

AUDIT COMMITTEE – 18th January 2019

Title of paper:	'No Deal' Brexit Planning	
Director(s)/ Corporate Director(s):	Candida Brudenell, Corporate Director for Strategy and Resources Colin Monckton, Director for Strategy and Policy	Wards affected: All
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Recommendation(s):		
1	To note and comment on the risks and mitigating action identified in the event of a 'no deal' brexit.	
2	To note and comment on the status of emergency planning with regard to brexit.	

1 REASONS FOR RECOMMENDATIONS

- 1.1 There is increased uncertainty around securing a planned Brexit as we approach the anticipated departure date (29th March 2019 at 11pm). As such it is necessary to ensure that the City Council understands the potential risks and that planning is underway to mitigate those risks where required. This paper seeks to present those risks for note and comment by Audit Committee.

2 BACKGROUND

- 2.1 Full Council considered a Brexit update in November 2018, which highlighted the potential implications in light of a 'no deal' scenario. It was agreed that service areas and projects be assessed to ensure that relevant risks are understood and that mitigating actions are in place.
- 2.2 The relevant recommendations from the Council report are that:
- i) *Council asks that all service and project plans are reviewed with regard to (a 'no deal') Brexit and that assurances of progress are reported to the Audit Committee.*
 - ii) *Council asks that a report of the status of our emergency planning with regard to Brexit is presented to the Audit Committee in the new-year.*

National Context

- 2.3 The changing and uncertain nature of Brexit presents a challenge in regards to assessing and planning for the risks which are contingent on the potential outcomes of the subsequent vote in Parliament (scheduled for w/c 14th Jan 2019). The government states that 'no deal' is not its policy position but there is a duty to prepare for all

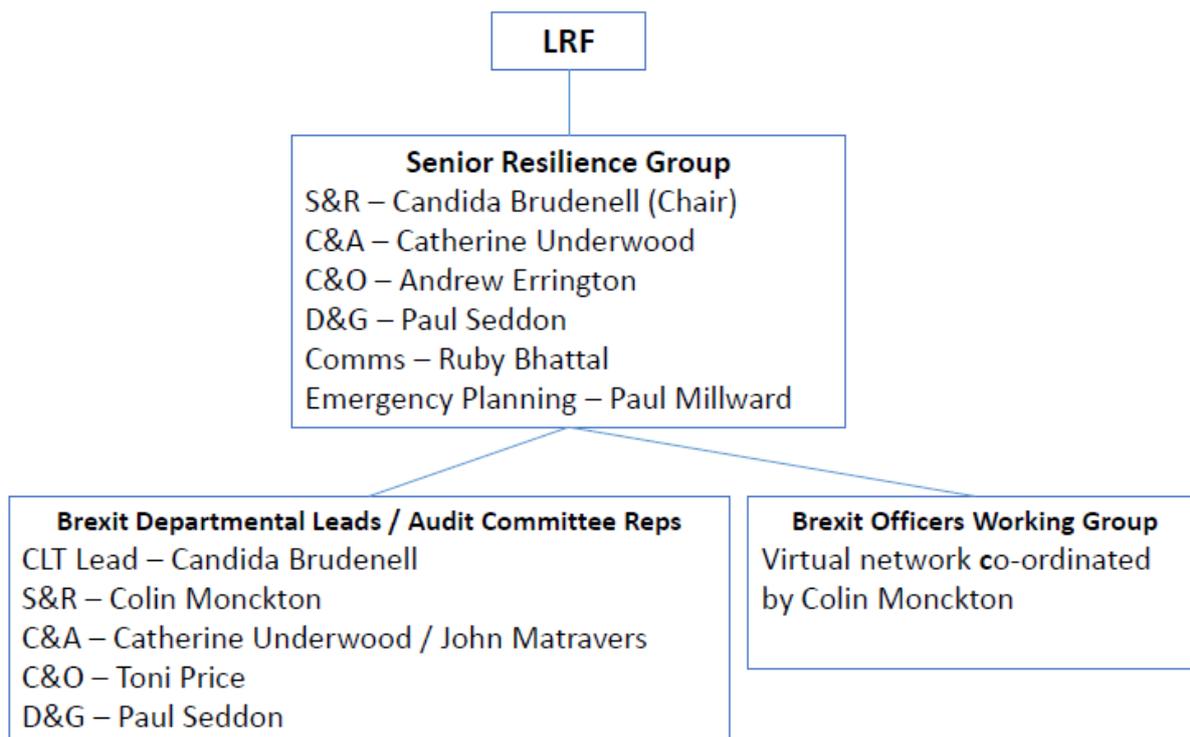
scenarios. With under three months remaining until exit day, Government departments have reached the point where they are ramping up 'no deal' preparations. This means that all government departments are now enacting the remaining elements of their 'no deal' plans. These plans include additional resource to the Home Office to employ more Border Force officers, funding to Defra to focus on ensuring trade in fish, food products and chemicals remains uninterrupted and additional resource to HMRC to employ 3,000 new staff to handle increased customs activity.

