Memorandum of evidence from the BMA to the Exiting the EU Committee’s inquiry on the UK's negotiating objectives for withdrawal from the EU

2017
The British Medical Association (BMA) is a voluntary 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 is committed to safeguarding the future of the profession and the patients we serve. As the representative of over 167,000 of the UK’s doctors, we must be consulted and involved in consultations to inform negotiations to leave the European Union (EU) which would affect the medical profession and patients. In 2014, more than 10,000 doctors working in the NHS (6.6% of the UK medical workforce) received their primary medical qualification in another European Economic Area (EEA) country1 with additional staff working in public health and academic medicine.

Ahead of the referendum vote, the BMA produced a document, BMA in Europe, for our members which objectively analysed the impact of existing EU policy and legislation for the medical profession and the nation’s public health2. Since the vote to leave the EU, the BMA has been lobbying extensively at the UK and EU level, and produced a range of resources, to ensure that health is a key objective for the UK government as it negotiates its future economic and political relationship with the EU.

As part of this inquiry, we have identified a number of objectives, which we believe must form part of the UK’s negotiating objectives for leaving the EU. These are vital for maintaining high quality health services and safeguarding the future of the medical profession: a flexible immigration system; the mutual recognition of professional qualifications (MRPQ); and ongoing access to EU research programmes and research funding. At a UK level, we note that a number of European directives on workers’ rights and workplace protection have already been transposed into UK law, and therefore likely to be subject to domestic scrutiny under the forthcoming Great Repeal Bill. At both the UK and EU level, we will seek to secure the best outcome for our members.

The BMA is a member of the Cavendish Coalition3, a coalition of more than 30 health and social care organisations, which is seeking certainty for the current health and social care workforce originating from the European Economic Area (EEA) to remain in the UK.

**Executive summary**

- In its discussions with the EU, the government must seek to negotiate an outcome which protects and supports the nation’s public health, patient safety, and the critical role doctors play in delivering health services and medical research and education.
- We have identified four key objectives for the government to negotiate as part of its strategy to withdraw from the EU, which are vital to protecting and maintaining the nation’s health:
  - A flexible immigration system that facilitates the entry of highly skilled doctors and researchers to the UK and enables UK-trained doctors to practise in the EU.
  - Reciprocal arrangements, including mutual recognition of professional qualifications and measures to ensure patient safety.
  - Ongoing access to EU research programmes and research funding, which will be essential to maintaining the UK’s world-leading science and research base.
  - Ensuring that Brexit does not hinder the UK’s ability to play a leading role in European and international efforts to tackle global health and public health threats.

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1 BMA, 2014 Medical Workforce Briefing, 2015, pg. 11.
3 The Cavendish Coalition
- In the event that the government is unable satisfactorily to reach agreement on its future political and economic relationship before it has left the EU under Article 50, we believe transitional arrangements on issues such as immigration will be essential in the NHS. These transitional arrangements will be essential to ensuring patient safety and high quality health services are maintained during a period of intense political upheaval and uncertainty.
- Transitional arrangements will be essential given that in 2014, more than 10,000 doctors working in the NHS (6.6% of the UK medical workforce) received their primary medical qualification in another European Economic Area (EEA) country with additional staff working in public health and academic medicine.

What should be the UK’s objectives in negotiating its future economic and political relationship with the EU, looking at both risks and opportunities?

1. The government must, as one of its key objectives ensure that NHS trusts, health providers and the higher education and research sector continue to be able to recruit doctors, medical academics and researchers from the EU following the UK’s withdrawal. This is essential for when the resident workforce is unable to produce enough suitable applicants to fill vacant roles, for maintaining safe staffing levels but also to ensure the UK can continue to recruit the best available talent.

2. To achieve this objective, the government must seek to negotiate a flexible immigration system, which facilitates the entry of highly skilled doctors to the UK and equally enables UK-trained doctors to work in another EU country. This will be essential to ensure overseas doctors and medical students continue to want to work and study in the UK.

3. Secondly, the government must seek to maintain reciprocal arrangements, involving mutual recognition of professional qualifications and measures to ensure patient safety once the UK leaves the EU, such as the system which alerts health regulators when a doctor has their practice restricted in another EU member state. These reciprocal arrangements are essential for the UK’s ability to fill gaps within the NHS but also our ability to collaborate with our EU partners, to retain research staff and learn from colleagues.

