



Department
of Health

Government response to the House of Commons Health Committee report *Brexit
and health and social care – people & process*

Cm 9469





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House of Commons
Health Committee report
Brexit and health and social care – people & process

Presented to Parliament
By the Secretary of State for Health
By Command of Her Majesty

December 2017

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INTRODUCTION

This document sets out the Government's response to the report on the impact of Brexit on health and social care published by the House of Commons Health Committee in April 2017, chaired by Dr Sarah Wollaston MP. Responses to each of the recommendations contained in the Committee's report are provided in this response.

We welcome the Committee's report which identifies the issues faced by those in the health and social care sector and also patients who rely on reciprocal healthcare arrangements, which are being considered during negotiations on the UK's withdrawal from the European Union (EU).

The Government is committed to a smooth and orderly withdrawal from the EU for the health and social care sector as well as the UK as a whole.

The main policy areas affected by the UK's withdrawal from the EU (and for which this Department has the lead within Government) are the health and care workforce, medicines regulation and the supply chain, reciprocal healthcare and public health. There are other areas (led by other Government Departments) in which we have a close interest, for example Mutual Recognition of Professional Qualifications (MRPQ), research and procurement.

The Department is supporting the Department for Exiting the European Union in negotiations with the EU and working closely with its Arm's Length Bodies (ALBs), the Territorial Offices, and many others across government, in its preparations for EU exit.

Conclusions and Recommendations

Issues arising from Brexit

1. *Giving evidence on the impact of Brexit, Jeremy Hunt MP, the Secretary of State for Health, told us that the Government would not be publishing its own digest of the implications of Brexit because “the publication of what might be called the worst-case scenario could itself have an impact on negotiations.” We do, however, urge the Department of Health to produce a comprehensive list of those issues that will require contingency planning. (Paragraph 6)*

The Department of Health is working to ensure the best outcome for the health and social care system. All policy teams within the Department of Health have assessed the implications of the UK's withdrawal from the EU on their area and those that will be affected are undergoing detailed implementation planning for all scenarios. This includes working with NHS England and other Arm's Length Bodies. There are no current plans to publish a comprehensive list of these issues, but the Department has provided written and oral evidence to the Committee about the main policy areas engaged.

Every Government department, including the Department of Health, will be proceeding in the only responsible way possible: planning to deliver a smooth exit under any scenario, which includes preparing the UK for the future economic partnership we hope to negotiate with the EU as well as the very unlikely scenario in which no mutually satisfactory agreement can be reached and the UK exits without a deal.

Within DH, a central team within the Global and Public Health Directorate coordinates the provision of advice to Ministers on EU Exit and exit-related issues. Lord O'Shaughnessy, Parliamentary Under Secretary of State for Health, has also been nominated as the responsible Minister for the Department's preparations for the UK's withdrawal.

Influence of health within the negotiations

2. *We recommend that whenever health issues are being discussed, in particular the areas which we have identified, ministers or officials from the Department of Health should form part of the UK representation in negotiations with the EU. (Paragraph 10)*

The Department has been supporting the Department for Exiting the European Union (DExEU) in preparing for negotiations with the EU, including providing technical experts during negotiating rounds. This has already occurred during negotiations on the Withdrawal Agreement, for example in the Citizens' Rights working group. We will continue working closely with DExEU and the rest of Government and play a full role in the cross-Government effort as the negotiations progress.

The Secretary of State for Health is invited to attend the Exiting the European Union Cabinet Committee when a matter directly affecting health arises to ensure the health sector is properly represented.

Departmental resources

3. *We consider it essential that the negotiating team for the health related aspects of Brexit has the expertise, competence and appropriate support for this complex task. We recommend that the Department of Health identifies the dedicated senior officials handling negotiations for each of the areas we have highlighted, in addition to clarifying the expertise and make-up of the overall coordinating team for health. (Paragraph 16)*

We agree that this is essential. EU Exit is an all-of-government operation. The Department for Exiting the European Union is doing detailed work with departments to prepare for negotiations by understanding the risks and opportunities of leaving the EU and coordinating planning.

Within DH, a central team within the Global and Public Health Directorate coordinates the provision of advice to Ministers on EU Exit and exit-related issues. All affected policy teams within the Department are involved with this work and they are assessing the implications of the UK leaving the EU on their policy area. The Department keeps under review the resources allocated to this work and will continue to ensure the best possible combination of expertise is brought together in order to secure a successful outcome from the negotiations.

