

The path to Brexit: Key priorities for the NHS

This briefing highlights the impact that exiting the EU could have on health and social care in Wales. The issues raised in our briefing should be a top priority for the Welsh and UK Government during the withdrawal negotiations.

The Welsh NHS Confederation is the only national membership body which represents all the organisations that make up the NHS in Wales: the seven Local Health Boards and three NHS Trusts. Our role is to support our members to improve health and well-being by working with them to deliver high standards of care for patients and best value for taxpayers' money. We act as a driving force for positive change through strong representation and our policy, influencing and engagement work.

Key Points

On the 23rd of June 2016 the British people voted to leave the EU and the Brexit process formally began when the UK government triggered the Article 50 leaving procedure on 29 March 2017.

The European Union has never experienced the withdrawal of one of its member states and the EU Treaty does not provide much detail on the process to be followed in this type of event.

Article 50 of the EU Treaty says that if a member decides to leave the EU, there will be a period of two years for the leave agreement to be conducted, starting from the moment Article 50 is triggered. If required, this period of time could be extended.

Negotiations are expected to be long and complex and the EU has made it clear that the UK cannot 'cherry-pick' the terms of its new relationship with the EU after Brexit, stressing that free movement of goods, services, people and capital cannot be split up. So what does this mean for health and social care services in Wales?

At the moment it is still unclear what the implications of Brexit will be but it is likely that the impact could span over a broad range of areas of NHS activity. Brexit could have implications for the commissioning, provision and development of healthcare interventions given the extent to which EU policy and legislation impact on the NHS. There are possible implications for the NHS workforce, research and innovation, and health technology regulation are priority issues to be looked at during the withdrawal negotiations.

Before considering the key priorities in more detail, it must be reiterated that until the moment the UK formally leaves the EU it remains a full member and all EU policy and law will continue to apply. The rights of EU citizens working in the NHS will be unaffected during this period and NHS employers can continue to recruit staff from EU countries. The UK will continue to receive EU funding and be able to participate as partners in the different EU funding programmes.

Key Points to Consider:

Many aspects of the UK's health and social care services have been influenced by European Union policies and legislation. Depending on the settlement, the UK's exit from the EU could have a profound impact on the UK economy, the NHS workforce and the delivery of public services.

Budget:

Will Brexit have an impact on the health and social care budget? It is still unclear whether the NHS budget will be negatively affected.

Research:

Will the European Medicines Agency, which is currently based in London, be relocated? How will this impact health research, medical trials and the approval of new medicines? What access will NHS clinicians and researchers have to EU research funds? Our aim is that NHS organisations across the UK can continue to participate in EU collaborative programmes and are allowed to lead and be a member of European Reference Networks post-Brexit.

Employment:

Will EU workers have the right to remain in the UK? What will the implications be for recruiting new staff from EU countries? Both the EU and the UK have said they would like to reach agreement early in the negotiations, so EU nationals in the UK and UK citizens in the EU, get clarity as soon as possible. Our priority will be to ensure a continuing 'pipeline' of staff for the sector, including recognising health and social care as a priority sector for overseas recruitment. We are calling on the UK Government to provide clarification as soon as possible that EU professionals who are already working for the NHS across the UK, or who will be recruited during the leave negotiations, will be allowed to remain after Brexit. The immigration rules and visa requirements for future EU employees may only be known at the end of the exit negotiations.

X-border healthcare:

Will UK citizens continue to have the same access to healthcare abroad? Will EU nationals still have the same access to healthcare in the UK? It is unclear how NHS patients will continue to receive safe and seamless healthcare when they travel across borders for holidays or those living abroad.

Innovation and Trials:

Will patients from the UK be able to participate in EU clinical trials? Will there be any barriers to the UK accessing new technologies? Our priority is that NHS patients continue to benefit from early access to a wide range of innovative health technologies available on the EU market and that they do not miss out on the opportunities offered by participation in EU clinical trials.

Other priorities

Alongside these priorities, we have identified **Public Health** and **Employment Law** as other areas in which risks or opportunities emerging from Brexit should also be considered.

