

Committee: Governance, Audit and Performance Committee

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Title: EU Exit

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Summary

1. At the last meeting of the Governance, Audit and Performance Committee, information was requested on the potential issues and risks facing the council with regard to the end of the EU Exit transition period.
2. This report explains the key areas of council work that could be affected.

Recommendations

3. None

Financial Implications

4. The Council received grant funding for both the general implications of EU Exit and specific implications of airport-related matters. This funding of £513,000 is held in a reserve.

Background Papers

5. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

None

Impact

- 6.

Communication/Consultation	The Council is an active member of various local and regional groups and subscribes to important sources of data in order to ensure it keeps abreast of changes relating to EU Exit and the end of the transition period
Community Safety	None
Equalities	None
Health and Safety	None

Human Rights/Legal Implications	There are legal implications for the council relating to the end of the transition period as explained in this report
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	There is a likely impact on wprkl;o0ad in some key areas as a result of the end of the transition period, as explained in this report

Situation

7. This report has been compiled in the main from information already sent to councillors and in consultation with managers across the authority whose services may be impacted by the end of the transition period on 31 December 2020. The council's lead officer for EU Exit is Roz Millership, Assistant Director – Housing Health and Communities.
8. Uttlesford District Council is a member of the Essex Resilience Forum (ERF), through which pan-Essex issues relating to EU Exit are discussed. The Council's Chief Executive sits on the ERF Board as the district council lead chief executive.
9. The Council has been giving consideration to the issue of EU Exit since Summer 2018, initially focusing in issues arising in connection with the importation of foods of animal origin through the Border Control Point (BCP) at Stansted Airport. It is here that, should any disruption be experienced, the most serious impacts will occur. There is more detail about this area of work later in this report.
10. The Council took a conscious decision not to evaluate the risk relating to the impact on the economy, in the main because there have been a range of predictions but more fundamentally there is little the Council can do to mitigate the risk; such mitigation sits at national government level and so is out of the Council's control.
11. The Council has therefore focused its efforts on its services and actions to support the community and businesses where possible.
12. The activities that take place at the airport have been a major focus, both in terms of preparing for changes under a deal and for managing a no-deal situation.
13. Other areas of council work which will be impacted by the end of the transition period are mainly around regulatory functions such as procurement and data management.

14. There is an additional complicating factor posed by the Covid-19 pandemic which has understandably taken national and local focus away from the impending end of the transition period. This has, and continues to, create pressure and resourcing issues in the Council.

Imported Food/Border Control Point

15. Uttlesford District Council in its role as a Port Health Authority carries out checks on food and feed consignments in order to:

- ensure that only products that are safe to eat enter the food chain
- safeguard animal and public health
- check compliance with European Union rules (soon to be UK rules) and international trading standards

16. The Council is responsible for monitoring all food imports but will not physically check everything; some checks will be restricted to documentary only. More detailed import checks can be carried out on any food products from non-EU countries ('third countries'), if they are declared as high risk at an EU/UK level. Port health authorities must be notified in advance of the arrival of such goods.

17. Checks are undertaken on two broad groups of products, those of animal origin (POAO) which include meat, dairy products, fish, honey, gelatine and research products such as blood, and food not of animal origin (FNAO). A number of these latter products, such as peanuts and spices, have been identified as presenting a particular risk to public health. Some products may be banned altogether or subject to special controls, such as green beans from Kenya. Such products can only enter the UK through specific ports and airports including Stansted which is approved as a designated point of entry. The imported food team also carries out checks on imports of organic produce.

18. The current Government plans detail changes at the border from January 2021 will be kept to a minimum until April 2021 when the requirement for pre-notification and health documentation will be extended to all products of animal origin (POAO) and all regulated plants and plant products. Initially any documentary checks will take place remotely. Any physical checks on EU goods between January and July will be carried out at destination or at authorised premises. Full control being undertaken at BCPs will be implemented from 1 July 2021.

19. The imported food team is not dedicated and is resourced from within the wider Environmental Health Commercial team, using officers who have developed an expertise in this field. The team comprises a Senior Technical Officer/ Graduate Environmental Health Officer (the lead officer), a Technical Officer and a part time Administrative Officer. This team is supported by a contracted port veterinary officer. Additional support is available from a trainee technical officer (currently working to complete her professional training). The team is managed by the Environmental Health Manager (Commercial).

20. Currently the resources are adequate to meet demand but as the full impact of EU exit is still unknown and the information flow and engagement requirements is rapidly increasing, the Council has applied for funding from the

Government to secure an additional part time officer, holding sufficient food competencies. This funding is initially up until 31 March 2021 and the officer will be supporting the Council's continued EU exit planning. Further resource may need to be added when the full impact is known.