4. Thirdly, the government must try to secure the UK’s ongoing access to EU research programmes and research funding following the vote to leave the EU. This will require continued adherence to EU regulations on research and a continued close relationship with the European Medicines Agency. This will be essential to mitigate any risks to the future of science and research in the UK and to ensure the quality of research from our universities is maintained over the longer term.

5. Finally, the government must try to secure the UK’s role in international efforts to prevent public health threats such as the cross border spread of antimicrobial resistance (AMR) or other public health threats. It will be vital that the UK’s withdrawal from the EU does not impinge or hinder the UK’s role in international efforts to tackle global health security or public health threats.

6. Further information on each of these points is provided below.

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4 BMA, 2014 Medical Workforce Briefing, 2015, pg. 11.
What will have to be included in the negotiations to leave the EU under Article 50 and to what extent will this include provisions relating to the UK’s future relationship with the EU?

Workforce and immigration

7. There are approximately 135,000 EU nationals working in the NHS and adult social care system in England, which represents about five per cent of the NHS workforce and six per cent in adult social care. In 2014, more than 10,000 doctors working in the NHS (6.6% of the UK medical workforce) received their primary medical qualification in another European Economic Area (EEA) country with additional staff working in public health and academic medicine - these individuals are vital to our NHS and the health and success of the country.

8. Doctors and researchers from the EU have become essential members of the UK’s medical workforce and the NHS is dependent on them to provide a high quality, reliable and safe service to patients: our health service would not be able to cope without them. These highly skilled professionals have enhanced the UK health system over the years, improving the diversity of the profession to reflect a changing population, bringing great skill and expertise to the NHS and filling shortages in specialties which may otherwise have been unable to cope.

9. The government must offer these highly skilled professionals from the rest of the EU explicit reassurances about their future rights to live and work in the UK. Specifically, we believe EU doctors and medical academic staff currently working in the UK should be granted permanent residence here, regardless of whether they have been resident here for five years or not. Such a measure would provide some certainty and stability to these individuals and to NHS workforce numbers. Not doing so risks undermining workforce planning in the NHS but also the ability of the health service to maintain safe staffing levels and patient safety.

10. Transitional measures will need to be negotiated in order to ensure a smooth changeover between current free movement measures and any new immigration system introduced to ensure workforce numbers are maintained. These measures must ensure health workers and academics from overseas who are already in the UK, and those from overseas who may wish to work in the UK, are given reassurance that they are welcome and have a future here. Without such assurances, reports from BMA members suggest doctors from the EU will decide to go elsewhere, such as Australia and New Zealand, with consequent falls in the NHS’s ability to meet patient needs.

11. The Secretary of State for Health recently announced proposals to fund the training of up to an additional 1,500 students through medical schools in England from 2018, with the intention of achieving self-sufficiency by expanding the supply of UK trained doctors, and reducing the NHS’s reliance on doctors from overseas. This initiative will not meet either the NHS’ short-term or medium term workforce needs: given the length of time taken to train a senior doctor, this new intake of medical students will not be practising as GPs until at least 2028 or as consultants by at least 2032. The NHS will need to continue recruiting international doctors from within the EU and overseas to fill gaps in the workforce. The government must

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5 BMA, 2014 Medical Workforce Briefing, 2015, pg. 11.
acknowledge the ongoing pressures in the NHS, and our continuing reliance on international doctors, including from the EU, when negotiating its exit from the EU.

12. The government has outlined its ambition for an NHS that is 100% self-sufficient but we believe medicine thrives on the interchange of experience, knowledge and training across countries and backgrounds: closing our borders would be bad for medicine, bad for patient care and bad for medical research.

13. In the longer term therefore, the government must seek to negotiate an immigration system which remains flexible enough to recruit doctors, medical academics and researchers from the EU and overseas, especially where the resident workforce is unable to produce enough suitable applicants to fill vacant roles. The vote to leave the EU and resulting policy announcements made by the government, such as aspiring to self-sufficiency in UK-trained doctors, appear to devalue or undermine the contribution made by international medical students and doctors from overseas. A flexible immigration system following Brexit will be essential to ensure overseas doctors and medical students continue to feel welcome and willing to work and study in the UK.

