



## Leaving the EU: Local Government Consultation After Withdrawal

### Summary

On 19 March 2018, Lord Shipley (Liberal Democrat) moved an amendment to the European Union (Withdrawal) Bill that sought to clarify and enhance the consultative and advisory role of local government in the negotiations on the UK's withdrawal from the EU, and in domestic law following the UK's exit from the EU.

Local government currently has a formal advisory role in the EU law and policy-making process through its membership of the European Union Committee of the Regions. The UK Government has not yet provided details on whether this will be replicated domestically after its withdrawal from the EU.

### Role of the European Union Committee of the Regions

Directly elected regional and local representatives from EU member states are eligible to become members of the Committee of the Regions (CoR).<sup>1</sup> There are 350 members (24 from the UK) from 28 member states who meet to discuss the development of EU laws that impact regions and cities.<sup>2</sup> They can intervene at several stages in the EU law-making process:

- In the pre-legislative phase the CoR cooperates with the European Commission (EC) on impact assessments.
- The EC must consult with the CoR on legislative proposals and respect the subsidiarity principle.<sup>3</sup>
- The European Parliament and Council also consult with the CoR and the CoR votes and adopts an official opinion on the legislative proposal.
- The CoR monitors the implementation of legislation at the regional and local level. If the CoR observes that the legislation does not show regard for the subsidiarity principle, the CoR has the right to bring an action before the European Court of Justice.<sup>4</sup>

### Amendment to the European Union (Withdrawal) Bill

On 19 March 2018, Lord Shipley moved the following amendment to the European Union (Withdrawal) Bill:

Her Majesty's Government must—(a) maintain a full consultative role for local authorities in the planning and decision-making processes involved in the United Kingdom's withdrawal from the EU, in due time and in an appropriate way for all matters which concern them, and (b) provide by regulations made by a Minister of the Crown for a formal mechanism in domestic law to replicate the advisory role conferred on local authorities via membership of the EU Committee of the Regions within the United Kingdom after exit day.<sup>5</sup>

Speaking to the amendment, Lord Shipley said:

Amendment 227 derives from two problems. The first is the fact that consultation with local authorities has been inadequate in the planning of the UK's withdrawal from the EU. Secondly, the absence to date of any mechanism in domestic law to replicate the advisory role conferred on local authorities by the European Committee of the Regions after exit day is becoming a matter of increasing concern.<sup>6</sup>

### **Government Response to the Proposed Amendment**

Lord Bourne of Aberystwyth, Parliamentary Under Secretary of State at the Ministry of Housing, Communities and Local Government, undertook to report back to the House at report stage of the European Union (Withdrawal) Bill about the Government's plans for consulting local authorities after the UK withdraws from the European Union.<sup>7</sup>

Lord Bourne said that the Government did not "consider it necessary to provide a statutory basis to a domestic replication of the existing consultative rights provided to local authorities through the mechanism of the Committee of the Regions". Lord Bourne indicated that the Government would be seeking a non-statutory mechanism that replicates the rights and responsibilities local government has had through the CoR.<sup>8</sup>

Lord Bourne also indicated that the "Minister for Local Government will proceed shortly to discuss this matter with Local Government Association representatives cognisant of the fact that interests in Scotland, Wales and Northern Ireland will need protecting".<sup>9</sup>

### **Comment by Local Government**

The Local Government Authority (LGA), together with the local government associations in Wales, Scotland and Northern Ireland, have been in discussion with the UK Government about how this advisory role might be replicated in UK law.<sup>10</sup> These local government associations wish to see a replicate advisory role in the UK following its exit from the EU, which ensures no deficiency in local government powers.<sup>11</sup>

Councillor Kevin Bentley, Chairman of the LGA's Brexit Task and Finish Group, said:

Brexit should not simply mean a transfer of powers from Brussels to Westminster, Holyrood, Stormont and Cardiff Bay. It must lead to new legislative freedoms and flexibilities for councils so that residents and businesses benefit. Taking decisions over how to run local services closer to where people live is key to improving them and saving money.<sup>12</sup>

### **European Union Funding Streams**

During the debate on the amendment, Lord Shipley drew the House's attention to a potential funding gap that could emerge after the UK exits the EU.<sup>13</sup> According to the LGA, current EU funding streams provide £8.4 billion between 2014 and 2020 to local government in the UK, mainly through the European Regional Development Fund and the European Social Fund.<sup>14</sup> In December 2017 the LGA called on the UK Government to provide urgent clarity over how it will replace these funds once the UK leaves the EU.<sup>15</sup>

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<sup>1</sup> European Committee of the Regions, '[CoR Activities: Work of the CoR](#)', accessed 18 April 2018.

<sup>2</sup> European Committee of the Regions, '[About the CoR: Members](#)', accessed 18 April 2018; and '[About the CoR: National Delegations](#)', accessed 18 April 2018. Each national government proposes its regional and local representatives (full members and alternates) who are then approved by the Council of the European Union. The numbers referenced in this Briefing include both full members and alternates.

<sup>3</sup> The principle of subsidiarity is defined in Article 5 of the Treaty on European Union. The principle ensures that the EU does not take action (except in the areas that fall within its exclusive competence), unless it is more effective than action taken at national, regional or local level. For more information: EUR-LEX, '[Subsidiarity](#)', accessed 18 April 2018.

<sup>4</sup> European Committee of the Regions, '[CoR Activities: Work of the CoR](#)', accessed 18 April 2018.

<sup>5</sup> [HL Hansard, 19 March 2019, col 79.](#)

<sup>6</sup> *ibid*, col 80.

<sup>7</sup> *ibid*, col 86.

<sup>8</sup> *ibid*, col 86.

<sup>9</sup> *ibid*, col 86.

<sup>10</sup> Local Government Association, '[Government Agrees to Consultative Rights for Local Government Post Brexit](#)', 20 March 2018.

<sup>11</sup> *ibid*.

<sup>12</sup> *ibid*.

<sup>13</sup> [HL Hansard, 19 March 2019, col 80.](#)

<sup>14</sup> Local Government Association, '[Urgent Clarity Needed on EU Funds, Councils Warn](#)', 6 December 2017.

<sup>15</sup> *ibid*.

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