

BREXIT UPDATE AND EMERGING POSITION ON FUTURE REGIONAL POLICY

Purpose

- 1 The purpose of this report is to provide an update on Brexit, to seek members' approval of a proposed emerging position on future regional policy (**Annex A**) and to seek members' views on the attached letter (**Annex B**) from the President of COSLA regarding local government's engagement in the Brexit process and post EU membership world.

Background

- 2 Since the result of the UK's Referendum on EU membership on the 23rd of June 2016 the implications of the decision to leave the EU are still emerging. The planning for Brexit is also intensifying as the formal start of the negotiations becomes closer.
- 3 The focus of the WLGA's European work is now on raising awareness of the potential changes and impacts for local government, identifying both the challenges and opportunities to do things differently post Brexit and ensuring a key role for local government in all the planning for Brexit at the Wales and UK levels.

Update on recent key developments

- 4 Key UK developments as follows:
 - Two new Departments of State created: Existing the EU and Trade
 - New Committees established: Cabinet Sub Committee; Joint Ministerial Committee European Negotiations; Parliament Brexit Committee
 - Resignation of UK's Ambassador to the EU, Sir Ivan Rogers, who describes the UK's Brexit negotiations as "*ill-founded arguments and muddled thinking*". He warned it could take the UK as long as 10 years to exit the EU at a cost of around £60 billion (3rd January 2017)
 - UK Government published Industrial Strategy Green Paper, naming five sectors that could receive special government support: life sciences, low carbon emission vehicles, industrial digitalisation, the creative sector and the nuclear industry (23rd January 2017)
 - Supreme Court ruled that the British Government cannot trigger Article 50 without the authorisation of Parliament but UK Ministers not legally compelled to consult the Devolved Administrations (24th January 2017)

- UK Parliament vote to enable the Prime Minister to formally start negotiations by triggering Article 50 by the end of March 2017 (1st February 2017)
- UK Government's White Paper "*The United Kingdom's exit from and new partnership with the European Union*" (published on 2nd of February 2017)
- European Union (Notification of Withdrawal Bill) voted through by the House of Commons and enters the House of Lords (expected to be voted through)

5 Key Wales developments as follows:

- Cabinet Sub Committee established, Brexit Special Adviser appointed and EU Transition Team set up in Welsh Government
- First Minister's European Advisory Group set up (WLGA represented by Cllr Phil Bale, European Affairs Spokesperson)
- New National Assembly for Wales Committee: External Affairs and Additional Legislation Committee. "*Implications for Wales of Leaving EU Report*" published January 2017, awaiting Welsh Government response
- Welsh Government and Plaid Cymru EU White Paper "*Securing Wales' Future: Transition from the European Union to a new relationship with Europe*" published (23rd January 2017)
- Discussions on Future Regional Policy started

Potential timescales

- 6 The formal two year negotiating period will start once the Prime Minister invokes Article 50, by the end of March 2017. However, although there is a two years window to conclude the negotiations, the political and institutional realities (national elections in France, Netherlands and Germany and the requirements to take a deal through all EU Institutions and 27 Member States) mean there will be a much shorter timescale to get a deal done and that deal will need to be in place by Autumn 2018 to enable it to go through all the various processes required.
- 7 In contrast to the UK Government's view, many commentators believe that it could take up to 10 years for the UK to exit the EU thus it is becoming increasingly apparent that **transitional arrangements** will be required from March 2019 until whatever time the UK leaves. It could take another 10 years for the UK to negotiate new trade deals.

