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# After the Vote: What will Brexit mean for real estate in the UK?

**OLSWANG**

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## Introduction

The British people's choice to leave the European Union has come as a big shock to many in the property industry. With some notable exceptions, most property people appeared to favour the status quo of remaining in the EU, warts and all. The biggest motivation was the uncertainty of the consequences of leaving for the property market. How many international occupiers would up sticks and head to the EU hubs of Paris or Frankfurt? What impact would Brexit have on property values?

Now that the vote is for Brexit, the impact, from a real estate perspective, is more likely to be of a commercial nature rather than legal. This is because the UK has its own set of laws for real estate which, environmental and climate change laws aside, have not been greatly influenced by EU law.

## Commercial impact

The uncertainty surrounding a possible Brexit vote plagued property transactions in the run up to the referendum. Many property players waited on the sides to see the outcome and others included rights in their documentation to walk away in the event of a Brexit vote.

In the immediate aftermath of the Brexit vote and the associated political turmoil, we have experienced the expected drastic impact on sterling that has dropped the UK from 5th to 6th in the world's largest economies.

The fall in share prices in the FTSE100 companies has not been as great as some may have expected and certainly not as bad as falls in other parts of the world. However, certain sectors have been disproportionately badly affected. On 27 June bank shares fell more than 10% and housebuilders' share prices fell by a similar amount leading to a trading halt, with the market concerned about the impact of Brexit on the demand for new housing. In our office, a number of deals have gone on hold, because of the uncertainties surrounding Brexit.

In the run-up to the referendum there was concern that a Brexit vote would lead to an increase in mortgage interest rates. Following the vote, if anything, it appears more likely that rates will go down.

The uncertainty about the impact of the vote on the political and financial state of the UK will cause many investors, commercial or residential, to exercise a greater degree of caution, at least in the short to medium term. This is likely to lead to reduced transactional activity. There are major concerns about Brexit's impact on the status of the City of London and this may disincline international businesses from locating there.

More generally, any adverse impact on the growth of the economy and job numbers may lead to a consolidation of space requirements and less demand for space.

Businesses are more likely to put off investing in a headquarters move until the dust starts to settle. International organisations such as HSBC and JP Morgan have already warned that thousands of their staff may need to relocate outside the UK.

The Council of Mortgage Lenders, however, does not see any immediate prospect of falls in house prices, because of sound market fundamentals underpinning prices and the current severe housing shortage. However, concerns about making large financial commitments in an uncertain environment may lead to a greater inclination to take a lease of residential property, rather than buy.

Some may see falls in property prices as a good buying opportunity, but the concern is how much further do prices have to fall, increasing the risk of committing to property transactions at least in the near term. The weakness in sterling may, however, attract overseas buyers.

## Legal impact

The vote to leave the EU is, at this stage, purely a domestic matter in legal terms. It is going to take a considerable amount of time to work through the process of extricating the UK from the EU – there is the two year notice period during which the UK is required to negotiate what the FT has described as “the world’s most complex divorce” and the start of that period may be delayed.

During the campaign, the Brexit camp was clear that they wished to leave the single market. Whether that becomes the position of the new administration which will actually negotiate the exit terms remains to be seen. The option chosen for exit will be an important factor in determining the extent to which EU laws will continue to apply.

From this point in time, it is, therefore, very difficult to predict how the divorce settlement will shake out; but we set out below a few key areas where a UK exit from the EU may impact on real estate law.

### Student housing, construction projects and procurement

Probably the defining characteristic of the EU is that it facilitates the free movement of people, goods and services. A UK exit means that the current free movement of people between the UK and the EU is likely to be restricted or curtailed. There may be greater administration in terms of work visas or permits and more complex tax and accounting considerations. This may make the UK a less attractive and available place for people coming to the UK such as the student community which could adversely impact on the student housing sector. It could also increase the cost of employing workers on construction projects.

It remains to be seen what impact there will be on procurement projects in view of the major role that OJEU (The Official Journal of the European Union) plays in procurement procedures.

### Alternative Investment Fund Managers Directive

Regulation of investment funds, for example, the Alternative Investment Fund Managers Directive. This is an EU law and doubt must be cast on the future of this law as well as other EU laws as the UK works out the legislative way forward.

### Environmental, climate change and energy laws

A major area where EU Directives have impacted is in relation to environmental, climate change and energy laws. In fact, the EU has very much driven policy here. However, if the UK leaves the EU, it does not necessarily mean that the UK will dispense with the vast amount of existing regulation in this area. Whilst many in the property industry have been frustrated by the level of bureaucracy in relation to climate change legislation such as the CRC Energy Efficiency Scheme, the UK has been a major player in international efforts to reduce carbon emissions and it may be wishful thinking that an EU departure will wipe the legislative slate clean. However, there may well be areas where fresh legislation would be required, for example, in relation to the EU Directives on clean air and emissions with which the UK has some difficulty. The future role of the UK in the EU Emissions Trading Scheme is also open to doubt.

### Minimum Energy Efficiency Standard Regulations

One area where many in the property industry will hope that an EU departure will change the position is in relation to the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015, which from 1 April 2018 impose restrictions on letting if the relevant property does not have an energy efficiency rating (shown in the Energy Performance Certificate) of at least band E. These Minimum Energy Efficiency Standard Regulations apply to both the domestic and non-domestic private rented sector, although there are differences.

Under the Regulations, from 1 April 2018, private landlords of non-domestic properties may not grant a tenancy to new or existing tenants unless their property has an energy rating of at least band E. In addition, from 1 April 2023, landlords must not continue letting a non-domestic property which is already let unless it has a rating of at least band E. While there are certain exemptions, the Regulations are a great worry to landlords of energy inefficient properties, who may hope that an EU departure will lead to a less time pressured approach.

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## Conclusion

The referendum outcome was a shock for many, but the playing out of the commercial and legal consequences for the real estate market will take some time. Investors, developers, funders and occupiers will need to work out their strategies. Some international occupiers will relocate staff, but many will remain. The UK's rule of law and stable political system will continue to prove an attraction to many.

For real estate, the commercial impact of Brexit is stronger than the legal one. For those hoping that Brexit will see the end of bureaucratic energy and environmental legislation, there may be disappointment. It is a moveable feast and we will continue to update you as events unfold.



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