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**REPORT FOR: CABINET**

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<b>Date of Meeting:</b>	10 <sup>th</sup> October 2019
<b>Subject:</b>	Council Preparations for Brexit
<b>Key Decision:</b>	Yes
<b>Responsible Officer:</b>	Alex Dewsnap, Director of Strategy
<b>Portfolio Holder:</b>	Councillor Graham Henson, Leader and Portfolio Holder for Strategy, Partnerships, Devolution & Customer Services.
<b>Exempt:</b>	Public
<b>Decision subject to Call-in:</b>	Yes
<b>Wards affected:</b>	All Wards
<b>Enclosures:</b>	Appendix 1: No Deal Risk Register

## **Section 1 – Summary and Recommendations**

This report sets out the work that the Council has undertaken to date and plans to carry out in future in response to the decision to leave the European Union on the 31<sup>st</sup> October 2019.

**Recommendations:**

Cabinet is requested to:

- a) Note the activity which has been undertaken to date and the

- planned actions;
- b) Agree that the areas currently being funded from monies received from Government to support Brexit locally are the priority areas for this funding to be spent on; and
  - c) Delegates to the Chief Executive in consultation with the Leader the ability to make any urgent or immediate decision on activity if the UK leaves the EU with 'No Deal' on the 31<sup>st</sup> October 2019 or any other future date.

Reason: The Council has a duty under the Civil Contingencies Act 2004 to put in place adequate resilience arrangements in the borough. As the impact of Brexit is at this stage has a number of potential scenarios, it is important that the Council plans accordingly.

## **Section 2 – Report**

### **Introduction**

#### **The National Context**

On 29<sup>th</sup> March 2017, the then Prime Minister triggered Article 50 of the Treaty on European Union, an item of EU law that governs a Member State's withdrawal from the EU. Article 50 allows for two years for an agreement on the process of withdrawal, otherwise the Member State would leave the EU under conditions that have become known as 'no deal'. A 'no deal' Brexit means the immediate cessation of all treaties and legal arrangements governing the UK's relationship with the EU, including its trading relationship.

On 25<sup>th</sup> November 2018, the UK government published a withdrawal agreement with the EU, along with a political declaration that had been endorsed by the EU leaders at a special meeting of the European Council on 25<sup>th</sup> November. The political declaration is a non-binding route map for further negotiations on the UK's future trading relationship with the EU. The withdrawal agreement itself covered the future rights of EU citizens living in the UK, the financial settlement, a transition period (of two years), and the Irish backstop. The Irish backstop is meant to prevent a hard border in the island of Ireland by the UK remaining in a customs union covering manufactured goods and agriculture for an indefinite time beyond the transition period, but also through Northern Ireland remaining in the Single Market for goods.

On 15<sup>th</sup> January 2019, there was a vote on the withdrawal agreement, which the government lost. The government lost again on 12<sup>th</sup> March 2019. On 13<sup>th</sup> March, MPs voted to rule out a 'no-deal Brexit', and on 14<sup>th</sup> March MPs instructed the government to seek permission from the EU to extend Article 50. On 21<sup>st</sup> March, the European Council, agreed to grant an extension to 22<sup>nd</sup> May 2019, should the withdrawal agreement gain approval, or 12<sup>th</sup> April 2019, should it not gain approval.

On 27<sup>th</sup> March 2019, the Commons debated and voted on eight indicative votes, in an attempt to find a Brexit plan that would win the support of the majority of MPs. All options were defeated. On 29<sup>th</sup> March 2019 (the original date of departure), the withdrawal agreement was voted down for the third time. On 10<sup>th</sup> April 2019, the European Council agreed to extend Article 50 until 31<sup>st</sup> October 2019.

On 4<sup>th</sup> September, the Commons passed legislation which will commit the Prime Minister to seek a new extension to the Article 50 deadline until 11pm on the 31 January 2020 in the event that the House of Commons does not approve a deal with the EU or does not approve a no-deal Brexit. This received Royal Assent on 9<sup>th</sup> September 2019 in the form of European Union (Withdrawal) (No.2) Act 2019.

As such, the possibility of a 'no-deal' Brexit remains, and the subject remains an important part of the context to the unfolding Brexit picture. Therefore the national position and the range of scenarios that still exist as possible eventualities all need to be considered for their impact locally in Harrow and the basis of how the Council should respond to support this. Most of the extra costs of a 'no deal' will ensue from increased border checks and controls between the EU and the UK.

The additional burdens are expected to fall most heavily on small businesses, but the problems caused by border delays could also be particularly serious for industries with pan-continental and complex supply chains like the automotive and aerospace industries.

