Rolling Brexit Briefing

16th December 2019 edition

Introduction

Our rolling Brexit briefing is now structured in two parts:

- Part one, the Brexit update, serves both as a single reference document on all key developments to date and as update on the latest developments.
- Part two, which is new, is a Brexit 'risk register', based on discussions with members. The intention is that members can use this within their own organisations to assess the potential impact of Brexit.

Part one: Brexit update

In this update, each box focuses on a key stage in the Brexit process and is, broadly speaking, in chronological order, ending with the state-of-play on the negotiations and a look forward to the next steps

UK referendum on EU membership

On the 23rd June 2016, the UK Referendum “Should the UK Leave the European Union or Remain a member of the European Union” was held, with the result announced as being 51.8% in favour of leaving. After a short period of political uncertainty, and a change of Prime Minister the Government committed to Brexit and the UK leaving the EU.

EU funding guarantees

In October 2016, the Chancellor announced that, in relation to the European Structural and Investment Funds (ESIF), all funding commitments under contract before the UK leaves the EU will be honoured by HM Treasury, even if those projects contracted to continue beyond the date of exit.

On trans-national funding (Horizon 2020, Interreg, Connecting Europe and so on) the Chancellor’s guarantee is more generous: UK partners’ participation any project *bid for* (even if no contract is yet signed) before the Brexit date will be underwritten.

These guarantees are now obsolete as they will either:

• Be rendered unnecessary if the EU withdrawal agreement is ratified (see the ‘negotiations’ box, below, for more on this);

• Be superseded, in the case of no deal, by a new set of guarantees issued in summer 2018 (see the ‘no-deal’ box, below, for more).

Article 50

Article 50 is the only legal way to leave the European Union. It is an article written into the EU Treaty without any expectation that it would be used, and so with considerable uncertainty about how exactly the process of departure will be managed.

It sets out the terms of departure and not the terms of a future relationship. The alternative to Article 50 for the UK would be to repeal the European Communities Act of 1972, this however poses legal challenges and would call into question the trustworthiness of the UK with other treaty obligations.

Up until the point of departure from the EU, UK organisations and companies are still able to trade and work with other EU member states and UK citizens are still able to move freely within the EU.

Government white paper

In February 2017, HM Government published a white paper setting out the 12 negotiating objectives for the UK in leaving the EU. The negotiating objectives are:

1. Certainty: Providing certainty to business and the public wherever possible on the negotiations, also confirms that Parliament will have a vote on the final deal.

2. Control of our own laws: this will end the jurisdiction of the European Court of Justice in the UK.

3. Strengthen the Union: this is an assurance that as powers are repatriated to Britain, appropriate powers are returned to Westminster and appropriate powers are passed to the devolved administrations.

4. Maintain the Common Travel Area with Ireland5. Control of immigration6. Rights for EU nationals residing in Britain at the point of Brexit, and British nationals in the EU

7. Protect workers' rights: as the body of European law is incorporated into domestic regulations, workers' rights are fully protected and maintained.

8. Free trade with European markets: to allow for the freest possible trade in goods and services between Britain and EU member states.

9. New trade agreements with other countries, but there is recognition of the need for a customs agreement with the EU.

10. The best place for science and innovation: to continue to collaborate with European partners on major science, research and technology initiatives.

11. Co-operation in the fight against crime and terrorism: the future relationship with the EU should include practical arrangements on matters of law enforcement and intelligence.

12. A smooth, orderly Brexit: to have reached an agreement about the future partnership by the time the two-year Article 50 process has concluded. From then onwards, there should be a phased process of implementation.

Importantly, the white paper accepts that there is likely to be the need for a transitional period to allow for a smooth exit and in recognition that the Article 50 negotiations are unlikely to resolve most of the questions around a future trade relationship between the UK and the EU.

The European Union (Notification of Withdrawal) Bill

On the 26th January 2017, Government published the European Union (Notification of Withdrawal) Bill, which following the ruling of the Supreme Court (see court cases section, below) gave the Prime Minister the power to notify the intention of the UK to withdraw from the EU.

The bill received royal assent without any amendments.

Article 50 notification letter

Following the passing of the Bill on the 29th March 2017, the Prime Minister issued a letter to Donald Tusk, President of the European Council, formally notifying the intention of the UK to leave the European Union and officially starting the two-year Article 50 departure process.

The letter set out some of the UK's key negotiating positions. It stated that the UK could not remain a member of the European Single Market as this would mean adhering to the four key freedoms of the EU, and in particular the free movement of people. It also confirmed that the UK would also leave Euratom, the European nuclear regulator.

