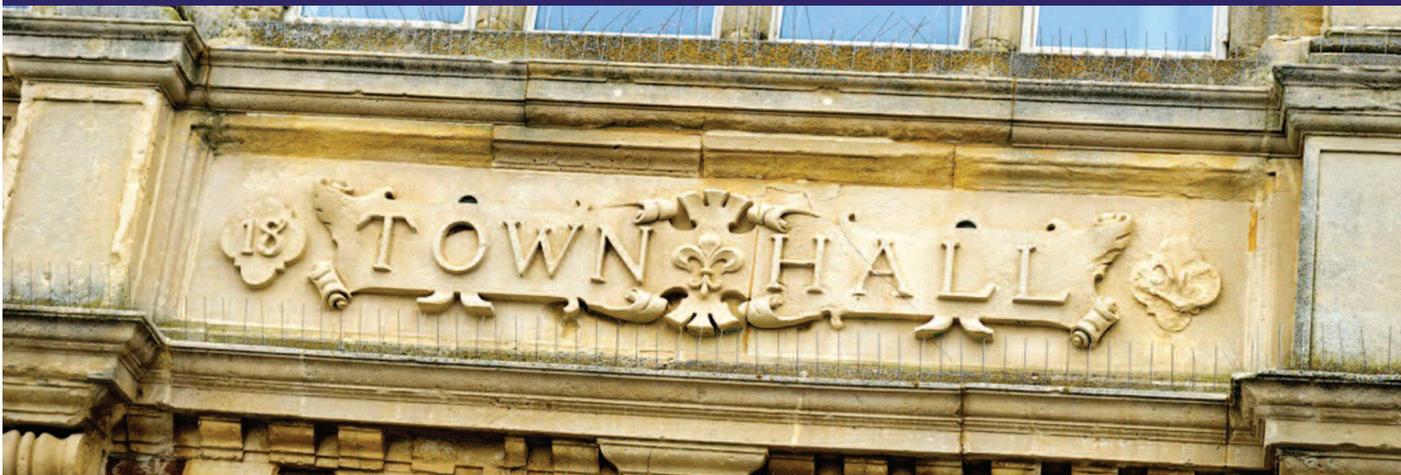




## Always the Bridesmaid: Local Government and Brexit



During the European Union referendum campaign, very little comment or analysis was conducted on the possible impact of an exit on Local Government in Britain. This was surprising for a number of reasons but most notably because most EU directives are implemented through local government. Brussels is responsible for approximately 70% of the legislation affecting local councils.

Such is the importance of the EU to local governance that the Mayor of London has representation in Brussels via the 'London European Office', which seeks to influence EU policy and identify opportunities for the capital. Local authorities including Birmingham, Bristol and Cornwall also have offices in Brussels. Cornwall county council has notably vowed to retain its office in Brussels after Britain formally leaves the European Union, despite Cornish residents voting decisively to leave the EU. Cornwall, like many local authorities, has benefitted financially from the EU through structural funds and grants. The European Regional Development Fund and the European Social Fund have made significant financial contributions to local authority initiatives. These projects include the cable car over the River Thames and the 'Inspire' project for adolescents who are neither in employment or education.

The financial impact of Britain's departure from the EU on local government remains to be seen. That said, a number of local authorities who hold credit ratings saw them downgraded shortly after the referendum result. Although EU membership is not a prerequisite when applying to the European Investment Bank for funding, non-EU applicants are subject to a more stringent process.

### Status Quo v Nuclear Option

Britain's decision to leave the EU has implications for the framework upon which local authorities provide services, most notably on public procurement, state aid and waste management. Post-Brexit public procurement and state aid rules are linked to the wider question of whether Britain will remain in the Single Market. Britain may need to observe EU rules relating to public procurement to retain access to EU markets for British companies. The current EU rules surrounding public procurement are enforced through British law. The EU Energy Efficiency Directive is transposed into British law through secondary legislation. Under the rules, councils are required to ensure that buildings, products and services are energy efficient and contribute to

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helping the EU reach its targets in this area by 2020. A number of councils have voiced their concerns at the added bureaucracy and cost to procurement of complying with the Directive. If Britain decides to withdraw completely from the Single Market and rely on World Trade Organisation (WTO) membership, this option would still require basic commitments on public procurement. The WTO also requires all members to make provision for a state aid system. Failure to do so may result in trade sanctions. If Britain joins the European Free Trade Association (EFTA), it will still need to observe EU rules on state aid.

Rules on recycling and waste management to requirements for environmental impact assessments for certain planning applications derive from EU Directives. The main rules covering waste management and recycling targets are from the Waste Framework Directive. EU rules regarding waste management have largely been transposed into domestic legislation. Therefore, local authority obligations in this area are unlikely to change dramatically once Britain formally leaves the EU. If Britain decides against membership of the European Economic Area, the government may choose to amend or repeal certain rules surrounding recycling targets for example, in an attempt to reduce the regulatory burden on local authorities. The EU Landfill Directive in particular, has resulted in local authorities being fined for missing reduction targets. These penalties are inevitably passed onto residents through the council tax. Compliance with waste management rules is aimed at environ-

mental gains as opposed to the notable costs for councils. As local authorities are under significant financial strain, waste management services could be vulnerable to changes in the form of less frequent collection and treatment in some local authorities.

### The Challenge Ahead

Britain has not independently negotiated a bilateral trade deal since joining the EU in 1973. As central government begins the process of renegotiating the 53 existing trade deals to replace EU bilateral trade deals, alongside negotiating new deals with leading economies such as China and the US, there is a risk that the concerns of local government could be overlooked.

It is for this reason that the leaders of the Local Government Associations in Britain recently agreed upon three principles that they believe should be the foundation of any post-Brexit constitutional settlement. These are: the principle of subsidiarity - to make sure greater powers are devolved to local government because it is the level of government closest to citizens; the legal authority of local government should be guaranteed and strengthened through a defined charter of responsibilities; and local government should be given greater fiscal autonomy resulting in fewer legislative constraints.

Although the former secretary of state for communities and local government stated that he was able to successfully argue for local government to form part of the negotiations on Britain's departure from the EU, it remains to be seen whether this will take place. The sheer scale of the task ahead could result in local government being neglected, despite the governments' best efforts.

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