



In-depth Briefing

The EU Referendum and Housing Associations in Wales

Background

A referendum will take place on Thursday 23rd June 2016 on whether the United Kingdom should remain a member of the European Union.

What is the European Union?

The European Union (the EU) is an economic and political partnership involving 28 European countries¹. It began after World War Two to foster economic co-operation, with the idea that countries that trade with one another are more likely to avoid going to war with each other. It has since grown to become a 'single market', allowing goods and people to move around freely. It has its own currency (which is used by 19 member countries) as well as its own parliament, and it has the power to set rules on a wide range of areas, including on the environment, transport and consumer rights.

How does it work?

The EU is made up of a number of institutions which play different roles in decision-making at a European level.

- **The European Parliament** is the directly elected Parliament of the EU, and its function is to represent the citizens of the EU who elect it. It carries out this role by scrutinising and voting on legislation, and exercising democratic supervision over the EU, its institutions and its budget.

Each country is represented by Members of European Parliament (MEPs), elected every five years. As of 2014, there are 751 MEPs with 73 elected from the UK, 4 of which represent Wales. The 4 Welsh MEPs are: Derek Vaughan (Welsh Labour), Nathan Gill (UKIP Wales), Kay Swinburne (Welsh Conservatives) and Jill Evans (Plaid Cymru).

¹ Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, UK.



- **The European Commission** is the Civil Service of the European Union, based in Brussels, and its function is to represent the EU as a whole. It is run by 28 commissioners – one nominated from each member state – and controls much of the spending of the EU, as well as proposing legislation.

The UK's representative on the Commission is Conservative Peer and former Leader of the House of Lords, Baron Hill.

- **The European Council** represents the governments of the EU Member States. It brings together the head of each member state and is the body that sets the overall political direction of the EU.

The Referendum – Political Context

The referendum on the UK's membership of the EU is the result of a growing campaign over a number of years by the UK Independence Party (UKIP) and a number of high profile backbench (mainly Conservative Party) MPs. Membership of the EU has been a hot topic of debate since the UK joined the European Economic Community (EEC) in 1973. The referendum which took place on the UK's membership of the EEC in 1975 approved joining by 67.23% to 32.77%.

Prime Minister David Cameron announced in 2013 that, if re-elected at the 2015 election, he would give the UK a referendum on its membership of the EU. Subsequently, the European Union Referendum Act 2015 was passed by Parliament to make provision for the referendum and, following the Conservatives' victory at the 2015 election and negotiations on the UK's relationship with the EU, the date of 23rd June was set.

The Prime Minister's Renegotiation

Upon announcing the referendum, it was not clear which side the Prime Minister would campaign for, as he promised to renegotiate the relationship between the UK and the EU to tackle many of the concerns of those campaigning to leave.

However, on 19th February 2016, the PM announced that a deal had been struck to reform the UK's relationship with the EU. Leaders of the other 27 EU Members States agreed to:

1. Exempt the UK from aspiring to 'an ever closer union'²
2. Link cross-border payments of Child Benefit to the cost of living in the destination country³
3. A process to allow non-Eurozone countries to raise issues with problematic Eurozone laws⁴

² <https://fullfact.org/europe/explaining-eu-deal-ever-closer-union/>

³ <https://fullfact.org/europe/explaining-eu-deal-exporting-child-benefit/>

⁴ <https://fullfact.org/europe/explaining-eu-deal-uk-and-eurozone/>



4. An 'emergency brake' to allow any member country to limit access to in-work benefits for EU migrants⁵
5. Give national parliaments a 'Red Card' veto on EU laws⁶
6. Small changes to free movement rules to make it easier to deport EU migrants⁷
7. Limit residency rights for non-EU family members of EU citizens living in the UK⁸

On 20th February, the UK Government's cabinet approved the deal and agreed to recommend that the UK remains in the EU.

The Referendum – What do the campaigns say?

The official referendum campaign period began on 13th April 2016, when the official campaigns were assigned by the Electoral Commission. 'Britain Stronger In Europe' – which has the support of the Prime Minister, as well as the leaders of the Labour Party, the Liberal Democrats, Plaid Cymru, the SNP and the Green Party – was named as the official campaign for those who want to remain in the EU.

Controversially, the 'Vote Leave' campaign – whose high profile supporters include Boris Johnson and Michael Gove – was assigned official campaign status for those who want to leave ahead of the 'Grassroots Out' campaign which had been supported by UKIP leader Nigel Farage.

