

Local Government Association briefing: The United Kingdom's exit from and new partnership with the European Union

February 2017



Briefing

Key messages

- **Double devolution:** The White Paper states that the Government will 'continue to champion devolution to local government and are committed to devolving greater powers to local government where there is economic rationale to do so.'ⁱ The Local Government Association (LGA) called for this immediately after the referendum. We welcome this approach and will continue to work closely with the local government associations of Scotland, Wales and Northern Ireland to develop the detail of 'double devolution' to ensure that powers repatriated from the EU do not stop at Whitehall, Stormont, Cardiff Bay and Holyrood.
- **Local regeneration funding:** Councils welcome the reaffirmation in the White Paper that European funding for local regeneration will be guaranteed up to the point the UK exits the European Union (EU). It is crucial that central and local government now work together to develop a locally driven UK replacement for EU 'regional aid'.
- **Trade:** It is clear from both the Prime Minister's speech on 17 January 2017 and the White Paper that the work to develop new trading links is taking place. Councils have a long track record of building successful European and international relationships that have secured trade and investment, boosted jobs and infrastructure and helped attract visitors up and down the country. Local government therefore has an important role to play in this area.

Background

Over the past few weeks, the Prime Minister's speech setting out the Government's 12 negotiating priorities for Brexit,ⁱⁱ the UK Supreme Court's Article 50 judgement,ⁱⁱⁱ and the Government's White Paper on *The United Kingdom's exit from and new partnership with the European Union* have all provided more detail on how Britain will exit from the EU.

Building on the LGA briefing of 22 December 2016,^{iv} this note sets out our analysis of the new policy announcements and how we will pursue the needs of local government throughout the Brexit negotiations.

Local government holds a range of views about the future of Britain's relationship with the EU and the LGA remained neutral during the referendum campaign.

The UK's exit from the EU will have a significant impact at local authority level, creating challenges that will need to be addressed, but also opportunities to do things differently. For instance, the next few years will be extremely challenging for councils who we estimate face an overall £5.8 billion funding gap by 2020 linked to

care costs, among other key pressures.^v Meanwhile, Treasury figures indicate a net contribution of £8.5 billion annually to the EU.^{vi} Upon leaving the EU the Government has choices about how any such funds are redeployed. There are clear reasons why they should consider the needs of local communities as these post-exit financial decisions are made.

In this briefing, we set out the impact of the recent Supreme Court judgement and the Governments policy statements on our ‘seat at the table’ and our priority recommendations. We also set out where new LGA work is being developed.

A seat around the negotiating table

At our annual conference in July 2016, the Government offered the LGA a place at the negotiating table to ensure that the needs of local government are heard. However, the subsequent legal debate about who could trigger Article 50 meant that there was some uncertainty as to when the conversations on the UK’s negotiating positions would take place.

On 24 January 2017 the UK Supreme Court ruled in the case of *R (on the application of Miller and another) (Respondents) v Secretary of State for Exiting the European Union (Appellant)*. By a majority of eight to three, the court ruled that the UK government could not use the ‘royal prerogative’ to notify the European Council of its intention to leave the EU under Article 50. Rather, the court stated that a law would have to be passed to authorize Article 50, but the precise form such legislation should take was a matter for Parliament.

Shortly thereafter, the Government introduced the two-clause European Union (Notification of Withdrawal) Bill, which seeks to confer power on the Prime Minister to trigger Article 50. Parliament is currently debating the Bill.

While the Supreme Court judgement is confined to Article 50, there will be a longer-term role for Parliament in developing and commenting on the negotiating process. This has been confirmed in the White Paper.^{vii}

The LGA has a clear position about the risks and opportunities of Brexit for local government. We will work with Government, both Houses of Parliament and councils as we seek to influence the Brexit process and the future of local government outside of the EU.

