



Report to Cabinet
Item number: 13

<b>Contains Confidential or Exempt Information</b>	<b>No</b>
<b>Title</b>	Implications of Brexit for Ealing
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<b>Portfolio(s)</b>	Cllr Bell – Leader
<b>For Consideration By</b>	Cabinet
<b>Date to be Considered</b>	9 February 2020
<b>Implementation Date if Not Called In</b>	
<b>Affected Wards</b>	All

**Purpose of Report:**

The purpose of this report is to update Cabinet with an early assessment on the ways in which the council, the services it provides, the local community and local business will potentially be impacted in the short term by the outcome of the UK-European Union (EU) negotiations on future trade relationship.

It also highlights the activities that were been undertaken by council to mitigate risks and prepare for leaving the EU including in the event that a trade deal was not agreed and outlines the council's plans to ensure that all eligible foreign nationals who wish to remain in the UK are aware of the opportunity to apply for EU settled status.

## **1. Recommendations**

1. Note the implications for the council and the borough of the issues highlighted in report.

## **2. Reason for Decision and Options Considered**

2.1 The UK ceased to be a member of the EU from 1 February 2020 and is no longer part of the bloc's institutions. However, the standstill post-Brexit transition period kept most arrangements from the UK's EU membership in place until it expires at the end of 2020. Negotiations between the UK Government and EU on a future trade relationship continued until late in December 2020 leading to the agreement of a trade deal. The headline measures of the deal include:

- No tariffs or quotas on EU/UK trade in goods.
- A new agreement on fisheries, with the UK's departure from the Common Fisheries Policy.
- State-aid and procurement to become UK domestic policies.
- An agreement to join some future EU funding programmes (for e.g. the Horizon research programme) and to leave others (e.g. the Erasmus education scheme).

2.2 The deal does not confirm arrangements for services. The rights of EU nationals living in the UK were clarified at an earlier stage and are not amended as a result of the trade deal.

2.3 It is too early to fully assess the impact of the new trade relationship on the Council, residents and businesses and bringing a report at a later stage was considered. However, in view of the significance of the change for residents and businesses this early report has been produced.

## **3. Consideration**

### ***Context***

3.1 On 23 June 2016 the UK voted in the EU referendum on whether the UK should 'remain' in or 'leave' the EU. 52% of those that took part in the referendum nationally voted to leave the EU. 60% of Ealing's electorate voted to remain in the EU in the 2016 referendum. In an April 2018 meeting of the full council a motion was backed that called for the government to guarantee the rights of all EU citizens to live and work in the UK immediately, even in the event of a no-deal Brexit; and also, to give both Parliament and the British public the final say on any Brexit deal. Papers outlining the councils' preparations for leaving the EU and mitigating potential risks were presented to Cabinet in March and October 2019.

- 3.2 The 2011 census said that 12% of the borough's population is estimated to be from the EU and the majority of coming from either Poland or Ireland. In total we originally estimated that around 55,000 EU nationals call Ealing home, although at the time of writing around 76,000 applications for EU Settled Status have been received from Ealing. Further to this business in the borough have commercial relationships with many areas of the EU. Thus, the potential implications of Brexit, are therefore significant both socially and economically.
- 3.3 The UK ceased to be a member of the EU from 1 February 2020. However, the standstill post-Brexit transition period kept most arrangements from the UK's EU membership in place until it expired at the end of 2020. These include the rules on freedom of movement (a conditional not absolute right of EU citizens to move to other EU countries to live and work), cross-border travel and personal rights.
- 3.4 From January 1, 2021, the UK is no longer been part of the EU's Single Market and Customs Union. EU citizens no longer have the right to move to the UK to work and settle, and vice versa, and there are new restrictions concerning travel. The UK has introduced a new immigration policy from January 2021. EU nationals will no longer have preferential treatment, under a planned points-based system to attract skilled workers.
- 3.5 The trade deal agreed between the UK and EU has avoided the introduction of formal tariffs or quotas on trade and in doing so has mitigated a key risk and concern area. However, most experts are agreed that the new trade relationship will not be 'frictionless and it will take time to fully assess the impact both on trade with the EU and elsewhere.
- 3.6 These changes are significant and their benefit has been much disputed. This report does not attempt to quantify the long-term impact of the UK's post Brexit relationship with the EU. Instead it focuses on issues of immediate relevance to the council as well as work to done to manage short and medium-term impact and risks.

### ***Local Planning in Ealing and London***

- 3.7 Since mid-2018 Ealing council has been coordinating services approach to contingency planning for Brexit. These preparations include considering the impact on our residents, our workforce, delivery of goods and services and community cohesion. Papers presented to Cabinet in March and October 2019 outline readiness preparation at these respective points ahead of the UK's departure from the EU on 31 January 2020.
- 3.8 From early November 2020 the council reconvened its Brexit Preparedness Group. This group comprises cross service representatives provides an overview of the following:
- Better understand the likely impacts on services of Brexit.

