HOUSE OF LORDS

Select Committee on the European Union

Home Affairs Sub-Committee

Uncorrected oral evidence: Brexit: reciprocal healthcare

Wednesday 7 March 2018

11.30 am

Watch the meeting

Members present: Lord Jay of Ewelme (Chairman); Baroness Browning; Lord Crisp; Baroness Janke; Lord Kirkhope; Baroness Massey of Darwen; Lord O'Neill of Clackmannan; Baroness Pinnock; Lord Ribeiro.

Evidence Session No. 13 Heard in Public Questions 111 - 123

Witness

I: Lord O'Shaughnessy, Parliamentary Under-Secretary for Health, Department of Health and Social Care.

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Examination of witness

Lord O'Shaughnessy.

Q111 **The Chairman:** Thank you very much indeed for coming back and giving evidence to us. We are very grateful to you, and we have been very grateful to you in the past. May I say that we are also grateful for the full and helpful letters and replies to our reports that we have had from your department and jointly sometimes with BEIS? Thank you very much for that.

Lord O'Shaughnessy: No, not at all. I am glad they were helpful.

The Chairman: That has been very helpful. Things have moved on quite a lot since you were last here. We are in the process of writing and considering our report on reciprocal healthcare. We thought it would be very helpful just to talk to you again before we finalise that in order to get your views on some of the documents that have appeared since you were last time. That is the background to it. Is there anything you would like to say to us to start with, or shall we go into the questions?

Lord O'Shaughnessy: No, let us crack on, Lord Chairman. I am very pleased to be here. Thank you for the opportunity.

Q112 **The Chairman:** There was a bit in the press recently about applications for fake EHIC cards. What was your reaction to that, and what measures are you putting in place to try to close that particular loophole?

Lord O'Shaughnessy: First, it highlighted known weaknesses that we are trying to address. All large social security systems suffer from fraud and error. Luckily it did not tell something that we were not aware of and that we were not trying to do something about. In that sense, it was helpful. However, the number given was not one that we recognise, and it was not substantiated. The quantum is nothing like the way it was described, but obviously any money is too much money, so we are trying to crack down on it.

I would focus on a couple of things most recently. First, in 2016, the NHS Business Services Authority, which operates the scheme, and the DWP has been running post-application insurance checks on current holders and claimants. Since February this year, that has been enhanced by an additional system that checks a sample of applicants to confirm their addresses and residency status. It is trying to deal with cards being secured in fraudulent or made-up names.

There is the separate issue, of course, of claims that would be made against such names. We are more confident that that is very difficult to do, but we obviously still need to tighten up the work that we do to stop those cards being claimed in the first place. There is not a lot of cost associated with that, but it is still fraud.

The Chairman: Do we have any idea of whether this goes on in other member states and, if so, to what extent?

Lord O'Shaughnessy: That is a good question. I do not know the answer to that. One would imagine that it does, because all social security systems suffer from these kinds of weaknesses, but we can write to you with any details that we have on what goes on.

The Chairman: It would be helpful to know what information you have.

Lord O'Shaughnessy: There is one other thing that I would highlight on this. In November last year, we set up the NHS Counter Fraud Authority, which is obviously trying to crack down on fraud across the entire health service. That is a specialist ALB within the health family, and it is also supporting our work in this area.

Q113 **Lord Crisp:** Good morning, Minister. Starting off with the joint report and the first phase, did the Government manage to achieve everything they had hoped for reciprocal healthcare as part of that discussion?

Lord O'Shaughnessy: Yes, we ended up with a good outcome on the three main parameters: those exercising the rights granted by their EHIC on exit day, those retired abroad and those in the middle of planned treatment. Our ambition all along has obviously been to go further and to replicate the current system that we have across all of those, not just for those exercising their rights on exit day but in the future. The Commission's mandate did not allow it to do that. That is why we got to what in the past I called the stock rather than the future flow. We got a good deal for the stock, but clearly the future flows—the people who exercise their rights after exit day—is what we now need to agree within the implementation period and the future relationship.

