

Brexit briefing: February 2020

The general election in December 2019 returned a large majority for the Conservative Party, enabling the government to pass its Brexit deal with ease through both the House of Commons and House of Lords. This briefing examines what measures were passed in the European Union (Withdrawal Agreement) Act, and summarises next steps as we move into the transition period after Brexit day with a focus on health and care. It also summarises NHS Providers' view and activity in support of members in this area.

The UK's exit from the European Union

Within days of the general election, Prime Minister Boris Johnson introduced his Brexit bill in the House of Commons. In late January 2020, both Houses of Parliament agreed on the text of the bill, and it was given Royal Assent (became law, and therefore an Act of Parliament) on 23 January 2020. The European Parliament approved the withdrawal agreement on 29 January, with the European Council formally concluding the process with a vote on 30 January. This enabled the UK to leave the EU on 31 January 2020.

The EU (Withdrawal Agreement) Act addresses the UK's exit from the EU but it does not deal with the UK's future relationship with the EU. Negotiations over the future UK/EU relationship will take place over the course of the next 11 months, with an agreement on a future relationship to be agreed by the end of 2020.

Key points

- The EU (Withdrawal Agreement) Act deals with key issues relating to the UK's exit from the EU.
- It agrees a transition (or implementation period) which will run from 31 January 2020 (when the UK leaves the EU) to December 31 2020.
- It outlines how the UK and EU will settle their outstanding financial commitments to each other (the so-called "divorce bill").
- The Act includes the Protocol on Ireland/Northern Ireland which lays out the relationship Northern Ireland will have with both the European Union and Great Britain (the rest of the UK) at the end of transition period.
- It protects the rights of EU citizens and their families during the transition period.
- Unlike the earlier EU exit bill (which was introduced before the general election) it does not include extra protections in the area of workers' rights. Parliament's role in negotiations has been watered down, with no obligation on the government to report on the progress of negotiations and no requirement to seek approval from parliament for its future relationship treaty.

What happens after the 31 January 2020?

Following the UK's departure from the EU on 31 January 2020, the UK has formally entered a transition period with the EU. The UK is no longer a member of the EU but will continue to be subject to EU rules and remain a member of the single market and customs union. The UK will continue paying into the EU budget, and abide by EU rules, and there will be no changes for EU citizens living in the UK.

The EU (Withdrawal Agreement) Act sets out in law that the transition period will end on 31 December 2020. The transition period can be extended by a period of one or two years if both sides agree, but an agreement must be reached on this by 1 July 2020. It should be noted that the government has expressed its intention against extending the transition period, and has put in place legislation to prevent any extension.

Between the end of January 2020 and December 2020 (11 months), the UK is aiming to agree a future relationship with the EU. The Conservative Party manifesto states that the future relationship will see the UK outside the single market and customs union, and that the new relationship will be based on free trade and cooperation.

The timeframe for negotiating a wide-ranging, complex free trade deal is extremely tight. EU Commission president Ursula von der Leyen has said that reaching a fully comprehensive trade deal by the end of 2020 would be "impossible". With such a tight timeframe, it is possible that the government could try to negotiate a "slimmed down" trade deal, and continue negotiations in some areas post-2020. The ratification process for an EU/UK trade deal must also be taken into account. While this is expected to be more straightforward from a UK perspective, it should be noted that EU member states, the EU Parliament and possibly national parliaments will have to approve and ratify the deal by the end of the year.

Implications of the transition period for the health and social care sector

During the transition period, we expect the health and social care sector to experience little change as a result of the UK's decision to leave the EU. However, there is much to sort out before the end of the year with significant change expected from January 2021 onwards when the new relationship between the UK and EU is determined. NHS Providers will continue to engage with government and NHSE/I throughout the transition period as negotiations on the future relationship progress and will highlight the importance of a smooth transition for the healthcare sector.

Staffing

Freedom of movement will remain in place until the end of the transition period enabling trusts to continue to recruit EU nationals as they do now.

During the transition period, the UK government will need to pass an Immigration Bill to prepare for the end of free movement post December 2020 and to put into place a new points based immigration system for both EU and non-EU nationals. The government are expected to introduce a new NHS Visa, which would reduce visa costs for those coming to work in the NHS, via a fast tracked route. We are expecting more details on this in the near future. The government have also pledged to increase the cost of the Immigration Health Surcharge from £400 to £625 and will “aim to introduce legislation at the earliest possible opportunity in 2020” to bring this into effect.

EU citizens’ rights

EU citizens will see no change in their status but in order to ensure they are able to live and work here beyond December 2020, the UK has established the EU Settlement Scheme (EUSS), which has been operational since March 2019. EU citizens currently living in the UK are able to apply for “pre settled” or “settled status” through the scheme. The deadline for applying is the 30 June 2021.

Provisions in the Withdrawal Agreement set out a framework for continued legal residence and associate rights such as social security and healthcare rights of EU citizens living in the UK at the end of the transition period. People moving between the UK and EU after the transition period will not be covered by protections in the WA and will be discussed in negotiations on the future relationship.

Professional qualifications

There will be no change to the way in which medical professionals such as doctors and nurses from the EU, EFTA and Switzerland are registered during the transition period. Currently, nurses, midwives, pharmacists and doctors with an EEA qualification are covered by the Mutual Recognition of Professional Qualifications (MRPQ) Directive which entitles them to have their qualifications recognised in the UK. During the transition period, MRPQ will remain in place with no changes.

As part of the future relationship, the UK and EU have indicated that they will work towards developing ‘appropriate arrangements’ for the future.

Access to medicines and medical supplies

Access to medicines and medical supplies and devices should not be affected during the transition period. Negotiations on future trade arrangements and the regulatory environment for medicines and medical devices after 31 December, will take place during the transition period.

Reciprocal healthcare

During the transition period, there will be no changes to reciprocal healthcare access, the European Healthcare Insurance Card scheme, or planned treatment until 31 December 2020.

The government have said that longer term reciprocal healthcare arrangements are being discussed with the EU. UK citizens that move to the EU and EU citizens that move to the UK before 31 December 2020 will continue to have life-long reciprocal health care rights provided.

NHS Providers view

Trusts and the wider health and care system have faced uncertainty since the 2016 referendum on EU membership, in addition to the burden that planning for a no-deal Brexit has placed on trusts and their local partners. While the Withdrawal Agreement reached in January 2020 has taken the immediate threat of no-deal off the table, we remain mindful that this is just the first phase in the UK's departure from the EU. Over the next 11 months, negotiations on the UK's future relationship with the EU will continue apace. There are a number of key issues for the health and care sector that will need to be resolved before the end of the transition period, including supplies of medicine and medical devices, the regulation of drugs and the introduction of a new immigration system, which we believe should be flexible, and meet the needs of the health and social care sector.

NHS Providers work on Brexit

NHS Providers continues to be an active member of both the Cavendish Coalition and the Brexit Health Alliance, and during the no deal planning phase joined weekly calls with DHSC. The Cavendish Coalition brings together a group of over 35 health and social care organisations and focuses on addressing the potential impacts of Brexit on the health and care workforce. The Coalition is currently focusing on the impact of a new immigration system for health and social care and has [recently published a position paper](#) outlining the priorities for the health and social care workforce under a new immigration system.

The Brexit Health Alliance brings together the NHS, medical research, industry, patients and public health organisations, in order to safeguard the interests of patients, healthcare and research during negotiations on the UK's future relationship with the EU.

NHS Providers will continue to engage with government and parliament throughout the transition period on areas of importance to our members, and will provide regular updates throughout this next phase of negotiations.