

## The Impact of Brexit – Developing the Build UK Position

### Action for Build UK members

This paper sets out the proposed Build UK position on Brexit. Members are requested to read the paper and complete a [short online survey](#) on Build UK's priorities **by 7 September 2016**.

### Background

The recent referendum result in favour of Britain leaving the European Union has raised questions over the impact Brexit will have on the construction industry.

The new Prime Minister Theresa May has made clear that "*Brexit means Brexit*" and that she intends to "*make a success of it*". Build UK intends to present a clear position to Government so that the terms of Britain's exit from the EU supports everyone in the construction supply chain to flourish.

This paper seeks member views on the outcomes they want from the Brexit negotiations and how these can best be achieved.

### Immediate response

Build UK's immediate priority following the referendum has been to call on Government to maintain stability, and to prevent uncertainty following the referendum result impacting on construction activity. Build UK's message has been that Government must:

- Adopt a business as usual approach
- Provide re-assurance that the public sector construction pipeline will remain on track
- Have a clear plan on next steps regarding Brexit.

In presenting this position Build UK has engaged closely with the CBI who are playing the lead role in representing the business community, and maintained close contact with BEIS (formerly BIS) officials. Build UK has also written a well received [comment piece](#) for Construction News.

### Brexit negotiations

The shape of the UK's future relationship with Europe remains unclear. The Government is yet to set out a formal negotiating position on Brexit and the negotiations themselves could take up to 2 years to complete. Key issues that will need to be resolved include:

1. Free movement of EU workers
2. Access to the single market
3. Future of EU legislation
4. Impact on project pipelines

There will inevitably be trade-offs in negotiations between these issues which need to be properly understood. The initial indication is that Ministers will support continued access to the single market but **not** free movement of EU workers. This potentially puts Government out of step with employers both in construction and more broadly, who want to retain the benefits of access to EU markets **and** EU labour.

### Industry priorities

It is important Build UK members are clear on the outcomes which will best support the industry. This paper sets out a proposition based on:

1. **Skills:** Ensuring members have access to a large enough pool of labour in order to meet skills needs
2. **Access to markets:** An open trading relationship with Europe that does not significantly increase costs
3. **EU legislation:** A competitive regulatory landscape that maintains effective standards but also reduces bureaucracy where possible
4. **Project pipelines:** Increasing the visibility of project pipelines and emphasising the economic value of continuing to invest in construction projects.