- To raise issues to Strategic Leadership Team
- To maintain oversight of preparedness.
- To monitor and report on issues experienced by services during the run up to and the period after Brexit.

3.9 The group focussed its work on:

- Monitoring risks - focussing on mitigation of potential short-term risks around the end of the transition period.
- Updating the Brexit Action Plan to reflect the latest position and known information
- Making recommendations to SLT on how, if required, management of the Brexit transition period can be delivered alongside the ongoing COVID response

3.10 Oversight of the Brexit Preparedness Group is maintained by Strategic Leadership Team with regular briefings delivered to them to advise of progress on planning, ensure gaps are identified and to seek decisions and guidance on policy.

3.11 The council also engaged closely with partners on the Local Strategic Partnership and with resilience planning at London level.

3.12 Post the end of the transition period the BPG will continue to meet to assess the impact of any changes on Ealing.

### **Impact on Ealing of the UK's new relationship with the EU**

3.12 There are some areas where it is clear that there will be very significant differences in the relationship between UK and EU.

### ***Rights of EU Citizens living in Ealing and new points-based UK immigration policy***

3.13 From 1 January 2021 the EU is not treated differently to other parts of the world under the new UK immigration policy. EU citizens will no longer have the right to move to the UK to work and settle, and vice versa. EU, EEA or Swiss citizens already living in Ealing must make applications for Settled Status or risk losing eligibility to live in the UK. Anyone coming to the UK to work, except for Irish citizens, will need permission in advance.

3.14 The council's administration was concerned that if foreign nationals were not aware of this right, or unable to access it due to language or digital exclusion barriers there would be two potential issues:

- a reduction in the diversity of the borough

- an impact on workforce resilience for key public services, which could impact on quality and cost of service provision.
- 3.15 The council has worked since 2018 with local partners including Ealing and Hounslow CVS to promote the Settled Status scheme widely. At the latest available data (September 2020) 76,520 residents had applied – the third highest number in London and fourth in England. This exceeds the 55,000 EU residents 2011 Census data indicated may be resident in Ealing. The council will continue to raise awareness ahead of the deadline of 30 June 2021 to ensure that all residents are aware of their rights to remain. The council will also act to ensure that all looked after children and care leavers within its care are supported to apply for settled status where eligible.
- 3.16 Key service areas including adult social care are not reporting workforce issues to be a risk in the short term although there are concerns that the new UK immigration policy may in the long term increase pressure due to requirement for skilled migrants to have a job offer attracting income of more than £26,500/year (or more than £20,480 if other qualifying conditions are met) to receive a visa. This risk will be closely monitored.
- 3.17 Employers, including local authorities, wishing to hire employees from outside the UK will need to register to become sponsors. The council has no plans at this time to make such a registration.

### ***Checks at the border and impact on businesses and council services***

- 3.18 The trade agreement reached as noted above avoids tariffs and quotas on import of UK goods to the EU and vice versa. This mitigates one of the key risks that the council had been managing which was that the short notice introduction of such regulation would cause disruption to complex supply chains and price rises for key consumable and other essential items which might impact on the most vulnerable in society. The ongoing COVID pandemic – which itself impacted on access to essential items through panic buying in the spring – could have aggravated this.
- 3.19 At the time of writing significant disruption impacting on Ealing residents has not occurred. However, it is likely that there will be implications for both business and the council going forwards.
- 3.20 On the business side there are a number of emerging issues which the Institute for Government (January 20) note will cause businesses to consider operating models and supply chains. These are summarised below. With an economy that is closely integrated with international supply chains, partly as a result of its close proximity to Heathrow it is inevitable that local businesses will be amongst those having to adapt to these challenges, as well as considering new opportunities which may open up in new markets.

- Goods shipped between the UK and the EU must meet 'rules of origin' requirements (which determine where a good is deemed to come from) in order to benefit from zero tariffs. But those imported from the EU to a British distribution centre and then reshipped to another part of the EU often do not meet these requirements. They will 'lose' their EU origin by making a stop in the UK, but don't undergo sufficient processing in the UK to count as originating in the UK. This means they face tariffs when sent back to Europe.
  - The complexity of new customs and regulatory rules also means hauliers are now reluctant to accept 'groupage' or mixed loads of goods, so they can minimise the amount of paperwork each lorry faces.
  - Other trade may simply not be allowed. EU rules mean that some products – such as chilled meats – can no longer be shipped from Great Britain to Northern Ireland or the EU at all (although there is a six month grace period allowing these products to be shipped from GB-NI).
- 3.21 The council will continue to liaise closely with local businesses to understand the impact of Brexit on their activity and provide support where it is able to.
- 3.22 The council has regulatory responsibilities which will be impacted as a result of the new trade agreement. For example, from 1 January exports of animal products to the EU, including fish, will require an Export Health Certificate (EHC) which can be signed by local authority certifying officers. The council has a limited number of suitably experienced and competent officers in regulatory services who can provide this service. Further guidance is awaited from Government and regulators including the Food Standards Agency (FSA) and Office for Product Safety and Standards (OPSS) which, when available will inform the service demands and resource pressures on our regulatory and trading standards teams. These teams are heavily engaged in our COVID response and the requirements will need to be closely monitored.

