

BOARD OF DIRECTORS MEETING (Open)

Date: 13 February 2019

Item Ref:

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TITLE OF PAPER	EU Exit
TO BE PRESENTED BY	Clive Clarke, Deputy Chief Executive/Director of Operations
ACTION REQUIRED	To report on work being conducted nationally, regionally and in-house to prepare for a 'no deal' EU Exit.

OUTCOME	Further activity from NHS England and NHS Improvement with demands expected to accelerate as we approach 29 March 2019.
TIMETABLE FOR DECISION	Not applicable
LINKS TO OTHER KEY REPORTS / DECISIONS	Link Executive Directors Group Presentation on 3 January 2019 and Audit Committee Report 22 January 2019
STRATEGIC AIM STRATEGIC OBJECTIVE	Quality and Safety Deliver safe care at all times
BAF RISK NUMBER & DESCRIPTION	A102ii Inability to provide assurance regarding improvement in the safety of patient care.
LINKS TO NHS CONSTITUTION & OTHER RELEVANT FRAMEWORKS, RISK, OUTCOMES ETC	NHS England's nine work streams of risk for the NHS and EU Exit Operational Readiness Guidance issued by the DHSC on 21 December 2018.
IMPLICATIONS FOR SERVICE DELIVERY & FINANCIAL IMPACT	Main implications: Medicine and medical device supply Workforce Recognition of Professional qualifications Support for Service Users who are EU citizens
CONSIDERATION OF LEGAL ISSUES	Central Government requirement that EU citizens register under the Settlement/Pre-settlement scheme between 21 January 2019 and 31 December 2020 should they wish to have their rights protected to remain the UK.

Author of Report	Terry Geraghty
Designation	Emergency Planning Manager
Date of Report	30 January 2019

SUMMARY REPORT

Report to: BOARD OF DIRECTORS

Subject: EU Exit

Author: Terry Geraghty, Emergency Planning Manager

1. Purpose

<i>For Approval</i>	<i>For a collective decision</i>	<i>To report progress</i>	<i>To seek input from</i>	<i>For information</i>	<i>Other (please state below)</i>
				X	

2. Summary

Leaving the European Union

The United Kingdom (UK) voted to leave the European Union (EU) and is scheduled to depart at 23.00 UK time on Friday 29 March, 2019.

Department of Health and Social Care

The Department of Health and Social Care (DHSC) released a statement updated 14 September 2018 which stated:

“A scenario in which the UK leaves the EU without agreement (a ‘no deal’ scenario) remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome. Negotiations are progressing well and both we and the EU continue to work hard to seek a positive deal. However, it’s our duty as a responsible Government to prepare for all eventualities, including ‘no deal’, until we can be certain of the outcome of those negotiations.

For two years the Government has been implementing a significant programme of work to ensure the UK will be ready from day one in all scenarios, including a potential ‘no deal’ outcome in March 2019. Effectively, plans are to cover three months response and three months recovery.

It has always been the case that, as we get nearer to March 2019, preparations for a ‘no deal’ scenario would have to be accelerated. The Government stress this accelerated activity does not reflect an increased likelihood of a ‘no deal’ outcome. Rather, it is about ensuring our plans are in place in the unlikely scenario that they need to be relied upon.”

European Transition Unit

NHS Improvement established a European Transition Unit (NHS ETU) to examine risks relating to EU Exit nationally. The unit works with UK and EU organisations who supply to the NHS to ensure supplies continue post 29 March 2019. In respect of medicines and medical devices this included a Medicines and Medical Devices and Clinical Consumables Supply Contingency Planning Programme. They are stockpiling a 6 week supply to assist the transition and to stop Trusts individually stockpiling.

In respect of vaccines, Public Health England are leading a separate programme to ensure the continuity of supply for centrally procured vaccines and other products that are distributed to the NHS for the UK National Immunisation Programme or used for urgent public health use.

NHS ETU has identified nine key areas of risk:

1. Workforce
2. Reciprocal Healthcare
3. Research & Development
4. Operations (contracted and delivered by European partners)
5. Supply Chain
6. Procurement & Competition
7. EPRR, Health Protection & Public health
8. Medicine & Device Regulation
9. IG & Data Sharing

Operational Support

NHS England set up an Operational Support Structure during December 2018 that is now live until June 2019. This includes a Control Centre to address NHS operational issues. There is a central team, together with regional teams. They have suggested Trusts may want to consider staffing their own EU Exit team.

