

**Department of Health appearance before Oireachtas Joint Committee on Health
24 January 2018**

Opening Statement

Introduction

Thank you, Chairman. I would like to begin by thanking the Committee for inviting the Department of Health to talk about the implications for the health sector of the United Kingdom's decision to withdraw from the European Union.

I will introduce myself and my colleagues. I am Muiris O'Connor, Assistant Secretary in charge of the Research & Development and Health Analytics Division in the Department of Health. I am joined by Kieran Smyth, Judith Szlovak and Sean Howlett from the International Unit in my Division.

I will begin by outlining the programme of work undertaken by the Department of Health and developments since our last appearance before this Committee. I will discuss objectives at that time and what has been done to meet those objectives, specifically the Department's response to the recommendations made by the Committee in its report.

I will also use my opening statement to outline the Department's current objectives and work programme.

Developments since the Department's last appearance before the Committee

To start with the developments since our last meeting: these provide the context for both the objectives we have met and the current work at hand with regard to the implications of Brexit for the health sector.

The Minister of Health and the Department of Health lead on dealing with health related issues involving Brexit. In this capacity we feed into the Government response and negotiations led by the Department of Foreign Affairs and Trade. We also oversee and co-ordinate the work of the HSE and other agencies in the health sector in dealing with the many challenges resulting from Brexit.

I should say that work at Cabinet level is being prepared through cross-Departmental coordination structures. These represent a frequent and active channel through which Departments are providing their research, analysis and overall policy input to the Government's wider response to Brexit, including its priorities for the on-going negotiations between the EU and the UK.

[Commitment on maintenance of the CTA]

For the Department of Health, the maintenance of the CTA was identified as a vital component in avoiding disruption to our health services as a consequence of Brexit.

The Department of Health fully supported the Government in the intensive work with the EU Taskforce and EU partners to ensure that the CTA issue, along with Ireland's other unique concerns, was fully understood and reflected in the EU's negotiation position.

It was this level of co-operation, of which we were a part, that helped yield results in December. The Joint Report from the EU and UK negotiators of 8 December includes a recognition that Ireland and the UK can continue to make bilateral arrangements between themselves relating to the movement of people between their territories (Common Travel Area), while respecting Ireland's EU obligations.

There is a commitment to the continuation of the Common Travel Area and Associated Rights. In plain terms, this means that across sectors including health there will be no change in the right of Irish citizens to move freely North and South, East and West, and to live, work, study and access health and social benefits in the UK on the same basis as UK citizens. Reciprocal arrangements will apply to UK citizens in Ireland.

Particularly important from a Department of Health perspective is this commitment on the maintenance of the Common Travel Area in terms of access to healthcare and allowing the freedom of movement that we currently have for Irish and UK citizens.

I would like to outline the Department of Health's important role in the work on maintaining the CTA.

The Department of Health worked successfully within the cross-cutting Government structures to ensure that the rationale for reciprocal health entitlements and health cooperation being a core part of the CTA was understood and accepted. Ensuring the EU and the UK including Northern Ireland had a common understanding of the health dimensions of the CTA and of their importance was a key objective for the Department. The Department has been involved in bilateral discussions with the UK and Northern Ireland counterparts, firstly, to ensure that there was a shared understanding of the health aspects of the CTA and, secondly, in order to reach agreement at a high level on maintaining them. Now that a high level agreement has been reached on maintaining the health aspects of the CTA, the Department will undertake further detailed work with the UK including the steps necessary to maintain the existing arrangements. The Department has also worked closely with the Department of Foreign Affairs and Trade to ensure that the EU has had a full understanding of what was involved and of its importance in the context of the first phase of the EU-UK negotiations.

[Commitment on no hard border and regulatory alignment]

Since we were here the last time, the Government secured clear and strong commitments on the border. The UK has given a guarantee that a hard border, including any physical infrastructure and associated checks and controls, will be avoided and has committed to how this will be achieved. The UK's intention is to achieve this through the wider EU-UK future relationship agreement, which is also our preference, or through specific solutions.

If these do not deliver on the overarching commitment of avoiding a hard border, the UK has committed to maintaining full alignment with those rules of the Internal Market and the Customs Union necessary to protect North South cooperation, the all-island economy and the Good Friday Agreement.

