

REPORT TO: POLICY AND RESOURCES COMMITTEE – 22 APRIL 2019

REPORT ON: BREXIT UPDATE

REPORT BY: CHIEF EXECUTIVE

REPORT NO: 167- 2019

1. PURPOSE OF REPORT

This report provides an update on the Brexit process and outlines work being done to prepare for the implications.

2. RECOMMENDATIONS

It is recommended that members:

- (i) note developments in the Brexit process.
- (ii) note the work being done to prepare the UK for exiting the European Union.

3. FINANCIAL IMPLICATIONS

None

4. POLITICAL DEVELOPMENTS

- 4.1 The UK was originally due to leave the European Union on 29 March. A first extension shifted that date to 12 April, and the UK and EU have now agreed a further extension until 31 October, although the UK could leave earlier if a withdrawal agreement has been ratified before then by MPs. The UK must now take part in European Parliament elections on 23 May unless a deal has been agreed by then. If it did not, the UK would leave the EU on 1 June without a deal.
- 4.2 Government Ministers are continuing talks with Labour leaders to try to end the impasse. The Leader of the Opposition has said cross-party talks were "serious, detailed and ongoing", but warned that the Government would have to compromise. If they can agree, MPs will be given a chance to vote on the deal after they return from Parliament's Easter recess on 23 April. If not, a range of alternative options will be put to them instead.
- 4.3 In either case, the Prime Minister says the negotiated withdrawal agreement - the legally binding part of the deal that covers the 'divorce bill', the transition period, citizen's rights and the border between Northern Ireland and the Republic of Ireland - will remain unchanged. There could, however, be changes to the non-binding political declaration which sets out parameters for the long-term future relationship between the UK and EU, or there could be new commitments on the UK's future negotiating objectives written into legislation. One of Labour's concerns is to ensure that any agreement they may reach on this cannot be 'unpicked' by a new Conservative Prime Minister, given the Prime Minister's announcement that she will step down if her deal is agreed.
- 4.4 The Government is still committed to trying to leave the EU with a deal as soon as possible. But if the discussions with Labour do not yield agreement, many things could still happen:
 - **1 June No Deal Brexit**
No-deal Brexit is still the default outcome if MPs can't agree anything else and there are no further extensions. If Parliament can't agree a deal soon and the UK does not take part in the European elections on 23 May, then a no-deal Brexit would happen on 1 June.

If the elections do take place, the next deadline is 31 October. It would also be possible for MPs to back a no-deal Brexit, although there was a majority against that option when they voted previously.

- **Leave the EU on the Prime Minister's deal**
Despite the repeated rejection of the Prime Minister's deal, it has not been permanently ruled out. If a compromise cannot be agreed with Labour, and if there is no majority among MPs for any alternative, it remains a possibility. In the event of a longer Brexit delay, the negotiated deal could come back at a later date as a way of allowing an early exit. Also, if negotiations with the EU on any alternative plan run into difficulties, the two sides could decide to return to the one deal that has been fully worked out.
- **Full renegotiation**
The Government could choose to negotiate a new Brexit deal – not just small changes to the political declaration but a complete renegotiation that would take some time, perhaps involving a re-write of the withdrawal agreement. If the EU refused to re-enter negotiations, the Government would have to go for one of the other options.
- **Referendum**
One widely discussed option is for a "confirmatory vote" on whatever deal is finally agreed, where the public would be given the choice between accepting the deal or remaining in the EU. Some argue that any further referendum should also have the option of leaving the EU without a deal. There would have to be new legislation to make a referendum happen and to determine the rules, such as who would be allowed to vote. Time would be required for the Electoral Commission to consider and advise on the referendum question, then there would be a statutory "referendum period" before the vote takes place. Experts suggest the minimum time for all these is about 22 weeks.
- **Cancel Brexit**
The European Court of Justice has ruled that it would be legal for the UK to unilaterally revoke Article 50 to cancel Brexit (without the need for agreement from the other 27 EU countries). It's likely that a major event such as a further referendum or change of government would have to happen before such a move. It's not clear what the process would be, but an Act of Parliament calling for Article 50 to be revoked would probably be sufficient.
- **General election**
The Prime Minister could decide the best way out of the deadlock would be to hold an early general election. She doesn't have the power just to call this herself, but could ask MPs to vote for this under the terms of the Fixed Term Parliaments Act. Two-thirds of MPs would need to support the move. The earliest date for the election would be 25 working days later but the PM would choose the precise date.
- **Another no-confidence vote**
The Government survived a vote of no confidence on 16 January by 325 votes to 306. Labour could table another no confidence motion at any time. If a majority of MPs voted for the motion it would start a 14-day countdown. If during that time the current Government or any alternative Government cannot win a new vote of confidence, then an early general election would be called. That election could not happen for at least 25 working days.