Britain Stronger in Europe has focused on four areas during the campaign: 'Jobs & the Economy', 'You & Your Family', 'Life in the UK' and 'Business in the UK'. They claim⁹:

- For every £1 we put into the EU, we get almost £10 back through increased trade, investment, jobs, growth and low prices
- The EU has increased average UK salaries by £1,800
- EU laws protect workers' rights such as maternity leave and holiday leave
- 89% of businesses back staying in Europe

Vote Leave has focused their campaign on the Prime Minister's renegotiation, migration policy, the cost of the EU, and democracy. They claim¹⁰:

- The Prime Minister's renegotiation is not legally binding, and leaves the EU in charge of the same things as before
- The EU costs £350m per week; enough to build a fully staffed NHS hospital
- A quarter of a million EU migrants come to the UK every year

⁵ <https://fullfact.org/europe/explaining-eu-deal-emergency-brake/>

⁶ <https://fullfact.org/europe/explaining-eu-deal-red-card/>

⁷ <https://fullfact.org/europe/explaining-eu-deal-deporting-eu-immigrants/>

⁸ <https://fullfact.org/europe/explaining-eu-deal-limiting-residence-rights/>

⁹ http://www.strongerin.co.uk/get_the_facts#WT5AI52GSSuiBXR9.97

¹⁰ http://www.voteleavetakecontrol.org/our_case



- EU regulations are highly damaging to the UK economy

How does the EU impact upon housing?

There are a number of areas in which EU policy and the wider impact of EU membership can impact upon housing and the housing market in Wales and the UK. They can broadly be broken down into the economy, house building, investment and the freedom to run your business.

- **The Economy**

Much of the debate on the UK's membership of the EU has focused on the cost of being in the EU and the subsequent benefits of being part of the 'single market'.

HM Treasury has published two reports on the likely impact of leaving the EU. The first, on the long term impact of leaving, estimated that, in the long term, the UK's GDP would be 6.2% lower and tax receipts would face an annual £36 billion 'black hole'¹¹. However, due to the uncertainty of what would follow a vote to leave, and the questions that would remain on trade deals etc., the long term impact and any prospective risks are difficult to fully measure.

The Treasury's second report, on the immediate impacts of a vote to leave, also presents a challenging economic picture. It states:

"A vote to leave would cause an immediate and profound economic shock creating instability and uncertainty which would be compounded by the complex and interdependent negotiations that would follow. The central conclusion of the analysis is that the effect of this profound shock would be to push the UK into recession and lead to a sharp rise in unemployment."

The Chancellor has also warned that a vote to leave the EU could result in a decrease in house prices of up to 18% by 2018. Further Treasury analysis of this is expected to be published soon.

- **House Building**

House building in the UK is supported by the UK's access to the single market, and two of the key principles that guide this.

¹¹ <https://www.gov.uk/government/publications/hm-treasury-analysis-the-long-term-economic-impact-of-eu-membership-and-the-alternatives>



1. **Free movement of workers** has been vital in addressing the skills shortage in the construction industry. In 2007, EU nationals constituted 3.65% of the construction workforce in the UK¹², but by 2014, this had almost doubled to 7.03%¹³. In the same period, the number of UK nationals in the construction industry dropped by almost a fifth (approximately 416,000 workers), while at the same time there were 24,000 vacancies in the UK construction industry.¹⁴

Over the last eleven years, we have been increasingly dependent on labour from other EU Member States to plug the skills – and workforce - gap. If the UK left the EU, the automatic right of EU workers to migrate, live and work here would no longer apply.

2. **Free movement of goods** is also important to housing associations in Wales, particularly in terms of construction. The construction industry has relied on imports from Europe in recent years, in particular bricks (from Belgium and Denmark) and other materials such as concrete blocks and materials for pre-fabricated buildings. In 2014, the value of net EU brick and concrete block imports was almost £7m.

The free movement of goods is protected under the EU treaties. States are prohibited from charging 'customs duties on imports and exports and all charges having equivalent effect'. In November 2015, the UK as a whole recorded a trade deficit (in goods) of £8.2bn with the EU.¹⁵ The economy as a whole, therefore, would be significantly impacted by increased trade tariffs.

- **Investment**

There are three areas where the EU has a significant impact on funding for housing associations:

1. **EU Funding** is available to housing associations in Wales from a wide range of sources, including the European Regional Development Fund, European Social Fund, European Agricultural Fund for Rural Development and other sources of funding through the European Investment Bank (EIB).

Between 2014 and 2020, five operational programmes specifically around housing have been adopted in the UK for such investment, with two of these in Wales.¹⁶ These programmes, and the finance which funds them, are focused on energy efficiency and social inclusion. The sums of money available are substantial, with individual (regional) programmes frequently allocated tens of millions of Euros, and a central pot of €50 billion for energy efficiency alone.

¹² ONS, Employment by nationality and industry sector, 2007 & 2014

¹³ ONS, Employment by nationality and industry sector, 2007 & 2014

¹⁴ ONS, Labour Market Dataset, November 2015

¹⁵ ONS, Statistical Bulletin: UK Trade, November 2015

¹⁶ Housing Europe, 'Structural Funds and Housing in 2014-2020: The implementation of the European Structural and Investment Funds for Housing Projects in the European Union' (Brussels: Housing Europe, 2015).



2. **State Aid** (money or any other benefits which distort competition) is prohibited under EU treaties and jurisprudence. It is defined in law as: “any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods...”

Generally, housing association grants are *not* prohibited as ‘State aid’. This is because social housing is a ‘service of general economic interest’ (SGEI) which is exempted from the rules by the EU treaties.

