

REPORT TO: Audit and Governance Committee

MEETING DATE: 18 June 2018

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Withdrawal from the European Union (Audit Scotland, October 2018)

1 PURPOSE

- 1.1 To review East Lothian Council's position in relation to the findings of the Audit Scotland report, *'Withdrawal from the European Union: Key audit issues for the Scottish public sector'*.

2 RECOMMENDATIONS

- 2.1 The Committee should:
- Note the position of East Lothian Council in regard to the key messages in the Audit Scotland report, *Withdrawal from the European Union: Key audit issues for the Scottish public sector*
 - Note the council's responses to the questions posed in the report (Appendix 1).

3 BACKGROUND

- 3.1 Audit Scotland published a report on preparations for the UK leaving the European Union (EU) in October 2018. The report, *Withdrawal from the European Union* identified key audit issues for the Scottish public sector in the run up to the assumed withdrawal on 29th March 2019.
- 3.2 A key message of the report was that, *"Uncertainty about withdrawal from the EU has created challenges for public bodies in the level of planning that they can do at this stage. Planning for leaving the EU has to be balanced with the management of other risks and uncertainties, existing*

financial and workforce pressures, and the need to maintain business-as-usual.”

- 3.3 The report considers key areas of risk for public sector bodies associated with leaving the EU – People (workforce issues), Finance and Rules and Regulations. It sets out a series of questions under these headings that all public bodies should be asking themselves in the run up to withdrawal.
- 3.4 The Council established an officer working group in late 2018 to monitor the potential impact of withdrawal on East Lothian and identify any mitigating action that the Council should undertake. The issues raised by in the Audit Scotland report were considered by the group. Appendix 1 provides a summary of how the council has responded to the questions posed by Audit Scotland.
- 3.5 Every effort continues to be made to ensure that the council takes action, where relevant and possible, to prepare for withdrawal from the EU within the context of the continuing uncertainty about the precise basis on which the UK is to withdraw.

4 POLICY IMPLICATIONS

- 4.1 This report and the appendix highlight the work that is being undertaken by the council to prepare for the UK’s withdrawal from the EU. There are no specific policy implications.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 This report is not applicable to the wellbeing of equalities groups and an Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – none arising from this report. Any financial implications of the UK’s withdrawal from the EU will be considered as part of the Council’s Financial Strategy and budget setting process.
- 6.2 Personnel – none arising from this report.
- 6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 Appendix 1: East Lothian Council Response to Withdrawal from the EU Key Audit Issues

7.2 *'Withdrawal from the European Union: Key audit issues for the Scottish public sector'*, Audit Scotland, October 2018

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DATE	7 June 2019

**Appendix 1: East Lothian Council Response to Withdrawal from the EU
Key Audit Issues**

	Question	ELC response
People		
1	How are we communicating with staff about the potential impact of EU withdrawal and preparing to support any employee who may be affected?	<p>ELC have a robust process which involves:</p> <ul style="list-style-type: none"> • Individual letters to employees detailing how it impacts them and family members, how to apply and providing helpline numbers and details of how we will keep them up to date about the scheme. • Line Manager Briefing pack providing communications plan over application period with a copy of letter issued and details of the EUSS application process. Pack also contained Home Office guidance/ links and posters to be displayed across estate. • Call centre briefing pack explaining communications and providing application process and Home Office contact details. • Monthly 'inform' articles providing updates and reminders to live date of EUSS in March along with any update information from Home Office. • Quarterly 'Inform' articles providing updates from March onwards – These will return to monthly once EUSS deadline is confirmed from - 6 months <p>ELC have identified EU workers and capture Passport issuing country to ensure that direct mail to employees reach target audience.</p> <p>HR have consulted with the Unions and any issues raised by members will be escalated to HR to enable mitigation / communication / support and escalation to CMT.</p>

		<p>Over and above this, links and information are contained on the Council's dedicated internet page: https://www.eastlothian.gov.uk/brexit</p>
2	<p>How are we reflecting the implications of EU withdrawal in our long-term workforce planning?</p>	<p>ELC have identified areas where there is a concentration of EU workers and Service Managers are including considerations / issues and mitigation in annual workforce planning.</p> <p>ELC have implemented and continue to identify apprentice / trainee posts in positions where possible.</p> <p>ELC have investigated the option of sponsoring future workforce for non UK workers and continue to keep abreast of the Immigration Bill changes.</p>
3	<p>What are the workforce implications for the third sector and private organisations that provide services in partnership with us on our behalf?</p>	<p>The main service that would be affected by workforce implications affecting third sector and private organisations is adult care. The Health and Social Care Partnership is liaising with service providers to review possible workforce implications and take mitigating action.</p>
4	<p>Which parts of the workforce (sectors/ skills/ services/ regions) are most at risk from the impact of EU withdrawal?</p>	<p>There are no specific areas of concern within ELC.</p> <p>The areas with the largest concentration of EU workers include teaching and Social care. However, the majority of these workers have been employed with ELC for over 5 years and at this stage we are aware of a number who have applied for and received 'settled' status and managers are not aware of any issues with individuals considering leaving the UK.</p>

