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| Agenda Item | 4 |
| Report No |  |

**THE HIGHLAND COUNCIL**

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| **Committee:** | | **Brexit Working Group** |
| **Date:** | | **23 November 2020** |
| **Report Title:** | | **Brexit and European Update** |
| **Report By:** | | **Angus MacLeod, Brexit & European Policy Coordinator** |
| **1.** | **Purpose/Executive Summary** | |
| 1.1 | The purpose of this report is to give Members a summary of Brexit and European issues relevant to Highland Council since the last meeting of the Brexit Working Group on **28 October 2020**.This report builds on previous reports to the Brexit Working Group dated **17August 2020** and **28 October 2020** and provides the most up to date information. This was accurate at the time of writing but may be subject to change at short notice. Verbal updates can be given in this regard. | |
| **2.** | **Recommendations** | |
| 2.1 | Members are asked to:   1. Note the paper 2. Agree the course of action highlighted in section 12 – Summary of ongoing Preparations. | |
| **3.** | **Implications** | |
| 3.1  3.2 | In general terms it is not possible to know what the full implications of Brexit will be until a deal or no deal is confirmed. A deal could range across a myriad of options whereas a no deal will see the UK’s future trading arrangements with the EU under WTO rules.  However, it is reasonable to make a number of assumptions based on what is known so far. It is also worth pointing out that the UK Government acknowledge that there could be capacity issues around the implementation of the required changes and this assertion is supported by the Institute for Government and the National Audit Office (see 4.4 – 4.7)  **Resource**. There will be an increased burden placed upon the Environmental and Trading Standards elements of the Council in relation to import and export regulations. It is also likely that there will be a wider impact on some Third Sector funding as the UK will not participate in EU Programmes 2021 – 2027. Once a definitive direction of travel is known (deal/no deal) the implications will become clearer and once the detail of the UK Shared Prosperity Fund is known then future funding arrangements can begin to be quantified. | |
| 3.3 | **Legal**. There will be change across the board in our legal standing with the EU, but clarity is still required. | |
| 3.4 | **Community**. (Equality, Poverty, Rural and Island). There could be wider community implications in terms of a potential population decrease brought about by the end of freedom of movement and the introduction of new immigration rules. This in turn could have an impact on our workforce and the provision of services. The potential for customs delays, tariffs and supply chain disruption could lead to a rise in inflation and the subsequent knock on effects in the costs of living and foodstuffs. | |
| 3.5 | **Climate Change / Carbon Clever**. The EU is signed up to a Green Deal which has wider environmental considerations. It is not known whether or not the UK will look to mirror this. However, there is a concern on potential impacts on Environmental Standards and Climate Action brought about by the Internal Markets Bill as specific provisions could compromise regional and national ability to reach net zero carbon emissions and the protection and enhancement of our world-renowned environment (see 5.6). | |
| 3.6 | **Risk**. Each Service within Highland Council has identified specific service risks and mitigations that will inform their business continuity plans. This will be an ongoing process as we learn more on what Brexit will actually mean. This in turn has informed the corporate risk register where Brexit is recorded as [CR4](https://www.highland.gov.uk/info/20009/performance/795/corporate_risk_management). An updated version was presented to the Executive Leadership Team on **10 November 2020**. | |
| 3.7 | **Gaelic**. Gaelic teachers and Gaelic medium teachers have been included in the Scotland only Shortage Occupation List of the UK points-based immigration system | |
