



**EUROPEAN UNION WITHDRAWAL
(EVALUATION OF EFFECTS ON HEALTH
AND SOCIAL CARE SECTORS) BILL (HC BILL
– NO. TBC)**

PRIVATE MEMBER'S BILL –
INTRODUCED BY BRENDAN O'HARA
MP – SECOND READING DEBATE ON 25
JANUARY 2019



Camphill Scotland
The membership body for Camphill communities in Scotland



BASW
Northern Ireland

The professional association for
social work and social workers



EUROPEAN UNION WITHDRAWAL (EVALUATION OF EFFECTS ON HEALTH AND SOCIAL CARE SECTORS) BILL - HOUSE OF COMMONS – PRIVATE MEMBER’S BILL - BRENDAN O’HARA MP

A Bill to make provision for an independent evaluation of the effects on the health and social care sectors of the United Kingdom’s withdrawal from European Union; and for connected purposes.

EUROPEAN UNION WITHDRAWAL (EVALUATION OF EFFECTS ON HEALTH AND SOCIAL CARE SECTORS) BILL (HC BILL – NO. TBC)

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TO

Make provision for an independent evaluation of the effects of the United Kingdom's withdrawal from European Union on the health and social care sectors; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Duty to make arrangements for an independent evaluation

- (1) The Secretary of State must make arrangements for an independent evaluation of the effects of the United Kingdom's withdrawal from European Union on the health and social care sectors.
- (2) The Secretary of State must appoint an independent person to undertake the evaluation ("the independent evaluator").
- (3) Before making that appointment, the Secretary of State must consult—
 - (a) the Scottish Ministers,
 - (b) the Welsh Ministers, and
 - (c) the relevant Northern Ireland departments.

2. Independent evaluation and report

- (1) The evaluation undertaken under section 1 must include analysis and an assessment of the effects of the United Kingdom's withdrawal from European Union on—
 - (a) funding of the health and social care sectors,
 - (b) the health and social care workforce,
 - (c) efficiency and effectiveness of the health and social care sectors, and
 - (d) any other relevant matters as the independent evaluator sees fit.
- (2) In undertaking the evaluation, the independent evaluator must consult—
 - (a) the Secretary of State,

- (b) the Scottish Ministers,
 - (b) the Welsh Ministers,
 - (c) the relevant Northern Ireland departments,
 - (d) providers of health and social care services,
 - (e) persons in need of health and social care services,
 - (f) representatives of persons requiring health and social care services, and
 - (g) any other relevant persons as the independent evaluator sees fit.
- (3) The independent evaluator must prepare a report on the evaluation for the Secretary of State.
- (4) The Secretary of State must lay that report before Parliament no later than [date/six months after this Act comes into force].

3. Interpretation

In this Act,

“Health and social care sectors” means [include whole of UK in here]

4. Extent, commencement and short title

- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) This Act comes into force on the day on which it is passed.
- (3) This Act may be cited as the European Union Withdrawal (Evaluation of Effects on Health and Social Care Sectors) Act 2018.

European Union Withdrawal (Evaluation of Effects on Health and Social Care Sectors) Bill (HC BILL – NO. TBC)

A

BILL

TO

Make provision for an independent evaluation of the effects of the United Kingdom's withdrawal from European Union on the health and social care sectors; and for connected purposes.

Presented by: Brendan O'Hara MP

Supported by [TBC]:

Ordered, by The House of Commons, to be Printed, [DATE TBC]

Effects of the European Union Withdrawal (Evaluation of Effects on Health and Social Care Sectors) Bill

The European Union Withdrawal (Evaluation of Effects on Health and Social Care Sectors) Bill (“the Bill”) would require an independent evaluation of the impact of the European Union (Withdrawal) Act 2018, and of Brexit, upon the health and social care sectors across the UK to be made after consulting the Secretary of State for Health and Social Care, the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department, service providers, those requiring health and social care services, and others. Section 2(4) of the Bill would require the Secretary of State, as soon as reasonably practicable after receiving a report of the evaluation undertaken under Section 1 of the Bill, to lay a copy of the report before both Houses of Parliament.

