

SLOUGH BOROUGH COUNCIL

REPORT TO: Cabinet **DATE:** 17 September 2018

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PORTFOLIO: Councillor James Swindlehurst, Leader of the Council
and Cabinet Member for Regeneration & Strategy

PART 1 **NON KEY DECISION**

BREXIT IMPACT ASSESSMENT

1. **Purpose of Report**

1.1 To assess the potential impacts of Brexit on Slough and the council's operations.

2. **Recommendation**

2.1 The Cabinet is requested to resolve:

- a) That the summary of potential impacts identified at section 5.6 be noted; and
- b) The draft risk and contingency table at Appendix B and next steps be noted.

2. **The Slough Joint Wellbeing Strategy 2016 – 2020, the Joint Strategic Needs Assessment and the Five Year Plan 2018 - 2022**

3a. **Slough Joint Wellbeing Strategy 2016 – 2020 Priorities**

Brexit has the potential to impact on the delivery of a number of Slough's Joint Wellbeing Strategy priorities including:

- 2. Increasing life expectancy by focusing on inequalities
- 4. Housing

3c. **Five Year Plan 2018 – 2022 Outcomes**

Brexit has the potential to impact on the delivery of a number of the council's Five Year Plan priority outcomes particularly:

- Outcome 4 – Our residents will live in good quality homes
- Outcome 5 – Slough will attract, retain and go businesses and investment to provide opportunities for our residents.

4. **Other Implications**

- (a) **Financial** - There are no financial implications associated with the proposed action, beyond Brexit itself.

- (b) **Risk Management** – There are no identified risks to the proposed action, beyond the risks highlighted in the report itself.
- (c) **Human Rights Act and Other Legal Implications** - There are no Human Rights Act implications associated with the proposed action.
- (d) **Equalities Impact Assessment** - There is no requirement to complete an Equalities Impact Assessment in relation to this report.

5. Supporting information

Summary of Brexit negotiations to date

5.1 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. On 29th March 2019 the UK will leave the EU and all EU law will transpose into UK law, following which the UK Government will be able to keep, amend or discard each law. The UK can leave the EU in March 2019 without an agreement, but an 'orderly withdrawal' is the desired outcome for all parties.

5.2 A phased approach has been taken to the UK/EU negotiations. In December 2017 the first phase concluded, with satisfactory 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 on a 21-month transition period until December 2020 when current arrangements will continue. The UK/EU negotiations are now focused on their future relationship including customs, security, criminal justice, economic co-operation, and a science, research and innovation partnership. The expressed aim is to have an agreed Withdrawal agreement between the UK and EU by October 2018 for ratification.

5.3 A number of pieces of legislation will implement the UK's withdrawal from the EU. These include the European Union (Withdrawal) Bill, 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. Several of these bills have begun passage through parliament, with the EU (Withdrawal) Bill receiving Royal Assent on 26th June 2018.

5.4 A European Council Summit was held on 28th and 29th June which included discussion on Brexit withdrawal issues, the Ireland/Northern Ireland border and the framework for the future relationship between the EU and UK. The government published the Brexit White Paper, setting out the Government's priorities for the UK's future relationship with the EU on 12 July 2018. Subject to progress with the negotiations, the European Council's next meeting in October provides an opportunity to agree the Withdrawal Agreement.

National context – summary of issues for local government

5.5 As part of our research into the potential risks and opportunities for local government resulting from the UK's exit from the EU, we have been keeping abreast of the Local Government Association's (LGA) briefings for members. These have identified the key headline issues that would need to be addressed through national action. The latest briefing on 13 August looks at these issues from the perspective of a 'no deal' scenario and identifies the following impacts:

Laws regulating local government services:

- The Withdrawal Act 2018 ensures that there is legal certainty and no cliff edge for councils as the EU laws that underpin key services on exit day would continue to apply through UK law, even under 'no deal'.

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.

