

ABERDEEN CITY COUNCIL

COMMITTEE	City Growth and Resources
DATE	25 April 2019
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	EU-Exit – Workforce Implications
REPORT NUMBER	RES/19/167
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TERMS OF REFERENCE	Purpose 1 - to approve and monitor appropriate short, medium and long term financial strategies and plans for the Council in light of available funding

1. PURPOSE OF REPORT

- 1.1 At its meeting on 17 December 2018, Council instructed the Director of Resources to report to the first appropriate meeting of the City Growth and Resources Committee with an impact assessment on the Council's workforce in terms of the UK leaving the EU.

2. RECOMMENDATION

That the Committee:-

- 2.1 Note the information provided and the actions in place to manage the impact of EU Exit on the Council's workforce.

3. BACKGROUND

- 3.1 With the EU advisory referendum in 2016 resulting in a vote to leave the EU, there is an expectation that a change in the status of the UK as a member will have some impact on the socio-economic landscape of the country and the rights of non-UK EU Citizens who currently live and work in the UK or who may choose to do so in the future. As such, there are likely to be consequential impacts on employers and their employees as the country adjusts to its non-member status. For an employer seeking people with the right skills, at the right time and at the right price, EU Exit presents a number of potential workforce implications.

3.2 PREDICTING WORKFORCE IMPLICATIONS

- 3.2.1 It is very difficult to comprehensively predict the workforce implications of EU Exit – it is dependent on whether the UK leaves the EU with or without an agreement and the content and wider impacts of any such agreement, while there are still open questions about the expected shape of the labour market,

employment law and immigration policy and the length and operation of any transitional period. At the time of writing this report, no clear decisions have been reached.

- 3.2.2 An assessment of potential workforce risks has been undertaken using an analysis of the council's workforce data, the external labour market, any national planning assumptions and working through the Local Resilience Partnership. In addition, information and guidance is being utilised from COSLA and other professional workforce related bodies including the Chartered Institute for Personnel and Development (CIPD) and the Society for Personnel and Development Scotland (SPDS).

3.3 WORKFORCE DATA

- 3.3.1 As a result of free movement across the EU, there has not been a requirement to gather nationality information for non-UK EU citizens to this point. This means that, as with many other local authorities and UK businesses, this data may not be held in all cases. Based on the advice of COSLA, guidance from CIPD and action taken by other local authorities, a survey was undertaken in December 2018, and remains open, asking employees to identify if they are EU or EEA nationals and to confirm whether they wished to receive updates regarding the EU Settlement Scheme process and any other information from an employer perspective.
- 3.3.2 The survey results together with information currently held on employee nationality shows that 4.75% of the council's workforce are EU nationals (3.8% excluding Irish nationals, who are not required to apply for the EU Settlement Scheme).
- 3.3.3 The data indicates that the number of employees who are EU nationals is a small proportion of the total workforce. These figures are comparable with the other large city local authorities in Scotland. Analysis of the data provides detail about where the potential areas of pressure might be in the event that these employees choose not to apply for settled status. This has shown that the main roles affected are Teachers, Pupil Support Assistants, Care Support Workers and Facilities staff including Cleaners and Catering staff.

3.4 RISKS AND MITIGATIONS

- 3.4.1 It was agreed at CMT on 6 December 2018 that all institutional EU Exit risks affecting the Council and partner organisations should be considered together by an already established EU Exit Steering Group.
- 3.4.2 The Steering Group meets fortnightly to discuss and update risks and mitigations. These are also monitored monthly by the Corporate Management Team. Potential workforce risks have been identified, mitigating actions recorded and progress on the mitigation tracked against each of these risks.

- 3.4.3 In addition, an Incident Management Team (IMT) has been established to consider workforce implications comprising Chief Officers / Senior Managers within each of the functions / clusters where staff are most likely to be affected. The IMT will be activated to provide an operational response to EU Exit, if and when, workforce risks become live issues.
- 3.4.4 During this critical period, there is regular reporting to Scottish Government from each member of the Grampian Local Resilience Partnership. For the Council, this is being provided through the council's Duty Emergency Response Co-ordinators and IMT Leads.
- 3.4.5 Each of the key workforce risks identified are detailed below.