Supporters

The Bill is supported by the following organisations across the UK (at 7.12.18):

- The Health and Social Care Alliance Scotland (the ALLIANCE)
- Camphill Scotland
- Scottish Council of Voluntary Organisations (SCVO)
- British Association of Social Workers Northern Ireland
- Coalition of Care and Support Providers in Scotland (CCPS)
- Disability Wales
- Inclusion Scotland
- The Northern Ireland Council for Voluntary Action (NICVA)
- Queens Nursing Institute for Scotland (QNIS)
- Royal College of Nursing (RCN)
- Scottish Care
- Aberlour Child Care Trust
- ACVO
- Action for M.E.
- Action on Hearing Loss Scotland
- Advocard
- Age Scotland
- Angus Cardiac Group
- ASH Scotland
- Asthma and Allergy Foundation
- Badenoch & Strathspey Community Transport Co.
- Brittle Bone Society
- C-Change Scotland
- Chest, Heart and Stroke Scotland
- Children’s Hospices Across Scotland (CHAS)
- Community Pharmacy Scotland
- Compass Brain Injury Specialists

- COPE Scotland
- Deafblind Scotland
- Deaf Connections
- Disability Equality Scotland
- Disability Information Scotland
- ECAS
- Edinburgh Young Carers
- ENABLE Scotland
- Energy Action Scotland
- Engage Renfrewshire
- Engender
- Family Fund
- Fife Employment Access Trust
- Glasgow Council for the Voluntary Sector (GCVS)
- Haemophilia Scotland
- Human Rights Consortium Scotland
- Includem
- Independent Living Alternatives
- International Voluntary Service
- L'Arche
- Leonard Cheshire Scotland
- Light On The Path
- Mentor UK
- MND Scotland
- Multiple Sclerosis Centre, Mid Argyll
- Newmains Community Trust
- Nourish Scotland
- Nuture Scotland
- One Parent Families Scotland
- Parenting Across Scotland
- Parkinsons UK in Scotland
- Renfrewshire Access Panel
- Revive MS Support
- RNIB Scotland
- Royal Blind
- Royal College of Physicians of Edinburgh
- Scotland Versus Arthritis
- Scotland's National Carers Organisations (Carers Scotland, Carers Trust Scotland, Coalition of Carers in Scotland, Crossroads Caring Scotland, MECOPP (Minority Ethnic Carers of Older People Project), Shared Care Scotland and The Scottish Young Carers Service Alliance)
- Scottish Association of Social Work
- Scottish Independent Advocacy Alliance (SIAA)
- Scottish Partnership for Palliative Care
- Scottish Personal Assistant Employers' Network (SPAEN)

- Scottish Youth Parliament
- See Me
- SKS Scotland Community Interest Company
- Spinal Injuries Scotland
- Strive
- Talking Mats
- Turning Point Scotland
- Voluntary Action South Ayrshire (VASA)
- Voluntary Health Scotland (VHS)
- West Dunbartonshire Access Panel
- Western Isles Carers, Users and Supporters Network (WICUSN)

Reason

Camphill Scotland, the ALLIANCE, SCVO, CCPS, Disability Wales, Inclusion Scotland, NICVA, QNIS, the RCN, Scottish Care and the above organisations, totalling 86 [at 10.12.18] organisations across the UK, believe the Bill tabled by Brendan O’Hara MP is necessary to safeguard the interests of the many vulnerable people who rely on the contribution of EU citizens to the provision of health and social care across the 4 Nations. This includes people with disabilities, children and young people, older people, unpaid carers and those with long term health conditions.

The above Bill was lodged in the House of Commons by Brendan O’Hara MP on 14 November 2018 with cross party support. It is scheduled for debate on 25 January 2019. We are calling on MPs of all parties to support Brendan O’Hara MP’s private member’s bill.

Our organisations are aware that certain health and social care organisations rely very heavily on workers from other parts of the EU, and could not continue in their present form without that support. If they are allowed to fail, other parts of the health and social care system would need to fill those gaps. Across the health and social care workforce as a whole, EU citizens have made an increasing contribution to a sector that is currently suffering from a recruitment and retention crisis. Under these conditions it would seem prudent and responsible to ensure that a comprehensive, independent evaluation is undertaken across the UK to assess and determine the full impact of Brexit upon the health and social care sectors in each of the 4 Nations.

One of the key issues emphasised in a report¹ recently published by the ALLIANCE was the potential loss to the health and social care workforce of people from across the EU as a result of Brexit. It is feared that this could exacerbate the existing difficulties of recruitment. Workforce data published in September 2018 suggests there are 110,000 vacant social care posts in England² (a rise of 22,000 in the last year), and in Scotland the **Care Inspectorate** has

¹ http://www.alliance-scotland.org.uk/download/library/lib_57d8095f0f5d3/

² <https://www.skillsforcare.org.uk/NMDS-SC-intelligence/Workforce-intelligence/publications/The-state-of-the-adult-social-care-sector-and-workforce-in-England.aspx>

found that “more than a third of social care services across Scotland have reported unfilled staff vacancies in the past year”, and “almost half of those faced difficulty recruiting the right staff”³.

