BREXIT:
Royal College of Nursing priorities update – overview
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Background

In 2016, the public voted for the UK to leave the European Union in a referendum. We sought the views of our frontline members and following this consultation, a decision was taken that we would be neutral on Brexit. However, following the result to leave the EU, and now that we have entered the transition period, we continue to be concerned that Brexit has significant ramifications for health and social care services and staff, and if not resolved, will impact nursing staff’s ability to provide safe and effective care. We have been campaigning on five priority areas which are the most pertinent to you.

These five priorities are:

1. A coherent domestic health and social care workforce strategy, which includes preserving the rights of EEA nationals working in the sector and allows for future migration.

2. Continuing with appropriate EU education and professional regulatory frameworks for nursing and close alignment with other single market legislation supporting health.

3. Continuing to address public health threats collaboratively – particularly those crossing borders.

4. Safeguarding decent working conditions, health and safety at work and employment rights, many of which were adopted EU wide.

5. Maintaining important opportunities for collaboration across Europe on research, funding and between nursing organisations to share and learn.

Since the UK triggered Article 50, we have published a series of Brexit scorecards assessing the progress made between the UK and EU in the negotiations to address the significant areas of EU policy, law, and funding programmes relating to nursing and health and care issues. This latest update to our scorecards follows the EU Withdrawal Bill being ratified by Parliament in January 2020, and this subsequent Act led to the UK formally leaving the EU on 31 January.

This agreement has secured a transition period whereby the UK will remain in the customs union and single market.

There remain valid concerns over the health and social care sector’s preparedness for the potential (and likely) immediate impacts. It is also necessary to consider what sector leaders need to do to prepare services for potential longer-term impacts and how professionals on the ground can best be supported to keep people in their care safe.

Brexit has the potential to have significant implications for the devolution settlement in Northern Ireland, Scotland and Wales. The RCN supports the current settlement which allows health policy to be shaped by what is best for each nation and encourages citizen participation. Many health issues affected by Brexit are best dealt with at EU level, however any EU laws that are currently within devolved powers of the devolved administrations should be transposed into Northern Irish/Scottish/Welsh law.

The UK Government has promised, in September 2019, to replace EU Funding with the UK Shared Prosperity Fund but has not made clear how these funds will be distributed or on what basis.

We are calling for the devolution settlement to be respected in the distribution of these funds.

What needs to happen?

The EU (Withdrawal Agreement) Act 2020 has directly transferred and retained our existing laws and protections from the EU into UK legislation. We are clear that any future domestic legislation must strengthen these existing safeguards. This will ensure that the UK remains a world leader in health care delivery, research and employment standards.

Successive and future UK Governments must not be granted powers to amend EU derived protections and legislation without sufficient parliamentary scrutiny after the UK’s withdrawal from the EU.
Our Brexit scorecards set out in more detail why these five priorities are so important for nursing staff and health and care across the UK. In them, you will be able to understand the implications of Brexit on health and care and actions being taken by governments, senior health care leaders and other decision makers on how best to ensure a smooth Brexit which does not detrimentally impact patient care.

**Brexit scorecard**

We have rated progress on the RCN’s five priorities by RED, AMBER and GREEN.

- **Red** indicates that there has been no firm commitment made by the UK Government on this issue and how to resolve it.

- **Amber** indicates some UK commitment or statement but no agreement on practical application with the EU.

- **Green** indicates a firm commitment from the UK Government and the EU including on practical implementation.
What’s the issue?

It has been widely reported and acknowledged that recruitment from the EU has played a vital role in keeping UK nursing staff (including social care workers) numbers steady for many years.

Nursing and Midwifery Council registration figures UK-wide

In 2013, EU nationals comprised 2.4% of the Nursing and Midwifery Council’s (NMC) register. As of September 2019, they accounted for nearly 5% of the workforce in the UK. However, since the 2016 Brexit vote far fewer EU nurses and midwives are joining the NMC register.

The latest statistics from the NMC show that in 2018/19, only 885 EU nurses and midwives joined the register which is a 90% fall in new EU registrations to the NMC since 2016.

Added to this, is the numbers of established EU nurses leaving the UK altogether. Since 2016/17, over 13,000 established EU nurses have left the register compared to just over 4,000 who left in the two years preceding this.

In May 2019, the Nursing and Midwifery Council (NMC) revealed that 51% of EU-trained nurses cited worries about Brexit as a key contributing factor to leaving the UK register. There has also been an increase in the number of reports of the international workforce experiencing hostility/ harassment/bullying linked to racism or xenophobia since the referendum result.

Continuing workforce shortages across the UK

Continuing workforce shortages in England, Scotland, Wales and Northern Ireland has meant that our reliance on EU nurses is truly UK-wide. In Northern Ireland for example, we have heard that many nurses travel across the border daily into Ireland and vice versa to provide vital services and we need this to continue, because without them, patient care would be at risk.

The shortage of care assistants in social care now and in the future is critical. In its recent report, Skills for Care estimates that 7.8% of roles in the adult social care sector were vacant in England. This represents an average of approximately 122,000 vacancies at any one time. The majority (77,000) of the vacancies were for care worker jobs. The vacancy rate for care workers (9.0%) was also higher than for other direct care-providing roles, including senior care workers (5.7%) and personal assistants (8.2%). We have heard that the impact of Brexit has been significant on the care assistant workforce with many EU care staff leaving due to the falling value of the pound.

The registered nurse vacancy rate in social care was particularly high, at 9.9% in England. This role also had relatively high turnover and starter rates, which is likely a contributory factor to this high vacancy rate.

The Welsh Government’s research on the impact of Brexit on the social care workforce shows that recruiting and retaining NMC registered nurses became more difficult during 2018/19. Evidence for the nursing shortage in Wales can be seen in the NHS nursing vacancy rate, the dramatically increasing rate of spend on agency nursing and the extreme shortage of registered nurses in the independent sector. The demography of Wales means it is particularly dependant on immigration to support the delivery of health and social care services.