### ***Data adequacy***

- 3.23 Data adequacy is a status granted by the European Commission to countries outside the European Economic Area (EEA) who provide a level of personal data protection comparable to that provided in European law. When a country has been awarded the status, information can pass freely between it and the EEA without further safeguards being required. Despite the UK's application of GDPR and implementation of the Law Enforcement Directive under the 2018 Data Protection Act, there is no guarantee it will be awarded an adequacy decision and the UK continues to seek a data adequacy decision from the European Commission. In the absence of the EU issuing this data may not be transferred from the EEA without additional legal safeguards. Local authorities, as independent

data controllers, must be prepared for the eventuality of a 'no adequacy' outcome. MHCLG issued guidance to councils (December 2020) and the council has worked with its ICT suppliers to ensure that data is stored within the UK and that the appropriate governance is in place. As part of the trade deal the EU has agreed to delay transfer restrictions for at least four months, which can be extended to six months. The UK Government is seeking adequacy decisions from the European Commission. Based on the work done to date we do not anticipate significant issues in this area for the council if an adequacy decision is not issued although the impact on business is unknown at this stage.

### ***Funding***

3.24 The withdrawal agreement between the UK and the EU maintained structural funding until the end of 2020, after which funding that has already been agreed will continue to be paid, but no more applications for funding can be made. Going forwards Government has committed to establish the UK Shared Prosperity Fund, the domestic successor to EU structural funds. The UK Shared Prosperity Fund will be driven by domestic priorities and, at a minimum, it will match current levels of funding for each nation from EU structural funds. In November 2020s Spending Review the Chancellor announced that £220m will be allocated in 2021-22 to help local areas prepare for the introduction of the UK Shared Prosperity Fund and confirmed that the value of the fund when operational will be at least £1.5 billion a year.

3.25 The Trade agreement ends the remit of the EU State Aid regime in Great Britain and allows it to introduce its own 'subsidy' system. Sharpe Pritchard note that 'Subsidy' is defined in terms very similar to the concept of 'aid', meaning that what would have been considered 'aid' before 31 December 2020 is largely likely to be captured under the Subsidy Control regime from 1 January 2021'. The TCA requires the UK to establish 'an operationally independent authority or body with an appropriate role' in its new subsidy control regime. At this point it is not confirmed who that authority or body will be.

### ***Double devolution***

3.26 The council supports the LGA position that leaving the EU this must not simply represent a repatriation of sovereignty to the UK but be accompanied by a devolution of authority within the UK to local level including to local authorities and a commitment to involving local government in the design of future policy solutions. At present no significant devolution proposals have been announced.

### ***Indirect impacts***

3.27 As well as structural changes in the relationship between the UK and EU there is the potential for indirect impact – for example on supply chains or prices. In particular the combination of the ongoing COVIDS

pandemic and additional disruption of Brexit, regardless of whether a deal is agreed has potential to impact – particularly as many of the impacts are concentrated in similar services (adult social care, regulatory, emergency management) and on specific businesses such as import/export businesses and on vulnerable residents

3.28 The council's aims to mitigate these as far as it is able to and the risk section of this report (section 7) outlines the planning that has been done in more detail.

### **Medium term**

3.29 It is not possible at this stage to accurately predict the future impact of the UK's new relationship with the EU. However, as outlined above changes are significant. The latest Office for Budget Responsibilities assessment (March 19) assumes that a new trade relationship will slow overall import and export growth over a ten-year period. A long-term economic impact of this kind would impact on local businesses, residents and public finances and will be a key consideration in the attempt to support economic growth as outlined in the recently published Greenprint document. Other changes such as the new immigration policy have the potential to reduce labour availability or increase costs in priority areas for the council including social care and construction. Consideration of the medium-term impacts of Brexit will continue to be a key consideration for the council.

## **4. Financial, Resource and Property Implications**

4.1 The Government has recognised that leaving the EU will impact local authorities, and has assigned a sum of money, which it has distributed, to the local authorities in the UK. We have set aside our allocation and will use Brexit Risk Register to recognise how leaving the EU impact on Ealing and determine how the money should be used.