Key issues for Local Government

- 8 As local government implements most of the legislation currently operating under EU law, operates within EU wide regulatory and policy frameworks and accesses funding under many European Programmes, the main implications of Brexit for us are in relation to **legislation, policy and funding** regimes. EU Legislative, Policy and Funding Frameworks in the following key areas of interest for local government will need to be replaced by UK and or Wales Frameworks, pending the nature of non-devolved and devolved areas of activity as follows:

- Competition Policy and State Aid
- Employment and Workforce issues
- Regulatory Services
- Procurement
- Environment, Planning, Waste
- Agriculture and Rural Development
- Regional Economic Development

- 9 In terms of **funding**, Wales is a net beneficiary of EU Funds, receiving around £680 million annually from different EU Funding streams, the biggest of which include the Structural Funds (ERDF and ESF) for our most deprived communities across North West Wales, West Wales and the Valleys and the direct payments to farmers and the wider Rural Development Funding under the Common Agricultural Policy.
- 10 The UK Treasury has guaranteed full funding to all projects signed prior to the Autumn Statement last November (2016) and that funding for projects signed after that and which continue post exit (from March 2019) will be honoured only if projects *“provide strong value for money and are in line with domestic strategic priorities”*. For projects in Wales the Welsh Government has received assurances from UK Treasury that they must be in line with Welsh domestic strategic priorities.
- 11 There is no guarantee of funding Post 2020. This will need to be negotiated with the UK Government. A strong case will be made based on the similar levels of funding that Wales would have received if we were to remain in the EU, according to need and circumstances, and, as with the EU funding, that it has to be in addition to the Block Grant Wales receives under the Barnett Formula as a recognition of our continued needs post Brexit. Further, as most economic forecasts predict that Brexit will lead to wider regional disparities across UK nations and regions the need for continued investments to Wales over and above the Block Grant will become even more evident.
- 12 The impact on wider **public finances** is potentially devastating for Wales, coming on top of the reductions in public expenditure already forecast. The lower economic growth forecasts for the medium to long term, leading to a reduction in tax receipts, combined with increased inflation and migration impacts will further constrain public finances in Wales.
- 13 Further, the most likely outcome if a ‘hard’ Brexit is pursued by the UK Government is trading according to WTO rules with high tariffs and more restrictions on migration. This will be detrimental for the Welsh Economy due to our relatively high dependency on manufacturing, public services, agriculture and higher exports.
- 14 Key considerations for us include what kind of access will our businesses have to the EU Single Market and at what cost; timescales, expertise and capacity to negotiate trade deals and implications of tariffs for key Welsh exports and sectors (manufacturing, farming, food and drinks etc) and public services.

15 The nature and scale of the **legal implications** of Brexit is starting to become apparent as the reality of the work required to replace over 40 years of legislation, policy and funding frameworks becomes apparent. Key issues for Wales as follows:

- The sheer scale of the legal implications and the necessary tasks in terms of transferring powers back is a major challenge for all UK legislatures and has the potential to completely take over the work of both Houses of Parliament and the Devolved Administrations for the next few years.
- Its looking increasingly likely that the transfer of powers back from the EU to the UK will require around 8-9 Parliamentary Bills i.e. not only the Great Repeal Bill but specific bills for specific matters e.g. Immigration Bill, Customs Bill, Agriculture Bill etc. these will need to be taken forward as a package of legislative proposals and enter into force by around the summer of 2018 to enable the necessary processes to be put in place to implement new arrangements post exit i.e. from 1st of April 2019.
- How many Legislative Consent Motions would the National Assembly for Wales need to prepare to repatriate powers in all devolved areas?
- No guarantees or assurances that devolved powers will be devolved back to the Devolved Administrations.
- Brexit has a serious potential to adversely impact and de-stabilise the whole current UK constitutional arrangements between the UK Government and the Devolved Administrations. New arrangements will be required to govern non-devolved competencies and new mechanisms will need to be put in place for formal and informal inter-governmental cooperation between the 4 UK Nations.

WLGA activity

16 The key principles guiding all our Brexit activity are as follows:

- All EU laws, policy and funding in all devolved matters should be repatriated from the EU to Wales.
- New arrangements in terms of legislative, policy and funding mechanisms need to be as streamlined and simplified as possible, integrated and devolved to the local and regional levels, enabling local flexibility and freedoms in terms of governing, decision making and implementation.
- Similar levels of standards, protections and rights should be maintained for everyone currently living and working in the UK on exit from the EU.