Within Scotland the nursing vacancies within the care home sector are reported as 20%. Scotland is also heavily reliant on an EU workforce, who make up between 6-8% of the total workforce and have nearly 12% of all nurses. Certain geographical areas

3. External Affairs and Additional Legislation Committee, 2018, Report on the preparedness of the healthcare and medicines sector in Wales
have up to 30% of the total workforce coming from Europe.

The latest figures from the Department of Health in Northern Ireland show that there were just under 2,800 unfilled nursing posts in health and social care as at 30 September 2019 (13%) with a similar level estimated in nursing homes.

EU citizens immigration status following end to Freedom of Movement

On 5 March 2020, the UK Government introduced the Immigration and Social Security Co-ordination (EU Withdrawal) Bill which, if passed, will end free movement and make EU citizens subject to UK immigration controls from 1 January 2021.

EU citizens and their family members who are resident here in the UK before the 31 December 2020 are eligible to apply to the EU settlement scheme to obtain their immigration status. This has been open since March 2019 and so far, the Home Office (HO) has received around 3.2 million applications.

We do not know how many of those who have applied for EU settled status or are yet to apply are nursing staff and have no way of predicting how many EU nursing staff including care workers will want to stay after Brexit.

The Government continues to encourage EU workers to apply to the EU Settlement Scheme. The Home Office have also created an EU Settlement Scheme employer toolkit.

The deadline for applying for the scheme is 30 June 2021 and anyone who misses this deadline will be unlawfully in the UK. So far, government have been unclear on what will happen if this deadline is missed or whether there will be further opportunity to apply. However, we are concerned that a hard-line approach will be followed, wherein individuals could be subject to enforcement action, detention and removal as an immigration offender.

Government maintain that securing EU citizens’ rights remains a top priority. These words must be followed with positive actions in order to attract EU nationals and to help sustain our current workforce numbers.

Future immigration system for all non-UK nationals

On 19 December 2018, the Government published its proposals for the UK’s future skills-based immigration system and committed to a year-long consultation on the proposals. This immigration white paper (‘the white paper’) provides the legal framework to introduce new immigration rules to be applied to EU citizens (after freedom of movement is brought to an end post-Brexit) as well as ‘third country nationals’.

In June 2019, the HO commissioned the Migration Advisory Committee (MAC) to ‘look further into the salary threshold question.’ The MAC was subsequently asked to review how an Australian-style points based (PBS) immigration system could be implemented in the UK. In their recommendations (published in January 2020), the MAC maintained that a minimum salary threshold should continue, but that, by expanding the visa route to medium-skilled jobs, the threshold should be reduced to £25,600.

Government promptly issued a policy statement in February 2020 outlining their final plans, which confirms that they will be following the MAC’s recommendation to maintain a minimum salary threshold, albeit at the lower specified amount. This statement also highlights government’s intention to bring more flexibility to the current system by allowing applicants to enter the UK on a salary no less than £20,480 if they can demonstrate that they have a job offer listed on the Shortage Occupation List (SOL).

For many health and social care staff this figure remains unrealistic and unattainable. Though nurses

6 Apply to the EU Settlement Scheme (settled and pre-settled status) www.gov.uk/settled-status-eu-citizens-families
7 Those who have lived in the UK for 5 years or longer can apply for ‘settled status’. Those who have lived in the UK for under 5 years can apply for ‘pre-settled status’. 8 The UK’s future skills-based immigration system, www.gov.uk/government/publications/the-uks-future-skills-based-immigration-system.
are currently exempt from any salary threshold and are listed on the SOL, these arrangements are only temporary. Should these exceptions no longer apply, we have significant concerns over the potentially prohibitive impact of the higher salary threshold, as the average salary for nurses falls below this new figure. Of greatest potential concern is the social care workforce. The average salaries still sit far below both the higher and lower threshold, and many would still not meet the qualification requirements for the Tier 2 visas in any event.

The proposed plans clearly have the potential to significantly impact our health care system, as it will undermine the UK’s ability to recruit and retain the number of staff necessary to meet our population’s needs.

Even more concerning is government’s decision not to introduce a temporary visa route. This comes despite the MAC maintaining that this would be the most appropriate route into the UK for those not eligible for the Tier 2 visa. Though we had doubts over the suitability of the temporary visa route and the impact that its 12-month time limitation could have on continuity of care, we are concerned by government’s inability to make any provision for groups of workers unable to meet Tier 2 requirements.

The policy statement also confirms the Government’s intention to continue levying the Immigration Health Surcharge at £400 a year. This comes despite our repeated calls for overseas nursing staff to be exempt from this charge, on the basis that they are already contributing towards the NHS through their taxes. We fear that this charge will act as an additional financial barrier to those seeking to come to the UK, and we maintain our stance that this should be removed.

**What does this mean?**

A collapse of the EU workforce presents a huge challenge for the sustainability of our health and social care sector.

The UK Government’s decision to cut investment in domestic nursing workforce has made us increasingly dependent on EU supply.11

The Interim NHS People Plan (IPP) for the NHS in England, committed (as anticipated) to a ‘significant and rapid’ increased reliance on a supply of international workforce, stating in the short to medium term12

The IPP goes on to commit to NHS England/NHS Improvement regional teams becoming responsible for the coordination of local health systems’ recruitment efforts, and for Health Education England to continue to build global partnerships and exchanges. At the same time, there is a continuing need to ensure that we have the right assurances and accountability mechanisms in place to know that this increase in recruitment will be done in a way that does not contravene our obligations under the WHO and UK codes on international recruitment.13 As we know, the nursing workforce shortages are a global challenge and the UK’s shortages are ‘dwarfed in comparison with low and middle income countries.’14

Earlier this year, NHS Employers published a best practice toolkit which aims to encourage ethical practices and processes for the international recruitment of staff.15 This is a welcome development and is evidence of an increasing understanding of the need to ensure more collaborative and ethical global recruitment practices,

The Welsh Government has published a national workforce plan for health and social care which recognises the significance of EU nurses and nursing staff to the workforce.