21. There is a known risk in that there is currently a national shortage of Environmental Health Officers/food inspection competent officers, which would present a natural barrier to undertaking additional checks if they are required in significant volume at Stansted Airport after July 2021. This matter is recognised nationally and the Food Standards Agency is currently reviewing expectations in terms of recognised qualifications and experience.
22. Maintaining existing resilience is of paramount importance especially in the times of Covid-19 and its associated uncertainty and potential to remove resource. As a consequence, the team is currently practising effective social distancing and not all members are located within the same workplace. These precautions will remain in place for the foreseeable future. Additionally the Council is currently looking to secure further veterinary cover by engaging, through the existing contracted vet, an additional officer who will be available to cover the role if required. This recognises that we may not be able to pull upon our existing veterinary officer pool of cover if national demand is, particularly at the sea ports, high. The BCP will be unable to operate with regard to clearing Products of Animal Origin (POAO) without veterinary officer presence.

Predictions on demand at the Border Control Point (BCP)

23. Stansted has been identified as having the third highest EU inbound air freight volumes in the UK, although this figure includes all inbound freight, not just food products. Government figures show around 120 known food related consignments per year originating from the EU being imported into the UK through Stansted. This figure is probably an underestimate as currently there is free movement and no requirement to maintain records. If this level were to remain then the impact on the BCP will be minimal but it is currently impossible to predict if this will be the case. The imported food team will therefore continue to work with the Stansted Airport-based agents to monitor any likely increasing trends in throughput and maintain flexibility in staffing resilience. Engagement with national information forums will also continue.
24. Stansted may also see increases in HMRC checking which could have a knock on effect for turnaround. The UK government, while promoting the three phased introduction to UK controls, is unable in the case of a no deal scenario to influence what controls the EU may wish to apply within its member states. Any increased checking by them may impact upon Stansted by causing delays in turnaround of flights and backlogging, although this is thought to be of much lesser impact risk at Stansted than that facing the sea ports.

Information gathering and dissemination

25. The imported food team continues to actively engage with the Border Steering groups, other Government agencies including DEFRA, the Animal and Plant

Health Agency, Trading Standards and the FSA, the Local Emergency Planning Forum and other stakeholders. We will continue to have regard to the current border operating model and the 2025 long term border strategy.

26. Local liaison and support will continue and the team will continue to work closely with the imported food Agents and carriers. Local business is well supported by the Government website <https://www.gov.uk/transition> and both the imported food team and the wider Environmental Health Team will continue to signpost to information as applicable.

Stansted Border Control Point (BCP) infrastructure

27. The existing BCP is not owned by the Council, but rather by a business consortium and the land upon which it sits is owned by Manchester Airports Group (MAG). The facilities are also shared with a live animal BCP not operated by the Council. This presents some limitations as to how much influence the Council can have regarding physical expansion should it be required. We have notified the owning parties of grant monies potentially available from Government and remain committed to support any such application. We will also keep ourselves informed of any traffic management plans impacting on the local area and as drawn up by MAG (within the airport curtilage) and the Highways Agency.
28. Where the Council can act it has done so and is in the process of ensuring that the IT hardware, internet connectivity and bandwidth provides sufficient capacity to meet increased demand. A new pump truck has been provided to facilitate the movement and inspection of heavy weight consignments at the facility and the Council continues to work with the BCP operators and the FSA to ensure that Stansted BCP meets all existing and any new statutory requirements.

Supporting the potential additional volumes of export certificates

29. Currently the Council only provides these to a limited number of companies exporting to non EU countries. As no certification has been required for products being exported into the EU we may see an increase in demand, however this is unlikely to be high and contact has been made with our local manufacturers to signpost them to Government advice. The team will be supported in necessary training as it becomes available.

Supporting the creation of Catch certificates for fish exports and the checking of these certificates for imports.

30. There will likely be an expansion of the import/export catch certificate system used for the fish trade. As an ambient BCP it is unlikely we will see a significant increase in fresh fish and/or fishery product throughput but should it occur we will have a responsibility to check certification. Appropriate training on this requirement has been undertaken by the senior technical officer and cascade training will take place as appropriate.

Existing and new software packages to facilitate imported food checking

31. Stansted airport, like all BCPs across the EU, work on the TRACES and TRACES NT systems to apply the required imported food controls. The TRACES system allows for data sharing which facilitates clearance and is of particular significance in identifying products that have failed official controls.
32. As the UK has left the EU, irrespective of a deal or no deal, we will lose access to the TRACES and TRACES NT systems and the ability to share information within it. The UK Government has been working on a replacement system known as “Import of products, animals, food and feed system” (IPAFFS). The roll out of IPAFFS has been subject to significant delay but Council imported food officers have engaged in the testing process. The system was due to go live in September but this has been postponed until January 2021.
33. The Council will ensure that adequate numbers of its staff are available for the continued training and will if necessary continue to signpost sessions to the importing agents at Stansted, reinforcing any DEFRA contacts. It is essential that agents take responsibility as Council officers will not be in a position to offer training support.
34. As IPAFFS has yet to be fully implemented it is currently not possible to state how effective it will be. Officers that currently work with TRACES and TRACES NT are sufficiently trained and competent to a level that allows compliant goods to be processed for a rapid turnaround and have the back up of a manual system. A similar manual back up will be put in place for IPAFFS when it is possible to do so.

