



Immigration and Social Security Co-ordination
(EU Withdrawal) Bill –House of Lords -
Committee Stage – Amendment No.[TBC] – 7
September 2020

New Clause - Duty to commission an
independent evaluation: health and social care
sectors

BARONESS JONES OF MOULSECOOMB



The Church of Scotland







Immigration and Social Security Co-ordination (EU Withdrawal) Bill – Amendment No.[TBC]

New Clause – Duty to commission an independent evaluation: health and social care sectors

BARONESS JONES OF MOULSECOOMB – Amendment No.[TBC]

Before Clause 6

Insert the following new Clause—

“Duty to commission an independent evaluation: health and social care sectors

(1) The Secretary of State must commission an independent evaluation of the matters under subsection (5) and lay a report of the evaluation before Parliament within one year of this Part coming into force.

(2) The Secretary of State must appoint an independent person to undertake the evaluation (“the independent evaluator”).

(3) In this section, “independent person” means a person who is independent of Her Majesty’s Government.

(4) No person may be appointed under subsection (2) unless their appointment has been approved by—

- (a) the relevant Scottish Ministers;
- (b) the relevant Welsh Ministers; and
- (c) the relevant Northern Ireland Ministers.

(5) The evaluation under subsection (1) must consider an assessment of the effects of this Act on—

- (a) the health and social care workforce;
- (b) the efficiency and effectiveness of the health and social care sectors;
- (c) the adequacy of public funding for the health and social care sectors; and
- (d) such other relevant matters as the independent evaluator deems appropriate.

(6) In undertaking the evaluation, the independent evaluator must consult—

- (a) the Secretary of State;
- (b) the relevant Scottish Ministers;
- (c) the relevant Welsh Ministers;
- (d) the relevant Northern Ireland Ministers;

- (e) providers of health and social care services;
- (f) persons requiring health and social care services;
- (g) representatives of persons requiring health and social care services; and
- (h) such other relevant persons as the independent evaluator deems appropriate.

(7) The independent evaluator must submit the report of the evaluation to the Secretary of State.

(8) A Minister of the Crown must, within the period of six months beginning with the day on which the report is laid before Parliament, make arrangements for—

- (a) a motion relating to the report to be debated and voted upon by the House of Commons; and
- (b) a motion relating to the report to be debated and voted upon by the House of Lords.”

Member’s explanatory statement

This new Clause would require an independent evaluation of the impact of the Act upon the health and social care sectors across the UK to be produced and laid before Parliament. It would require that the devolved nations are consulted as well as other interested parties.

Supporters

Amendment No.[TBC] is supported by the following organisations:

The Health and Social Care Alliance Scotland (The ALLIANCE)

Camphill Scotland

Scottish Council for Voluntary Organisations (SCVO)

Aberdeen Council of Voluntary Organisations

Aberlour

The Action Group

Alcohol Focus Scotland

Association of Camphill Communities

Bevan Foundation

British Association of Social Workers Cymru (BASW Cymru)

British Association of Social Workers Northern Ireland (BASW Northern Ireland)

British Society of Rehabilitation Medicine

Cardiff Third Sector Council

Capability Scotland

Care Forum Wales

The Church of Scotland

Centre for Independent Living Northern Ireland

Coalition of Care and Support Providers in Scotland (CCPS)

CrossReach

Cyrenians

Disability Wales

Engender

Human Rights Consortium Scotland

Inclusion Scotland

Kidney Care UK

L'Arche

Macmillan Cancer Support

Motor Neurone Disease Scotland (MND Scotland)

MS Society

National Carer Organisations

The Neurological Alliance

Northern Ireland Council for Voluntary Action (NICVA)

One Parent Families Scotland

Partners in Advocacy

Penumbra

Royal Blind

Royal College of Physicians of Edinburgh

Royal National Institute of Blind People Scotland (RNIB Scotland)

Scottish Association for the Care and Resettlement of Offenders (SACRO)