The European Council Draft Negotiating Position

In response to the letter, Donald Tusk, the President of the European Council published the draft negotiating guidelines for the remaining 27 EU member states. The negotiations will follow the standard EU policy of "nothing being agreed until everything is agreed". This means that there won't be an early agreement on the status of EU citizens in the UK and UK citizens in the EU. The position is also clear that the negotiations will be phased – the departure settlement will have to be agreed before trade terms and agreements can be adopted. This suggests that there will need to be some kind of transitional period to cover EU/ UK trade between the point of departure and the agreement of any new trade terms, which are likely to take longer than two years, and in any event can't be concluded until the UK has left the EU and formally become a "third party". The UK will also not be able to conclude any trade deals with other countries until it has formally left the EU.

The draft guidelines are clear that the UK will not be able to agree sector by sector trade deals.

Politically, the draft guidelines make clear that it is the EU27 that will determine how the negotiations are conducted and what they will cover, not the UK. All 27 member states agreed the process, which was that the draft Guidelines would be adopted at a special Summit of the EU27 in April 2017. Following this the European Commission would produce a directive setting out what it wanted to achieve, which then had to be agreed in May 2017 so as to allow formal negotiations to start in June 2017.

UK and EU teams

Two new government departments, one for Exiting the European Union and one for International Trade have been established, which were initially headed by ministers David Davies and Liam Fox respectively. In July 2018, Dominic Raab replaced Davies. Following Raab's resignation in November 2018, Stephen Barclay MP took on the role for DEXEU. A reshuffle following Boris Johnson becoming Prime Minister in July 2019 saw Liz Truss MP become Secretary of State for International Trade. At the same time, Michael Gove MP became Chancellor of the Duchy of Lancaster with responsibility for domestic no deal coordination.

The new Department for Exiting the EU is responsible for:

• The policy work to support the UK's negotiations to leave the EU and to establish the future relationship between the EU and the UK;

• Working with the UK's devolved administrations, parliament, and a wide range of other interested parties on what the approach to those negotiations should be;

• Conducting the negotiations in support of the Prime Minister, including supporting bilateral discussions on EU exit with other European countries;

• Leading and coordinating cross-government work to seize the opportunities and ensure a smooth process of exit on the best possible terms.

• The new Department for International Trade reflects the trade and investment competences likely to be returned to the UK government post-Brexit.

The European Commission and European Parliament have appointed Michel Barnier and Guy Verhofstadt respectively as their Brexit leads. Both are well respected politically and have acknowledged diplomacy skills. This demonstrates that the 27 other European Member States are taking the departure of the UK very seriously.

UK general election

On 18th April 2017, the Prime Minister called a surprise snap General Election for 8th June 2017. The outcome of the General Election was that the Conservative Party secured the highest number of seats, but not a majority. Consequently, the Conservative Party agreed a Confidence and Supply deal with the Democratic Unionist Party of Northern Ireland, giving the Government a small majority.

Florence Speech

In October 2017, Prime Minister Theresa May made a speech in Florence proposing a transition period following Brexit date, of around two years. This would mean the UK remains fully aligned with the EU, will not be able to sign trade agreements during this time and will contribute and participate in EU programmes, the speech also indicted the scale of contribution the UK would make over this transition period.

This requires the agreement of the EU 27, and seems to be accepted as a realistic option.

European Union (Withdrawal) Bill

Following the June General Election, the European Union (Withdrawal) Bill was announced - this was previously described as the Great Repeal Act and is the proposed mechanism for repealing the European Communities Act 1972 which will formally end the UK relationship with the EU, while at the same time transposing the body of EU law into UK law.

The bill is controversial as it confers significant powers on ministers to change legislation through statutory instrument without recourse to parliamentary scrutiny, powers which are often referred to as Henry VIII powers. These powers extend to amending the bill itself, which has caused significant concern.

On 12th June, MPs voted by 324 votes to 298 to approve the EU Withdrawal Bill, following a previous push back from the House of Lords. Plans were published by central government in early June for a ‘temporary customs arrangement’ as an alternative backstop solution to a hard Irish Sea customs border.

The negotiations

Phase One – the departure agreement

The negotiations between the EU and UK started in June 2017.

In terms of EU residents within the UK, the joint agreement provides a level of reassurance for EU workers in the UK. For non-UK, EU citizens residing in the UK and UK citizens residing in the EU on a specified date, there will be reciprocal protection. These citizens will be able to continue to live, work or study as they currently do under the same conditions as under EU law.

