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BMA

Scotland

The British Medical Association (BMA) is a politically neutral professional association and independent trade union, representing doctors and medical students from all branches of medicine across the UK and supporting them to deliver the highest standards of patient care. The BMA has a total membership of around 168,000 representing around two-thirds of all practising doctors in the UK. In Scotland, the BMA represents around 16,000 members.

We welcome the opportunity to respond to the Health and Sport Committee's call for views on the potential impact leaving the European Union could have on health and social care in Scotland.

Below are BMA Scotland's responses to the questions posed.

• Q1: How could the potential risks of Brexit for health and social care in Scotland be minimised?

At both a Scottish and UK level, the BMA has expressed a number of concerns about the potential impact of Brexit on health and social care.

These include:

- Impact of any potential domestic economic downturn on funding for the public sector, including the NHS;
- The potential impact on recruiting and retaining EEA-trained doctors to live and work in Scotland;
- The wide-ranging ramifications for the regulation and education of health professionals, including language testing, clinical skills and knowledge testing, and the transferability and recognition of qualifications for doctors.
- The impact of the UK's decision to leave the EU on science and medical research;
- The retention of measures to protect public health standards, including those affecting food, alcohol, air quality, and tobacco regulations.

To take these in turn:

Impact of any potential domestic economic downturn on funding for the public sector, including the NHS:

The BMA has long warned there is a growing gap between the demand for health and social care services in Scotland, and the resources available to deliver them. With ongoing uncertainty over trade arrangements, and downgraded growth forecasts, there is a clear possibility this could lead to reduced levels of spending on public services. If this leads to cuts at Westminster, and a reduction in Scotland's budget, there clearly remains a very real threat to NHS spending

in Scotland, which would only exacerbate the funding gap. To mitigate this, it is vital the Scottish Government does all it can to protect our NHS from any further financial pressures that result from Brexit.

The potential impact on recruiting and retaining EEA-trained doctors to live and work in Scotland:

The NHS workforce in Scotland is already overstretched. Those doctors we already have in place are struggling to cope, and where vacancies exist, they are increasingly hard to fill[1]. At this point in time we need to be working together, across all levels of government, and at all levels of the profession, to make coming to Scotland to live and work as a doctor as attractive as possible. Against that background, Brexit has the potential to make things considerably more challenging.

At present, employers can recruit EEA doctors to any post, but can recruit doctors from outwith the EEA to shortage specialties only. There is a shortage occupation list specific for Scotland that includes the following roles:

- consultant in clinical oncology
- non-consultant, non-training, medical staff post in clinical radiology
- CT3 trainee and ST4 to ST7 trainee in clinical radiology
- all grades except CT1 in psychiatry
- all grades in anaesthetics, paediatrics, obstetrics and gynaecology

These roles are over and above the UK-wide shortage occupation list, which also covers Scotland.[2]

The uncertainty that has been in place around the status of EU nationals has had a considerable impact, and we do not yet know whether EEA doctors will retain free movement after Brexit, whether they will be included in the shortage occupation list process, or whether some other plan will be put into operation. The shortage occupation lists are reviewed regularly, and the next review will be particularly important. A recent BMA survey found that, of those that responded, more than a third of EEA-trained doctors working in Scotland were considering leaving amid the uncertainty Brexit has caused.

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[1] https://www.bma.org.uk/news/media-centre/press-releases/2017/december/bma-scotland-responds-to-isd-workforce-information-on-consultant-vacancies

[2] The following roles are on the UK wide shortage occupation list: Consultants in the following specialities: clinical radiology, emergency medicine, old age psychiatry, CT3 trainee and ST4 to ST7 trainee in emergency medicine, Core trainee in psychiatry
Non-consultant, non-training, medical staff posts in the following specialities: emergency medicine (including specialist doctors working in accident and emergency),old age psychiatry, paediatrics

While the progress made late last year to guarantee the rights of EU citizens to remain and work in Britain was welcome, there remains much work to do to put in place a flexible immigration system to try to ensure that the NHS and medical research in the UK can attract and retain the workforce needed to deliver safe care and maintain world class innovation and research.

Medicine thrives on the interchange of experience, knowledge and training across countries and backgrounds, and any changes to immigration that restricted that would be bad for medicine, bad for patient care and bad for medical research.

Ultimately, this is not just about technicalities or systems, it is about people – our current and future friends and colleagues, who make up such an important part of the communities where they work. It is about how doctors as individuals feel about coming to Scotland to work, or staying in Scotland.