But, following a 2009 decision of the European Commission, the prohibition does apply to housing association grants in some circumstances. SGEI exemptions apply only to those functions or services performed by an organisation which are of general economic interest. They do not apply to the organisations which carry out those functions, whether exclusively or alongside other business activities. Grants or other ‘aid’ which support functions of housing associations, which are not of general economic interest, are therefore prohibited under EU law.

3. **Free movement of capital** is one of the founding principles of the EU treaties and, as such, the protection of direct investment and investment in real estate means that the right of Europeans to invest in UK real estate is protected.

If the UK were to leave the EU, it is possible that land competition could be reduced where associations purchase new plots for development. However, the scale of European investment in land in Wales is far smaller than in the South East of England, and any impact is likely to be minimal.

It is also worth noting that free movement of capital also exists in the European Economic Area and, given the political and economic imperatives to retain this free movement of capital between the UK and the EU, it is highly unlikely that any new agreement in the event of a vote to leave would seek to change the status quo.

- **Freedom to run your business**

There are a number of EU regulations which may have an impact on the freedom of housing associations to run their business, especially in the area of public procurement.

1. **Public Procurement** procedural requirements have applied to housing associations in Wales since 2004, and help to create a regime for public contract cooperation within the European Union.

If the UK votes to leave the EU, UK access to the Official Journal of the European Union (OJEU) Tenders & Public Procurement may be terminated, and procurement relationships would need to



be negotiated as part of any deal. General practice indicates that the EU is extremely willing to allow States outside the EU to engage with the OJEU process.

Both the European Economic Area and Switzerland are bound by the OJEU public procurement rules and it is highly unlikely that a vote to leave the EU would remove housing associations from these rules in the long term.

What are the risks to housing associations of leaving the European Union?

The Economy:

Both the short and long-term projections made by Treasury indicate a sharp decline in the British economy which would likely have major implications on financial markets, the housing market and the wider economic environment in which associations operate.

House Building:

In the immediate term, constraints on EU migration in the event of a leave vote would mean that new construction workers could be prohibited from entering the UK.

Agreements between the EU and other countries – including Switzerland and those in the European Economic Area - incorporate the free movement of workers. In the event of leaving the EU, it is likely that a deal between the UK and the EU could mirror these agreements in general. However, due to the political capital given to immigration in the debate over the EU, it would be very difficult politically for the UK Government to incorporate free movement of people into any agreement.

Leaving the EU could also increase the cost of imports of building materials and other goods. The current tariff-free trading agreements that exist and allow the import of bricks etc. from the EU is dependent on either a) UK membership of the Union, or b) the cooperation of other States, and their willingness to enter freely into trade agreements to keep tariff costs down.

The free movement of goods applies in the agreement with the European Economic Area, and the Swiss agreement contains similar free trade provisions. It seems highly likely that an EU-UK trade agreement would contain similar articles. However, agreements such as these have historically taken years to negotiate. There is a present and pressing shortage of materials such as bricks in the construction industry, and the short term impact of importing these without a trading agreement is likely to be felt sharply.

Investment:



If the UK voted to leave the EU, it is extremely unlikely that the wide range of EU funding sources that housing associations can access would be available. However, the current round of EU structural funds is only committed until 2020.

Some housing associations elsewhere in the UK have accessed significant finance agreements with the European Investment Bank, and it is not clear what would happen to existing funding arrangements. If this finance was still available in the event of a vote to leave, any future loan agreements with the EIB are likely to be subject to more significant restrictions than previously, as seen in agreements such as the one between the EU and Switzerland.

What are the risks to housing associations of remaining in the European Union?

Benefit Changes:

Alongside an ongoing programme of welfare reform, including the introduction of Universal Credit, a significant portion of the Prime Minister's renegotiation with the EU focused on welfare changes. These changes will require legislative change through the EU institutions after the referendum but, in particular, the 'emergency brake' on in-work benefits for EU migrants could prove problematic for associations where they are housing EU nationals.

Investment:

Remaining in the EU would mean that the complex case law which applies the state aid prohibition to housing associations would remain. There are questions over the ability of government to assist financially with some innovative, low cost home ownership products due to state aid laws. For example, in England, the position funding for 'Starter Homes' and state aid rules is, at present, unclear. If the UK left the EU, this case law would cease to apply, and housing associations would be free to continue without the concern that the EU might block Government grant.

If we vote to leave, what happens next?

Article 50 of the Treaty on the European Union provides a procedure for the withdrawal of a member state from the EU. Following a vote to leave, and the subsequent withdrawal of the UK, the UK Government would have two years to negotiate a new agreement before we would become a 'third country State' and lose all voting powers and other rights of EU membership.

Conclusion

Community Housing Cymru is a politically neutral organisation and will not be taking a position on the EU referendum. This briefing is intended to inform our members of the context for the EU referendum, the

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positions taken by both campaigns, and the way in which the EU currently impacts upon our members and how this is likely to change in the event of a vote for the UK to leave the EU.

We will continue to keep members informed of relevant information in relation to the referendum in the lead up to and following the 23rd June, and we will work closely with politicians and civil servants to ensure that our members are equipped to deal with any short and long term challenges the result brings.

**Community Housing Cymru
June 2016**