Given the overlaps between EU Exit work and the existing work of the Department, it is not possible to give an accurate figure of time or numbers dedicated to work on EU Exit.

Contingency planning

4. We recognise that the Government does not wish to set out the terms of its negotiating stance. It would nevertheless be helpful if the Department of Health could provide a list of issues under consideration to enable stakeholders and civil society to provide relevant input for the negotiations and to identify any important gaps. (Paragraph 27)

In providing oral evidence to the Health Committee on 28 February 2017, Paul Macnaught, Director of EU, International & Public Health System at the Department of Health listed the biggest issues for the Department arising from the UK's withdrawal from the EU as including workforce, medicines and devices regulation and the implications for the life sciences sector generally, reciprocal healthcare and health protection systems. We have interests also in other areas as set out in our evidence to the committee and including but not limited to the Mutual Recognition of Professional Qualifications Directive (MRPQ), research and procurement.

Under article 168 of the Treaty on the Functioning of the European Union, the management of health services and medical care and the allocation of the resources assigned to them is the responsibility of the Member States. This means that compared to other areas covered by the EU, there are relatively fewer areas in the Department that are directly affected by the decision to leave the European Union.

Stakeholder engagement is a central element of our plan to build a national consensus around our negotiating position. We are listening and talking to as many organisations, companies and institutions as possible.

Future rights and entitlements

5. R-EU (the remaining 27 members of the European Union) nationals in the UK enjoy a full set of easily enforceable rights and entitlements that put them on a par with British citizens. This should be acknowledged by the Government when undertaking any assessment of the incentives required to attract workers into health, social care, and supporting roles, especially low-paid jobs such as in adult social care. We wish to make clear the value that we as a Committee place on the health and social care workforce from R-EU nations. (Paragraph 51)

The Government has made clear in its publication *The United Kingdom's Exit from the European Union: Safeguarding the Position of EU Citizens Living in the UK and UK Nationals Living in the EU* that the vote to leave the EU was about our arrangements going forward, not about unravelling previous commitments. Ministers

have been very clear that EU citizens in the UK are highly valued members of our communities, making significant contributions to the economic, cultural and social life of the UK including every area of the health and care system. It has been, and remains, one of the Government's first goals in the negotiations to ensure that EU citizens in the UK can carry on living their lives as before.

The Government is working hard to achieve that outcome in the current negotiations with the EU. As the Prime Minister set out in her speech in Florence, the Government will incorporate the agreement fully into UK law and make sure the UK courts can refer directly to it.

Future staffing requirements

6. *The Government's plan for our post-Brexit future should both ensure that health and social care providers can retain and recruit the brightest and best from all parts of the globe and that the value of the contribution of lower paid health and social care workers is recognised. (Paragraph 67)*

7. *To inform this policy, we recommend that the Government undertake an audit to establish the extent of the NHS's and adult social care's dependence on both the EU and the wider international workforce in low paid non-clinical posts as well as in clinical roles. (Paragraph 68)*

8. *The Government must acknowledge the need for the system for recruiting staff to the NHS, social care and research post-Brexit to be streamlined to reduce both delays and cost. We call on the Government to set out how this will be managed in future. (Paragraph 69)*

We agree with the recommendations of the Committee on future staffing requirements. The health and care system must have access to the right number of staff with the skills, knowledge and experience required. We value the enormous contribution that staff trained in the EU and elsewhere globally make across the health and care system.

We have a detailed understanding of how many internationally trained staff work in the NHS¹ and in adult social care² and we will ensure that this informs our plans for the workforce. We are also boosting the domestic supply of staff through expanding training places in nursing and other areas.

¹ <http://content.digital.nhs.uk/catalogue/PUB23470/hchs-trst-ccg-org-job-type-dec-2016.xlsx>

² <http://www.skillsforcare.org.uk/Documents/NMDS-SC-and-intelligence/NMDS-SC/Analysis-pages/State-of/State-of-ASC-2016-statistical-appendix-England.xlsx>

In July 2017, the Government commissioned the Migration Advisory Committee (MAC) to advise on the economic and social impacts of the UK's withdrawal from the European Union and also on how the UK's immigration system should be aligned with a modern industrial strategy.