4.2 The council was allocated £0.315m to support appropriate contingency planning for exiting the EU. SLT agreed the following framework to ensure that the council is able to maximize the use of this resource. Before accessing the fund, the following should have been investigated:

1. Tap into additional funds where available e.g. the Food Standards Agency
2. Record activity to support one off/new burden bid to Govt
3. Prioritized use of the £0.315m we have been allocated as follows:
  - Priority activity once channels above exhausted
  - Political priority/direction

4.3 Approvals of £0.21m were reported to Cabinet in October 2019 leaving a contingency fund of £0.105m. A further £0.015m is likely to be needed to

ensure appropriate communications ahead of the EU Settled Status Scheme deadline. In view of the ongoing COVID response no specific additional Brexit specific allocations of funding have been made meaning the balance is available to support the council's overall response, including additional demand that may become clear once the future trade relationship is agreed.

## **5. Legal**

5.1 The legal implications of the United Kingdom leaving the European Union are wide ranging and complex for the Borough, its residents, and businesses. This report sets out the measures that have been taken by the Council to try and anticipate any service issues that may result from Brexit and also provides details of issues that are being looked at on a London wide basis. The deal negotiated at the end of 2020 removes some of the legal uncertainties surrounding Brexit. However, many legal details are still outstanding to be resolved and so it is impossible to predict and understand the impacts resulting.

## **6. Value for Money**

6.1 We will need to carefully monitor the impact of any changes on our services and budgets, particularly if supply chain costs increase e.g. materials and fuels.

In relation to procurement the introduction of the EU-UK Trade Agreement has highlighted that both EU suppliers and UK suppliers can still access each other's respective public sector markets post Brexit but is light on the determined process to achieve that. In terms of UK suppliers public sector contracts can now be accessed through the Contracts Finder Portal for smaller contracts to £118,000 and the Find a Tender portal for those contracts over £118,000. In terms of EU contracts, the Tenders Electronic Daily (TED) portal is where EU opportunities will continue to be posted for both EU and UK suppliers to bid.

It is intended that the public sector procurement is overhauled in the near future and a Government Green Paper on a new single legislative procurement framework post Brexit was released in mid-December 2020 and puts forward a range of proposals to consider, for example reduce procurement approaches to three from seven currently, greater social value inclusions in all procurements and 18 months procurement forward plans for to be published. Consultation is due to be completed in March 2021 with a revised system coming in later in the year. The Commercial Hub will monitor for detail about procurement process changes as they come available and ensure they are accommodated within the daily function of the council.

## **7. Risk Management**

7.1 Exiting the EU has been on the council's corporate risk register and continues to be monitored internally. Two specific risks were identified (see below) and the BREXIT Action Plan updated in November and December set

out the council's mitigations – focussing on the potential impact of the first risk that no trade deal was agreed. Although not fully able to mitigate the potential impact of such a scenario the council, through work with partners was well prepared. The trade agreement reached means that it is the second risk that will be monitored going forwards and many of the preparatory actions and risk management will continue to be relevant in this context.

- ESR0001 – Changes in the political or economic climate: BREXIT- the UK's future relationship with the EU diverges significantly from current arrangements after the transition period to end 2020. This has a mitigated risk score of high (December 2020).
- ESR0002 – Changes in the political or economic climate: BREXIT - the UK agrees a future trade relationship with the EU to operate from January 21 (or agree future date). The effects on the council would be less significant than with a 'no deal' scenario. This has a mitigated risk score of low (December 2020).

## **8. Links to Strategic Objectives**

8.1 There is no direct link to the council's corporate priorities however, maintaining community cohesion through any period of change will be a priority for the council.

## **9. Human Rights, Equalities and Community Cohesion**

9.1 The Human Rights Act was passed into UK law in 1998. The human rights contained within this law are based on the articles of the European Convention on Human Rights. The Act 'gives further effect' to rights and freedoms guaranteed under the European Convention. It is unclear which EU-origin laws and regulation that the UK will continue to adhere to or seek to repeal.

## **10. Staffing/Workforce and Accommodation implications**

10.1 As noted above there are significant staffing and workforce issues associated with Brexit.

EU (excluding Irish citizens), EEA and Swiss nationals will need to apply for settled status to continue to live and work in the UK. As reported above Ealing has high registrations and will continue to promote the scheme ahead of 30 June 2021

From 1 January EU citizens no longer have the right to move to the UK to work and settle, and vice versa, and there are new restrictions concerning travel. Under the UK's new immigration policy EU nationals will no longer have preferential treatment, under a points-based system to attract skilled workers. Concerns have been voiced about the impact of the new immigration policy on sectors such as adult social care which is relatively lower paid and

has a high reliance on EU nationals. Given wider pressures on adult social care the council will need to monitor this closely.

### **11. Property and Assets**

11.1 None.

### **12. Any other implications**

12.1 None.

### **13. Appendices**

13.1 None.