### **The Harrow Context**

This report sets out to create an understanding of the risks, issues and opportunities that the UKs exiting of the EU may have upon the borough, As such, there is clearly a distinction between the continuity to current arrangements that would continue to exist if Brexit happened with a 'deal', to the less clear and potentially greater impact upon the borough if there was a 'no-deal' Brexit. The Council's contingency planning has tried to account of all scenarios.

The Councils planning arrangements have used the criteria developed by the Ministry of Housing, Communities and Local Government (MHCLG) in partnership with London Councils and the London Resilience Forum (which is made up of London Local Authorities, Emergency Services, Central and Regional Government bodies). These criteria have been used to understand the distinction between the activity which is being led on at a regional level (such as medicine supply and potential civil unrest) and that activity where local leadership is required. This paper focuses on the local arrangements. Planning Assumptions.

The planning criteria which have been advised by MHCLG, London Councils and the London Resilience Forum for Local Authorities are as follows:

1. Our Communities (EU & EEA) & Settled Status

2. Community Cohesion
3. Workforce:
  - (a) Workforce – Impact of Settled Status
  - (b) Workforce – Recruitment & Retention (eg Dom Care)
4. Workforce of Partners
5. Impact (direct or indirect) of Border Areas
6. Legislation & Regulatory Powers to Deliver Our Services
7. Impact on procurement/supply chain
8. Local Business Preparedness
9. Data Handling & Processing Arrangements
10. Reliance/exposure on EU funding

Since January 2019, the Council has completed a monthly assessment against these areas, with the latest assessment and actions set out below against each of the headings.

### Our Communities (EU & EEA) & Settled Status

Harrow has a significant EU & EEA population and the impact of settled status is not yet known, (including the impact of longer term being without status). We are promoting Harrow Law Centre awareness sessions for residents who may be effected/may have queries and we will be deploying resources from the MHCLG Controlling Migration Fund to create contacts and build networks to support us, particularly in the Romanian community in Harrow. In addition in March we held a community event with the Romanian Embassy at the Civic Centre specifically for Brexit-related issues. We are concerned about a detrimental impact of EU exit on the London housing market because the Council is reliant on private landlords to relieve homelessness (currently 10% are EU nationals). Senior Council Officers have all been briefed on Settled Status and they are looking into implications for their service areas & vulnerable clients. We are also match-funding CAB and Harrow Law Centre who have succeeded in bidding for additional Governmental monies to support particular vulnerable groups on their Settled Status position. We have assessed the overall risk of this criteria as Amber.

### Community Cohesion

There is concern around the potential for polarisation in the community to be caused in part as a result of the Brexit process, although overall Harrow has maintained strong community cohesion results in residents surveys for over a decade. We have in place measures to ensure engagement with local communities and that recognise that community cohesion hate crimes tend to be significantly under-reported. There are also in addition limited “Go To” points for eastern European nationals in the borough. We have consequently put in place clear signposting to government advice on settled status. Council services have also been briefed on the impact on services of settled status. The Voluntary and Community Sector are also running sessions with the community during eth Autumn which again the Council will look to support around joining up key messages around Settled Status and where residents should be going for clear advice. We have assessed the overall risk of this criteria as Amber.

## Workforce – Impact of Settled Status

The Council does not yet have all the data on our staff and applicability of Settled Status to them. SAP, which is the HR database, is not for instance the de-facto place to record nationality. However this has not stopped some of the local communication to make sure staff are aware of actions they may need to take, for example, in the People Directorate staff lists have been audited and people affected have been advised to apply for Settled Status and are doing so. Our latest data is that out of 2,100 total council staff we do not hold relevant nationality data on 685 staff and for schools the equivalent figures are 3500 and 991. Overall taking the Council and schools combined there are some 343 staff who we definitely know would need to apply for Settled Status if they wished to remain living and working in the UK. We are using some of the Brexit Monies received by MHCLG to fund activity to gather this additional information to fully assess the level of risk in the Council's workforce. We have assessed the overall risk of this criteria as Red principally due to the fact that the Council does not have nationality details on 685 staff.

## Workforce – Recruitment & Retention

Recruitment and retention risks are associated not just with the UK leaving the EU and Settled Status, but also with the new general immigration policy that the Government is considering. In Children's Services for instance not being able to recruit from EU countries would indeed have a limiting impact on operations (especially for any role under the £30k mark). This indicates a red RAG status for this part of the Council as the impact comes on an already challenging recruitment market. In Adults Services research with provider organisations indicates to us that we will not have a problem across all sectors in the short term (most have contingency plans in place) but may have a medium term issue in the residential care sector only with the domiciliary care sector indicated as more resilient. This is broadly based on having a relatively low EU and EEA demographic in these jobs markets in North West London. In Housing whilst they do not have any significant concerns, a concern relates to labour/skills shortages of contractors in the maintenance and development of our homes. This could also cut across more generally into the labour market for house building in general, which could see inflation in pay costs if Brexit impacts on the supply of labour in the construction sector. We have assessed the overall risk of this criteria as AMBER.

