

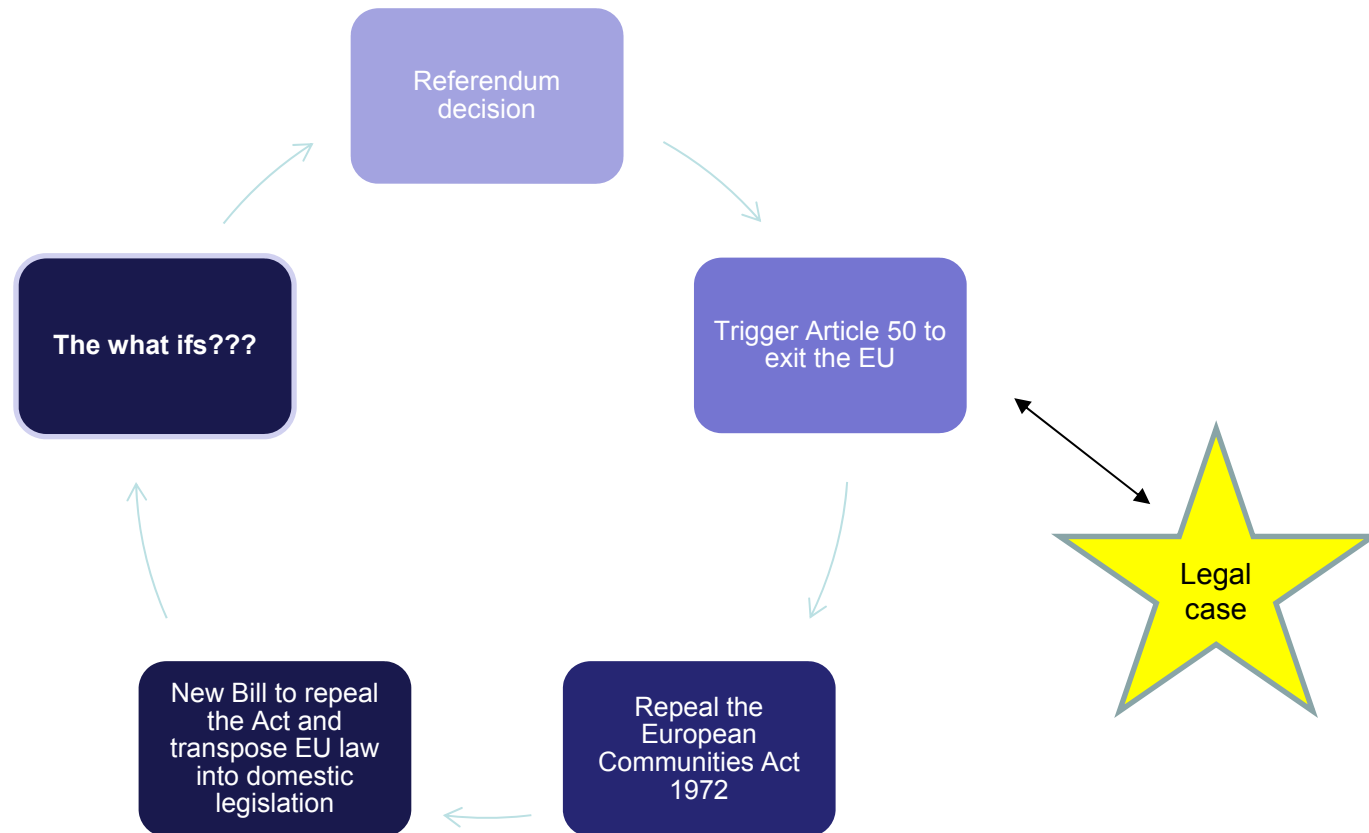


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**Brexit – what we know and
what we don't know so far!**

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The Process





Article 50 states:-

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.



3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.

5. A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.

6. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.

But



Who triggers Article 50?



Lord chief justice Lord Thomas said...



“In the judgment of the court the argument is contrary both to the language used by Parliament in the 1972 Act and to the fundamental constitutional principles of the sovereignty of Parliament and the absence of any entitlement on the part of the Crown to change domestic law by the exercise of its prerogative powers. The court expressly accepts the principal argument of the claimants.

“For the reasons set out in the judgment, we decide that the Government does not have power under the Crown’s prerogative to give notice pursuant to Article 50 for the UK to withdraw from the European Union.”

What are the implications?



- Will not effect eventual Brexit
- Upholds the sovereignty of Parliament
- Government not to exercise Royal prerogative powers (of the Crown)
- Supreme Court Appeal
- But ultimately Parliament will vote on the trigger of Article 50

Repealing the European Union Act ?



Secretary of State for Exiting the European Union David Davis has announced that *“the Government plans to repeal the 1972 European Communities Act (ECA). The Act gives direct effect to all EU law and the introduction of a new Bill to repeal it will mean the Act ceases to apply from the day of exit”*.

At the same time the new Bill will convert existing EU law into domestic law, while allowing Parliament to amend, repeal or improve any law after appropriate scrutiny and debate.

Keeping up with negotiations?



It is likely that the Repeal Bill will include powers for ministers to make some changes by secondary legislation

Will need to provide flexibility for the Government to take account of the negotiations with the EU as they proceed.

What will this mean for local councils?



Core areas:-

- Public procurement rules and Teckal
- State aid
- Commercial investments
- Environmental protection
- Transport
- Employment
- Renewable energy
- EU grant funding

Public procurement



- Local government must comply with EU public sector procurement rules. For example for all public contracts over €209,000 to be published in the Official Journal of the European Union (OJEU), thus making them accessible to suppliers from across the EU.
- In the medium term, public procurement rules more generally will remain in place as they have been implemented via UK law.

But... could it make awarding bodies less nervous about inter-authority trading and contract awards?

State Aid



- European regulations prevent public bodies (the Government and Local Councils) from providing state aid to companies of over £200,000 in any three-year period. Tax reliefs and exemptions also fall into the definition of state aid.
- Likely to remain in place post-Brexit – needed beyond the European Union for example as part of Britain's membership of the World Trade Organisation (WTO) and the European Free Trade Association (EFTA).
- But... could we allow a future negotiation on say the treatment of Local Authority Housing Companies investing to bring new homes to local areas?

Teckal companies



- Teckal companies' limit external trading to 20% by virtue of the EU Public Procurement Directive.
- In the immediate term nothing will change
- Longer term it will be a matter for UK Governments to decide whether or not they would wish to continue with regulations over public procurement matters, including public to public cooperation arrangements (notwithstanding arrangements with for example the world trade organisation).
- What should be the call from local government?
- Is it a matter of opinion?

For commercialisation



- Spike in public works loans board pre-referendum
- Fear of interest rate rises so finance officers reported to have locked in low interest rates
- Asset investment still a viable option
- Will it allow for greater use of local labour clauses, local suppliers?
- Opportunities?

Meeting affordable homes?



- Construction industry reliant on migrant labour rising to 7.03% in 2014 from 3.65% in 2007
- Developer concerns on uncertainty in house prices
- Limits on freedom of movement – impact on supplies and costs of building
- Local authorities have a growing role in new homes for rent – reportedly 26 local authority housing companies, with many building new homes for social rent

Uncertainty prevails!



But...

- Case for commercialisation directors / strategists to think about what a new deal would look like.
- Ability to recycle investment in local areas? (State aid, procurement issues)
- Greater inter-authority collaboration (public procurement and enshrining the principles of Hamburg?)
- Teckal – are the limits a good or bad thing on external trading? What is the core role of councils?



LOCAL SERVICES

LOCAL SOLUTIONS



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