

Audit & Standards Committee

Update on Preparations for EU Transition

5 November 2020

Recommendation(s)

1. That the Committee note and comment upon the approach being taken in preparation for EU Transition

1. Executive Summary

- 1.1 31st December 2020 represents the end of the formal 'transition period' following the agreement for the UK to leave the European Union in January 2020. The transition period consists of a set of domestic preparations alongside an ongoing process of discussion and negotiation with the European Union regarding the future basis of trade and other relationships.
- 1.2 Following this period there is the prospect of the UK signing a Trade Deal with the EU, as well as a risk that one is not signed.
- 1.3 Following a request made at the last committee, this report provides an update regarding the work of the County Council in its preparations and responses to the end of the EU Transition period following the UK's departure from the European Union. The Committee is asked to consider this report in the context of its role in assessing the effectiveness of the Council's control and assurance framework

2. Background and Context

- 2.1 The move towards the end of the transition period poses a variety of changes which will need to be understood in terms of the longer-term impacts on the operating context for local government.
- 2.2 The transfer of legislation from EU to UK statute will continue, but there is a need to look ahead to see how post transition this (or indeed new) legislation could affect alignment with the EU in future. To a certain extent this is not an area which the County Council can influence unless it has a direct bearing on local authority operational matters. Yet the potential for adaptation and amendments to legislation affecting local businesses and communities after the transition period ends cannot be discounted.
- 2.3 Overall, the development of legislation and guidance which commenced during the transition period, and the changes that may result after January 2021 will result in a new category of law referenced as "retained EU legislation" – this is EU legislation that formed part of domestic law immediately before the end of

the transition period and will continue to have effect in domestic law afterwards unless and until parliament modifies it or the Supreme Court departs from it and will include adjustments to EU law which have been adopted during the transition period. It is not possible to definitively identify retained EU law at this time – there is no government data set, the wording of the withdrawal agreement references “any enactment” which can include parts of a statute or set of regulations but not other parts of the same legislation, and, most importantly the definition of retained EU legislation specifically references law in force immediately before the end of the transition period, which may mean the position changes before 31 December. However, we are continuing to track the statutory instruments and guidance as published to understand as best we can the developing position, and any changes.

- 2.4 Although alignment will remain a key issue for the ongoing relationship between the United Kingdom and the EU, the reality is that Parliament will be able to make changes to legislation from January 2021. Whilst the withdrawal agreement recognises that the principle of the supremacy of EU law will in effect continue to apply in the UK after the end of the transition period in certain specific situations, we will see changes over time that will be impacted by trade agreements and government policies.
- 2.5 There will be a long-term requirement to monitor legislation although increasingly specific “EU Exit” legislative questions will diminish, and it is of course the case that the review of legislation to ensure legal compliance is standard operational practice. Key areas identified as requiring particular focus will include procurement, data protection requirements and state aid (the rules that govern how far public money can be utilised to support or provide a benefit to private entities). State aid law does have a major impact on council initiatives in terms of risk, access to finance, insurance and legal structure. The legal team working closely with the Corporate Policy team will keep the legislative position under review and will continue to link with national networks and forums which are considering such issues

3. WCC response

- 3.1 The main issues which are reflected in the work of the County Council and its partners are as follows:
- Impact of EU Settlement Scheme plus new immigration system/workers schemes on a) Council services (i.e. Social Care) and b) local economy.
 - Impact of Trade arrangements on the local, regional and national economy especially in relation to export focused sectors.
 - Evolution of post-transition legislation and regulation – the ‘long-tail’ of EU law & policy (e.g. Data & Information, weights/measures, health & safety, state aid, trading standards etc)
- 3.2 In anticipation of these challenges the Council has recently stood back up the ‘Trade and EU Matters’ Group (previously called the Brexit Group) which draws key individuals from across each of the directorates to coordinate responses and to update on developments related to the EU transition. The

Strategic Director for Communities retains the role of Lead Brexit Officer and chairs the Group, retaining overall accountability for the preparations of the council.