17 Current WLGA Brexit activity is focused on raising awareness of the potential changes and impacts for local authorities; highlighting the challenges but also the opportunities to do things differently and ensuring that local government's interests are taken on board in all the planning and preparations at both the UK and Wales levels as follows:

- Working with the LGA, COSLA and NILGA: participating in the LGA Brexit Task and Finish Group; involved in meetings with the UK Department for Exiting the EU and making the case for local government involvement in the

negotiations and in all the planning for new legislative, policy and funding arrangements.

- Engaging with the Wales Office regarding the challenges and opportunities for local government, including the need to engage with the UK Industrial Strategy.
- Input into the work of the First Ministers' European Advisory Group (via WLGA representative Cllr Phil Bale, European Affairs Spokesperson).
- Responded to a number of consultations and inquiries conducted by National Assembly for Wales Committees on the implications of Brexit for Wales and specifically on the future of Agricultural and Rural Affairs Policy.
- Participated in a number of discussions on the future of agriculture, rural development and environment as part of the roundtable set of meetings with key stakeholders facilitated by the Welsh Government Cabinet Secretary for Environment and Rural Affairs Lesley Griffiths AM.
- Participated in initial discussions on future Regional Policy at meetings of the European Structural and Investment Funds Programme Monitoring Committee and the European Advisory Group.

18 The discussions on future regional policy are progressing on various levels, highlighting the need for local government to develop its position and influence the direction of travel at both the UK and Wales level. As a result, a proposed emerging position on future regional policy is presented to members in Annex A attached for consideration and approval to enable the WLGA to influence the discussions and to specifically respond to the following opportunities over the next few weeks:

- Providing oral evidence to the National Assembly for Wales' External Affairs and Additional Legislation Committee on Monday 6th of March on Future Regional Policy.
- Respond to the Welsh Government Consultation on Future Regional Policy: expected to be launched late March 2017.
- Respond to the UK Industrial Strategy Green Paper, April 2017.

19 We also need to respond to the attached letter from the President of COSLA (see Annex B) regarding local government's engagement in the Brexit process and post EU membership world. Whilst recognising the need for appropriate mechanisms to be established for local government to work with both the UK and Devolved Governments on the new legislative, policy and funding frameworks, we would not necessarily advocate the creation of a UK Committee of the Regions to replace the current EU Committee of the Regions. We are keen, however, to further explore the best solution to ensure local government involvement in the key discussions with both the UK and Devolved Governments and the need for continued local government engagement in the current Brexit process and post EU membership world. As a result, we would welcome an opportunity to discuss these issues further with colleagues from all 4 UK Local Government Associations at the next meeting of the UK Forum.

Recommendations

20. Members are:

20.1 Invited to comment on any aspect of this report;

20.2 Invited to provide views and approve the proposed emerging position on Future Regional Policy as presented in Annex A

20.3 Invited to comment on the issues to raise in our response to the letter from the President of COSLA included as Annex B as proposed in point 19 above

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Proposed WLGA Emerging Position on Future Regional Policy

