

Report to: Audit Committee
Date of meeting: 22 November 2018
By: Chief Operating Officer
Title: Brexit risk discussion
Purpose: To provide information and assurance on the issues that the Council has already considered in relation to potential Brexit risks, and engage the Committee in developing the thinking around the Brexit risk.

RECOMMENDATIONS

- 1) Note the work that has taken place to review the potential impacts of Brexit.**
 - 2) Provide comments and input around incorporating a Brexit risk in to the Strategic risk register.**
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1 Background

1.1 As the Committee will be aware, the government is currently in negotiating the UK's future relationship with the European Union (EU), following the vote to leave.

1.2 At the Audit Committee on 20 September 2018, the Committee commented that Brexit and the potential 'disorderly exit' is not mentioned on strategic risk register. The Committee commented that there is a risk from an adverse currency fluctuation and higher inflation, plus an impact on ports. Therefore, a disorderly Brexit should be on the strategic risk register. The Chief Operating Officer responded that the Brexit risk had been considered but further review was required to define the risk and mitigations. At present it is difficult to put in place mitigations when the actual impacts remain unknown. The Committee's comments were noted and it was agreed that this risk will be revisited in November (which is the purpose of this report).

1.3 This report will provide an update on the issues that the Council has already considered, in order to inform and provide assurance. It also seeks to engage the Committee in developing the thinking around the Brexit risk and how it could be captured in the context of the information provided and the current risk register. This can be fed into the quarter 3 risk register (scheduled for Audit Committee in March 2018).

2 Supporting information

20 September Audit Committee

2.1 As part of the discussions on 20 September, the Committee suggested that it might be helpful to focus on specific areas of risk such as:

1. A break down in the supply chain for the Council's suppliers and local businesses;
2. Blockages to the transport system especially at ports (e.g. Newhaven).
3. The cost inflation impact on staffing and suppliers of a currency fluctuation and higher inflation.

2.2 These areas will be covered in the sections below.

Government preparations and communications

2.3 Information from the Association of County Chief Executives (ACCE) indicates that the Government are currently looking at Brexit preparations down the following work streams:

- Citizens' rights (including whether EU residents can vote in next year's borough and district elections).
- Workforce
- Trading Standards (particularly in relation to weights and measures at ports)
- Structural Funds
- Ports and Borders
- Community Cohesion
- Economy

At this stage local government have not been engaged with on these preparations.

2.4 The Local Government Association (LGA) 'Brexit "No Deal" briefing for councils' (5 October 2018) includes information on the Withdrawal Act 2018 and its application in a No Deal scenario:

EU law and regulation underpins many council services (such as waste and environmental standards). The Withdrawal Act 2018 provided for all EU law to be brought into UK law to ensure that there was legal certainty for businesses and residents. The Withdrawal Act is now law and this legal certainty remains in place under No Deal.

However, many UK laws refer to EU regulations or to EU agencies. The Withdrawal Act gives ministers the ability to amend such laws where EU institutions or processes are mentioned. We have been assured that the principle that the Government is working to is that of continuity (at least in short-medium term) and naming UK successor agencies to EU regulators.

Under No Deal, all these legal changes to UK law need to be in place by March 2019 and relevant information communicated to the sector by Government. Given the number of Statutory Instruments that are required it is not clear at the moment whether all changes will be communicated via the "no deal" technical papers or through direct communications by a number of Government departments to relevant professional bodies or directly to councils.

Current risk register and sharing best practice with other local authorities

2.5 The Council's Strategic risk register (circulated to the Committee at quarter 1) is attached as Appendix 1. A consideration for the Committee is whether it is a better approach to have Brexit as a separate risk or a component part of risks on the register.

2.6 The Council's Business Continuity approach is a well-established and embedded framework where (depending on the services impacted by a scenario) the Corporate and/or relevant Departmental Business Continuity Team would respond to the incident. Council activities have been prioritised using a robust Business Impact Analysis process, and any unforeseen impacts to the business continuity of our prioritised activities, will be initially addressed through this approach.

2.7 The South East Risk Managers Group (consisting of 10 local authorities) shares information every 6 months on their strategic risks. The Members of the group are East Sussex, Surrey, Kent, Essex, West Sussex, Hertfordshire and Buckinghamshire County Councils, Brighton & Hove City Council, Medway Council and City of London Council.

2.8 At the point of the most recent information exchange (July 2018), two Councils had a specific Brexit related risk; one referenced place specific infrastructure risk; and the other was very high level with no mitigation at this stage. In the majority of cases, Brexit is being treated as an issue that is being monitored; rather than a risk with associated mitigations.

Workforce

2.9 The Council records employee's nationality as part of the pre-employment checking process, to ensure that new recruits are eligible to work in the UK. In addition, we ask existing employees to state their nationality as part of our voluntary staff equalities survey. This information is stored on our central employment database, which means we can be reasonably certain of the number of EU citizens currently employed by the Council. As of August 2018, a total of 234 EU citizens are directly employed by ESCC.

2.10 Based on the number of employees likely to be affected, and the likely outcomes of the negotiations, the short-term impact on the Council's overall workforce is likely to be limited. Nonetheless, the Council is taking some steps to ensure that all employees are kept informed, and that those who are directly affected are supported to ensure they can keep working in the UK. As some Council job roles include a higher proportion of EU citizens, taking action now will help protect service delivery in future.

2.11 At present, there is no advice on residency and employment rights of non UK EEA (European Economic Area) residents under a no deal scenario.

Procurement

2.12 In relation to Procurement, the EU Withdrawal Act brings all relevant legislation into UK Law unchanged, and there is already UK legislation covering public procurement which also remains unchanged. In the longer term, the position will depend on what form of Brexit we take and we will monitor this.

2.13 We will continue to work with our suppliers and their supply chains to monitor the impact of Brexit and their ability to deliver and maintain services to the Council. Given the uncertainty around the final outcome of the negotiation, it is difficult to predict the impact, however current skill shortages in the construction and care industries are likely to remain one of the key areas of focus for discussions. Work currently undertaken by the Council's Economic Development and Skills Team will continue to help to mitigate some of the current skills shortages.

Communities, Economy and Transport

2.14 The Communities, Economy and Transport department are currently working to:

- Develop contingency plans for the transport system as a result of increased congestion which may result from a 'no deal' Brexit scenario.
- Consider any potential changes to environmental regulation (such as the common agricultural policy and fisheries policy) and trading standards, along with any implications for local authorities (both in terms of the regulation and the Council's regulatory role).

3. Conclusion and reasons for recommendations

3.1 The report provides an update on the issues that the Council has been considering in relation to potential outcomes of Brexit.

3.2 It also highlights that the Council is not 'behind the curve' on planning, as Government engagement has not yet begun, and other local authorities are taking the approach of monitoring developments rather than treating Brexit as a risk to mitigate.

3.3 The Committee is therefore recommended to:

- 1) Note the work that has taken place to review the potential impacts of Brexit; and
- 2) Provide comments and input around incorporating a Brexit risk in to the Strategic risk register.

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