As members of the Committee will know health is a very significant focus for North South co-operation, so clearly this commitment is important across a range of issues including food safety, procurement, and regulation of medicines.

This is welcome and the Department of Health is now deepening its engagement with other Departments, the HSE, the Healthcare Products Regulatory Authority and the Food Safety Authority of Ireland to ensure that detailed health issues are covered fully.

[Commitment on EU-UK citizens' rights]

The agreement on citizens' rights in December is also important from a health perspective. This agreement means that the rights of EU citizens already living in the United Kingdom and UK citizens already living in the EU27, who meet the qualifying residency criteria will remain the same after the United Kingdom has left the EU. In effect this means for, example, that a qualifying Irish person resident in the UK at the date of withdrawal will continue to have a right to access healthcare after the UK has left the EU.

[The Withdrawal Agreement]

Importantly, the European Council guidelines agreed last month underline that negotiations in phase two can only progress as long as all commitments undertaken during the first phase are respected in full and translated faithfully into legal terms as quickly as possible. This includes the commitments on protecting the Good Friday Agreement in all its parts and avoiding a hard border, as well as on maintaining the Common Travel Area. In the next phase of the negotiations, the EU and the UK will proceed to ensure that these commitments and guarantees are reflected in the Withdrawal Agreement, which will be legally binding.

There are two key messages we would like to give from a health perspective. First, that currently there are no changes to patient care, as the UK continues to be a full member of the EU. Indeed it is important to reiterate that, until the UK formally withdraws from the European Union, it remains a full Member with all of its existing rights and obligations. Secondly, that we have, in principle, through securing agreement on the Common Travel Area, avoided the worst case scenario, so long as the commitments are followed through including the detailed work to maintain the operational arrangements in this next phase.

Department of Health's response to the Committee's recommendations

The Department welcomed the report produced by the Committee following our last appearance on 8 March last year. It not only captured the key issues but raised awareness among stakeholders of the importance of Brexit for health.

The Committee made seven recommendations to the Department of Health in its report. I would like at this point to provide a response to these and hope to show how these recommendations have been addressed.

1. First, the Committee recommended: *That the Department of Health conduct full capture and reporting of the number of people resident in Ireland using the Treatment Abroad Scheme or Cross Border Directive to avail of healthcare in the UK in recent years, and consideration be given to creating alternatives to these schemes for such cases.*

- The Department of Health forwarded a report on *Information on the Cross Border Directive and Treatment Abroad Scheme* to the Committee on 29 June 2017. We sent an updated version of the report based on the latest available data to the Committee in advance of this meeting.
 - Regarding the Cross Border Directive, the latest figures available for 2017 show that 2011 applications were reimbursed, of which 1741 (86%) accessed treatment in the UK and, of this number, 1660 accessed treatment in Northern Ireland (the vast majority of these [77%] were outpatient procedures).
 - Regarding the Treatment Abroad Scheme, the latest figures available for 2017 show that there were 632 approved applications, of which 565 (89%) were in the UK and, of this number, 20 were in Northern Ireland.
 - Whether, or how, services under these EU instruments will continue to be available to Irish citizens accessing these services in the UK will depend on the outcome of the EU-UK negotiations, including whether or not there is a transition period.
 - The commitment in principle to continue long established arrangements between Ireland and the UK on health co-operation under the Common Travel Area and Associated Rights, such as specialist consultant referrals, is allowing the bilateral dimensions of these issues to be fully examined with the UK.
 - It is important to note that under the Cross Border Directive and the Treatment Abroad Scheme, both of these EU provisions will continue to apply to Irish patients within the wider EU/EEA area post-Brexit.
2. Secondly, the Committee recommended: *That the Department of Health make an informed estimate of the total number of residents of Ireland who receive healthcare in the United Kingdom each year, and plan for alternative provision of that care, in case availing of healthcare in the United Kingdom becomes significantly more difficult.*
- The agreement reached on maintaining the Common Travel Area and Associated Rights is important in this context as it allows Irish citizens to travel freely to the UK (and vice versa).
 - The further technical work, conducted by the Department of Health with its UK and Northern Ireland counterparts, on the maintenance of bilateral health co-operation under the Common Travel Area and Associated Rights referred to earlier is allowing these issues to be fully examined.
3. Thirdly, the Committee recommended that: *In the case of the introduction of border checks between Ireland and Northern Ireland, devise a system to ensure that border checks do not cause delays to travel for healthcare purposes, as such delays could impact negatively on health outcomes.*
- As I mentioned, the Government has secured clear and strong commitments on the issue of the border. The UK has given a guarantee that a hard border, including any physical infrastructure and associated checks and controls, will be avoided and has