Regulation and education of health professionals

14. The EU’s policy of mutual recognition of professional qualifications (MRPQ), alongside its policy of freedom of movement within the EU, has enabled many health and social care professionals from countries within the EEA to work in the UK. The regulations have helped create an environment which has facilitated and encouraged movement of workers and students, the sharing of information and skill, as well as ensuring NHS trusts and providers are able to quickly fill gaps in the medical workforce with staff with the appropriate level of training and education. MRPQ also allows UK doctors to work in other European countries, which is critical to sharing expertise and knowledge across the NHS and Europe.

15. The UK’s decision to leave the EU has the potential to have wider consequences for the regulation and education of health professionals, which will need to be urgently addressed during the UK’s negotiations with the EU. These issues include language testing, the potential introduction of clinical skills and knowledge testing, the transferability and recognition of qualifications for doctors, the structure of undergraduate and postgraduate training, and access to the specialty register (Certificate of Eligibility for Specialist Registration / Certificate of Eligibility for GP Registration and Certificates of Completion of Training).

16. The government must, as one of its objectives, seek to maintain reciprocal arrangements, involving mutual recognition of professional qualifications and measures to ensure patient safety, once the UK leaves the EU. This will be particularly important when considering how the General Medical Council (GMC) will ensure doctors practising in the UK are fit to practise medicine, if the UK repeals the directive on MRPQ. We agree with the GMC that it would be helpful for them to retain access to the Internal Market Information (IMI) system, which is used by medical regulatory authorities within the EEA to communicate with each other, including sending and receiving alerts about a doctor’s fitness to practice and when a doctor has his or her practice restricted in another EU member state. In the interests of patient safety, it is vital that the government seeks to maintain access to the IMI, and the warning mechanisms it provides.
17. Should reciprocal arrangements be lost once the UK leaves the EU, there is a risk that this will not only have a detrimental impact on the UK’s ability to fill gaps within the NHS but also on our ability to collaborate with our EU partners, to retain research staff and learn from colleagues. Concerns around the regulation and education of health professionals must also be urgently addressed during the negotiations.

18. We note that a number of European directives on workers’ rights and workplace protection have already been transposed into UK law, and therefore likely to be subject to domestic scrutiny under the forthcoming Great Repeal Bill. The BMA is satisfied with the European Working Time Directive (EWTD) and the measures it has transposed into the UK Working Time Regulations, namely the limit of a 48 hour working week, rest breaks and statutory paid leave. We will be seeking reassurances from the government that these Regulations, which protect doctors from the dangers of overwork and protect patients from overtired doctors, will not be repealed or limited in their application for new workers.

Science and research

19. The UK’s decision to leave the EU will have major implications for the UK’s science and medical research base. The government must, as one of its objectives, seek to secure the UK’s ongoing access to EU research programmes and research funding access, as well as the right regulatory environment, and the mobility of research staff once we leave the EU.

20. The UK government’s recent commitment in August 2016 to underwrite EU funding awards secured while the UK remains a member of the EU is welcome, but it does not go far enough. As a matter of urgency, the government needs to guarantee or secure funding equivalent to what the UK would have received through its membership of EU. Currently, the EU’s policy of freedom of movement and access to research funding supports high quality UK medical research. The ongoing high quality of UK medical research is dependent upon the UK being able to participate in collaborative research activities, such as multi-centre clinical trials, across the EU. A failure to secure this access, or long-term funding, will have damaging consequences for the government’s aspiration of Britain as a ‘science powerhouse’, the competitiveness of the UK’s university sector, and the future of science and research in the UK.

21. The UK should seek to ensure membership of and access to the European Research Area in order to be able to participate fully in medical research programmes funded by the EU. This will require a continuing contribution to research funds and programmes by the UK government and flexibility in the immigration system.

22. The government must also seek to ensure the UK comes to an arrangement regarding the loans and grants made by the EU to UK universities for capital investment. This may include stepping in to provide the loan or grant on current terms if the EU requires full payment on exit from the EU. We would like to see the UK being able to access funds from the European Investment Bank, which has provided £1.6bn to UK universities over the last decade.