Accordingly, the LGA will continue to brief the Government and Parliament on local government’s priority recommendations over the next two years. This process is already advancing well. Following widespread consultation with councils, we circulated a briefing paper to parliamentarians in December 2016 setting out local government’s five priority issues for the negotiations. While the legal issues surrounding the Article 50 process have been debated, we have been proactive in communicating these priorities to key stakeholders. For instance: the LGA has presented local government’s position to MPs, Peers and the frontbench parliamentary teams. We continue to work closely with the Department for Communities and Local Government (DCLG) through regular meetings at officer level. In January, David Jones MP, Minister of State, Department for Exiting the EU, addressed an EU Committee of the Regions meeting hosted by the LGA. We also continue to work closely with the other UK local government associations following the publication of our joint position statement.^{viii}

Our priority recommendations:

The future autonomy of local government

The day after the referendum the LGA set out a public position that responsibilities repatriated from the EU cannot be centralised in Whitehall. It is clear that this view is influencing Whitehall policy.

Both the Prime Minister's speech and the White Paper sets out an explicit work stream about the future of devolved powers in Britain and the White Paper was explicit about the devolution of powers to the local level:

As the powers... are repatriated to the UK from the EU, we have an opportunity to determine the level best placed to make new laws and policies on these issues, ensuring power sits closer to the people of the UK than ever before.^{ix}

We will work with the devolved administrations on an approach to returning powers from the EU that works for the whole of the UK and reflects the interests of Scotland, Wales and Northern Ireland.^x

We will also continue to champion devolution to local government and are committed to devolving greater powers to local government where there is economic rationale to do so.^{xi}

We are working closely with the local government associations of Scotland, Wales and Northern Ireland and we are in discussion with ministers to develop the detail of 'double devolution' to ensure that powers repatriated from the EU do not stop at Whitehall, Stormont, Cardiff Bay and Holyrood.

Crucially, just as the context in which the settlements with the devolved administrations was agreed has changed significantly over the last two decades, English local government has seen its responsibilities and functions expand to support economic growth and drive public service reform through the process of negotiated devolution deals. We will be working with our membership and with ministers to ensure that the future autonomy and position of English local government reflects these developments and its unique role in connecting powers and opportunities to people.

Developing a new legal base for local government

Many laws of EU origin affect the day job of councils. In the LGA's December 2016 briefing, we set out 10 areas of law where communities would benefit from powers and responsibilities being held closer to the citizen through stronger local government after the UK exits the EU.^{xii}

The Great Repeal Bill, which is due to be published in the next Queen's Speech, will transpose all existing EU laws into UK law upon our exit. After we leave, the UK Parliament will then be able to decide which elements of this body of law to keep, amend or repeal.

Through the White Paper, we know that the Government intends to 'bring forward a White Paper on the Great Repeal Bill that provides more detail about [their] approach.'^{xiii} We also know that the Great Repeal Bill 'will enable changes to be made by secondary legislation to the laws that would otherwise not function sensibly once we have left the EU.'^{xiv}

The LGA has already set out where post-Great Repeal Bill reviews would be of benefit to local communities and we have been briefing MPs and ministers on local government's 'asks' as set out in our December briefing paper. We will be providing more detail of such benefits over the coming months.

Securing investment for local growth

Government needs to develop a growth policy which is fully funded to deliver its ambitions post-Brexit. Importantly, we have stated the need for a replacement for EU funding to support infrastructure, enterprise and social cohesion.

After much LGA lobbying, the Chancellor of the Exchequer, the Rt. Hon. Philip Hammond MP, announced in October 2016 that local areas with existing EU funding agreements signed off by the time we exit the EU will receive replacement funding once we leave. The Secretary of State for Communities and Local Government, the Rt. Hon. Sajid Javid, subsequently reaffirmed this commitment in a letter to the LGA Chairman, Lord Porter of Spalding.^{xv} The White Paper builds on this by making it explicit that this guarantee covers EU funding for local regeneration:

We recognise the importance to business of having certainty about funding arrangements over the coming years. We have already acted quickly to give clarity about farm payments, competitive grants, including science and research funding, and structural and investment funds.^{xvi}

The Industrial Strategy Green Paper published on 23 January 2017 is also explicit about starting work on a UK replacement of EU 'regional aid':

We will also carefully consider the future of the European Structural and Investment Funds alongside the wider future funding environment following the UK's exit from the European Union.^{xvii}

We are currently developing work that will set out the benefits to local communities of funding regeneration schemes delivered at a local level through EU funding, and set out a framework for a UK replacement scheme that is locally driven rather than based on centralised rules from Brussels and Whitehall. This work will be available in the coming months and will be the focus of our lobbying.