• There will also be protection for spouses, registered partners, parents, grandparents, children and grandchildren.

• Even after the specified date, family members and partners will be entitled to join the rights holder under certain conditions.

• There will be a simple administrative process to confirm residents’ rights.

• Citizens will maintain their rights to healthcare, pensions and other social security benefits.

• There will be no Court of Justice of the European Union (CJEU) jurisdiction after specified date, but UK courts will pay 'due regard' to CJEU rulings.

• An independent national authority will be appointed to rule on citizens' rights issues.

• EU citizens after five years of residence will have to undertake a short application process to secure a new UK status (settled status) and a new UK residence document. Further details in the form a Q & A document can be found here.

The withdrawal white paper also includes a commitment to continue to champion devolution to local government, however to date the majority of the debate has focussed on devolved administrations.

The most challenging element of the joint agreement was regarding the relationship between the UK, in particular Northern Ireland and the Republic of Ireland. A resolution is not in place but the agreement states the UK remains committed to the avoidance of a hard border between Northern Ireland and the Republic, in effect pushing for more time to find a solution.

Finally, the agreement also allows for a "transition period" between March 2019 and December 2020, during which the UK would remain a member of the Single Market and Customs Union, meaning that:

• All new EU laws adopted during this period would have to be put into UK law

• The UK would still have to respect the "four freedoms", including freedom of movement

• The UK would not be able formally to negotiate any international trade deals.

The purpose of this period is to bridge the gap between the point of Brexit and the point at which the future UK-EU trade agreement is in place, thereby avoiding a cliff edge. Though the UK would retain all the obligations of EU member during this period, at would lose all its MEPs and its seat at the member states' negotiating table.

The negotiations
Phase two – toward a future trading relationship

Phase 2 – discussions about a potential UK-EU trading relationship between the UK and EU - has now begun. These are not trade talks as these cannot happen until the UK has left the EU and become a "third party" nation. Both sides are also openly accepting a 'transition period'' is likely to be needed to bridge the gap between the UK leaving the EU and a new trade agreement being put in place. This is likely to last until at least December 2020 and involve the UK continuing to incorporate new EU laws agreed during that period.

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Shared Prosperity Fund

Considerable work is underway across Government Departments on the post-Brexit successor funding to ESIF, known as the Shared Prosperity Fund. The Government's Cities and Local Growth Unit (CLoG) – a cross Government team have been tasked to work across departments to develop it. The timing and nature of how the UK leaves the EU means there is still considerable uncertainty, and that is impacting on when the formal consultation on UKSPF will begin, we do not yet know what the form of that consultation will take. In advance of this, MHCLG have held a series of early informal consultation meetings with officers from LEP areas, core cities and Combined Authorities.

CLoG see this fund as being "designed to reduce inequalities between communities", delivering "sustainable, inclusive growth", with the starting point being the purpose and process of the ESIF programme. This will be within the context of the national Industrial Strategy.

The timing to secure prompt agreement on the Shared Prosperity Fund is important in order to avoid the potential risk of gaps in provision or activity between current provision of EU funded activity and commissioning activity through the Shared Prosperity Fund. This is particularly critical for ESF replacement funding, but is likely to also be the case for ERDF revenue activity. We are currently being advised that the new Fund will be launched in 2021, again it will be critical to understand how quickly from launch projects can go live.

Through the consultation there is an opportunity to influence what the new Shared Prosperity Fund's scope and implementation could look like and members may wish to consider if there is value in UTG responding to the consultation when launched.

Next EU budget

In early June the EU published proposals for their 2021 to 2027 budget, which are reported to leave open the possibility of the UK's continued participation in the Horizon Europe EU-funded science and innovation scheme, the successor to the current Horizon 2020 programme. The proposals allow scope for the UK to pay to be involved in the programme as an 'associated third country', in a similar manner to Israel and Switzerland. It is anticipated the EU budget for the next period will be finalised in June 2020.

White Paper on Future Relationship with the EU

On 12 July 2018, government published a White Paper on the future relationship with the EU after Brexit, known as the "Chequers Plan". This contains proposals for an "association agreement" between the UK and EU, similar in nature to the EU-Ukraine and EU-Georgia agreements. The white paper covers goods, services, trade, foreign policy, research and innovation, agriculture, fisheries and many more areas. The White Paper represents the initial UK ask in the negotiations and it's likely to be watered down as talks progress.

