

Introduction

1. The Welsh NHS Confederation is the only national membership body which represents all the organisations that make up the NHS in Wales: the seven Local Health Boards, three NHS Trusts and Health Education and Improvement Wales (HEIW). This response therefore represents the views of our members.
2. We welcome this inquiry into the changes to freedom of movement after Brexit and the implications for Wales. The Welsh NHS Confederation has submitted written evidence in response to the UK Government Immigration White Paper on behalf of members (attached) and we have also developed a response with health and social care organisations (attached).
3. Our key messages in response to the White Paper are:

Overview: We are concerned that the UK Government's intention for a new system as proposed in the Immigration White Paper will have a detrimental impact on current recruitment and retention problems across the health and social care sector in Wales and across the UK. The health and social care sector is already dealing with serious workforce gaps and demand continues to outstrip the supply of staff, despite the increase in staff numbers.

Valuing EEA citizens: EEA citizens are a hugely-valued part of the workforce, providing high quality care and support to those in need and making a significant contribution to communities they live in. It is vital that the UK Government provides reassurances, support and confidence in the Settled Status Scheme throughout the Brexit process and beyond.

The £30,000 PA salary threshold: If the proposed salary threshold were already in place, at least 53.5%ⁱ of EU/EEA citizens working within the NHS in Wales would not meet this. This percentage is higher for social care, especially domiciliary care. We are also concerned that the proposed salary threshold would have an impact on future recruitment. Many social care and NHS jobs do not fill the requirements for the minimum skills or salary levels of current non-EEA immigration rules. It is vital that the £30,000 threshold is replaced with criteria that allows our sector in Wales to recruit and retain the workforce needed to provide care and support. The value that public services brings to society should be a key factor in assessing the skill levels and entry requirements required within a future immigration system, not the amount people earn. Furthermore, contributions to public services are crucial to ensure that the rest of the economy functions effectively. The adult

social care sector in Wales alone contributes more than £2 billion to the Welsh economy, creates 127,000 jobs and enables individuals to make contributions to other parts of the economy.ⁱⁱ

Future recruitment: Despite Welsh Government recruitment and retention initiatives such as Train.Work.Live and WeCare, which have sought to develop a well-trained, compassionate workforce and attract the best talent globally, the end of free movement threatens to exacerbate existing recruitment pressures. While these programmes can provide an opportunity to train a future more domestic workforce, the time needed to train qualified staff is intensive. Due to current vacancy rates across health and social care in Wales, we need to be able to relieve immediate pressure on the system while planning for qualified domestic and international staff. While immigration is not the most sustainable nor primary mechanism for recruitment, it has proven to be a necessity to attract world talent to positions that need to be filled and are essential to delivering publicly-valued services.

Concerns of the Shortage Occupation List: We welcome the UK Government's acceptance of the Migration Advisory Committee's recommendation to establish a separate Shortage Occupation List for Wales as well as the inclusion of many health and social care roles. However, it is important to note that this would only apply to the current immigration rules, and therefore a review of the purpose of the Shortage Occupation List is needed to determine how it will interact with the Immigration White Paper. The removal of immigration caps, coupled with other policies to attract people to publicly valued professions including social care workforce or allied health professionals, is needed.

The demographics in Wales are different to the rest of the UK: Wales' population is ageing and more reliant on net migration, with people aged over 65 years making up the largest share of the population and more people in Wales with long-term limiting illnesses. The number of people aged 65 and over in Wales is projected to rise by 232,000 (32.2%) between 2016-2041ⁱⁱⁱ. At the same time, there are fewer young and working aged people who can take care of the growing ageing population in future. It is important that a new immigration system includes the voice of devolved administrations which sit within a different context to that of England/ the rest of the UK.

Questions

What is your assessment of the implications for Wales of the UK Government's White Paper proposals on immigration after Brexit?

4. Overall, our members feel that the Immigration White Paper will pose significant additional challenge for the NHS in Wales in terms of the health and social care workforce and therefore the services that can be provided across our communities. Our members are mostly concerned that the proposed £30,000 salary threshold within the Skilled Worker Route will materially affect their ability to recruit overseas professionals across all specialties.