It is expected that there will be a requirement for Trusts to send regular EU Exit situation reports (Sitreps).

A letter, together with a Document titled 'EU Exit Operational readiness Guidance' was published by the DHSC on 21 December 2018 and sent to all NHS Providers including GP Surgeries and Clinical Commissioning Groups (CCG's). The guidance informs all providers that they 'must consider and plan for the risks that may arise due to a 'no deal' exit.' It provides a deadline for this work of 31 January 2019 and furthermore, that existing business continuity and incident management plans must be tested against EU Exit risk assessment scenarios by the end of February 2019.

It specifies seven of the nine original risk areas shown above, removing EPRR, Health Protection & Public Health and Operations.

A Communication strategy for a no deal EU Exit is at Cabinet level. Trusts should utilise existing communication lines for raising concerns.

Trusts are also being advised to contextualise a no deal EU Exit into Business Continuity Plans.

An email address has been provided that includes the Yorkshire and Humber region, being England.euexitnortheast@nhs.net

This guidance was anticipated by the Trust and much of the work required had already been completed by 20 December 2018. Trust nominated workstream leads received the guidance to assess against their identified risks and the preparations in place to mitigate.

Of note is references such as 'Be ready for further operational guidance'.

EU Citizens

The Government announced that EU Citizens living and working in the UK presently, together with their families, will be able to stay and the NHS can continue to recruit suitably qualified healthcare staff from the EU.

However, all EU citizens, with the exception of Irish citizens to whom these arrangements do not apply, will be required to apply under the EU Settlement Scheme in order to do so. There are two tiers – those who have resided in the UK for over 5 years who can apply for full settlement status; those less than 5 years for pre-settlement status. The process to register is simple and largely digital and is now free.

There was a short pilot of the system for Health & Social Care staff applications from 26 November 2018 until 21 December 2018. Applications from the general public opened on 21 January 2019. The application period ends for all EU citizens on 31 December 2020.

EU Borders

In October 2018, medicine and medical device supply companies, together with NHS Providers who formed a Brexit Health Alliance wrote to the Secretary of State of Health & Social Care stating that in their view, the stockpiling arrangements are inadequate, that it is envisaged supply in to UK ports from the EU will be at 12% of present capacity for some time and that they consider the risk to be at 'Red'.

In his letter of 7 December 2018, the Secretary of State advised that, whilst work is proceeding well on the UK side to ensure goods can continue to flow into the country and will not be delayed by additional controls and checks, the European Commission have 'made it clear that, in the event of a no deal scenario, it will impose full third country controls on people and goods entering the EU from the UK.' Cross-government planning assumptions have been revised to prepare for the potential impacts this would have.

On the same day, the Secretary of State sent letters to suppliers of medicines, medical devices and consumables informing them of the EU Border concerns and stating that, the six week stockpiling remains critical but he recognises additional action is now needed to address their supply concerns.

Separately, the Ministry of Housing, Communities and Local Government (MHCLG) are revising their fuel plan, should this become an issue.

Local Resilience Forums

The four Local Resilience Forums across Yorkshire have been co-ordinating efforts to assess the broader impacts of EU Exit. They currently hold a monthly strategy meeting in order to continually assess the potential impact.

Their planning assumptions to date for a reasonable worst case scenario are as follows:

Travel, Freight & Borders

- There may be significant delays for freight transiting via Dover, Eurotunnel and Holyhead as Member state controls will cause delays which affect flow in both outbound and inbound. Other ports may generally be less impacted. This will mean significant disruption for up to 12 weeks, potentially longer, to the flow of goods both into and out of the UK, and there could be a reduction in capacity for much longer on these routes.
- UK air carriers may not be able to fly to the EU until agreements with member states are in force. EU carriers will continue to operate across Europe and the UK.
- UK nationals will lose their EU citizenship, removing rights to residency and essential services including non-emergency healthcare, and will become third country nationals. EU citizens living in the UK retain all rights and status that they were entitled to prior to exit from the EU (subject to EU Settlement Scheme application).

Disruption of Services

- Demand for energy will be met
- Stockpiled medicines and medical equipment will meet the immediate short term demand, but challenges may increase the longer the border disruption continues.
- There will not be an overall shortage of food in the UK but it is likely there will be a reduction in choice.
- The behaviour of private sector companies will be governed by commercial considerations, unless influenced otherwise.
- Cross-border UK-EU financial services may be disrupted.