## 1. Skills

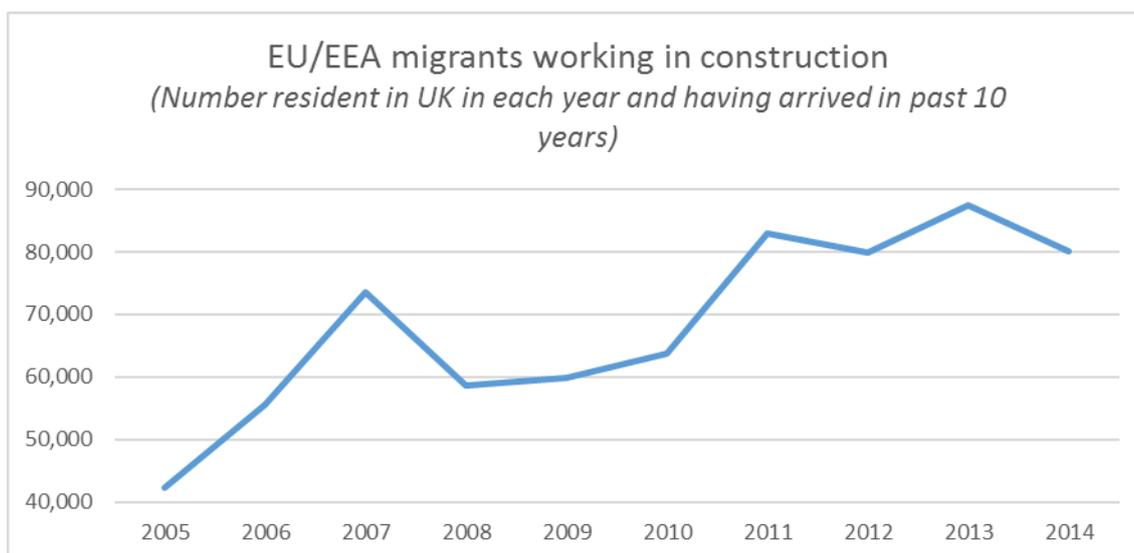
### Current situation

Under the principle of free movement of workers, EU nationals have the right to work in the UK without being subject to immigration controls. Labour Force Survey data shows that in 2015 there were almost 140,000 EU nationals working in construction, equating to 6.7% of the total construction workforce<sup>1</sup>.

### Construction workforce by country of birth, 2015

Place of Origin	Number	Percentage of workforce
UK	1,892,987	88.4%
EU Member States	142,502	6.7%
Non-EU	105,177	4.9%
<b>Total</b>	<b>2,140,666</b>	<b>100.0%</b>

Construction employers have used their ability to recruit EU labour to fill skills gaps within the industry. Over the last decade there has been a steady increase in the number of EU nationals working in construction, with a large number coming from Eastern European countries – primarily Poland, Romania and Lithuania. Data analysed by period of residence shows that in 2014 there were 80,100 construction workers from EU or EEA countries (who had arrived in the UK within the last 10 years) almost double the figure of 42,200 in 2005.



Even with the recruitment of EU and overseas labour, construction is still experiencing skills shortages. The latest Build UK State of Trade survey found 43% of contractors reporting rising labour costs in the first quarter of 2016, with a lack of suitably qualified staff a key factor.

Industry forecasts show construction employers will need to fill an additional 230,000 roles by 2020<sup>2</sup> due to increased output and the churn of people leaving the industry. Levels of training within construction are currently not sufficient to fill these needs - for example, while apprenticeship starts are increasing they only totalled 18,000 last year<sup>3</sup>.

<sup>1</sup> CITB analysis of Labour Force Survey

<sup>2</sup> CSN forecasts, CITB, January 2016

<sup>3</sup> Construction starts in 2014/15, Skills Funding Agency

## **Build UK position on skills**

If construction is going to meet its skills needs it must be able to access a large enough pool of skilled labour. This means attracting and training more UK nationals, but also being able to recruit staff from the EU when required.

Build UK could support the retention of free movement of EU workers as a way of meeting skills needs, but it seems unlikely that the Government will adopt this position. Stricter immigration controls on EU nationals should be expected.

Build UK could adopt a position based on the following:

- a) **Protecting rights of EU workers currently working in construction:** The Government has released a [statement](#) confirming that there is currently “*no change in the rights and status of EU nationals in the UK*”, adding that “*when we do leave the EU, we fully expect that the legal status of EU nationals living in the UK ...will be properly protected*”.

Build UK supports this position - those EU nationals working in construction who want to remain should be allowed to do so.

- b) **Any immigration controls must allow construction employers to recruit skilled workers from the EU where necessary:** The UK already operates a form of points based immigration system for workers from outside the EU and something similar could be extended to EU workers in future. Under the current points based system a key factor determining whether someone can work in the UK is their skills and whether they have a job offer to perform a role on the ‘shortage occupation list’ (occupations where there are recognised skills shortages). The shortage occupations list currently includes some construction related roles in engineering.

Moving forward if immigration controls are widened to include EU nationals, the system must recognise those roles where there are skills shortages within construction and allow employers to recruit staff from the EU and the rest of the world when needed.

- c) **Longer term, there must be a renewed impetus by firms to attract, train and retain UK nationals:** Build UK will continue to work with members on improving industry image, and reforming the current skills system so it better supports firms to train the staff they need.

