



BRIEFING PAPER

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Brexit and local government

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This briefing paper highlights some areas in which leaving the European Union may impact on local government.

1. Local authorities: powers and Brexit

The incoming Prime Minister, Theresa May, appointed Sajid Javid MP as Secretary of State for Communities and Local Government on 14 July 2016, replacing Greg Clark MP.

1.1 Representation in Brexit negotiations

Shortly before his move, Mr Clark said:

I argued successfully last week for English local government to be part of the negotiations on the terms of our exit... When we are transferring powers from the EU to Britain I think it is essential that Whitehall is not the default destination for them.¹

The LGA has called for greater powers to be transferred to local government in the wake of the vote to leave the EU.² Melanie Dawes, permanent secretary at DCLG, has also suggested that some powers could be 'devolved' from the European Union to local government.³ Lord (Gary) Porter, chair of the LGA, made similar points, suggesting that this approach could consider new powers around recycling, food hygiene and air quality.⁴

1.2 Devolution deals

Some uncertainty has been expressed about the future of the 'devolution deals' agreed with various local areas in the aftermath of the vote to leave the European Union. Simon Parker, director of the New Local Government Network, said:

For the past few years we have been following what might be termed the Whitehall gift model. Local leaders negotiate with George Osborne and, if he likes what he hears, he passes them down a package of new powers. It is a model that is unlikely to work very effectively in a post-referendum world. Parliament and the civil service face years of Brexit-related legislative congestion. Why would devolution deals be high on their agenda?

¹ DCLG, [Greg Clark's speech to the LGA Conference](#), 5 July 2016

² LGA, ["LGA statement on 'leave' vote in UK referendum"](#), 1 July 2016

³ David Paine, "Dawes encourages devolution of repatriated EU powers", [Local Government Chronicle](#), 5 July 2016

⁴ David Paine, "Porter calls for key role in designing replacement EU laws", [Local Government Chronicle](#), 5 July 2016

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If we stick with the gift model, then devolution will stall. Greater Manchester might have enough momentum to carry on, but places like Merseyside and the West Midlands may find themselves struggling to win more powers. The counties may find it even harder to make progress, especially if they remain mired in complex debates about local government reorganisation.⁵

The mayor of London, Sadiq Khan, has called for extended devolution of power to London, including of fiscal powers, in the wake of the vote to leave the European Union. It appears that he is following a similar agenda to that of previous discussions: devolution of fiscal responsibility including tax raising powers, more control over business and skills, housing and planning, transport, health, and policing and criminal justice.⁶

There are no clear indications as yet that the Government intends to change policy direction as regards devolution to local areas.

2. Financial consequences

2.1 EU Structural Funds

The UK was due to receive some £5.3 billion in European Union structural funds in the 2014-2020 programming period. A regional and local breakdown of these funds [is available from the Government](#). It is not yet clear for how long instalments of these funds will be paid. This is likely to depend on the eventual date on which the UK leaves the European Union.

A number of the recently-agreed English 'devolution deals' were to constitute new mayoral combined authorities as 'intermediate bodies' for the purposes of EU structural funds: i.e. to give them the power to distribute the funding locally. Areas benefiting from structural funds have demanded that the Government should ensure that equivalent sums continue to be invested in their areas. Mark Duddridge, chair of Cornwall and Isles of Scilly Local Enterprise Partnership, has said:

The UK government must guarantee that we receive our full allocation of EU investment, even if that money is no longer provided by the EU.

...

The signals we are receiving from both the EU and the government is that it is 'business as usual' for our EU programme - for the time being.⁷

Joe Anderson, mayor of Liverpool, was quoted in similar terms:

Mr Anderson, who has put himself forward as a Labour candidate for city region's mayoral election next year, said the vote to leave the EU would have a "significant impact in our communities", with an estimated 2,100 jobs set to be created by the structural investment alone.

He said he would seek a meeting with the government to call for any lost funding to be replaced and push for obligations under the region's devolution deal to be met.⁸

⁵ Simon Parker, "Brexit: a turning point for devolution", *Public Finance*, 27 June 2016

⁶ See, for instance, [his speech at the Times CEO summit](#) on 28 June 2016.

⁷ Mark Duddridge, "Cornwall is fighting for EU funding to be replaced – despite the Leave vote", *Local Government Chronicle*, 7 July 2016

⁸ Jon Bunn, "Brexit could cost Liverpool £400m in EU funds claims mayor", *Local Government Chronicle*, 29 June 2016

2.2 European Investment Bank

The European Investment Bank (EIB) has invested some €42 billion in the UK over the past ten years. Membership of the EU is not required to access loans, but it may lead to greater requirements for guarantees and potentially a more onerous application process:

The bank, which is a backer of the London Array offshore wind farm and has emerged as a major investor in the UK's clean energy transition, has stressed that no current loans will be affected by Brexit.

But a spokesman said there was "clear uncertainty" about the pipeline of future loans given the unprecedented scenario where a shareholder in the bank has voted to leave the EU.

