The key issues for health and social care organisations as the UK leaves the European Union

THE WELSH NHS CONFEDERATION
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Summary

In June 2018, the Welsh NHS Confederation's Policy Forum released a publication summarising the ten key issues for health and social care organisations in Wales as the UK left the EU. Now that we are in the Transition Period, this briefing will reiterate the key issues for the sector in Wales. Our desired outcomes for the transition period and beyond are to see:

- **Recruitment of high calibre professionals and trainees from the UK and abroad to work across the health and social care sector**… Any future immigration rules must recognise health and social care as priority sectors for international recruitment.
- **Continue to recognise the professional qualifications for people trained in the EU27**… We want continued recognition of professional qualifications of nurses, doctors, dentists, pharmacists, midwives and Allied Health Professionals trained in the EU27 and the UK.
- **Protection of workers' employment rights and the rights of patients and people who use care and support post-Brexit**… We will continue to campaign through the Cavendish Coalition to ensure workers' rights are protected.
- **UK health and social care organisations continue to participate in EU networks and programmes**… Without access to EU funding and collaborative projects, Welsh science excellence risks falling behind and organisations including the NHS will become less attractive to professionals wanting to undertake research.
- **Patients continue to benefit from early access to innovative technologies on the EU market and participate in clinical trials**… Delay and expense in accessing treatments could be caused by separating the Medicines and Healthcare products Regulatory Agency (MHRA) from the close working relationship it maintains with the European Medicines Agency (EMA). NHS patients must not miss out on opportunities to participate in EU clinical trials.
- **Regulatory alignment for the benefit of patients, people who use care and support, and public health to ensure early access to innovative health and care technologies**…Continue cooperation is needed for frictionless trade of health products across UK/EU borders. Any future trade deals should support population health and wellbeing by improving the wider determinants of mental and physical health such as employment, good housing and nutrition.
- **Reciprocal healthcare arrangements preserved**… As part of the Brexit Health Alliance, we are campaigning for continued access to reciprocal healthcare to ensure simple and safe access to treatment when working, living or travelling into the EU, at local, affordable cost.
- **Robust coordination mechanisms on public health and wellbeing standards to guarantee equal or higher safety**… Continued close coordination between the UK and EU on public health and wellbeing through sharing data and alerts about cross-border threats.
- **A strong funding commitment for the health and social care sectors**… A key priority for Wales is to understand the rules of engagement for accessing any replacement funding after Brexit, such as the UK Shared Prosperity Fund.
- **Engagement between Welsh Government and the UK Government protecting the interests of health and social organisations in Wales**… We will continue to highlight the possible implications for the NHS in Wales of the UK exiting the EU with the UK Government, Welsh Government and Assembly Members.

Desired outcome: Recruitment of high calibre professionals and trainees from the UK and abroad to work across the health and social care sector.

The number of international citizens working across health and social care.
A total exit from the single market, as put forward by the UK Government, will leave the UK free to determine its policies on immigration with implications for health and social care. We still believe it is crucial to ensure any future UK immigration rules recognise health and social care as priority sectors for overseas recruitment, from both inside and outside the EU.

According to the latest figures (December 2019), 1,741 individuals directly employed by the NHS in Wales identify as European Union (EU) or European Economic Area (EEA) nationals. This equates to 1.85% of the total workforce on the Electronic Staff Record. This includes a significant number of trained, qualified and dedicated staff who could not be replaced in the short term, including 6% of medical and dental professionals and 2% of Allied Health Professionals and healthcare scientists. This is in addition to the 2,742 members of the workforce (2.9%) that identify as Rest of World (i.e. non-UK and non-EEA), including 19% of medical and dental professionals.

Doctors from Europe make a vital contribution to UK health services. Currently, there are 101 GPs (4% of total) on the General Medical Council (GMC) register in Wales who gained their primary medical qualification from another EEA country, and this has remained unchanged since June 2018.

