



## Brexit negotiations and the NHS

With the UK preparing for a general election on 8 June, Brexit is expected to dominate both political party manifestos and public debate in the lead up to polling day.

Preparations for Brexit negotiations are well underway in Brussels, with the three European institutions involved – the European Council, the European Commission and the European Parliament – working on ‘red lines’ for the talks.

**This briefing note considers what the emerging EU positions mean from an NHS perspective.**

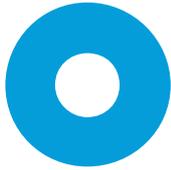
### Where are we now?

The Brexit process formally began when the UK government triggered the Article 50 leaving procedure on 29 March. The notification to Brussels of the UK’s intention to leave the EU marked the start of a two-year timeline for withdrawal negotiations to be concluded. While negotiations have not yet started, preparatory work has taken place to get ready for the launch of formal leaving dialogues in June.

On the EU side, the negotiations will be conducted by the European Commission, on a mandate from the European Council, and with a vote of the European Parliament required on the negotiated leaving agreement. The three EU institutions have held discussions to coordinate their respective approach to Brexit, though each will remain responsible for issuing their own negotiating strategy.

Members of the European Parliament agreed their position on 5 April, with the European Council expected to finalise its guidelines for the negotiations at a special EU27 Brexit Summit on 29 April. The European Commission is due to issue its negotiating directives shortly afterwards.

The European Parliament Brexit Resolution, which has already been agreed, and drafts from the European Council and the Commission allow us to get a sense of the Brussels approach to the negotiations and what this could mean from an NHS perspective.



## Citizens' rights first

The three EU institutions have all indicated that the most urgent issue to be discussed in negotiations is the rights of EU citizens in the UK, and vice versa of UK nationals in the EU. The UK Prime Minister also expressed the intention for this to be dealt with at the outset of the negotiations.

Resolving this issue as early as possible will be important, not only to ensure that the rest of the negotiations are conducted in a positive and constructive spirit, but also to reassure the 4m people who are directly concerned and who are currently anxious about their future. This includes the more than 160,000 EU nationals who currently work in the health and social care sector in England and who provide an essential contribution to the functioning of our health and social care system helping to fill the persistent shortages in the UK workforce.

Providing them with the necessary clarity and reassurance is a priority for all the members of the [Cavendish Coalition](#).

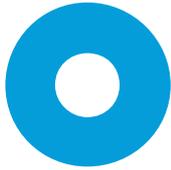
Several commentators have expressed optimism that a positive agreement will be reached on this, so that EU nationals currently resident in the UK, and UK nationals currently resident in the EU, can maintain the right to live and work in such location.

## Sequencing of the negotiations

The three EU institutions have been clear that only when sufficient progress has been made on agreeing the terms of withdrawal will they be prepared to start negotiations on the UK's new partnership with the EU.

From the EU perspective, agreeing the 'divorce' means resolving the above-mentioned issue of citizens' rights, but also the financial settlement, and the Irish border issue. The European Commission's lead negotiator, Michel Barnier, has indicated that achieving sufficient agreement on these issues in the course of 2017 would allow discussions to be dedicated to the shape of the new relationship in the course of the following year.

Many commentators agree, however, that the two-year timeframe does not allow sufficient time for the new relationship to be agreed and that transitional provisions



would be necessary until a detailed agreement can be reached. Furthermore, European Council draft guidelines for negotiations state that trade deals can only be done with non-EU members, and therefore it will only be possible to secure an “overall understanding on the framework for the future relationship” prior to Brexit.

The terms of a possible transitional agreement are unknown for the moment, but it is likely that the EU would push for existing EU arrangements to apply as much as possible. This could mean that free movement rights may be preserved until a final agreement can be reached. The UK Prime Minister has also commented that an implementation period may be required to avoid the risk of a “cliff edge”, including the possibility of free movement of workers to be maintained beyond March 2019.

### **A new relationship**

The European Parliament has requested that the maximum duration for a possible transitional agreement should be three years, meaning the new partnership agreement between the UK and the EU should be agreed and operational by March 2022 at the latest. While this may give the impression of a considerable amount of time, it is important to stress that trade deals tend to be long to negotiate, and that ratification by each of the EU27 member states, according to their respective constitutional procedures, will be required for the agreement to enter fully into force.

Importantly, the European Parliament has demanded that a new comprehensive partnership with the EU post-Brexit be built on the principle of equivalence between EU and UK law in a number of areas, including employment and social rights and environmental standards, thus limiting the UK’s flexibility to diverge from certain EU laws in the future. Of course, the extent of this will depend on the type of new relationship that will be negotiated and on how much access to the EU internal market the UK will maintain in future through a UK/EU free trade agreement.

### **What does this mean for the NHS?**

From an NHS perspective, this would mean that post-Brexit parts of the existing EU regulatory framework applicable to the NHS may well continue to apply in the future. But this would be as UK law and with the possibility of some changes being introduced, as equivalence does not mean the rules will have to be exactly the same.



The most significant change in the post-Brexit world for the NHS is likely to be around immigration rules. Assuming that the free movement principle will cease to apply and that a new immigration system is introduced, it will be vital for the NHS to continue to be able to recruit in future from the EU – and further afield – with the minimum of bureaucratic hurdles, in order to maintain safe and high quality services.

Another area where changes could be substantial is the regulatory framework for health technologies as a result of the UK leaving the European Medicines Agency's centralised regulatory system for the approval and surveillance of medicines.

These changes will have significant implications for the NHS and the delivery of patient care and it is therefore important for the NHS to be vigilant and to have a strong voice throughout the whole Brexit process.

### **Find out more**

Head to the [NHS European Office's Brexit web section](#) to discover more about what Brexit could mean for the NHS.