

Report to: Cabinet

Date: 16 September 2019

Title: Contingency Planning for a No-Deal Brexit

Report of: Peter Finnis, Assistant Director for Corporate Governance

Cabinet member: Councillor Zoe Nicholson, Leader of the Council

Ward(s): All, but in particular those in and around Newhaven

Purpose of report: To brief Cabinet on the Council's preparedness for a no-deal Brexit

Decision type: Non-key

Officer recommendation(s): That Cabinet note—

(1) the Council's preparations and readiness for the UK leaving the EU without a formal agreement or transition period; and

(2) East Sussex County Council's statement at paragraph 3.8 on traffic issues at Newhaven Port under a no-deal Brexit scenario.

Reasons for recommendations: Local government should be prepared to leave the EU by the end of October, and the Council has both a general role to play and a specific responsibility as the Newhaven Port Health Authority.

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1 Introduction

- 1.1 This is an update to the report considered by Cabinet on 11 February 2019 on the strategic implications for Lewes District Council ('the Council') of the UK leaving the European Union. There is a link to that report at the end of this

document.

- 1.2 This update considers:
- the national position as at 4 September 2019 – see paragraph 2;
 - government funding to local authorities, including this Council, for Brexit preparations – see paragraphs 3.1-3.2 and 3.4-3.5;
 - regional planning activity across East Sussex and the South East – see paragraphs 3.3 and 3.6;
 - the situation at Newhaven Port, with particular regard to the Council's role as port health authority – see Appendix 1; and
 - the emergency planning system and its relevance under Brexit – see Appendix 2

2 National Context

2.1 Subsequent to the previous Brexit report to Cabinet, the UK government reached agreement with the EU over a seven-month extension to the Article 50 process, meaning a revised 'exit date' of 31 October 2019.

2.2 The Government's stated preference is to leave the EU with a deal, i.e. on the basis of the Withdrawal Agreement already drafted but with amendments acceptable to both parties and subsequently ratified by Parliament. However, despite the Prime Minister's hopes of renegotiating that Agreement, leaving without a deal now looks a distinct possibility and the Government is planning intensively for this outcome.

2.3 The principal reasons making an agreed withdrawal unlikely are as follows.

- (i) The EU has consistently said it would be unwilling to renegotiate the Withdrawal Agreement. While it is engaging in discussions and may be open to smaller technical changes, it looks extremely unlikely to accept the Prime Minister's key request of removing the Northern Irish 'backstop' from the deal.
- (ii) There is very little time left. Even if the EU was willing to negotiate the changes requested by the PM, the time to achieve this before the European Council meeting on 17-18 October, followed by ratification and the passage of the necessary legislation through Parliament, makes the 31 October deadline very challenging.

There is very limited capacity to block a no-deal before Parliament is prorogued on a day between 9 and 12 September. Once MPs return, there will be only six sitting dates between the final votes on the Queen's Speech (on 22 October) and 31 October in which to stop a no-deal.

N.B. If the situation at Westminster changes significantly between the time of writing (3 September) and the Cabinet meeting on 16 September, officers will provide a verbal update.

2.4 If the UK and EU do not conclude a withdrawal agreement by 31 October, if there is no further extension of the Article 50 period and the Article 50 withdrawal notice is not revoked, the UK will still leave the EU, but without an agreement to govern the terms of withdrawal, and with no transition period.

2.5 At national level, the consequences of no deal include the following:

- UK entities would no longer be eligible to receive EU funding for projects under EU programmes, although the government has given a guarantee to continue funding such projects under a no-deal scenario
- The UK will no longer be part of the EU's single market and customs union; the four freedoms (the free movement of people, goods, services and capital) will no longer apply; and there will no longer be mutual recognition of professional qualifications and regulatory frameworks.
- UK-EU trade in goods and services will take place under the EU rules that apply to non-EEA countries, and any applicable national laws and national practices of member states, with the World Trade Organisation (WTO) rules and WTO schedules setting the baseline for access. Tariffs will apply.
- Continuity in the UK's trade with non-EU countries will depend on the government rolling over all the EU's existing trade agreements (and trade-related agreements) by exit day. The WTO rules and the WTO schedules set out the default position in the absence of any more preferential trade agreements or transitional arrangements.

3 Planning and funding at local authority level

3.1 The Ministry of Housing, Communities and Local Government (MHCLG) sees local government as critical in delivering a successful Brexit. In January 2019, it announced funding of £35k for each district council over the period 2018/19 to 2019/20, to “prepare for an orderly exit from the EU and do appropriate emergency planning.” The Council is using these payments to fund (a) the preparations and contingency planning associated with port health responsibilities at Newhaven, and (b) the Council’s participation in Brexit emergency planning work by the Sussex Resilience Forum.

3.2 MHCLG promised a further £1.5m in 2018/19 to local authorities “facing immediate impacts from local ports”, but the Council did not qualify for an allocation.

