

Brexit Briefing

July 2020

Current situation

Despite understandable delays caused by the COVID-19 pandemic, the UK Government continues to insist that the UK will exit the Brexit transition period with or without a deal with the EU on 31st December 2020.

In recent weeks, there have been a number of press reports that negotiations between the UK and EU are gridlocked on a number of issues, increasing the likelihood of a “no deal” Brexit or perhaps a weak set of deals which leave significant holes.

Equally, it has been reported that the government has backtracked on previous public promises around food and welfare standards in its negotiations with the United States and others. [Recent research by consumer charity Which?](#) has found widespread public opposition to changes to food standards. They found nearly three quarters (72%) of those polled think foods from countries with lower standards should not be available in the UK. Despite this, their Head of Consumer Protection and Food Policy, Sue Davies, has described the UK government as “under pressure” to dilute food standards from US negotiators.

BDA Position and concerns

The BDA has on a number of occasions articulated concerns about the potential impact of Brexit on health and our wider food system. The Association does not take a position on the specific merits of Brexit or the form that it takes overall, but has instead set out key areas on which we believe action or commitments are needed:

- We expect government to stick to its original promises not to degrade UK food standards, animal welfare or environmental standards.
- We continue to support the Faculty of Public Health’s healthy trade policy campaign, which calls for public health standards to be maintained post Brexit.
- On food security, the government must have in place a concrete plan to address any increase in food prices or gaps in availability as a consequence of Brexit. It is not enough to leave this to retailers, farmers and importers.
- A clear plan, developed with industry, to ensure the ongoing supply of specialist nutrition products to patients. This should replicate plans that were in place in the event of a no deal in October 2019 and January 2020.
- The BDA’s clear position has and always will be that the NHS must not be for sale. We are against any further privatisation of the NHS.
- We expect the government to put in place a fair and reasonable immigration system that continues to allow skilled dietitians from around the world to come to the UK and support the nutrition and health of our population.

We have written to the both the current and previous Secretary of State for Environment, Food and Rural Affairs, and to the Secretary of State for Health and Social Care to raise concerns on these issues, and engaged civil servants from Department of Environment, Food and Rural Affairs (DEFRA), who have overall responsibility in this area.

In late June 2020, BDA President Giles Yeo [released a statement highlighting some of our concerns](#) about the potential impact of Brexit on food insecurity.

Negotiations analysis

As mentioned previously, there are significant differences between the UK and EU's negotiating positions which could have significant impact on the UK's health system. Fahy, Hervey et al have published a recent paper in Health Economics, Policy and Law that looked in close detail at the current gaps between the UK and EU's position, and the possible implications. Tables from that analysis are in Appendix A. [The full paper can be accessed here](#).

It highlights a number of areas of significant concern, including potential increased difficulty recruiting and retaining non-UK health and care staff, reduced public funding and increased costs for pharmaceutical and other clinical products, which would include specialist nutrition products.

Overall, there is also a concern that the fundamentally different approach being taken by the two sides makes deadlock inevitable. The UK seeks a number of discreet deals on different areas, while the EU seeks one all-encompassing deal. Given short timescales it has to be assumed that a no-deal scenario, which would increase the risk of negative outcomes in a number of areas, is a possibility.

Appendix A

Tables from Fahy, N., Hervey, T., Dayan, M., Flear, M., Galsworthy, M., Greer, S., McKee, M. (2020). Assessing the potential impact on health of the UK's future relationship agreement with the EU: Analysis of the negotiating positions. *Health Economics, Policy and Law*, 1-18.

1. WHO Building blocks	2. Previous analysis	3. EU negotiating aims	4. UK negotiating aims	5. Compatibility	6. Likely outcome in agreement	7. Likely impact on health
Workforce						
Recruitment and retention of EU nationals in the NHS	No provisions facilitating recruitment and retention of NHS workers	Reciprocal rights and obligations in free movement	No provision for free movement of people	Relatively compatible	Restricted movement of EU workers	Increased difficulty in recruiting and retaining NHS and social care staff
Mutual recognition of qualifications	Weak ambition for MR of Quals	MR of Quals only 'where in the Union's interest'	MR of Quals	Relatively compatible	Agreement in principle on MR of Quals	Broadly unchanged position
Employment rights for health workers	FTAs do not typically involve employment rights	Employment standards non-regression clause	Retain rights to modify employment standards	Level of standards likely to depend on wider agreement about trade and 'level playing field'	Uncertain	Uncertain
Financing						
Reciprocal healthcare arrangements	Potential reciprocal health-care coordination	Reciprocal healthcare arrangements, no planned care abroad	Reciprocal healthcare arrangements, no planned care abroad (separate agreement)	Continued reciprocal healthcare arrangements	Continued reciprocal healthcare arrangements	Continued reciprocal healthcare arrangements, no planned care abroad
Capital financing for the NHS	Probably less capital financing than now	No provision	No provision	Compatible	No provision	Access to EIB stopped and access to capital financing reduced
Public spending		Free trade agreement likely to be associated with lower GDP, though less so than No Deal	Free trade agreement likely to be associated with lower GDP, though less so than No Deal	Broadly compatible		Significantly less public funding on a permanent basis than would otherwise be the case