Background

1. Wales has benefited substantially since the 1980s from European Structural Funds. Under EU Regional Policy Wales has been divided into two – West Wales & the Valleys (WW&V) and East Wales. The boundary was drawn in a way that ensured WW&V was eligible for the maximum rate of support from Europe in order to reflect the needs of deprived communities across the South Wales Valleys, West Wales and North West Wales, both urban and rural.
2. As the EU Regional Policy is the main tool for addressing regional disparities across the EU by focusing and targeting support on areas of most need, eligibility is decided on the basis of average EU GDP; the West Wales and the Valleys region has consistently qualified for the highest levels of EU Funding due to the fact that it's GDP remains below 75% of the EU average. The only other part of the UK to consistently qualify for this highest category of support is Cornwall.
3. East Wales has also benefited from EU Structural Funds, although lower levels of support have been available within that region due to its higher average GDP levels.
4. The Structural Funds have provided capital funding in the form of the European Regional Development Fund (ERDF) for supporting infrastructure, businesses, R&D and innovation and revenue funding in the form of the European Social Fund (ESF) for investments in people, skills and training.
5. Such funding, matched by domestic public and private funds, has provided long term (7-9 years), multi annual support to communities across Wales.
6. Wales has also qualified for funding under many other European Funding Programmes, such as the Territorial Cooperation Programmes (Wales Ireland Cross Border Programme; North West Europe and Atlantic Area Programmes) and many themed funding programmes focused on supporting Higher Education, R&D and Innovation, Education and Young People.
7. An initial paper on *Future of Regional Policy in Wales* was tabled by the Welsh Government for discussion at the meeting of the European Advisory Group on the 9th of February and will be further discussed at the meeting of the ESI Funds PMC on the 24th of February. We welcome some of the key messages in that paper, specifically:
 - the commitment to co-design future regional policy will all key partners
 - the emphasis on place based approaches
 - the recognition of the need to work with the UK Government to ensure it utilises it levers to facilitate more inclusive and balanced economic growth
 - the wider focus of supporting continued collaboration and participation in some EU programmes post Brexit and
 - the recognition from the OECD that regional policy can be effective not only at supporting growth ambitions, but also in helping to address inequalities,

particularly in rural and underdeveloped areas, should guide the development of an inclusive regional policy for Wales going forward.

Opportunities to develop different approaches

- 8 Brexit provides an opportunity to develop different approaches to regional economic development across the UK. The removal of artificial geographical boundaries will enable future policy to better reflect functional economic areas based on economic realities such as travel to work patterns. Further, the removal of all the restrictions, conditions and requirements of EU Structural Fund Programming, which have been increased over the last few programming periods, will enable the development of much more flexible approaches that meet the needs and circumstances of different parts of Wales.
- 9 The scale of restrictions on utilising and targeting funding, combined with the Welsh Government's more 'strategic' national approach to EU Structural Funds over the last few programming periods has made it much more difficult to deliver regional, sub-regional and local interventions that can make a real difference to local communities across both urban and rural Wales.
- 10 The removal of the artificial boundaries and the requirements to focus investments on specific themes should enable the development of a much more flexible approach to utilising funds, based on priorities already identified by all partners regionally across Wales, including cross-border opportunities in some areas. It also provides an opportunity to develop radical new approaches towards regional policy, based on devolving funding, decision-making, governance, implementation and delivery to the regional and local levels across Wales. The opportunity to develop much more integrated approaches, investments and funding packages, combining capital and revenue funding, also needs to be taken advantage of as we move away from silo fund specific sources, rules and regulations.
- 11 Whilst regional economic development policy is devolved the key tools and levers for regional economic growth (assisted areas, competition and state aid, corporation tax etc.) and, crucially, most of the funding and finance, remain with the UK Government.
- 12 As a result, one of the key issues for Wales post Brexit will be the need to secure additional finance and funding from the UK Government in order to replace the funding received directly from the EU. In addition, Wales will need to up its game considerably and maximise all the funding and finance sources available from the UK Government.
- 13 A dual, parallel approach is thus required going forward that both influences the shape and direction of future regional economic development policy in Wales and the future direction of UK Regional Policy.

Key Principles for a Regional Economic Development Policy in Wales

- 14 Good progress has been made over recent years at the regional level by local authorities working collaboratively and with key partners from the private sector and

Higher and Further Education. We now have four distinct regional partnerships in operation as follows:

- South East Wales – Cardiff Capital Region
- South West Wales – Swansea Bay City Region
- Mid Wales – Growing Mid Wales Partnership Board
- North Wales – Economic Ambition Board

These regions provide a strong basis for the development of regional policy in Wales. **Future regional policy needs to recognise the emergence of these four Regional Economic Development structures / partnerships** as they provide key building blocks for developing a new approach to regional economic development across Wales.