The Welsh Government has also formed a cross-sector group to look at the implication of the new immigration regulations and measures to encourage EU migration.

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15 www.nhsemployers.org/case-studies-and-resources/2020/01/international-recruitment-toolkit
In Northern Ireland, the RCN has for many years highlighted how an absence of effective workforce planning has contributed to the large number of unfilled nursing posts, currently totalling around 2,800 in the health and social care workforce, with an equivalent number estimated in the nursing home sector. The Delivering Care policy directive for nurse staffing has not yet been fully implemented and this has been a key focus of the RCN’s safe and effective care campaign in Northern Ireland. As a consequence of the industrial action taken by RCN members, in January 2020 the Department of Health and the Northern Ireland Executive committed to a series of measures to enhance safe and effective care, including the full implementation and comprehensive funding of Delivering Care, with a view to developing safe nursing staffing legislation at the earliest opportunity. The RCN is committed to holding the Department of Health and the Northern Ireland Executive to account for the delivery of these undertakings.

The Department of Health in Northern Ireland has put in place a programme of international nurse recruitment but the targets have not been met. The RCN believes that the recruitment and retention of nurses in Northern Ireland has been severely restricted by the pay inequality that has existed compared with the rest of the UK. Again as a consequence of industrial action by RCN members, the Department of Health and the Northern Ireland Executive committed in January 2020 to restoring pay parity with England. The RCN believes that this will help promote nurse recruitment and retention.

Brexit scorecard

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AMBER WARNING

We rated this as amber when we previously published this Brexit scorecard in October 2019. We have done so again in this update. This is because, although the Withdrawal Agreement has provided us with greater assurance that we will not be leaving the EU without a deal, we still do not have clarity on the exact outcome of Brexit. This will clearly impact on the immigration flow of the EU nursing and care workforce in and out of the UK.

Nursing staff from the EU not only care for their patients, they are active members of their local communities, paying taxes and are subject to all of the same regulatory requirements as other nurses. While recruitment of EU staff should not be used as a replacement for domestic workforce supply, it must continue in the short to medium-term so that health and social care services in the UK can continue to function. We want EU nursing staff to stay, and they deserve assurance of their rights, and that they are valued.

What needs to happen?

The UK Government should acknowledge the value that our international nursing and care workforce brings to the UK and the importance of diversity in the workforce.

The future immigration system should be one that reflects that importance and makes the UK an attractive place for highly-skilled, highly-needed migrant nurses and care assistants to come and work. The previous, purposefully hostile environment and culture must truly be brought to an urgent end before our workforce shortage crisis is made worse.

We need a clear, well-funded plan to grow our domestic workforce. This needs to happen at the UK and devolved Government level and focus on creating a workforce which is fairly remunerated, safely staffed and highly educated in order to meet future patient need.
As the RCN we are:

We are lobbying the UK Government and Parliament, the National Assembly for Wales, the Scottish Parliament, and the Northern Ireland Executive and Assembly to shape and influence the future immigration system, so that our members working across the devolved countries are heard and future workforce needs are met.

The RCN is also part of a wider health and social care lobbying group – the Cavendish Coalition—made up of 36 health and social care organisations. Our coalition, alongside its wider commitments in relation to working together to ensure a continued domestic and international pipeline of high calibre professionals and trainees in health and social care, has been particularly vocal on EU settled status.

The Cavendish Coalition has repeatedly highlighted the workforce shortages in these sectors, and the need to widen the skills levels to be covered by the UK’s visa system post Brexit, given the current reliance of the social care sector on EU staff.

We continue to showcase the positive contribution which EU nurses and midwives make to our health and care system. Please do take a look and add your story: www.rcn.org.uk/employment-and-pay/nursing-staff-from-the-european-union/share-your-story

How can you help?

Support EU nurses in their place of work and encourage them to join the RCN so that they have as much support as they need.

Promote awareness of the EU Settlement Scheme and signpost EU nursing staff to advice and support for seeking EU pre-settled or settled status.

Lobby your locally elected representative on this issue, of retaining our valued EU nursing workforce in the UK and attracting those who may choose to come in future. This is the most effective way of holding the UK Government to account. You can contact us to receive one of our ‘How to lobby’ toolkits, and you can speak to your country/ regional office for support. You can find details of who your local MP is here: www.parliament.uk/get-involved/contact-your-mp

Want to provide feedback on this position? Email us at: papa.ukintl.dept@rcn.org.uk
BREXIT: RCN PRIORITY 2
EU regulations for professionals and medicines

What’s the issue?

Laws from the European Union (EU) have had a huge impact on the UK health and care sector, staff, services and the patients who use them.

EU regulations currently contribute to the following in the UK:

• standards of training for nursing staff and mutual recognition of health professional qualifications
• development and approval of medicines
• clinical trials participation and regulation
• licensing of medical devices which includes contact lenses, x-ray machines, pacemakers and hip replacements
• licensing of in-vitro medical devices, for example pregnancy tests and blood sugar monitoring systems for people with diabetes.

The education and training of registered nurses and midwives in the UK must currently conform to standards set out by the EU. This is contained in a law called the Mutual Recognition of Professional Qualifications (MRPQ) Directive. It is the responsibility of the Nursing and Midwifery Council (NMC) to enforce these standards, which include checking that an applicant has completed the agreed number of training hours in clinical placements.