5	How are we reflecting the implications for the local workforce in our economic strategies?	<p>Brexit will impact on funding for training and infrastructure, business challenges and attractiveness of East Lothian for investment and tourism. We will continue to support employability initiatives via ELWorks and continue to signpost businesses to www.prepareforbrexit.scot for guidance and advice.</p> <p>The Council's Economic Development Strategy for East Lothian states: "Weaknesses are its lack of large employers, the rate of out-commuting for employment, pockets of deprivation in Musselburgh, Wallyford and Prestonpans, limited land availability for economic use in areas of high demand, and poor transport connectivity. There are also key challenges in creating skilled, well-paid employment in East Lothian, despite business creation rates. The amount of usable land for employment in East Lothian remains low, albeit addressed through the East Lothian Local Development Plan 2018, and physical and digital connectivity is also a continuing challenge. Brexit undoubtedly presents a range of labour market and trade implications, and likewise the loss of European funding. There are other challenges including responding to demographic change, town centre regeneration and boosting the rural economy, and addressing infrastructure issues."</p>
Finance		
6	What level of funding do we, and our partners, receive from the EU and through which funding streams?	EU funding provides direct support for farmers, the fishing industry, forestry, rural development and projects to encourage economic growth and development. Scotland expects to receive €5.6 billion (£5 billion) in EU funding over the

		seven-year programme period from 2014 to 2020 (The majority of this is through the Common Agricultural Policy programme (CAP), as well as European Structural Funds (ESF) and the European Maritime and Fisheries Fund (EMFF).
7	What financial risks are associated with any changes after the UK has left the EU, during and transition period and beyond?	There is little clarity about what will happen to funding streams in the longer term. Any changes to funding will affect public bodies, their partners and service users.
8	How are we reflecting the implications of EU withdrawal in our long-term financial planning?	No specific provision has been reflected within current budget plans to deal with any financial implications associated with Brexit. The potential risk of EU withdrawal has been raised within the Financial Strategy and Corporate Risk Register.
9	How can we capitalise on opportunities to access alternative funds of redesign replacement funding streams?	The Council will explore any wider opportunities where available to access & promote alternative funding streams in line with the Financial Strategy which includes the requirement to maximise income available to the Council.
Rules and Regulations		
10	What are the potential implications of changes to trade and customs rules to our supply chains and the cost and availability of products and services?	The EU Withdrawal Bill will ensure that EU Procurement Regulations are transferred for the most part into UK/Scottish Regulations, so that should not have an impact. Cost and availability of products and services could be a bigger issue, especially with Foodstuffs. Scotland Excel have undertaken dialogue with suppliers on their frameworks, which include Meat/Milk/Frozen Foods in an attempt to minimise cost increases/delays.

11	What EU regulations are directly relevant to our role (e.g. monitoring compliance)?	<p>EU rules and regulations affect all public bodies, most significantly with trade and customs, which influence the cost and availability of supplies from EU countries.</p> <p>If there is a no deal exit, goods entering the UK from the EU will be subject to additional customs checks and trade tariffs. This could lead to slower deliveries and an increase in the price of goods, including food, property services materials, equipment etc.</p> <p>The EU (Withdrawal) Act 2018 has immediate implications for regulatory services within ELC: Environmental Health and Trading Standards, however it is expected impact on regulatory operations is minimal, with existing legal frameworks set to continue. Data sharing arrangements are being reviewed with other agencies, to ensure intelligence flow is not hindered.</p>
12	What impact would potential changes to regulations / legislation have on how we deliver services and our service users?	<p>There will be continuity in regulatory operations, with legal references in reports, letters etc being updated to reflect statute amendments. Foods leaving the UK will also require an export certificate. This will place an administrative burden on the Environmental Health service.</p>
13	How can we capitalise on opportunities to streamline or improve the regulatory environment?	<p>The myriad of consumer protection and business regulation legislation can be rationalised and consolidated to reflect Scotland's regulatory needs and approaches, with current EU standards used as a baseline to improve the regulatory landscape.</p>
14	How are we planning for the possibility that the UK Government and the EU fail to reach an agreement on	<p>Through the Brexit Working Group, the Council has engaged in internal and external communications, multi-</p>

	<p>arrangements for the UK's exit from the EU?</p>	<p>agency decision-making and response arrangements.</p> <p>The Council has engaged in business continuity collaboration arrangements with local partners and neighbouring Local Authorities: via LRP/RRP.</p> <p>The Council has assessed internal essential services business continuity arrangements.</p> <p>Through the Brexit Working Group, the Council has operated a horizon-scanning and assessment system to identify, assess and respond to emerging risks, which includes a deal or otherwise at the time of exit.</p>
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Withdrawal from the European Union