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Medical products, vaccines and technology						
Pharmaceuticals and other medical products	Potential for some weaker cooperation with EU on licensing and regulation of medicines than currently	FTA for goods; TBT to use international standards regulatory 'floor'; no UK participation in regulatory structures	FTA for goods; TBT continued mutual recognition of potentially divergent standards; continuity in UK participation in technical structures	Degree of technical participation likely to depend on wider agreement about trade	Continued UK access to technical mechanisms if there is wider agreement on UK-EU trade	Increased costs of products associated with FTA Uncertain
Medical isotopes		Provision for continued supply from EU to UK	Provision for continued supply from EU to UK	Provision for continued supply from EU to UK	Continued provision	Continued access to medical isotopes
Information						
Comparable data between the UK and similar European health systems	No specific cooperation on health information	No provisions to retain UK data as part of EU data systems	No provisions to retain UK data as part of EU data systems	No provisions to retain UK data as part of EU data systems	No provisions	Cooperation within WHO; reduced comparability of data; loss of deeper cooperation on health information
Information exchange mechanisms on health-related aspects of free movement and substances of human origin	No specific cooperation on health information	Scope for cooperation where it is in the EU's interest	Mechanisms for some continued information exchange between the EU and the UK related especially to trade in goods	Degree of information sharing likely to depend on wider agreement about trade	Continued UK access to information exchange mechanisms for goods if there is wider agreement on UK-EU trade	Uncertain
Data protection	No specific cooperation on health information	Data protection based on EU law; adequacy decision envisaged	Independent UK data protection laws; UK seeks adequacy decision; UK recognises EU under adequacy decision	Separate autonomous data protection regimes	Separate and autonomous data protection regimes	Short-term compatibility but risk of long-term divergence with implications for cross-border services

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Service delivery						
Working time legislation		Employment standards non-regression clause	Retain rights to modify employment standards	Level of standards likely to depend on wider agreement about trade and 'level playing field'	Unclear	Uncertain
Cross-border care	Cross border health services not envisaged as part of future relationship (except in Ireland as part of peace process)	Continued UK participation in NI PEACE programmes	Provision for UK participation NI PEACE programmes	UK participation in NI PEACE programmes	No cross-border health services for Great Britain; continued in Northern Ireland	Continued UK participation in NI PEACE programme, but not other health-related EU programmes (eg: European Reference Networks)
Leadership and governance						
Public health	Scarce or no participation in ECDC	UK & EU autonomy to regulate public health	UK & EU autonomy to regulate public health	Agreement on autonomy on public health regulation	No substantive standards on public health in agreement	No short term change; scope for the UK to adjust public health regulation in the future
	Continued collaboration on public health at global level					
Competition and trade	NHS England no longer in perceived shadow of EU competition and public procurement law provisions	Dynamic alignment with EU competition rules; direct application of EU state aid rules; procurement based on GPA+	Transparency on harmful subsidies; no regulatory alignment, but commit to competition laws; public procurement excluded	Incompatible regarding alignment with EU competition rules. Public procurement rules aims compatible	Unclear; key point in negotiations	Uncertain
	Reduced global influence over health in trade deals					Scope to relax public procurement rules for NHS England Reduced global influence for UK over health in trade deals
Research	Continued participation in research envisaged but on worse terms for the UK; loss of global leadership and influence	Provision for UK participation in EU programmes as a third country	Provision for UK participation in research programme, but not health programme	UK participation in future research programme, but not other health-related programmes	UK participation as third country in some, but not all, health-related programmes	Continued UK participation in research programmes, but not other health-related programmes