

A View of Healthcare in Wales Post Brexit: Preparing for the Future

Welcome

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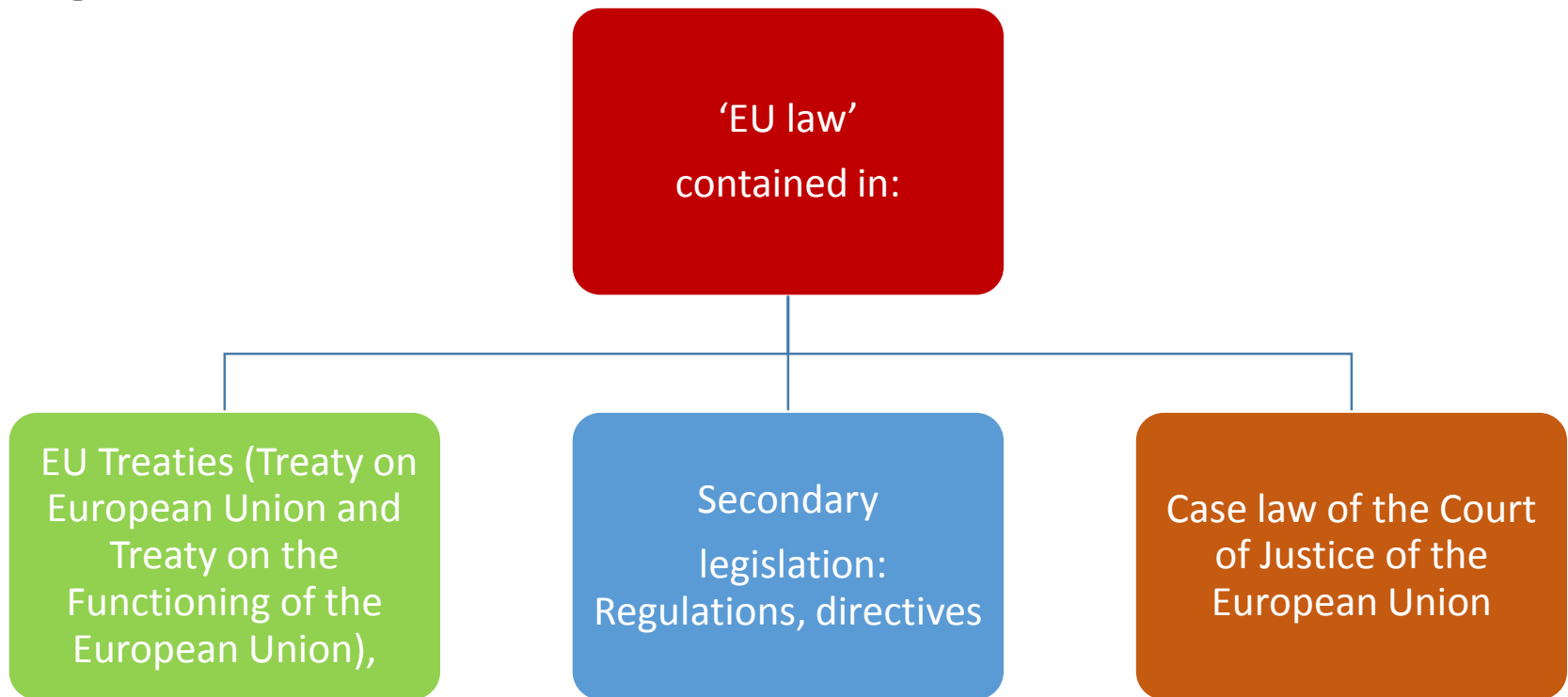
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21 July 2017



