



SCOTLAND EXCEL

BREXIT

White Paper

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Introduction

In June 2016 the UK voted with a majority of 51% to leave the European Union (EU). In March 2017 the UK Government invoked Article 50, serving its notice to formally withdraw the UK's membership to the EU.

As the Centre of Procurement Expertise, Scotland Excel has conducted appropriate research and taken due consideration of the implications of Brexit across our procurement portfolio. Scotland Excel has produced this White Paper to provide an informative landscape for our members and wider stakeholders which will identify any areas of concern and the associated impact thereto. In particular, this paper will look at the following areas:

1. The Procurement Regulations
2. Trade
3. Migrant Labour Workforce
4. Practical Steps

Analysis of the above has been deemed appropriate for Scotland Excel having regard to the broad procurement arena.

The UK has indicated it will leave the European Union on 29 March 2019. Close coverage of the negotiations and political movements of the UK government have heightened the uncertainty surrounding Brexit and the potential outcomes available. Further Category Specific papers will detail risk analysis of each potential outcome and the associated variables.

The complexity of Brexit ultimately means that the surrounding commentary can be confusing and misleading. It should be noted that this paper has been produced purely as a general overview of the potential implications of Brexit for Scotland Excel.

The Procurement Regulations

Public Procurement Regulations have been implemented to UK law from four European Directives. The principles contained within the directives of equal treatment, non-discrimination, transparency and proportionality are enshrined within the Scottish Procurement Regulations and ultimately Scotland Excel's procurement activity. Upon departure from the European Union it is unlikely that there would be any significant impact to procurement legislation and the way in which procurement activity is conducted.

The UK has been instrumental in the creation of many EU laws. The legal framework we currently enjoy is one that inspires the trust and confidence of many of our trading partners. Departure from the EU may provide an opportunity to develop our own jurisprudence in the future. If it is our intention to deal in free trade it is imperative that we demonstrate a commitment to abide by international rules and regulations.

The Agreement on Government Procurement (GPA) is made up of 19 parties encompassing 47 World Trade Organisation(WTO) members.¹ At present the UK is party to the GPA by its membership to the EU. The UK has submitted an application to join the GPA independently which would allow its current level of access to continue. It is anticipated that UK accession to the GPA will be granted providing a relatively analogous framework for addressing public procurement. In the long term this agreement may allow the UK to conduct its own examination of the procurement regulations and make determinations which may negate some of the problems currently faced by public sector contracting.

¹ https://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm

The government has published a series of technical notices as guidance material in the event of a 'no-deal' Brexit which can be found at the following link:

<https://www.gov.uk/government/collections/how-to-prepare-if-the-uk-leaves-the-eu-with-no-deal>

Contained within the notice entitled *"Accessing public sector contracts if there's no Brexit deal"* the government give advice to those involved in public procurement contracting. In the event of a 'no-deal' scenario we are told that a UK specific e-notification service would replace the Official Journal of the European Union (OJEU). A UK e-notification system would be available from 'Exit day' and will be free for all users.

It is clear that cognisance should be paid to the government's technical notices and guidance on suitable preparations therein in.

Trade

Trade is vital to UK industries. As a member of the single market Scottish businesses can sell their products anywhere in the EU's member states and consumers can buy where they want with no penalty. The prevailing consensus since the 1930's has been that free trade creates a level playing field for everyone facilitating globalisation and complex supply chains.

The UK currently enter into trade arrangements as a member of the EU. Following Brexit, the UK will be able to legislate on trade matters and conclude international agreements on its own behalf. The UK government have advised of their intention to pursue a free trade deal with the EU which will facilitate the free movement of goods and services and allow for continued, frictionless trade. The likelihood of achieving such a wide-ranging free trade deal has sparked political unrest. Uncertainty surrounding Brexit contributes to a lack of stability and risks remain a focus for foreign exchange markets.

Competition within trade strengthens efficiency and enables growth. Transparency on the likely path for products and rules following Brexit is urgently required in order to alleviate some of the current dubiety.

Scotland Excel recognise there is a lot at stake for businesses as a result of Brexit. The EU and the UK may not have the same level of access to each other's markets following Brexit. Trade tariffs could impact the value of sales and competitiveness of products. The extent of the tariffs to be imposed is currently an unknown variable and delays at borders would be impractical in terms of the costs and time needed to put controls in place. Preparation is key.

Scotland Excel will consider a number of variables as part of our ongoing Brexit awareness including the monitoring of key cost drivers across our procurement portfolio. Currency fluctuation clauses now feature in Scotland Excel terms and conditions and our procurement specialists seek clarification of the 'trading in' currency from our suppliers. We will continue to evolve and adapt as Brexit negotiations progress and will share best practice where possible.

Migrant Labour Workforce

European migrants make up a vital part of Scotland's workforce. The value of highly motivated migrant workers is evident across business sectors. EU workers have helped fill skill shortages particularly within the construction and hospitality industries. A shortage of workers or complex costly visa processes could have a detrimental impact on costs.

Being able to harness and attract good talent is crucial to the growth of Scotland's economy. Scotland has always been welcoming to the international market and people, recognising that migrant workers are an irreplaceable asset. Scotland Excel appreciate that businesses require long term sustainability in terms of workforce.

Future immigration agreements are to be formed on the report from the Migration Advisory Committee. This report has highlighted concerns within the social care sector particularly in relation to the recruitment and retention of workers who provide a vital and valued service. Nevertheless the report recommends that the UK should focus on securing highly skilled workers and to end the preferential treatment given to those from the EU. Mention is made to the impact this would have on agriculture and it is noted that a seasonal visa could provide a solution in this regard.

As part of our commitment to the Fairer Duty, Scotland Excel will continue best practice throughout this uncertain period. It is important that migrant workers are given the correct information and are clear on their rights and opportunities as Brexit negotiations continue. This is particularly important for those entitled to seek 'settled' or 'pre-settled' status within the UK. Brexit could be seen as an opportunity for businesses to grow and retain their current workforce through internal training and development opportunities.

Practical Steps

Technical notices have been published by the UK government to provide guidance in the event of a 'no deal' scenario. Scotland Excel would encourage suppliers, stakeholders and members to peruse these documents carefully and seriously consider the advice contained therein. Additionally, we would urge business to take due diligence and to take this opportunity to conduct an audit and review of their organisational structures and governance. Appropriate analysis of any integrated supply chains and a proactive approach will help businesses to understand and mitigate risk where possible. Brexit is yet another economic test of resilience and many businesses have been astute in their approach to economic instability, demonstrating positive change management. Remaining agile and vigilant to ongoing developments is crucial in identifying emerging opportunities.

Conclusion

A proactive, diagnostic approach to Brexit is key to securing business buoyancy. A logical analysis of business impacts will help to mitigate the risks associated with this period of uncertainty. Understanding the viable solutions that are available will require collaborative thinking between businesses and across sectors.

Scotland Excel continue to exercise diligence in what is an uncertain period. In order that we remain alert to changes in the risk profile, our analysis will be ongoing and we intend to be responsive to developments, negotiations and hopefully mutual agreements.

Scotland Excel welcome feedback and engagement from our members and stakeholders. We are keen to work collaboratively and have shared knowledge as an ever-approaching Brexit horizon looms.