3.5 RETENTION OF NON-UK EU EMPLOYEES

- 3.5.1 A risk was identified in the potential loss of existing staff who are EU nationals, who may choose to leave the council (and the UK) as a result of an EU Exit.
- 3.5.2 The risk of employees leaving the UK in the short-term at least, as a result of EU Exit, is considered to be a much lower risk scenario than originally envisaged as the Government has introduced the EU Settlement Scheme to help transition from EU free movement to a domestic system of skills-based immigration for future migrants.
- 3.5.3 Under the EU Settlement Scheme, all EU nationals (along with EEA and Swiss citizens) living in the UK have the right to register for pre-settled or settled status, which would allow them to continue living and working in the UK. Settled status gives the same rights to EU/EEA/ Swiss citizens as they currently have under free movement and can be obtained if/when they have lived continuously in the UK for five years.
- 3.5.4 The Home Office has been running pilots and testing the application process. The full opening of the scheme commenced on 30 March 2019.
- 3.5.5 Regardless of whether the UK leaves the EU with or without an agreement, EU citizens will have until at least 31 December 2020 to apply to the EU Settlement Scheme.
- 3.5.6 Analysis of the workforce data outlined at 3.3 above, has shown that EU nationals within the Council's workforce are spread across functions and cover a wide range of roles. Should it be the case that EU nationals leave the Council as a result of EU Exit, the main areas of pressure are likely to be Teachers, Pupil Support Assistants, Care Support Workers and Facilities staff including Cleaners and Catering Staff.
- 3.5.7 Mitigating Actions:
- Regular communication with staff with offer of support in applications to the EU Settlement Scheme to continue their stay in the UK and employment with the council and to provide information that impacts on their employment, as and when it becomes available.

- Further communication with those EU nationals who have responded to the initial survey to seek information about their intentions to stay or leave.
- A series of drop in sessions to take place for employees who EU nationals are, to provide information and address any concerns or questions they may have on their employment.

3.6 ATTRACTION AND RECRUITMENT OF STAFF IN KEY AREAS

3.6.1 As described above, a number of the roles likely to be impacted if non-UK EU Citizens decide not to apply for settled status are well known to be 'hard to fill' both locally and nationally and Chief Officers / Service Managers are already working with the People and Organisation team to seek potential solutions to attract candidates to these roles. If we were to see an increased difficulty in recruiting to these roles in the future, this activity would need to be reviewed and increased.

3.6.2 Mitigating actions:

- Creative recruitment advertising campaigns focused on online and social media to be developed for key roles to reach out to as wide an audience as possible, targeting those who are not actively job seeking as well as job seekers.
- In the event of short-term critical shortages – developing flexibility within the existing workforce including additional hours of part time employees, overtime, reallocating work, moving staff to cover critical roles for a short-time where necessary.
- Working with partners and agency providers around the supply of key roles where necessary to be able to deploy at short notice where necessary.
- A corporate apprenticeship programme is being developed which will include these roles, to secure additional resource and develop and secure the council workforce for the future.
- An internal opportunities hub has been developed to promote our critical roles for employees who wish to consider a career change and can be developed / upskilled to undertake critical roles.

3.7 SHORT TERM IMPACTS OF EU EXIT WITH NO AGREEMENT – EMPLOYEES UNABLE TO ATTEND WORK

3.7.1 This risk relates to the potential inability for employees to travel to and attend work due to short term supply chain interruptions.

3.7.2 Whilst this risk is assessed as very low in likelihood, in a situation with no agreement in place, supply disruption caused by any border delays, could affect customer purchasing behaviour, resulting in temporary localised shortages, including for fuel.

3.7.3 Staff who live out-with the city boundary have been identified as a potential risk in the event of travel disruption. Analysis of workforce data has shown key areas that would be most impacted by employees living out-with the city boundary are Teachers, Social Workers, Early Years Practitioners and Pupil Support Assistants.

3.7.4 Mitigating Actions:

In accordance with normal business continuity arrangements, a range of options are available for managers to ensure business continuity where a loss of staff in key areas occurs as follows:

- Ensuring that staff can work from home or from another location - communications will be prepared to ensure that staff take laptops or work home to be able to work remotely.
- In the event of a sudden loss of staff as a result of EU Exit, the IMT – Workforce will arrange for staff from other areas to be able to move into critical roles where possible.
- For school-based staff, such as Teachers and Pupil Support Assistants, reciprocal agreements are being explored with Aberdeenshire Council for staff to be based in City / Shire schools to suit home locations.
- Exploring the use of Aberdeenshire Council offices to host staff who cannot travel into the city and vice versa.