Most important issues to consider during the withdrawal negotiations

Brexit negotiations have only recently started so it is difficult to be very specific on the measures which should be put in place to mitigate risks and to take advantage of opportunities. While the implications of a UK withdrawal from the EU are anticipated to affect all parts of the health care system, we have identified specific implications on the following areas:

Budget

The annual funding of the NHS depends on the performance of the economy, with leading economists concerned Brexit could lead to an economic downturn. The Health Foundation has estimated that the NHS budget in England could be £2.8bn lower than currently planned by 2019/20. The repercussions will be felt by NHS Wales.

Research

Clinical research and innovation are key components of NHS activity across the UK and the NHS has a long tradition of EU collaborative research. Subsequent EU Research and Innovation funding programmes have acted as catalysts for this collaborative work, filling gaps in the research pipeline, and allowing researchers across Europe to gather forces to find responses to common challenges, both at clinical and operational levels, that confront health systems in Europe.

EU research grants have also been crucial for the Welsh NHS' ability to attract and retain some of the most renowned clinicians in the world, who often decide to work for the NHS due to its excellent reputation in leading EU collaborative medical research initiatives, including through the EU research programme Horizon 2020.

Collaboration at EU level has helped the NHS across the UK to develop new treatments, adopt innovation more quickly, and improve the quality of healthcare it provides. We would like to ensure that the NHS can continue to participate in EU collaborative research programmes post-Brexit.

Employment

Across the UK, the NHS is heavily reliant on EU workers. The priority should be to ensure that the UK can continue to recruit and retain much needed health and social care staff from the EU and beyond, whilst increasing the domestic supply.

In April 2017 there were 1,354 EU Nationals directly employed by the NHS in Wales (1.5% of the whole NHS workforce). The current percentage of doctors in Wales who are recorded on the Electronic staff record as being from the European Union is 7.2% (compared to 10% in England).

Whilst the figures for the whole Welsh NHS workforce are relatively small, there are some key points to note:

- Staffing levels in the service operate on very fine margins, as can be seen by the need to use high levels of agency and locum staff. Any decrease in staffing numbers will therefore exacerbate the problem;
- The current uncertainty as to the timetable for leaving the EU may lead to staff looking for opportunities outside the UK and for potential applicants to be deterred from applying; and
- The incidents of harassment of foreign workers and feeling that they are no longer welcome may have an impact on EU/EEA workers' willingness to remain in the UK, even if permanent freedom to remain is granted. One of the present impacts of the EU Referendum has been the rise of 'hate incidents' and intolerance towards foreign citizens, some of which have been directed against NHS employees. A number of Health Boards in Wales have expressed their views publically about supporting their workforce and that hate crime will not be tolerated.

Whilst we welcome the recent announcement that more healthcare professionals will be trained domestically, we are aware that workforce planning is not an exact science and that it is extremely difficult to predict the number of professionals that will be needed in the future to ensure the smooth and safe operation of the health and care system. Shortages in specific areas can take 2-3 years to develop, but may need 10-15 years for the UK trained workforce to adapt, by which time other solutions have usually been found and different workforce shortages may have

emerged. In addition, many healthcare systems across the world compete for healthcare specialists and the UK is not immune from home grown professionals leaving the NHS to work overseas. It is to be expected, therefore, that our sector will need to continue to recruit overseas trained professionals, including from within the European single market, to operate smoothly and to offer safe and high quality services to patients.

The freedom of movement provisions of the EU single market make it possible for healthcare professionals qualified in other parts of the EEA to access the UK employment market without having to obtain visas and work permits, unlike citizens from non-EU countries. This makes it quicker and easier for the NHS to recruit staff from the EU, especially into shortage areas and specialties.

The UK is a net importer of healthcare professionals qualified in other parts of the EU and our priority in NHS Wales will be to ensure a continuing 'pipeline' of staff for the sector after the UK leaves the EU.