5. Our members are supportive of policies that will simplify the immigration process (such as streamlining the sponsorship route) which will enable a simpler and fairer immigration process. The Electronic Travel Authorisations will make right-to-work checks more straightforward, and the removal of immigration caps and the resident labour market test will enable the person most suited to the needs of the post to be accepted, regardless of nationality.
6. However, our members are concerned about how policies relating to skilled and temporary workers will impact the recruitment and retention issues that the Welsh NHS currently faces. It is a concern that the Economic Analysis (Annex B of the White Paper) illustrates there could be a reduction of up to 80% in the number of EU/EEA workers coming to the UK to work in the long-term. The NHS in Wales relies on non-UK nationals with the skills that are required across the system. This would affect all recruitment activity outside the UK and would impact the ability to secure future professionals across a wide range of disciplines.
7. According to the June 2019 Electronic Staff Record data, approximately 53% of the total EU/EEA workforce who currently work in the Welsh NHS would be impacted by the £30,000 salary threshold if it were already in place. Staff from the base entry grade through to advanced and specialist practitioners would be affected by the proposals. The specialty professions that will be impacted the most by this salary cap are nurses and midwives, psychologists, chiropodists, healthcare scientists, speech and language therapists, occupational therapists, physiotherapists, orthoptists, radiographers and pharmacists.
8. Our members are concerned that a new immigration system could also take time to implement, especially given the heavy reliance on technology such as Electronic Travel Authorisations. This, combined with any poor management from the start of introducing a new system, could lead to poor immigration experiences for those coming to work and live in the UK.
9. There are also concerns that the potential costs could act as a deterrent for both employers and applicants. For example, the cost EU/EEA citizens must pay for visas (which is not yet established) could increase per year and could prevent applicants from EU countries applying to posts in Wales. Furthermore, the lack of detail on the cost of sponsorship, Immigration Skills Charge and the Immigration Health Surcharge could further deter non-UK nationals from applying for posts in health and social care in Wales, or make it cost prohibitive for employers.

Is there a case for allowing the devolved nations to do things differently in relation to immigration policy after Brexit?

10. Overall, our members do not believe Wales should have different immigration policies from the rest of the UK. That said, there should also be full recognition and reflection of the demographic, social and economic needs of Wales and our population. This could be accomplished through a Wales-specific Shortage Occupation List that responds to changes in the labour market. The commissioning of the Migration Advisory Committee to re-examine the salary

threshold is also welcomed, although we wouldn't want to see competition for scarce resources to be a result.

What are your views on the proposal for a Wales-specific Shortage Occupation List ("SOL")?

11. Overall, our members are supportive of Wales having its own Shortage Occupation List. While some shortages will be felt across the UK, there will be other areas that have specific recruitment challenges and labour market needs because of demographics, rurality and geography of Wales. Being able to set local controls would result in a more accurate targeted approach for devolved nations to account for regional variation. However, there remains the risk for increased competition resulting in an overheated market place for candidates to apply.

What are your views on the proposal to bring EU nationals into an expanded Tier 2, and ending any distinction between EU and non-EU workers?

12. Our members are generally supportive of the proposal to have one single Tier 2 system that will apply to all non-UK nationals. This will ensure fairness while providing equal opportunities for any nationality to apply for a post under one system with a set Shortage Occupation List.

13. However, based on our members' previous experience with the Tier 2 system, this could also affect the ability to recruit on an international scale which could result in a decrease in patient care and quality of care if there is an even greater strain on recruitment and retention that already exists within the sector.

14. Although not recommended in the White Paper, there is a case to investigate whether there should be a separate route for 'low-skilled' workers, or additional sectoral-based schemes such as the one already in place for agriculture.

What are your views on the salary threshold of £30,000 for Tier 2 immigration and its implications for Wales?

15. The NHS Wales workforce relies on a talent pipeline which brings the best talent, domestic and international, to the service. While there are recruitment campaigns, such as Train.Work.Live and the upcoming joint workforce strategy for health and social care, developed by Health Education and Improvement Wales and Social Care Wales, these initiatives focus on bringing the best talent to essential positions regardless of nationality.