A number of green infrastructure projects currently being considered by the EIB could be impacted by the on-going uncertainty, including the Neart Ha Gaoithe 450MW offshore wind farm and a planned £400m water infrastructure project planned for the East Midlands by Anglian Water.⁹

The specialist website Room 151 reported a spike in loans from the Public Works Loan Board in advance of the referendum. It suggested that finance officers hoped to lock in low interest rates in advance of a Remain vote followed by a rise in interest rates.¹⁰

3. Policy areas: possible impacts

This section notes a number of policy areas in which leaving the European Union may impact on local authorities. The principal sources of change are legal and financial.

3.1 Legal impacts

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 public authorities, which includes local councils, 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 also introduced recycling and recovery targets to be achieved by 2020. A detailed summary of current waste legislation applicable in the UK is set out on the [Gov.uk guidance page on waste legislation](#).

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.¹¹

⁹ <https://www.dwf.gov.uk/news-events/legal-updates/2016/07/the-impact-of-brexit-on-local-government/>. See also MetroDynamics, *AdiEU: the impact of Brexit on UK cities*, July 2016

¹⁰ Colin Marrs, "[Brexit vote prompts huge spike in PWLB borrowing](#)", *Room 151*, 7 July 2016

¹¹ Institute for European Environmental Policy, [Brexit – the implications for UK Environmental Policy and Regulation](#), March 2016 [accessed 29 June 2016]

However, if the UK leaves the EU and does not become a member of the 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.¹² This could also manifest in 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. Global law firm Norton Rose Fulbright has suggested that local authorities may push for such changes in order to reduce their costs:

there might be greater pressure from local authorities to move away from the objectives set by the EU Landfill Directive; to reduce the landfilling of waste by introducing stringent technical requirements for waste and landfills. These EU driven targets have caused local councils to incur large fines for missing the landfill reduction levels. These fines get carried across into council tax bills.¹³

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 government must comply with EU public sector procurement rules. The most significant requirement is for all public contracts over E209,000 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.¹⁴ Further information is available in the Library briefing paper [Public procurement](#).

State aid

European regulations prevent the Government from providing state aid to companies of over £200,000 in any three-year period. Tax reliefs and exemptions also fall into the definition of state aid. It is likely that some form of state aid provisions would remain in place post-Brexit, as it is required both by membership of the World Trade Organisation (WTO) and the European Free Trade Association (EFTA).¹⁵

3.2 Financial impacts

Affordable homes

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. It is an industry that is highly reliant on migrant labour; between 2007 and 2014, the proportion of EU migrants in the construction sector rose from 3.65% to 7.03%.¹⁶ Limits

¹² See: Cornerstone Barristers, [Brexit: Planning and the Environment outside the EU](#), July 2016 [accessed 12 July 2016]

¹³ Norton Rose Fulbright, [Impact of a Brexit on infrastructure, mining and commodities](#), June 2016 [accessed 12 July 2016]

¹⁴ See the [Public Contracts Regulations 2015](#) (SI 2015/102) for England, Northern Ireland and Wales; the [Public Contracts \(Scotland\) Regulations 2015](#) (SI 2015/446) for Scotland.

¹⁵ DWF, [The impact of Brexit on local government](#), 3 July 2016

¹⁶ [National Housing Federation Briefing, The vote to leave the EU](#), 7 July 2016

on free movement could, therefore, have an adverse impact on building costs and supply, at least in the short to medium term.

Local authorities play a relatively limited role in adding to the stock of newly built homes – the key providers are private developers and housing associations. However, authorities with a development programme will want to ensure that their plans are sustainable in the current environment.

Access to council housing

Changes to the free movement of EEA nationals may impact on their eligibility to apply for local authority housing. There is no automatic entitlement to council housing in the UK.

The most recent statistics on social housing lettings in England released by DCLG (October 2015) cover the period April 2014 to March 2015. The bulletin compares lettings since 2007/08 with reference to the nationality of the “household reference person” (HRP). The vast majority of lettings were made to UK nationals.¹⁷

Based on this data, the impact of EU migration on demand for council housing is limited. Changes to free movement may reduce demand, but much will depend on whether UK nationals living in the EU are forced to return.

Business rates

The Government plans to scrap local authorities’ Revenue Support Grant by 2020, with local government collectively retaining 100% of business rates revenue. Local authorities would raise most of their revenue locally. They would become more exposed to falls in tax revenue resulting from economic downturns.¹⁸ The difficulty of forecasting may also increase, potentially making long-term financial planning trickier.¹⁹

Credit ratings

Four local authorities which hold credit ratings from Moody’s – Cornwall, Birmingham, Guildford, and Wandsworth – have seen them downgraded from AAA to AA1. Lancashire was cut from AA1 to AA2. Transport for London has also seen its credit rating downgraded.²⁰

A number of housing associations have also seen their credit ratings downgraded by one step by both Moody’s and Standard & Poor’s.²¹

¹⁷ DCLG, [Social housing lettings: April 2014 to March 2015](#), England, October 2015

¹⁸ Chiefs call for rate ‘rethink’, *Municipal Journal*, 30 June 2016

¹⁹ Stephen Fitzgerald, [“Brexit, business rates and the forecasting challenge”](#), *Room 151*, 5 July 2016

²⁰ Dan Peters, “Authorities are hit by credit rating downgrade”, *Municipal Journal*, 7 July 2016

²¹ For details of a number of the housing associations in question, see Pete Apps, [“S&P downgrades association credit ratings after referendum”](#), *Inside Housing*, 4 July 2016