Summary

35. The Council has considered potential implications of a no deal scenario for the following areas. All areas remain under review:
- The introduction of new checking requirements for imported goods of both animal and non-animal origin both on UK and EU side of the borders
 - The introduction of new checking requirements for transiting products of both animal and non-animal origin.
 - Supporting the creation of Catch certificates for fish exports and the checking of these certificates for imports.
 - Preparing for the loss of TRACES/TRACES NT and the introduction of replacement systems IPAFF supported by manual back up.
 - Preparing for the potential loss of effective information exchange including loss of access to the Rapid Alert System (RASFF) New UK system should replace this.
 - How best we can manage existing staff resource and provide for extra resilience should it be required and as the imported food team is not

dedicated but drawn from the wider Environmental Health team how robust our wider Environmental Health service would remain.

- Providing effective and up to date signposting to local businesses using web pages and social media and proactively contacting our approved premises to allow them to highlight any concerns.
- Looking to establish effective portal veterinary officer cover for absence periods and to have effective succession planning in place.
- Supporting any infrastructure improvements that may become necessary
- Maintaining effective communication links with all partner agencies and Government Border planning groups.

Procurement

36. No changes are currently planned to the way in which Procurement is undertaken, with the principles of transparency and equal treatment remaining central to the Council's approach.
37. As a "Contracting Authority", Uttlesford District Council is bound by The Public Contracts Regulations 2015 (as amended) which implement Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement. This Directive establishes rules on the procedures for procurement by contracting authorities with respect to public contracts.
38. Procurement within the meaning of this Directive is the acquisition by means of a public contract of works, supplies or services by one or more contracting authorities from economic operators chosen by those contracting authorities, whether or not the works, supplies or services are intended for a public purpose.
39. The UK Legislation will remain in place after the transition period and the Cabinet Office has advised no changes are currently planned to the way in which Procurement is undertaken, with the principles of transparency and equal treatment remaining central to all public sector procurement
40. In practice there will be some amendments to processes:
 - The monetary threshold for tendering contracts in accordance with Part 2 of the Regulations will remain as they are, but the Euro/GBP exchange rate will be set by the Cabinet Office rather than the EU Parliament. The current thresholds are not due to change until January 2022
 - The websites for publication of Notices (advertising tenders and contract awards as required by the legislation) will change. On 24 April 2020 we were advised that from 1 January 2021 a new e-notification service called Find a Tender will be used to post and view public sector procurement notices. Any suppliers registered on the previous software ("Contracts Finder") will automatically transfer. The Council's Web and

Economic Development teams have already been advised and are ready to update information to prospective suppliers and contractors.

41. No significant disruption to procurement of contracts is anticipated.
42. The Procurement Manager subscribes to several sources of information, including the Cabinet Office and Central Government, ensuring the Council remains informed.
43. Outside of the direct control of Procurement, senior managers are being encouraged to:
 - Consider the impact of anticipated disruption to their supply chains on the delivery of their services. There is coverage in the media of expected delays at ports for both the import and export of goods and the government have published a document setting out their “reasonable worst case scenario”
 - Liaise with providers to ensure plans are in place through their usual business continuity planning processes
 - Monitor changes to legislation and be mindful of any impact to both existing and new contracts.

Data Governance

44. As a “controller” of personal data, Uttlesford District Council is currently bound by two laws:
 - The EU General Data Protection Regulations (GDPR)
 - The Data Protection Act 2018 (DPA)
45. Both laws continue to apply until the end of the transition period. From January 2021 when the transition period ends the EU GDPR will no longer apply directly in the UK. However, we must still continue to comply with its requirements after this point because the DPA 2018 enacted the EU GDPR requirements into UK law, and the UK Government has issued a statutory instrument “The Data Protection Privacy and Electronic Communications (Amendments etc) (EU Exit) regulations 2019” which amends the DPA 2018 and merges it with the requirements of the EU GDPR to form a data protection regime that will work in the UK context after Brexit. This new regime will be known as UK GDPR.
46. There is very little difference between the EU GDPR and the proposed UK GDPR so post transition we will be required to continue to process personal data securely and in the same way as before, only under the new requirements of the new UK GDPR.