In relation to social care, research by Ipsos MORI on the Implications of Brexit on Social Care and Childcare Workforce in Wales published in March 2019 estimates 6.4% (2,900) of the 45,450 staff employed by registered social care settings in Wales are non-UK EU nationals. This estimate ranges from just over 4% for domiciliary care and registered homes for children, to 8.3% in residential care. If migrant workers are not able to be part of the social care workforce in the future the outlook is worrying for the sector and for the elderly, the vulnerable, the disabled, carers to enable capacity across the health and the social care workforce.

Settled Status Scheme
We value all EU/EEA nationals working in the health service, not just as professionals, but to the communities they live in. We want to encourage and support EU national staff to apply for the free Settled Status Scheme. For complex cases the EU Citizens Immigration Advice Service, www.eusswales.com, details a range of third sector organisations that can provide free assistance. The Welsh NHS Confederation's Preparing for Settled Status Line Manager Toolkit is designed to help managers working in the NHS, but can be used across public and private sectors, provide support to European citizens working within their organisations.

Future immigration proposals
We want an immigration policy which retains and attracts talented individuals worldwide to work in our health and social care services. As members of the Cavendish Coalition, a group of 36 health and social care organisations committed to providing the best care to communities, patients and residents while leaving the European Union, we have provided information to the UK Government to ensure that the UK's future immigration system address the priorities for health and social care. We also engaged with the National Assembly's External Affairs and Additional Legislation Committee in November 2019 on their examination into the implications of ending free movement.

In December 2018, the Immigration White Paper outlined principles of a skills-based immigration system for all non-UK citizens. We have continually engaged with the Home Office on what future immigration policies could mean for our workforce. As well as representing our members views on the Home Office National Advisory Group, we responded to the Immigration White Paper on behalf of our members and through our Policy Forum, which was endorsed by 17 organisations.

Following the General Election in December 2019, the new UK Government's policy direction shifted to a points-based immigration system with a fast-track visa for NHS workforce. In January 2020, the Migration Advisory Committee (MAC) released its report on the salary threshold and the potential for a points-based immigration system (where we responded to the Call for Evidence).

According to details of the points-based immigration policy, to enter the UK individuals will need at least 70 points by meeting: a skills level of RQF3+ (A level equivalent); a salary threshold of £25,600; the English language requirement; and have a job offer. There will be some tradable points available if the salary is below £25,600 (but not less than £20,480): if the job is on the Shortage Occupation List or if they have a PhD relevant to the position, they can acquire additional points. There will be no general low-skilled or temporary work route, and applicants would be subject to pay the Immigration Health Surcharge.

We welcome the recommendation to lower the salary threshold to £25,600. However, we are still concerned that this does not go far enough to address the workforce challenges in social care despite recognition of the problem in the MAC report. These are the thousands of people who provide personal care to vulnerable people, and there is a particular reliance on workers from outside the UK to help provide this service. Currently, the system focused on skills, qualifications and especially on salary doesn't recognise the current and future needs of social care and the demographics in Wales. Wales' population is more reliant on net migration and is ageing, with more people aged over 65 years that make up a larger share of the population. At the same time, there are fewer young people and working aged people who can take care of the growing ageing population in the future.

Desired outcome: Continue to recognise the professional qualifications for people trained in the EU27.

We still want to ensure that the EU27 and UK health and social care professionals, and the wider system, continue to benefit from training and education opportunities and automatic recognition of qualifications. We want continued recognition of professional qualifications of nurses, doctors, dentists, pharmacists, midwives and Allied Health Professionals trained in the EU27 and the UK before the transition period ends. In July 2019, we published a briefing on how mutually recognised professional qualifications (MRPQs) would be impacted by Brexit.

Since the UK left the EU with a deal, healthcare professionals whose qualification has been recognised and who were registered before 31 January 2020 will continue to be registered afterwards. The Mutual Recognition of Professional Qualification Directive will continue until 31 December 2020. UK regulators, including the General Medical Council (GMC), engage with the UK Government's Department of Health and Social Care to review arrangements for the processing of applications to the register from individuals who have gained their heath professional qualification outside of the UK. Any qualifications that are not entitled to automatic recognition will be assessed by the relevant regulator as it is currently.