3.8 INCREASED ADMINISTRATIVE BURDEN RESULTING FROM EU EXIT

3.8.1 The EU Settlement Scheme provides assurance to existing EU nationals continuing to live and work in the UK. The December 2018 White Paper on immigration proposes a move to a new skills-based immigration system which will apply to both EU and non-EU immigrants following an EU exit.

3.8.2 The new immigration and borders system will be implemented in a phased approach from 2021 following an extensive 12-month programme of engagement with stakeholders by the Home Office. Whilst the detail of the new scheme, and the phased introduction is not yet known, it is likely that this will result in an increased administrative burden on recruiting managers and specifically the Customer function, in terms of processing right to live and work in the UK checks for new employees. There will also be an increased burden to ensure that every existing EU employee has pre-settled or settled status or has a skills visa permitting them to work in the UK.

3.8.3 A significant amount of officer time has also been spent in identifying and mitigating potential risks arising from EU-Exit to date.

3.8.4 Mitigating Actions:

- Additional short-term resource may be required to process checks for existing employees
- Training and support for staff processing right to live and work in the UK checks under the new immigration scheme.

4. FINANCIAL IMPLICATIONS

4.1 The increased administrative burden described above may lead to increased demand on staff resources, the detail of which is not yet known. This would need to be managed.

5. LEGAL IMPLICATIONS

- 5.1 The EU is a major source of current UK employment legislation e.g. Working Time, TUPE, discrimination, agency workers etc. Following a departure from the EU without an agreement, the UK government would be free to create, amend or remove employment laws. In practice, it is likely that any such changes would be subtle and gradual. Much of the EU employment legislation has been brought into effect via UK legislation, which will remain in force unless and until amended. Established Horizon Scanning procedures will help to ensure that the Council remains aware of upcoming changes to employment legislation.
- 5.2 A further implication in relation to employment law is that at the point the UK leave the EU, it may also mean that the UK courts will no longer be bound to follow the rulings of the European Court of Justice (ECJ). Past ECJ rulings have become entwined in UK court and tribunal decisions and in legislation itself. It is likely though that UK courts and tribunals would continue with many established principles to preserve legal certainty.

6. MANAGEMENT OF RISK

- 6.1 Risks are being monitored and managed by the EU Exit Steering Group which feeds into the Corporate Management Team. The review is conducted with reference to information provided by Scottish Government and via the multi-agency Local Resilience Partnership (LRP) and in close collaboration with colleagues in Aberdeenshire and Moray councils, as well as our partners in the Local Resilience Partnership.

	Risk	Low (L), Medium (M), High (H)	Mitigation
Financial	As set out in section 4 of the report	L	As set out in section 4 of the report
Legal	As set out in section 5 of the report	L	As set out in section 5.1 of the report
Employee	As set out in section 3 of the report	L	As set out in section 3 of the report
Customer	If risks identified around workforce set out in the report become live issues, there is a potential risk to service delivery	L	As set out in sections 3 of the report
Environment	None identified	L	
Technology	None identified	L	

Reputational	If risks identified around workforce set out in the report become live issues, there is a potential risk to service delivery, which may have an impact on reputation	L	As set out in sections 3 of the report
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7. OUTCOMES

Local Outcome Improvement Plan Themes	
	Impact of Report
Prosperous People	This report sets out potential workforce implications of EU Exit and our workforce represents over 8000 people within the local area.

Design Principles of Target Operating Model	
	Impact of Report
Workforce	Mitigating actions outlined are in line with the workforce design principles of the TOM as they represent working in a flexible and agile way to meet demand. Increasing knowledge and skills for teams that may have administrative impacts will be key.

8. IMPACT ASSESSMENTS

Assessment	Outcome
Equality & Human Rights Impact Assessment	not required
Data Protection Impact Assessment	not required
Duty of Due Regard / Fairer Scotland Duty	not applicable

9. BACKGROUND PAPERS

Financial Times. Brexit – Employment Law Implications – an initial view from the UK and Europe.

HM Government Briefing for Local Authorities– EU Citizens in the UK Stay Informed.

COSLA Consultation Response - Implications of Brexit on Public Sector Workforce.

Leaving the European Union – Report to Council OCE 16/044

Continuity Planning for HR – Brexit and Beyond – CIPD March 2019

Preparing for Brexit through Workforce Planning – CIPD March 2019

10. APPENDICES

None

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