BREXIT: WITHDRAWAL NEGOTIATIONS COMMENCE

Yesterday the Prime Minister, Theresa May, confirmed in a statement to Parliament that she has formally notified the President of the European Council, Donald Tusk, that the UK will withdraw from the European Union. By invoking Article 50 of the Lisbon Treaty, Mrs May has begun the two year countdown to the end of the UK's four decade long membership of the (now) EU. The Government now has until 29 March 2019 to broker and ratify a deal with the EU on the terms of the UK's withdrawal and, subject to EU agreement, the nature of our future relationship. The task is complex, the players involved numerous and the time available short.

This briefing sets out core messages from the Prime Minister's statement and letter to the European Council President, NHS Providers actions upon the triggering of Article 50 as part of the Cavendish Coalition, an overview of the next steps in the Brexit process, and updates on the latest government and political developments on Brexit.

1. ARTICLE 50 IS TRIGGERED

The substance of both the Prime Minister's statement to Parliament and letter of notification to the President of the European Council essentially reiterated May's January Lancaster House speech (on which we developed a separate briefing). It was notable, however, that she sought to strike a much a more conciliatory tone towards the EU than in previous major set pieces. Key takeaways from the statement and letter include that:

- The Prime Minister is positioning negotiations not as the process by which the EU and UK will end their current relationship but by which they will build a "deep and special partnership". Some member states have already made it clear, however, that the future relationship between the EU and UK, particularly in respect of trade, can only be negotiated following agreement of the terms of the UK's withdrawal, and not in parallel.
- The government is seeking to temper public and political expectations of the Brexit process. This was evident in the Prime Minister's assertion that there will be consequences of leaving the EU; influence will be lost; and 'cherry picking' aspects of EU membership that the UK may wish to retain will not be an option. This is a marked shift from the high aspirational rhetoric of central government since last summer.
- The statement and letter are as much documents that speak to the union of the UK as they do to the EU. There are multiple references of the importance of delivering a positive future for the UK together and the promise of further powers making their way to the devolved nations following Brexit.
- Theresa May further articulated her vision for the UK's future outside Europe, being clear that this will not be synonymous with what it achieved before it joined the EU, and the UK's relationship with the EU will be central to our success once we leave it.
- Immigration was not given prominent profile in May's statement and, when it was mentioned, it was not couched in terms of lowering immigration but to state that the UK's future immigration system will need to serve the "national interest". This is a phrase the secretary of state for exiting the EU, David Davis, has started using in recent days, when explaining that EU migration will ebb and flow post-Brexit.
- There was no announcement of any 'cut off' date after which EU nationals living in the UK will no longer be eligible to remain permanently. The EU is now pushing very hard for there to be no such cut off during negotiations.

2. NHS PROVIDERS VIEW

NHS Providers is a leading member of the Cavendish Coalition, a group of 34 health and social care organisations working to ensure the system is properly staffed after the UK leaves the EU.

When the Prime Minister triggered Article 50 the Coalition set out the priorities for the Government to maintain safe and high quality health and social care services during the negotiation period and after Brexit, emphasising:

- The unique factors relating to the health and social care workforce and a call for guarantees on the status of EEA staff already working in health and care
- The principles that need to underpin the future immigration system
- The need for transitional arrangements for people from the EEA between any potential 'cut off' date after which EU nationals in the UK would not have the right to remain and the introduction of a new immigration system.

In addition, the Coalition has written to the Secretaries of State for the Home Department, the Department for Exiting the EU and the Department of Health to offer to work with the government to help inform a future immigration system. Our press statement on the Coalition's calls secured coverage in the Health Service Journal (£).

3. BREXIT NEGOTIATIONS: WHAT HAPPENS NEXT?

Below is a short summary of key milestones in the Brexit process, or that will influence it, over the next six months.

March	• 31: EU Council President circulates draft guidelines for the negotiations, setting out the EU's priorities and structure for the negotiating period.
April	• 23: First round of the French Presidential elections. • 29: The European Council hosts a Brexit Summit, at which the heads of government for the 27 remaining member states will finalise and approve the guidelines for negotiations.
May	• The Queen's Speech takes place, during which the Great Repeal Bill will be announced to be announced for the next parliamentary session.
June	• 11- 19: French Parliamentary elections • EU leaders agree negotiating directives, giving the European Commission the authority to lead negotiations on behalf of the EU's 27 members and give the Commission's chief negotiator, Michel Barnier, a mandate to negotiate with the UK • Negotiations between the European Commission and the UK on withdrawal and the UK's future relationship with the EU commence
September	• 24: German federal elections