## 2. Access to markets

### *Current situation*

An issue within the Brexit negotiations will be whether the UK retains full access to the single market and tariff free trade with EU countries.

At present, Build UK members will tend not to bid to deliver construction projects across EU borders. Those contractors who are overseas or European owned will have registered offices within the UK.

Any impact in a change in trading relationship with the EU is likely to be felt by contractors in higher costs for imported materials if tariffs are introduced. Current data shows that<sup>4</sup>:

- **The UK imports £4.9 billion more building materials and components\* from the EU than it exports**
- **The UK imports more building materials and components from EU countries compared to rest of the world:** EU imports are worth £8.4 billion and non-EU imports £5.5 billion
- **EU imports are currently a significant part of UK consumption:** available data shows that around 15% of all manufactured construction products\*\* consumed in the UK are imported from the EU.

*\*Building materials and components = raw materials + semi-manufactures + products & components*

*\*\*Manufactured Construction Products = semi-manufactures + products & components*

### **Build UK position on access to markets**

Build UK could adopt a position based on the following:

- Continued access to the single market for UK businesses – with the principle being open trading relationships with both the EU and the rest of the world
- Any new trading relationship with the EU must not significantly increase costs for construction because of higher tariffs.

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<sup>4</sup> Monthly Statistics of Building Materials and Components, ONS/BIS, June 2016

## 3. EU legislation

### Current situation

House of Commons research shows that 13% of UK legislation over the last twenty years has been to implement EU laws<sup>5</sup>. EU legislation covers a wide range of areas including employment, public procurement, and health & safety. For businesses the issue is uncertainty over what impact our exit from the EU will have on the regulatory landscape.

Until Brexit is complete all EU legislation still applies in the UK. However once the UK leaves the EU, the UK Government is under no obligation to continue implementing any EU inspired laws or regulations.

What happens to EU legislation upon withdrawal depends on the type of legislation it is (*see box below*). While EU regulations will cease to take effect immediately upon withdrawal, a large number of EU directives have now become part of UK law. These UK laws will stay in effect unless the Government decides to repeal them, and in many cases the Government may decide that current legislation is working effectively.

### Information: EU legislation and impact of Brexit

#### What are the different types of EU legislation?

There are three basic types of EU legislation:

- A **regulation** is similar to a national law with the difference that it is applicable in all EU countries
- A **decision** only deals with a particular issue and specifically mentioned persons or organisations
- A **directive** sets out general rules to be transferred into national law by each country as they deem appropriate.

#### What happens to EU legislation after Brexit?

Following Brexit, the status of EU legislation in the UK will alter:

- Both **regulations** and **decisions** are directly implemented into UK law without the need for legislation from the UK Parliament; they will cease to be law once the UK leaves the EU. If the UK wanted to retain the provisions of any of them, then the UK Parliament would have to implement new legislation.
- Since **directives** are already transcribed into national law, they will continue to be law in the UK. However, following Brexit, the UK will have the ability to decide whether it wishes to either retain, repeal or reform each EU directive by revising existing UK legislation.

#### What about standards?

There are three types of standards in the United Kingdom:

- **BS** which means that the standard is a British standard
- **BS EN** which means that the standard is a British version in English of a European harmonised standard
- **ISO** is an internationally agreed standard.

Standards in Europe fall under the European Committee for Standardisation (CEN), which is a separate organisation from the EU. The UK is a full member of CEN and adopts all agreed European harmonised standards as national standards (i.e. **BS EN** standards). After Brexit, UK organisations will still be subject to harmonised European standards unless the UK decides to no longer be a member of CEN.

<sup>5</sup> EU obligations: UK implementing legislation since 1993, House of Commons Library, June 2015

## **Build UK position on EU legislation**

The outcome for Build UK members after Brexit must be a competitive regulatory landscape that maintains effective standards but also reduces bureaucracy where possible.