Lord Crisp: Colleagues will raise those questions with you, but let me ask one other question of you here. Have you had discussions with groups representing people who will be most affected by the changes to reciprocal healthcare about the extent to which the joint report answered their concerns? Are they satisfied, as it were, with where we have reached?

Lord O'Shaughnessy: Yes. There are two things here. First, the Foreign and Commonwealth Office has an outpost, if you like, in Spain, which is where most of our pensioners are. That is jointly funded by the DWP and the Department of Health and Social Care. We have also run exercises in Spain, Cyprus, Portugal and Ireland to engage with those communities. All across the EU, embassies and ambassadors are doing that kind of outreach work. Hopefully the Prime Minister and everyone downwards have been clear throughout that our main intention through this process is to provide certainty and reassurance for citizens who might be feeling anxious, whether they are EU citizens in this country or UK citizens abroad.

The fact that we got a good outcome in stage one and that both sides have been clear all along about the desire to have continued reciprocal citizens' rights is hopefully providing some of that certainty and reassurance, but we are aware, of course, that nothing is agreed until it

is all agreed. Once it is all agreed, we can have that full confidence. Things are pointing in the right direction.

Lord Crisp: You feel confident that you understand where people's concerns are.

Lord O'Shaughnessy: Definitely, yes. There is actual engagement with people who are resident in the EU: in other words, from the point of view of UK citizens, our citizens who are living abroad and exercising those rights, as well as particularly those who are going through planned treatments.

Q114 **Baroness Pinnock:** My question continues in the same vein, really, but I wonder whether the Government are making any plans for the continuation of reciprocal healthcare should the withdrawal agreement fail to be ratified by either the EU or the UK. What will be the entitlements of the EU 27 nationals who are resident here if there is no withdrawal agreement?

Lord O'Shaughnessy: There are two questions there. One is about what happens if the withdrawal agreement is not ratified. The second is about the rights of EU citizens here. First, it is just worth restating that it is obviously our aim for it to be ratified. We are increasingly confident that it will be. All the signs are pointing in the right direction. There are a range of options for the things that we would need to do in order to make contingency if the withdrawal agreement was not ratified.

The first and obviously the most desirable of those would be some kind of bilateral or multilateral arrangement. That is obviously what we are aiming to do with the EU itself. We are clearly intending to have a multilateral agreement with the entirety of the EU for continued reciprocal healthcare rights. If that is not available for whatever reasons, we would look at bilateral agreements of the kind that we have with a number of countries outside the EU and indeed of the kind that EU countries have with countries outside the EU.

We would then look at a range of other options. You will understand that I cannot go into detail at this point because of its impact on the negotiations, but the work is well prepared and well advanced. We are doing a huge amount of work to make sure that we have something in place from exit day if necessary. We hope that will not be necessary.

On the second question, obviously the EU citizens who can apply for settled status will be residents. We have a residency-based healthcare system, as you know. If you are counted as ordinarily resident here, you are entitled to free healthcare. If you are not ordinarily resident, what you are able to access depends on the negotiation that we have with the European Union. Our intention is that they continue to have reciprocal healthcare rights and us in their countries, but that is a matter of negotiation, and that has not been decided yet.

Baroness Pinnock: Yes, that is the problem, is it not? People are concerned about what their status will be regarding healthcare. It is

about how much comfort you can give them, really.

Lord O'Shaughnessy: Yes, indeed. We have a system based on residence. If you are here for more than six months and you are working, a student, your family is here or whatever it is, qualifying for ordinary residence is not that difficult, if you are truly resident here and this is your home. Hopefully that provides some reassurance, but I agree with you that there is a need to continue conveying that information. Obviously, if you are here on a temporary stay, that is where the EHIC situation comes in, which we have obviously settled for people who exercise that on exit day but not for future flows.

