

European Transition

PURPOSE

1. To provide an update to the Partnership Council on developments pertaining to Brexit.

BACKGROUND

2. **Securing Wales's Future:** Through our White Paper and subsequent policy papers we have published evidence, analysis and detailed proposals for a Brexit that would protect jobs and the Welsh economy.
3. Our priorities for Brexit include: full and unfettered access to the Single Market – the fullest possible participation consistent with no longer being a member-state - and participation in a Customs Union; fair movement of people – retaining the principle of free movement of labour and linking it with much more rigorous enforcement of measures to prevent the exploitation of workers; ensuring that Wales is compensated for the loss of needs-based EU Structural and CAP funding; constitutional change to ensure that the constituent parts of the UK can work together effectively once EU legal frameworks cease to apply; retaining the social, environmental, employment and consumer protections we enjoy and continuing to participate in EU programmes open to non Member-States; and a transition period to prevent a ‘cliff-edge’ in March 2019.
4. Our vision for a fundamentally different constitutional relationship between the devolved governments and the UK Government was outlined in **Brexit and Devolution**. In **Brexit and Fair Movement of People** we set out proposals for a new migration system that links migration more closely to employment. In **Regional Investment after Brexit** we set out our call for regional funding and decisions to remain with the Welsh Government post-Brexit and for Wales not to lose a penny of funding, and initiated a consultation on how best to deploy investment in the regions of Wales. Through our paper **Trade Policy: the issues for Wales** we set out proposals for trade with the EU post-Brexit and made the case for the UK retaining full access to the European Single Market and membership of a customs union. In our live consultation document **Brexit and Our Land**, we set out a new Land Management Programme to support Welsh farmers post-Brexit, replacing the Common Agricultural Policy (CAP). Finally, **Reforming UK funding and fiscal arrangements after Brexit** calls for a radical change to the way the nations

of the UK funded. It sets out proposals to design a new funding system to guarantee fair and continuing investment for Wales and the rest of the UK.

5. **Legislation:** Brexit creates a major legislative challenge for the Welsh Government as we look to replace 40 years of EU laws, both through joint action with Whitehall and through our own legislative programme. On 13 July 2017, the UK Government published the European Union (Withdrawal) Bill (formerly known as the Great Repeal Bill), to convert EU law into domestic law at the point of EU exit. The Welsh Government made it clear the Bill as drafted was unacceptable, while recognising that there were some limited areas where there was a need to agree common UK wide rules to replace the current EU wide rules. The Bill was developed without any proper consultation with the Welsh Government and the provisions were unacceptable. As originally drafted, it placed significant new constraints on the Assembly's ability to legislate effectively after Brexit on matters which are currently dealt with in Brussels; existing EU law was to be frozen, and only the UK Parliament would have had the power to unfreeze it. Welsh Ministers were clear they would strenuously oppose the Bill. After months of intense talks, it was announced on 24 April this year that the Welsh Government had secured significant changes to the Bill that protect devolution. Welsh Ministers came to an agreement with the UK Government on their proposed Bill with areas already devolved remaining devolved, and a formal Intergovernmental Agreement which includes commitments from the UK Government to develop legislation collaboratively. The European Union (Withdrawal) Act 2018, received Royal Assent on 26 June.
6. While talks were ongoing with the UK Government regarding their European Union (Withdrawal) Bill, we outlined plans to introduce an Emergency Bill to protect devolution. Plans for the Continuity Bill – formally known as the Law Derived from the European Union (Wales) Bill – were announced on 27 February 2018. On 21 March Assembly Members voted by a large majority to back the Continuity Bill. Following the withdrawal of the Supreme Court reference, the Bill received Royal Assent on 6 June 2018 (thus becoming an Act). In line with the Intergovernmental Agreement, steps have been taken to initiate repeal of the Act, with a possible conclusion in the autumn.
7. The Withdrawal Agreement Bill is due to be introduced in Parliament if and when the UK Government and the EU27 agree on the text of the Withdrawal Agreement and after a 'meaningful vote' in the House of Commons to approve the agreement. The Bill would have to come into effect by 29 March 2019. This represents a significant challenge for the parliamentary timetable. Barriers to information flows have presented a challenge, especially with regards to policy and drafting decisions and consulting with stakeholders.
8. **UK Common Frameworks:** As the UK leaves the EU, there will be a wide range of powers currently operating under EU law that will require new cross-UK joint decision making. This will require significant strengthening of the UK's intergovernmental systems. Work is underway now with the four administrations working to define the legislative and non-legislative arrangements needed, and is expected to progress over the next two years.