What does this mean?

Recognition of EU professional qualifications post-Brexit

As well as raising the standards of nursing education, the MRPQ Directive has enabled the UK to recruit nurses and doctors from Europe to fill our own workforce shortages. The Directive also includes language checks on EU nurses and a duty on all EU member states to inform one another about suspended or banned professionals, both of which are important and positive developments for patient safety.

In our previous Brexit scorecard published in March 2018, we called on the UK Government ‘to align regulatory requirements with the EU and create a level playing field between the remaining member states, the UK and the wider international sphere.

Since then, a statutory instrument (SI) introduced on 7 March 2019 means that health and social care workers with professional qualifications from EU and Swiss institutions who are currently registered, can continue to practise in the UK as they do now, guaranteeing their ability to work in the UK.

The Nursing and Midwifery Council (NMC) has since advised that, during the transition period (until 31 December 2020) there will be changes to the way the NMC register nurses, midwives from the EU, EFTA and Switzerland, and no change to the way that UK registrants can apply for registration in other EU Countries.

The UK Government has announced that EU or Swiss qualified professionals entering the UK after exit may have their qualifications recognised, whether we leave the EU with or without a deal. The European Qualifications Regulations (EQR) 2019 give UK regulators a new power to stop the automatic recognition of a qualification if they have concerns. For example, if they don’t think a qualification is equivalent to the standard in the UK. It will be the responsibility of

5 Currently the Mutual Recognition of Professional Qualifications (MRPQ Directive) imposed by the EU on its member states permits the qualifications of EEA and Swiss applicants to be recognised within the UK without any further testing.
the UK regulators to present the evidence that the standards are not equivalent, which will be subject to Privy Council consent.

The Government has committed to the Secretary of State for Health and Social Care reviewing the arrangements two years after these regulations come into force in the event of no-deal. The Government has confirmed that it will be the UK regulators' responsibility to identify whether qualifications gained outside the UK are comparable to our standards. However, there is a question as to whether this could feasibly be done without any increases to registrants' annual fees.

The EQR also remove additional obligations of professional regulators which are currently required under EU law. This includes the removal of the requirement to share information through the European Commission’s internal market information system (IMI), which means UK regulators will no longer have access; the ending of arrangements that allow professionals to practise in the UK using an European Professional Card (EPC), which relies on having access to IMI; and the removal of the requirement on UK regulators to set professional education and training standards that comply with standards set in the directive.\(^8\)

The IMI, (which is a part of the MRPQ Directive), allows the UKs professional regulators and regulatory authorities within the EU to communicate with each other when a registrant has their practice restricted in one of the other 27 EU member states. It will be important to consider how the regulators, including the NMC, will ensure registrants working in the UK are fit to practise in the event of this SI coming into force in the event of no-deal.

In terms of specific issues with retention of our EU workforce, it is also worth highlighting the live issue that Spanish nurses have been told that they will not have their experience in the UK recognised by the Spanish regulators if they return home to practise after Brexit (when the UK is no longer a member state). There is also nothing to prevent other member states taking a similar stance if they require such recognition.

An additional area of concern is that nurses registered in the Republic of Ireland will have to pay a fee for NMC registration in the UK as an overseas applicant post-Brexit, which will cost £55 more than the current registration fee. This is because they will transition to having the same status as other nurses from EU member states, even though they will continue to have the same right to travel freely without immigration permission from the authorities as they do now under the Common Travel Area.\(^9\)

Additionally, consideration should be given to the EU nursing and midwifery students currently studying in the UK who may not have their qualification recognised back home, post-Brexit.

**Regulation of medicines and medical devices**

The Department of Health and Social Care published [*Further guidance note on the regulation of medicines, medical devices and clinical trials if there’s no Brexit deal*],\(^10\) which means that the Medicines and Healthcare Products Regulatory Agency will take on the work of the European Medicines Agency in the event of no deal.

There is a possibility that in the event of no-deal, there will be delays in new drugs being made available for UK patients, for example in the case of cancer drugs, there could be delays of 12 to 24 months for UK patients.\(^11\) This will be as a result of the UK regulating medicines on its own rather than as part of the European regulatory system.

Many pharmaceutical experts have warned that the UK will become a far less attractive place to trial new medicines because the drugs (including the clinical trials) would need to be compliant with the European market if they want to sell within the EU (a much bigger market than the UK on its

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own). This will mean that EU countries may be prioritised, resulting in delays in the medicines being available in the UK.

Making these changes to the EU regulatory framework for clinical trials significantly increases the burden on UK researchers and pharmaceutical companies. They would need to seek separate permissions for trials in both the UK and the EU and would need to provide datasets to both UK and EU regulators.

**Brexit scorecard**

We have rated progress on the RCN’s five priorities by RED, AMBER and GREEN.

Red indicates that there has been no firm commitment made by the UK Government on this issue and how to resolve it.

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Green indicates a firm commitment from the UK Government and the EU including on practical implementation.

**RED WARNING**

We have rated this issue red because although the Withdrawal Agreement has provided us with greater assurance that we will not be leaving the EU without a deal, we still do not have clarity on the exact outcome of Brexit. The UK could still leave the EU without a deal on 31 December 2020, with the regulatory changes planned if we do, causing the associated risks highlighted in this scorecard. There is a likely danger for access to medicines to be affected with negative consequences for staff and patients.

**What needs to happen?**

The UK Government must ensure continued close collaboration between the UK and the EU on medicines regulation. Ensuring timely access to medicine is critical for all patients in the UK. To achieve this, the UK Government is likely to require a formal agreement with the EU to continue to support and participate in relevant assessments, with a commitment that the UK will maintain and enhance these standards in the future. There are non-EU countries like Switzerland, which have made arrangements to work closely with the European Medicines Agency on a bi-lateral basis.