- 2.5 The EU have also published plans, which include measures that cover legislation to ensure some continuity (e.g. flights from the UK into and overflying the EU to be allowed 12 months, hauliers to carry freight by road into the EU for a nine-month period without having to apply for permits etc).
- 2.6 Within the UK, EU law and regulation underpins many council services (such as waste and environmental standards). The Withdrawal Act 2018 provided for all EU law to be brought into UK law to ensure that there was legal certainty for businesses and residents. The Withdrawal Act is now law and this legal certainty remains in place under 'No Deal'.
- 2.7 However, many UK laws refer to EU regulations or to EU agencies. The Withdrawal Act gives Ministers the ability to amend such laws where EU institutions or processes are mentioned. The principle that the Government is working to is that of continuity (at least in short-medium term) and naming UK successor agencies to EU regulators.
- 2.8 Under No Deal, all these legal changes to UK law need to be in place by 29th March 2019 and relevant information communicated to the sector by Government. The Government will also have to pass legislation for many of the areas covered in its technical notices. Much of this will be 'secondary legislation' under the EU Withdrawal Act. The Leader of the Commons, Andrea Leadsom, told Parliament that the Government does not expect any difficulty in passing the required secondary legislation before exit day. Nonetheless, it is expected any changes to governing institutions or processes pertaining to local government will be communicated directly from the relevant Government department.
- 2.9 Delivering the deal remains the Government's top priority and is the best 'no deal' mitigation. But in line with the Government's principal operational focus on national 'no deal' planning, actions must now be taken locally to manage the risks of a 'no deal' exit. As such Council Departments have undertaken an exercise to consider the potential impacts and mitigations should a 'no deal' scenario become reality.

Methodology and Governance Structure

- 2.10 In order to comprehensively assess the departmental risks and ensure coordination and oversight, a governance structure has been put in place to link relevant officers and ensure visibility at the Local Resilience Forum level (LRF) (Figure 1).

Figure 1: Nottingham City Council Brexit Risk Governance



2.11 Departmental Leads were tasked with assessing the risks across relevant service areas and projects using the standard five by five risk assessment tool based on likelihood and impact (figure 2). Priority risks are presented below.

Figure 2: Risk Assessment Tool

		Impact				
		Negligible (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Likelihood	Remote (1)	1	2	3	4	5
	Unlikely (2)	2	4	6	8	10
	Possible (3)	3	6	9	12	15
	Likely (4)	4	8	12	16	20
	Almost certain (5)	5	10	15	20	25

Priority ‘No Deal’ Risks by Department

2.12 The highest priority risks are presented below:

The Risk	Action Taken	Score	Dept.
Recruitment and retention issues within Adult Social Care (ASC): Negligible direct reliance on EU workers within the NCC workforce but potential risk that improved T&Cs in other sectors dependent on EU workers (retail, hospitality etc) will exacerbate the challenge of recruiting: <ul style="list-style-type: none"> - NCC employed staff (internal services); and, - Staff employed by commissioned (external) 	Internal services: Work already underway to develop an action plan to attract more adult social care workers at all grades. This includes consideration of recruitment marketing campaigns, market supplements, golden hello’s introductory payments.	16	C&A/ S&R