9. **Negotiations:** On 6 July the UK Government announced it had “reached an agreement” on its position on the UK's future relationship with the EU after Brexit. On 12 July the UK Government published their White Paper *‘The future relationship between the United Kingdom and the European Union’*. The White Paper is a significant change of direction which moves away from their red lines towards the negotiating position we set out in January of last year. The approach provides a basis on which more serious negotiations can start.
10. We continue to emphasise the need for more meaningful engagement with the UK Government in the development of policy and negotiating positions vis-à-vis the EU. This is particularly the case on aspects of Brexit which impact on devolved competences. We continue to argue that the approach to the negotiations on the future relationship should be guided by the way in which the UK Government have involved the Devolved Administrations in the conduct of ongoing EU business in the past. There are some areas where we would expect to play a very active role in forming the UK position and in the negotiations – these would certainly include agriculture, food, fisheries, economic development, and the environment - but might also include a wider range of other areas.
11. Discussions about UK positions in the negotiations on the future relationship with the EU take place in a new body, the Ministerial Forum which reports into the JMC(EN). The Minister for Housing and Regeneration is the lead Welsh Government Minister for the Forum.
12. **Preparedness:** With the clock ticking, there is still great uncertainty from the UK Government about what they want from Brexit and the details of how they intend to implement it. This is obviously leading to increased speculation that the UK may leave the EU without securing a deal. Such an outcome would be a catastrophic political failure, which poses very significant threats to the prosperity and well-being of the people of Wales and, indeed the whole of the UK. Despite strong conviction that a deal must be struck, we have a responsibility to prepare for EU exit without a deal, just as we would prepare for any disaster which is not in our power to prevent. The reality, however, is that Wales cannot prepare for Brexit in isolation. Our ability to plan is constrained by what the UK Government shares with us. We need to know their detailed plans for a range of issues, such as possible new border checks at ports. We have repeatedly and strenuously raised the need for the UK Government to properly share information on operational readiness.
13. On 23 August this year, the UK Government published the first batch of **“Technical Notices”** which include advice for businesses, citizens and public bodies on what to do if the UK leaves the EU without agreement (thus, a “no deal” Brexit). Where notices relate to matters which are the responsibility of the Welsh Government, we will, where necessary, be providing our stakeholders with additional information. We have welcomed the UK Government’s increase in engagement with the Devolved Administrations on the development of these notices and wider contingency planning around a

“no deal”; but there is still much, much further that the UK could go to work with us as a partner in government.

14. We announced our £50 million **EU Transition Fund** earlier this year. The Fund was established to help business, public services and other partner organisations in Wales plan for and prepare for the impacts of Brexit. This new fund is part of our Brexit plans to directly help businesses and public services for the significant changes ahead. We are seeking novel ways to support partner organisations through Brexit, and considering what advice, guidance and financial support we can provide to help them deal with this change.
15. **Governance:** A Cabinet Sub-Committee on European Transition provides strategic direction and ensures key policy decisions are taken to secure the best outcome for the people of Wales as the UK leaves the EU. A cross-departmental Welsh Government European Transition Officials Group supports the Cabinet Sub-Committee on European Transition.
16. The external European Advisory Group advises the Welsh Government on the implications for Wales of the UK's exit from the EU. We also engage and involve the Council for Economic Development Brexit sub-group, Workforce Partnership Council, Environment and Rural Affairs Brexit Roundtable Stakeholder Group, Health and Care stakeholders, Welsh NHS Confederation, Social Care Wales, Public Health Wales, Higher Education Brexit Working Group, and the Third Sector Partnership Council.
17. Inter-governmental forums include Joint Ministerial Committee on EU Negotiations (JMC(EN)), Ministerial Forum on EU Negotiations (MF(EN)), official level technical working groups on UK negotiating positions, feeding into the MF(EN), Joint Ministerial Committee on Europe (JMC(E)), and official level discussions on common UK Frameworks (commonly known as “deep dives”) to name but a few.

DISCUSSION

18. Members of the Partnership Council are invited to consider the impact of Brexit on Wales' business, public services and third sector and contribute to ongoing consideration of legislation, negotiations and in particular operational readiness as Wales and the UK withdraw from the EU.

ACTION

19. Members of the Partnership Council are invited to note the update on developments on Brexit related matters outlined in the paper

European Transition Team

Welsh Government

4 September 2018