The immediate priority for Build UK will be to gain **clarity** from:

- Members on which EU legislation most affects them (*see initial list below*) and whether they believe it should be retained, repealed or reformed
- Government on their approach to EU legislation.

Once decisions start to be taken on individual pieces of EU legislation it will be important that the Government consults effectively with business. Build UK will then work with members and partners such as the CBI to present their views.

### ***EU regulations or directives that most affect construction***

#### ***Regulations***

- Construction Products Regulation 2011

#### ***Directives***

- Energy Performance of Buildings Directive
- Directive 92/57/EEC - Temporary or Mobile Construction Sites
- Public Contracts Directive
- Working Time Directive
- The Transfers of Undertakings Directive

## **4. Project pipelines**

### ***Current situation***

An underlying concern for construction both during and after the Brexit negotiations is the impact on the the volume of private and public sector construction projects. The impact will depend both on the shape of the UK's future relationship with Europe and the wider economic climate.

The risks to levels of investment are:

- Reduced investor confidence in the UK – whether because of uncertainty caused by Brexit negotiations or because UK is no longer part of EU/single market
- Reduced demand for construction projects due to companies moving operations out of the UK
- Brexit having a negative impact on the public finances and levels of public investment.

### ***Build UK position on project pipelines***

Build UK will work with public and private sector clients to increase the visibility of project pipelines; and emphasise the economic value of continuing to invest in construction projects.

July 2016

## Appendix 1

### Member consultation questions

Build UK will work closely with members and external partners in presenting a response to Government on Brexit. To enable Build UK to finalise its position, members are requested to answer the questions below. **Please provide your answers by completing the [short online survey](#) by Wednesday 7 September.**

1. **Do you agree that the 4 key issues to be resolved in the Brexit negotiations are:**
  - Free movement of EU workers
  - Access to the single market
  - Future of EU legislation
  - Impact on project pipelines
2. **Are there other key issues that need to be resolved in the Brexit negotiations?**
3. **Do you support the following principles of the Build UK position on Brexit?**
  - **Skills:** Ensuring members have access to a large enough pool of labour in order to meet skills needs
  - **Access to markets:** An open trading relationship with Europe that does not significantly increase costs
  - **EU legislation:** A competitive regulatory landscape that maintains effective standards but also reduces bureaucracy where possible
  - **Project pipelines:** Increasing the visibility of project pipelines and emphasising the economic value of continuing to invest in construction projects.
4. **Do you agree with the following aspects of Build UK's position on skills?**
  - Protecting rights of EU workers currently working in construction
  - Any immigration controls must allow construction employers to recruit skilled workers from the EU where necessary
  - Longer term, there must be a renewed impetus by firms to attract, train and retain UK nationals
5. **Do you agree with the following aspects of Build UK's position on access to markets?**
  - Continued access to the single market for UK businesses – with the principle being open trading relationships with both the EU and the rest of the world
  - Any new trading relationship with the EU must not significantly increase costs for construction because of higher tariffs
6. **The Brexit negotiations will involve trade-offs, what do you believe the priority should be?**
  - Retaining access to the single market
  - The UK's ability to place immigration controls on EU nationals
  - Ensuring construction can continue to employ EU nationals to meet skills needs
7. **Should Build UK argue for the retention of free movement of EU workers, even if it goes against the Government's position?**
8. **Which pieces of EU legislation most affect your company or trade association? And do you think it should be retained, repealed or reformed?**
9. **Are there other steps Build UK could take around project pipelines?**
10. **Do you have any further comments on Build UK's position regarding Brexit?**

## Appendix 2

### Current 28 EU Member States

- Austria
- Belgium
- Bulgaria
- Croatia
- Republic of Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- United Kingdom

### European Economic Area (EEA)

The EEA includes EU countries and also Iceland, Liechtenstein and Norway. It allows them to be part of the EU's single market.

Switzerland is neither an EU nor EEA member but is part of the single market - this means Swiss nationals have the same rights to live and work in the UK as other EEA nationals.