Health and Social Care Committee

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From Rt Hon. Jeremy Hunt MP

Rt Hon. Sir Bill Cash MP
Chair of the European Scrutiny Committee

30 March 2020

Dear Sir Bill,

Thank you for your letter of 11th March seeking the initial views of the Health and Social Care Committee on the EU mandate for negotiations with the UK on the future relationship. The EU's mandate includes some specific health and care issues that are important for the UK, and omits some which should be included.

While health is not a central focus of the EU's negotiating mandate, it does include three specific issues with a significant impact on health and social care. Reciprocal healthcare arrangements (under coordination of social security) can be vital for individuals relying on them, and agreement on them is a key UK interest. Similarly the NHS relies on importing medical isotopes from Europe, and agreement on this is also vital. Continued cooperation on the animal health dimension of antimicrobial resistance as part of sanitary and phytosanitary provisions is also an important contribution to tackling the human health impact of antimicrobial resistance.

There are also provisions in the EU negotiating mandate with an indirect but significant impact on health and social care. The non-regression clause on employment and social protection would include working time, already a sensitive topic for the NHS. Provisions on competition rules, state aid and public procurement can also be particularly challenging for the NHS and social care. It may be useful to consider seeking an exemption for the NHS from these rules.

There are also significant omissions from this negotiating mandate regarding health and social care: one general omission, and four specific ones. The general omission is of health as a regulatory 'floor' in these discussions. While we would not expect the EU to seek to lower health standards, this agreement will be the first substantive free trade agreement that the UK will strike since Brexit, and it will be the reference point for all that follow. There is substantial public concern around the NHS and health more generally in relation to our trade agreements. We propose that the UK should seek to make a shared commitment to protecting health and national health systems part of these negotiations, in order to defuse tensions on this issue for the future.

The four specific health-related omissions are:

- No reference to substances of human origin (eg: blood, tissues and cells, and organs), with potential risks on access to these substances for the NHS;

- No reference to participation in the EU's health programme, which includes useful areas of cooperation such as European Reference Networks;
- No reference to agency-level cooperation in medicines licensing between the Medicines and Healthcare products Regulatory Agency and the European Medicines Agency. Given the significant contributions of the UK to medicines licensing regulation across the EU, continued deep MHRA/EMA cooperation is in both EU and UK interests; and,
- No reference to continued cooperation and data sharing in key areas including:
    - Continued sharing of pharmacovigilance data through EU databases, to support patient safety regarding medicines;
    - Data-sharing in the context of clinical trials. The UK would be excluded from access to the new clinical trials portal being implemented under the Clinical Trials Regulation. Continued access would ensure patients have access to health innovations under development;
    - Data-sharing in pandemic management. The Early Warning and Response Mechanism (EWRS) is a valuable tool for cooperation, and highly relevant during the current Coronavirus pandemic.

While writing, I also wish to underline the importance of continued scrutiny and engagement throughout these negotiations, not only by Parliament but also other stakeholders such as health professional bodies, the NHS and health-related industries. Inquiries by the Health Committee in previous Sessions regarding the impact of Brexit on health and social care brought a wide range of issues to light and identified many unexpected consequences. Given the range of actors and processes in this complex and technical area, it is impossible for the Government to have complete knowledge of the potential impacts of the EU's negotiating mandate on health and social care, and this will doubtless be the case for other sectors as well. Effective processes for stakeholder consultation throughout these negotiations will address this knowledge gap, as well as fostering public confidence. We suggest that your Committee should recommend that such processes are established, whether through Parliament or through other channels.

Yours sincerely,

Jeremy Hunt MP
Chair, Health and Social Care Committee