Many local communities also currently benefit from UK participation in a range of smaller European funding programmes, such as the Horizon 2020, LEADER, URBACT III, Erasmus and INTERREG programmes.^{xviii} The White Paper states that

Once we have left the EU... there may be European programmes in which we might want to participate. If so, it is reasonable that we should make an appropriate contribution.^{xix}

It is important that central and local government work together to plan how local areas will retain the benefits they currently receive from participation in these programmes post-Brexit.

Community cohesion

The LGA's December 2016 briefing set out the role that councils can play as leaders of their place, and the future demand for skilled workers in public services.

The White Paper sets out the broad policy framework for future migration and securing the rights of EU nationals in the UK. It emphasises that:

Implementing any new immigration arrangements for EU nationals and the support they receive will be complex and Parliament will have an important role in considering these matters further. There may be a phased process of implementation to prepare for the new arrangements. This would give businesses and individuals enough time to plan and prepare for those new arrangements.^{xx}

Beyond this, the policy detail will be developed through the negotiations. We will follow the negotiations closely from the perspective of the three main policy principles we set out in our December 2016 briefing:

- Strengthening social cohesion, and avoiding social and economic exclusion.
- Ensuring public service standards are maintained through a supply of trained workers for key posts.
- Developing skills in those communities that have felt no benefit from past growth programmes.

Local impacts

The risks and opportunities of leaving the EU will be different in different areas of the UK. As such, the LGA has been working with numerous Government departments to ensure that their analysis of Brexit is informed by the different needs of different local areas. The Government's receptiveness to this LGA approach is reflected in the White Paper's acceptance of the principle that:

[The Government] will need to understand the potential impacts of any proposed changes in all the parts of the UK. So we will build a comprehensive picture of the needs and interests of all parts of the UK and look to develop a system that works for all.^{xxi}

Councils and LEPs have been working with their local communities, universities and businesses to assess the risks and opportunities of Brexit and they have already submitted much place-based evidence.

As the Government's negotiating position is now clearer, we will encourage councils and local partners to refresh their evidence to ensure that any new opportunities and risks are being captured and understood by policy makers. For example, it is clear that the Government's negotiating position does not favour general inclusion in the Single Market, yet the White Paper states that the final UK-EU agreement

May take in elements of current Single Market arrangements in certain areas as it makes no sense to start again from scratch when the UK and the remaining Member States have adhered to the same rules for so many years.^{xxii}

Councils should provide evidence of the consequent risks and opportunities of this stance. The LGA is committed to ensuring that this information forms part of the Government's and Parliament's evidence base for decision making. For example, immediately following the referendum we worked with government officials to craft a specific call for information identifying key areas where it would be mutually helpful to feed analysis from local authorities into government work. This was publicised to stakeholders through our regular LGA Brexit bulletin and on the LGA Brexit webpage: www.local.gov.uk/brexit. We have subsequently highlighted key place-based issues to relevant government departments, and will continue to do so. At the same time, we have worked with government officials to organise a series

of seminars on the place-based impacts of Brexit that have been held with councils and LEPs across the country. We will continue this programme of seminars in addition to our regular meetings of the LGA Brexit Sounding Board, which brings together chief executives and senior officers from a range of councils.

Trade

From the Prime Minister's speech and the White Paper, we know that the work to develop new trading links is taking place. We will be crafting and setting out an explicit local government offer in this debate.

Whilst central government has not needed trade skills since 1973 (the year in which the UK joined the European Economic Community) local government has continued to develop close commercial links and 'trade deals' with other parts of the world. Councils have a long track record of building successful European and international relationships. In recent years, these have secured trade and investment, boosted jobs and infrastructure and helped attract visitors up and down the country.

Councils play a unique combination of roles in local economic life as promoters of economic development, regulators of standards, and providers of public services. As such, through their international trade work councils have gained valuable experience of how to strike an appropriate balance between competition, regulation and public service standards. We presented these balanced arguments during the development of the Transatlantic Trade and Investment Partnership (TTIP) between the EU and the United States of America (USA) – now, in practice, on hold.