Key audit issues for the Scottish public sector



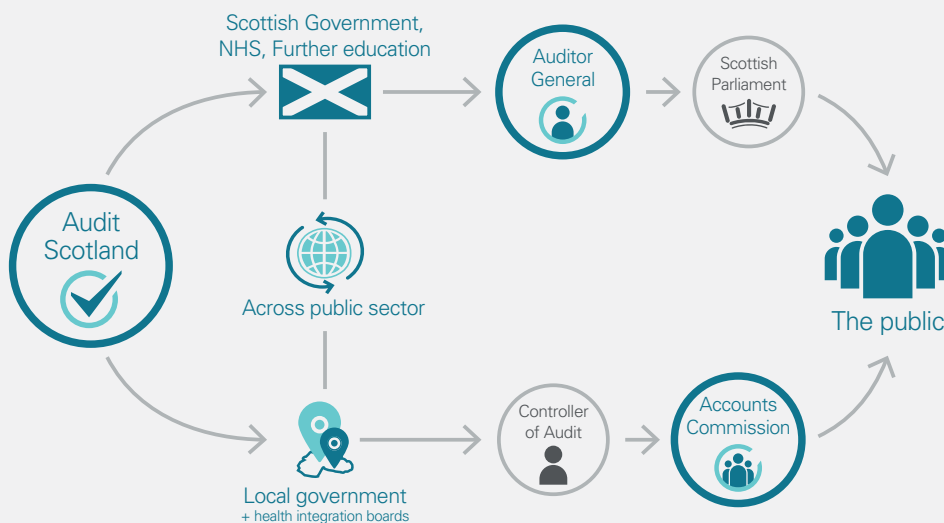
 AUDIT SCOTLAND

Prepared by Audit Scotland
October 2018

Who we are

The Auditor General, the Accounts Commission and Audit Scotland work together to deliver public audit in Scotland:

- **Audit Scotland** is governed by a board, consisting of the Auditor General, the chair of the Accounts Commission, a non-executive board chair, and two non-executive members appointed by the Scottish Commission for Public Audit, a commission of the Scottish Parliament.
- The **Auditor General** is an independent crown appointment, made on the recommendation of the Scottish Parliament, to audit the Scottish Government, NHS and other bodies and report to Parliament on their financial health and performance.
- The **Accounts Commission** is an independent public body appointed by Scottish ministers to hold local government to account. The Controller of Audit is an independent post established by statute, with powers to report directly to the Commission on the audit of local government.



About us

Our vision is to be a world-class audit organisation that improves the use of public money.

Through our work for the Auditor General and the Accounts Commission, we provide independent assurance to the people of Scotland that public money is spent properly and provides value. We aim to achieve this by:

- carrying out relevant and timely audits of the way the public sector manages and spends money
- reporting our findings and conclusions in public
- identifying risks, making clear and relevant recommendations.


Introduction



Introduction

1. The UK will leave the European Union (EU) on 29 March 2019. If the UK Government and EU agree the terms of the UK's withdrawal before this date, there will be a transition period to the end of 2020. The UK's decision to leave the EU represents a major constitutional change for Scotland. It will affect everyone in Scotland to some degree. What these effects will be remains uncertain, but they will unfold over both the short and the long term.

2. Withdrawal from the EU comes at the same time as:

- a significant expansion of the Scottish Parliament's financial powers (see our [e-hub](#) )
- rising demand for public services, largely driven by demographic changes
- continued pressure on public sector budgets.

3. Audit Scotland, on behalf of the Auditor General for Scotland and the Accounts Commission, assesses the performance and financial management of over 220 public sector organisations in Scotland. This includes councils, NHS boards, further education colleges and central government bodies. Auditors are speaking to public bodies about how they are responding to the UK leaving the EU. This paper:

- presents our view of the key issues that withdrawal from the EU presents to the public bodies we audit, as at October 2018
- suggests questions that all public bodies should be asking themselves in the five months to 29 March 2019
- sets out our current plans to reflect withdrawal from the EU in our audit work.

We set out the key issues under three themes:



People
(page 6)



Finance
(page 10)



Rules and regulations
(page 13)



4. The risks and opportunities presented by EU withdrawal will vary markedly between organisations. Some parts of the public sector are already experiencing an impact. We expect all public bodies to be assessing the potential impact of EU withdrawal on their organisation, and identifying any specific risks and how they will respond to them.

5. Uncertainty about withdrawal from the EU has created challenges for public bodies in the level of planning that they can do at this stage. Planning for leaving the EU has to be balanced with the management of other risks and uncertainties, existing financial and workforce pressures, and the need to maintain business-as-usual. As the details of the UK's withdrawal from the EU and its effects become clearer, we expect public bodies' preparations and response to intensify. Some public bodies may require additional capacity to allow them to react once arrangements for leaving the EU are agreed.

The Scottish Government's role

6. The Scottish Government is coordinating its approach to EU withdrawal through its Constitution and Europe programme. It is made up of eight workstreams, covering areas such as workforce, trade and legislation. It also monitors risks and readiness for EU withdrawal across the Scottish Government. The Scottish Government has identified the most significant challenges as its capacity and capability, financial implications and the ability to influence decisions taken by both the UK Government and the EU.¹

7. Discussions between the Scottish and UK governments are particularly critical in areas where devolved issues (such as the NHS workforce) interact with reserved issues (such as migration policy). The National Audit Office (NAO) is reporting on how the UK Government is organising itself to deliver the UK's exit from the EU. Most recently, it reported on preparations in the Department for Environment, Food and Rural Affairs and the Department for Transport. It found that both departments face considerable challenges and have more contingency planning to do in case the UK and EU do not agree withdrawal arrangements.² Any lack of readiness at the UK level for withdrawal from the EU will have an impact in Scotland.