| **4.**  4.1  4.2  4.3  4.4  4.5  4.6  4.7  4.8  4.9  **5**  5.1  5.2  5.3  5.4  5.5  5.6  **6**  6.1  6.2  6.3  6.4  6.5  6.6  6.7  6.8  6.9  6.10  6.11  6.12  6.13  **7**  7.1  7.2  7.3 | **Background and Context**  The UK left the EU and entered a transition period on **31 January 2020** under the terms of the [Withdrawal Agreement Bill](https://www.gov.uk/government/publications/eu-withdrawal-agreement-bill). This period is designed to allow time for discussions to take place around the terms of any future trade arrangements with the EU. There are not expected to be any significant changes during the transition period which is scheduled to end at 23:00hrs on **31December 2020**.  The UK/EU negotiations, which started in **March 2020,** are still ongoing, despite a number of deadlines having come and gone. The information around these talks would appear to be that there is convergence on most matters, but the sticking points remain around fishing, a level playing field and the governance of any future agreement. Nothing is agreed until everything is agreed so compromises will be needed if a deal is to be reached. Parliaments on both sides still need to ratify any deal which could extend the process further.  The UK Government continue to highlight the Check, Change, Go [website](https://www.gov.uk/transition) and ramped this up on **18 October 2020** with the [Time is Running Out](https://www.gov.uk/government/news/time-is-running-out-for-businesses-to-prepare?utm_source=d9f9301b-c83c-44f0-8df1-f301b2a04526&utm_medium=email&utm_campaign=govuk-notifications&utm_content=daily) campaign. On **18 November 2020** letters were sent out to businesses from Secretary of State for Business, Energy and Industrial Strategy, Alok Sharma urging them to [Act Now](https://www.gov.uk/government/publications/transition-period-letter-to-businesses) in advance of the end of the Transition Period.  The UK Government Cabinet Office produced a Reasonable Worst-Case Scenario (RWCS) plan in **September 2020** but this information is marked official sensitive and cannot be copied, shared or printed, However one aspect was announced in the House of Commons when Michael Gove MP, Chancellor of the Duchy of Lancaster highlighted that only 76% of businesses believe they are fully ready for the new import/export regime.  The readiness issue ties in with an Institute for Government (IFG) analysis paper published on **3 November 2020** entitled [Preparing Brexit How ready is the UK?](https://www.instituteforgovernment.org.uk/publications/preparing-brexit-how-ready-uk). This paper highlights a number of areas of concern, one of which is that a third of small businesses believe that the transition period will be extended, despite the deadline for any extension having passed in June. It also notes that the economic damage brought about by Covid-19 has depleted the bandwidth, and cash, to do what is needed. This dovetails with the views of the Federation of Small Businesses (FSB) and the Confederation of British Industry (CBI) that was highlighted in the report to the Brexit Working Group on **28 October 2020**. The IFG report concludes that, despite Brexit dominating the political landscape for so long, the UK is still not ready for life outside the EU.  On **6 November 2020** the National Audit Office (NAO) published a report entitled [The UK border: preparedness for the end of the transition period](https://www.nao.org.uk/report/the-uk-border-preparedness-for-the-end-of-the-transition-period/). This report highlights that preparations to manage the border at the end of the transition period remain very challenging and have continued to be significantly affected by ongoing negotiations as well as the impact of Covid-19. It considers it very unlikely that all traders, industry and third parties will be ready for the end of the transition period. Crucial IT systems have yet to be tested and transit areas for lorries are not ready giving rise to a lack of certainty. The NAO report concludes that some of this uncertainty could have been avoided, and better preparations made, had the government addressed the issues earlier.  The Scottish Resilience Partnership’s EU Exit Group met on **10 November 2020** and concluded that, given the timescales, businesses will be unable to adequately prepare for the new arrangements on **1 January 2021**. Representations are being made to the UK Government to consider transitional arrangements following **1 January 2021** to allow businesses additional time to prepare. To date UK Government have declined this request as well as any request to involved the devolved nations in the negotiations process.  Resilience Partnerships are now working on preparedness and self-assessments. On **7 December 2020** the National Co-ordination Centre (NCC) will stand-up to begin familiarisation and the Scottish Government Resilience Room (SGoRR) will activate. Concurrency is being identified as a significant risk and a Scotland wide sub-group is looking at concurrency issues to provide Resilience partners with a concurrency toolkit.  If there is no agreement, then the UK will trade under WTO rules, with its associated tariffs, from **1 January 2021.