4. GOVERNMENT AND POLITICAL DEVELOPMENTS

Brexit process

The Government was successful in securing the unamended passage of the EU (Notification of Withdrawal) Bill through Parliament, so granting the Prime Minister the ability to invoke Article 50 of the Lisbon Treaty. During the Bill's passage, there were cross-party efforts to secure assurances ahead of negotiations on the status of EU nationals currently living in the UK and to give Parliament the ability to send the Government back to Brussels if the deal if brokers with the EU were to be deemed insufficient by MPs and Peers. These attempts to amend the Bill were ultimately unsuccessful.

As such, Parliament's role remains limited to voting in favour or against the deal negotiated by the Government with the EU. Should Parliament reject the deal, the UK will leave the EU without a trade deal and be required to operate on World Trade Organisation tariffs. Though the Government has been clear on its view that no deal is better than a bad deal, it is those MPs that might be expected to oppose the terms of a deal negotiated by the Government along 'hard' or 'clean' Brexit lines that have warned that no deal is the worse possible deal. In the 'deal or no deal' negotiations ahead, the stakes are high.

Labour party

Labour's shadow Brexit secretary, Sir Kier Starmer, has set out six key tests that the Government's deal with the EU must satisfy in order secure the Opposition's support. The tests are:

1. Does the deal deliver the "exact same benefits" as the UK currently has as a member of the single market and customs union?
2. Does it ensure a strong and collaborative future relationship with the EU?
3. Does it ensure the fair management of migration "in the interests of the economy and communities"?
4. Does it defend rights and protections and "prevent a race to the bottom"?
5. Does it protect national security and the UK's capacity to tackle cross-border crime?
6. Does it deliver for all regions and nations of the UK?

Some of the tests, such as securing for the UK the "exact same benefits" outside the single market and customs union as it enjoys as a member – though promised by the secretary of state for exiting the EU, David Davis – will likely be very challenging for the government. As things stand, however, Labour could not force a parliamentary rejection of the negotiated deal without the support of 20 or so rebellious Conservative MPs and, in this event, they would prompt the UK's withdrawal from the EU with no deal. Labour will be hoping that the unpalatability of leaving the EU without a deal will compel the government to take account of its tests in negotiations. Nevertheless, its hand is weakened in currently lagging behind the Conservative party by 19 points in the polls.

Labour's shadow health secretary, Jonathan Ashworth, has also set out in an opinion piece four tests for the government in relation to Brexit negotiations and health. These relate to: the right to remain for EU nationals working in the NHS and social care; research funding; future reciprocal healthcare arrangements between the EU and UK; and EU/UK healthcare collaboration.

The devolved nations

As the UK prepares to leave one union, Theresa May has made maintenance of another – the union of Scotland, Northern Ireland, Wales and England – a central aim for her government. From the earliest days of her premiership, May has been unshakable in her view that the UK voted to leave the EU and that it will withdraw together. A majority of voters in Scotland and Northern Ireland, however, voted to remain in the EU. This tension is heightened by the UK government's pursuit of a 'hard' Brexit, given the Scottish National Party's preference to remain within the single market and concern in Northern Ireland that withdrawal from this and the customs union will see the resurrection of a hard border with the Republic of Ireland.

The prospect that the UK's ongoing union may be under threat has become more real in recent weeks. The day before the Brexit bill received royal assent, Scotland's First Minister, Nicola Sturgeon, confirmed her intention to request permission (now granted) from the Scottish Parliament to hold a second Scottish independence referendum. Sturgeon is calling for this referendum to take place after the government has scoped a deal with the

EU – expected within the next 18 months – but before the UK leaves the EU in March 2019. Theresa May has, however, poured cold water on the First Minister's preferred timetable, repeatedly stating that "now is not the time" and that the UK must withdraw from the EU before a second referendum takes place, if indeed it does.

In Northern Ireland, the snap election in March following the breakdown of the power sharing agreement between the Democratic Unionist Party (DUP) and Sinn Fein saw the former only just maintain its status as the largest party in the Assembly by securing only one more seat than the latter. The DUP's pro-Brexit stance, amongst other things, had an impact on its support base. With attempts to broker a power-sharing agreement following the election having failed to date and the potential of direct rule from Westminster looming next month in the absence of such an arrangement, Northern Ireland's future within the UK is now set against a backdrop of renewed uncertainty.