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FOLLOW-UP INQUIRY INTO HOW THE WELSH GOVERNMENT IS PREPARING FOR BREXIT – HEALTH AND MEDICINES

Inquiry by the National Assembly for External Affairs and Additional Legislation Committee

Response from BMA Cymru Wales

07 September 2018

INTRODUCTION

BMA Cymru Wales welcomes the opportunity to provide a response to the follow-up inquiry by the National Assembly for Wales External Affairs and Additional Legislation Committee into how the Welsh Government is preparing for Brexit in the sphere of health and medicines.

The BMA is a professional association and trade union representing and negotiating on behalf of all doctors and medical students in the UK. It is a leading voice advocating for outstanding health care and a healthy population. It is an association providing members with excellent individual services and support throughout their lives.

RESPONSE

At our annual representative meeting in June 2018, doctors made clear their worries that Brexit poses a major threat to the NHS and the nation's health. Given what is now known about the potential impact of Brexit on the NHS and the dangers a 'no deal' Brexit presents for the NHS, the BMA voted to change our policy to opposition to Brexit and to support the public having a final say on the Brexit deal.

The BMA has published a series of briefings, which outline our policy positions on a range of key issues relating to the impact of Brexit on the UK healthcare system. These briefings can be read [here](#).

BMA Cymru Wales continues to work with other organisations to highlight the dangers of a 'no deal' Brexit and engage and raise concerns with the Welsh Government.

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Workforce and future immigration policy

The EU's principles of freedom of movement and the mutual recognition of professional qualifications have enabled many health and social care professionals from countries within the EEA (European Economic Area) to work in the UK. Migration from the EEA and elsewhere provides a range of benefits to the UK beyond staffing services. Medicine and medical research thrives on the interchange of experience, knowledge and training across countries and backgrounds. Allowing doctors and medical researchers to work, train, teach, conduct research and practice in different countries contributes to widening the understanding of healthcare and advances new breakthroughs in medicine.

EEA doctors play a key role in staffing vital services. In Wales approximately 6.4% (624) of doctors currently working in the medical workforce are EEA graduates¹. There is a very real risk that many EEA nationals, including highly skilled doctors and medical researchers will choose to leave the UK due to the ongoing uncertainty in the Brexit negotiations.

We remain deeply concerned that the UK Government is yet to provide detail on a framework for a future immigration system for managing migration from the EU. A 'no deal' scenario will create uncertainty about the status of future EU nationals wanting to come and work in the Welsh NHS. Any reduction in the number of doctors migrating to the UK, or an increase in the number leaving the UK because of Brexit, will have a destabilising effect on the medical workforce, and the staffing of health and social care services across the UK. This will impact on already over stretched staffing levels on hospital wards, in GP practices and in community settings across the UK, putting at risk the quality of patient care and patient safety.

We believe that the Welsh Government should work with the UK Government to ensure free movement for healthcare and medical research staff; permanent residence for EU doctors and medical researchers currently based in Wales and the rest of the UK and continued rights for EEA medical students in Wales to train, work and live in Wales.

Employment rights

The UK's withdrawal from the European Union will have the potential to significantly affect working rights for doctors. The EWTD (European Working Time Directive) and the measures which it has transposed into the UK WTR (Working Time Regulations) – namely the limit of a 48-hour average working week, rest breaks and statutory paid leave – form key health and safety legislation, which alongside ECJ judgements (the SiMAP and Jaeger rulings which enshrined the principle of time spent on-call at the workplace being regarded as work, and other rulings such as those ensuring the correct calculation of holiday pay) has reduced fatigue amongst doctors and improved the safety of both patients and doctors in the UK. The EWTD could be repealed following Brexit.

To minimise these potential effects, the Welsh Government should work with the UK Government to protect and enhance the WTR after the UK's departure from the EU, maintain their incorporation of the EWTD. We believe that junior doctors should have protected training time within safe working limits to avoid tiredness-related accidents.

We also believe that the Welsh Government should work with the UK Government to fully incorporate the right to equal pay, in Article 157 of the EU Treaty, into UK law.

By adopting this approach, the Welsh Government would strengthen the current arrangements in the WTR, which allows doctors to opt out of the rules up to a maximum average 56-hour week if they wish and enables sufficient flexibility as well as ensure that current standards of equality in doctors' employment are upheld, rather than weakened.

¹ [GMC \(November 2017\) Our data about doctors with a European primary medical qualification in 2017.](#)

Health protection

Health protection and security in Wales has been fundamentally shaped by the UK's membership of the EU. This includes efforts to combat infectious diseases such as measles and limit the spread of antimicrobial resistance. Other areas of shared competence include climate change, water, waste and air pollution and maintaining high food safety standards. It has also included facilitating the sharing of data, expertise and national strategies for pandemic preparedness planning and response via ECDC (the European Centre for Disease Prevention and Control).

It is imperative that the Welsh Government urges the UK Government to ensure that there is an agreement between the UK and EU to continue to share data and emergency preparedness planning in relation to cross-border threats.