3.3 To support the planning activity, a network of nine local authority chief executives from across England has been established. For the South East it is Becky Shaw, the Chief Exec of East Sussex County Council. Their role is to engage with councils in their region, to share information on preparations to support an orderly exit. This has included participating in four no-deal task and finish groups set up by the Ministry of Housing, Communities and Local Government, with appropriate representation from across the South East. The groups are:

- (i) Transport and Planning related to Port Disruption
- (ii) Business Support (particularly for SMEs)
- (iii) Support for the EU Settlement Scheme
- (iv) Regulatory Services (including port health)

The first meeting of the Regulatory Services group took place at the end of July, and identified the short-term costs associated with no-deal preparations as:

- volume of work, e.g. changes to the flow of goods, advice to businesses
- potential changes to risk profiles
- new processes and systems, including staff training.

The group's comments were referred to MHCLG, to assist them with a briefing on possible funding.

- 3.4 In August 2019, MHCLG committed an additional £20m of Brexit funding for councils in England, to support a range of activity "including communications, training and the recruitment of staff." We have established that the allocation to district councils will be £17.5k each. At the time of writing, these particular funds have yet to be received.
- 3.5 In addition, Sussex (and indirectly LDC) should benefit from a share of the £4m government grant just announced for England's Local Resilience Forums. On a pro rata basis, the Sussex LRF should receive £105k out of this pot.
- 3.6 Also in August, MHCLG asked each council to designate a Brexit lead "to work with central government and oversee teams in every community who will work with stakeholders in their area to plan intensively for Brexit." Collectively, the Chief Executives of councils across East Sussex have decided that the CEOs will assume this role.
- 3.7 The Government has produced, and continues to update, guidance to local government on preparing for Brexit. For LDC, the two most important sets of guidance are those on (1) Regulatory Services and (2) Contingency Planning. The Regulatory Services set includes guidance on issues relevant to the council's role as port health authority for Newhaven Port, such as importing animals, animal-products and high risk food and feed not of animal origin.
- 3.8 As highways authority, East Sussex County Council has provided the following statement on the traffic situation at Newhaven Port in a no-deal Brexit scenario:

"The Sussex Resilience Forum (SRF) wrote to the Department for Transport (DfT) in March 2019 regarding the perceived risk of traffic congestion around Newhaven, and the DfT assessment was there would not be significant disruption at the port as a direct result of a potential no-deal Brexit. In August the SRF wrote to the DfT for an up to date clarification on the national assumptions surrounding Newhaven Port. We await a response from the DfT."

4 Contingency Planning as Newhaven Port Health Authority

- 4.1 A briefing on the Council's role as Newhaven Port Health Authority and how it is planning for the impact of a no-deal Brexit is provided at Appendix 1.

5 Emergency Planning Arrangements

- 5.1 A briefing on the Council's emergency planning responsibilities and how they apply in a Brexit no-deal scenario is provided at Appendix 2.

6 Consultation

- 6.1 The Council's port health preparations for Brexit have been conducted on a partnership basis, working alongside all the bodies with responsibilities for operations at Newhaven Port and its access routes.

Similarly, the Council's emergency planning arrangements are developed on a county-wide basis as a member of the Sussex Resilience Forum.

7 Financial appraisal

- 7.1 The funding arrangements mentioned in paragraph 3.1 above reflect the Secretary of State's announcement in January 2019 of a funding package of £58m to support local authorities in their preparations for the UK leaving the EU. This included an allocation of £40m to be distributed between all local authorities in England, split across 2018-19 and 2019-20.
- 7.2 Whilst this funding is not ring-fenced, the expectation is the funding will be used to enhance capacity and capability within local authorities in making preparations for exiting the European Union. To date, the total amount received is £34,968.

8 Legal implications

- 8.1 Government departments have prepared a large number of statutory instruments which, when implemented, will amend existing regulations so as to make them work effectively under domestic law once the UK is outside the EU. The date of implementation will depend on the nature of the UK's departure, since leaving with a deal involving a transition period would allow the new legislation to be brought into force on a structured timetable. Leaving without a deal would mean the new regulations coming into force on or as soon as practicable after 31 October.

The Council's lawyers will advise on the implications of any revised legislation that affect council operations, as when it comes into effect. However, at this stage no particular legal problems are anticipated at local level, whether Brexit occurs with or without a deal.

9 Risk management implications

9.1 The Council is responsible for managing risks associated with Newhaven port health operations. A description of these risks and how the council is mitigating their potential impact is included in Appendix 1.

10 Appendices

- Appendix 1 – Newhaven Port Health Authority preparations for Brexit
- Appendix 2 – Emergency Planning arrangements for Brexit

11 Background papers

The background papers used in compiling this report were as follows:

- Brexit report to Cabinet, dated 11 February 2019
<https://democracy.lewes-eastbourne.gov.uk/documents/s9395/Strategic%20Implications%20of%20the%20Council%20of%20the%20UK%20leaving%20the%20European%20Union.pdf>
- Local government preparedness for Brexit (Government guidance) -
<https://www.gov.uk/guidance/local-government-brexit-preparedness#regulatory-services>
- 'Preparing for a Brexit No Deal (July 2019)', published by The Institute for Government -
https://www.instituteforgovernment.org.uk/sites/default/files/publications/preparing-brexit-no-deal-final_0.pdf