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Y Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol | External Affairs and
Additional Legislation Committee
Y goblygiadau i Gymru wrth i Brydain adael yr Undeb Ewropeaidd | Implications for
Wales of Britain exiting the European Union
IOB 45
Ymateb gan
Evidence from UK Faculty of Public Health

About the UK Faculty of Public Health

1. The UK Faculty of Public Health (FPH) is committed to improving and protecting people's mental and physical health and wellbeing. FPH is a joint faculty of the three Royal Colleges of Public Health Physicians of the United Kingdom (London, Edinburgh and Glasgow). Our vision is for better health for all, where people are able to achieve their fullest potential for a healthy, fulfilling life through a fair and equitable society. We work to promote understanding and to drive improvements in public health policy and practice.
2. As the leading professional body for public health specialists in the UK, our members are trained to the highest possible standards of public health competence and practice – as set by FPH. With 3,900 members based in the UK and internationally we work to develop knowledge and understanding and to promote excellence in the field of public health. For more than 40 years we have been at the forefront of developing and expanding the public health workforce and profession.
3. This briefing explores the immediate (short term) impact for Wales' European and international relations and work, drawing on high level policy and health briefing papers.

In summary:

4. On the 23rd of June 2016, the UK voted to leave the European Union (EU), the so-called 'Brexit'.
5. The direct and indirect implications of that vote remain uncertain as many of them will depend on the outcome of the withdrawal negotiations with the EU.
6. In the short term, no immediate changes to legislation, international relations or work are foreseen as a result of the EU referendum, as the UK, and Wales respectively, will remain part of the EU until the end of the withdrawal negotiations.

Background

7. The European Union (EU) is an economic and political union currently including 28 Member States.i The UK joined the EU in 1973 after a referendum.
8. On the 23rd of June 2016, the UK held a referendum asking the British people if they wanted to remain or leave the EU. The referendum had a turnout 72.2% with 51.9% of voters (over 17.4 million people) chose to leave the EU.ii
9. Both the UK Government and the main political parties have acknowledged the result. Further to the vote, a new Prime Minister, Theresa May, was appointed along with a new Government who will be in charge of leading the withdrawal process from the EU. Mrs May announced that the UK Government will not trigger this process until a cohesive UK-wide exit strategy and approach has been agreed, later suggesting to her European partners that the Government would need until the end of 2016 to prepare.iii-iv.v
10. Following the referendum, European leaders met in Brussels on the 29th of June. A statement announced that the EU will respect the will of the British people. European leaders reminded that the UK would remain a full Member State of the EU with all rights and obligations until its withdrawal is finalised.vi

The Withdrawal Processvii viii

11. According to the **Treaty on European Union (TEU art. 50)**, leaving the EU is a sovereign, unilateral decision that each Member State can make according to its own constitutional constraints and processes.
12. There is **no particular prerequisite** from a European perspective on how to exercise this right. The TEU only describes the procedure to follow in such a case and up to now has not been applied as no country to date has opted to leave the EU.
13. However, the **conditions** under which a country withdraws from the EU, and the **relations** that this country will have with the EU in the future, require the consent of both the European Council and the European Parliament as well as from the withdrawing State according to its own constitutional requirements.
14. The agreement comes into force on the date agreed by both parties in the agreement.
15. **Until such a date, the withdrawing State remains a full Member of the EU, subjected to the same rights and obligations as any other.** The only exception to this rule covers the discussions at the European Council around the withdrawal negotiations, as the UK wouldn't be allowed to participate to such discussions.

Potential impacts of Brexit

16. As this is an unprecedented event, it is difficult to foresee all of the potential impacts of the withdrawal process. However there are some areas which are known and are considered here.

Legislation and Policy

17. Once a **Member State has officially left the EU, EU law**, including protocols and treaties **no longer apply**. **Any treaties or legislation** that were **formerly covered by EU law** or an EU agreement on behalf of its Members States have to be either **replaced** by national legislation and bilateral agreements, or **negotiated** under the withdrawal agreement. This is particularly relevant for **areas like trade**, where the EU has an exclusive competence and negotiates agreements with third countries on behalf of all of its members. The withdrawal agreement should provide the details and timing of this phasing-out or transitional period. The EU may also have to revise its legislation and treaties in order to reflect the withdrawal of a Member State.ix
18. Any **national legislation** that had been **adopted as a result of EU law**, such as a directive that has been transposed into UK or Welsh law for example, **would remain valid** until the Member State or the Devolved Nation decide to change it or as agreed in the withdrawal agreement.