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). However, the Treasury announced that in the event of 'no deal' the Government would 'underwrite' ESIF funding until the end of 2020. Councils need to know quickly how they will be able to bid, and receive guarantees that the UK 'Shared Prosperity Fund' will at least match the funding from the current ESIF funds and be in place from 1 January 2021.

Workforce

- 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 citizens 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.

Local elections 2019

- Under a 'no deal' scenario, whilst the tenure of EU nationals already elected will remain unchanged, councils will need to understand the rules for those voting and seeking election in 2019. The LGA has sought clarity from the Cabinet Office on this issue. The most urgent issue is the 2019 local elections where councils need to understand the rules for those voting and seeking election next year. The deadline for the delivery of nomination papers is on the 3 April 2019, a few days after we leave the EU.

Local context - potential impacts on Slough

5.6 Given the continued uncertainty about the nature of the future UK/EU relationship, detailed impact assessments on specific issues and services have not been undertaken; however, the following impacts, opportunities and mitigating actions have been identified through research and early engagement with Service Leads:

Population and workforce:

- Brexit will have an impact on the UK economy, labour market and migration patterns, which will consequently affect the population of Slough, especially non-UK EU citizens.
- Potentially more EU nationals leaving the country/fewer coming in. There is currently insufficient information to make a determination on the specific impact this might have, but it could result in skills losses/shortages in those areas that are more dependent on EU workers in Slough e.g. construction, care workers, nurses and health care.

- Some EU nationals may leave the country thereby relieving the pressure on certain services.

Mitigation:

- Undertake research to identify European labour volume and sectors, effects on population, the council's workforce and businesses in the borough.
- Monitor the latest developments in Brexit negotiations for clarity on areas of potential impact to allow for action to be taken, where appropriate.
- Monitor key Brexit issues and leading/latest thinking from Human Resources and Employment Law specialists and assess their local impacts.

Economy:

- Restrictions on free movement of labour and access to the European market could accelerate the move of large businesses to Europe resulting in a loss of business rates, which would have a highly significant impact on the council's budget.
- The level of business investment in the UK is predicted to be around 25% lower by 2019 relative to its pre-referendum forecasts, which would significantly damage future productivity growth. This could affect the number of jobs available and the nature of businesses located in Slough.
- However, other potential sources of labour depending on post-Brexit migration arrangements could be available and there may be more opportunities for locally trained staff through our various work schemes.
- Slough is still seen as an attractive business destination, new businesses may relocate into the borough, bringing different skills and experience and different employment opportunities.

Mitigation:

- Initiate discussions with Thames Valley Berkshire Local Enterprise Partnership to support the development of policies and targeted marketing strategies to promote the borough, retain and attract business and enable future economic growth.

Regeneration / Development and Funding:

- Slough's construction sector is highly reliant on migrant labour. Limits on free movement could bring about skills shortages, which could impact on construction, as well as businesses and employers within the borough. However this could also provide opportunities for some Slough residents to take the jobs of those who leave - particularly if Slough's 'Regeneration Campus' is deemed feasible. A risk is that mitigation plans for local skills development work cannot be delivered until some time after EU migrants have already left.
- Diminished infrastructure funds, housing loans from the European Investment Bank and reduced housing association borrowing could further hamper some developers and reduce the supply of affordable housing.
- A loss of consumer confidence and rising build costs could also affect the financial viability of some schemes and could result in stalled development. This could lead to the council being unable to meet some of its regeneration targets as well as potential social and safety issues associated with sites being closed for a substantial period of time.
- Reduced businesses investment, access to funding and the financial impact on suppliers could present challenges for investment in decarbonisation initiatives.
- Impacts to procurement and cost of services could limit our ability to enact carbon reduction programmes, while diminished infrastructure funds and a skills shortage could limit investment in low carbon technologies.

- European Social Fund (ESF) and European Regional Development (ERDF) funding revenue and/or capital funds for stimulation of markets, access and employment, supply chains, business start-ups resources will be unavailable in the future.