The Regulation and Inspection of Social Care (Qualifications) (Wales) (Amendment) (EU Exit) 2019 makes similar provision for social care professionals in Wales. This ensures that a common framework for the recognition of social care professionals within the UK continues to exist post-EU exit. If those EU or Swiss national qualifications are comparable to those in the UK, then the qualification will be recognised without additional tests other than on language skills. Social Care Wales, the workforce regulator, will have discretion to decide how to treat noncomparable EEA or Swiss qualifications.

The GMC led the campaign for the introduction of a legal duty at European level to share fitness to practise alerts using the European Commission's Internal Market Information (IMI) system, which came into force in January 2016 and has a strong role with public-private partnership and clinical research. Participation in this system is contingent on single market membership — the UK is still part of the IMI throughout the transition period, but a 'hard' Brexit will result in the UK's removal from the system. If this happens, the GMC will need to decide how to share information with European regulators and how they obtain similar information in return. This is particularly important as European regulators will continue to have access to the IMI system and may be unwilling to establish a separate system solely for UK health professional regulators.

Desired outcome: Protection of workers' employment rights and the rights of patients and people who use care and support post-Brexit.

A substantial proportion of UK employment law originates from the EU and provides important protections for social care and health staff, including European Working Time Directive (which outlines the number of hours an employee can work before taking a break and how many hours can be worked in a week) and the Prevention from Sharp Injuries in the Hospital and Healthcare Sector Directive (which regulates the prevention of sharps injuries and especially prevalent in healthcare settings and are a major hazard and cause of sickness absence in the sector worldwide).

Changes to workers' rights could result in health and social care staff working longer hours, exacerbating the pressures they are under, and could lead to increased sickness and potentially pose risks to patient safety. In addition, already vulnerable people could be at increased risk without specific legal protection for patients and service users.

Under the European Union (Withdrawal Agreement) Act 2020, many of the provisions protecting workers' rights were removed from previous versions. These would have provided additional procedural protections for workers' rights currently part of EU law. However, under current arrangements, they are not protected against modification, repeal or revocation in domestic law once the transition period has ended. This presents a significant risk and we will continue to campaign through the Cavendish Coalition to ensure workers' rights are protected.

Desired outcome: UK health and social care organisations continue to participate in EU networks and programmes.

European nations have created a world-leading location for research, innovation, and a world-class funding agency. Clinical research and innovation are key components of health and social care activity across Wales and the UK and healthcare organisations have a long tradition of EU collaborative research. The EU enables medical research collaboration by supporting the sharing of research staff and expertise, cross-border trials, funding and the development of research facilities.

In August 2019, we published a briefing which describes how Wales and the UK could be impacted by the loss of EU funding. Without access to EU funding and collaborative projects, Welsh science excellence risks falling behind, and organisations including the NHS could become less attractive to professionals wanting to undertake research. In January 2020, the Wellcome Trust published a report on what a simulated negotiation process for research and innovation could look like and concluded that a EU-UK science deal is possible and that full UK association to Horizon Europe, with as few restrictions on access as possible, must be at the heart of any EU-UK science deal.

Continued participation in a Europe-wide system that encourages cooperation, innovation and research to continually improve patients' options for treatment is a priority. The UK has a very strong science base but working together with the EU, our capacity is greater than the sum of the parts and enables researchers to deliver game-changing breakthroughs. In the face of global competition, continued close UK-EU collaboration is vital to retain Europe's reputation as an attractive destination for cutting-edge research.

Desired outcome: Patients continue to benefit from early access to innovative technologies on the EU market and participate in clinical trials.

The UK will follow the rules of the European Medicines Agency (EMA) throughout the transition period. The EMA ensures that medicines are safe, effective and high quality, supports cross-border collaboration, provides a common framework for assessing and monitoring drug safety and efficacy, and allows timely access to new therapies and technologies.