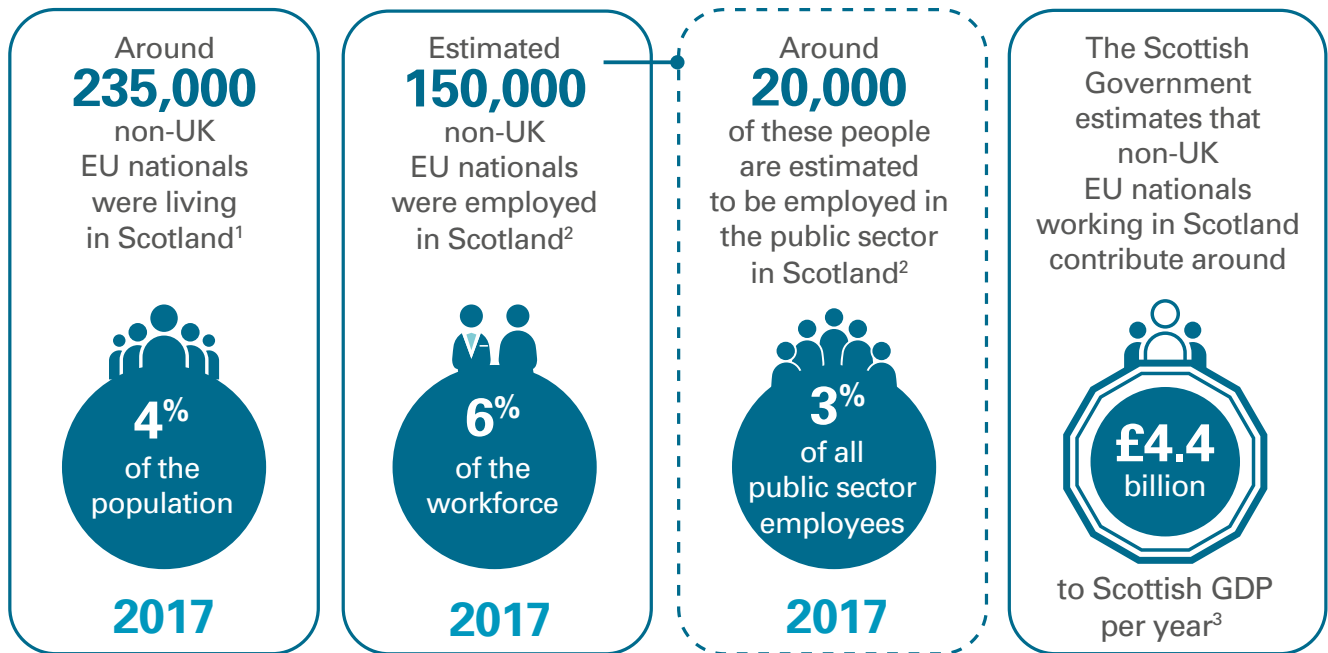
8. The Cabinet Secretary for Government Business and Constitutional Relations updated the Scottish Parliament on the progress of the EU negotiations in June 2018. He stated that the Scottish Government was *"intensifying its preparations for all exit possibilities in order to support the Scottish economy and our key sectors in what are and will continue to be very uncertain times"*.³ In September 2018, the Cabinet Secretary provided a further update to the Parliament, stressing the scale of work required for leaving the EU, even with an agreement between the EU and the UK Government.⁴

9. The Scottish Government is working with public bodies to understand how they are preparing for the UK leaving the EU, and to identify and mitigate any potential risks. The UK Government allocated £37.3 million to the Scottish Government for 2018/19 to manage funding pressures resulting from EU withdrawal. This is a one-off payment to help manage short-term pressures. A large proportion of this money has been allocated to fund additional staff to help the Scottish Government and public bodies prepare for EU withdrawal.

10. The Permanent Secretary concluded in her latest governance statement that all Directors General are working to ensure that the Scottish Government are "*as prepared as possible*" for EU withdrawal, but added that she was not yet fully assured of readiness given that the "*terms and timings remain subject to significant uncertainty*".⁵

11. The most significant issue for the Scottish Government and the wider public sector is the impact of withdrawal from the EU on the Scottish economy. The Scottish Government's medium-term financial strategy, published in May 2018, suggests that withdrawal from the EU will have a greater effect in Scotland than in the rest of the UK.⁶ That would have a negative effect on the Scottish budget which now depends directly on Scotland's economic performance relative to the rest of the UK.

People



Notes:

1. *Population by Country of Birth and Nationality (2017)*, National Records of Scotland, May 2018.
2. *Non-UK nationals in Scotland's workforce: Statistics from the Annual Population Survey 2017*, Scottish Government, June 2018.
3. *The Contribution of EEA Citizens to Scotland*, Scottish Government, November 2017.