The proposed independent evaluation which would be introduced through the Bill could play a key role in supporting the health and social care sectors across the UK to address recruitment issues which are likely to be exacerbated by Brexit. It could, for example, provide an accurate assessment of the number of nationals from other EU countries currently employed in the health and social care sectors in each nation, the level of future vacancies linked to Brexit and any variations in these issues across the 4 Nations.

To put this in perspective, figures compiled for the Scottish Parliament suggest that the health and social work sector in Scotland currently employs 12,000 EU nationals, which accounts for 3% of total employment in this sector.⁴ In England an estimated 130,000 EU Nationals are working in health and social care⁵, and as at September 2015 “there were around 55,400 EU nationals working in NHS hospital and community health service in England - representing 5% of the overall workforce”⁶. Other statistics indicate that in England 8% of the adult social care workforce are EU Nationals⁷. Against this background, the evaluation implemented through the above Bill would ensure that future planning and decision making in the health and social care sectors in relation to recruitment and staffing are informed by UK wide assessments in these areas. This would include highlighting any key variations across the 4 Nations.

Organisations with strong European links are likely to be the most vulnerable as the UK leaves the EU. This is illustrated by a recent joint report⁸ published by Camphill Scotland, the membership organisation for the Camphill communities in Scotland, and by the Association of Camphill Communities, the umbrella organisation for the Camphill communities in the UK and in Ireland. The report highlighted that:

- A total of 170 (or 68%) of the 251 short-term volunteer co-workers currently living and working in Camphill communities in Scotland are from other EU countries
- Of the 165 people working as long term volunteer co-workers, a total of 88 (or 53%) are from other EU countries

Any future restrictions upon the future freedom of movement of EU nationals, and upon their current rights to live and work in the UK, could, therefore, have far reaching consequences

³ Care Inspectorate, Staff vacancies in care services 2016, (October 2017), <http://www.careinspectorate.com/images/documents/4091/Staff%20vacancies%20in%20care%20services%20in%202016%20-%20a%20statistical%20report.pdf>

⁴ Scottish Parliament Information Centre, Financial Scrutiny Unit Briefing: EU nationals living in Scotland, 3 November 2016.

⁵ NHS Confederation, 29 June 2016, The UK voted to leave the EU: what now for the NHS? Elisabetta Zanon.

⁶ NHS HSCIC NHS Staff Groups by Nationality September 2015

⁷ <https://www.skillsforcare.org.uk/NMDS-SC-intelligence/Workforce-intelligence/documents/State-of-the-adult-social-care-sector/The-state-of-the-adult-social-care-sector-and-workforce-2018.pdf>

⁸ <https://www.camphillscotland.org.uk/wp-content/uploads/2017/09/Brexit-survey.pdf>

for the Camphill communities in Scotland and on the education, care and support they currently provide for people with learning disabilities, and with other support needs. If Camphill is not able to provide this support, it will have to be provided by other social care organisations which may themselves be experiencing significant recruitment and retention issues.

The independent evaluation introduced through the proposed Bill could also consider the impact of Brexit on the funding of the health and social care sector, especially given concerns about how the UK's post-Brexit economic performance will potentially impact upon funding for the NHS, and for the health and social care sectors, across the 4 Nations.

Such concerns were reported⁹ by the ALLIANCE after consultation with their members in the health and social care sector in Scotland. The ALLIANCE'S recent report raised major concerns about the impact of Brexit and the potential loss of EU funding in the health and social care sector in Scotland, particularly to third sector organisations which have a key role in the provision of health and social care services and support. Any loss of funding, especially to third sector organisations, would place a further strain on the health and social care sector in Scotland, and in many other parts of the UK, where funding to such organisations is often temporary and uncertain.

Health and Social Care Alliance Scotland members have also expressed concern at the perceived impact of Brexit on the medicines they use on a daily basis, as well as the future development of new medicines as well as continued development of medical devices, which often require cross border collaboration. We note that the Government is working with the pharmaceutical sector and pharmacists to develop an approach in the event of "no deal" however, people continue to express concerns that their fears have yet to be alleviated.