## Workforce of Partners

The risk to the Council of the workforce of other partners is indirect and our ability to manage the risk is dependent on information being provided to us by partners (as the Council does hold/collect this information [on nationality] on partners). Partners means other public sector or similar organisations we work with including the voluntary sector, adults/children's care home providers, the NHS and Police. The West London Alliance is looking at some of the jointly commissioned services and possible impact. It is indicated (including feedback from the Borough Resilience Forum) that this risk is AMBER for the short-term though could increase in significance in the longer term for London and the region of West London, particularly in relation to Adults Social Care

costs (although our own assessment is that this risk is more manageable for Harrow as set out in the section above).

### Impact (direct or indirect) of Border Areas

Harrow does not have any physical border areas within the borough, so there are no direct impacts envisaged at this stage. However, Harrow does have some indirect border areas that could affect the borough, e.g. the Eurostar Terminal at St Pancras Station is on the Metropolitan Line that passes through Harrow and Heathrow Airport is located next door to Harrow in the London Borough of Hillingdon. If there is a 'No Deal' Brexit there could be a knock on effect on Harrow, with increased traffic in these areas and surrounding arterial routes such as the M25/M40/ M1. We have assessed the overall risk of this criteria as Amber due to the unknown situation regarding border controls, but recognising that our own contingency plans do not explicitly have to deal with such a risk.

### Legislation & Regulatory Powers to Deliver Our Services

The situation is being monitored by the relevant regulators (e.g. Food Standards Agency) who will advise the Council. We are currently in communication with the main statutory bodies (FSA, HSE, DEFRA) to understand a 'no deal' situation with regards legislation we currently use to enforce. Health and Safety and Environmental Aspects re enforcement should remain stable as most is currently UK legislation. London and National discussions are taking place on Food Safety / Standards linked to EU legislation but Parliament has worked to ensure the adoption of these areas into UK statutory instruments. Overall, there has been an increasing number of Brexit related Statutory Instruments published on a weekly basis, each dealing with small aspects of change. Waste and Environmental Legislation is predominantly EU based, however there is a Brexit task force made up of key stakeholders within the waste and environment sector that have advised that regardless of a 'deal' or 'no deal' Brexit, that initially EU legislation would be adopted. The real impact around waste would be the impact on the ports and exporting waste for disposal / recovery. This is being mitigated via our disposal outlets as best as possible. We have assessed the overall risk of this criteria as Amber.

### Impact on procurement/supply chain

Locally this risk is considered green but we are reluctant to change it from Amber because of London wide risks, the unknown strategic positioning of organisations in our supply chain and also because of the political uncertainty around Brexit and how this can impact upon business and economic activity. Through our procurement programme we have not experienced a situation where Brexit risk has been built into tender responses, e.g. no bidders have asked explicit questions about potential risks associated with Brexit. However there is still a degree of wider risk and the unknown that guides the Amber risk status for the impact of Brexit on supply chain. For example, with a large regeneration programme we need to be diligent of the resource risks to the construction industry's reliance on foreign labour in London – 45% from abroad (27% from the EU); Imports: 68% of imported materials are from the

EU. Supply chain import costs could increase if the pound weakens and freight costs could rise due to stricter Border conditions of entry. We have assessed the overall risk of this criteria as Amber.

### Local Business Preparedness

The Large Employer Network meeting members have acknowledged the continuing uncertainty of the Brexit situation and its effects on business although no adverse effects have been reported through to the Council as yet. Via our grass-roots contacts, both formal and informal, a “business as usual” attitude is in place whilst the issue is still unresolved. Economic Development provides Brexit- information via the monthly local business newsletter and will resume running Brexit-related events when there is more clarity. With a large number of small and medium sized businesses in Harrow who employ circa 80,000 people in the local economy, this is an important area to ensure that all businesses can be signposted to get the most up to date and timely advice. We have assessed the overall risk of this criteria as Amber.

### Data Handling & Processing Arrangements

There is a potential impact in holding data in EU servers but this can be mitigated with European Commission standard contractual clauses if the UK does not receive an adequacy statement. In the case of a ‘no deal’ there will be no standing down of good governance relating to the processing of data. A new UK GDPR proposal is out for consultation but would only be enacted in the face of a ‘no deal’ exit. If a deal is reached it is expected that the Data Protection Act 2018 will receive minor amendments to remove EU references but nothing that would adversely affect council business. We have assessed the overall risk of this criteria as Amber/Green.