Cross-border healthcare

As the right to receive healthcare in another EU country is regulated by the EU, Brexit may have consequences for NHS patients in terms of their ability to access cross-border healthcare. This could mean that, in future, British citizens on holiday or travelling across Europe may no longer be able to use the European Health Insurance Card (EHIC), which allows them to receive emergency or immediately necessary healthcare on the same terms as residents of that country.

EU law also allows Britons who are abroad for a longer period of time – such as pensioners living abroad, or UK citizens who work in another EU country – to be entitled to receive healthcare in the country where they live on the same basis as the local population. It should be stressed that these EU rules are reciprocal and therefore uncertainty also exists on whether EU citizens will be entitled to receive healthcare in the UK following Brexit.

If the UK were to leave the EU single market, these systems would in principle no longer apply, unless bilateral agreements were negotiated. Consideration should be given by negotiators to possible implications for patients and how to ensure that a fair alternative system is put in place,

either with the EU as a whole, or with those EU countries, such as Spain, where large numbers of UK nationals live.

Innovation and clinical trials

The EU has competence to regulate health technologies, such as pharmaceuticals and medical devices, but also products of human origin such as blood, tissues and cells. This is because these products circulate in the EU single market and are therefore subject to a set of common standards and rules to ensure their safety and quality.

In Wales the life sciences sector employs around 11,000 people based at more than 350 companies and delivers a turnover of circa £2bn per year. These include companies in the ground-breaking fields of medical technology – biopharmaceuticals, regenerative medicine, diagnostics, e-health and biotechnology.

Having a single EU regulatory framework has allowed new health technologies to be brought more quickly to the market for the benefit of patients. For example, pharmaceutical companies can make new medicines available everywhere in the EU through the single centralised marketing authorisation procedure provided by the European Medicine Agency, instead of having to apply for authorisation in each individual member state.

In the event of the UK exiting the single market, the UK would be free to determine its own medical regulation, with potentially significant implications for the NHS. Under such a scenario, it will be essential to ensure that patients continue to benefit from straightforward access to the wide range of innovative health technologies available on the EU market. Similarly, it will be crucial that patients do not miss out on the opportunities offered by participation in EU clinical trials.

Public health

A significant proportion of the domestic legislation in public health and consumer protection originates from the EU, as the EU has legislative competence in these areas. If EU rules were no longer enforceable in the UK post-Brexit, we would recommend that the same (or higher) level of safety is guaranteed through domestic standards and regulations thereafter.

Furthermore, the EU has several mechanisms to respond to and combat major cross-border health threats, including communicable disease outbreaks. This has allowed considerable improvement in the degree of information sharing and response coordination on an EU level in cases such as Ebola and swine flu pandemics. Continued access to these EU coordination mechanisms and networks, such as the European Centre for Disease Prevention and Control (ECDC) should be sought during the negotiations, as it would be more difficult for the UK to tackle in isolation what are inherently transnational threats.

Employment law

A substantial proportion of UK employment law originates from the EU and provides important protections for nurses, social care and health staff; in particular, working conditions such as the Working Time Directive, information and consultation on collective redundancies and safeguarding employment rights in the event of transfers of undertakings (TUPE).

Cavendish Coalition and Brexit Health Alliance

The Welsh NHS Confederation has been highlighting the possible implications for the Welsh NHS of Britain exiting the EU with the Welsh Government but also to the UK Government through being a proactive member of the Cavendish Coalition and the Brexit Health Alliance.

The **Cavendish Coalition** is a group of health and social care organisations united in their commitment to provide the best care to their communities, patients and residents. We are committed to working together to ensure a continued domestic and international pipeline of high caliber professionals and trainees in health and social care.

The **Brexit Health Alliance** brings together the NHS, medical research, industry, patients and public health organisations. The Alliance seeks to make sure that issues such as healthcare research, access to technologies and treatment of patients are given the prominence and attention they deserve during the Brexit negotiations.

How can the Welsh NHS Confederation help you?

Please get in touch if you want further details on any of the issues raised in this briefing.

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