Q115 **Baroness Massey of Darwen:** Good morning. In consequence of that question, I see from your letter to the Lord Chairman on 1 March that there is the question of posted workers, which I do not quite understand. It says, "The Commission sees posted work as a matter of future talks". Between whom are those talks? How will this be resolved? Presumably we have a number of posted workers in this country.

Lord O'Shaughnessy: Yes.

Baroness Massey of Darwen: If it is a large number, how will it pan out?

Lord O'Shaughnessy: Posted workers were not included in the withdrawal agreement. Their healthcare rights will be negotiated in the next phases of the negotiation. As with, say, future retirees or future tourists, we have no agreement yet on what their rights will be. We have set out our intention for what those rights ought to be on a reciprocal basis, and they will be included in general reciprocal rights for healthcare. We have not yet reached an agreement on those, because they were not within the first phase.

Q116 **Baroness Janke:** When you last appeared before the Committee, you emphasised the importance of reciprocal healthcare between the Republic of Ireland and Northern Ireland and the need to deal with it quickly to remove the uncertainty. How much has the joint report dealt with uncertainty about the future of healthcare co-operation?

Lord O'Shaughnessy: The joint report was very helpful in stating and confirming that the UK and Ireland can continue to work together under the common travel area arrangement. Specifically, that obviously means that people can come backwards and forwards without any problem or question, and that no UK or Irish nationals will be required to apply for special status in order to protect their entitlements. Critically for healthcare, rights to accessing public services are preserved on a reciprocal basis between the UK and Ireland as well. It produces and provides for CTA rights to continue, come what may, under the withdrawal agreement. That was an extremely useful confirmation of what we expected to happen, but we actually had it confirmed.

Baroness Janke: In terms of the quality of access to specialist services, which our witnesses have been particularly concerned about, and the

speed of access to accident and emergency services, this is guaranteed, whatever happens.

Lord O'Shaughnessy: Yes, those are protected. You will obviously be aware that there is a separate discussion about customs arrangements, but accessing public services and exercising those entitlements are protected specifically through the joint report.

Baroness Janke: You do not anticipate issues about borders affecting these at all. My understanding is that this happened in the past.

Lord O'Shaughnessy: There is obviously joint commissioning for specialist services, which we talked about last time. Our understanding is that none of that will be negatively affected by the exit, because the withdrawal agreement provides for continued co-operation on public services and protecting the Good Friday agreement and so on, under which that is also covered.

Baroness Janke: If there were a border, would that affect it at all? We hear one minute that there is no hard border and the next minute that there will have to be a hard border.

Lord O'Shaughnessy: First, it is really important to reiterate our intention, as the Prime Minister did again last week, that there should be no hard border either between the north and south or between Northern Ireland and the rest of the UK. Obviously, that is primarily about the trade in goods. We see no reason why there needs to be one, but we are talking about something different here, which is the exercise of citizens' rights to access public services, which is provided for in the common travel area. As I say, that is something that was covered in the withdrawal agreement. Those are two separate issues.

Baroness Janke: Has any work been done on what the result of a hard border would be?

Lord O'Shaughnessy: We are working very closely with the Irish Government. I mentioned that I went to see the Irish Health Minister about six months ago to talk about this. There absolutely is a close working relationship to work out the details of this, but I genuinely do not anticipate any problem with continued rights, not just for people who are resident in each country but other nationals, such as a British citizen in Ireland or an Irish citizen in the UK, to access cross-border health services. That has not been raised as a potential concern.

Baroness Pinnock: Can I just ask a question about borders? You have talked about how the co-operation that currently exists would continue, which is obviously really good news. How about the future? Will there be opportunities to continue to develop cross-border healthcare provision? Would there be any obstacles in the way of that? The witnesses we had from both sides of the Irish border talked about the importance of that and the links they were making with the west coast of Scotland. Can all that continue to develop and grow? Is that included?