- 15 Funding should be devolved down to these four regions to enable them to decide how best to utilise investments, based on priorities identified and agreed by all key partners within their regions. This needs to include, as is currently emerging under the City Deal and Growth Deal discussions, the contribution of both Welsh and UK Government Funding and Finance sources, towards delivering agreed regional priorities.
- 16 The experience of progressing the City and Growth Deals has involved a new, much more rigorous approach towards development, and has required a step change in thinking and terminology, for example, the need to focus on investments not grants, finance not funding and exploring how best to unlock private sector investment, wider UK funding, Local Authority borrowing as well as different Welsh Government and wider alternative sources of finance, including LA municipal bonds. It has also involved a shift in focus to concentrating on joint outcomes, impact and co-design and co-delivery of agreed interventions. Such a fundamental step change in approach needs to be utilised and built upon in the development of future regional policy.
- 17 The decision-making, governance, implementation and delivery of future funding and finance should be devolved to the regions, as is currently happening with the City Deals in South East and South West Wales and the Growth Deal in North Wales, thus negating the need for national Wales wide programmes administered centrally by the Welsh Government.
- 18 Further consideration needs to be given as to how to ensure that Mid Wales also benefits from similar funding and finance opportunities.
- 19 Further consideration also needs to be given towards ensuring that the 4 regional approaches encompass both urban and rural economic development challenges and opportunities.
- 20 It will also be important to strike the right balance between need and opportunity as there will be a continued requirement to address both the fundamental structural weaknesses of the Welsh Economy and to invest in raising productivity, competitiveness and economic growth.
- 21 The role of the Welsh Government should include providing an overall framework, setting key objectives and providing strategic national direction for economic development but not direct delivery of interventions. The direct delivery of agreed

regional priorities and interventions should be managed regionally, either through commissioning activity or directly managing activity.

- 22 We would welcome a dialogue with relevant Welsh Government officials regarding how such a national / regional approach needs to be reflected in the Cabinet Secretary for Economy and Transport, Ken Skates AMs emerging Economic Priorities Strategy.
- 23 Further consideration and discussion is also required with relevant Welsh Government officials in relation to taking forward the proposal in the Welsh Government's Local Government Reform White Paper for 4 Regional Economic Development Structures / Partnerships but only 3 Joint Committees.

Maximising funding and finance from UK Government Programmes

- 24 Although Economic Development is devolved to Wales, other key aspects of Regional Policy, such as the designation of assisted areas, competition and state aid remain UK Government competencies. As a result, it is vital that Wales influences the discussions in Whitehall on the future direction of Regional Policy as follows:
 - Consider and respond to the UK Government Industrial Strategy Green Paper
 - Influences the development of UK Frameworks for future competition and state aid rules

In terms of the UK Industrial Strategy it will be important to ensure that the identified sectors for support do not cut across efforts to support specific sectors in Wales via agreed themes for Enterprise Zones and wider sector specific priorities across Wales. A discussion will need to take place between the UK and Welsh Governments to ensure that the sectors supported are aligned.

A further discussion needs to take place between the UK and Welsh Government to ensure that any special provisions for some sectors in England, such as the much anticipated special provision for the financial services sector in London, does not reduce the prospects for attracting quality financial service sector jobs to Wales.

- 25 For the WLGA specifically it is vital that we continue our work with colleagues in all UK Local Government Associations (LGA, COSLA & NILGA) to ensure that future regional policy in the UK fully recognises devolution, not only to nations and regions across the UK but to the sub-regional and local levels; that funding, decision making, governance and accountability is also devolved down to the regional and local levels in line with the Devolution Deals and localism agenda so that regional and local areas are able to utilise funds to meet agreed local and regional priorities, in line with the principle of subsidiarity.

The WLGA will be working to influence the development of UK Regional Policy with colleagues across the UK Local Government family as follows:

- Involvement in the LGA Brexit Task and Finish Group
- Input into LGA commissioned work to inform the development of future regional policy

- Involvement in key meetings with Whitehall Departments, e.g. our meeting with the Minister of State in the Dexeu Department, David Jones MP, on the 21st of February
- Continued dialogue with the Wales Office

We would welcome a further dialogue with Welsh Government in order to ensure that we maximise all key partners' avenues and channels of engaging directly with the UK Government in order to strengthen Wales' voice in key discussions in Whitehall.