People

12. People coming to Scotland to work make an important contribution to the working-age population and to economic growth. The UK's exit from the EU is likely to result in changes to the rights of non-UK EU nationals to live, work, study and access services in the UK. This may result in people leaving Scotland or choosing not to move here, because they or their family members are non-UK EU nationals. This presents a challenge to the public sector workforce, which is already facing staffing and service pressures that will intensify as the working-age population decreases.

13. It has been difficult to assess the scale of the risk, as data on the nationality of employees in individual public bodies is not routinely collected. However, some figures are available, for example:

- The Scottish Government estimates that 4.4 per cent of the total health and social care workforce in Scotland are non-UK EU nationals (around 17,000 people).⁷

- Scottish Care estimates that between six and eight per cent of the workforce in the independent social care nursing sector in Scotland are from a non-UK European Economic Area (EEA) country (which includes all EU member states plus Iceland, Norway and Liechtenstein).⁸
- General Medical Council data shows that almost six per cent of doctors working in Scotland obtained their primary medical qualification in a non-UK EEA country.⁹
- Universities Scotland estimate that 11 per cent of all staff across the 19 higher education institutions it represents are non-UK EU nationals.

14. Some organisations are already seeing a reduction in the number of non-UK EU nationals applying to work in the UK and Scotland. This will exacerbate existing recruitment and retention difficulties, including high vacancy rates and skills gaps in specific sectors and geographic locations. For example:

- The Nursing and Midwifery Council reported an 87 per cent decrease in the number of nurses and midwives from non-UK EEA countries registering to work in the UK between 2016/17 and 2017/18.¹⁰
- A British Medical Association survey of members across the UK in 2018 found that 57 per cent of respondents reported a decline in applications for positions in their departments from non-UK nationals since the 2016 vote to leave the EU.¹¹
- The General Teaching Council for Scotland reported that 14 teachers who qualified in non-UK EU countries applied to work in Scotland in the first half of 2018, which is when the bulk of applications are usually received. This compares to a total of 186 applications in 2017.¹²

15. Scottish universities attract many students from other EU countries who stay on to work in Scotland after graduation. Almost nine per cent of students enrolled in Scotland for the academic year 2016/17 were non-UK EU nationals.¹³ The proportion of non-UK EU students varies between institution, so any decrease in enrolments to study in Scotland will affect each college and university differently. Non-UK EU students in Scotland are more likely to study science, technology, engineering and mathematics than students from the UK. A reduction in the number of non-UK EU nationals studying in Scotland could widen skills gaps in the workforce that will be vital to future economic performance.

16. Public bodies are working to understand the immediate and longer-term implications of EU withdrawal on their workforces. The first step for many is understanding how many non-UK EU nationals they employ and in which areas. For example, City of Edinburgh Council has done extensive work on this ([Case study 1, page 8](#)). The Scottish Government and COSLA are working with NHS boards, councils and other public bodies to draw together information on their workforces. This will be used to assess the potential impact of EU withdrawal on the delivery of services.

17. Councils, NHS boards and other public bodies are increasingly working in partnership with third sector and private organisations to deliver services, so it is important that they understand the potential impact of EU withdrawal on these organisations and their workforces.

Case study 1

City of Edinburgh Council



There are more than 39,000 people from non-UK EU countries in Edinburgh, more than any other city in Scotland. Since June 2017, City of Edinburgh Council has been working to identify how many non-UK EU nationals it employs directly. The data it has collected to date shows that 5.5 per cent of its current workforce are non-UK EU nationals, just over 1,000 employees.

Around 70 per cent of these people are employed in the communities and families department (including teachers, learning assistants and nursery nurses) and the health and social care department (including social workers and care and support workers). The council is using this information to help inform its long-term workforce planning.

The council is providing support and advice to colleagues who may be directly affected by the decision to leave the EU. This includes sharing up-to-date information on the rights of EU nationals to live and work in the UK after 29 March 2019, and the steps employees may need to take if they wish to continue working in the UK. The council is providing tailored guidance for managers to share with their teams. It is also developing measures to support colleagues whose family members may be affected by EU withdrawal.

COSLA has adopted the approach taken by City of Edinburgh Council to collect workforce data from other councils.

Source: City of Edinburgh Council

18. Councils and public bodies are also concerned about the potential impact on local economies. Sectors such as agriculture, fishing, food, tourism and hospitality are highly dependent on workers from outside Scotland. They fill important roles in local businesses, including providing seasonal work and filling vacancies in remote and rural locations. Some of these sectors are already reporting a decrease in their non-UK EU workforce, which could affect the economic growth of specific regions and Scotland more widely. Councils should be considering the potential impact of EU withdrawal on the local workforce in their planning for economic growth. For example, City of Edinburgh Council's five-year economy strategy highlights the potential economic effects and action the council is taking to maximise opportunities and mitigate risks. It recognises that it will need to regularly review the strategy to ensure that it can respond appropriately as the terms and impacts of EU withdrawal become clearer.

19. Highlands and Islands Enterprise undertakes quarterly surveys with businesses, community groups and social enterprises on the region's economy. Since 2016, this has included questions on the impact of the UK leaving the EU. The results show that businesses are concerned about the implications for workforces, skills and the free movement of people. The Scottish Government continues to work with Scottish Enterprise, Highlands and Islands Enterprise, Skills Development Scotland and others to explore ways to attract and retain people with particular skills to work in specific sectors or regions.