### Reliance/exposure on EU funding

There is a Government guarantee in place to cover European Social Fund Projects (2014-2020) so we have assessed the overall risk of this to be Green.

## **Options considered**

As the exiting of the European Union (EU) by the UK is a national policy being pursued by the Government, there are limited other options for the Council to consider other than preparing for the potential eventualities that exiting from the EU creates. Therefore this paper covers these eventualities and the Council’s preparation for them.

## **Risk Management Implications**

The Council reviews the risks of Brexit on a monthly basis through the cross-council Brexit Steering Group, and every fortnight since August through the Corporate Strategic Board. A No-Deal Risks has been developed which is appended to this report.

## Procurement Implications

There are no direct procurement implications from Brexit, other than those outlined in the Supply Chain section above.

## Legal Implications

There are no direct legal implications which would affect only Harrow Council as opposed to Local Authorities in general as a result of Brexit therefore a number of the legal issues are being dealt with at regional and national level.

On 26 June 2018, the European Union (Withdrawal) Bill 2017-19 (EUWB) received Royal Assent to become the European Union (Withdrawal) Act 2018 (EUWA)

The EUWA will repeal the European Communities Act 1972 (ECA1972) on exit day. The ECA 1972 currently enables the EU law to become part of UK law, and gives effect to the principles of direct effect and the supremacy of EU law.

Many new Statutory Instruments have already been drafted to be brought into force either at the end of any transition period or on exit day.

## Financial Implications

Additional funding of £40m has been provided by the government to local authorities to support Brexit work at the latter part of 2018/19, and whilst much of this is focused on specific areas such as Kent where greatest impact is to be felt, money is also provided to other councils to support their planning. To date the Council has received £210k (£105k in 2018/19 and £105k in 2019/20). In July the new Secretary of State also announced further funding of £20m for Councils which will equate to a further £105k for Harrow. However, it is anticipated that port authorities and other areas with clear larger contingencies to manage will receive more of this funding so although the Council will receive some additional monies, we are not expecting it to be equivalent of the monies received to date.

Consideration has been given to how the money provided to Harrow will be best utilised and the following are the initial proposals. Some are still being costed, whilst others are already being implemented due to the short timescales concerned. Further funding requirements can be built into future proposals on the basis that there are ring fenced funds available as set out above.

	<b>Purpose</b>	<b>Cost</b>
<b>Requirement</b>		
Additional Policy Officer support (6 month role)	Support across the settled status community engagement work, the London resilience stuff and being able to take a wider policy type approach across	£30k



the organisation.

Civica admin resource (circa 1 month)	To ensure we know the nationality of all our staff and how many are EU or EEA citizens.	£5k
Funding enhancements for CAB and Law Centre	Support on settled status, community engagement and communications (including more Law Centre engagement sessions with greater support in the promoting these) as well as creating additional capacity.	£51k
Communications	Enhanced communications (internal and external) to ensure a clear message and support people in understanding what Brexit means for them / what they need to do.	£10k

## **Equalities implications / Public Sector Equality Duty**

An EQIA has not been carried out at a local level.

## **Council Priorities**

The Council's vision:

Working Together to Make a Difference for Harrow

Principally, the priority that this report most supports is Supporting Those Most in Need. This is because of the targeted work on Settled Status which is seen as the primary risk for the Borough following the UK leaving the European Union.

Responding effectively and planning accordingly to cover as many eventualities as possible with regards the UK's exit from the European Union also falls across the other four priorities of the Council as well.

## **Section 3 - Statutory Officer Clearance**

Name: Dawn Calvert

Chief Financial Officer

Date: 20<sup>th</sup> September 2019

Name: Jessica Farmer  on behalf of the Monitoring Officer  
Date: 1<sup>st</sup> October 2019

Name: Nimesh Mehta  Head of Procurement  
Date: 11<sup>th</sup> September 2019

Name: Sean Harriss  Chief Executive  
Date: 11<sup>th</sup> September 2019

<b>MANDATORY</b>	
<b>Ward Councillors notified:</b>	No – All Wards Affected
<b>EqIA carried out:</b>	No
<b>EqIA cleared by:</b>	N/A

## Section 4 - Contact Details and Background Papers

**Contact:** Alex Dewsnap, Director of Strategy, Ext 8250, alex.dewsnap@harrow.gov.uk

**Background Papers:** None

<b>Call-In Waived by the Chair of Overview and Scrutiny Committee</b>	NO
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