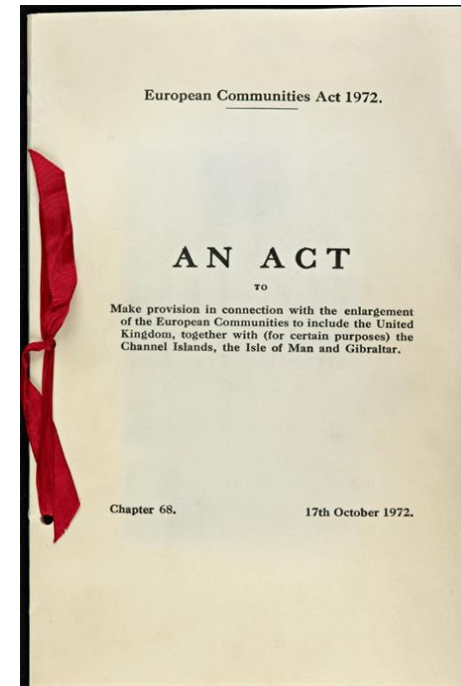
The legal impacts of EU membership





The legal impacts of EU membership

- EU laws made with involvement of national representatives, including from the devolved nations.
- EU law takes effect in UK legal order through the **European Communities Act 1972**
 - Some types of EU law become part of UK law automatically
 - Where necessary, ministers (including devolved government ministers) may make regulations to implement EU law
 - UK legislation has effect 'subject to' provisions of EU law





The legal impacts of EU membership

Devolved Primary legislation is subject to certain constraints :

- Must be within competence
- 'Not law' if incompatible with **EU law** s108(6) GOWA;
- Devolution does not affect the power of the Westminster Parliament to make laws for Wales s107(5) GOWA;



The legal impacts of EU membership

But:

‘it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent’ of the Scottish Parliament/Welsh Assembly’

Sewel Convention, 107(6) GOWA.

Memorandum of Understanding/Concordats – Joint Ministerial Committee

Legislative Consent Motions



Unravelling the threads

- How do we pick these legal orders apart without the risk of creating inadvertent, problematic and potentially costly gaps?
- Until UK formally leaves the EU, EU law continues to apply
- Some rules may continue after UK leaves – depending on the agreement reached
- Powers will be returned to the UK for it to exercise outside the framework of the EU





EU (Withdrawal) Bill

Formerly known as ‘Great Repeal Bill’ –

First Reading 13 July; Second Reading 11 September; Committee stage on the floor of the House, followed by Report and Third Reading, before going to House of Lords.

Changes made by the Bill will come into effect on the day the UK leaves, taking into consideration any implementation period agreed during negotiations

It will be supplemented by sectoral legislation –

Customs, trade, Immigration, fisheries and agriculture





What is proposed in the Withdrawal Bill?

REPEAL - Repeal the European Communities Act 1972,
remove the source of EU rights/obligations for the UK;
end the general supremacy of EU law, end the
jurisdiction of the CJEU (though not the effects of CJEU
decisions)

CONVERT - Convert EU-derived law into domestic law - so that the law is, as much as possible, unchanged. Some things not converted over: the Charter of Fundamental Rights.

CORRECT - Power for ministers to make corrections to legislation, using delegated legislation, to ensure the law is operable



What is proposed in the Withdrawal Bill -the devolution dimension

REPEAL - EU constraints replaced by UK constraints

CONVERT – Convert EU law into UK law – and lock down devolved competence

CORRECT - Power for devolved government ministers to make corrections to legislation within devolved competence



Converting EU law into domestic law

‘In areas including agriculture, environment and transport, **devolved nations implement common frameworks set by the EU**...the Government intends to replicate the current frameworks provided by EU rules through UK legislation’

UK-wide legislation replacing the EU legislation – through GRB/sectoral legislation

‘We will begin intensive discussions with the devolved administrations to identify where common frameworks are needed in the future’



Converting EU law into domestic law

'the Government intends to replicate the current frameworks provided by EU rules through UK legislation'

Presented as providing stability and consistency, and responds to the demands of the U.K. Internal market

BUT

Perceived as a 'power grab', returning powers to centre, rather than respecting devolution settlements



Shared governance in the UK- Brexit and Beyond

Concerns about prospective policy divergence post-Brexit

Deregulatory agenda – social/employment/environmental rights?

What scope for Wales to maintain commitment to standards currently underpinned by EU law guarantees?

Potential significance of the UK ‘internal market’ idea as a driver for recentralization



Shared governance in the UK- Brexit and Beyond

What mechanisms are available to the devolved administrations to advance/protect their interests during GRB process?

