NHS Providers – Written evidence (EEH0010)

February 2021

NHS Providers is the membership organisation for the NHS hospital, mental health, community and ambulance services that treat patients and service users in the NHS. We help those NHS trusts and foundation trusts to deliver high-quality, patient-focused care by enabling them to learn from each other, acting as their public voice and helping shape the system in which they operate. NHS Providers has all trusts in voluntary membership, collectively accounting for £87bn of annual expenditure and employing more than one million staff.

Key points

- We welcome the fact that an agreement was reached at the end of 2020 between the UK and EU setting out the terms of their future relationship – the EU-UK Trade and Cooperation Agreement.

- The Agreement gives greater clarity and certainty in a number of key areas of concern for NHS trusts and foundation trusts. We note at the same time that some measures are transitional and require further work to be undertaken, and that the implications and practicalities of some aspects of the Agreement will become clearer over time as they are implemented.

- In our submission we have focused on possible challenges arising as a result of provisions in the Agreement, how these could be resolved, and what the UK should seek to accomplish with the EU in relation to the NHS within the parameters of the Agreement in the short- and mid-term (questions 4 and 5).

- The Agreement reached brings to an end the UK's membership of the EU customs union and single market, which alongside the Immigration Act 2020[1] in particular, is intended to realise the government's aim "to take back control of our laws, borders, money, trade and fisheries".[2] Through the Immigration Act and changes to the Immigration Rules, freedom of movement between the EU and UK has ended and the UK now has a points-based immigration system. Our immediate concern relates to the potential impact on immigration and how this could affect recruitment to the health and care workforce:

    - It will take a number of years to grow the domestic workforce supply, and in the interim the NHS and social care will need to recruit additional staff internationally with a significant proportion coming from the EU. As the points-based system beds in, we would urge the government to monitor the international workforce supply closely and work with the health and care sector to ensure its needs are being met.

[1] Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020

[2] EU-UK Trade and Cooperation Agreement, December 2020

    - Despite many existing EEA staff applying for settled and pre-settled status, it is vital to ensure that as the UK immigration system changes, EEA staff are encouraged and supported to continue living and working in the UK and that NHS trusts and foundation trusts are given the information they need to ensure a smooth transition and continued support for existing staff.

- We welcome confirmation that the UK will recognise EEA qualifications for up to two years. However, we must not lose sight of the need for continuing or alternative arrangements post-2023.

- We welcome reciprocal non-regression commitments within the Agreement to not reduce levels of labour or social protections from the levels in place on 31 December 2020. However, we note that there remains some potential within these commitments for review by the government. We would urge the government in any such review to engage with key stakeholders to ensure it makes the working lives of our critical public sector workers better, not worse.

- The pandemic has shown that close international cooperation on public health is essential. The steps set out in the agreement are welcome, but we hope these will be developed further and urge additional strengthening of our public health systems and coordination with the EU.

- The security and smooth movement of medicines and medical devices, both during production and in reaching their final market, is of course vital. We are keeping a watching brief on this issue and would welcome assurance from the government on what steps will be taken to ensure that arrangements are streamlined and that the NHS will have the continuing timely access it needs to current and future medicines and medical devices.

What, if any, challenges arise because of those provisions? How could these challenges be resolved?

What should the UK seek to accomplish with the EU in relation to your industry or policy area within the parameters of the Agreement in the short- and mid-term?

The NHS and social care workforce

1. There have been significant shortages in parts of the health and social care workforce for several years. Even before COVID-19, NHS trusts and foundation trusts were under considerable pressure as they sought to absorb additional demands for care within a context of constrained finances. There are currently around 87,000 workforce vacancies across the NHS[3] and COVID-19 has further increased pressure on the workforce. It is also likely that vacancies will once again return to or exceed pre-pandemic levels of over 100,000 vacancies, with some of the drop in vacancy numbers coming from recent retirees re-joining or early registrants joining the service.

[3] NHS Vacancy Statistics England April 2015 – September 2020 Experimental Statistics, NHS Digital

Moreover, although it has not yet become apparent in retention figures, trust leaders tell us that they are concerned that staff will choose to leave the service following the experience of the pandemic. Looking ahead, we expect that extra workforce capacity will be needed to tackle the significant backlog of care which has built up during the course of the pandemic and, as Sir Simon Stevens has suggested, to provide sufficient flexibility for the NHS to sustain its response including in times of crisis.[4]

2. The new immigration system appears to have presented favourable conditions for trusts' ongoing recruitment of healthcare staff from overseas. The health and care visa, alongside recent changes to the shortage occupation list for the skilled worker route, has – currently at least – created a protected status for a number of core roles. As the new immigration system beds in, we are urging the government to monitor the international workforce supply closely and work with the health and care sector to ensure a coherent cross government approach to supporting key public services. It is also vital that existing EEA staff are given the support they need to navigate the new system including support in applying for settled and pre-settled status, and that they are encouraged to continue working and living in the UK. NHS trusts and foundation trusts also need to be equipped to cope with the new system in order to make sure existing staff continue to feel supported.