The white paper proposes a new free trade area for goods (but not services) to ensure "frictionless access at the border to each other's markets for goods". This would mean there would be no tariffs or quotas placed on goods being traded between the EU and the UK. The UK government has also proposed a "common rulebook" for the EU and the UK on goods, and committed to signing a treaty that would ensure that, where necessary, UK goods meet EU standards to avoid the need for checks at borders.

Specifically on customs, the white paper proposes that a new Facilitated Customs Arrangement (FCA) be established between the EU and the UK as a third country. Under this FCA, the UK would adopt the EU's customs rules at the external border, which would "remove the need for customs processes between the UK and the EU". The proposal references a dual-tariff scheme, whereby firms would pay either the EU or the UK tariff at the border (the UK would collect the tariffs on behalf of the EU), depending on which market their goods were destined for. If it was unclear whether the goods were going to the UK market or the EU market, firms must pay the higher tariff but could possibly claim repayments from the UK government at a later stage.

The proposed freedom of movement for goods – but not services and people - may be rejected as "cherry picking" by the EU.

It should also be noted that the white paper is the UK's contribution to the discussion on the future framework, which will be a separate document that will be annexed to the withdrawal agreement. While the withdrawal agreement will have the legal force of an international treaty with rights and obligations on both the UK and EU, the future-framework annex will not have legal force and either side could decide to disregard it once Brexit has taken place in March 2019. The annex will provide a roadmap for future discussions, but it will be up to the UK government and EU to decide if and how they wish to implement anything agreed in the future framework.

The UK hopes that the new association agreement between the UK and EU can be negotiated and ratified before the end of the transition period in December 2020. If an agreement is not reached by the end of 2020, the UK will have to request an extension to the transition period or risk falling out of the EU rulebook in January 2021 with no agreement, the same risk the UK is trying to avoid in March 2019.

In September 2018, the Prime Minister met with EU Leaders at an EU Leaders Summit in Salzberg, where she presented the white paper. Although EU Leaders and negotiators welcomed progress on clarification on the UK position post-Brexit, the EU President Donald Tusk stated that the future trading options presented would represent a weakening of the four freedoms of the single market for a third country (which the UK will become) and as such "would not work". The UK Prime Minister committed to bringing forward more details on the key elements of the white paper in the following weeks.

The Withdrawal Agreement

The text of the WA covers:

Financial Settlement – The UK will honour all its financial commitments to the EU. Using conservative assumptions, the UK Treasury expects a net British outlay if €40bn to €45bn.

Citizen rights – The WA maintains the existing EU residence and social security rights of more than 3m EU citizens in the UK, and about 1m UK nationals living within the EU, however freedom of movement will end at the end of the transition period.

Transition – The WA provides for a transition period for the UK until the end of 2020, which can be extended for a one-off period, set by mutual consent. Any extension may come with additional financial costs to retain benefits of EU membership during the extension period.

Northern Ireland – a protocol in the treaty makes unique arrangements for NI, with the aim of upholding the peace process and avoiding a hard border dividing the island of Ireland. Most significantly the protocol lays out "backstop" arrangements for the border that ensure the free circulation of goods across the island, which would come into force at the end of the transition period if no solution to frictionless trade across the border was found.

UK-EU customs union – The backstop plan for NI is underpinned by a UK-EU customs union. This avoids the needs for customs checks across the Irish Sea. While NI will apply the full "union customs code", the UK would apply a more basic customs union model. This avoids the needs for tariffs, quotas and rules of origin in UK-EU trade.

Governance – The arrangements for overseeing the withdrawal treaty ensure that neither the EU nor the UK is bound by the other jurisdiction's courts when it comes to interpreting the agreement.

To come into force, the Withdrawal Agreement requires approval by, in sequence: the UK cabinet, and EU Leaders Summit, the House of Commons, and the European Parliament.

The UK cabinet backed a draft withdrawal agreement between the UK and the EU following a special cabinet meeting on November 14^{th}, 2018.

This was then followed by a special summit of EU leaders held on 25th November, to seek agreement to the UK withdrawal agreement. This agreement was given.

Within the UK, the withdrawal agreement (WA) and the future political declaration (PD) was subject to five days of debate within the House of Commons and a "meaningful vote" was to be held on 11th December to determine support or otherwise.

The meaningful vote was subsequently postponed until 15th January 2019. The Government lost this vote by 230, the largest ever defeat on a Government motion – with more than 100 Conservative MPs voting against it.

An amendment was supported in the House of Commons requesting the Prime Minister to renegotiate changes to the WA, seeking alternative arrangement for the Northern Ireland "backstop" guarantee.