Mitigation:

- Consider and reference Brexit in the development of key partnership and corporate strategies, including the 2019 Five Year Plan.
- Develop submissions to alternative additional funding streams from central and regional government.
- Develop linkages to investment in the locality through Corporate Social Responsibility agendas of major businesses locally.
- Review the re-distribution of funds to replace lost inward investment – e.g. through grants, loans, etc.

Council suppliers and contracts:

- The council could experience recruitment and retention issues, skills losses/shortages and higher costs e.g. in respect of agency staff working for the council and its contractors.
- Financial impact on suppliers and contractors could also arise as a result of changes to customs arrangements and the introduction of tariffs– this could have an impact on contracts already in place and the ability to deliver on these by their providers.

Mitigation:

- Identify areas where support/guidance could be given by the council to help and support contractors and suppliers.

Legal and governance:

- As most of the council’s statutory powers and duties come from domestic legislation, if the UK leaves the EU there will be little change.
- The current procurement rules are likely to remain intact.
- There may be small opportunities to assist our objectives e.g. the speeding up of tendering notifications as a result of our no longer being required to put tender notifications in the OJEU, thereby shortening procurement timescales and the opportunity to increase local expenditure, but this will depend on the final Brexit arrangement and model that the UK government agrees with the EU. Impacts will be more severe if the UK exits the EU without ‘orderly withdrawal’ arrangements in place.

5.7 Further information about these impacts is attached at Appendix A.

5.8 A draft risk analysis and contingency table is attached at Appendix B. This uses the council’s corporate methodology to ensure that risks are identified and assessed in a consistent manner. The probability and impact assessment currently assumes that no mitigating actions have been implemented to date. The council’s Risk and Audit Board has been asked to review the risks identified and agree mitigating actions, including those suggested in section 5.6 above.

6. Comments of other committees

6.1 This report has not been shared with any other committees.

7. **Conclusion**

7.1 The implementation of Brexit is likely to have wide ranging impacts on public services, communities and businesses. To mitigate these, the council needs to be fully prepared for all eventualities (including a 'no deal Brexit'), by identifying and reviewing areas of potential impact.

7.2 Work is therefore underway to assess our resilience and develop a high level risk and contingency table to protect our revenue streams, workforce, local regeneration, infrastructure projects and community cohesion priorities.

8. **Appendices attached**

A – Brexit impact summary

B – Draft Brexit risk analysis and contingency table

9. **Background papers**

None

Appendix A: Brexit impact summary

Slough's EU migrant population:

- In 2011, 9.2% (13,698) of Slough's population was born in an EU country other than the UK. The most common countries of origin were Poland, Italy, Germany, France and Portugal, whilst nationally it was Romania, Poland, Italy, Spain and Bulgaria.
- 3,093 residents arrived between 2010 and 2011. One fifth of residents (20.7%) came to the UK between 2001 and 2011. 3.7% of the population (5,133 people) had been living in the UK less than 2 years while a further 6.5% (9,149 people) had been here for between 2 and 5 years.
- During 2017/18, 2,443 national insurance numbers were allocated to new EU migrants entering the UK and arriving in Slough, although no data is available as to whether they stayed and found employment in Slough. 1,136 came from Bulgaria and Romania, 736 from Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia, 563 from 'original' EU members prior to the 2004 expansion and 8 from Malta and Cyprus.

Workforce:

- Key sectors potentially at risk in Slough include construction and health and social care: In 2018, there were an estimated 2,700 jobs in Slough's adult social care sector, comprising of 2,100 direct care providing roles (including 1,600 care workers), 250 managerial roles, 250 other-non-care providing roles and 125 regulated professionals. 13% (351) of this workforce is from an EU country outside the UK.

