

Local Government Association (LGA)

EU (Withdrawal) Bill

Second Reading, House of Commons

7 September 2017



Key messages

- The European Union (Withdrawal) Bill will convert the entire body of EU law into UK law, with the intention of allowing businesses to continue operating and providing fairness to individuals, knowing the rules have not changed when the UK leaves the EU. This legal certainty must be given to councils too.
- EU laws impact many of the council services that affect people's day-to-day lives, from protecting people from unsafe food when they eat out to regulating how councils buy goods and services. The conversion of EU law will impact on our most important public services.
- The Government has presented the transfer of EU law onto the UK statute book as a matter of process not policy. However, we are concerned by the potential policy implications arising from the creation of new UK central agencies, especially those in many areas where regulation might better be achieved by local government itself.
- Local government has a formal advisory role in the EU law and policy-making process through its membership of the EU Committee of the Regions (CoR). Formally involving local government in law-making has ensured that EU laws are influenced by those at the frontline of delivery. The Prime Minister has made a commitment that the same rules will apply on the day after exit as on the day before. Therefore, the Bill needs to include a proposal to replace or replicate this formal advisory role for local government to help continue our role in good law-making in the UK once we leave the EU and leaving no deficiency in local government powers.
- Principles supporting devolution to and consultation of local government have also been included in EU treaties. There must be no loss of powers for councils on the day the UK leaves membership of the EU. Just as the roles and powers of the devolved administrations are set out in the Bill, so too must the position of councils be formally enshrined in law.
- Former EU powers will start to be reviewed after the Bill is passed. 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.
- Council leaders want to work with the Government to create a UK Shared Prosperity Fund to avoid defaulting to a silo-approach and creating a like-for-like replacement of the current EU programme.
- A lighter-touch procurement system is needed to simplify the processes and provide more flexibilities to promote local growth. It is vital that local government can procure more promptly whilst also lowering high administration costs for businesses and councils.

Briefing

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Background

Committee of the Regions

The EU (Withdrawal) Bill will convert EU law into UK law, with the intention of allowing businesses to continue operating and providing fairness to individuals, knowing the rules have not changed on the day the UK leaves the EU.

This legal certainty must be given to councils too. Currently local government has a formal advisory role in the EU law and policy-making process through its membership of the Committee of the Regions (CoR). EU treaties include other provisions under which local government representative associations must be consulted.

The CoR was established by the 1992 Maastricht Treaty as an advisory body to the EU institutions.¹ UK local government has actively participated in the work of the CoR and taken a lead role in developing the CoR's positions on a wide range of subjects.

When our membership of the EU ceases, there is currently no proposal to replace or replicate in UK law or political convention a formal consultation of local government. An alternative mechanism must be found, with no loss of powers for local government on the day the UK leaves membership of the EU. Local government has used its advisory role diligently, making sure that law-makers had good advice so that regulations and laws governing local services could be implemented well at the frontline of delivery.

Principle of subsidiarity

Article 5 of the Lisbon Treaty on the EU sets out how the principle of subsidiarity should operate within the Union, and explicitly includes local government.² The principle of subsidiarity is that central government acts only if the intended outcome cannot be sufficiently achieved at a regional or local level. If the European Commission, in particular, does not respect this principle, local government currently has the power through the CoR to hold it to account before the European Court of Justice.

Before making regulations under the provisions in the Bill, the Government should consult local government on all matters which concern councils. In the short-term during the withdrawal process, this consultation would replicate the general duty to consult local government in the Council of Europe's European Charter of Local Self-Government, a binding international commitment by the UK Government.³

After the Bill: the future governance of the UK

The White Paper *Legislating for the UK's withdrawal from the EU* states that leaving the EU is an opportunity to ensure returning "power sits closer to the people of the UK than ever before".⁴ It includes a commitment to continue to champion devolution to local government. The UK's exit from the European Union

¹ The Maastricht Treaty on the European Union, https://europa.eu/european-union/sites/europaeu/files/docs/body/treaty_on_european_union_en.pdf

² The Lisbon Treaty on the European Union, <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-european-union-and-comments/title-1-common-provisions/9-article-5.html>

³ Council of Europe's European Charter of Local Self-Government
<https://rm.coe.int/168007a088>

⁴ *Legislating for the UK's withdrawal from the EU*, DExEU White Paper
<https://www.gov.uk/government/publications/the-repeal-bill-white-paper/legislating-for-the-united-kingdoms-withdrawal-from-the-european-union>

will have a significant impact on local government, creating opportunities to do things differently as well as challenges that need to be addressed.

EU laws impact on many of the council services that affect people's day-to-day lives. These range from deciding how to protect people from being served unsafe food when they eat out to regulating how councils buy goods and services. Local government must play a central role in deciding whether to keep, amend or scrap EU laws once they are converted into domestic law.

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.

Why EU withdrawal matters to local government

Workforce

Councils play the leading role in bringing communities together and will be important in tackling challenges such as the retention of skilled workers. For example, 7 per cent of existing adult social care staff come from the continuing EU and 13 percent of the construction workforce were born outside the UK. Securing a sustainable adult social care workforce and excellent care skills must be a priority for the Government during negotiations and in drafting an Immigration Bill.

Funding

LGA research found that local areas need €10.5 billion (£8.4 billion) of EU funding replaced as part of a locally-led successor to EU regional aid after Brexit. Since the EU referendum, we have repeatedly called for a government commitment to replace vital EU regeneration funding. In its manifesto, the Government pledged to create a UK Shared Prosperity Fund to replace the money local areas currently receive from the EU.

Council leaders want to work with the Government to avoid defaulting to a silo-approach and creating a like-for-like replacement of the current EU programme, which is often held up in bureaucracy and delay. Brexit provides an opportunity to give local areas greater say over how to target a new and simplified regional aid fund at local projects of benefit for local people and economies and best support infrastructure, environment, enterprise and social cohesion.

Procurement

Councils currently have to follow EU-wide advertising and award procedures when they buy goods and services. The process sometimes sits uneasily with supporting the local economy. The EU process can also take between 3 and 18 months – twice as long as typical private sector procurement.

Almost no public contracts end up being awarded to companies in other EU member states. Only 20 per cent of English councils receive expressions of interest from companies based in other EU countries. Across Europe, only 1.6 per cent of public contracts are awarded to companies in other member states. A lighter-touch system which simplifies this processes, and provides more flexibilities to promote local growth, is vital so that councils can procure to shorter timescales and lower high administration costs for businesses, especially small and medium-sized enterprises.