The EMA represents 25% of the global pharmaceutical sales market, compared to the UK's 3% share in isolation. If the UK leaves the EMA arrangements and develops its drug approval system, it may lose its 'tier 1' status, which would lead to delayed access by up to 12 to 24 months to new medicines and medical devices, weakened post-approval regulation and pharmacovigilance or a loss of expertise. The UK's Medicines and Healthcare products Regulatory Agency (MHRA), which regulates medicines, medical devices and blood components for transfusion in the UK, is a significant contributor to EU regulatory systems and processes, both for medicines and medical technologies.

NHS patients must not miss out on opportunities to participate in EU clinical trials. Multi-country clinical trials must continue post-EU withdrawal, particularly for rare diseases and personalised medicine, as these trials provide researchers with access to the large population base required.

The UK is leading the rest of Europe for early-stage clinical research into new medicines and vaccines, with more than 600 commercial clinical trials taking place in the NHS, according to a report by ABPI in November 2019.

Over the transition period, it will be essential to establish how the future relationship will impact clinical trials for new drugs. The EU Clinical Trial Regulation was due to take effect in 2019 but has yet to come into force. This Regulation will harmonise the assessment and supervision processes for clinical trials throughout the EU to create a single-entry point for companies that wish to carry out trials of new drugs on participants in different countries. The pharmaceutical industry continues to express concerns that leaving the EU without an agreement of what the future relationship will look like could result in the UK losing out on some trials that might otherwise benefit patients.

Clarity must be provided before the end of the transition period if there is to be regulatory alignment or divergence with the EU. For example, one of the intentions of the recently introduced Medicines and Medical Devices Bill is to ensure that UK legislation relating to medical devices, medicines, and clinical trials can be updated in response to patient safety concerns and the future global relationship of the UK.

Desired outcome: Regulatory alignment for the benefit of patients, people who use care and support, and public health to ensure early access to innovative health and care technologies.

Over 2,600 medicinal products have some stage of manufacture based in the UK. This equates to 45 million patient packs of medicines supplied from the UK to other EU27 and EEA countries every month. Over 37 million patient packs of medicines come the other way, supplied from the EU27 and EEA to the UK. Ensuring continued cooperation in import and export of medicines and medical technologies for frictionless trade of health products across UK/EU borders should be a priority outcome of the Brexit negotiations.

Shared regulatory frameworks should continue for medicines and medical technologies across the UK and the EU so that patients are guaranteed a high level of safety, rapid access to new treatments, and public health and wellbeing are protected. This is particularly true for smaller patient groups, such as children and rare disease patients, where a critical mass across several countries is required.

If the UK establishes a separate regulatory framework to continue to trade with the EU block of countries, the UK would still need to abide by its principles. This would impact all those involved in innovative health technologies, the pharmaceutical industry, medical devices and medical technology manufacturers, distributors, suppliers, researchers, NHS Wales, and most importantly, patients.

As outlined in our trade briefing, published in January 2020, we call for any future trade deals to create an economic climate that will support population health and wellbeing, by improving the wider determinants of mental and physical health such as employment, good housing, education and nutrition.

Trade agreements between the UK and third countries should protect patients and the public from provisions that could increase healthcare costs, lower standards, or place additional burdens on services and budgets in health and social care. Nor should such provisions inhibit the ability of future UK Governments to promote population health and wellbeing, for example through regulation. The interests of patients should not be compromised in exchange for short-term commercial advantages and the long-term impact on public health and population wellbeing should always be considered during future trade negotiations.

There is concern that the UK Government has expressed divergence from EU regulations post-EU withdrawal, so that the UK would be able to make its own rules on certain sectors. This would impact regulatory alignment as well as future trading relationships. One of our major goals as members of the Brexit Health Alliance is to ensure aligned regulatory frameworks continue for medicines and medical technologies across the UK and the EU so that patients are guaranteed a high level of safety and rapid access to new treatments. Particularly for smaller patient groups, such as children and rare disease patients, where a critical mass across several countries is required.

Desired outcome: Reciprocal healthcare arrangements preserved.