16. Our current workforce is reliant on international recruitment which attracts and recruits working age people who provide care for vulnerable people across Wales. It is acknowledged that relying on migration is not sustainable, however it will take several years to attract, train and retain UK national staff to work in essential health and care positions in Wales. The NHS in Wales will always be reliant on a non-UK workforce to some extent.

17. Given that 53.5% of the EU/EEA staff (according to their contracted hours) will not be able to meet the £30,000 salary cap, our members are most concerned

about the impact this will have on the existing workforce across health and social care in Wales as this arbitrary limit will disproportionately affect our key patient-facing workforce.

18. The Migration Advisory Committee recommended maintaining the current salary threshold of £30,000 p.a. of the current Tier 2 immigration system, while simultaneously reducing the skills requirement to Regulated Qualifications Framework (RQF) 3+ (A-level and above). Such a proposal would have the effect of allowing entry to intermediate and medium-skilled workers (compared to the current RQF 6+ of highly-skilled workers). This means that while the skill level would be reduced to an 'intermediate' level, the required salary threshold would remain the same as those positions defined as 'highly-skilled'.

19. There is a discrepancy in the skill requirements versus expected salary. Many roles within the healthcare sector at an RQF 3 level would not meet the £30,000 threshold. Many positions within a Band 4 level post^{iv}, such as dental nurses and theatre support workers would be able to meet the required skill level but fall short of the salary threshold, with Band 4 posts ranging in salary from £21,089 - £23,761.

20. Within NHS Wales, Band 5 is the lowest banding on which new entrants into qualified nursing, allied health professionals (such as diagnostic and therapeutic radiographers, dietitians, physiotherapists, speech and language therapists, and occupational therapists), Health Sciences and Pharmacists, and Administrative professions (Finance Analysts, Human Resources Advisors, IM&T Analysts / Technician and Information Analysts) can be appointed into in the NHS. Band 5 posts range in salary from £24,214 - £30,112. All new entrants are required to commence on the bottom of the pay band and work up through annual pay increments. New entrants to the NHS recruited from overseas can request incremental credit, in recognition of previous reckonable experience gained outside of the NHS, which may enable them to be appointed on a higher Band 5 pay point. No newly recruited employee can, however, be appointed to the top pay point (currently £30,122), as this is not permitted within National Terms and Conditions of Service. That means all nursing specialties in Agenda for Change Bands 5, 6, 7 and 8a, who would be the professional patient facing workforce, could be excluded. This will include those advanced practitioners in scarce disciplines, for example emergency department staff.

21. If the salary threshold for Tier 2 remains at £30,000, this would have a negative impact on NHS employers being able to recruit workers from outside the UK into Band 5 professional posts. This would also impact the ability to recruit into other essential areas which are covered in Band 4, such as health care support workers, social care support workers, and non-clinical staff, meaning that many occupations would be unable to be part of the system. This could accentuate existing recruitment and retention issues across the system. The effect will also greatly impact support staff (nursing and midwives, healthcare scientists, allied health professionals, ambulatory staff and pharmacists). In these areas, it is

estimated that between 97% and 100% of EU/EEA nationals will not meet the proposed threshold.

22. Our members suggest that if a salary threshold was in place, a better level would be the bottom on Band 4 i.e. £21,089^v. At the very least, any salary threshold needs to be variable to reflect recruitment needs in scarce disciplines through a Wales-specific Shortage Occupation List and that immigration policies are reflective of public service and value. Salary should not be used as a proxy for skill.

23. If applicants were unable to meet either the salary or skills threshold, they might be inclined to use the Temporary Worker Route. However, this would lead to a more transient migrant workforce which is non-sustainable in the long term. This would not support the idea of creating a stable future workforce as set out in *A Healthier Wales*.

How well is the EU Settlement Scheme operating? Is there more that the Welsh Government could be doing to ensure that EU nationals' resident in Wales are registering under the scheme?

24. According to the Electronic Staff Record, approximately 2% (1,623) of the approx. 95,000 NHS Wales workforce is of EU/EEA nationality^{vi} and would therefore be eligible to apply for the Settled Status Scheme.