- With-hold legislative consent

- Continuation bills – NAW motion passed 4 April 2017

Calls on the Welsh Government to bring forward a continuation (Wales) bill in order to uphold Wales's constitution and convert into Welsh law all European legislation related to devolved policy areas.

Questions?

Impact of Brexit on NHS R&D in Wales

Professor Sue Bale

Director of Research and Development

Aneurin Bevan University Health Board



GIG
CYMRU
NHS
WALES

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Aneurin Bevan
University Health Board

Impact of Brexit on NHS R&D in Wales

Professor Sue Bale OBE

R&D Director

Aneurin Bevan University Health Board

Summary

How it works:

- Relationship between the NHS and Universities
- Breadth of research in the NHS
- Access to non EU funding
- Access to EU funding
- Non commercial and commercial research
- Opportunities and challenges

Relationship between NHS and Universities

- NHS has study sites and access to staff, patients and participants
- NHS can grant access to University researchers
- University works to identify NHS challenges for research topics
- University generally write grant applications, hold and administer external grant funding
- NHS patients and staff have access to high quality research
- NHS can increase its Activity Based Funding
- Universities can generate Impact Case Studies
- Required for Research Excellence Framework (REF)
- Mechanism for measuring quality and allocating funding
- Important that NHS and Universities work together for mutual benefit
- Have Clinical Academics

Breadth of R&D in the NHS

Typically would undertake a broad range of research:

- Trials in secondary care including Parkinson's disease, Bronchiectasis, Dermatology, Midwifery, Frail Elderly, Rheumatology, Orthopaedic surgery, Diabetes, Vascular Surgery and General Surgery, Ophthalmology, Anaesthetics and ITU, Sepsis, Infection Control, ENT and Wound Healing
- Mental Health & Learning Disability
- Community, Primary Care and Public Health
- Research undertaken by Nurses, Doctors, Therapists, Managers, Service Improvement Teams
- University Departments include Health Sciences, Department of Medicine, Sociology, Psychology, Mathematics, Journalism
- Research is supported by trained and experienced research nurses and research admin staff, NHS R&D Departments, Trials Units and clinical areas

Breadth of Funding for R&D in the NHS

In Wales opportunities include:

- Health and Care Research Wales schemes
- NETS participation
- Cross-funder collaboration
- Partnership working

Breadth of funding for R&D in the NHS

Typically access to Health and Care Research Wales funding schemes include:

- Research Funding Scheme
- Research for Public and Patient Benefit
- Fellowships
- Studentships
- Wales School for Social Care Research
- Research Capacity Building Collaboration (RCBC)

Breadth of funding for R&D in the NHS

Typically access to Health and Care Research Wales funding schemes include:

- Funds high-quality research projects (capacity building through excellence)
 - Translational to applied research eligible but short/medium term benefit and potential impact must be demonstrated
 - Health and social care streams
 - Supports early stage career researchers (up to 60 months post – PHD experience)
 - Up to £250k over 24 months (max)
 - Spend per call: approx. £1.5m
 - Health call currently live
-
- Active projects
 - Health: 6 (£1.42m)
 - Social Care: 9 (£1.85m)

Breadth of funding for R&D in the NHS

- Wales pays into the NIHR Evaluation, Trials and Studies (NETS)
- A collective title for Department of Health (DH) England funded research programmes
- DH offers devolved administration the chance to participate in these programmes in return for a financial contribution based on a Barnett-style percentage share of DH spend
- **NETS programmes**
- Efficacy and Mechanism Evaluation Programme (EME)
- Health Technology Assessment Programme (HTA)
- Health Services and Delivery Research Programme (HS&DR)
- Public Health Research Programme (PHRP)

NETS programmes: return on investment

- **NETSCC Programmes (Commissioned EME, HTA, HSDR, PHR)**
- First 3 years (2008-2011) we invested **£5.5m leading to Welsh PI grant capture of £11.5m (around 10% of available funds)**
- Second term (2011-15): we invested **£19.1m; Welsh PI grant capture £15.57m (disastrous extension year!)**
- 2011-15: 124 apps from Welsh PI's; 20 successful (16.13% success rate, 1 in every 6.2 applications)
- 2008-2015 – still in credit overall...just (£24.6m versus £27.1m) though recent performance under new agreement is not looking strong
- Also note: Welsh PI figures: an underestimate
- Welsh Co-applicants in studies led from elsewhere
- 2011-15: 292 bids with Welsh Co-apps of which 63 were successful (21.6%). 'Adjusted' value of additional bids £58.69m

