

Borders NHS Board



EU WITHDRAWAL

Aim

To alert the Board to the implications and potential risks for NHS Borders of the UK's withdrawal from the European Union (Brexit), and to outline the associated planning issues.

Background

It is projected that the UK will withdraw from the European Union at 11pm on 29 March 2019. It is of course, a highly sensitive and fluid political issue and there remains a significant degree of uncertainty around the terms under which Brexit will happen (nothing is agreed until everything is agreed!). At this time, the working assumption is that there will be a negotiated agreement between the UK and EU which will provide for the following in respect of residency status:-

- A transition period until 31st December 2020, during which free movement will continue;
- Reciprocal rights for EU/EEA nationals living in the UK and vice versa (possibly time-limited to five years);
- A process through which EU/EEA nationals and their families can apply for and obtain settled status in the UK.

In the event of there being no agreement on the terms of Brexit, these assumptions would not necessarily hold and the risks outlined below in relation to retention and future recruitment of staff from EU countries would be intensified.

There are no safe assumptions that can be made at this time in relation to cross border trade and procurement rules with the EU/EEA countries post-Brexit.

Risks

A major area of concern is the risk posed to services through the loss of employees who are citizens of other EU countries (EU 27 staff), either as a consequence of their failure to acquire settled status (and therefore not eligible for employment in the UK) or as a result of them deciding to leave the UK because of the uncertainties of Brexit. In respect of future recruitment from EU countries, there is already evidence from across the NHS that this is becoming much more challenging. As well as the issue of residency status, there are questions over the future status of qualifications of doctors who trained in EU countries, although in practice it is unlikely that the GMC would consider medical qualifications from other EU27 member states as non-equivalent.

Further risks are presented by the likely impact on the social care workforce. A report by ipsos MORI for the Scottish Government in June 2018 estimated that the percentage of

people employed within adult social care and childcare who are non-UK EU nationals is 5.6%, which equates to 9,830 workers in Scotland. Estimates varied within sub sectors to as high as 16.5% for nursing agencies. On these estimates, the impact on the Social Care workforce will be proportionately greater than on the NHS which could have significant consequences for the management of delayed discharges and in planning for shifting the balance of care to the community.

Changes to trade and customs arrangements with the EU post-Brexit will affect procurement and supply chains, delivery times and costs of goods and services including medicines, medical devices, equipment, construction materials and energy. The effect of such changes may be minimal or substantial and could vary widely depending on a variety of factors. The UK Government White Paper published on 19 July 2018 proposes a “common rule book” for trade and customs arrangements covering goods but not services. Details are still emerging and the specific implications for the NHS are not yet clear but, if agreed, the UK proposal would mitigate at least some of these risks.

Other factors with the potential to affect the NHS include possible obstacles to collaborative research between medical schools in the EU and UK; access to treatment in the EU and UK; cross-border cooperation on public health matters and the consequences for the NHS of a negative impact on the economy.

Operational Readiness

The Scottish Government is concerned about the impact of Brexit on services and has been pressing the matter at recent meetings of Chairs, Chief Executives and HR Directors. The Director of Health Workforce and Strategic Change wrote to Boards on 29 June asking that responses to the following questions be returned by 14 September:-

1. How ready is your Board to deal with the potential operational impacts of EU withdrawal?
2. Is your Board already seeing impacts of EU withdrawal and, if so, what are you doing to mitigate these impacts?
3. What risks is your Board identifying as a result of EU withdrawal, how are these being recorded and what sorts of mitigating actions are being identified to deal with them?
4. What more needs to be done now to ensure operational readiness in your Board?
5. What is your Board doing to ensure it has the data it needs to (a) plan for the impact of EU withdrawal on your workforce and the local services you provide; and (b) consider the future immigration status of non-UK EEA staff?;
6. What is your Board currently doing to communicate with and support EU27 staff?