Business rates:

- The loss of business rates due to large companies moving out of the borough would have a highly significant impact on the council's budget. In 2018/19 the anticipated value of retained business rates to the council is £41.880m.
- Brexit will place particular pressure on small and medium-sized businesses, due to the impact on reduced capital investment, which could weaken and undermine their ability to grow. There were 5,965 small to medium sized enterprises and 6,915 small to medium sized local units in Slough in 2017.

External grant funding:

- The 2017 Conservative Manifesto committed to replacing structural funding with a 'Shared Prosperity Fund' (SPF), although this may be targeted in different areas and will need to be clarified following recent Government commitments to increase health spending.
- All EU funds are usually tied with council match funding funds to extend or increase the volume of existing programmes of work. If no alternative funds are available the council will need to continue to deliver programmes of work within existing budgets without additional funding opportunities. This does however mean that the matched funding requirements of council funds could be more freely used for delivery, rather than ring-fenced to particular eligible client groups.
- The council is in receipt of £880K in funding under Building Better Opportunities, jointly funded by Big Lottery Funding and European Social Fund (ESF), to improve access to employment and training.

Development and regeneration schemes:

- The decision to leave the EU has prompted warnings across the construction industry about the impact of prolonged uncertainty on house prices and the cost of borrowing may result in some developments schemes stalling, leading to some council's being unable to meet their housing supply targets.
- The most recent statistics on social housing lettings in England released by DCLG (October 2015) covers the period April 2014 to March 2015. The bulletin compares lettings since 2007/08 with reference to the nationality of the "household reference person". The vast majority of lettings were made to UK nationals. Based on this data, the impact of EU migration on demand for council housing in Slough is thought to be limited. While changes to free movement may reduce demand, much will depend on whether UK nationals living in the EU are forced to return.

Carbon management

- Potential impacts could include our failing to achieve key outcomes in the council's Carbon Management Plan, which include a 3% reduction of CO2 net emissions across all council operations each year, a 20% reduction of CO2 emissions and a revenue saving of at least 10% (est. £222,047) against a 2013/14 baseline by 2020.

Legal powers, governance and responsibilities:

- Whilst general powers/duties may not be affected, there are likely to specific impacts in the following areas:

Energy efficiency:

- Local Authorities must manage their buildings and procurement in line with energy efficiency rules based on EU law. The basis of these is the 2012 Energy Efficiency Directive which is transposed into UK law via a number of pieces of secondary legislation. The Directive establishes measures to help the EU reach its 20% energy efficiency target by 2020 and places a requirement on Local Authorities to ensure they purchase energy efficient buildings, products and services. In the past, councils have raised concerns that such a requirement places additional costs on council procurement activity.

Waste collection and disposal:

- The key piece of EU legislation is the Waste Framework Directive which sets out key definitions and duties relating to how waste must be collected, transported, recovered and disposed of. It introduced recycling and recovery targets to be achieved by 2020. The majority of EU waste management law has been transposed directly into domestic law within the UK. This means that the relevant legislation and requirements on Local Authorities will not be automatically or immediately affected by the UK's exit from the EU. However, if the UK leaves the EU and does not become a member of the European Economic Area (EEA), then the UK Government will be able to amend and/or repeal the domestic legislation that gives effect to EU waste legislation.
- The benefits of effective waste management to both the environment and the economy may mean that an EU exit will not lead to a substantial change in approach from the UK Government, but some commentators have suggested that in this scenario it is likely that legislators would repeal or weaken EU requirements (for example, recycling targets) with the objective of reducing the regulatory burden on businesses. This could also lead to a change in approach to waste collection and disposal services for some Local Authorities,

particularly if lower cost solutions (such as landfill disposal) are permitted with a relaxation of environmental protections and technical requirements.

Trading standards:

- As with waste directives, most trading standards legislation consists of EU directives transposed into domestic law: therefore, this would not be repealed automatically on leaving the EU.

