

UK exit from the European Union

Report by Chris Lawson, Risk Manager

1 Purpose of Report

The purpose of this report is to highlight to Cabinet the current national position in preparation for a no deal exit from the European Union and to set out the urgent next steps Midlothian Council need to progress.

2 Background

2.1 UK Government Position

Following the UK referendum on membership of the European Union, the Government were given a mandate to secure the UK's departure from the European Union. The Prime Minister presented the deal agreed with the European Union to parliament on 15 January 2019 where it was rejected with a significant majority. The UK Prime Minister will return to the House of Commons on 13 February 2019 to set out the next steps in the process and MPs will have the opportunity to debate these on the 14 February 2019.

If nothing changes, the default position will be for the UK to leave the EU without a deal on 29 March 2019.

It is written into law that the UK will leave on that date at 11pm UK time, however, other possible options include the deadline of 29 March 2019 could be extended, and the European Court of Justice has said the UK could even cancel Brexit altogether without the agreement of other member nations. At present there is no clear direction from the government on any outcome other than a no deal position.

"No deal" means the UK would have failed to agree a withdrawal agreement.

That would mean there would be no transition period after 29 March 2019, and EU laws would stop applying to the UK immediately.

2.2 Guidance from UK Government

In order to prepare all sectors for the UK's exit from the EU, the government has published a series of technical notices that set out information to allow businesses and citizens to understand what they would need to do in a 'no deal' scenario, so they can make informed plans and preparations.

The link below provides access to that collated list of the technical notices which includes supporting guidance.

<https://www.gov.uk/government/collections/how-to-prepare-if-the-uk-leaves-the-eu-with-no-deal>.

2.3 Guidance from Scottish Government

The Scottish Government have also set up a website with a range of advice to direct and support businesses to prepare for a no deal scenario.

<https://www.prepareforbrexit.scot/>.

This site takes business owners through the process of assessing their preparedness for a no deal position and signposts a range of materials and support developed by Scottish Government and their partners: Highlands and Islands Enterprise, Business Gateway, Scottish Development International, Scottish Enterprise and Skills development Scotland.

Scotland Excel produced a Brexit Statement in December 2018 which sets out potential impacts on labour, supply chain and currency in relation to a range of employment categories; Construction, Education, Facilities, Food, ICT, Social Care and Transport & Environment.

2.4 Scottish Resilience Preparations

Since mid-November the Scottish Resilience Partnership (SRP) Sub-Group for EU-exit Contingency Planning, has convened regularly to consider the civil contingencies aspects related to exiting the EU.

In particular, the more pressing contingency planning identified for a “no-deal” scenario, which could still be as soon as the end of March, has been prioritised. In terms of the structure for planning and mitigating risks, there is a logical sequence for the assessment and planning, which is summarised as follows:

- Assessment of the UK Planning Assumptions, leading to:
Development of the Scottish Planning Assumptions, leading to:
 - Category 1 Responders own Risk Assessment (Scottish Local Authorities submitted an aggregated response) which led to:
Development of the Scottish Strategic Threat and Risk Assessment (STRA) leading to, prioritised mitigation

The Scottish Resilience Partnership (SRP) EU-Exit Sub-Group has commissioned a series of regional and national resilience workshops and requested additional training through Scottish Government's. The East of Scotland Regional Resilience Partnership event was held on 17 January 2019. Further, the Sub-Group is in the process of finalising both a Command, Control and Co-ordination system and a Communications Strategy.

To prepare for a no deal EU exit, arrangements are being put in place to have a national multi-agency co-ordination centre. This will directly

support the operations within Scottish Government Resilience Room (SGoRR) and link with the Cabinet Office Briefing Room (COBR). The Council will be required to feed in to the national co-ordination centre, on a regular basis post 29 March although this could be stepped up in the event of significant impacts.

The local authority resilience community is represented directly within the SRP Sub-Group and since mid-November the representative has been liaising with members of the Local Authority Resilience Group for Scotland through twice weekly teleconferences, Midlothian Council has participated in these. Other professional bodies have also contributed to the ongoing risk assessment and mitigation work.