The EU27 provided further clarification, including legal binding interpretation of the WA, and a unilateral statement by the UK Government in advance of a second meaningful vote on 12 March 2019. Despite the additional documents, the Government was again defeated, although by a lower margin of 149 votes.

This was followed over by two non-binding votes over subsequent days, which saw House of Commons majorities for no "no deal", and for the UK to request an extension of Article 50.

On 20th March, the Prime Minister wrote to Donald Tusk, requesting a short extension to the end of June 2019 to allow time for the WA to pass through the UK Parliament. The EU27 agreed a short extension of Article 40 to 12th April, 2019 to secure a majority vote in the House of Commons for the WA and PD. An extension beyond this date would require the UK to participate in EU elections.

On 29th March 2019, the Prime Minister brought just the WA to the House of Commons for a third "meaningful vote" – again, it did not secure a majority.

The Prime Minister subsequently attended the April EU Summit to request a further extension, accepting that the UK would need to participate in the EU elections on 22nd May 2019. EU Leaders agreed to a further extension until 31st October 2019 in order to secure House of Commons support for the WA and PD. The terms of the extension clearly stated that the WA was up to be renegotiated during the extension period. Additionally, it is not clear if this extension eats into an Implementation period should the WA be agreed – thus shortening the implementation period.

In early June, the Prime Minister Theresa May resigned and a Conservative Party election of a new Leader and as such, Prime Minister ended on 22nd July. Boris Johnson MP was the winner with roughly two thirds of Conservative Party members voting for him.

On 2nd October, Government submitted a proposal to the EU on a revised withdrawal agreement which would remove the Irish/UK Border "backstop". The proposals would create a regulatory border between Great Britain and Northern Ireland, and a customs border between Northern Ireland and the Republic of Ireland. This proposals would create some friction to trade and probably the requirement for some form of infrastructure.

The proposal would also require both the Northern Ireland executive and Assembly to agree to enter into the agreement at the end of the transition, if not then the default becomes no deal.

Negotiations continued and a revised Withdrawal Agreement (WA) and Political Declaration (PA)has agreed between the UK government and EU27 by the EU Summit of Leaders on 17/18th October 2019. These can be found here.

The Prime Minister Boris Johnson presented the revised WA and PD to the House of Commons on 19th October, an agreed amendment meant the House could not vote on the WA, and it could not be re-presented to the House unamended.

On 19th October and in accordance with the Benn Act, the Prime Minister then requested a further extension of the Article 50 period to 31st January 2020. This was agreed by the EU27, following a majority vote in the House of Commons for the second reading of the EU Withdrawal Bill which incorporated the revised WA and PD, although the three-day timeline for debate of the bill was subsequently rejected. The Government then stated it would pause legislation of the Bill.

The EU Withdrawal Bill presents the revised WA, which retains c90% of the earlier deal agreed by Prime Minister May. The change is in relation to the Northern Ireland Protocol, which removes the contentious "Backstop", to ensure that the UK is able to leave the EU at the end of the Transition Period at December 2020. It specifically states that Northern Ireland is part of the UK customs territory for international trade purposes, but that specific EU laws will apply in Northern Ireland: product regulation, VAT and excise tax, a single electricity market, and state aid.

On 30th October, the Government introduced the Early Parliamentary Election Bill which secured a majority in both Houses for a General Election on 12th December 2019.

Following the General Election, the Conservative Party secured a comfortable 80 seat majority, and has committed to bringing the EU Withdrawal Agreement back to House of Commons before the Christmas recess. This will mean the UK will leave the EU at the end of January 2020, and enter into the "transition" period until the end of 2020, where the UK will mirror EU rules and regulations.

The Prime Minister has stated a free trade agreement will be in place with the EU by the point the transition period ends.

The Political Declaration

Alongside the binding Withdrawal Agreement, in 2018 the UK Government and EU Leaders have agreed a non-binding political declaration setting out the framework for the future relationship between the EU and the UK. A good summary of this can be found here.

This covers a number of areas including the agreed basis for cooperation based upon shared values including respect for human rights and fundamental freedoms, democratic principles and rule of law.