Procurement:

- Local Authorities must comply with EU public sector procurement rules. The most significant requirement is for all public contracts over £209,000 to be published in the Official Journal of the European Union (OJEU), thus making them accessible to suppliers from across the EU. In the medium term, public procurement rules more generally will remain in place as they have been implemented via UK law.

Employment Law:

- The Government's stated intention is to incorporate all EU law into UK law. There is the potential, however, for changes to be made following the debate over the Charter of Fundamental Rights. There is also uncertainty around transition arrangements and ongoing cases and precedents. There is a risk that legislation such as the Working Time Regulations and the Agency Workers Regulations may be vulnerable to amendment or repeal in the longer term.

Appendix B: Draft Brexit risk analysis and contingency table

Ref	Type	Description	Effect	Probability	Impact	Department	Response	Lead
1	Development and regeneration schemes	Securing investments becomes more difficult / Investment decisions delayed by lenders.	NEGATIVE	Unknown	Marginal	Finance and Resources		
2	Development and regeneration schemes	Major building / infrastructure projects delayed or deferred.	NEGATIVE	Unknown	Critical	Regeneration		
3	Economy	Loss of inward investment as European firms deterred from investing in Slough.	NEGATIVE	Significant	Unknown	Regeneration		
4	Economy	Lower living standards for every income group due to higher prices and widely predicted economic downturn.	NEGATIVE	Very High	Unknown	Regeneration		
5	Financial	Reduced income from fees and charges as a result of widely predicted economic downturn.	NEGATIVE	High	Critical	Finance and Resources		
6	Financial	Reduced income from business rates if businesses close, relocate, or reduce operations.	NEGATIVE	High	Critical	Finance and Resources		
7	Financial	Loss of access to EU funding programmes for council and VCS projects.	NEGATIVE	Unknown	Marginal	Finance and Resources		
8	Financial	Fall in value of investments and assets impacts on balance sheet.	NEGATIVE	Significant	Unknown	Finance and Resources		
9	Financial	Loss of business function and / or continuity due to withdrawal of contractors.	NEGATIVE	Significant	Unknown	Finance and resources		
10	Financial & environmental	Loss of revenue savings as a result of failing to meet key targets and outcomes in the council's Carbon Management Plan	NEGATIVE	High	Critical	Regeneration		

Ref	Type	Description	Effect	Probability	Impact	Department	Response	Lead
11	Population	An exodus of residents from EU27 countries could reduce demand for some services.	POSITIVE	High	Unknown	ALL		
12	Population	From 30 March 2019, EU27 nationals will not have the right to take part in local elections (unless & until the UK enters into a bilateral arrangement with the nation involved). This could affect the accuracy of the electoral roll.	NEGATIVE	Very High	Unknown	Finance and resources		
13	Population	Increased demand for some services due to increased austerity/poverty as a result of widely predicted economic downturn.	NEGATIVE	High	Critical	All		
14	Population	An exodus of residents from EU27 countries could reduce demand for school places	POSITIVE	High	Unknown	Children, Learning and Skills		
15	Workforce	Loss of employees from EU27 countries in the construction sector will impact our ability to deliver regeneration, repairs and maintenance priorities.	NEGATIVE	Significant	Unknown	Finance and resources		
16	Workforce	Loss of employees from EU27 countries in the health and social care sectors will impact on its ability to deliver certain services.	NEGATIVE	High	Unknown	Finance and resources		
17	Workforce	Loss of employees from EU27 countries in the council's employment will impact our ability to operate.	NEGATIVE	Significant	Unknown	Finance and resources		
18	Workforce	Loss of employees from EU27 countries in the education sector	NEGATIVE	High	Unknown	Children, Learning and		

Ref	Type	Description	Effect	Probability	Impact	Department	Response	Lead
		(i.e. teachers, teaching assistants and support staff) will impact on its ability to operate.	NEGATIVE			Skills		
19	Workforce	Higher agency costs associated with recruitment and retention.		High	Critical	Finance and resources		