3. However, we are concerned that the points-based system may exacerbate shortages across the social care workforce as many potential international staff are left without a valid migration route. The care sector relies heavily on international recruitment – for example, international staff make up 40% of the care workforce in London[5] – and with over 120,000 current vacancies it will continue to need to do so. We are concerned that the new points-based immigration system will make it much harder to recruit social care staff internationally. Social care professionals are not on the shortage occupation list and will in effect be ruled out from gaining a visa through not meeting the essential criteria requirements and not meeting the salary threshold. According to the Cavendish Coalition, 72% of social care occupations do not meet the qualification threshold of an A-level equivalent.[6] We urge the government to closely monitor workforce data for the social care sector in the short term to assess the impact of the new immigration system on staffing numbers. Should the data show that shortages in the sector are being exacerbated as a result of the points-based system, the government will need to work with the sector to take necessary steps to address this.

4. The decision for the UK to continue to recognise EEA qualifications is a welcome one which will enable to trusts to continue recruiting from EEA countries in the immediate future. However, it is worth noting that recognition of qualifications is not reciprocal, and that the standstill arrangement for the UK to recognise EEA qualifications expires in January

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[4] Health and Social Care Committee Science and Technology Committee Oral evidence: Coronavirus: lessons learnt, 26 January 2021

[5] Health and social care workforce – priorities for the new government, The Health Foundation (27 November 2019)

[6] The Cavendish Coalition submission to the Migration Advisory Committee call for evidence May 2020, Review of the shortage occupation list

2023. A long-term approach therefore needs to be found and work will need to begin soon on this to avoid a cliff edge situation.

5. We welcome reciprocal non-regression commitments within the Agreement to not reduce levels of labour or social protections from the levels in place on 31 December 2020. However, we note that there remains some potential within these commitments for review by the government. We would urge the government in any such review to engage with key stakeholders to ensure it makes the working lives of our critical public sector workers better, not worse. The NHS workforce has come under relentless physical, psychological and emotional pressure during the pandemic, which has left them exhausted and at risk of burnout. As we look to the future, trust leaders know that ensuring the health and wellbeing of their staff is absolutely vital – this will be key to aiding their recovery and ensuring the NHS can retain its workforce.

Public health

6. It is clearer than ever that close international cooperation on public health is essential. Under the agreement reached the UK is no longer part of the European Centre for Disease Prevention and Control (ECDC). While we welcome the decision which allows the UK to request access to the EU's Early Warning and Response System (EWRS) in respect of a serious cross-border health threat, access to the system will be on a case-by-case basis. The steps set out in the Agreement are welcome, but we hope they will be developed further and urge additional strengthening of our public health systems and coordination with the EU.

Continuity of supply of medicines and medical devices

7. Continuity of supply of medicines and medical devices between the UK and EU is vital to our health and care system and to the wellbeing of the population. According to the King's Fund, 'the United Kingdom is a net importer of medicines and medical devices from the EEA. In 2019 exports were valued at £9 billion while imports of medical products were valued at £18 billion.'[7] As the pandemic continues, with the need to ensure a steady supply of medicines (for example, vaccines and treatments for COVID-19), medical devices (such as ventilators) and consumables (PPE, syringes, swabs), the UK's exit from the single market and customs union must not act as a barrier to trusts receiving supplies in time.

8. As the situation currently stands, we are not aware of any interruption to medicines and medical supplies for NHS foundation trusts and trusts. However, this may be in part because of the pandemic dampening overall demand across the economy. Confidence in continuity of supply could therefore be affected as freight volumes at short strait crossings increase, as expected, in the coming weeks and as stockpiles are run down.[8] We would

[7] The King's Fund, Brexit and the end of the transition period: what does it mean for the health and care system? January 2021

[8] Stockpiles were built up by suppliers at the government's request in case of disruption at the end of the transition period.

welcome reassurance from the government on what steps will be taken to ensure that arrangements are streamlined and that medical supplies will have continuing priority attention.