In government’s recent paper outlining the UK’s approach to negotiations with the EU, it was made clear that future trade deals should facilitate trade in medicinal products and provide for mutual recognition of certificates of Good Manufacturing Practice (GMP) compliance for either trading party. Government should continue to push for close collaboration with the EU and ensure that this issue remains a top priority.

The UK Government should agree mutual recognition of the CE mark between the UK and the EU. The CE mark indicates compliance with EU health and safety standards and allows for free movement of products. This is important for ensuring that patients have timely access to medical devices. A number of non-EU countries, for example Australia, New Zealand and Switzerland, already have bi-lateral arrangements with the EU on this issue.

Similarly, the UK Government should also ensure close collaboration with EU partners on clinical trials. This should be done through replicating the EU Clinical Trials Regulation and agreeing that the UK takes part in pan-European clinical trials.

Whilst issues with the recognition of UK qualifications in the EU post-Brexit is at the discretion of EU member states, the UK

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Government ought to be seeking assurances for EU students, nurses and midwives so that our already depleted supply of EU workforce doesn’t continue to worsen and so that the workforce is given the support and recognition of their contribution to our nation that they deserve.

The UK Government has until the 31 December to negotiate a future relationship with the EU. Until negotiations are finalised, the NMC will be unclear about how their future registration process will work.

However, in February 2020, the Government published a paper outlining their approach to negotiations determining the future relationship between the UK and EU, which provides a good indication of the future direction of travel. This paper states that there should continue to be a pathway for the mutual recognition of professional qualifications, but that parties should be able to set their own professional standards to protect public safety. It is clear that further consideration is needed to understand how authorities could recognise applications that meet host states’ standards

How can you help?

Lobby your local elected representative on this issue, to ensure continued collaboration on medicines and access to clinical trials. This is the most effective way of holding the UK Government to account. You can contact us to receive one of our ‘How to lobby’ toolkits, and you can speak to your country/regional office for support. You can find details of who your local MP is here: www.parliament.uk/get-involved/contact-your-mp

As the RCN we are:

Collaborating with organisations across health and social care to ensure that the health regulatory dimension of leaving the EU is understood and prioritised by the UK Government.

We are working constructively with the UK Government and Parliament, the National Assembly for Wales, the Scottish Parliament and stakeholders in Northern Ireland to campaign for the MRPQ to be retained, and for UK patients to continue to benefit from clinical trials.
**What’s the issue?**

The EU plays a vital role in maintaining public health across all its member states. There are sector wide concerns that Brexit and the withdrawal of EU funding for public health measures, and subsequent changes to our opportunities to collaborate and innovate with EU partners, will negatively impact the health of our population.

As Professor Dame Sally Davies repeatedly outlined in the Chief Medical Officer Annual Report 2019, ‘Infectious diseases are never constrained by international borders, and health security can only be achieved through partnership and collaboration.’

**Infection and disease control**

The EU facilitates collaboration on cross-border health threats, such as communicable diseases which can spread easily and anti-microbial resistance through the European Centre for Disease Control (ECDC).

It is currently unclear what the ongoing relationship with ECDC will be both in terms of submission and comparison of UK data on infections/antibiotic resistance and the management of outbreaks in Europe that could impact on the UK.

The EU can legislate that member states take action on specific public health issues, such as tobacco regulation and improving air and water quality. If member states fail to take action – such as the UK’s slow progress to heighten our air quality standards – then the EU can impose sanctions against the UK.

The lack of a contributory relationship to ECDC activities would exclude the UK from reporting and comparing important surveillance data on communicable diseases and health threats. This could affect the preparedness of the UK’s health and social care system if a communicable disease outbreak develops and we need to respond rapidly.

In relation to EU legislation on public health, the EU Withdrawal Act will incorporate existing EU regulations in UK law including air quality provisions. However, we are concerned that in the context of an increasing ‘fake news’ political climate and a Government with a de-regulatory, ‘remove the red tape’ agenda, these regulations could be amended after Brexit and lose their importance. It is important that the UK Government does not lose momentum and commitment on tobacco control and air quality standards in particular after Brexit.

There is also a lack of clarity on future oversight of compliance with environmental standards in the UK, as currently EU agencies have undertaken this role and we have adopted their regulations and recommendations.

**Rare diseases**

As the BMA has highlighted, a ‘no-deal’ Brexit would also lead to UK patients, experts and hospitals being excluded from the European Reference Networks (ERNs):

‘Across the EU, around 30 million people are affected by up to 8,000 rare diseases and a rare disease may affect anything from only a handful of people to as many as 245,000. Due to the low prevalence of a single rare disease, patients are usually scattered across different countries making it harder for them to access the right treatment from a health professional who is a disease expert.

To support these patients with rare diseases, EU legislation encouraged the development of ERNs to enable health professionals and researchers to share expertise, knowledge and resources. ERNs cover the majority of disease groupings such as bone disorders, childhood cancers, and immunodeficiency. Each ERN has a co-ordinator who convenes a ‘virtual’ advisory board of medical specialists across different disciplines to review patient cases. This ensures that specialists can review a patient’s diagnosis and treatment without

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3 European Commission: European Reference Networks

4 https://www.who.int/medicines/areas/priority_medicines/en/
the patient having to leave their home environment. There are 24 networks, involving over 900 medical teams in more than 300 hospitals from 25 EU countries, plus Norway. The UK currently co-ordinates one quarter of the 24 networks and participates in nearly all, with around 40 NHS hospitals involved. ERNs receive support from several EU research funding programmes, including Horizon 2020.

There is also a reputational risk for the UK, as a result of Brexit, in that our health protection systems are currently deemed to be some of the best in the world and we have concerns over how this could be viewed post-Brexit.