Lord O'Shaughnessy: Yes, absolutely. I recognise that some of the concern comes out of uncertainty rather than what would actually happen. Our relationship goes back a long time, certainly before both countries joined the European Union, and there has always been co-operation, particularly in healthcare and very specialist services that are just not simply available in either country because of their size. As healthcare becomes more and more specialised, and very specialist services become highly centralised, you would expect there to be more need for that. That is true generally, let alone between Ireland and the UK.

I want to stress that the joint report absolutely provided for continuity of the common travel area. That specifically talks about rights to work, study and access social security and public services being preserved on a reciprocal basis for UK and Irish nationals. What flows from that is an ability to commission specialist services across borders between the two nations. It is a really important point, and I respect the fact that people are worried about it. If you are crossing your border to access those services, there is a degree of uncertainty, because unfortunately, as we all know, none of it is agreed until it is all agreed, but the existing agreements allow specifically for that to continue.

The Chairman: It is hugely important. I was with the Lords EU Committee at Altnagelvin Area Hospital in Londonderry a couple of weeks ago. It has a new cancer ward that was funded partly by the Irish Government and partly by the British Government. Staff and patients are coming from both sides of the border. The thought that that could in any way be interrupted is unthinkable.

Lord O'Shaughnessy: Yes, exactly. I completely agree.

Q117 **Baroness Massey of Darwen:** I have a couple of questions: one for your department and one for the CJEU. Now that significant progress has been made, what are the most important issues for your department during the transition/implementation phase and in the future relationship?

Lord O'Shaughnessy: For reciprocal healthcare, as I say, if we think of those things in terms of stock and flow, we have a settled position on people who are exercising their rights on exit day. The priority now, again as set out by the Prime Minister, is to make sure that people who would exercise those rights beyond exit day would continue to have them. That might be people who choose to retire abroad who want or need to access planned healthcare treatment in EU states after exit day or tourists using an EHIC, and also of course the posted and frontier workers. Our intention and desire is to continue with the system that we have now, albeit on a different legal basis, providing the same degree of rights that people are able to exercise now.

Baroness Massey of Darwen: Regulations and enforcement would continue.

Lord O'Shaughnessy: In regard to reciprocal healthcare, yes. We would in effect maintain the system we have now in a multilateral deal—the reciprocal deal that we would have with the EU.

Q118 **Baroness Massey of Darwen:** What would be the role of the CJEU in the reciprocal healthcare arrangements, both in the transition and the future relationship?

Lord O'Shaughnessy: It is to be determined exactly what that will be, because clearly there will need to be a dispute resolution mechanism. What that will look like is still to be determined between the UK and the EU. Of course, any international agreement has to have some agreed dispute resolution.

What has been clear—the Prime Minister again was admirably clear on Friday—is that the UK will still look to case law and, even for citizens' rights for an eight-year period, will be able to consult the European Court for its opinion on these kinds of issues. Of course, that is a time-limited arrangement, but a permanent dispute resolution mechanism will need to be set up. Clearly that is not being done yet, but as she pointed out, that is part of the future partnership negotiation.

Baroness Massey of Darwen: Do you know when it will be? It sounds like a very complex issue.

Lord O'Shaughnessy: I do not know when it will be done. In time, I suppose.

Baroness Massey of Darwen: It will be done "in time".

Lord O'Shaughnessy: It will have to be done in time.

Baroness Massey of Darwen: Not "shortly".

Lord O'Shaughnessy: Let us not get into all that. It will definitely have to be done in time. That much is a given.

Q119 **Lord Ribeiro:** One of the things about the joint agreement under Section 29 was the firm statement that people who are of competent status in the UK on the specified date, whether on a temporary stay or resident, will continue to be eligible for healthcare reimbursement, including the EHIC scheme, as long as that stay, residence or treatment continues.

In terms of the treatment continuing, this implies that they may need to have follow-up treatment and the like. This is a broader issue, but, for example, we do not currently have proton-beam treatment, although we are planning to build one. We had that controversy not so long ago when a patient had to go overseas. If somebody in that category, who is resident here at the time, has to go overseas for proton-beam treatment and needs to have recurrent follow-ups and so forth, what are the restrictions?