19. The potential **implication for health** in this regard is **important** as a significant amount of **UK and Welsh legislation** in policy areas such as environmental protection, consumer protection, quality and safety standards, mobility of health professionals, clinical trials and data protection regulation, intellectual property or the regulation of medicines and medical devices **are derived from European law**. The way UK and Welsh Governments address these issues will be influenced by the withdrawal agreement and the path chosen by the Governments once withdrawal is complete.x

UK Government response

20. At UK Government-level, new Prime Minister Theresa May MP has formed a new government department, the '[Department for Exiting the European Union](#)'xi, which will be responsible for the policy work related to the UK's negotiations to leave the European Union. It will also 'work closely with the UK's devolved administrations...on what the approach to those negotiations should be'.xii The new Government has also created a '[Department for International Trade](#)'xiii, which will focus on promoting British trade across the world.
21. The House of Commons & House of Lords Libraries have released detailed briefings, highlighting the impact that the decision to leave the European Union might have on [financial services](#)xiv, [pensions](#)xv, [tax](#)xvi, [transport](#)xvii, and [local government](#)xviii. The House of Lord's Library has released a briefing on [Parliament's Role in the process of leaving the EU](#)xix. These briefings are under constant revision, with new briefings being released at a rate of more than one a week at present. The latest updates are available at the House of Common's Library's [EU Referendum Hub](#)xx.

Welsh Government response

22. The First Minister for Wales, Carwyn Jones AM, has issued a statementxxi identifying six priority areas for Welsh Government following the referendum:
23. Protection of jobs;
24. The involvement of Welsh Government in discussions about the UK's withdrawal from the EU;
25. The UK retaining access to the Single Market;
26. Negotiation of continued participation, on current terms, in major EU programmes like CAP and Structural Funds up until the end of 2020;
27. Revision of the Barnett Formula to ensure that 'Wales will not lose a penny';
28. Changes to the relationship between devolved governments and UK Government.
29. Welsh Government has also released a number of written statements outlining the implications of the EU Referendum on the [implementation of the Planning \(Wales\) Act 2015](#)xxii and [impact on Environment and Rural Affairs portfolio](#).xxiii
30. The National Assembly's Research Service has produced a [briefing](#) identifying the implications that the decision to leave the EU has or could have on Walesxxiv, including the impact on devolved policy areas in Wales and Wales' access to EU funding (including research funding).

Views of Other Organisations

31. There are a variety of views and perspectives from different organisations with a link, direct or indirect, to health in Wales. A '**Brexit Reading List**' (available on request at publichealth.policy@wales.nhs.uk) has been developed and includes statements and publications released by organisations, including governmental departments, professional societies and associations, Third Sector organisations and European organisations.
32. Below is a summary of views from a selection of relevant organisations.