Key questions for public bodies

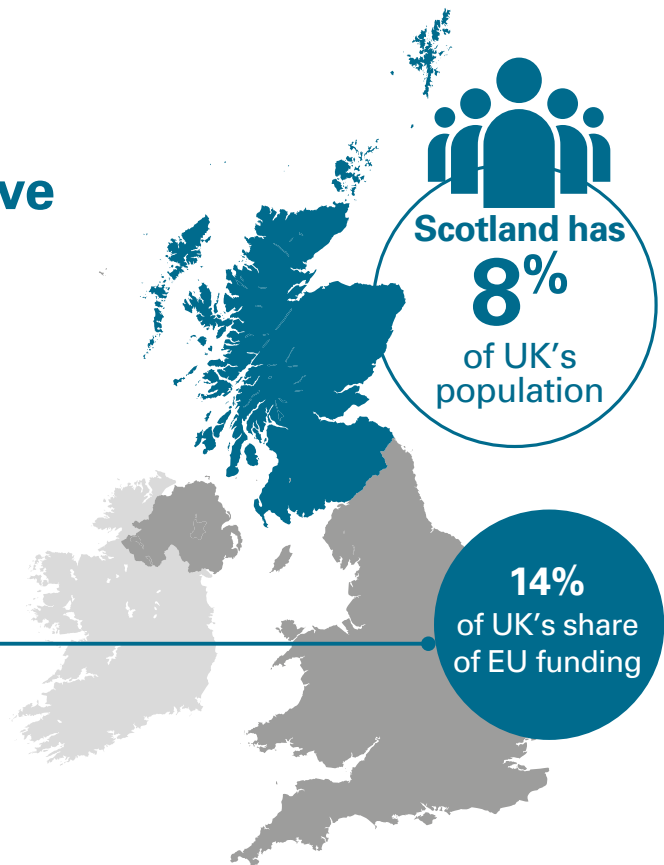
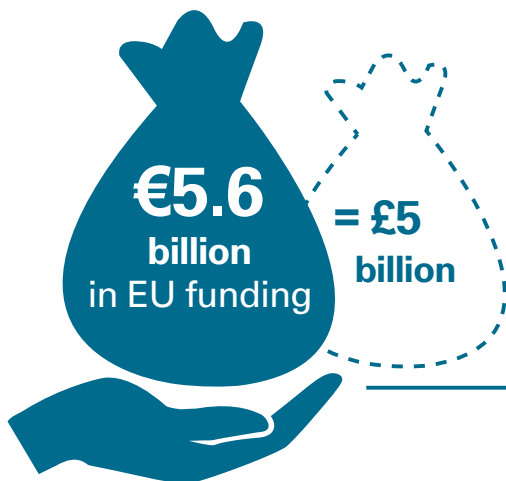


- How are we communicating with staff about the potential impact of EU withdrawal and preparing to support any employees who may be affected?
 - How are we reflecting the implications of EU withdrawal in our long-term workforce planning?
 - What are the workforce implications for the third sector and private organisations that provide services in partnership with us or on our behalf?
 - Which parts of the workforce (sectors/skills/services/regions) are most at risk from the impact of EU withdrawal?
 - How are we reflecting the implications for the local workforce in our economic strategies?
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Finance



**Between 2014 and 2020,
Scotland expects to receive**



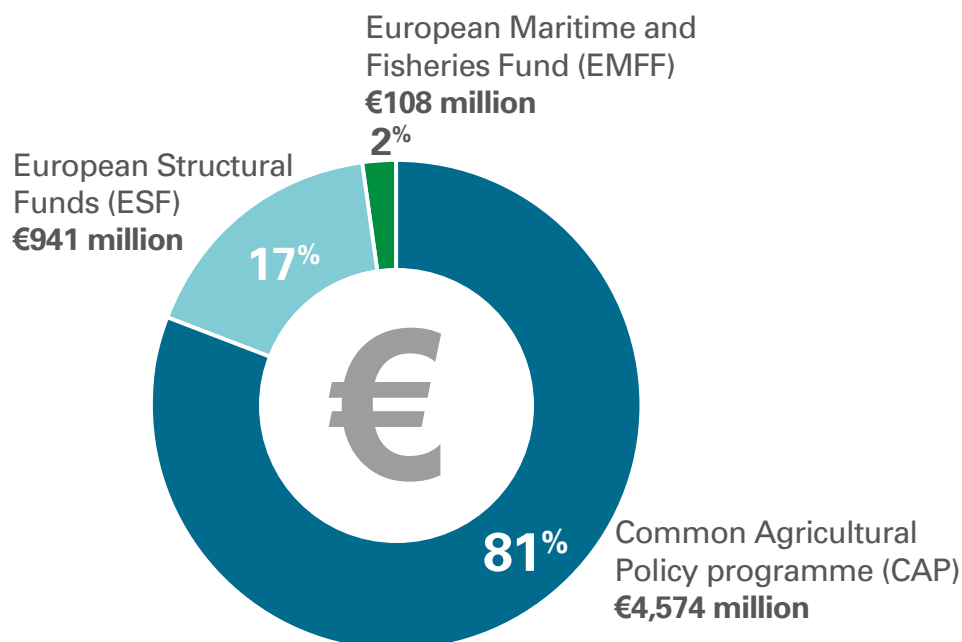
Notes: *European Union Funding in Scotland*, Scottish Parliament Information Centre, September 2018; *European Union Funding in Scotland 2014-2020*, Scottish Parliament Information Centre, November 2016.