**  **Devolved Powers and the UK Internal Market Bill**  Withdrawal from the EU requires that a number of regulatory and oversight powers currently exercised by the EU are replicated domestically. While as previously agreed between the UK and the Devolved Administration, most of these issues will be devolved by default and there will be a range of common frameworks that require UK-wide arrangements.  On **18 June 2020**, the Scottish Government tabled the [UK Withdrawal from the European Union (Continuity) (Scotland) Bill](https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/115449.aspx) which will give Scottish Ministers power to keep devolved laws similar to EU laws, ensures Scottish Ministers and public bodies pay attention to environmental principles when they make policies, and proposes the setting up a new organisation (Environmental Standards Scotland) to replace the oversight of environmental law currently provided by the EU Commission.  It is worth noting that the UK Withdrawal from the European Union (Continuity) (Scotland) Bill acts as a counterpart to the [UK Environment Bill](https://www.gov.uk/government/publications/environment-bill-2020) (still to be ratified) as it introduces the EU guiding principles on the environment into Scots law which the UK chose not to retain when approving the [EU UK Withdrawal Agreement](https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/eu-uk-withdrawal-agreement_en)  On **9 September 2020** the UK Government published the [UK Internal Market Bill](https://www.gov.uk/government/news/bill-introduced-to-protect-jobs-and-trade-across-the-whole-of-the-united-kingdom?utm_source=88e519a5-1b8f-4058-8cd7-71a612dda11e&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate) which proposes, amongst other things, giving ministers the power to breach some of the Northern Ireland protocols previously agreed in part 4 of the [Withdrawal Agreement Bill](https://www.gov.uk/government/publications/eu-withdrawal-agreement-bill). This would break international law and the European Union has launched legal action against the UK Government in this regard. Pressure on this point has also come from the United States of America with some prominent figures such as the Speaker of the House of Representatives Nancy Pelosi and the President Elect Joe Biden. The UK Internal Market Bill is still not law having been rejected for a second time by the House of Lords on **9 November 2020.** The next move by the UK Government is awaited although indications are that they are not of a mind to remove the particular clauses around Northern Ireland.  The UK Internal Market Bill is also contentious around the Devolution settlement. This has been described variously as a power surge or a power grab. It centres on rules and regulations around food, air quality and animal welfare for example, which were previously set in Brussels, and are now will return to the UK. The contention is around who in the UK will have the final say on these rules with the Internal Market Bill setting out that the devolved administrations will still have to accept goods and services from all other parts of the UK - even if they have set different standards locally. The Scottish & Welsh Governments have withheld their [consent](https://commonslibrary.parliament.uk/internal-market-bill-reactions-from-scottish-and-welsh-governments/) under the Sewel Convention.  Given the wide-ranging nature of the Internal Market Bill, Highland Council have written to Roseanna Cunningham MSP, Cabinet Secretary for Environment, Climate Change and Land Reform in respect of the potential impact of the Bill on the efforts to tackle the climate and ecological emergency. It seems clear that specific provisions within the legislation could compromise this as we seek to maximise and enhance environmental protections.  **Future Trading Arrangements (including Ports and Fisheries)**  The UK Government published a paper on **13 July** **2020** entitled [The Border with the European Union](https://www.gov.uk/government/news/government-publishes-updated-gb-eu-border-operating-model?utm_source=8dd52b96-f23f-431f-8a16-17ea098b1cea&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate) and updated it further on **8 October 2020** As previously intimated this paper outlines the three import stages in **January**, **April** and **July 2021**.The EU said it would implement full checks on UK exports at the **start of 2021**. This is not the finalised trade deal and it is expected there will be some form of tariffs and additional regulatory requirements.  Since the publication of the Border paper there has been a drip feed of updates and changes published. These have been captured in previous Brexit Working group papers so what follows is a summary of issues since the last report.  