Lord O'Shaughnessy: This is a really important point. That is why the outcome of the first phase of talks on planned treatment is very important. You would have had to be physically abroad and exercising

your EHIC for it to continue, but if you came home, the next time you went on holiday in the EU it would not apply under what is agreed already. For a planned treatment, if you are in the middle of a course of treatment, which might mean six visits to a German proton-beam therapy centre, even if you have only had three treatments and you are not abroad on exit day, you would be able to go for your next three.

There is still some definitional work to be done on what is included in a treatment pathway. Some illnesses may need treatment that goes on for a lifetime. We need to define what a course of treatment actually is, but this is an incredibly important point: you do not have to be physically abroad on exit day for your treatment to continue. It is about a course of treatment that has been set by clinicians and commissioned from a hospital or treatment centre aboard.

Of course, we are going to get our own proton-beam therapy centre soon at the Christie, so that at least is one thing that we will not need to shop abroad for.

Lord Ribeiro: No. This is an incentive to make a lot of major investments in the UK, but it all costs and it takes time. There is a bit of an anomaly here, because in the definitions that you very kindly sent us on frontier workers and posted workers, it is quite clear that a frontier worker will continue to receive the reciprocal healthcare for the duration, which is at odds with people in the UK in a similar situation who are in an ex member state but will not have access to that.

Lord O'Shaughnessy: Yes. That is because the duration is the time during which they are exercising their right. They are actually in the process of exercising it, whereas if you are in the UK on exit day you are not in the process of exercising it. I agree with you. To be honest, as I said, we were not bound in the outcome of the phase-one talks by our own ambitions; we were bound by the mandate the Commission had to negotiate. It was a strict line of stock and flow. We have agreed what we could agree, but we are very conscious that we need to agree more.

Lord Ribeiro: In the negotiations you have about the future relationship, it is very important to define exactly what we mean by "follow-up". There will be situations, such as the treatment of cancers, where follow-up can be up for five years, as you know.

Lord O'Shaughnessy: Exactly. I totally agree. We are very aware of it, and we do need to provide definitions of what a course of treatment is so that we can understand what is captured within the planned treatment coverage.

Lord Ribeiro: Have you been in touch with the individuals who are likely to be affected by this to understand the risks and what their rights are?

Lord O'Shaughnessy: Yes, the officials have been in touch with some of the patient advocacy groups to talk about these issues. We are working with them, as well as with clinicians, obviously, to understand this.

Lord Ribeiro: This might be outside the remit, although it is on our agenda for another topic, Euratom, but we did ask you about non-fissile material last time? Since our discussions with you then, are you more satisfied that there will be no obstructions or delays to radio isotopes coming into the UK?

Lord O'Shaughnessy: Yes.

Lord Ribeiro: The agreement implied that there would not be.

Lord O'Shaughnessy: I hope the Committee found the letter we sent helpful.

The Chairman: We did, thank you.

Lord O'Shaughnessy: We are capable of going into much more detail than I was able to in the session. The short answer is yes. As we have said, membership or otherwise of Euratom does not affect our ability to trade. There are two issues that we need to deal with. One is the customs arrangements, because of the short lifetimes of some of these products. We had a very productive meeting with Mel Stride in the Treasury about HMRC's capacity, through a number of routes—whether it is the tunnel, Heathrow or Coventry, which came up when we last spoke—to process these kinds of products.

The second is about being part of international groupings that are on the lookout for sources of supply and dealing with concerns about shortages when reactors go offline or whatever it is. Again, while the Euratom observatory provides for some of that, it is not part of the Euratom treaty, and there are other international bodies that do a similar kind of work.

The final point, as you will have seen, is that we are in a better position for having some potential for domestic supply than I understood to be the case when I was last in front of you.

Lord Ribeiro: You are working with Alliance Medical on that.