Finance

20. EU funding provides direct support for farmers, the fishing industry, forestry, rural development and projects to encourage economic growth and development. Scotland expects to receive €5.6 billion (£5 billion) in EU funding over the seven-year programme period from 2014 to 2020 ([Exhibit 1, page 11](#)).¹⁴ The majority of this is through the Common Agricultural Policy programme (CAP), as well as European Structural Funds (ESF) and the European Maritime and Fisheries Fund (EMFF).

Exhibit 1

EU funding for Scotland 2014–20 (€m)



Source: Scottish Parliament Information Centre

21. The CAP programme provides financial support to farmers, crofters and rural businesses. CAP payments are delivered through the Scottish Government, Forestry Commission Scotland and Scottish Natural Heritage. The UK Government has guaranteed that it will provide the same 'cash total in funds for farm support' until the end of the current UK Parliament, expected in 2022.¹⁵ This guarantee applies to the whole of the UK. Both the UK and Scottish governments have set out proposals for how financial support to agriculture might work outside of the EU.¹⁶

22. ESF comprises two funds – the European Regional Development Fund and the European Social Fund. ESF supports a range of economic development activity undertaken and supported by public bodies such as the Scottish Government, councils, the Scottish Funding Council, Skills Development Scotland, Scottish Enterprise and Highlands and Islands Enterprise, Transport Scotland and Visit Scotland. Activities funded through ESF include skills and training, support to businesses, and infrastructure development. In July 2018, the UK Government confirmed that it would guarantee funding until the end of 2020, even if an agreement with the EU is not reached. The UK Government has also set out initial proposals for a Shared Prosperity Fund to replace ESF.

23. There is little clarity about what will happen to funding streams in the longer term. Any changes to funding will affect public bodies, their partners and service users. Public bodies should be assessing the potential implications of the loss of any EU funding and reflecting this in their long-term financial planning.

24. Scottish organisations can also bid for funding for specific projects, usually with partners from other EU member states. One example of this is Horizon 2020, which supports research and innovation. By July 2018, Scottish organisations were participating in Horizon 2020 projects worth around €533 million (£469 million), nearly three quarters of which (€386 million) was secured by Scottish universities.¹⁷ Universities Scotland estimates that, in the academic year 2014/15, EU research funding represented nearly ten per cent of all funding for research in Scottish universities. There is uncertainty around the future of this funding and also the participation of Scottish institutions in European research programmes, collaborative projects and academic networks.

25. EU funding streams are dedicated to specific activities and can be targeted at specific geographic areas. This may not be the case in the future. For example, if any replacement funding is incorporated into the Scottish Government's block grant, it will be for the Scottish Government to decide whether or not to protect funding that is currently ring-fenced for specific activities or areas.

26. The existing systems for EU funding for agricultural support and encouraging economic growth have been characterised by applicants as having overly bureaucratic application processes that can discourage applications and require demanding levels of reporting and audit. Developing alternative future systems may provide an opportunity to streamline these systems and tailor them to specific UK and Scottish priorities.

Key questions for public bodies



- What level of funding do we, and our partners, receive from the EU and through which funding streams?
 - What financial risks are associated with any changes after the UK has left the EU, during any transition period and beyond?
 - How are we reflecting the implications of EU withdrawal in our long-term financial planning?
 - How can we capitalise on opportunities to access alternative funds or redesign replacement funding streams?
-

Rules and regulations



The UK Government has identified:



Note: 1. *Statistics on UK-EU trade*, House of Commons Library, UK Parliament, July 2018.

Rules and regulations

27. EU rules and regulations affect all public bodies. Perhaps the most significant are trade and customs rules, which influence the cost and availability of supplies from EU countries. Any changes to these rules will have implications for public bodies that use products or services sourced from the EU. If the UK Government and the EU do not agree trade arrangements before the end of March 2019, goods entering the UK from the EU will be subject to additional customs checks and trade tariffs. This could lead to slower deliveries and an increase in the price of goods, such as food. Around 30 per cent of food eaten in the UK comes from the EU and the average tariff on non-EU food imports is 22 per cent.¹⁸ Any increase in food prices will affect the budgets of schools, hospitals and prisons.

28. Public bodies may see an increase in the cost and availability of other essential goods and services. For example, it could take longer and be more expensive for NHS boards to access medicine or medical equipment. The EU accounts for 25 per cent of global medicine sales. Under EU rules, the NHS can buy medicines from EU countries where they are available at a lower price than in the UK.¹⁹ Changes to these trade arrangements could increase costs for the NHS. Any delays caused by additional customs checks would have a significant impact

on imported products with a limited lifespan, such as radioisotopes that are used to treat cancer. If import regulations for radioactive materials, and other medical supplies, are not agreed by the time the UK leaves the EU, access to essential products could be affected. The extent of the impact on public bodies will depend on the final trade and customs agreement between the UK Government and the EU.