The declaration states a range of ambitions, including to:

- create “a free trade area combining deep regulatory alignment and customs cooperation, underpinned by provisions ensuring a level playing field for open and fair competition” across all goods sectors.
- Ensure equivalence for services and investment well beyond WTO commitments.
- Commencement of equivalence assessments by UK and EU as soon as possible after UK withdrawal for financial services
- On mobility, new arrangements mobility based on non-discrimination between EU Member States and reciprocity, including visa free travel for short-term visits.
- On transport, the political declaration sets out ambitions to create:
    - A comprehensive Air Transport Agreement, covering market access and investment, aviation safety and security, air traffic management and provisions to ensure open and fair competition
    - Comparable market access for freight and passenger road transport operators, underpinned by relevant existing international obligations to ensure open and fair competition, with consideration of complementary arrangements to address travel by private motorists
    - Acknowledgement of the intention of the UK and relevant EU member states, in line with Union law, to make bilateral arrangements for cross-border rail services
    - Connectivity in the maritime transport sector, underpinned by the applicable international legal framework, with appropriate arrangements for cooperation on maritime safety and security.
- In terms of global cooperation, the PD states an intention to cooperate in international fora, such as areas of climate change, sustainable development, cross-border pollution, trade protectionism and financial stability.
- Importantly, the PD covers the aim that competition must be open and fair. Provisions to ensure this should cover state aid, competition, social and employment standards, environmental standards, climate change and relevant tax matters, building on the level playing field arrangements provided for in the WA.
- The EU27 leaders have indicated that they are prepared to negotiate further on the non-binding PD, however the focus within the UK Parliament has been on securing the WA.

A revised PD was agreed between the new Prime Minister Boris Johnson, the UK Government and EU27 at the EU Summit of Leaders on 17/18th October 2019. Although this is not legally binding, it sets the direction of travel for trade negotiations between the UK and EU during the transition period.

HM Government Impact Analysis

On 29th November 2018, at the instruction of parliament, HM Government released BREXIT impact analyses. These consider multiple Brexit scenarios using current membership of the EU as the baseline, and consider long term economic impact. The analysis provides a breakdown of impact by region. These are based on sophisticated scenario modelling and assumptions.

Table 1

Compared to today's arrangements (per cent change)	**Modelled no deal**	**Modelled average FTA**	**Modelled EEA-type**	**Modelled White Paper**	**Modelled White Paper with NTB sensitivity: 50 per cent***209*
North East	-10.5 (-13.1 to -8.1)	-6.5 (-9.2 to -3.8)	-1.5 (-2.9 to -0.8)	-0.4 (-1.1 to +0.1)	-2.1
North West	-9.4 (-11.7 to -7.2)	-5.8 (-8.3 to -3.4)	-1.4 (-2.6 to -0.7)	-0.5 (-1.3 to +0.1)	-2.2
Yorkshire and the Humber	-8.5 (-10.4 to -6.6)	-5.4 (-7.3 to -3.3)	-1.3 (-2.6 to -0.7)	-0.3 (-1.2 to +0.2)	-2.1
East Midlands	-8.5 (-10.2 to -6.7)	-5.1 (-6.9 to -3.2)	-1.4 (-2.8 to -0.8)	-0.4 (-1.2 to +0.1)	-1.9
West Midlands	-9.6 (-11.7 to -7.5)	-5.7 (-7.8 to -3.4)	-1.5 (-3.0 to -0.8)	-0.4 (-1.2 to +0.1)	-2.0
East of England	-8.4 (-10.2 to -6.6)	-5.3 (-7.3 to -3.3)	-1.3 (-2.5 to -0.6)	-0.4 (-1.3 to +0.2)	-2.0
London	-6.0 (-8.5 to -3.0)	-4.0 (-6.5 to -1.5)	-0.9 (-2.1 to -0.1)	-1.0 (-2.9 to +0.1)	-2.5
South East	-7.8 (-9.6 to -6.0)	-5.0 (-7.2 to -3.0)	-1.2 (-2.3 to -0.6)	-0.7 (-1.8 to +0.1)	-2.1
South West	-7.6 (-9.3 to -6.1)	-4.7 (-6.5 to -2.9)	-1.4 (-2.6 to -0.7)	-0.4 (-1.2 to +0.1)	-1.9
Wales	-8.1 (-9.8 to -6.4)	-4.9 (-6.8 to -3.0)	-1.2 (-2.5 to -0.5)	-0.1 (-0.9 to +0.5)	-1.8
Scotland	-8.0 (-9.8 to -6.2)	-4.8 (-6.9 to -2.8)	-1.0 (-2.4 to +0.1)	0.0 (-1.1 to +1.0)	-2.0
UK	-7.6% (-9.0 to -6.3)	-4.9% (-6.4 to -3.4)	-1.4% (-2.3 to -0.9)	-0.7% (-1.4 to -0.2)	-2.2%

These have not yet been updated to reflect the October 2019 revised WA and PD and direction of travel on the new trading relationship between the UK and EU post 2020.