- **Other possibilities**

The Prime Minister has said she will stand down if her deal is passed. Having already survived a challenge to her leadership, Conservative Party rules say she cannot be forced out by her party until December. But she could still choose to resign if she can't get her deal through and she's not prepared to change course. That would trigger a Conservative leadership contest and appointment of a new Prime Minister. She might also come under pressure to resign if MPs pass a "censure motion" - like a no-confidence vote but without the same automatic consequences. This could lead to a change in Prime Minister or even a change in government, but whoever ended up in office would still face the same range of Brexit options.

4.5 A diagram illustrating what could happen next, following agreement with the EU on the further extension, is attached as Appendix 1 to this report.

5. OTHER DEVELOPMENTS

5.1 Some things have become clearer since the last update to Committee in January:

- Citizens' Rights - EU citizens wishing to obtain 'secure status' no longer have to pay a fee, and anyone who applied during the 'trial' phase can claim a refund. Both the UK and Scottish Governments are publicising the scheme now it has been officially launched, and the Council is also playing a role in publicising this and signposting people to advice and support (eg through the website and posters). Central Library will be a location for the Assisted Digital Scheme for those who need help to make online applications.
- Replacement Funding - the UK Government will not begin its consultation on the proposed UK Shared Prosperity Fund until the terms of leaving the EU are confirmed. The scale and distribution of this Fund is important to Dundee because of the number of projects and staff currently supported by EU funds such as ESF and ERDF. Decisions on priorities will be required if the amount of money currently received is not replicated.
- Resources for Council Preparation - in England specific funding to allow preparations for Brexit has been given to local authorities. COSLA is in discussions with the Scottish Government to ensure that Scottish Councils' preparedness for Brexit is adequately resourced. Information on estimated spend to date and likely future spend has been submitted.
- Food Insecurity - it was widely predicted that a 'no deal' Brexit would increase the cost, and reduce the availability, of some foods. In response, the Scottish Government has invested an additional £500,000 through FareShare, who already supply over 500 community organisations across Scotland, to redistribute fresh surplus from producers and purchase additional food. The Scottish Government has suggested that there is an opportunity for local authorities to work with their FareShare regional hub to disseminate information about income maximisation and support schemes (eg Scottish Welfare Fund, Discretionary Housing Payments) through FareShare's community network; connect community organisations with FareShare supply; and connect local businesses with FareShare to redistribute any additional surplus foods that become available. Council Advice Services are leading on this work, given the key role they play in the city and across the financial inclusion sector.

6. COUNCIL PREPARATIONS

6.1 Given the continuing uncertainty, much of the work in recent months focused on resilience planning in the event of a 'no deal' Brexit. Plans were put in place at national, regional and local levels to deal with any impacts, and officers with a role in reporting on these were identified and advised of requirements. Although 'no deal' remains a possible future outcome, the assumption that any exit before 31 October will be on the basis of an agreement means

that resilience reporting arrangements have been suspended meantime and the UK and Scottish Government's monitoring arrangements have been stood down. However, there remains a need to be alert to complex political developments and agile in responding to changing circumstances.

6.2 Other work being carried out within the Council to prepare for Brexit includes:

- Local Economy - we have continued to encourage local businesses to use the Scottish Enterprise Toolkit to help them prepare for Brexit, and have promoted the Scottish Government's grant scheme which gives businesses up to £4,000 to support preparations. We are liaising with the Dundee and Angus Chamber of Commerce and the Business Gateway on a survey of the preparedness of local businesses and to promote resources and events.
- Funding - a detailed analysis of the projects and staffing supported by EU funding is being carried out to prepare for future decisions.
- Lobbying - on behalf of the Cross Party European Group, letters have been sent to the UK and Scottish Governments on topics such as the UK Shared Prosperity Fund, participation in Interreg, Post-Study Visas and Funding for Colleges and Universities.
- Communications - we have developed and updated a Brexit page on the Council's website. More detailed communications will be planned throughout April and beyond.
- Workforce - we still have limited data on the number of EU citizens in our workforce but will continue to work to engage with and re-assure those affected and signpost them to information and support.

6.3 Areas on which further work is being done - particularly in relation to 'no deal' impacts, although these now seem less likely - are as follows:

- Procurement - the impact of leaving the EU on contracts, as well as any issues about the resilience of supply chains necessary to deliver Council services.
- Health and Social Care - any particular issues relating to workforce and the supply of medicines and medical equipment which may impact on the services which we and our partners provide.

6.4 The officers' Brexit Advisory Team and the Cross Party European Group of councillors, MSPs and MPs have continued to meet to consider the risks facing the Council and the city and take any mitigating action which is possible.

6.5 The Council is now making preparations to hold elections to the European Parliament on 23 May. A 'Day of Poll Order' was laid in the UK Parliament on Monday 8 April and an official 'Notice of Election' was published on Monday 15 April. Returning Officers and electoral teams across the country have been aware of the potential for these elections and have made appropriate preparations.

7. POLICY IMPLICATIONS

This report has been subject to an assessment of any impacts on Equality and Diversity, Fairness and Poverty, Environment and Corporate Risk. There are no major issues.

8. CONSULTATIONS

The Council Management Team were consulted in the preparation of this report and agree with its contents.

9. BACKGROUND PAPERS

None

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