<p>services within the health and social care sector.</p> <p>The commissioned sector represents the majority of the workforce to deliver social care to citizens in Nottingham. The main risk is with Home Care and a reduction in capacity will have an impact across the whole health and social care system.</p>	<p>External services: Work is underway with care providers to understand the risk. Action Plan is in place to progress issues. Local Home Care recruitment campaign in preparation for mid-January with national campaign January/February.</p>		
<p>Medicine management in Adult and Children's Social Care: Risk is that citizens may not have access to essential medicines as prescribed.</p> <p>Similar risk in regards to substance misuse treatment: Citizens may quickly become unwell/relapse and put additional pressure on services</p>	<p>Government advice is that there will be a 6 week stockpile of medicines and that flow of medicines and medical supplies will be prioritised in the event of delays at points of entry. ASC and NCC commissioning to escalate any issues should it become known medicines are not available to the NHS system.</p>	12	C&A S&R
<p>Increase in demand and complexity of cases (Adult Social Care): NHS have significant reliance on EU workforce and there is a risk that shortage of NHS capacity will lead to increased demand and complexity in adult social care, including discharges from hospital.</p>	<p>ASC and NCC commissioning to escalate concerns / patterns of concerns to the NHS system immediately.</p>	12	C&A
<p>Confidence in the council: Reduction in confidence in the Council's ability to maintain effective services.</p>	<p>Communications and Marketing input required to inform and explain Council's role and action being taken.</p>	12	S&R
<p>Council workforce unaware of the activity/response to 'no deal': There is a risk that council colleagues are unaware of the potential impact of Brexit on the council and fail to take necessary action/response.</p>	<p>Communication plan to be informed by planning work.</p>	12	S&R
<p>Personal data transfers to/from the EU: EU based organisations will be unable (without breaching the GDPR) to transfer personal data to organisations in the UK. If a council system transfers personal data to/from the EU, potentially they are at risk of having to temporarily cease/shut down. Members of the public may suffer physical and/or financial hardship if systems are suspended due to personal data processing problems.</p>	<p>Central government / the UK regulator (the Information Commissioner's Office - ICO) needs to secure from the EU an adequacy notice in respect of the UK. This will signify the level of personal data protection in the UK is equivalent to that in the EU data. And will mean data transference can proceed. In the absence of an adequacy notice NCC needs to review all systems/processes to identify those that involve data flowing to/from the EU. Continuation of data exchange will require appropriate 'safeguards' as defined by the GDPR.</p>	12	S&R
<p>Project funding risk - Delays to transport programme funding announcements. Delays to</p>	<p>Co-development with DfT</p>	12	D&G

delivery of smart bus corridor and cycle and walking delivery programmes. Potential impact on in-house delivery team financial returns.			
Customs/travel/ supply chain impact on construction projects: Delays in construction which could impact on the delivery of any construction project.	Maintain dialogue with construction sector. Flexibility through planning process for alternatives. Developers aware and will seek to mitigate	12	D&G
Increases in inflation and impact on Private Finance Initiatives (PFI): Most PFI contracts are inflated annually by RPIx (inflation), however grants are not. D&G have six PFI contracts that are jointly funded through government grants and by the Council. Any increases in inflation at key times will lead to an increased payment to the contractor. Any significant inflationary increase will create a funding gap that will need to be met from council budgets. This will cause an additional financial pressure within the Council, which will also be in effect locked in and compounded for the duration of the contract.	Cannot be mitigated through the PFI contracts.	12	D&G
Increase in demand for asylum support and increase in homelessness: Increased demand for assessment and housing. In addition, economic downturn, may ultimately lead to increased homelessness. Some landlords and tenants will illegally sub-let, or exploit tenants unable to secure legal tenancies, we know these arrangements are often first noticed through ASB, poor waste management and fly tipping.	On-going analysis and assessment of intelligence to assess impact. Increased role for Safer Housing preventing exploitation of renters and associated ASB and vulnerabilities.	12	C&O
Civil unrest in response to effects of a 'no deal': Range of risks from public demonstrations one end of the spectrum to more serious disorder based on perceived shortages of supplies/food etc. Government advises that there will not be a shortage of food but likely a restriction in choice. There could, however, be price increases for certain items.	On-going analysis and assessment of intelligence to assess impact. Work with Police and Partners to monitor the situation utilising national networks.	12	C&O
Reduced community cohesion and increase in hate crime	Maintain watching brief. On-going analysis and assessment of intelligence to assess impact. Work with Police and Partners to monitor the situation. Nottinghamshire Police are hosting a session in the new year on hate crime resilience. Support communities to be clear on a sense of place and engage citizens in shaping services	12	C&O

Status of Emergency Planning with regard to Brexit

- 2.13 The second recommendation from the Council report relates to Emergency Planning and how our departmental assessments link into that mechanism.
- 2.14 Planning for a No Deal Brexit from an emergency planning perspective is occurring both within (i) the council (inward looking) and, (ii) with partners within the Local Resilience Forum framework (outward looking). Both approaches to planning are designed to fit in with Government expectations for information, reporting and dissemination of advice, and 'command, control and coordination (C3)'.