committed to how this will be achieved. The UK's intention is to achieve this through the wider EU-UK future relationship agreement, which is also our preference, or through specific solutions.

- If these do not deliver on the overarching commitment of avoiding a hard border, the UK has committed to maintaining full alignment with those rules of the Internal Market and the Customs Union necessary to protect North South cooperation, the all-island economy and the Good Friday Agreement.
- This will allow uninterrupted travel across the border which has been a concern for health workers and patients crossing the border.
- The Department of Health identified key services which have a cross border dimension and there is on-going work at examining the various EU regulations that apply in the two jurisdictions in the context of maintaining regulatory alignment, with a view to ensuring continuity of the health service provision we have now and want to develop into the future.

4. Fourthly, the Committee recommended that the Department: *Ensure the continuation of cross border healthcare agreements which are working well and saving lives, even in the case of significantly curtailed freedom of movement.*

- The agreement that has been reached on the continuation of the Common Travel Area and Associated Rights as it currently operates is important in this context as arrangements for Irish citizens to freely travel to the UK, including Northern Ireland (and vice versa) will be maintained.
- That agreement also facilitates the maintenance of the extensive co-operation on health that takes place between Ireland and the UK on a North South and an East West basis. While further detailed work needs to be undertaken in this context, between the Department of Health and counterparts in the UK and Northern Ireland, both sides are committed to maintaining bilateral health service co-operation.

5. Fifthly, the Committee recommended that the Department: *Pursue further cooperation with Northern Ireland in terms of public health policy, health promotion and health research, despite the UK's impending withdrawal from the EU.*

- The Department of Health continues to deepen and develop cooperation on health with cross border stakeholders and the Department of Health in Northern Ireland in relation to these and other areas.
- Certainly we need to be cognisant of the impact of Brexit in this context.
- Regarding public health policy, we have a very strong track record of cooperation around services, for example: the new Radiotherapy Unit at Altnagelvin Hospital in Derry, which offers cancer patients from Donegal access to radiotherapy across the border in Derry, reducing their travel time significantly; the new Hybrid Cardiac Catheterisation Laboratory which opened at Crumlin Hospital in Dublin in July 2016 and provides emergency surgery to babies born with congenital heart disease in

Northern Ireland; and the Primary Percutaneous coronary intervention (pPCI) services in Altnagelvin hospital to which Donegal patients having a STEMI heart attack now have 24/7 access. Work has taken place under the North South Ministerial Council to identify further opportunities. Contacts continue and are positioned to develop further in the context of the re-establishment of the Executive.

- Irish researchers and research funding agencies have developed much collaboration internationally which provides important opportunities to leverage expertise and funding, to develop joint working between researchers within academia and with industry, and to collectively tackle major health challenges. There is currently a significant level of engagement between the UK and Ireland, for example through funding programmes, policy initiatives and organisational memberships. Indeed EU INTERREG funding has been a key enabler of North South health cooperation.
 - The Department is committed to the successful completion of the 2014-2020 Programmes which have been beneficial in the health area and are feeding into the process in place of having successor programmes post-2020. This objective was reflected in paragraph 55 of the Joint Report of the European Commission and the UK on progress during Phase 1 of the Brexit negotiations (8 December 2017) which stated: *Both Parties will honour their commitments to the PEACE and INTERREG funding programmes under the current multi-annual financial framework. Possibilities for future support will be examined favourably.*
 - Of course, paragraph 49 of the Joint Report, to which I have already referred, is also highly significant in terms of safeguarding North South cooperation. It states that “*the United Kingdom remains committed to protecting North-South cooperation and to its guarantee of avoiding a hard border*” and that “*any future arrangements must be compatible with these overarching requirements*”.
6. Sixthly, the Committee recommended that the Department: *Minimise disruption which could be caused by divergence in registration and recognition of health workers across jurisdictions.*
- The Department of Health acknowledges the importance of the issue of the mutual recognition of health professional qualifications, which is a part of the wider issue of the mutual recognition of qualifications more generally. It has been engaging with the professional bodies such as the Medical Council and CORU which regulate health and social care professionals on the issue.
 - The agreement achieved on citizens’ rights in the Joint Report has addressed one aspect of the recognition of qualifications. Paragraph 32 provides for the “grandfathering” of qualifications which were recognised before the withdrawal date or where applications are in process on that date. This means that qualifications recognised before the withdrawal date remain recognised for those EU citizens resident in the UK and for UK citizens resident in a Member State.
 - The Department of Health is working closely with the Department of Foreign Affairs and Trade, the Department of Education and Skills and other Departments to see how