The proposed evaluation could take a holistic and strategic approach to the issues raised here and to other areas such as the future of commissioning, research, regulation and collaborative working with the EU and with individual EU countries. It would help to ensure that the strategic planning and decision making of Governments, local authorities, the health and social care sectors, the third sector and other key agencies across the UK is fully informed and shaped by robust evidence - thus helping to secure the future of health and social care in the UK post Brexit.

Issues arising from the UK Government's response

The issues raised in the Bill were first considered by the House of Commons in response to an Amendment to the Brexit legislation tabled by Joanna Cherry MP with cross party support. This Amendment was narrowly defeated in the House of Commons in December 2017, and was subsequently tabled by Lord Stephen and by Baroness Jolly for further consideration by

⁹ http://www.alliance-scotland.org.uk/download/library/lib_57d8095f0f5d3/

the House of Lords. Unfortunately, the Minister of State at the Department for Exiting the European Union's, Lord Callanan's, response to the Amendment (No.353) during the Committee Stage of the European Union (Withdrawal) Bill was disappointing. The Minister's overall response to the Amendment failed to address the UK-wide issues raised by the Amendment, which underlines the need for the Bill to be passed. The proposed Bill seeks to pick up these issues, and to take forward the issues raised by the scrutiny of the Amendment in both Houses of the UK Parliament, particularly as the UK Government failed to adequately address these issues.

By way of further background, at Committee Stage the Minister told the House of Lords: *"The Government already keep NHS performance and health outcomes constantly under review, including through the NHS outcomes framework, which measures a number of health indicators intended to form an overarching picture of the current state of health and care services in England"*¹⁰. Significantly, the Amendment sought to impact assess the potential effects of Brexit on health and social care across the UK, whereas the Health indicators for England, referred to by the Minister at Committee Stage, only highlighted the general, quantitative statistics relating to certain conditions, and to the treatments provided specifically by NHS England. These indicators would, therefore, not (unlike the above Bill) provide the UK-wide statistics, which we believe will be essential to help inform the long term planning and decision making in the health and social care sectors post-Brexit.

Furthermore, Amendment No.353 in the names of Lord Stephen and Baroness Jolly highlighted specific, projected impacts on health and social care across the UK. These UK-wide impacts would not, however, be measured by any of the data collected through the NHS outcomes framework referred to by the Minister, Lord Callanan, in his speech at Committee Stage. This would include the future stability of the social care workforce post-Brexit, which will potentially have a major impact on the safe running of not just home care, but also of acute services, across the UK.

In this respect, we note that the Minister expressed the view that he did not think *"there is any large-scale exodus of health service staff"*¹¹. While there may currently be no large-scale exodus, it is clear that the numbers of potential staff members coming from EU countries, and who are required to keep the NHS functioning at the same level, are falling. In July 2017, for example, the Nursing and Midwifery Council reported that the number of nurses from the EU registering to work in the UK had dropped by 96% in the 12 months after the Brexit vote. Furthermore, this is in addition to the existing shortages in the number of nurses across the UK.

¹⁰ House of Lords, HANSARD, 26 February 2018, Col.452, [https://hansard.parliament.uk/Lords/2018-02-26/debates/63E4A5E5-118C-49CA-97DF-9EF25C7107E2/EuropeanUnion\(Withdrawal\)Bill](https://hansard.parliament.uk/Lords/2018-02-26/debates/63E4A5E5-118C-49CA-97DF-9EF25C7107E2/EuropeanUnion(Withdrawal)Bill)

¹¹ House of Lords, HANSARD, 26 February 2018, Col.452, [https://hansard.parliament.uk/Lords/2018-02-26/debates/63E4A5E5-118C-49CA-97DF-9EF25C7107E2/EuropeanUnion\(Withdrawal\)Bill](https://hansard.parliament.uk/Lords/2018-02-26/debates/63E4A5E5-118C-49CA-97DF-9EF25C7107E2/EuropeanUnion(Withdrawal)Bill)

Against this background, our organisations believe that the need for an independent evaluation of the impact of Brexit upon the health and social care sectors through the Bill is absolutely vital. Rather than creating “unwelcome new burdens” as the Minister suggested at Committee Stage in response to Amendment No.353, such an evaluation would allow Governments, local authorities, Health and other key agencies across the UK to consider, and to mitigate, the worst impacts of Brexit upon the health and social care sectors, and to start addressing longer term concerns regarding the future sustainability of the NHS, and of health and social care, in each of the 4 Nations.

DRAFT

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