(i) Emergency planning within the Council

- 2.15 The Council's Senior Resilience Group (SRG), chaired by Candida Brudenell and consisting of a Director from each directorate, held a Brexit focused session on 4th December where a wide-ranging discussion as to issues relating to a No Deal Brexit and the council's response occurred. Representatives from Analysis and Insight, Communication and Marketing and Emergency Planning also attended.
- 2.16 The Group discussed the intention that all service areas/project leads could demonstrate assurance that the risks of exiting the EU were understood alongside the national mitigation that may be contained in the technical notice or local mitigations.
- 2.17 The Group were keen to ensure that there were clear lines of responsibility both at a corporate and departmental levels for the 'planning' and 'response' phases. The Group were aware of the importance of instigating a clear corporate structure, with clear reporting and briefing mechanisms, to ensure a 'one Council approach' was achieved. It was agreed that:
- The Corporate Director of Strategy and Resources would be the strategic corporate lead in both the 'planning' and the 'response' phases and the council's Strategic lead within the LRF
 - The Director of Strategy and Policy would be the tactical corporate lead in both the 'planning' and 'response' phases and the council's Tactical lead within the LRF
 - The Senior Resilience Group Director representatives would be accountable for overseeing Brexit arrangements within their Departments and would become the departmental contact unless an alternative is identified
 - Additional special Brexit meetings of the Senior Resilience Group would be held monthly to drive forward the council's Brexit work, consisting of SRG members, Brexit Departmental Leads (if different) and other colleagues as appropriate.
 - Each Department would report the state of their departmental preparations fortnightly throughout Jan and Feb, weekly throughout March, and then weekly April onwards until considered unnecessary by Strategic corporate lead. These reports would feed into the LRF 'SitReps' required by Government.
 - All arrangements/approaches would need to be scalable and flexible as events unfold.
 - An 'exercise' or 'facilitated discussion' for Directors and others would take place in February to test the council's preparations against a range of scenarios, based on council, local and national risk factors.

- Communications and Marketing would ensure colleagues in the council were informed of any appropriate issues.

(ii) Emergency planning with the Local Resilience Forum

- 2.18 The Local Resilience Forum is the county-wide body that is charged with the responsibility for emergency planning within Nottingham and Nottinghamshire, in line with the duties set out in the Civil Contingencies Act 2004. It consists of all the major public sector organisation that may have a role in responding to a wide range of major emergencies, notably, all local authorities, NHS England (including all hospitals, Acute trusts etc.), Environment Agency, Emergency Services, Highways Agency, Ministry of Housing, Communities and Local Government, HM Coroner, Met Office, together with all the major Utilities, Voluntary organisations, Military etc. The LRF is administered by the City Council and the council also chairs the main Resilience Working Group (RWG) for the LRF Executive.
- 2.19 The City Council is represented at the LRF Executive by Candida Brudenell or Malcolm Townroe. Paul Millward, Head of Resilience, chairs the RWG and acts as the LRF Director/Secretariat
- 2.20 There are two distinct phases to a No deal Brexit for the LRF but with an overall requirement for reporting to Government during both phases. The two phases are a) Before 29th March (the 'Planning phase') when the LRF will play a 'watching, advising, coordinating and reporting role' but with individual organisations taking the lead in preparing their own organisation for the effects of a No Deal, and b) After 29th March (the 'Response phase') when the LRF network and structures will be used to co-ordinate county-wide (and regional or national) responses to issues which require a multi-agency approach. Whilst Brexit is not considered by the Government to be a 'Civil Contingencies' emergency, the structures and partnerships that have been developed to deal with natural and person-made emergencies are considered by Government to be the best way of addressing No Deal Brexit issues. The proposed structures and forms of reporting are, therefore, modelled on existing LRF arrangements and techniques.
- 2.21 The LRF considered the issue of a No Deal Brexit at its meeting on 20th November 2018. The LRF agreed that, whilst the LRF structures forms a very useful way for Government to engage organisations in preparing for a no deal Brexit, it is primarily for each organisation to consider the Technical Notices and, largely, make their own business continuity preparations for the consequences of a no deal. However, it also agreed that if any organisation in the LRF partnership considered that a multi-agency approach was required by their organisation in preparation for a No Deal Brexit, they should advise the LRF Secretariat accordingly or use the informal network of partners established by the LRF.

