

**BUCKINGHAMSHIRE COUNTY COUNCIL AND
SURREY COUNTY COUNCIL**

TRADING STANDARDS JOINT COMMITTEE

DATE: 10 OCTOBER 2018

LEAD OFFICER: DAVID PICKERING, REGULATION MANAGER

**SUBJECT: POTENTIAL IMPACT ON TRADING STANDARDS WORK OF
THE UK LEAVING THE EU**

SUMMARY OF ISSUE:

The potential position of the UK after leaving the EU is still unclear. Most of the legislation dealt with by Trading Standards is based on EU law. Despite the commitment to simply transfer this into UK law there are many references and links to EU bodies and it has not been clarified which bodies in the UK will take over these roles. For instance the EU wide product safety alert (RAPEX) system will potentially be no longer available to the UK but it is not clear what steps will be taken to deal with the issue.

This brief report summarises the issues and challenges facing Trading Standards as the key local government regulator charged with enforcing consumer protection legislation post Brexit. The report is based on the outcomes of the work of the Chartered Trading Standards Institute (CTSI) Brexit Thinktank.

RECOMMENDATIONS:

It is recommended that:

The Committee note the potential impact on the work of Trading Standards raised by the UK leaving the EU and the contents of the CTSI Brexit policy document.

REASON FOR RECOMMENDATIONS:

The Service is assessing the potential impact on priorities and resource allocation as the post EU UK situation becomes clearer especially if no new funding from central government is allocated. The views of the Committee on this issue at this stage would be helpful



DETAILS:

1. Despite apparent progress towards establishing how the UK will leave the EU and the possible future relationship, there remains much uncertainty and it is difficult to foresee how, given the scale and complexity of the situation, this will be resolved before March 2019.
2. Given this it is our view that in the joint service over the coming months and possibly years will need to deal with, amongst other things:
 - Increased demand from businesses for advice on uncertainties caused by Brexit
 - Increased pressure on ports work
 - Government departments seeking advice about how regulatory systems will work in practice and what legislation will need amending
 - Less centralised support in managing cross-border issues
3. The Government strategy so far to cope with the work leading up to the UK leaving the EU and shaping the Post Brexit regulatory framework seems to be to centralise rather than support existing frameworks in the regulatory landscape. eg the Food Standards Agency has set up the National Food Crime Unit on the face of it duplicating existing local arrangements. There seems to be little recognition in terms of financial support that Local Authorities are ideally placed to support consumers and businesses.
4. BEIS (The Department for Business, Energy and Industrial Strategy) has been working towards clarification of the application of product safety standards post Brexit and has commissioned the development of a stand-alone product safety database. This is unlikely to be resolved prior to March 2019.
5. The LGA has stated that “As EU law is incorporated into the domestic statute, local government has a central role to play in deciding which should be kept, amended or scrapped” but there has been no new funding forthcoming for this role.
6. The Chartered Trading Standards Institute (CTSI) has produced a policy paper outlining the issues raised in the various areas of work carried out by Trading Standards services. The service was represented on the working group creating the policy paper by David Pickering, one of our Trading Standards Managers. David’s area of national expertise relates to Food legislation.
7. A copy of the CTSI report is available via the link highlighted below as Annex 3 and a hard copy will be available on request and at the Joint Committee meeting.
8. The paper focuses on a wide range of different consumer protection areas including:
 - Fair Trading
 - e-Commerce
 - Product Safety
 - Animal Health and Agriculture
 - Food Standards

- Intellectual Property
 - Travel
 - Cross Border Access to Justice, and
 - Weights and Measures / Legal Metrology
9. The paper identifies the threats and opportunities in each area and summarises the key findings.
 10. Some cross cutting themes emerge. Withdrawal will have an all-pervading effect on the work of Trading Standards, both as regulators and consumer protection specialists, since it has become so heavily intertwined in the single market and harmonised rules. Much depends on the nature of the final deal and how much harmonisation continues post Brexit.
 11. Post Brexit we will need a new regulatory environment that meets the needs of modern businesses and consumers. The system urgently needs reform and investment. Significant investment is already beginning to be seen in central government departments but not in front line local authority regulators tasked with making the system work. Some examples of that necessary investment in central government departments are summarised below:
 - DEFRA has seen the largest increase in its spending, with almost £100m approved by the Treasury for its EU exit work in 2017/18. Staff numbers have gone up by 65% since June 2016.
 - HMRC, which will play a critical role in preparing the border for Brexit, expects to need up to £450m for 2018/19 alone.
 - The Home Office is using around 50% more agency staff per month now than it was before the referendum. If this continues, the department will spend almost £40 million more on agency staff in 2017/18 than it did in the year leading up to the referendum.

CONSULTATION:

12. The Service had a representative on the CTSI group that produced the Brexit policy paper and a representative on the Department of Business, Energy and Industrial Strategy (BEIS) Primary Authority Users Group which discusses issues relating to business although no Brexit consultation has yet taken place

RISK MANAGEMENT AND IMPLICATIONS:

13. If the service does not stay abreast of developments and takes appropriate actions it may be faced with a lack of capacity to deal with the issues raised by businesses and consumers
14. Primary Authority is a significant income stream for the service. Whilst the changes to the regulatory structure may generate increased requests for support from smaller enterprises, it has been noted that some businesses have already established or moved to European bases in preparation for

Brexit. There is a risk that the final exit agreement may affect the perception of benefit from Primary Authority causing a decrease in engagement from larger businesses

Financial and Value for Money Implications

15. The service faces significant challenges in monitoring, adjusting and resourcing demand in the future, particularly any potential increase in demand from businesses.

Legal Implications

16. Significant uncertainty remains concerning the practical impacts of Brexit on UK legislation. As highlighted in the report, in the event of “no deal Brexit” while existing EU rules and regulations will be transposed into UK law at the point of exit, central government will need to put in place alternative regulatory/supervisory arrangements in a number of key areas. Trading Standards authorities will be required to continue discharging their statutory functions in any event.

Equalities and Diversity

17. There are no implications from the Plan

WHAT HAPPENS NEXT:

- The service will continue to discharge its statutory functions as the practical implications of Brexit on regulation and consumer protection become clearer.

Contact Officer:

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Consulted:

Annexes:

Links to background information

Annex 1 <https://www.nao.org.uk/report/exiting-the-eu-consumer-protection-competition-and-state-aid/>

Annex 2 <https://www.instituteforgovernment.org.uk/news/latest/new-report-reveals-cost-brexit>

Annex 3 <http://www.journaloftradingstandards.co.uk/ctsi-brexit-think-tank-summary-booklet/>