**Medical supplies**

As the Yellowhammer report makes clear, if the UK does not attain a deal with the EU, this could cause significant disruption to the supply of medicine (and medical devices/equipment), lasting up to six months.

Many medicines, including life-saving agents for cancer diagnosis and therapy, cannot be stockpiled and for those that can, stockpiles could run out.

These kinds of shortages and delays can befatal. No responsible government should take that risk.

The Department for Health and Social Care (DHSC) says every effort is being made to ensure there will be enough medicines and clinical equipment available in the event of delays to imports from the EU. However, the Royal Pharmaceutical Society (and many other sector bodies) have warned that pharmacists were already struggling to obtain common medicines - including painkillers and antidepressants in January. While there are regular fluctuations in medicine supplies, there are concerns a no-deal Brexit could make shortages worse.

About three-quarters of the medicines and most of the clinical products we use come from or via the EU. The main risk to supply is reduced traffic flow between the ports of Calais and Dover or Folkestone. The sector was advised that ‘… Local stockpiling is unnecessary and could cause shortages in other areas, which could put patient care at risk. It is important that patients order their repeat prescriptions as normal and keep taking their medicines as normal.’

DHSC has undertaken an analysis of the supply chain for medicines, including radioisotopes and vaccines, which identified those products that are imported from the EU and the European Economic Area (EEA). They have produced guidance asking pharmaceutical companies that supply medicines for NHS patients from, or via, the EU or EEA, to ensure they have a minimum of 6 weeks’ additional supply in the UK, over and above their business as usual operational buffer stocks.

Whilst these contingency measures may provide some assurance, there is continuing concern amongst a number of organisations including pharmaceutical companies about the impact of no-deal Brexit and related patient safety concerns, with some emerging, anecdotal reports of delays to cancer care already.

There is already a considerable level of confusion that comes when there is any shortage to medicines, let alone potential delays to vaccination post-Brexit, meaning that people may fall through the net and we may see an associated risk to increases in vaccine preventable disease.

Medical supplies are also a significant issue for nursing and patient safety. For example incontinence products, critical to people’s health and safety, are not manufactured in the UK and sourced from all over Europe, they take up huge amounts of space so stockpiling will be limited particularly in residential settings. There is little advice as to measures in place if this supply chain fails for vulnerable people in their own homes.

In July 2019, an amendment to regulations came into effect which allows Ministers, in the event of a medicine being in short supply, to issue protocols to allow community pharmacists to dispense ‘alternatives’ to the drug prescribed instead of a prescription having to be returned to the prescriber to be amended.

We support the BMA’s concerns about the risk this creates to patient safety, as this allows pharmacists

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5 https://www.bbc.co.uk/news/uk-politics-47470864
7 www.gov.uk/guidance/medicines-supply-contingency-planning-programme
8 www.legislation.gov.uk/uksi/2019/62/regulation/18/made
to provide therapeutic equivalents when a prescribed drug is not available. Patients can respond differently to drugs that are therapeutic equivalents or may even be allergic to some, and the pharmacist will not know what has already been used or have access to this patient data. Prescribers (including nurse prescribers) are best placed to manage this.

What does this mean?
The lack of a contributory relationship to ECDC activities would exclude the UK from reporting and comparing important surveillance data on communicable diseases and health threats. This could affect the preparedness of the UK’s health and social care system if a communicable disease outbreak develops and we need to respond rapidly.

There is also a lack of clarity on future oversight of compliance with environmental standards in the UK as currently EU agencies have undertaken this role and we have adopted their regulations and recommendations.10

Brexit scorecard
We have rated progress on the RCN’s five priorities by RED, AMBER and GREEN.

Red indicates that there has been no firm commitment made by the UK Government on this issue and how to resolve it.

Amber indicates some UK commitment or statement but no agreement on practical application with the EU.

Green indicates a firm commitment from the UK Government and the EU including on practical implementation.

What needs to happen?
The UK Government should make a formal agreement as part of EU trade negotiations to continue to contribute and participate in the ECDC. Countries in the wider European Economic Area (EEA) such as Norway, have an agreement to participate, with financial contributions, despite not being members of the EU.

We expect the UK Government to replicate this commitment so that we continue to benefit from cross-border disease prevention measures. The ECDC also has memoranda of understanding with disease control agencies in other major countries China and the USA, which would be beneficial to the UK.11

The EU Withdrawal Act should be amended to prevent the UK Government from diluting public health protections. We believe that the EU Withdrawal Act should be amended to ensure that the UK Government does not have power to amend the legislation post-Brexit, without robust parliamentary and public scrutiny.

How can you help?
Lobby your local elected representative on this issue, to highlight the importance of continued collaboration on addressing health threats and improving public health. This is the most effective way of holding the UK Government to account. You can contact us to receive one of our ‘How to lobby’ toolkits, and you can speak to your regional office for support. You can find details of who your local MP is here: www.parliament.uk/get-involved/contact-your-mp/

As the RCN we are:
Lobbying the UK government through joint statements with other unions and bodies across the health service, collectively representing the concerns of more than a million health and care staff, warning that a no deal Brexit could devastate the NHS and social care.

Collaborating with other Royal Colleges as part of the UK Health Alliance on Climate Change. Together, we are lobbying to retain current environmental standards and objectives that impact on health. We also want the UK to continue

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11 Scottish Parliament, Leaving the EU – Implications for Health and Social Care in Scotland (January 2018)
to work with the EU to ensure that there are future improvements in air quality and other public health standards, which are adequately addressed across borders between countries, as they cannot be tackled domestically alone.\textsuperscript{12}

Lobbying the UK Parliament to amend the EU Withdrawal Act to ensure that there are sufficient checks and balances on what action future and successive UK Governments can take to amend EU regulations on public health measures. This includes supporting an amendment to the Withdrawal Act to ensure “a high level of health protection” in future policies and activities, as currently guaranteed in the EU treaties.