Planning for 'no deal'

On 24th August and 13th September 2018, the Government published a total of 52 technical notices setting out information on how different areas of UK business and law would be affected by a 'no deal' scenario, allowing businesses and citizens to make informed plans and preparations. A further 24 were added later in September. While the government maintains that a no deal scenario is unlikely, these notices address areas of immediate concern were the UK to leave the EU with no agreed formal relationship.

The notices address a range of topics including the future of certain EU funding streams, medicines labelling and regulation, nuclear regulation, importing and exporting, tobacco and food labelling, humanitarian and state aid, and studying in the EU.

On 24th September 2018, the Department of Transport issued 10 technical notices (with a further 3 recently added) that can be found here.

On funding, the August notices include:

• One stating that, if there is no deal, Government will underwrite UK bidders' participation in, for instance, new bids under Horizon 2020 till the fund ends.

• Another extending the Chancellor's guarantee on the 2014-2020 ESIF programme whereby even with no deal, LEP areas will be able to commit their full ESIF allocations through to 2021.

Following the Conservative Party Leadership election, Boris Johnson was elected Prime Minister on 23rd July 2019 on a commitment to leave the EU on 31st October with or without a deal. No deal preparations were ramped up. The Government released their "reasonable worst case no deal scenario", known as Yellowhammer in response to pressure by Parliament in early September here and in early October released revised temporary UK tariff regime in the event on no deal on 31st October here.

Following Parliamentary concern that the Government were heading towards no deal at the end of October, Parliament passed the EU Withdrawal (no.2) Act – better known as the Benn Act into law on 9th September 2019.

The Act requires the Prime Minister to seek an extension of Article 50 by 18th October if a withdrawal agreement with the EU is not agreed, or if a withdrawal agreement with the EU is agreed but does not achieve a majority in a “meaningful” vote in the House of Commons. The primary purpose of the Benn Act is to stop the UK leaving the EU without a deal on 31st October 2019.

The risk of imminent “no deal” has now reduced following the significant majority secured by the Conservative Party at the General Election of 12th December 2019.

Impact of Brexit

The UK has seen slowing economic growth with quarter on quarter GDP growth down and stalling business growth, reflecting the high degree of uncertainty relating to BREXIT. Despite continued falling employment, national surveys indicate increasing pessimism on household financial wellbeing perceptions of job security.

There have been a number of announcements of future large scale manufacturing closures particularly in the automotive sector, with statements linking these closures or scaling back of production to the impact of Brexit.

Net migration from the EU into the UK continues to fall, with net migration for the year ending June 2019 at 57,000 – the lowest recorded since 2009. Although likely to be BREXIT related, is will also reflect the fall in value of the £.

The monthly Purchasing Managers Index (PMI) the regular measure of sectoral performance has shown no or negative growth across manufacturing, services and construction for the last few quarters. This has been matched in the falling volume of retail sales. However, following the General Election and a significant majority for the Conservative Party, £ Sterling has rallied and there is now greater certainty about when the UK will leave the EU, which may be reflected in an increase in business confidence going into 2020.

Part two: risk register

The intention here is to develop a Brexit risk register that UTG members may use to inform their own organisation's approach to assessing the impact of Brexit. This is an evolving document and is currently based on:

- Discussions with and presentations from members in three Brexit-focused meetings of the UTG European Group, in December 2016, October 2017 and May 2018
- Results of a Brexit survey of UTG members from September 2017
- Research on and contact with other transport and local government actors regarding their responses to Brexit.

Basic menu of issues

The broad issues identified are as follows:

- Staffing and immigration
  - Some significant transport sectors (such as rail, the bus sector and road haulage) and some parts of the country (i.e. South East England) rely heavily on non-UK nationals to keep services running.
  - There is an issue of retention and morale of current EU staff.
  - There is a future issue of recruitment of new staff to meet our skills needs.
  - There has also been a reported rise in incidents of racism and hate crime on public transport, some of which has targeted staff.
- Current economic fluctuations due to uncertainty during the Brexit negotiations
  - Rolling stock and vehicle procurement is impacted (i.e. the rising cost of procurement due to the falling Pound).
  - Authorities have seen their credit rating downgraded.
- Any economic slowdown could result in:
  - A negative impact on growth and business investment
  - Less tax take and less public spending and investment
  - A reduction in commercial, passenger and advertising revenue.

- New international trade arrangements
  - Any refocus on international trade could lead to more pressure on certain air and sea ports and the links to them.
  - New international trade deals could lead to greater focus on sectors at which the UK excels and the world wants to buy – including where it is located and what its transport needs are.
  - Conversely, our leaving a major trading bloc could diminish our ability to secure trade deals internationally and our influence on the international policy stage.