International Data Transfers

47. The Council does not routinely send personal data overseas; however the following is worthy of note in the event that some services are using off site processing systems with companies whose servers are located outside the UK (see also ICT section below).
48. Now that the UK it is no longer an EU member state the UK has been reclassified as a third country. This shouldn't make any difference to the Council until the end of the transition period.
49. Presently under EU GDPR, the transfer of personal data from the EEA to third countries and international organisations is permitted only in certain circumstances:
- If the European Commission has issued an adequacy decision, stating that there is an adequate level of data protection
 - If appropriate safeguards are in place such as Binding Corporate rules (BCRs) or Standard Contractual Clauses (SCCs)
50. Based on the approved codes of conduct no such code has yet been agreed for transfer from the EEA to the UK as yet and no adequacy decision in respect of the UK has yet been issued.
51. After the transition period the Council will have to consider the risks of engaging partner agencies or organisations whose servers are located outside the UK as this could result in data which we supply to them would not be available to us as the adequacy rules would prevent EU based organisations from being able to send data back to the Council in the UK.
52. In order to mitigate this risk, each service area is required to complete an annual review of their record of processing activity (ROPA). This document plots how each service area processes data and includes details of which organisations we may share data with. We have already sought assurances from companies whose servers are located outside the UK that they will move their location of their servers back within the UK. This situation only presently affects a very small number of specific areas (see below) but will nevertheless be revisited in November this year when the ROPA reviews are required.

ICT

53. In preparation for EU Exit the Council reviewed the physical locations of its hosted ICT providers that hold our data or provide an ICT service for us. All but three are based in the UK and of these three systems two are minor communication and survey providers and any change will cause minimal disruption.
54. The third is held in within the EU Amazon Web Services solution and is part of a joint collaboration between neighbouring councils. Work has commenced by the supplier to move this to the UK Amazon Web Service environment. Uttlesford's ICT team has no involvement with this solution.
55. ICT security will always remain extremely important. National guidance and advice is of a high standard= and the Council is connected to a number of centralised and local alert and news channels including the Cyber Security

Information Sharing Partnership and the Network Early Warning Service. The Council receives monthly cyber newsletters from the Local Government Association and monitors the National Cyber Security Centre website for information.

56. The Council uses a number of UK-based hardware suppliers for its ICT equipment and peripherals, limiting the reliance on a single vendor. It is anticipated that there may be some increase in costs of items depending on what trade agreements are, or are not, in place. The Council retains a small stockpile of equipment to cover for a number of months for any normal breakages or faults. If items become hard to source following this, current equipment can be reallocated to areas of greater need/importance. Earlier this year the Council replaced all end-user PCs across the entire authority with new laptops; these will typically have a life span of around five years. This removes the requirement of any large scale purchases of devices if national stock levels or supply chains become affected.

Other Services

57. Although the biggest outward-facing impact on the Council from the end of the transition period is the port health function, and internally the issues mainly relate to legal and regulatory functions as set out in this report, here are other ways in which it may affect the Council's work. Examples of these include:
58. Changes in immigration status for some European nationals will need to be taken into account when assessing eligibility for homelessness services or housing register applications. Staff already receive regular updates and training on changes to legislation and have access to specialist advice when required.
59. Currently the Council adheres to EU regulation for online payments. When the transition period ends the Government could decide to move away from this regulation which may require some work to ensure compliancy.
60. Some images and logos on the Council's website have been procured under copyright-free licences. The terms of these licences may change, especially if the original licence holder is still based in the EU, meaning the Council could be in breach of copyright law. Work is being undertaken to check all images and logos on the council's website and subsites to ensure that any licence agreements or restrictions permit usage after the EU formally leaves the EU zone. Any images and logos which do not meet these criteria or cannot be identified as meeting these criteria will be replaced or removed.
61. The Council has done a considerable amount of work to ensure it meets EU accessibility law on government websites. After the end of the transition period, the UK Government could look to change this. At best this may mean more time spent adhering to a new set of rules; at worst there may be a financial impact on ensuring compliancy under new rules. In addition, some of the Council's suppliers could be deemed non-compliant, thus preventing re-procurement or limiting the number of potential suppliers in the marketplace.

Risk Analysis

62.

Risk	Likelihood	Impact	Mitigating actions
<p>If the Council does not effectively prepare for the end of the transition period there could be significant business disruption in some areas</p>	<p>3 – while uncertainty still exists around impacts relating to EU Exit, the council is putting in place mitigation where it can</p>	<p>2 – there is still the potential for disruption but this will be minimised as much as possible</p>	<p>Planning commenced two years ago with regard to the impact of EU Exit on the council.</p> <p>Preparatory work as set out in this report will lessen any impact</p> <p>Staff in key areas ensure they keep abreast of latest information and discuss matters with colleagues in other authorities</p>

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.