We are working constructively with the UK Government and Parliament, the National Assembly for Wales, the Scottish Parliament and stakeholders in Northern Ireland to shape and influence the development of domestic public health policies.

\textsuperscript{12} UK Health Alliance on Climate Change, \textit{Breath of Fresh Air – Addressing Air Pollution and Climate Change}. available here September 2016.
**BREXIT: RCN PRIORITY 4**

**Protecting workers’ rights after Brexit**

**What’s the issue?**

A substantial proportion of UK health and safety regulations and workers’ rights originate from the EU and provide important protections for health care workers and their patients. For example, the Working Time Regulations (WTR) provide a framework to reduce fatigue within the nursing workforce, putting critical safeguards in place.

Without the WTR there would be almost no legal protection against long hours of work in the UK, and no legal requirements for rest or paid holiday.

The UK Government’s EU Withdrawal Act retains all existing laws and regulations that give effect to EU law within UK law. However, after Brexit, there is no guarantee that these laws and rights will be maintained. We are concerned that this UK Government, or future UK Governments will attempt to make changes to these important rights. Some legal commentators suggest that in the event of Brexit, substantial changes to, or wholesale revocation of, WTR is predictable.1

**Future protections developed at an EU level**

What is much less clear are the social rights relevant to employment which may arise in the future at EU level, and from which workers in the UK would not benefit in the event of Brexit (for example, if the current proposals to make changes to health and safety law or to strengthen the rights of parents and those with caring responsibilities lead to new EU legislation).1

**What does this mean?**

There is a clear link between the employment environment for NHS staff, including nurses and health care assistants, and the quality of patient care and patient safety.

We strongly supported the adoption of the WTR in the 1990s and subsequent updating of the regulation.2 Fatigue, long working hours, lack of rest breaks and poorly managed shift rotas are a risk factor that can impact on the health of nursing staff and patient safety.3

**Brexit scorecard**

We have rated progress on the RCN’s five priorities by RED, AMBER and GREEN.

Red indicates that there has been no firm commitment made by the UK Government on this issue and how to resolve it.

Amber indicates some UK commitment or statement but no agreement on practical application with the EU.

Green indicates a firm commitment from the UK Government and the EU including on practical implementation.

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1 www.tuc.org.uk/sites/default/files/Brexit%20Legal%20Opinion.pdf Michael Ford QC.

2 Royal College of Nursing, RCN response to the first-phase consultation of the social partners at European Union level under Article 154 of the TFEU. Available at: www.rcn.org.uk/___data/assets/pdf_file/0010/318493/Working_Time_Directive.pdf

**RED WARNING**

In the March 2018 publication of these scorecards, we rated this red because we were concerned that the UK Government had not guaranteed workers’ rights and health and safety regulations, which we all benefit from. The regulations protect the wellbeing of staff, and ensure that our workplaces are not dangerous, because risks are well managed.

We believe this must remain red as the most recent version of the EU Withdrawal Act no longer contains clauses on the protection of workers EU derived rights. This is to be set out in the forthcoming Employment Bill that has not yet been published and therefore, the position remains uncertain.

Therefore, we remain concerned because there is no guarantee that these laws and rights will be maintained and because we will lose protection afforded by the European Court of Justice’s jurisdiction.

Following Brexit, the UK must not allow these EU derived workers’ rights to diminish. We call on the UK Government and future Governments to be world leaders in workers’ rights and health and safety regulations. They should continue to maintain and enhance this legislation to keep pace with changing working patterns and workplace environments.

**What needs to happen?**

Legal protections in the workplace must mirror the regulatory standards adopted by other developed countries. The UK Government must show its commitment to promoting employment policy and practice which is attractive to skilled health care workers in the UK, from Europe and around the world.

So far, the Health and Safety Executive have maintained that current health and safety standards will stay the same during the transition period. However, there has been no commitment from the UK Government to protect health and safety regulations and ensure that they are reviewed and updated as new evidence emerges or to meet international standards.

Maintaining regulations and standards emanating from EU directives is essential to the protection of the nursing workforce. It is essential that worker’s rights remain as currently drafted, and are not amended.

**How can you help?**

Support EU nurses in your place of work and encourage them to join the RCN so that they have as much support as they need. Their voice is vitally important for our efforts to lobby the UK Government to treat them with respect and to guarantee their right to remain.

Lobby your local representative on this issue to protect employment rights and health and safety at work protections. This is the most effective way of holding the UK Government to account.

You can contact us to receive one of our ‘How to lobby’ toolkits, and you can speak to your country/regional office for support. You can find details of who your local MP is here: www.parliament.uk/get-involved/contact-your-mp/

**As the RCN we are:**

Holding meetings with UK Government Ministers to inform them of the benefits worker’s rights and health and safety regulations bring to society. In particular, their positive impact on keeping health care staff well, and patients safe.

We are also working constructively with the National Assembly for Wales, the Scottish Parliament and stakeholders in Northern Ireland to shape and influence these policy areas, so that members working across the devolved countries retain their rights in the workplace.

Want to provide feedback on this position? Email us at: papa.ukintl.dept@rcn.org.uk
What’s the issue?

**Important collaboration and exchange to combat global challenges**

The health and social care challenges that society is facing, such as antimicrobial resistance, infectious diseases and ageing populations, are global. They are not unique to the UK and know no borders. International collaboration and exchange increases the speed and likelihood of finding the solutions to these challenges, as well as adopting insight and innovation at faster rates.

For example, through international collaborative research and academic exchange, it is well evidenced that international research collaboration increases research excellence and mobility increases researcher productivity.¹

This type of collaboration can positively impact on attracting staff in higher education but also in the NHS workforce, particularly at higher and specialist levels.