The Department is submitting evidence to the MAC to ensure that the staffing needs of health and social care are fully considered.

Revisions to professional regulation

9. We support the principle that all clinicians working in the UK should be asked to demonstrate relevant language, skills and knowledge competence. Nevertheless, the UK has an opportunity to negotiate a more pragmatic approach to the mutual recognition of professional qualifications directive within the British regulatory model. (Paragraph 81)

10. Attention needs to be paid to the balance between patient safety as served by regulatory rules which may restrict access to the profession, and patient safety as served by having a workforce sufficient to meet the country's needs. Regulation should not evolve into unnecessary bureaucratic barriers which inhibit the flow of skilled clinicians in to the NHS. Therefore, automatic recognition of some qualifications should not be excluded from possible future regulatory arrangements. (Paragraph 82)

The primary purpose of regulating healthcare professionals is to ensure public safety. Some regulatory bodies have concerns that MRPQ limits the action they can take when registering EEA professionals, particularly by restricting tests of language competence. The Department agrees that a balance needs to be struck between managing this risk in a proportionate way and ensuring that the flow of skilled and valuable healthcare professionals into the NHS is not impeded by unnecessary levels of bureaucracy.

We can confirm that the UK is seeking to agree a continued system for the mutual recognition of professional qualifications.

11. Future regulatory arrangements should be established by a process which involves consultation with all stakeholders and full Parliamentary scrutiny. The Government is considering new primary legislation to reform the professional regulation of health and social care and this should be the vehicle to reform the implementation of the MRPQ directive in UK law. It should not be amended using delegated legislation under provisions granted by the 'Great Repeal Bill'. (Paragraph 83)

We note the Committee's recommendation. The Government will adopt the appropriate legislative vehicle to ensure that any changes to UK professional regulation legislation can be made in a timely way while ensuring appropriate Parliamentary scrutiny.

12. The Government must take full account during the process of negotiations that it would not be in the interests of patients to lose access to the alert mechanisms which identify potentially dangerous practitioners and which exist as a central part of EU law on mutual recognition of qualifications. (Paragraph 84)

The alert mechanisms are a major step forward in addressing patient safety issues. The Government is considering it alongside the wider negotiations.

European working time directive

13. The medical profession should take the lead in examining the opportunities which would arise were the UK no longer bound by the requirements of the working time directive. The profession should advise how the junior doctors' contract could be adapted to improve training, team working and flexibility. The Government should then work with the profession to achieve the legislative and contractual changes which Brexit might enable. (Paragraph 92)

The European Working Time Directive is health and safety legislation and the overriding principle is worker health and safety. This, patient safety and high quality care is paramount to all that we do in the NHS and we will continue to adhere to its requirements.

The Government has made a clear commitment to protect workers' rights, and ensure that they keep pace with the changing labour market. This Government will not roll back EU rights in the workplace. Workers' rights that are enjoyed under the EU will be preserved by the European Union (Withdrawal) Bill and will be brought into UK Law. However, the Government is committed to retaining individual's rights to opt-out of the 48-hour limit in weekly working time. This opt-out gives people flexibility and choice over their working hours. Millions of people are better off because of that choice.

Reciprocal Healthcare

14. It is in the interest of many hundreds of thousands of British people living across the EU to maintain simple and comprehensive reciprocal healthcare arrangements. The Government's negotiating objective should be preservation of the existing system of reciprocal healthcare so that EU nationals in the UK and people insured by the UK in other EU countries can maintain their access to healthcare. (Paragraph 126)

The UK will seek to protect the healthcare arrangements currently set out in EU Regulations and domestic UK law for UK nationals and EU citizens who benefit from these arrangements resident before the specified date (to be agreed during negotiations). This is as set out in *The United Kingdom's Exit from the European Union: Safeguarding the Position of EU Citizens Living in the UK and UK Nationals Living in the EU*. We will also seek to protect the right of UK nationals and EU citizens to benefit from the European Health Insurance Card. This would ensure that EU citizens remain eligible for NHS provided healthcare in the UK (and vice versa for UK nationals in the EU). The Government has made good progress in recent negotiations with the EU and looks forward to continued discussions on this matter.







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