

How to deal with current contracts as a result of Brexit

1. Review the current contract

You should review, and where appropriate, amend key contracts so that you are more prepared for the impact of Brexit on your supply chain. After the UK's exit from the EU, trade barriers in the form of tariffs between the EU and UK may require a renegotiation of prices, and a reassessment of the risk either the buyer or supplier is exposed to in the future.

Companies in Northern Ireland with a higher percentage of contracts with EU suppliers, especially in the manufacturing sector, should re-assess and where appropriate amend contracts to prevent contract disputes arising at a later stage.

Reviewing and re-negotiating the current contract in the context of Brexit may present an opportunity for you to revisit the fundamental terms of the relationship. For example, there may be opportunities to reduce costs by sourcing certain components from suppliers in different locations due to changes in exchange rates brought about by Brexit.

As part of this review process, you could consult your key suppliers to see how they think Brexit will affect their own business and supply chains. This will allow you to gain some insight into the issues facing these suppliers and how they might impact on current contracts.

2. Develop collaborative buyer-supplier relationships

You can avoid some of the Brexit contracting risk through developing collaborative buyer-supplier relationships. A collaborative buyer-supplier relationship involves flexibility on the part of both the buyer and supplier, and a willingness to adapt the terms of the contract to allow for the changing circumstances brought about by Brexit.

It may not be possible for you to change the formal contract to deal with all the challenges that Brexit brings about. The initial contract will not have been designed to allow for all future contingencies and the changes brought about by Brexit. Strict adherence to the formal contract can be detrimental to the development of an effective buyer-supplier relationship, and potentially lead to a breakdown in the supply chain.

However, collaborative buyer-supplier relationships can be used to compensate for some of the gaps in formal contracts brought about by Brexit. For example, rather than resorting to renegotiating the formal contract, joint problem-solving and ongoing communication can be used to reduce the impact of supplier delivery delays or cost increases as a result of border changes brought about by Brexit.

3. Plan an exit strategy

A contract should normally end at an agreed period of time when both the buyer and supplier have met their responsibilities under the terms of the contract. However, you may need an exit strategy for leaving the contract early in the context of Brexit.

You should plan for the potential conditions that make exiting the contract early. A key part of planning for any potential contract exits in a Brexit context will involve assessing those contracts likely to be most seriously at risk due to the impact of Brexit. Clearly, where there are likely to be significant negative risk impacts associated with Brexit on a particular contract, you should consider planning for an exit strategy.

You need to ensure that clear terms and conditions are considered which address the rights and responsibilities of the buyer and supplier in the event of exiting the contract. You should also consider how the purchased items involved will continue to be supplied, and where appropriate, transferred to another supplier.

Any decision to exit the contract should not be taken lightly, and only after significant attempts to reconcile any problems as a result of Brexit. Also, you may decide to gradually reduce the level of business with the supplier, and transfer some of the business to another supplier over a period of time.

Check list of questions to consider in relation to current contracts

- Which contracts are most likely to require review or amendment as a result of Brexit?
- Which contracts intersect with critical timeframes associated with Brexit?
- Which suppliers will be most impacted by Brexit?
- What value of your purchased spend is subject to foreign exchange liabilities?
- Which contracts could be impacted by the UK not being part of the EU?
- Which contracts involve data transfers, movement of staff or cross-border logistics?
- How exposed are your suppliers to any Brexit shocks?
- Is Brexit likely to impact supplier performance or lead to grounds to terminate certain contracts?
- How prepared are you to deal with contracts impacted by Brexit?
- How will your suppliers respond to any cost increases as a result of Brexit?
- How will you deal with any additional costs as a result of changes to compliance law?
- Will you be able to pass on any additional costs to your customers?