social justice and social policy, arguably one of the hallmarks of the UK's membership of the EU, will bring increasing divergence and conflict between the Scottish and UK Governments.

4.3.2 The Internal Market Bill includes Northern Ireland in the standardisation of open trade across the UK, presumably to avoid any perceived border between the UK and Northern Ireland. The danger is that in the absence of robust technological solutions, a trade border is created between Eire and Northern Ireland, in breach of the Good Friday Agreement- itself a binding international treaty. This is likely to end up in court.

### **Equality/Socio-economic**

4.4 There are no impacts of this report. However, any deal has huge potential impacts. In particular, the UK Government has indicated its intention to 'modernise' and depart from the terms of the European Convention of Human Rights.

### **Environmental and Sustainability**

4.5 Again, there are huge potential impacts depending on the final terms of any deal and the trade deals which the UK enters thereafter. For example, the US tends to put greater weight on competition and free access to markets, rather than the precautionary principle.

### **Key Priorities**

4.6 This terms of the deal and the internal market impact on nearly every area of the Council and on all of the priorities.



## **Community Wealth Building**

- 4.7 The internal market proposals have the potential to significantly restrict the Council's ability to make social policy tailored to the needs of its communities. This includes community wealth building.

## **5. Consultation**

- 5.1 Officers from all services were previously consulted in assessing the risks from Eu-exit. This will continue to be the case through the formation of an EU Exit Preparedness Group

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## **Background Papers**

None