

EUROPEAN UNION (WITHDRAWAL)  
BILL – HOUSE OF LORDS –  
REPORT STAGE - AMENDMENT  
No.105

**NEW CLAUSE – DUTY TO IMPLEMENT AN  
INDEPENDENT EVALUATION OF THE IMPACT OF  
THE EUROPEAN UNION (WITHDRAWAL)  
LEGISLATION AND BREXIT ON THE HEALTH AND  
SOCIAL CARE SECTORS ACROSS THE UK**

LORD STEPHEN AND BARONESS JOLLY



**Camphill Scotland**

The membership body for Camphill communities in Scotland



**ALLIANCE**

HEALTH AND SOCIAL CARE  
ALLIANCE SCOTLAND  
people at the centre



Disability Wales  
Anabledd Cymru



**GENETIC  
ALLIANCE** UK



**Inclusion  
Scotland**

Disabled People's Organisation

**Our voices ■ Our choices**

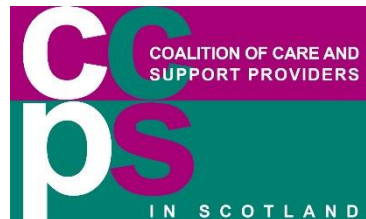


**Scottish Care**

Voice of the independent care sector



**SCVO**



COALITION OF CARE AND  
SUPPORT PROVIDERS

IN SCOTLAND



**nicva**

PROMOTING THE VOLUNTARY SECTOR

## European Union (Withdrawal) Bill – House of Lords – Report Stage – Amendment No.105

New Clause – Duty to implement an independent evaluation of the impact of the European Union (Withdrawal) legislation and of Brexit on the health and social care sectors across the UK.

After Clause 13

LORD STEPHEN  
BARONESS JOLLY

Insert the following new Clause—

**“Duty to make arrangements for an independent evaluation: health and social care**

(1) No later than one year after this Act is passed, the Secretary of State must make arrangements for the independent evaluation of the impact of this Act on the health and social care sector.

(2) The evaluation must be carried out by an independent person to be appointed by the Secretary of State, after consulting the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland departments, and must analyse and assess—

(a) the effects of this Act on the funding of the health and social care sector;

(b) the effects of this Act on the health and social care workforce;

(c) the impact of this Act on the economy, efficiency and effectiveness of the health and social care sector; and

(d) any other matters relevant to the impact of this Act on the health and care sector.

(3) The person undertaking an evaluation under subsection (1) above must, in preparing an evaluation report, consult—

(a) the Secretary of State, the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland departments;

(b) providers of health and social care services;

(c) individuals requiring health and social care services;

(d) organisations working for and on behalf of individuals requiring health and social care services; and

(e) any other relevant persons.

(4) The Secretary of State must, as soon as reasonably practicable after receiving a report of the evaluation, lay a copy of the report before both Houses of Parliament.”

## Effect

This new clause would require an independent evaluation of the impact of the Act, and of Brexit, upon the health and social care sector to be made after consulting the Secretary of State, the Scottish Ministers, the Welsh Ministers and the relevant Northern Ireland department, service providers, those requiring health and social care services, and others.

## Supporters

Amendment No.105 is supported by the following 66 organisations across the UK:

- Camphill Scotland
- The ALLIANCE
- Coalition of Care Providers Scotland (CCPS)
- Disability Wales
- Genetic Alliance UK
- Inclusion Scotland
- Northern Ireland Council for Voluntary Action (NICVA)
- Scottish Care
- Scottish Council for Voluntary Organisations (SCVO)
- Advocard
- Alliance for Camphill
- Angus Cardiac Group
- Arthritis Care Scotland
- Befriending Networks
- C-Change Scotland
- Carers Trust Scotland
- Chest Heart & Stroke Scotland
- Children in Scotland
- Community Pharmacy Scotland