Scottish Association of Social Work (SASW)

Scottish Autism

Scottish Care

Scottish Commission for Learning Disability

Scottish independent Advocacy Alliance (SIAA)

Scottish Youth Parliament

Small Charities Coalition

Thistle Foundation

UNISON

Voluntary Organisations' Network North East

Wales Council for Voluntary Action (WCVA)

Immigration and Social Security Co-ordination (EU Withdrawal) Bill – Amendment No.[TBC]

Effect

Amendment No.[TBC] would require an independent evaluation of the impact of the effects of the Immigration and Social Security Co-ordination (EU Withdrawal) Bill on 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 8 would require the Secretary of State to lay a copy of the report before both Houses of Parliament no later than one year after this Bill is passed, and Section 9 would require a Minister of the Crown to make arrangements, not later than six months after the report has been laid before Parliament, for the report to be debated and voted upon in both Houses of Parliament.

Reason

The ALLIANCE, Camphill Scotland, SCVO and a number of other supporters, totalling 50 organisations across the UK, believe Amendment No.[TBC] tabled by Baroness Jones of Moulscroomb is necessary to safeguard the interests of the many people who rely on the contribution of EU citizens and non-EU citizens to the provision of health and social care across the 4 Nations. This includes disabled people, children and young people, older people, unpaid carers and those with long term health conditions.

We are calling on all Peers to support Baroness Jones' Amendment No.[TBC], when it is considered at Committee Stage of the Immigration and Social Security Co-ordination (EU Withdrawal) Bill on 7 September 2020. This briefing paper focuses on how the Immigration and Social Security Co-ordination (EU Withdrawal) Bill, and the proposed Points-Based Immigration System, will impact upon the health and social care sectors across the UK.

The UK Parliament is currently considering the Immigration and Social Security Co-ordination (EU Withdrawal) Bill. This legislation will “end free movement of persons in UK law and make European Union (EU), other European Economic Area (EEA) and Swiss citizens, and their family members, subject to UK immigration controls”.¹ Once this legislation receives Royal

¹Immigration and Social Security Co-ordination (EU Withdrawal) Bill, Explanatory Notes, UK Parliament, <https://publications.parliament.uk/pa/bills/cbill/58-01/0104/en/20104en02.htm>

Assent, it is anticipated that the UK Government will change the Immigration Rules to give effect to the proposed Points-Based Immigration System.²

Prior to the UK leaving the EU, a number of studies had highlighted the significant adverse impact of Brexit upon the health and social care sectors across the UK. These studies, and the initial information about the Points-Based Immigration System provided in the Home Office's Policy paper, *The UK's points-based immigration system: policy statement*, suggest that the ending of freedom of movement, and the introduction of a Points-Based Immigration System, will potentially have a major adverse impact upon the health and social care sectors across the UK.

In 2019, our organisations supported Brendan O'Hara's Private Member's Bill calling for an independent evaluation of these impacts, supported by 103 organisations. We believed that it was necessary to safeguard the interests of the many people who rely on the contribution of EU citizens to the provision of health and social care across the 4 Nations. This includes disabled people, children and young people, older people, unpaid carers and those with long term health conditions.

The proposed independent evaluation which would be introduced through Amendment No. [TBC] could play a key role in supporting the health and social care sectors across the UK to address a range of key concerns about the proposals, including:

- Concerns that many health and social care workers from other European countries, and from non-European countries, would not meet the proposed income threshold under this system,
- That the requirement to have a job offer is unnecessarily restrictive, and will create additional administrative burdens and costs for health and social care organisations trying to recruit staff from abroad,
- That there is a lack of recognition of health and social care specific skills, experience and professional qualifications in the proposed points-based system, and as a result this does not recognise the skills and experience of health and social care workers from across the EU, and from non-EU countries, to enrich our support and services or value the sector and its growing importance as a result of demographic changes.