Whilst many of these activities take place internationally beyond Europe, the EU has developed frameworks to ease collaboration and make it more effective, it also funds collaborative activities through its various programmes.²

We are very active, both bilaterally and through umbrella bodies in influencing, developing and implementing changes in policy and practice. As well as working in partnership with other nursing organisations for mutual benefit on issues such as addressing staffing levels and an ageing workforce to improve care in community settings.

What does this mean?

**EU funded research**

Despite numerous assurances from Government officials that Brexit will not impact on the UK’s attractiveness to the international workforce and guaranteeing, in the event of a no deal, money for EU programme-funded research and innovation projects agreed before the end of 2020³, there have been many warnings that in the event of no-deal:

- vital research links will be compromised, from new cancer treatments to technologies combating climate change
- world-leading academics and researchers may quit the UK for countries with access to EU funding programmes – or avoid coming here - without reassurances about replacing cash streams
- it would be an academic, cultural and scientific setback from which it would take decades to recover.⁴

The UK is currently expected to not be able to participate in the wider policy exchange mechanisms that the European Commission initiates and funds, in particular the Health Programme; an initiative which mandates the EU to protect public health. The UK is a global player in the fields of research, education and health – collaborating both within Europe and beyond – and there is now an opportunity to re-focus on this strength.

**Loss of EU structural funds**

We also have significant concerns about the future mechanisms for funding that will replace the EU Structural Funds. Wales is the region

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² For research, see for example, The Royal Society, UK research and the European Union. The role of the EU in international research collaboration and researcher mobility. Available at: https://royalsociety.org/topics-policy/projects/uk-research-and-european-union/

³ In the event of a no-deal Brexit, the UK government already guaranteed in August 2016 to underwrite successful Horizon 2020 grant applications for the full duration of projects. In July 2018, it was announced that this guarantee would be extended to cover all successful Horizon 2020 projects until the end of the programme, provided that the UK is eligible to participate as a third country.

of the UK which benefits the most from EU Structural Funds, receiving £680m a year in EU Funds. Cornwall is the only other area that receives structural funds.

The UK Government has promised to replace EU funding with the UK Shared Prosperity Fund. No details have yet been published on how this funding will be distributed across the UK, however, statements from the Secretary of State for Wales and the Prime Minister have indicated that this funding may be allocated directly to local authorities across the UK on a competitive basis.

The Welsh Government and the Wales Local Government Association are strongly opposed to this proposal. Firstly, it would mean the 22 local authorities of Wales being in direct competition with all local authorities across the UK regardless of need. Secondly, the criteria for the competition are most likely to be English local authority and social policy based which, in turn, would mean that Welsh local authorities will face a conflict between the Welsh Government policy and UK Government policy, potentially facing huge difficulty and hardship.

Even if the UK Government maintain their commitment to replace this funding, Wales could still lose £2.3 billion over the next six years. The anti-poverty coalition Communities in Charge has published a report showing a default spending pattern sees 7 UK regions lose out to London and the South East, with Wales suffering the greatest loss by far.

**Brexit scorecard**

We have rated progress on the RCN’s five priorities by RED, AMBER and GREEN.

- **Red** indicates that there has been no firm commitment made by the UK Government on this issue and how to resolve it.
- **Amber** indicates some UK commitment or statement but no agreement on practical application with the EU.
- **Green** indicates a firm commitment from the UK Government and the EU including on practical implementation.

5 https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8527

**RED WARNING**

We have rated this issue red because UK participation in EU research and exchange programmes has not been fully guaranteed by the Government after Brexit. There is still little information available on how replacement funds will operate post-Brexit and without that detail it is impossible to predict the precise impact.

**AMBER WARNING**

We have rated this issue amber because whatever the Brexit settlement, the RCN will continue to collaborate with other nursing organisations in Europe to improve nursing and health. However, UK organisations’ influence may be diminished within European alliances once the UK is no longer part of the EU’s formal policy making arrangements.

**What needs to happen?**

The cross-border nature of health and social care challenges must be considered in the continuing negotiations and access to funding and networks must be preserved wherever possible. In this context, domestic and international funding arrangements also need to be reviewed to ensure sustainability.

To date the UK Government has said that it will make sure EU funded research projects awarded under Horizon 2020 continue to receive funding, even if they carry on after Brexit. It has also affirmed EU students’ access to loans and postgraduate support through Research Council studentships for
The Government’s recent position paper on the successor research programme to Horizon 2020, does not guarantee that the UK will continue to contribute to this future EU Research and Development framework programme, but that it will discuss “possible options for our future participation”.

As the RCN we are:

Committed to continue working closely with other nursing organisations across Europe after Brexit, particularly through the European Federation of Nurses Associations (EFN) to lobby on health policies across Europe that impact on nursing, and share and learn from each other on education, practice and workforce issues.

Lobbying the UK Government for full association for the next framework programme, Horizon Europe, which is due to start on 1 January 2021. The proposal for this programme was published by the European Commission in June 2018, and leaves open the possibility of full UK participation as an associated country.

Highlighting with the wider health community the importance of the UK’s future participation in research collaboration and exchange post-Brexit.

Working constructively with the UK Government and Parliament, the National Assembly for Wales, the Scottish Parliament and stakeholders in Northern Ireland to shape and influence these issues, so that our members working across the devolved countries are heard.

How can you help?

Lobby your locally elected representative on this issue, for the UK’s continued participation in EU research and higher education exchange programmes post-Brexit.

This is the most effective way of holding the UK Government to account. You can contact us to receive one of our ‘How to lobby’ toolkits, and you can speak to your country/regional office for support. You can find details of who your local MP is here: www.parliament.uk/get-involved/contact-your-mp/

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The RCN represents nurses and nursing, promotes excellence in practice and shapes health policies

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