- Contact – for families with disabled children
- COPE Scotland
- Deafblind Scotland
- Disability Agenda Scotland
- Disability Equality Scotland
- Dumfries & Galloway Citizens Advice Service
- East Lothian Cardio-Pulmonary Rehabilitation Group
- Ecas
- Edinburgh Tenants Federation
- ENABLE Scotland
- ENeRGI
- Engender
- Family Fund
- Glasgow Council on Alcohol
- In Control Scotland
- L'Arche
- Leonard Cheshire Disability
- Lothian Centre for Inclusive Living (LCiL)
- MECOPP
- Mental Health Foundation
- Mentor UK
- MND Scotland
- Neighbourhood Networks
- Nourish Scotland
- Parkinsons UK
- PASDA
- REACH Advocacy Scotland
- Royal Blind and Scottish War Blinded
- Royal National Institute of Blind People (RNIB)
- Royal National Institute of Blind People (RNIB) Northern Ireland
- Royal National Institute of Blind People (RNIB) Scotland
- Scottish Association of Social Work
- Scottish Commission for Learning Disability (SCLD)
- Scottish Council on Deafness (SCoD)
- Scottish Independent Advocacy Alliance (SIAA)
- Scottish Older People's Assembly
- Scottish Partnership for Palliative Care (SPPC)
- Scottish Youth Parliament
- SeAscape
- See Me Scotland

- SKS Scotland CIC Ltd
- South Ayrshire Befriending Project
- **tsiMORAY**
- Voluntary Action East Renfrewshire (VAER)
- Voluntary Action South Ayrshire (VASA)
- Voluntary Health Scotland (VHS)
- Western Isles Carers, Users and Supporters Network (WICUSN)

## Reason

Camphill Scotland, the ALLIANCE, CCPS, Disability Wales, the Genetic Alliance UK, Inclusion Scotland, NICVA, Scottish Care, SCVO and the above organisations, totalling 66 organisations across the UK, believe this Amendment tabled by Lord Stephen and Baroness Jolly 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 Amendment (No.105) was previously lodged in the House of Commons by Joanna Cherry MP with cross party support, and was narrowly defeated on a Division at Committee Stage in the House of Commons on 20 December 2017 by 318 votes to 294 votes. It was also debated (as Amendment No.353) during the Committee Stage of the European Union (Withdrawal) Bill in the House of Lords on 26 February 2018.

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 report<sup>1</sup> 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, highlighted in the recent Care Inspectorate report on staff vacancies. This report found that

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<sup>1</sup> [http://www.alliance-scotland.org.uk/download/library/lib\\_57d8095f0f5d3/](http://www.alliance-scotland.org.uk/download/library/lib_57d8095f0f5d3/)

*“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”<sup>2</sup>.*

The proposed independent evaluation which would be introduced through this Amendment 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.<sup>3</sup> In England an estimated 130,000 EU Nationals are working in health and social care<sup>4</sup>, 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”*<sup>5</sup>. Other statistics indicate that in England 7% of the adult social care workforce are EU Nationals<sup>6</sup>. Against this background, the evaluation implemented through the above Amendment 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 report<sup>7</sup> 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 for the Camphill communities in Scotland and on the education, care and support they

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<sup>2</sup> 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>

<sup>3</sup> Scottish Parliament Information Centre, Financial Scrutiny Unit Briefing: EU nationals living in Scotland, 3 November 2016.

<sup>4</sup> NHS Confederation, 29 June 2016, The UK voted to leave the EU: what now for the NHS? Elisabetta Zanon.

<sup>5</sup> NHS HSCIC NHS Staff Groups by Nationality September 2015

<sup>6</sup> NMDS-SC Workforce Estimates 2015/16

<sup>7</sup> <https://www.camphillscotland.org.uk/wp-content/uploads/2017/09/Brexit-survey.pdf>

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 Amendment 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 reported<sup>8</sup> 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.

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 sector, 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 Committee Stage response

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. We believe that the Minister's overall response to the Amendment failed to address the UK-wide issues raised by the Amendment.

By way of further background, at Committee Stage the Minister told the House: *"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"*<sup>9</sup>. Significantly, the Amendment seeks to impact assess the potential effects of Brexit on health and social care across the UK, whereas the Health indicators for

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<sup>8</sup> [http://www.alliance-scotland.org.uk/download/library/lib\\_57d8095f0f5d3/](http://www.alliance-scotland.org.uk/download/library/lib_57d8095f0f5d3/)

<sup>9</sup> 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)



England, referred to by the Minister at Committee Stage, will only highlight the general, quantitative statistics relating to certain conditions, and to the treatments provided specifically by NHS England. These indicators will, therefore, not (unlike the above Amendment) 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, the Amendment in the names of Lord Stephen and Baroness Jolly highlights 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*”<sup>10</sup>. 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.

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 Amendment No.105 is absolutely vital. Rather than creating “unwelcome new burdens” as the Minister suggested at Committee Stage, 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.

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<sup>10</sup> 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)

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