'Reporting regime' and 'command and control'

- 2.22 The Government have indicated, via the Local Resilience Forum network, that it will expect a 'reporting regime' before and after 29th March as to the overall local situation. The LRF, at its meeting on 20th November, approved a draft reporting regime which is designed to give a county-wide view of issues faced by all the major public organisations throughout Nottingham and Nottinghamshire. The Cabinet Office have subsequently provided a template and guidance as to the types, and frequency of information they require from the LRF. Our LRF has developed its own bespoke reporting mechanism that will provide the information that we need locally to assess

and manage any impacts, as well as meeting the needs of Government to understand the local position. Government have asked that all reporting be done through 'Resilience Direct', a Government web portal designed for Emergency Planners. The City Council will be responsible, on behalf of the LRF, for the collation, assessment and reporting to Government of impacts and requests for further information.

- 2.23 **Before 29th March:** Each of the LRF partners will be required, at pre-agreed intervals, to submit "Agency reports" as to the progress and status of their No Deal planning to the LRF secretariat (City Council) and these will form overall "Situational Reports" which will be sent to Cabinet Office. Government will advise on the type and categories of information it requires from the LRF as a whole individually from its partners. An assessment will be made by the LRF Secretariat (City Council) from each SitRep as to whether any additional action locally is required by the LRF network collectively. This process would not exclude any other form of collaboration between organisations in progressing No Deal planning.
- 2.24 In order to ensure that there is strategic, county-wide assessments of the state of preparation for a No Deal Brexit, a series of high level teleconferences have been arranged over the next four months so that all partners can understand the county-wide picture in both preparation and response phases and to offer, if necessary, assistance to other partners. Preparations have also been made for 'tactical' level meetings and teleconferences should LRF partners need to act on an issue quickly. As the impacts of a No Deal Brexit will most likely be felt across multiple local authority and LRF boundaries, arrangements for a 'Response Co-ordination Group' (ResCG), a multi LRF group, are in place if needed.
- 2.25 It is likely that some organisations within the LRF will be required to report both to their 'home' Government department as well as to the LRF locally (e.g. NHS England bodies in Nottinghamshire will be required to report to the Department of Health and Social Care and to the Nottingham and Nottinghamshire LRF), although this will be kept to a minimum.
- 2.26 The LRF Executive was already scheduled to meet on 29th March and this business meeting will now also considered Brexit issues. It has also been proposed that a regional teleconference of LRF Chairs be held that day.
- 2.27 **After 29th March:** Cabinet Office have indicated that the above reporting regime will continue for up to 12 weeks after the 29th March possibly, depending on the local situation, again, possibly on a 24/7 basis. During this period the LRF would operate in Response, rather than Planning, mode. The LRF has tried and tested structures and procedures to deal with multi-agency co-ordination of major incidents and these will be used if needed.

LRF 'Exercise'

- 2.28 The Cabinet Office have indicated that they wish LRFs to hold a 'facilitated discussion' on the state of preparation amongst partners, arrangements for command, control and co-ordination, and to test these elements against the Cabinet Office's Reasonable Worst Case Scenarios. This is currently being organised.

Concurrent Risks

- 2.29 Clearly, managing the possible effects of Brexit over a 12-24 week period, maybe on a 24/7 basis, will require significant colleague resources. There is, of course, the possibility of a another emergency occurring during the Brexit period (e.g. flooding, severe weather, health crisis etc.) and these incidents will also need to be dealt with, often potentially using the same resources that are currently working on Brexit. Emergency Planners call such incidents as Concurrent Risks. To ensure that the council is prepared to deal with concurrent risks, the Emergency Planning team have, over the past few years, trained many SLMG colleagues to undertake a variety of roles that would be required at both Strategic and Tactical levels to deal with such emergencies. This builds in a good level of resilience into the council and should enable it to deal with both a 24/7 Brexit scenario and other concurrent risks (within reason).

3 BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING EXEMPT OR CONFIDENTIAL INFORMATION

- 3.1 None.

4 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

- 4.1 Brexit Update, Report of the Chair of Audit Committee, Nottingham City Council, 12th Nov 2018