

Brexit Briefing – “No Deal” scenario

Introduction

From reviewing the Local Government Association (LGA) information and other web sites regarding the impact of a “No Deal” Brexit it is evident it will affect local authorities very differently depending on local demographics, proximity to a major port and use of EU structural funding.

Spelthorne would seem to be relatively protected from the potential impacts of Brexit as we are not a port, do not have large number of EU residents or employees and no EU funding. Even with Heathrow as a major entry point on the edge of the Borough, as this is already a highly regulated site for entry of goods and people, Brexit is unlikely to change this significantly.

There are potential indirect effects in terms of skills shortages, particularly in the construction and social care sectors, and in a “No Deal” scenario any tariff impacts could be felt through suppliers via increased prices. It is unclear if any extra regulatory burdens would be put onto Environmental Health to spread increased workload associated with assessing incoming products. With no detailed guidance, as yet, in many areas from Government on a “No Deal” scenario it is difficult to provide further detail at this stage.

Key Areas of Impact through Brexit and a “No Deal” scenario.

Council services cover a wide range of issues, but there are a number of key areas which will be impacted by a “No Deal”. A brief synopsis of each key area of impact is given below:-.

Laws Regulating Government Services.

Many local government services are covered by European Union (EU) rules and regulations including waste management, environmental standards, trading standards and procurement. The Withdrawal Act 2018 ensures that there is legal certainty for Councils as those EU laws that underpin key services on exit day would continue to apply through UK law, even under a “No Deal”.

There could be some issues of transition to resolve, if for example, a council is half-way through a major procurement exercise using EU processes and systems – there is no certainty that councils would continue to be able to access EU systems under a “No Deal” scenario. Equally going forward procurement laws could be positively amended under UK legislation to specify local apprenticeships/a degree of local employment in public contracts or have more concrete policies on SME preferences.

“No Deal” would mean the absence of an implementation period to the end of 2020. A transition phase would help create continuity and an effective period of change. On the positive side there is also the opportunity to amend and strengthen former EU laws to help local communities.

A New Constitutional Settlement

Under a ‘No Deal’ scenario, all EU legislative, enforcement and judicial powers would immediately return to the UK, with no implementation period. Consequently, under

the current UK constitutional settlement, powers would return immediately to Whitehall, Stormont, Cardiff Bay and Holyrood. The LGA and the local government associations of Wales, Scotland and Northern Ireland have been clear that Brexit must create the opportunity for a devolution of powers beyond central government to local communities and cannot result in a centralisation of powers. Therefore, under a “No Deal” scenario, the LGA suggest there should be consideration of a new central-local agreement across the UK which results in the devolution of powers to local communities through local government, as well as giving local government a more formal role in law-making.

Regeneration and other Funding Sourced from the EU

Under a “No Deal” scenario, the UK would lose access to European Structural and Investment Funding (ESIF), worth £5.6 billion to local communities in England (2014-20). In July 2018 the Treasury announced that in the event of ‘No Deal’ the Government would ‘underwrite’ ESIF funding until the end of 2020. The Government has committed to a UK replacement for EU funds. As Surrey is considered an “affluent” area EU funding has not been and in future scenarios is unlikely to be supported through such funding.

It is also worth noting that from the beginning of the transition period next year, the UK would no longer be eligible for billions of pounds worth of European Investment Bank (EIB) monies reserved for EU members. This may potentially increase demand/competition for UK funds.

Workforce

Councils play a leading role in bringing communities together and this will be important in tackling the challenges and taking the opportunities of Brexit. For example, leaving the EU represents the possibility of a direct impact on both the local government workforce and the wider national workforce, especially with key sectors such as construction and tourism vulnerable to reductions in the supply of labour from the European Economic Area. The LGA has set out clearly the number of non-UK EU workers that provide vital public services including 7% of social care staff in England.

The current draft Withdrawal Treaty sets out a reciprocal agreement between the EU and the UK. It provides for ‘settled-status’ for those (non-UK) EU citizens⁶ living in the UK and gives such rights to UK citizens living elsewhere in the EU. This provides short-medium term assurance about residency and employment rights and for the delivery of vital public services.

In the event of “No Deal”, there will be no Withdrawal Treaty. As such the provision for a reciprocal agreement on ‘settled status’ contained in the draft Treaty will go. Currently how UK legislation will be then be altered to address the issue is uncertain, it is hoped that provision for “settled status” could still be put in place.

Although Spelthorne has a small EU resident population and only a small number in Spelthorne’s employment we could indirectly be affected by any skills shortages resulting from no agreement on settlement rights especially in relation to Spelthorne’s building projects and older residents receiving care. Skills shortages in construction could affect both costs and timings of works.

It is hoped that as the Government produce their “No Deal” technical papers these issues will be addressed as well as EU citizens’ rights to access public services in the future.

Ports, Public Health and Local Regulation

Under a “No Deal” scenario, as an example of the impact on local authority services at ports of entry, the City of London, which provides port health services at a number of ports, estimates that, were imports from the EU subject to the same checks as imports from elsewhere (as they could be under a “No Deal” scenario), there could be an increase of up to 25 per cent in the checks that they are required to undertake.

Additionally duties and inspections at ports – and beyond – are reliant upon UK access to European-wide databases which provide much of the intelligence for assessing risks. Under a “No Deal” scenario there would be no access to such EU databases and more checking is inevitable, and protections weakened, if there is no viable UK alternative database. Local trading standards and environmental health teams operating inland from ports would also be affected by the loss of intelligence gathered from UK access to key EU databases. This would potentially reduce their ability to target their work and enforcement activity appropriately.

There are also concerns that as local regulatory capacity has reduced by around 50 per cent following cuts to local government funding that, without additional resources, local teams would be unable to absorb any additional work arising as a result of EU exit. Until further guidance is produced it is difficult to assess any direct impacts on the Borough’s Environmental Health team.

Goods and services

Under a “No Deal” scenario, Councils need to consider whether imported goods could be subject to new tariffs and thus services would be subject to new costs. On the basis of a “No Deal” and the assumption of no free trade agreement (FTAs) with the EU it is expected the UK will revert to World Trade Organisation (WTO) rules. There would be many choices available to the UK such as a policy of tariff free trade with every nation or the UK may choose to try and ‘roll over’ the current EU tariffs. What is clear is that under WTO rules, the UK would have to treat the EU the same as other trading nations.

Councils, or more likely their suppliers, currently buy EU goods tariff free. If tariffs are applied the UK supplier (not the council itself) would have to pay the new tariffs. How these costs would be passed on to Councils would depend on the nature of the contract – fixed or some variability allowance on price. Certainly cost increases would be passed on in new or renewed contracts. This may have a significant impact on councils’ budgets and local services.