On **27 October 2020** the UK Government published information aimed at exporters and suppliers who export multiple products (known as groupage exports) of animal origin from Great Britain (England, Scotland and Wales) to, or through, the EU who will be able to use a groupage exports facilitation scheme ([GEFS](https://www.gov.uk/guidance/export-groups-of-products-of-animal-origin-to-the-eu-from-1-january-2021)) from 1 January 2021  On **29 October 2020** a discussion took place with Tony Usher, Harbours Manager, Highland Council about some of the wider port issues. Mr Usher was satisfied at that time that there was no requirement to increase the [NEAFC](https://www.neafc.org/) designation to Highland Council ports or to consider making any Highland Council ports a Border Control Post (BCP). It was accepted that the BCP decision may change although this would need to be a commercial decision**.** Work is ongoing with Environmental Health around the Export Health Certificates (EHC) issue.  On **30 October 2020** the Animal & Plant Health Agency (APHA) published an [update](http://apha.defra.gov.uk/documents/exports/guidance-ehc-certifiers.pdf) on EHC’s and new guidance on certification of goods to the EU. In effect this requires exporters and certifying officers to be registered with EHC Online. This will allow for certifying officers to certify goods and issue exporters with an EHC when exporting their goods to the EU or moving them to Northern Ireland from **1 January 2021.** There is also a requirement for Local Authority Certifying Officers to be authorised by APHA as Food Competent Certifying Officers (FCCO) in order to certify EU Exports and movements to Norther Ireland.  APHA also published [guidance](http://apha.defra.gov.uk/external-operations-admin/library/documents/exports/ET196.pdf) that provides FCCO’s with an overview of a risk based approach to the certification of fishery product exports to the EU and to Northern Ireland, from **January 2021**. This can be used in place of an onsite inspection of each consignment.  Previous reports have highlighted the requirement around the registration of fishing vessels with Highland Council so as to enable catches to be exported to EU member states at the end of the Transition Period. This message has been repeated on a number of occasions in the local and national media and so far, 240 of a potential 400 vessels, that have a home port within the Highland Council area, have registered. Work is ongoing with approximately 110 vessels inspected with a plan in place to proceed on a virtual basis  On **3 November 2020** the Scottish Government, responded to a further request around additional funds for Environmental Health Officers. They advised that they continue to press the UK Government to re-establish the Operational Contingency but to date there is no sign that the UK Government is minded to do so. However, the Scottish Government sense that the issue of EHC’s, in particular the capacity of Local Authorities to sign them, is growing in importance in UK Government Ministerial and Cabinet committee discussions (see also 12.2)  On **5 November 2020** the UK Government updated their [position](https://www.gov.uk/guidance/food-and-drink-labelling-changes-from-1-january-2021?utm_source=5f68731e-0435-4b0d-8570-65c60aff3c36&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate) on Food and drink labelling changes from 1 January 2021including the statement that the UK will set up its own Geographical Indicator schemes from 1 January 2021.  On **14 September 2020** the HMRC [wrote](https://www.gov.uk/government/publications/letters-to-businesses-about-new-trade-arrangements-with-the-eu-from-1-january-2021?utm_source=59324bea-5bc7-439a-b71a-3325d4a096d6&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate) to all VAT-registered businesses in Great Britain trading with the EU, or the EU and the rest of the world to explain what they need to do to prepare for new processes for moving goods between Great Britain and the EU from **1 January 2021**. This exercise was [repeated](https://www.gov.uk/government/publications/letters-to-businesses-about-new-trade-arrangements-with-the-eu-from-1-january-2021?utm_source=7f6af1a1-080b-442d-9cfc-0514138f5f9b&utm_medium=email&utm_campaign=govuk-notifications&utm_content=daily) on **19 October 2020** and [again](https://www.gov.uk/government/news/hmrc-urges-traders-to-act-now-to-prepare-for-1-january-2021?utm_source=054c4972-ea7c-4073-82b3-755d479737c9&utm_medium=email&utm_campaign=govuk-notifications&utm_content=daily) on **5 November 2020**  On **10 November 2020** the UK Government announced that zero tariffs on the [importation](https://www.gov.uk/government/news/preferential-tariffs-continue-for-eligible-developing-countries?utm_source=eb7ff965-5633-4bd1-b60c-b3e51f669fe4&utm_medium=email&utm_campaign=govuk-notifications&utm_content=daily) of everyday goods such as clothing and vegetables from 47 developing countries will continue after the end of the transition period. These countries are classed as amongst the World’s poorest nations and account for approximately £1billion-worth of vegetables which equate to around 8% of all vegetable imports to the UK.  