Lord O'Shaughnessy: Yes. I know this has come up in the context of both the Nuclear Safeguards Bill and the withdrawal Bill that is going through at the moment, but having spent a reasonable amount of time on it since we last spoke I genuinely think that we are in a good position and that we can be confident that we will be able to secure the supplies that we need and get them through customs as quickly as they need to be.

Q120 **Lord O'Neill of Clackmannan:** The joint report guarantees rights for life for citizens falling within its personal scope, but will EU 27 citizens with settled status in the UK at the time of Brexit lose their entitlements to healthcare in the UK should they move to the EU after the UK leaves the EU and then return again? When we leave, people who are here have rights. Should they have to return to their place of birth for whatever reason—let us say to look after a dying parent for 12 months—and then

come back, would they be entitled to the healthcare that they were in effect leaving behind when they returned to the land of their birth?

Lord O'Shaughnessy: There are two things at work there. One is the right that anybody has here who is counted as ordinarily resident: they are domestically guaranteed. We have talked about what you would need to qualify for those.

The rights that you would have if you did not count as ordinarily resident, making that kind of journey or switching between living in different places, could be covered only under a future reciprocal arrangement. What you are describing would not be covered by what we have agreed so far. It will be covered by our discussions on reciprocal healthcare rights, as part of negotiations around that future partnership. What you are describing is something we want to be covered, but it is not yet covered.

Lord O'Neill of Clackmannan: It is one of the ones that is in the "outstanding" box.

Lord O'Shaughnessy: Precisely. If we have the reciprocal arrangement that we want, you can go backwards and forwards as many times as you like, and whatever your anchor-point country is then has the responsibility to pay for any healthcare needs that you require when you are in a different country. That is what would happen now, and that it is what we would want to happen in the future, but it is not yet agreed.

Q121 **Baroness Browning:** You have probably answered most of this question, but I want to ask you specifically about people travelling after Brexit who have long-term conditions as opposed to people who are travelling and some event occurs and they become ill. What is the situation for example with patients who require ongoing dialysis, which is a long-term condition? What happens to them after Brexit?

Lord O'Shaughnessy: That is a really good question. Again, the answer is in two parts. If they are in the middle of a planned course of treatment that had been commissioned from the healthcare provider in the EU, they are covered under the current agreement. If it is a long-term health need that requires episodic support that has not been commissioned specifically from a healthcare provider abroad, because it was not available in the UK or whatever, that would have to be covered under a future relationship. That element of it would not count as a planned treatment, because it is not a commissioned course of treatment.

Baroness Browning: Presumably people would be undergoing dialysis here that is long term. That does not have an end date.

Lord O'Shaughnessy: No, indeed, and that is what I mean about us having to do two things. One is to define what is covered by the "planned treatment" already agreed under the withdrawal agreement, but there is the separate issue of people with chronic and long-term conditions and what cover they would have in the future relationship. That is not yet decided. We have said that we want continuity with what we have now,

which is that that person could go backwards and forwards and be able to recharge that to the UK. That is contingent on it being a negotiated outcome.

Baroness Browning: As far as travellers are concerned, what is the situation for people in mainland Europe who are not on a holiday but who are travelling and have no private travel insurance and no EHIC? What happens to them if they become ill after Brexit? Will there be any change? What are your plans for somebody who might become ill, have an accident, have a heart attack or whatever?

Lord O'Shaughnessy: If somebody was in that situation, they would have to pay for their treatment. The EHIC is there to protect them and provide for the cost, but if they do not have it or they cannot demonstrate that they have a card or a number from a given country, they would be required to pay, just as a non-EU citizen would now if they did not have that kind of cover. It is very important to emphasise that urgent and emergency care would never be withheld, but in that situation a charge would be made afterwards.