The White Paper makes no reference to the relationship between trade agreements and public services such as social services and health. There is clearly a role for local government expertise to inform this debate, in partnership with other interested stakeholders such as business and public sector partners. The LGA is now working in more detail to build a balanced evidence base that demonstrates the essential role of councils in securing investment and growing local economies.

ⁱ The United Kingdom's exit from and new partnership with the European Union, 2 February 2017, paragraph 3.8, p.19.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589191/The_United_Kingdoms_exit_from_and_partnership_with_the_EU_Web.pdf

ⁱⁱ The government's negotiating objectives for exiting the EU: PM speech, 17 January 2017, <https://www.gov.uk/government/speeches/the-governments-negotiating-objectives-for-exiting-the-eu-pm-speech>

ⁱⁱⁱ UK Supreme Court, R (on the application of Miller and another) (Respondents) v Secretary of State for Exiting the European Union (Appellant), 24 January 2017, <https://www.supremecourt.uk/cases/uksc-2016-0196.html>

^{iv} LGA Briefing, Local Government and the EU, 22 December 2016, <http://www.local.gov.uk/documents/10180/5533246/December+2016+-+local+government+and+EU+briefing.pdf/ebabb7b4-2386-47c9-81f8-0a0c6fc0ecea>

^v LGA submission to the 2017 Spring Budget, <http://www.local.gov.uk/documents/10180/11411/2017+Spring+Budget+-+Local+Government+Association+submission.pdf/d0ad569b-c19e-4202-a223-5331b1deb6a3>

^{vi} HM Treasury, European Finances 2015, December 2015, p.14, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/483344/EU_finances_2015_final_web_09122015.pdf

^{vii} In the same judgement, the Supreme Court unanimously ruled that the devolved administrations of Scotland, Wales and Northern Ireland do not need to be consulted in the

process of triggering Article 50, and do not have a right to veto Article 50.

^{viii} LGA media release, UK local government leaders unite in Brexit devolution call, 16 November 2016. http://www.local.gov.uk/web/guest/media-releases/-/journal_content/56/10180/8044933/NEWS

^{ix} The United Kingdom's exit from and new partnership with the European Union, 2 February 2017, paragraph 3.5, p.18. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589191/The_United_Kingdoms_exit_from_and_partnership_with_the_EU_Web.pdf

^x Ibid., paragraph 3.7, p.19.

^{xi} Ibid. paragraph 3.8, p.19.

^{xii} LGA Briefing, Local Government and the EU, 22 December 2016, Appendix A.

<http://www.local.gov.uk/documents/10180/5533246/December+2016+-+local+government+and+EU+briefing.pdf/ebabb7b4-2386-47c9-81f8-0a0c6fc0ecea>

^{xiii} The United Kingdom's exit from and new partnership with the European Union, 2 February 2017, paragraph 1.4, p9.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589191/The_United_Kingdoms_exit_from_and_partnership_with_the_EU_Web.pdf

^{xiv} Ibid., p.10.

^{xv} Secretary of State for Communities and Local Government letter to LGA Chairman, 25 October 2016.

<http://www.local.gov.uk/documents/10180/11309/Letter+to+Lord+Porter+Octo+2016.pdf/65e06555-daf7-49dd-a98c-cc438ef5755e>

^{xvi} Ibid., paragraph 1.13, p.11.

^{xvii} Building our Industrial Strategy: Green Paper, 23 January 2017, p.114.

https://beisgovuk.citizenspace.com/strategy/industrial-strategy/supporting_documents/buildingourindustrialstrategygreenpaper.pdf

^{xviii} The full range of smaller EU funding programmes that benefit local communities, along with specific examples of local benefits, is available in the LGA's Guide to EU Funding, July 2015.

http://www.local.gov.uk/documents/10180/6869714/L15_292+Structural+Funds+and+Beyond_v1_1.pdf/09ee0508-7770-419b-8f46-c572a8cec6b7

^{xix} The United Kingdom's exit from and new partnership with the European Union, 2 February 2017, paragraph 8.51, p.49.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589191/The_United_Kingdoms_exit_from_and_partnership_with_the_EU_Web.pdf

^{xx} Ibid., paragraph 5.10, p.27.

^{xxi} Ibid., paragraph 5.9, p.27.

^{xxii} Ibid., paragraph 8.8, p.35.