<p>Faculty of Public Health</p> <p>Prior to the referendum, the Faculty of Public Health made a strong case for Britain remaining in the EU (80% of members who responded to a survey supported remaining in the EU). They are now revising their wide-ranging statement^{xxv} in light of the decision to leave and will release this in the near future. In the interim, the Faculty has joined forces with 80 other organisations to call on the Government to ‘adopt common-sense food, farming and fishing policies that are good for jobs, health and the environment, when they plan the UK’s exit from the EU.’^{xxvi}</p>	<p>The Academy of Medical Sciences</p> <p>A statement by the President of the Academy advocates the need for government to develop clear plans to safeguard the future of science and research in the UK. The UK needs to sustain strong research collaborations built with European partners and research will need access to funding sources to replace those put at risk by exiting the EU, as well as clear plans to maintain access to European research talent.</p>
<p>The King’s Fund</p> <p>Whilst acknowledging that health is not an area of significant EU competence, the King’s Fund highlights there is likely to be significant impact on health and social care and specifies five issues that need to be resolved^{xxvii}:</p> <ul style="list-style-type: none"> • Staffing - government must clarify its intentions on the ability of EU nationals to work in health and social care roles in the UK and services should retain the ability to recruit staff from the EU when there are not enough resident workers to fill vacancies • Accessing treatment - government will need to negotiate arrangements as to how both UK citizens and citizens from elsewhere in the EU will access health care services in future • Regulation - government will need to clarify whether it will repeal EU regulations and replace them with UK-drafted alternatives or to continue to abide by them in areas such as the working time directive; procurement and competition law; regulation of medicines and medical devices; professional standards and medical education • Cross border co-operation – negotiations should prioritise areas that require collaboration e.g. scientific research and cross border health threats • Funding and finance – reflecting on the possible impact of economic instability on services facing financial pressures 	<p>Equality and Human Rights Commission</p> <p>The Commission highlights that whilst the UK’s human rights position, under the Human Rights Act and as a signatory to UN treaties, is unaffected, European legislation has improved rights for disabled people and workers^{xxviii}. The referendum has highlighted issues such as political engagement and participation, immigration and community cohesion. The Commission will examine the potential legal and constitutional issues that relate to equality and human rights.</p>
<p>Joseph Rowntree Foundation</p> <p>The Foundation places a spotlight on the fractures exposed in UK society and expresses concern about economic and social dislocation for communities struggling with de-industrialisation and recession^{xxix}. In September 2016, the Foundation will be publishing a report on tackling poverty in the UK.</p>	<p>The Royal Society</p> <p>The President of the Royal Society has stated that in the negotiations, the UK must ensure that research is not short changed, that funding levels are maintained and that a failure to maintain free exchange of people and ideas with international communities could seriously harm UK science^{xxx}.</p>

International Engagement

33. Participation in **non-EU European or international organisations** where the UK or Wales are **members in their own name would not be challenged by the withdrawal from the EU**. This includes organisations such as the Council of Europe and the associated European Court of Human Rights, the European Patent Organisation, the Organisation for Economic Co-operation and Development, United Nations agencies including the World Health Organization (WHO), the WHO Regions for Health Network and Healthy Cities, and certain membership associations such as EuroHealthNet and the International Association of National Public Health Institutes (IANPHI).
34. Membership to EU or EU-related organisations depends on the withdrawal negotiations and/or individual negotiations with the organisation in question (see Relationship with the EU section).
35. Depending on the outcomes of the negotiations, some individual treaties and agreements such as trade, custom or cooperation agreements with third countries, may have to be renegotiated separately by the UK. xxxi

Relationship with the EU

36. This will be defined in the **withdrawal agreement**. The UK will redefine its relations with **the EU as a whole**, also considering its involvement with **specific EU agreements, programmes and agencies** such as the **European Medicines Agency** (the European pharmaceutical regulatory agency currently based in London), the **European Centre for Disease Prevention and Control** (the European agency for the surveillance and response to disease), the **European Economic Area** (which extends the EU's internal market to countries in the European Free Trade Area like Norway), **Horizon 2020** (the EU research funding programme), or **Interreg** (the European Territorial Cooperation programme, which provides funding for regions like Wales to cooperate one another on certain projects) in the **same capacity as any non-EU countries**.
37. There is **no single model** of engagement with the EU for third countries. However, the participation to EU agreements, programmes or agencies (such as the Single Market or selected specialized agencies) would require the UK to **contribute** to some of the EU budget or programmes, **comply** with certain EU standards and rules, and/or accept a certain **reciprocity** in rights and obligations.xxxii While EU leaders have said they hoped to maintain a close partnership with the UK, they have highlighted that this relations would be based on “a balance of rights and obligations”. For example, if the UK wanted to join the Single Market it would have to agree to its four main freedoms of movement for people, goods, capital and services.xxxiii

International Development (Aid)