Baroness Browning: Culturally, particularly with the Channel Tunnel, we have generations of people who just go to Europe for various reasons. I have done it myself. If I am going to Europe or anywhere else on a set holiday, I have all my details and I have an EHIC. I can think of many times when I just pop over to France. One day I was doing a bit of research for a book and I was there for about six days, and I never regarded it as an event. I just popped over and did it.

Lord O'Shaughnessy: That is the point, is it not? This is what people's experiences are. It has become part of life and we want it to continue. The Prime Minister was very clear that one of her five principles is making sure that UK and EU citizens continue to mix, mingle and do things together as they do now. That is why we want a continuity of the same system. When we talked to other EU citizens who were in other EU countries, no one wants to discontinue the current system, but we still have to agree it and we have to find and put it on a new legal basis, which is the point. You are right that no one wants to shove up barriers between us.

The Chairman: You can go safely to Lille for lunch.

Q122 **Lord Kirkhope of Harrogate:** I hate to start referring to your colleagues and the things that they have said, are said to have said, or have been saying on the television or anywhere else, but I have to do that in this case because of the rather odd little piece on a remark by our friend David Davis.

You talked about multilateral continuation just a moment ago, but I look at this on the basis of unilateral approaches. I presume that unilateral approaches are taken when we cannot negotiate a multilateral deal. A unilateral approach to provide an equivalent to an EHIC seemed to me a bit odd. It was referred to in a television show. I wondered whether there

are administrative arrangements in place to cover a situation where we do not have a multilateral deal and where we are looking at this in some sort of unilateral sense. I am not sure how that would work, because presumably it requires two sides. I thought I would pose that question, because it was mentioned rather peculiarly.

Secondly, there is the question of cost recovery. You have referred to it in a couple of answers that you have given already. I have always had considerable doubts about whether the current cost recovery programme that is in place is of much use. We in this country appear to find it more convenient in many cases not to bother because of some agreements that we have made in the health service—something administrative or whatever it may be.

How would recouping costs fit into the ongoing agreements with the other EU countries, and will we take it more seriously in future or not? We patently have not taken it seriously until now.

Lord O'Shaughnessy: Hopefully I can reassure you on cost recovery. On the unilateral point, there are a range of potential options that we are investigating as contingencies, as you would expect us to do for every eventuality, from full deal to no deal. That is only right. I am afraid I am not going to be able to go into any details of the various options that we are looking at, save to say that our desire is to continue with the arrangements that we have. Whichever way you look at this and from whichever angle, it is hard to see why you would not want to continue it, for all the reasons that we have discussed.

On cost recovery, the department had a really good story to tell. There are a variety of ways of recovering costs: through reciprocal healthcare agreements, through charges for those who are not entitled to free care. The income generated through this route has quadrupled in the last four years, from about £90 million to £360 million. We have just announced our intention to increase the immigration surcharge for non-EU visitors so that it roughly matches the average cost burden per visitor. That will increase further. We have also brought in charging regulations to mandate up-front charging, except when there is urgent or emergency care.

We are making strides in this area. There is a job to be done. It is not universally popular in the NHS itself. It is extremely popular among people; citizens are infuriated by the idea that anybody should be misusing the NHS or the NHS services, regardless of their nationality. As a matter of fairness, it is an important thing to do, and we are making good strides forward in recouping this money.

Lord Kirkhope of Harrogate: Can I just push you a little more on this? Would it be right to say there are certain sectors or certain regional variations in collection currently?

Lord O'Shaughnessy: Yes.

Lord Kirkhope of Harrogate: I asked you in the last bit of my question

about ongoing agreements with the EU. Is the cost recovery element of that a major discussion point?

Lord O'Shaughnessy: Yes. We have a whole cost-recovery mechanism for healthcare costs under the current reciprocal healthcare arrangements: pensioners' planned treatments and EHIC. Sometimes there is quite a long time lag between the tallying up of various totals and exchange of monies, but we have an established system for doing that. There is no need to think that we would need a different system if we get the outcome that we want and that properly recoups all the money that is owed to us and by us.