best the issue of the mutual recognition of qualifications (not covered under the Joint Report) may be advanced.

7. Seventhly, the Committee recommended that the Department: *Minimise disruption which could be caused by divergence in regulation of medical products across jurisdictions.*

- The Department of Health regards this as a key priority. To this end the Department is working with the Healthcare Products Regulatory Authority (the HPRA) which has responsibility for safety of medicines and the HSE on the issue.
- It is important to note that the regulation of medicines and medical devices is very much a European concern, rather than a purely national concern. While our national regulator, the Health Products Regulatory Authority (HPRA), has been very active in preparing for Brexit and its implications for medicines availability in Ireland, it is also very much plugged into the EU regulatory system via the European Medicines Agency (EMA), the Heads of Medicines Agencies (HMA) network and its strong relationships with other national regulators.
- The HPRA is strongly represented at both the EMA and HMA, and its input into the Brexit preparations of both these organisations provides an opportunity to ensure that the particular needs of the Irish market are recognised and addressed at European level.
- The HPRA enjoys a particularly strong working relationship with its UK counterpart, the Medicines and Healthcare products Regulatory Agency (MHRA), and fully intends to maintain this relationship both before and after Brexit. Just last week, the MHRA issued a statement to pharmaceutical companies on its preparations for Brexit, clarifying that the UK's position on medicines regulation is that it will continue to work closely with its European partners in the interests of public health and safety.
- This follows on from the Joint Report presented by the EU and UK on phase 1 of the negotiations, which made clear that goods placed on the market under Union law before withdrawal will be allowed to remain on the markets of the UK and EU without modification or re-labelling. Although these commitments do not come close to addressing all the challenges we face in terms of the supply and availability of medicinal products, they are certainly helpful and encouraging. Further issues will need to be addressed in the context of the EU-UK negotiations.
- At a national level, the HPRA is taking a proactive approach to Brexit preparations, with a focus on protecting the availability of medicines for Irish patients and the integrity of our medicines market, even if the UK fully exits current regulatory systems in March 2019. Over the past year, the HPRA has stepped up its engagement with pharma companies and other stakeholders, offering practical support in managing the regulatory challenges of Brexit. Among other measures, the HPRA is investigating opportunities for joint labelling of medicines with other markets, increasing its commitment to medicine assessments within the centralised EU network, and working directly with companies looking to transfer some or all of their operations to Ireland.

- The EU's negotiating position also reflects that the Withdrawal Agreement should address issues arising from Ireland's unique geographic situation, including transit of goods (to and from Ireland via the United Kingdom). Discussion on the land bridge, which is an important issue for the pharma and medical devices sector, are continuing during phase 2 as part of the Irish-specific strand of issues and the Department of Health will continue to play its role in this context.

Current objectives and work programme

Regarding our current objectives and work programme, it is noted that the next phase of the negotiations will see an intensification of preparations for the discussions on the framework for a future EU-UK relationship. This is hugely important for Ireland. The European Council Guidelines reaffirm the EU's desire to establish a close partnership with the UK. This is in line with Ireland's objective of having the closest possible relationship between the EU and the UK.