- 26 We welcome the recognition of the need to work with the UK Government to ensure that it utilises its levers to facilitate more inclusive and balanced economic growth. This also needs to involve ensuring that all partners in Wales maximise the opportunities to access key UK funding sources such as funding for Innovation, Productivity, Research and Development and Infrastructure, which, traditionally have been taken up by Local Enterprise Partnerships and other sub-regional and regional economic development partnerships in England.

Continued participation in some EU funding programmes, initiatives and networks

- 27 We would support continued access for Wales and the UK to some EU funding programmes, initiatives and networks post Brexit as follows:

- Funding for Research, Development and Innovation via HORIZON
- Funding for Education and Young People via ERASMUS
- Favourable access to European Investment Bank facilities
- Funding for European Territorial Cooperation

- 28 In order that Wales and the UK maximises these opportunities it will be important to continue our involvement and participation in key European Networks to enable partnership working with other nations and regions and joint bids for funding. Key networks include the European Network for Rural Development, EUROCITIES, and networks involving Universities. This will also be important in identifying examples of best practice from around the world in terms of regional policy and how to adapt those in ways that would work for Wales.

- 29 It will be important for the 4 regions of Wales to establish direct links with similar areas both across and outside the EU in order to maximise opportunities from continued access to some key European funding programmes and initiatives that do not require EU membership to participate. We welcome the fact that both the UK and Welsh Governments have already indicated their willingness for continued access to some programmes.

From the President Councillor David O'Neill



8 February 2017

The Lord Boswell of Aynho
House of Lords
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Dear Lord Boswell

I'm writing just by way of a short follow up for the evidence session last Wednesday in Edinburgh.

I mentioned my concern at the potential 'race to the bottom' and the need to co-ordinate UK wide policy to maintain the UK single market as we leave the EU and start new trade agreements. I also covered the need for a UK framework of support for the more fragile communities and sectors. It bothers me that while there is an enormous focus over where the powers of the EU institutions will end up and what can be done with them, there's been little attention paid to the EU's existing governance arrangements and whether these should frame how what is returned to the UK is exercised.

Because of the EU's recognition of the principle of subsidiarity, local (and regional) government is well represented in the mechanism for developing and altering the only trade agreement that we are party to, essentially the TEU and the 'acquis communautaire'. The Committee of the Regions was set up in 1994 to address two main issues. The first was that about three quarters of EU legislation is implemented at a local or regional level, so local and regional representatives need to have a say in the development of new EU laws. The second was to address the widening gap between the public and the process of European integration; involving the elected level of government closest to the citizens was one way of closing this gap.

Both of these matters are of particular relevance today, as a major factor in the Brexit vote appears to have been the felt remoteness people have had from decision making that affects them. The presence of the CoR has less formally opened up relations with both the European Commission and the European Parliament, both keen on getting our views. The CoR has not only considered the internal market arrangements, but also expressed views when new trade agreements have been proposed (including TTIP and CETA recently). While we prepare to leave the EU, consider how the returned powers could be used and scope out the potential content of new trade agreements, I believe we need to have something that will replicate the benefits of having the CoR in the UK.

As a starter I would welcome your views on having a UK Committee of the Regions (UKCoR) acting as a consultative body here for reserved powers where there are shared competencies with local government. For similar, but devolved areas, there may be a case for the Scottish UKCoR members having a similar role but complementing that of the Scottish Parliament and the Scottish

Government. To us here it would, to some extent, simply revive the historic role of COSLA's predecessor, the Convention of the Burghs of Scotland, but modernise its relationship with the parliaments and governments that now exist. Another benefit of such an arrangement could be that the leaders of the various country delegations to the "UKCoR" would meet as part of the JMC arrangements to agree approaches to any shared competency fields.

I would be interested to see your views about how we address the need for local government's engagement in the Brexit process and post EU membership world.

Yours sincerely

A handwritten signature in black ink, appearing to read "David O'Neill". The signature is fluid and cursive, with a large, stylized initial 'D'.

Councillor David O'Neill
COSLA President