Under current EU law, EU citizens benefit from rights to reciprocal healthcare when they are in any of the European Union's Member States and apply whether they are travelling temporarily, residing permanently or receive pre-arranged medical treatment in a EU Member State. Until the end of the transition period there will be no changes to the European Health Insurance Card (EHIC) scheme and EHIC holders can continue using their cards. We welcome this arrangement as it gives peace of mind to travellers who know that if they carry an EHIC they will be covered for urgent treatment, regardless of any pre-existing conditions, and to expatriates who can access healthcare in their country of residence.

Many UK citizens currently rely on the EHIC exclusively, even though it may not cover all costs (for example repatriation). Loss of access to the card at the end of the transition period would mean all citizens travelling across the UK/EU border would have to take out private medical insurance, as they do now when visiting the USA. Some people with long-term conditions, poor health, or disabilities may be unable to afford the cost of private insurance. Those who travel uninsured and need urgent or emergency care could be faced with large bills.

Current schemes also enable UK or EU citizens who need planned treatment in another EU country because, for example, the relevant expertise or equipment is not available in the country in which they reside. This provision is especially valuable for patients with rare diseases as there may be only a few centres of excellence in the EU where specialist treatment can be provided or in border situations where the nearest suitable facilities may be in a different Member State.

Pensioners residing abroad who currently benefit from “S1” arrangements, if allowed to stay in the host country after the transition period, would have to take out healthcare insurance to access local services. More British pensioners are living in the EU27 countries than vice-versa who have the right to receive healthcare on the same terms as the local population thanks to EU reciprocal healthcare arrangements. If these arrangements were to be discontinued, it is reasonable to assume that a proportion of these pensioners would return to the UK. Planning and funding provisions would have to be made for them in the UK’s health and care system.

As part of the Brexit Health Alliance, we are campaigning for continued access to reciprocal healthcare rights after the end of the transition period. UK and EU citizens to continue to benefit from rights to healthcare in any of the EU member states ensuring simple and safe access to treatment when working, living or travelling, at local, affordable cost.

New non-reciprocal arrangements would also increase the administrative and resource burden in the UK when providing health services to EU citizens. Currently, managing access to health services by non-EU citizens is more complex than managing access for EU nationals.

Desired outcome: Robust co-ordination mechanisms on public health and wellbeing standards to guarantee equal or higher safety.

The EU has a significant impact on health and wellbeing in Wales, both directly and indirectly. The health of citizens across Europe, including the UK, needs to be protected from pan-European disease outbreaks. Tackling these health risks effectively requires joined-up policies and action, and the UK and EU need to reach an agreement on the best way of collaborating to fight these public health risks after the UK leaves the EU.

The EU has several agencies that are directly relevant to health and wellbeing, such as the European Centre for Disease Prevention and Control (ECDC), the European Food Safety Authority (EFSA), and the European Medicines Agency (EMA). These agencies undertake monitoring, surveillance, trend analysis and risk assessments, as well as providing alerts to UK Government and stakeholders. They also support shared learning across borders and provide a platform for coordinated responses to global threats.

A significant proportion of the domestic legislation in public health and consumer protection originates from the EU, including environmental protection, food standards, health and nutrition, tobacco and alcohol, as well as cost and availability of fresh food.

Continued close coordination between the UK and EU on public health and wellbeing through sharing data and alerts about cross-border threats is needed (such as the Early Warning and Response System) for timely sharing of information about health threats and ensuring maximum preparedness to tackle them. Participation in key EU data-sharing platforms and alert systems, such as the Early Warning and Response System, for timely sharing of information about health threats and ensuring maximum preparedness to tackle them. The UK must also seek the highest possible level of co-ordination on health promotion and disease prevention programmes.

Any reduced level of collaboration with the ECDC could lead to delays in reporting and disease tracking, hampering outbreak response. It would also reduce the effectiveness of pandemic preparedness planning and co-ordinating appropriate responses.