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7 The Academy of Medical Sciences: Academies publish joint statement on research & innovation after the EU referendum, 19 July 2016
8 Jo Johnson, Minister of State for Universities, Science, Research and Innovation, House of Lords Hansard, 15 June, col 1287
23. We are also calling on the government to act quickly to ensure ongoing participation in EU programmes or to provide alternative revenue streams in order to limit any potential damage to the UK’s medical research base and to retain existing medical academic staff whether from the UK or the rest of the EU and beyond.

Global health security and public health
24. As a matter of urgency, the government needs to consider how, following Brexit, the UK will work with other European countries on issues which transcend international borders, such as global health security and public health. Issues such as antimicrobial resistance (AMR), emerging and re-emerging infectious disease, climate change, tobacco control, alcohol and nutrition will necessitate ongoing co-operation and coordination at the UK, EU and international level. The government will not be able to tackle the challenges presented by these issues alone, and as the UK is ‘leaving the EU, not Europe’ co-operation with European and international partners will be essential.

25. Addressing the threat of AMR, for example, is the responsibility of all countries. AMR is not just a threat facing the health sector: the economic and security costs of human inaction on this issue is excessive and will continue to grow if resistance is not tackled. AMR has the potential to severely limit the effectiveness of many routine and complex medical treatments, and importance must be given to improving antimicrobial prescribing in medical practice in the UK, EU and internationally, with the aim of preserving antimicrobial sensitivity for as long as possible. The government must commit to continued investment in the surveillance of resistant infection alongside our European partners. Global outbreaks of emerging and re-emerging infectious disease, have highlighted that inadequate surveillance and response capacity in one country can severely undermine the global health security of all other countries. The European Surveillance System (TESSy) hosted by the European Centre for Disease Prevention and Control (ECDC) since 2008, collects national surveillance data from all European Union and European Economic Area countries. There is an ongoing role for the UK in international cooperation for data-sharing procedures to better our global response capacity. Brexit must not be allowed to undermine this.

26. The government will also need to give consideration to how the UK works with other European countries on public health issues after Brexit, such as tobacco control, alcohol, nutrition and climate change. While many European directives on public health have already been transposed into UK law, and therefore likely to be subject to domestic scrutiny under the forthcoming Great Repeal Bill, the government will need to be mindful of the need for ongoing co-operation and coordination on issues that transcend borders factors, such as advertising, marketing and the trading of products.

Is there a case for the UK seeking to negotiate transitional arrangements in the event that it is unable satisfactorily to reach agreement on its future political and economic relationship before it has left the EU under Article 50?

27. An over-riding priority of the negotiations should be to avoid a situation in which a ‘cliff edge’\(^9\) is reached at the end of the two years of negotiations. The introduction of transitional arrangements would help ensure an efficient switch between the UK’s existing position and

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\(^9\) The Telegraph (2016) Theresa May seeking transitional Brexit deal to avoid ‘cliff edge’
what might be achieved following the UK’s withdrawal from the EU, while also allowing the EU and UK further time to reach consensus over the many different rights and responsibilities currently covered by EU law, which will need to be transposed into UK law.

28. Transitional arrangements may prove to be essential in the NHS, particularly around immigration, to ensure safe staffing levels, patient safety and the provision high quality health services are maintained during a period of intense political upheaval and uncertainty. There is a strong need for transitional rules for immigration into the UK for EU workers and students, and their family members. These transitional rules will be vital to give certainty to those individuals affected, to help employers plan to ensure workforce stability, and to help universities plan to maintain student numbers and income. Transitional arrangements may also need to be put in place to protect the UK’s science and research base should it not be possible to to reach agreement on its future political and economic relationship with the EU before withdrawal.

29. We acknowledge that any transitional rules will be a matter for negotiation and it is unclear what transitional arrangements, if any, might be achieved. Throughout the negotiating process, it will be vital that certainty and reassurance is given to EU nationals already working in the UK and their families, and that routes to bring highly skilled health professionals to the UK are not closed off. Unless such assurances can be given, there is a risk that this will create further uncertainty for overseas doctors and researchers who will leave the UK to work in a country which is more supportive of an international workforce and where they consider they have a more certain future.