On **12 November 2020** Highland Council advertised for four Covid-19 Compliance Officers as part of the Environmental Health team and once appointed this should free up some capacity to look at wider Brexit Environmental Health issues.  Other UK Government updates have included a [Trader Support Service](https://www.gov.uk/guidance/trader-support-service), which will guide the trader through any changes due to the implementation of the Northern Ireland Protocol if you move goods between Great Britain and Northern Ireland and updated information about preparing to apply for [ECMT](https://www.gov.uk/guidance/ecmt-international-road-haulage-permits) (European Conference of Ministers of Transport) permits for 2021. ECMT permits allow road hauliers to transport most types of goods (or drive an empty vehicle) through ECMT member countries. It is possible that ECMT permits for journeys to or through the EU will be required from 1 January 2021 and the UK Government’s advice is to apply for these in case they’re needed.  **Immigration and Travel**  On **13 July 2020** the Home Secretary Priti Patel presented the UK’s future [immigration system](https://www.gov.uk/government/news/home-secretary-signals-britain-is-open-for-business) and this was covered in detail in the report to the Brexit Working Group on **17 August 2020**. In summary freedom of movement will cease and a new points-based immigration system will come into effect on **1 January 2021**. It is not seen as helpful to Highland as we rely on inward migration for our population increase and the proposals could also be problematic for our communities, services and business sectors.  On **11 November 2020** the Immigration Act received Royal Assent and was signed into law meaning an end to free movement on **31 December 2020**  Highland Council already holds a Sponsor’s Licence for employing migrant workers but there will now be additional costs to the Council and the employee if there is a requirement to employ an EU Citizen post 1 January 2021. | |
| **8**  8.1  8.2  8.3 | **EU Settlement Scheme (EUSS)**  Highland Council continue to be to be pro-active in communicating the EUSS process across the region and the detail around this has been highlighted in previous reports.  The Home Office’s EU Settlement Scheme Vulnerability Programme also organised a series of teleconferences aimed at social workers and others within local authorities who are helping looked after children and young people make applications to the Scheme. These teleconferences will run through until 27 January 2021  The most up to date figures for Highland show that the number of EU Citizens applying for EU settled status up until the end of **June 2020** is 7,940 out of an estimated 12,000 EU Citizens in the Highland area. This gives a 66% application rate however the previous estimate of EU Nationals up until **December 2019** was 9,000 which changes the successful application rate to 88%. The reality is that we do not know how many EU Nationals reside in Highland | |
| 8.4  8.5  8.6  8.7  **9**  9.1  9.2  9.3  **10.** | It is expected that the Home Office will publish their next report on **26 November 2020** which willprovide detailed statistics on applications made to the EUSS up until **30 September 2020**  The total number of EU Citizens for the Highland Council area registered to vote as at **1 Nov 2020** is 6520.  Whilst it is not possible to break down the figures into EU nationalities there have been 364 individuals who attained their Certificates of Naturalisation from **June 2016** until **October 2020**. The estimate is that a third of these were EU nationals**.**  It is also known that 152 individuals employed by Highland Council identified as EU Nationals in an earlier survey and support was offered at this time.  **EU Funding Programmes**  During the period **2014 – 2020** the Highlands and Islands, as a Transition Area, participated in the European Regional Development Fund (ERDF) and the European Social Fund (ESF) programmes. Current programme values, as of **August 2020**, are €105,380,764.00 for ERDF (83% commitment) and €64,749,601.00 for ESF (99% commitment)  Further detail is awaited on the current proposal by the Managing Authority for a COVID-19 Response Fund which is been developed to take advantage of flexibilities to the current regulations under the Coronavirus Response Investment Initiative (CRII and CRII +) announced by the European Commission. The funds will be used to support COVID-19 related activities and, in particular the purchasing of goods and services to support the health care system as well as support to SME’s to help them mitigate the impact of COVID-19. The overall amount indicated is £19,000,000 for all of Scotland.    