Cross funder collaborations

- National Prevention Research Initiative (NPRI): WG contribution of £390k (first three phases) enabled Welsh researchers to win grants totalling £4.3m
- DECIPHer: Cardiff-led UKCRC Public Health Research Centre of Excellence won a total grant of around £5m, following a WG investment of £850k
- CIPHER: £250k NISCHR investment in a UK e-health initiative enabled the Swansea-led centre to win funding of £4.3m, a 16-fold return on investment
- Topics that EU is currently funding is now associate with innovation and impact, more relevant to NHS

Commercial Research

- NHS increasingly undertaking commercial research
- Gives patients and NHS staff access to the latest drugs and interventions
- Across a broad range of clinical specialties
- NHS recovers costs and takes 20% of profit to use for capacity building for NHS research
- Projects come from UK, USA and Europe typically
- Wales part of UK Clinical Research Road Show to USA in September
- Purpose to pull in more commercial research to Wales

Non EU funding

- So Wales NHS and Universities have success in grant funding outside of EU
- May be very different for Welsh University Departments outside of Health
- Will likely be different for Oxbridge Departments hugely dependant on EU funding
- They may be much more dependent on EU funding
- Potential to grow non EU funding for health
- Accessing a higher proportion of funding
- NHS works mostly but not exclusively with Health Science and Medical Schools at Universities

EU Funding

- Currently have access to EU funding
- Wales can apply for EU funding up until March 2019
- Funding agreed before this will be honoured but our Universities cannot be the grant lead
- NHS in Powys Local Teaching Board and Public Health Wales success in accessing EU funding
- Topics that EU is currently funding is now associated with innovation and impact, more relevant to NHS
- Also useful to REF assessments with Impact Case Studies

EU Funding

- Currently on 2nd round of KESS grants
- Knowledge Economy Skills Scholarships
- This KESSII around £24m to support circa 800 PhD and Mres studentships for all Departments (health)
- For Wales and administered by Bangor University
- £87k to Uni with £14.5k annually to student
- Paying partner sliding scale max £14.5k contribution
- Micro, small, medium and large businesses, charities and Public Sector
- Convergence areas in Wales eligible
- Create wealth and highly skilled people for high valued jobs

Future of KESS

- Current KESSII grants will run as planned until 2019
- If UK exits EU before the KESSII application goes in and gets agreed then we wouldn't get it
- Wales could fund something similar
- Relationships between Industry and Universities has further developed as a result of KESS
- Industry and Universities could develop a national scheme
- Much opportunity

Brexit and EU funding

What happens next?:

- Time to plan projects that could be submitted prior to 2019
- Time to consider whether this would be productive
- Hope and expectation is that we are still eligible to have some form of access
- Repurposing current contribution through Barnett formula would give Wales less money
- Rules might change but we can continue
- Impact on research and Clinical Academic staff moving freely across EU?

Conclusions

- As many opportunities created as funding lost
- Time to plan for sustainability
- Key will be about gearing up and getting better at recognising new opportunities
- Brexit is no reason to step away from that
- Opportunities are around collaborations rather than competition
- Wales is leading the way with Prudent Health, wellbeing and Value Based Healthcare
- This brings economic opportunities
- We need to grow our research relationships with the rest of the world
- Should plan to increase these
- Think more about outside EU funding
- Think Global rather than EU
- More positives than negatives

Questions?

Representing Health and Social Care – The Cavendish Coalition

Caroline Waterfield

Assistant Director, Employment Services

NHS Employers

Questions?

Refreshments and Table Discussions

Session Close

Jane Green

Engagement Manager

Welsh NHS Confederation

Save the Date

Next Networking Seminar

29 September 2017

All Nations Centre, Cardiff

Save the Date

Annual Conference and Exhibition 2018

Dinner: Tuesday 6 February

Conference and Exhibition:

Wednesday 7 February