2.5 Midlothian Council preparations to date

Midlothian Council first highlighted the risk associated with UK's exit from the European Union in its Strategic Risk Management Report to the Council Management Team in November 2017 and Audit Committee also in November 2017. This risk has continued to be reported regularly since then. During this period Council have been presented with reports setting out potential impacts of the UK decision to leave the European Union, with the first of these reported on 29 August 2017.

During regular quarterly risk management reviews, Heads of Service have considered the potential impact of the aforementioned within their Services as the Council's Risk Manager required Heads of Service and Risk Management Group members to assess the impact of a no-deal exit from the European Union, directing Services to UK government guidance noted above and offering support.

The statutory obligation on the Council to prepare for contingency arrangements is set out in the Civil Contingencies Act 2004 (Contingency Planning) (Scotland) Regulations 2005.

This legislation defines the key organisations responsible for ensuring the effective management of emergencies in Scotland. These are referred to as Category 1 and category 2 responders. Local Authorities are designated as Category 1 responders.

The legal duties placed on the Council as a Category 1 responder are as follows:

1. Duty to assess risk
2. Duty to maintain emergency plans
3. Duty to maintain business continuity plans
4. Duty to promote business continuity
5. Duty to communicate with the public
6. Duty to share information
7. Duty to co-operate.

In response to the statutory obligations placed on the Council and reflecting on the guidance and direction coming from the Scottish Government Resilience approach the Council is currently at the 'Establishing' stage with further work required to give confidence in the

ability to respond to a no deal scenario. This is common across Scottish Local Authorities.

3 Report Implications

3.1 Resource

There are resource implications associated with this report in relation to preparatory arrangements, further assessment of impacts and preparing to work through national co-ordination arrangements and Midlothian Council has confirmed to Scottish Government that it will take up available resourcing support.

3.2 Risk

The Strategic Risk Profile report presented to CMT and Audit Committee has highlighted this risk. Further more detailed assessment work is now required to ensure the current assessment and preparatory arrangements reflect the most up to date planning assumptions and CMT have established a BREXIT Working Group with the purpose of overseeing final Service and Council preparations for a no deal exit from the European Union.

3.3 Single Midlothian Plan and Business Transformation

Themes addressed in this report:

- ☒ Community safety
- ☒ Adult health, care and housing
- ☒ Getting it right for every Midlothian child
- ☒ Improving opportunities in Midlothian
- ☒ Sustainable growth
- ☒ Business transformation and Best Value
- ☐ None of the above

3.4 Impact on Performance and Outcomes

The purpose of the Council's risk management approach is to support a level of risk awareness, to inform decision making and support the Council to deliver on its key outcomes by highlighting and taking steps to mitigate potential disruption to delivery of services.

There is significant potential for a no deal UK exit from the European Union to have far ranging impacts which have the potential to impact performance outcomes.

3.5 Adopting a Preventative Approach

The Risk Management approach being taken by the Council is founded on a preventative approach to managing risks, where appropriate and more generally to decision making with far greater risk awareness.

3.6 Involving Communities and Other Stakeholders

This report has been formulated using current national planning assumptions and national and regional resilience partnership direction on the response to a no deal.

3.7 Ensuring Equalities

There are no direct equalities issues arising from this report, more detailed impacts are likely to be identified as service no deal assessments are reviewed.

3.8 Supporting Sustainable Development

Senior Managers must ensure the sustainability of the Council, which entails identifying, understanding and managing Strategic and Service level Issues, Risks and Opportunities.

3.9 IT Issues

IT issues will be identified as part of the more detailed assessment work proposed.

4 Recommendations

Cabinet are invited to:

- a) Note the content of this report, subject to the outcome of the next vote in the UK Parliament on 14 February 2019.
- b) Note preparation actions and scenario planning is being progressed based on available information; and
- c) Pass this report to the Performance, Review and Scrutiny Committee for its interest.

5 Background Papers

None

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