We recommend that the UK Government negotiate an agreement to continue to share information, evidence and planning for pandemic preparedness with the ECDC. Maintaining the fullest possible access to the ECDC's emergency preparedness systems would enable the UK to continue sharing data and evidence with the EU, and vice-versa, to protect its citizens and ensure preparedness coordination.

Desired outcome: A strong funding commitment for the health and social care sectors.

Under the Withdrawal Agreement, the UK will continue to participate in the programmes financed by the current EU Budget until their closure – the UK currently receives EU funding amounting to around £680 million per year in EU funding. This means that all EU funded programmes will be fully funded under the current 2014 - 2020 Multiannual Financial Framework. We welcome the UK Government's commitment to underwrite Horizon 2020 funding beyond the date the UK leaves the EU for projects approved while the UK was a EU member. However, the future beyond 2020 is uncertain, including the connections to Horizon Europe.

In addition to the impact on the economy, EU Structural Funds have supported initiatives to reduce inequalities in health, tackle poverty and contribute to the promotion of the wellbeing of the Welsh people. Wales is home to some of the poorest regions in the EU and so receives a disproportionately larger amount of EU funding compared with other parts of the UK. Unlike other areas of the UK, Wales is a net beneficiary of the EU, receiving £245 million more from the EU than it pays in. Any loss of funding could negatively impact on wellbeing and inequalities in Wales.

Wales receives about £295 million of European Structural and Investment Fund a year. To replace this funding, the UK Government has pledged to set up a Shared Prosperity Fund (SPF) to "reduce inequalities between communities". The UK is a net contributor to the EU budget; therefore, it could be possible to reallocate some of the money that currently goes to the EU into the SPF with no further impact on the public budget. The Welsh Government has raised concerns about the governance of a Shared Prosperity Fund, because of the potential impact of regional funding being directed from Westminster and the general lack of clarity concerning the Fund.

Local Government has been a key partner in delivering EU Funding in Wales over several programming periods. It is important in the delivery of EU-funded activity within regions through the direct delivery of capital and revenue schemes that support getting people back into employment is provided. Local Authorities also play a strategic role in the delivery of these programmes on a local level. A key priority for Wales is to understand the rules of engagement for accessing any replacement funding after Brexit. Plans for a Welsh regional development fund is currently being developed by specialist technical groups and the initial proposals are expected to be published in March 2020. The new system is expected to be up and running sometime in 2021.

As mentioned by Public Health Wales NHS Trust in their Health Impact Assessment, the period of uncertainty related to Brexit could impact the mental health and wellbeing of the population and may disproportionately affect specific groups, such as farming communities, lower socio-economic groups and people with disabilities. We believe it is important to understand the impacts on health and wellbeing during the negotiation and transition period. The Health Impact Assessment into the consequences of Brexit by Public Health Wales NHS Trust is the only study of its kind to look into the type and scale of potential impacts on the communities of Wales.

Desired outcome: Engagement between Welsh Government and the UK Government protecting the interests of health and social organisations in Wales.

The Welsh NHS Confederation and its Policy Forum members will continue to highlight the possible implications for the NHS in Wales of the UK exiting the EU with the Welsh Government, Assembly Members and with the UK Government. As members of the Brexit Health Alliance and Cavendish Coalition, we have ensured that any briefings produced or any submissions to the UK Government, House of Lords or Westminster Committees reflect the issues impacting on the health and care system in Wales.

The Protecting the health of citizens and patients across the UK and EU: Priorities for a future relationship briefing from the Brexit Health Alliance sets out the priority areas for negotiations on the future relationship between the UK and the EU. The Cavendish Coalition's UK's future immigration system: priorities for social care and health asks for a points-based system which allocates points for public value roles in social care and health along with a minimum three-year visa.

How can the Welsh NHS Confederation help you?

Please get in touch if you want further details on anything highlighted in this briefing. Please contact **Victoria Hage, Brexit Programme Support Officer**, on **Victoria.Hage@welshconfed.org**.

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, the three NHS Trusts and Health Education and Improvement Wales (HEIW).

You can visit our website at **www.welshconfed.org** or follow us on Twitter **@WelshConfed**

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