38. The commitment to dedicate 0.7% of Gross National Income to international development is a legal undertaking made by the UK Government.xxxiv It **would not be directly impacted by the UK leaving the EU**. The previous UK International Development Secretary, Justine Greening, reiterated the UK's commitment to this target just a few days after the referendum.xxxv However, to date, there has been no information on how the UK will reallocate the share of its aid budget previously allocated to the EU international development fund.xxxvi
39. Concerns have been raised by stakeholders that withdrawal from the EU could lead the UK Government to reduce its international development budget or see the impact of its international development policy being affected. UK-based NGOs are also concerned over the potential loss of EU funding and the impact this could have on humanitarian efforts overseas. xxxvii xxxviii xxxix

Migration

While the UK remains a Member of the EU, it will continue to comply with EU law on the free movement and the rights of EU citizens on its territory.xl The terms and conditions under which EU citizens live and work in Wales or UK and Welsh citizens work and live in the EU **after the UK's withdrawal** from the EU will have to be **negotiated** as part of the withdrawal agreement. The newly appointed UK Government's position on the status of EU citizens already in the UK or UK citizens living in the EU after the UK's withdrawal from the EU is unclear.xli Several members of the UK Government have also made statements indicating their will to further control the immigration of EU citizens to the UK after Brexit.xlii However, EU leaders have said that the UK

will not be able to join the Single Market while denying freedom of movements for people.xliii The impact of Brexit on the migration of non-EU citizens is unclear.xliv

Public Health and Health Care (the NHS) in Wales NHS and the EU internal market.

40. A key question is whether the UK Government's negotiations with the EU will secure continued access to the EU internal market. This has important implications for the NHS both from a **financial and regulatory** point of view. For example - in the mobility of health (and other) professionals, the treatment of patients abroad, health and safety at work (including the Working Time Directive), public procurement and competition, the conduct of clinical trials, the authorisation of medicinal products or data protection.xlv

NHS Recruitment.

The EU rules on mutual recognition of professional qualifications for a range of healthcare professions helps NHS recruitment from the EU to be quicker than for non-EU nationals. While this could change if these rules are no longer applied, UK/Wales could still fast-track "shortage" professions from EU in the same way as it is currently done for non-EU citizens.xlvi The impact of leaving the EU on research collaborations across the EU and recruitment to specialist research posts is unknown at the time of writing of this briefing.

Regulation and Trade.

41. After leaving the EU, the UK will be free to apply different regulations and legislation to products and services, including those in the medical and public health fields. This might lead to regulatory simplification in areas that were influenced by or covered under EU regulation until now. Any changes in regulations may also bring into questions certain safeguards that were provided by EU law. For example, the value chain for pharmaceuticals, medical and health technology products (including research, development and production, clinical trials, market authorisation, marketing and post marketing surveillance) could be influenced by regulatory changes. The UK Government has recently created a Life Science Steering Group to provide recommendations on how UK relevant stakeholders may address such changes.xlvii
42. These regulations will also be impacted by the relations with the EU and other trade agreements the UK may choose to pursue, as such agreements would require some level of agreement on standards and regulations covering the products and services being exchanged. For example, if the UK was to stay in the European Economic Area (which deals with the Single Market), it would have to comply with EU regulations and standards for the products it trades, including medicines and medical devices. If the UK did not join the EEA but intended to trade medicines and medical devices with the EU or any other partners, regulation and standards would need to be agreed upon between the two partners.
43. Such changes would have an impact on the research and innovation as well as any manufacturing and trading of medical products taking place in Wales.

Funding

EU funding

44. Unlike the UK as a whole, Wales is currently a net beneficiary of EU funding. In 2014 the Welsh public sector received over £245 million more in EU funding than Wales' total contribution to the EU. For example, Wales has been awarded over £2 billion of Structural Funds for 2014-2020 and EUR 655 (£550) million under the Rural Development Programme on the top of the £250 million of Common Agricultural Policy fund. This estimates does not include EU funding distributed directly from the European Commission to Welsh organisations like Horizon 2020 funding, which attracted over EUR 35 million (£29.5 million) to Wales in 2014-2015.xlviii xlix
45. **While the UK remains a member of the EU, EU funding will remain available to Wales and Welsh organisations.** A more immediate challenge may be a lack of willingness from other EU organisations to include UK/Welsh Partners in proposals and potential detrimental impact on European links in research.
46. Once the withdrawal from the EU comes into effect, **the participation of the UK or its regions to certain specific individual funding programmes**, such as Horizon 2020, European Research