[Contingency planning]

The Department of Health will continue to prepare for the UK's exit, as part of and in parallel to work in Brussels. This includes contingency planning for all possible scenarios.

Brexit is specifically identified in our business planning process. The Department's Management Board and its Subcommittee on Brexit continually review the implications of Brexit.

Brexit is also specifically identified in the HSE's Service Plan for 2018. The HSE has established a steering group to prepare for the UK's withdrawal from the EU and their EU / North South Unit has taken on the project management for this process. Work streams have been established under the Brexit Preparation Programme including eligibility, supply of goods and services, cross-border health services, public health, regulatory standards and workforce. This entails input from all parts of the HSE and close co-operation with the Department of Health, as part of wider cross-governmental work being co-ordinated by the Department of Foreign Affairs and Trade.

The Department of Health, the HSE (Health Services Executive), the HPRA (Health Products Regulatory Authority) and other agencies are continuing to conduct analysis, preparations and contingency planning to mitigate the possible impacts of Brexit on the health sector. This feeds into the cross-Departmental work being led by the Department of Foreign Affairs and Trade.

A range of issues will need to be discussed such as food safety and availability of medicines. Some of the issues are cross-cutting in nature and concern the work of many if not all Government Departments, such as procurement and data protection.

Following last month's agreement that the CTA can continue, work is on-going with a view to ensuring that the arrangement and its associated rights and entitlements, including in the health area, will remain effective and function at a practical level post-Brexit.

The UK has committed to maintaining full alignment with those rules of the Internal Market and the Customs Union necessary to protect North South cooperation, the all-island economy

and the Good Friday Agreement. How exactly this will work will be the subject of the UK-EU negotiations as the process moves into the next phase.

[Importance of stakeholder consultation]

Engagement with stakeholders is an important pillar of the Government's domestic response. Within the framework of the All-Island Civic Dialogue, three plenary dialogues and twenty sectoral dialogues have taken place in locations across the country.

Since we were here last we have intensified engagement with stakeholders. Minister Harris convened an All-island civic dialogue on 'Brexit - implications for cross-border health co-operation' in Dundalk on 8 September 2017 to discuss and share views on the possible implications of Brexit. The sectoral dialogue meeting was well attended with over 80 participants from the North and South. Participants included representatives from health service delivery agencies, service commissioners, business associations, patient representative organisations, local authorities and non-governmental organisations active in the health and social care area. Minister Harris gave the opening address at the dialogue and participated in the five breakout discussions, taking the opportunity to sit with each of the five groups and listen to the points raised in relation to the implications of Brexit for cross-border health cooperation.

Conclusion

By way of conclusion, we are in a better position in terms of the Government securing concrete commitments on the maintenance of the Common Travel Area as well as clear and strong commitments on avoiding a hard border.

The agreement reached in December is very significant for everyone on the island of Ireland, the UK, and our fellow members of the EU.

From a Department of Health perspective we are pleased to be able to report progress in ensuring a comprehensive appreciation of the depth of health services cooperation on a North-South and East-West basis and a fuller understanding of the reciprocal rights associated with healthcare as part of the Common Travel Area.

Working directly with health counterparts in London and in Northern Ireland, as well as with the EU Taskforce through the Department of Foreign Affairs and Trade, we have established a shared understanding of the scope of health rights and health cooperation and, importantly, explicit commitments to maintaining the service-level cooperation and the reciprocal rights that apply between Ireland and the UK.

Looking ahead, the Department is continuing to intensify the work as the negotiations move into the next phases. This will involve deeper examination of issues, identifying contingencies and continuing liaison with all relevant stakeholders

It has been agreed that the Irish specific issues will continue to be taken forward in a distinct strand of the negotiations in phase two. This will ensure that they will not be overlooked in the next phase and that work will continue on how to protect the Good Friday Agreement and the peace process and avoid a hard border, based on the agreements reached in phase one, in parallel with the wider negotiations on scoping out the EU's future relationship with the UK.

You can be assured that the Department of Health will play its part in ensuring health related issues are fully understood in this phase.

Again I want to say we recognise the valuable work of the Committee captured in your report and I wish to thank you for this opportunity to be here today.

We look forward to the views and questions of the Committee.

ENDS