Information & Data Sharing

- The EU will not have made a data protection adequacy agreement with the UK before exit. This could disrupt the flow of personal data due to new legal requirements.
- Law enforcement data and security/intelligence sharing between UK and EU may be disrupted in its current form.

Demonstrations and Disorder

- Demonstrations are likely to take place across the UK and may absorb significant amounts of police resource. There may be a rise in public disorder.
- EU Exit - SHSC Preparations

Increased Risks

As a result of the current lack of detail on the terms, and the resultant impact of the withdrawal of the UK from the EU, there is a potential for increased risk to the business continuity provision of the NHS and SHSC operational services during, and after the EU Exit transition period.

There is no confirmed national or local guidance on the likely or realistic impact of EU Exit on the NHS or SHSC. Speculation to date has suggested that likely risks may include:

- The availability of pharmaceuticals and supplies imported from the EU;
- EU staff working in the NHS may choose to leave the UK or employment arrangements may change;
- Food and energy supplies may be compromised;
- EU law associated with risk and IG, or contracts with multi-national organisations, may be thrown into doubt;

Trust Approach

Work required in the Guidance from NHS England was completed before their 31 January 2019 deadline. This included risk assessing to identify the impacts which may affect SHSC, in order that arrangements may be put in place to prepare for the consequences of differing scenarios (including a no deal outcome); updating the Trust Business Continuity Plan to include EU Exit and informing all staff of work being undertaken.

Additionally, NHS Improvement required Procurement to submit a Demand Capture statement to NHS Supply Chain by 31 January, informing them of any increases in demand for products from NHS Supply Chain caused by disruption in the supply chain due to EU Exit (basically, where we could not be confident that an existing 3rd party supplier would be able to supply products, therefore moving the demand for those products to NHS Supply Chain). This is to enable NHS Supply Chain to build its resilience and ensure continuity of supply.

Our response was to the effect that, as the majority of our expenditure on products is already sourced via NHS Supply Chain, we do not anticipate any significant increases in current demand patterns.

3 Next Steps

All risks associated with the UK exit from the EU will continue to be monitored and escalated in line with the Trust Risk Management Strategy.

The work is being progressed by leads across the Trust who have been tasked with identifying risks and issues for their areas of work – covering each of the nine risk areas originally identified by the NHS ETU.

Leads have been asked to work in partnership with professional colleagues and peers at other organisations where appropriate, to ensure that issues affecting all NHS organisations are considered and to ensure that efforts are not duplicated.

Specifically leads have been requested to:

- Identify the impact of the risks to the Trust associated with the UK leaving the EU;
- Develop plans to mitigate and reduce identified risks;
- Update or add risks to the Trust's Corporate risk register as appropriate;
- Re-assess initial impact against the guidance issued on 21 December 2018.

A specific shared email address has been set up and communicated to the NHS England regional team. The address is accessible to all workstream leads, Chief Executive, Deputy Chief Executive and Director of Corporate Governance. The purpose is to ensure that all EU Exit correspondence from NHS England and NHS Improvement is readily available. The address is EUEXIT@shsc.nhs.uk

4 Required Actions

- i) To assess staffing levels and resilience around 29 March 2019.
- ii) To exercise EU Exit plans by 28 February 2019. This is currently being planned and will be completed before the deadline.

5 Monitoring Arrangements

The Trust's Emergency Planning Manager continues to network with Emergency planning colleagues, with an aim to work in partnership where possible, on EU Exit preparations for the NHS.

The Trust's Accountable Emergency Officer and Emergency Planning Manager will monitor information from the NHS ETU through the Yorkshire and Humber Local Health Resilience Partnership, to keep abreast of likely areas of impact on service delivery.

The Deputy Chief Executive is the nominated Senior Responsible Officer for the Trust on EU Exit matters and is working with the Director of Corporate Governance (Board Secretary) and the Emergency Planning Manager. It has been recognised that should the demands for situation reports from the newly formed Operational Support Structure of NHS England be required a SHSC EU Exit Group will be established. This will include the Trust's Information lead as the single point of contact for sending situation reports on the new SDCS system operated by NHS England which only allows access to two people per Trust.

Trust EU exit preparations will continue to be monitored by EDG and Audit Committee.

6 Contact Details

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