25. Currently, our members have only limited feedback into how the Settlement Scheme is operating within their organisations. Health Boards and Trusts have been promoting the Settled Status Scheme across their organisations and encouraging staff to apply for Settled Status. However, it is difficult to develop an accurate picture of the number of people working in the NHS that have applied to the scheme as individuals are not legally obliged to notify their employers whether they have applied or whether they have been successful in their application.

26. As part of our ongoing work with members, the Welsh NHS Confederation has been promoting the Settled Status Scheme through the production of a Toolkit for Workforce Directors and HR professionals around the Settled Status Scheme and also promoting the Scheme within our weekly Brexit Newsletter, which is shared with members and stakeholders on a weekly or bi-weekly basis. As a result of the package of the support that was announced by the Welsh Government in July around the Settled Status Scheme, the Welsh NHS Confederation has met with Newfields Law Solicitors, who have received funding to provide free immigration advice to people around Settled Status. We have promoted their services with our members and stakeholders.

27. Members recommend the UK Government increase the amount of national advertising of the Scheme to raise awareness about the possible implications if people do not apply. There is anecdotal evidence from an EU citizen working within the Welsh NHS that if they were not working in the NHS and receiving information from their employer, they would not have known about the Settled Status Scheme.

Are there any other issues relating to immigration policy after Brexit that you would like to bring to the attention of the Committee?

28. Much of what is included in the UK Government's White Paper is dependent on the signing of the Withdrawal Agreement, the Implementation Period or bilateral agreement with other countries. Our members have expressed concerns over the lack of detail around future policies and what could happen in a potential no deal scenario (i.e. if free movement were to end the day after the UK exits from the EU).

29. Our members expressed initial concerns if free movement were to end immediately in the event of no-deal Brexit, as this would pose significant challenges for the sector's workforce. It is helpful to see that the UK Government has confirmed the use of European Temporary Leave to Remain, which allows EEA nationals arriving in the UK after 'Brexit day' to apply for permission to stay in the UK to live, work or study for three years. However further clarification is needed about EU citizens' rights and entitlements, and there remains concerns about the tone of the messaging about what will happen if someone is not registered with a scheme by December 2020, with threats of 'enforcement action, detention and removal as an immigration offender'.

30. It is important to ensure that right-to-work requirements are clearly defined with updates made to the Electronic Staff Record in a timely fashion. Currently there are no details on how right-to-work checks would be made on EEA citizens in the event of no deal, and there is no easy way to distinguish between EEA citizens who qualify for, but have yet to apply for, settled status and others.

31. The evidence to date from the Welsh NHS suggests it is unlikely that large numbers of EU nationals currently working in the Welsh NHS will leave to return to their home countries post-Brexit. There may be additional costs to medical staffing agencies to fill these posts in the short-term.

32. Since Wales is working towards an integrated health and social care system, any impact in one area could have implications for another. For example, the social care workforce relies significantly on an EU/EEA workforce; if social care has increased recruitment and retention issues post-Brexit, this will undoubtedly impact demand on frontline NHS services as well.

Conclusion

33. In conclusion, EEA citizens are a hugely valued part of the health and care workforce. They provide high quality care and support to those that are in need, and make a significant contribution to the communities they live in. It is vital that the UK Government provides reassurances, support and confidence in the Settled Status Scheme and provides the necessary mechanisms to ensure that health and social care can attract world talent to positions that need to be filled and are essential to delivering publicly valued services.

34. Despite immigration policies remaining a UK responsibility, it is important to consider how national policies will impact devolved nations and governments including the Welsh NHS and its staff.

ⁱ Figure includes those working on a part-time basis or in temporary positions.

ⁱⁱ Social Care Wales (5 June 2018). The Economic Value of the Adult Social Care Sector – Wales Final Report.

ⁱⁱⁱ <https://gweddiill.gov.wales/statistics-and-research/national-population-projections/?lang=en>

^{iv} According to Agenda for Change pay scales.

^v Agenda for Change is currently aligned with England pay scales, meaning that there might be some variation between Wales and England pay scales.

^{vi} This is according to 68% completion rate of the Nationality field, which voluntary to complete.