The North West Europe (NWE) Programme recently launched a [Capitalisation Call](https://www.nweurope.eu/news-events/latest-news/interreg-nwe-2nd-call-for-capitalisation-is-open/) for current projects which is open to all NWE projects including those projects that have now finished, as well as the targeted call on renewable energy. A total of €26m is available and the call will be open until **29 January 2021**. This will be one of the last opportunities for partners to be granted funding in the current programming period and a webinar covering the detail of this was held on **5 November 2020**.  **UK Shared Prosperity Fund (UKSPF)** | |
| 10.1  **11.**  11.1  **12.**  12.1  12.2  12.3  12.4  12.5  12.6 | There is not much more to report on the UKSPF as it is expected an announcement will be made on **25 November 2020** during the UK Government’s spending review. Scottish Officials met with the Ministry for Housing, Communities & Local Government on Tuesday **3 November 2020** and whilst there was little substantive information given there was an indication that the UKSPF will have a Covid-19 Focus. There was no clarity on the impact of a single year review upon the development of the UKSPF  **Arctic**  There is not much more to report on new Arctic matters but the Arctic event webinars organised by the Scottish Government’s Arctic Unit are available on a YouTube playlist after the live event at <https://www.youtube.com/playlist?list=PLRW_0wGVvopWBHjM7-Eptzwz96V7Q-vd->  **Summary of Ongoing Preparations**  Businesses are being updated and assisted by Business Gateway, HIE, Chambers of Commerce and Federation of Small Businesses. HMRC and Industry bodies continue to advise businesses to be aware of their new obligations. The UK Government’s [Check, Change, Go website](https://www.gov.uk/transition?gclid=CL2LupnTi-wCFQnrGwodidkDCA) is regularly advertised and the Scottish Government’s information on the UK’s exit from the EU can be found [here](https://www.mygov.scot/brexit/)  On **30 October 2020** the COSLA Leaders Group met and welcomed the initial funding of £2.9m to fund additional Environmental Health support posts for a year to help deal with the increased workload required related to the ongoing work on Covid-19. It was agreed that work continues to seek adequate resourcing for increased demands on the service. Challenges still remain and there is still a need for more fully qualified Environmental Health Officers, particularly given the likely considerable increase in Export Health Certificates post-EU exit. COSLA continues to pursue further resourcing to meet this need. Highland Council have advertised for four support posts that will free up some of the Environmental Health Officer’s time.  Resilience Partnerships are now working on preparedness and self-assessments. On **7 December 2020** the National Co-ordination Centre (NCC) will stand-up to begin familiarisation and the Scottish Government Resilience Room (SGoRR) will activate. Concurrency is being identified as a significant risk and a Scotland wide sub-group is looking at concurrency issues to provide Resilience partners with a concurrency toolkit.  Highland Council Brexit Tactical Group continue to meet on a regular basis. This consists of single points of contact within each Service and they continue to look at impacts of Brexit in their areas of responsibility as more information becomes available. Their Service risks will feed into their Business Continuity Plans and inform the Corporate Risk Register.  Given the wide-ranging nature of the Internal Market Bill, Highland Council have written to Roseanna Cunningham MSP, Cabinet Secretary for Environment, Climate Change and Land Reform in respect of the potential impact of the Bill on the efforts to tackle the climate and ecological emergency. It seems clear that specific provisions within the legislation could compromise this as we seek to maximise and enhance environmental protections.  EU Exit information is fed into the Brexit Working Group as well as the Recovery Board and Highland Council continues to liaise with the media on Brexit as appropriate. | |
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|  | Designation: Brexit and European Policy Coordinator  Date: 16.10.20  Author: Angus MacLeod  Background Papers: There are no background papers but there are a number of embedded links which Members may wish to explore for additional information. | |
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