At this stage it is difficult to answer these questions fully. There has been very little guidance from the Scottish Government on the whole matter of Brexit and whilst there is an offer of support within the letter, the general thrust is clearly that NHS Boards are expected to lead on the preparations. BET has agreed to establish a Brexit Working Group which will develop responses to these questions and coordinate planning and risk management. A Regional Group to focus specifically on workforce issues is also being established.

Workforce Planning Considerations

The most comprehensive assessment to date of the potential impact of Brexit for employers is in a CIPD research report published in March 2018. This found that the largest group of employers from all sectors is unsure as to what effects Brexit will bring and will not act until matters become clear. The study concluded that organisations should take a much more proactive approach to preparing for possible Brexit outcomes through methodical workforce planning, but given the uncertainty surrounding Brexit, the usual approach to service planning and associated workforce strategy may be less effective. Instead, it recommended that we should recognise from the outset that plans need to be adapted over time in response to how the future actually unfolds with adaptation built in, rather than ad hoc. The key message from the CIPD report is that organisations should not feel bound to make the 'right' decision but 'feel their way forward'.

A significant challenge is that the scope of the planning exercise at operational level is not easily quantifiable because the Board (along with all others in Scotland) does not currently have accurate data on the proportion or distribution of staff working in health and social care services who are non-UK EU citizens. It was hoped that this information could have been provided by HMRC, which does collect this information, but the NHS Privacy and Impact Panel declined to agree to request for this information from HMRC and we must now work towards identification it locally.

Communications

There is a sense that EU nationals within the workforce are sensitive and somewhat suspicious of questions about their nationality or residency status. Staff side organisations are taking the line that either a self-nominations process or a questionnaire to all staff regardless of nationality should be adopted.

The handling and practicalities of issuing a questionnaire to all staff have been considered by HR and Workforce Directors nationally and within the East Region. There is agreement that a common approach across NHSScotland is desirable and that messages should be kept simple and consistent. Some local authorities have already issued questionnaires to their workforce, some of which are asking detailed questions about residency status in addition to nationality. We are not convinced within the NHS that that is necessary or appropriate at this stage and would not want to be in the position of having to explain why different Health Boards are seeking different information. It is hoped that an overall approach for NHSScotland will be agreed during August.

Whilst we are working towards a common approach and consistent messages within NHSScotland in relation to EU nationals, we will use our own internal methodologies and communications tools and are doing so now to keep staff within NHS Borders informed in general terms. The recent Scottish Government guidance for staff and managers has been placed on the staff intranet. As more information becomes available we will establish links to Brexit materials on the intranet pages and look to develop a generic email box where staff can register to be provided with further information.

Anxieties may be allayed to some extent by a scheme just announced by the new Home Secretary. From later this year, EU citizens will be able to apply for settled status via a digital process that is claimed will take only 15 minutes at a cost of £65 and £32 for children. The Scottish Government has indicated that it would meet these costs for EU nationals resident in Scotland

Summary

There are multiple uncertainties surrounding the operational impact that Brexit will have on the Board's service provision and planning, risks cannot be easily quantified and a potentially sensitive data collection exercise is required to identify and communicate with EU nationals employed by the Board. Planning and coordination will continue at national, regional and local levels. A Brexit Working Group will be established, plans will be refined and adjusted and the communications strategy will evolve as issues become clearer.

Recommendation

The Board is asked to **note** this report and **agree** to receive further progress reports in the period to March 2019.

Policy/Strategy Implications	Dependent on UK Government.
Consultation	Board Executive Team. Brexit working group being set up.
Consultation with Professional Committees	N/A.
Risk Assessment	As described within the paper.
Compliance with Board Policy requirements on Equality and Diversity	Yes.
Resource/Staffing Implications	To be identified.

Approved by

Name	Designation	Name	Designation
John Raine	Chairman		

Author(s)

Name	Designation	Name	Designation
John Cowie	Director of Workforce		