29. All public bodies have to comply with EU regulations, such as employment law, health and safety legislation and procurement rules. The EU (Withdrawal) Act 2018 means that from 29 March 2019, EU law will no longer take precedent over UK law. The Act copies most European law into UK law meaning that, in many practical senses, the existing legal framework will continue. Where regulations translate into UK and/or Scottish law, the impact is expected to be minimal. The UK Government intends to retain temporary control of 24 devolved policy areas once the UK has left the EU, until UK-wide frameworks for regulating these areas are developed.²⁰ These policy areas include agriculture and fisheries, the environment, food safety standards and public procurement.

30. The EU (Withdrawal) Act 2018 has immediate implications for bodies that regulate compliance with EU legislation, for example, regulatory bodies such as Food Standards Scotland ([Case study 2, page 15](#)) and the Scottish Environment Protection Agency (SEPA). SEPA estimates that the majority of environmental legislation will continue to apply once the UK leaves the EU, subject to minor amendments, although some areas will require more substantial amendments, such as the emissions trading scheme.

31. Recognition of professional qualifications from other EU member states helps to attract EU workers to Scotland, filling skills gaps and vacancies across the public sector. Removing this arrangement could make it more difficult for non-UK EU nationals to get jobs in some sectors, exacerbating existing recruitment and retention issues. BMA Scotland suggests that it could slow down the recruitment process or act as a deterrent to people considering working in the health sector in Scotland.²¹ It is also likely to affect academic staff in universities.

32. Changes to the UK's membership of data and intelligence sharing organisations may also affect Scottish public bodies. For instance, Police Scotland can share information with law enforcement agencies in other EU countries through Europol. If Police Scotland are unable to continue sharing and accessing vital information, it may hinder criminal investigations.

33. In the long term, changes to rules and regulations could provide opportunities to put in place amendments or create legislation that better reflects Scottish needs and approaches. There could also be opportunities to improve standards and regulatory processes.

34. If the UK Government and EU fail to agree arrangements for the UK's exit from the EU, there will be no transition period and organisations will need to respond immediately. With only five months until the UK leaves the EU, there is an increasingly urgent need for public bodies to identify the risks associated with this scenario. It is critical that public bodies have contingency plans in place to allow them to manage these risks and respond rapidly in the event of the UK leaving the EU with no transition period.

Case study 2



Food Standards Scotland

Minimum standards for the majority of food law are set at an EU level. Food Standards Scotland (FSS) implements and monitors EU and Scottish regulations in certain food businesses. It also assesses the performance of Scottish councils in regulating other food and animal feed businesses. The UK Government has indicated that UK-wide frameworks may be needed for the devolved areas that FSS leads on, once the UK leaves the EU. FSS is currently working with the other administrations in the UK in this area, under agreed principles. Any impacts on devolved competence could have implications for FSS's role and responsibilities, service delivery and service users in the immediate and longer term.

Given the scale of the potential impact, FSS has established a dedicated programme to coordinate its work on EU withdrawal. It has developed a risk register to consider and assess the implications of EU withdrawal in detail. A key risk identified by FSS is potential disruption to supply chains. Failure to agree a deal with the EU concerning food coming from the EU could affect the supply of food to and from Scotland. FSS is working to mitigate these risks by:

- engaging with stakeholders to understand the requirements for future infrastructure, such as resources, facilities and systems for import and export activity
- commissioning a project with partners to understand trade flows to help inform potential future requirements
- engaging with councils on the practical implications of any future changes to how supply chains may operate, to ensure effective enforcement of food law and regulations.

Source: Food Standards Scotland

Key questions for public bodies



- What are the potential implications of changes to trade and customs rules to our supply chains and the cost and availability of products and services?
 - What EU regulations/legislation are directly relevant to our role (eg, monitoring compliance)?
 - What impact would potential changes to regulations/legislation have on how we deliver services and our service users?
 - How can we capitalise on opportunities to streamline or improve the regulatory environment?
 - How are we planning for the possibility that the UK Government and the EU fail to reach an agreement on arrangements for the UK's exit from the EU?
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Future work



Future audit work

35. The impact of EU withdrawal on the public sector will feature in audit work for the foreseeable future. In the short term, auditors will assess and report on public bodies' response to withdrawal from the EU as part of the 2018/19 annual audits, which will be completed in 2019.

36. Planned performance audits will consider the impact of withdrawal from the EU, where relevant. In 2019, this is likely to include:

- Local government in Scotland: Challenges and performance
- NHS in Scotland
- NHS workforce
- Scotland's colleges
- Higher education finances
- Skills, planning and investment

37. Our longer-term work programme, for the five years from 2019/20, will include specific performance audits on arrangements following withdrawal from the EU.

Contact

38. If you would like to find out more about our work on EU withdrawal, please get in touch with your auditor, or contact:

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- Rebecca Seidel: rseidel@audit-scotland.gov.uk

Endnotes



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Withdrawal from the European Union

Key audit issues for the Scottish public sector

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