Lord Kirkhope of Harrogate: A little piece of light came through the window in answer to my first point. You said, "Yes", when I said, "Are there certain sectors or areas where is cost recovery is most difficult?" Is anything institutionalised in that sense, or is it merely coincidental?

Lord O'Shaughnessy: The NHS has always had an obligation to recover these monies—Lord Crisp is nodding—but it has not always been an explicit policy to do so. Consequently, there has been variation. In areas where there are a lot of people who are not allowed to use it, people tend to be rather good at it. In areas where there is not a lot to be made from it, it will just be waved away. We now have formalised that into a legal obligation. Almost every hospital trust will now have an overseas visitor manager whose job is to identify and charge people who are looking for treatment. This is in secondary care, not primary care, which is where the bulk of the cost is.

We have taken something that has always been there and hardened it into a formal legal obligation to do it. Clearly, some places are more advanced than others, but now the expectation is they will all do their utmost to recover it.

Lord Kirkhope of Harrogate: Presumably, you do not pay the manager more money than the amount that you recover.

Lord O'Shaughnessy: Good question. I do not know.

Baroness Browning: Following on from that, what contingency plans are there, within that structure and the new posts for people recovering the money, to identify women who come to this country specifically to give birth in a British hospital? There seems to be something of a trend that maternity services are used quite openly by certain countries—I am not saying necessarily EU countries. It is very difficult: if a woman is going to give birth, she is going to give birth and you have to deal with it. How are you viewing that? When do you charge them for doing it?

Lord O'Shaughnessy: There are some well-publicised cases, including on the hospital programme a year or so ago. Those services are very expensive, particularly neonatal facilities and so on. The same rules apply, in effect. If it is a treatment that could be accessed in the person's home country or is non-urgent or non-emergency care, they would be

expected to pay. If you are in labour, that does not apply, and if your child needs neonatal support there is the process of trying to reclaim the cost afterwards. Unfortunately, some people leave without paying.

It is worth pointing out that if you have an outstanding debt of only £500 to the NHS, you will not get a visa to come here again. There are some limits inevitably, because it is just not the way we do things. Other countries do; they just literally turn them down and say no. It is not the way we do things and it would not be the right thing to do.

Baroness Browning: I was not suggesting that you did.

Lord O'Shaughnessy: No, I know you would not, but there are mechanisms for recovering the money, and people who do not pay cannot come back to the UK to do it again.

Q123 **The Chairman:** I have one final question on insurance. In this Committee we always look for opportunities arising from Brexit, which do not always present themselves.

Lord O'Shaughnessy: That is the spirit.

The Chairman: One or two members of the insurance industry have suggested that there might be an opportunity for them. I wondered whether the Government were planning any review of how the insurance industry might affect health post Brexit.

There is a separate question on whether you are intending just to communicate to people or to warn them about how things may change and how there may be a case for taking out insurance in the future, when they have not needed to in the past.

Lord O'Shaughnessy: First, we have spoken to insurers and to the ABI to canvass their opinion on reactions to any given scenario. Our intention is that there will be no opportunity for them particularly, because we will continue with the system that we have and there would be no need for them to take up the slack, as it were. We always encourage people to take out travel insurance anyway, because lots of things would not be covered, such as accessing private healthcare abroad. EHICs reduce travel insurance premiums, so it is a good deal all round for citizens.

We are talking to them about what they would do in contingency situations. We think that they would respond with additional products or maybe even higher premiums as a result. We are also aware that that could have differential impact on different social groups or more vulnerable people, so this is one of the things that we have to take into account in our planning for various scenarios. EHIC provides equally for everybody. It is not obviously the case that another scenario would do that, so it would need to be adjusted accordingly.

The Chairman: Thank you very much indeed for coming and giving evidence to us again. We are very grateful to you. That will help us a lot in completing our report. Thanks to you and your staff.

Lord O'Shaughnessy: If there are any other follow-ups, please write and we will respond. Thank you, Lord Chairman.