It is clear that, at present and in the immediate future, we need EEA-trained doctors for our workforce to be sustainable. We must work hard to ensure they feel both welcome and valued, in particular in the climate created by the Brexit vote and possible negative perceptions of the UK.

To mitigate the impact on our workforce, the BMA in Scotland believes that a priority must be a coherent future immigration system that will provide the flexibility necessary to address workforce shortages in NHS Scotland and considers the needs of our wider health and social care systems. This must be supported by work at all levels of government to allay fears any doctors considering coming to work in Scotland may have over finding jobs open to them, or places at medical school, or whether their qualifications will still be valid post-Brexit and whether they will be made to feel valued and welcome.

The wide-ranging ramifications for the regulation and education of health professionals, including language testing, clinical skills and knowledge testing, and the transferability and recognition of qualifications for doctors.

This is clearly linked to the concerns above, and applies for both UK doctors in Scotland and doctors considering coming to live and work in Scotland.

There is no doubt the UK's decision to leave the EU has the potential to have wide ranging ramifications for the regulation and education of health professionals, which will need to be urgently addressed. These issues include language testing, the potential introduction of clinical skills and knowledge testing, the transferability and recognition of qualifications for doctors (as

mentioned above), the structure of undergraduate and postgraduate training, and access to the specialist register (Certificate of Eligibility for Specialist Registration / Certificate of Eligibility for GP Registration and Certificates of Completion of Training).

The EU's policy of mutual recognition of professional qualifications (MRPQ) has been key in enabling many health and social care professionals from countries within the EEA to work in the UK and vice versa. Having a common framework for training and standards, coupled with an alert system in relation to fitness to practise concerns, has made it possible to fill gaps in the medical workforce quickly whilst ensuring patient safety. The UK's departure from the EU brings into question the continued applicability of these regulations to the UK, with a potential adverse impact on the NHS workforce and patient safety.

After Brexit, the BMA is calling for the maintenance of reciprocal arrangements, such as MRPQ to facilitate the ongoing exchange of medical expertise across Europe. There is a risk that removing automatic recognition, which is currently provided by MRPQ, will result in an additional barrier to those considering working in the UK. We are also urging the government to seek to maintain access to the Internal Market Information (IMI) alert system to allow professional regulators to send and receive alerts about doctors' fitness to practise across the EU.

The impact of the UK's decision to leave the EU on medical research and academic medicine:

BMA Scotland has previously expressed our concern over ongoing access to EU research programmes and research funding following Brexit[3]. This is a real area of strength for Scotland and we have a strong track record of attracting funding for research from the considerable resources available at an EU level[4]. Indeed, Horizon 2020 – the EU's leading research programme, has an indicative budget of £7-8bn to support research relating to 'Health, demographic change and well-being' which could be highly beneficial to Scottish research institutions. While participation in programmes such as Horizon 2020 is not conditional on membership of the EU (Israel and Switzerland are amongst the highest net recipients), at a UK level, the BMA are calling on the UK government to act quickly to ensure ongoing participation in such programmes and to limit any potential damage to the UK's medical research base. Support from the Scottish Government in this respect would help to make the case and end any possible uncertainty.

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[3] https://www.bma.org.uk/-/media/files/pdfs/collective%20voice/influence/europe/bma-scotland-response-written-call-for-evidence-european-external-affairs-committee.pdf?la=en

[4] https://www.universities-scotland.ac.uk/publications/brexit-priorities/

Uncertainty over possible restrictions on free movement in the future could also deter students (undergraduate and post-graduate), trainees and senior clinical academics and researchers from coming to Scotland and the wider UK.

In mitigation, BMA Scotland believes it is imperative that we ensure that joint research networks and mobility across Europe are maintained in the long-term if we are not to lose the vital contribution these individuals could make to the future of the scientific community in Scotland and advances in medical research.

The importance of retention of measures to protect public health standards, including those affecting food, alcohol, air quality, and tobacco regulations.

With Scotland facing some considerable challenges in public health, it is vital Brexit is not allowed to erode any measures taken to make our country healthier.

For example, EU legislation has led to significant improvements in the UK's health policy, including:

- a revised Tobacco Products Directive which strengthens the rules around tobacco products and e-cigarettes;
- regulations around artificial fats in food; and
- regulations around the promotion of unhealthy food and drink products to young people.