- 3.3 Each individual directorate and service remains responsible for the implementation of responses to the UK's exit from the European Union however the Group acts as the main mechanism by which the overall approach is coordinated and supported.
- 3.4 To date the Group's focus has primarily been on the following areas:
- **Signposting** - A role in signposting to key information: covering mostly our local communities needs in terms of visiting nations within the EU, Emigration etc. Our role will be to ensure that our public facing information is either up to date or linked to the Governments own information;
 - **Legislative review** - Reviewing and updating information regarding legislation which is adapted after transition;
 - **Information** - Providing information and guidance to local businesses and our own providers (incl. Social care);and
 - **Supply chains** - Reviewing our supply chains and contracts to ensure we remain on a stable footing.
- 3.5 There will also be an ongoing residual role in monitoring national developments around trade deals and major legislation (e.g. Internal Market Bill) which may change in future and affect Warwickshire as a place.
- 3.6 Most of these developments are a national matter which will require local authorities to respond and adapt to in the light of developments in guidance and amendments to the law.
- 3.7 The wider impacts from the end of the transition period in relation to trade and economic impacts will influence the Warwickshire economy, and this may include the supply chains related to key West Midlands manufacturing sectors. Although this is something within our view as a local authority it is outside the scope of this report.

4.0 Assurance framework

- 4.1 The Trade & EU Matters Group oversees a dedicated Risk Register and Communications plan in relation to the EU Transition. It has structured its activity in relation to the following key areas:
- People & residents – covering areas such as the EU Settlement Scheme, New Immigration Regime;
 - Business/Wider Economy – covering business contingency and supply chains;
 - Public Services & WCC – direct impacts on staff and services, including mitigation of effects on services;

- Regulatory Services – focused on the regulatory services such as trading standards;
- Transport – reflecting emerging needs around the provision of infrastructure in support of a new trading system; and
- Communication – ongoing delivery of communications which can signpost residents and those likely to be affected by EU transition to key information and guidance available from HM Government websites.

4.2 This framework ensures that cross-cutting issues and key messages can be effectively communicated in public and through our key partners.

4.3 The risk register is currently being updated by relevant leads.

4.4 In addition there is an extensive set of partnership arrangements in place to ensure insight and issues are shared and communicated and that key messages and communications approaches are shared and understood. For example, work being undertaken with the Growth Hub to inform local businesses around their responsibilities.

4.5 Overall, this approach recognises that beyond direct mitigation effects with our staff and services, the main area of effect from our approach is to ensure that our key audiences are signposted to key areas of information and guidance held nationally.

4.6 Additionally, whilst the County Council continues to work to ensure that key messages and signposting are shared with appropriate audiences within Warwickshire, contingency planning for a ‘no deal is becoming increasingly important.’ This is not easy to anticipate in terms of the main issues for the County Council operations. It would remain a national matter with HM Government ultimately responsible for advising on the courses of action and responses to key issues which could emerge. The Trade and EU Matters Group will continue to closely monitor the situation over coming weeks

4.7 Close working with the Coventry, Solihull & Warwickshire Emergency Planning team also supports this contingency planning.

5 Timescales associated with the decision and next steps

5.1 EU transition will continue to be a live and growing area of focus for WCC in the coming weeks and months. Preparation and activity have mobilised and will continue to match pace and respond as required.

5.2 A further report on progress will be submitted to full Council in December.

6. Financial Implications

- a. There are no immediate direct financial implications for the Council as a result of this report. The position will be kept under review through the Group as more detail emerges and reported to Members as part of quarterly budget monitoring initially. Any longer-term financial impacts will be picked up through the annual process for refreshing the Medium Term Financial Strategy.

7. Environmental Implications

7.1. There are no immediate direct environmental implications for the Council as a result of this report. The position will be kept under review as it is clear that changes to food standards, environmental requirements and health and safety regulation are likely to develop as legislation diverges from EU law.

Appendices

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