- Geographic inequalities highlighted by the Brexit vote
  - o There could be a greater focus of domestic policy and funding on addressing those areas that feel left behind and had a higher tendency to vote for Brexit.
  - o Conversely, these areas may find it hardest to compete in a potentially tougher international trading environment.
- Leaving the Customs Union could complicate customs arrangements, giving issues around maintaining fluidity of cross-border rail movements, traffic in ports, and related supply chains and hinterland transport.
- Partnership with other EU actors
  - o It is reported there is less willingness by EU members to partner UK organisations on international research and academic projects.
  - o Any loss of cooperation with European partners (including funded cooperation) could lead to a loss of innovation in UK transport authorities
- Various impacts on legislation as it affects the transport sector – see separate section below
- Various impacts on funding available to UTG members and their wider regions – see separate section below.

Legislation

The EU currently initiates legislation affecting the transport sector in the following areas:

- Market access and public-service contracts for various modes
- Passenger rights for various modes
- Staff and driver working time
- Greening vehicles and reducing air pollution
- ITS
- Public procurement
- Tolling and tolling technology
- The Trans-European Transport Network and other investment frameworks

While we are still EU members and during any transition period, any new EU laws in these fields will still have to be put in UK law, so we still need to engage on influencing proposed new legislation in areas such as disability access to transport infrastructure, rail passenger rights, bus market opening and clean vehicle procurement, in case they end up applying to us.

After any transition period, the position is unclear. To what extent we will have to incorporate or 'mirror' new EU transport legislation will depend on the future EU-UK trade agreement and be proportionate to our access to the European market.

Vigilance will be required also on any policy areas that are repatriated to the UK, to make sure a process is established for involving local government and the transport sector in any new law-making and that localism and devolution are respected. This represents an opportunity as well as a danger: for instance, there is potential for public procurement rules to be greatly simplified if repatriated.

Funding

The EU currently delegates around EUR 11 bn of Structural and Investment Funds to the UK over the period 2014-2020, and this is for investing in development of the UK's regions. These funds have the virtues of being long-term and stable and having a focus on areas that are lagging behind economically. These funds will cease to apply in the UK after 2020. Government has promised to replace them with a new Shared Prosperity Fund, which will be of equal size to the current funding and run over a similarly long period. The SPF potentially represents a major opportunity for UTG member regions as it could retain a lot of the virtues of the current funding while offering new ones, such as more flexibility and a greater dovetailing with other existing UK funds. It is, however, unclear how the money will be distributed between regions and there could be a varying picture across the UTG members in terms of who are the winners and losers.

UTG members also currently bid into EU-wide competitions for 'trans-national' funds that support the transport sectors, such as Horizon 2020, Interreg and the Connecting Europe Facility (TEN-T fund). The current funds run till the end of 2020; and while it looks as though UK partners can now bid for all remaining rounds, there is still some legal uncertainty around this. In the longer term, the UK has said it would like to buy into some of the next generation of trans-national funds, in particular the successor to Horizon 2020. Other non-EU countries already do this. So, members will need to know which funds the UK buys into and understand and bid into them as appropriate. It may nevertheless be that that this new funding landscape leaves UTG members with fewer opportunities to cooperate with European partners on funded projects, potentially leading to a loss of innovation.

Finally, if the UK ceases to be a shareholder in the EIB, this lending source will no longer be available to UTG members, some of whom have relied upon it.

A phased approach

The above issues can be broken down as follows:

- Short-term: those already arising from the Brexit vote and uncertainties during the negotiating period, such as
  - Retention and recruitment of non-UK staff
  - Exchange-rate fluctuations and credit-rating downgrades, affecting procurement and investment decisions
  - Some uncertainty around how long we can still access EU funds
- Medium-term: those arising during any transition period, such as
  - Staffing issues as above but complicated by not knowing when the cut-off date for 'free movement' will be

- Establishing which new EU laws affecting transport are likely to be adopted during this period and therefore apply to the UK

- Long-term: issues and opportunities arising after the transition period, such as
    - Meeting skills needs under a revised migration system
    - Funding: getting the new Shared Prosperity Fund right; engaging with any EU trans-national funds the UK decides ‘to buy into’
    - All the identified issues around a changed trading relationship with the EU and internationally
    - All the issues around leaving the Customs Union
    - Understanding the extent to which we still have to apply or at least mirror new EU laws
    - Making sure new domestic laws (repatriated areas of legislation) work for our regions and the transport sector.