Council funding, Erasmus + or certain Interreg programmes, **may be negotiated** with the European Commission by the UK Government. The condition of participation to such programmes will depend on the agreement signed between the UK and the EU.^{li} For example, while third countries are usually allowed to take part to projects under Horizon 2020, they are not necessarily eligible for funding under this programme.^{lii} Based on the example from other non-EU European countries, such participation also implies a contribution to the EU budget or specific programme.^{liii} As funding programmes are aligned with European priorities and policies, the UK's capacity to influence these funding priorities would be limited.

47. **Funding programmes** such as the Common Agricultural Policy and most of European Structural Funds **are not currently available to non-EU members**. The Welsh Government has already demanded that the UK government provides some additional funding to Wales to **replace the European funding lost as a result of Brexit**.^{liv} However, whether the UK will **fully** cover the loss triggered by the withdrawal of such European funds in Wales has yet to be confirmed.^{lvi}

Other funding sources

48. Any non-EU funding source at the Welsh, UK or international levels **would remain unaffected by exiting the EU**.
49. At Welsh level, programmes funded by the Welsh Government such as the [Hub Cymru Africa grants](#) scheme for Wales-Africa projects remain unchanged. This scheme makes £180 000 available per year, including an annual minimum of £50,000 for health activities involving the Welsh NHS or Public Health Wales.^{lvii}
50. At the UK level, although the Department of Foreign and International Development (DFID) will have to define how the funding that was previously channelled through the EU will be allocated, the overall budget to support UK's international and development work has remained unchanged so far. As a result, the grants programmes currently funded by DFID will not be affected by leaving the EU. Other grant funding UK organisations, such as [Research Council UK](#), or UK charities like the [Wellcome Trust](#) will also continue to offer funding for research in the UK.
51. At the international level, most non-EU funding opportunities will remain unchanged. For example, the [Commonwealth Foundation Grants Programme](#), which funds civil society organisations carrying out sustainable development projects in selected Commonwealth countries, will remain available to UK partners. Multilateral programme such as [TDR](#), the Special Programme for Research and Training in Tropical Diseases sponsored by the WHO, the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP) and the World Bank, are not affected by EU membership. Finally, private foundations such as the [Bill and Melinda Gates Foundation](#) or the [Open Society Foundation](#) also offer grants for health and research projects that are open to UK-based organisations.

International partnerships

52. Wales' and UK's relationship with the EU and EU agencies will be discussed during the negotiations. **The health and well-being challenges faced by other European regions and countries are very similar** to those in the UK. There is merit in strengthening our approach to international partnerships, research and sharing of good policies and practices.
53. Withdrawal from the EU offers the opportunity to strengthen our partnerships with our non-EU partners. At the European level, leaving the EU won't prevent the UK or its regions to work with EU Member States or their regions on a bilateral or multi-lateral basis.
54. Additionally, current networks, such as EuroHealthNet, the WHO Regions for Health Network and Healthy Cities, will not be affected by the UK leaving the EU.

Conclusion

55. No change to legislation, international engagement or international work (incl. funding opportunities) is foreseen in the immediate future as a result of the EU referendum. However, in the event of legislative change, the priority should be to maintain stability with any changes being considered on a case by case basis.
56. The UK and Wales will remain part of the EU until the end of the withdrawal negotiations.

57. The long-term impact of Brexit on Wales' and UK international and European work as well as their capacity to engage with EU partners will depend on the outcome of the withdrawal negotiations and the alternatives the UK, and Wales, chooses to follow outside the EU.
58. There are funding and partnerships opportunities outside of the EU that are very much available to the UK, as well as opportunities to influence international and European policy beyond the European Union that are worth exploring or strengthening. There are other funding programmes or streams that have yet to be further explored and may offer opportunities for health in Wales.

If you require any further information, please do contact:

Femi Biyibi, FPH's Policy Officer;

femibiyibi@fph.org.uk;

0203 696 1476.

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