Post Brexit, it is vital that on both devolved and reserved issues we see a continuing commitment to build on these gains.

• Q2: How could the potential benefits of Brexit for health and social care in Scotland be realised?

If these risks to the workforce are sufficiently mitigated, it would be possible to use the opportunity to review and streamline existing immigration arrangements for the benefit of the healthcare sector in both the UK and Scotland.

The BMA believe that employers must be able to recruit and retain overseas doctors where a clear workforce need exists. This is true now and will remain the case once Brexit takes effect.

At a UK level, the BMA, as part of the Cavendish Coalition[5], has identified the key principles which we believe should underpin a future immigration system:

1. Be responsive to individuals and organisations using it, easy to understand and navigate, transparent, predictable and affordable: keep it simple.

2. Respond to skill and labour shortages within the health and social care sector, as well as attracting talent to the sector.

3. Support the stability of health and social care services in the short to medium term.

4. Recognise the wider value to society and the economy of certain skills and roles, beyond using salary levels as a determinant of entry to the UK.

5. Support the growth of the economy across all parts of the UK.

6. Position the UK as a global leader in healthcare industry, science, technology, research and education.

7. Support the delivery of high quality public services across all parts of the UK.

8. Lead the way on the World Health Organisation Code of Practice on ethical and international recruitment.

9. Complement a strategy and plan to develop the UK's domestic supply of health and social care staff.

The immigration system for healthcare also needs to work in conjunction with the relevant regulatory systems ensuring that proportionate measures are in place to maintain patient safety.

Bearing these principles in mind, there is an opportunity to address existing complexities in the current immigration system for non-EU doctors, which are often due to the interaction between the rules and the system for training doctors. Such challenges create difficulties in being able to recruit overseas workers and have been shown to negatively impact the medical workforce.

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[5] http://www.nhsemployers.org/your-workforce/need-to-know/brexit-and-the-nhs-eu-workforce/the-cavendish-coalition

Examples include: increases within Tier 2 (General) appropriate salary threshold for experienced workers; the introduction of the immigration skills charge; the impact of the resident labour market test; and the exclusion of many at-risk medical specialties, such as general practice, from the shortage occupation list.

• In what ways could future trade agreements impact on health and social care in Scotland?

There remains considerable uncertainty over future trade arrangements and any potential impact they could have on health and social care in Scotland.

However, one key issue would focus around competition and whether any potential deals could lead to enforced competition in public services and the NHS.

The BMA believes that competition within health systems leads to fragmentation and undermines the NHS's own founding principle of publicly delivered healthcare.

On that basis, the BMA is clear that the NHS should be exempted from any future international trade deal.

This would preserve the current arrangements and lack of competition in Scotland, where, unlike the NHS in England, there is no purchaser/provider split and the role of the market is significantly limited.

Currently, EU regulations mean that:

- There is a requirement for commissioners to advertise contracts valued above certain specific thresholds, in the OJEU (Official Journal of the European Union).
- There are rules that ban co-operation between providers and commissioners of services which might limit competition.

However, where the purchaser-provider split does not apply, as in the Welsh NHS and Scottish NHS, then neither do these rules.

This position, and exclusion from enforced competition, must not be jeopardised by any future trade deal. BMA Scotland believes that the UK Government should explicitly rule out any element of a trade deal that could open the NHS in Scotland to the imposition of competition.

While we await movement on trade deals, there must be a clear commitment not to risk opening publicly funded healthcare to market forces and BMA Scotland would look for the support of the Scottish Government in this approach, given it is very much in line with consensus and policy for our NHS.

It is also possible that trade agreements may include clauses or mechanisms that strengthen the rights of investors to oppose potential public health measures or demand reimbursement from the Government as a result of such policies. For this reason, the BMA has also called for mechanisms to prevent investors from blocking or accruing compensation for lost profits on account of legitimate government policy decisions taken in the public interest.

Finally, it is also important that any trade deals do not reduce the high standard of regulations currently imposed on food imports by the EU. For example, the Food Ethics Council has warned that the UK is so desperate to secure trade deals now that it will do so at "any cost" and that "there is a real possibility we will see a race to the bottom and lowering of food standards amid a desperate desire to secure trade deals."[6]

Any weakening of standards would have implications for public health. On that basis, we would urge the UK Government to make a clear and unambiguous commitment to maintaining food standards in line with those imposed by the EU in any trade deal struck following Brexit.

[6] https://www.foodethicscouncil.org/