Significantly, these difficulties are likely to be intensified by the impact of COVID-19. 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 the UK Government's introduction of a Points-Based Immigration System upon the health and social care sectors in each of the 4 Nations. Against this background, the evaluation would

² Home Office, 'The UK's points-based immigration system: policy statement' (19 February 2020), <https://www.gov.uk/government/publications/the-uks-points-based-immigration-system-policy-statement/the-uks-points-based-immigration-system-policy-statement>

ensure that future planning and decision making in the health and social care sectors in relation to recruitment and staffing, and investment, are informed by UK wide assessments in these areas.

Key concerns

Health and Social Care Workforce

Our organisations are aware that some 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 and other health and social care staff holding non-British nationalities have made an increasing contribution to a sector that is currently suffering from a recruitment and retention crisis. 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.³ UNISON has estimated that there are an estimated 58,000 EU nationals working in the National Health Services and around 90,000 (7%) adult social care jobs are filled by EU nationals⁴. Other statistics indicate that In England 8% of the adult social care workforce are EU Nationals⁵. Recent figures compiled by the House of Commons also confirm that a significant minority of NHS staff in England hold non-British nationalities: “The majority of NHS staff in England are British – but a substantial minority are not. **Around 170,000 out of 1.28 million staff report a non-British nationality.** This is 13.8% of all staff for whom a nationality is known, or just almost 1 in 7. Between them, these staff hold 200 different non-British nationalities. Over **67,000 are nationals of other EU countries** – 5.5% of NHS staff in England. Around 64,000 staff are Asian nationals”.⁶

One of the key issues emphasised in a report⁷ 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, and the introduction of the Points-Based Immigration System, could exacerbate the existing difficulties of recruitment. Workforce data published in September

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

⁴<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/economic-affairs-committee/brexit-and-the-labour-market/written/47316.html>

⁵ <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>

⁶ House of Commons Library Briefing, Brexit Bulletin, NHS staff from overseas: statistics, 05/06/20, <https://commonslibrary.parliament.uk/briefing-type/commons-research-briefing/>

⁷ <https://www.alliance-scotland.org.uk/blog/resources/brexit-what-matters-to-you-final-publication/>.

2019 suggests there are 122,000 vacant social care posts in England⁸ (a rise of 22,000 in the last year), and in Scotland the Care Inspectorate and the Scottish Social Services Council has found that 38% of social care services reported unfilled staff vacancies in 2017, with more than half of services identifying too few applicants with experience, too few applicants in general and too few qualified applicants as causing issues related to vacancies.

An unknown factor is the impact of the 2020 COVID-19 pandemic on staffing and capacity within the health and social care sectors across the UK. These economic and social effects, by themselves, could be devastating, and aggravate the impact of Brexit upon the health and social care sectors. Significantly, the health and social care sectors were already under pressure in terms of recruitment and capacity prior to Brexit, and the outbreak of the COVID-19 pandemic. The full effect of these factors is currently unknown, but it is assumed that they will have a major adverse impact upon the health and social care sectors across the UK. Our concern is that the introduction of a Points-Based Immigration System will further aggravate the effects of this impact.

There are likely to be differentiated outcomes for particular groups, especially given the disproportionate number of women, and particularly migrant women, who are employed in social care. Potential workforce shortages are likely to negatively impact that workloads of women working in social care as well as to displace the responsibility for the provision of care onto unpaid carers, the majority of which are women.⁹

This independent evaluation could, for example, provide an accurate assessment of the number of nationals from other European countries, and from non-European countries, currently employed in the health and social care sectors in each nation, the level of future vacancies linked to Brexit and the introduction of the Points-Based Immigration System, and any variations in these issues across the 4 Nations.

Efficiency and Effectiveness

Research carried out by the Health and Social Care Alliance Scotland in communities across Scotland¹⁰ highlighted that people who use support and services have concerns about its future availability, particularly in regard to social care. “The health and social care system is already creaking, combined with an elderly workforce.” – a Participant in Campbeltown. It was suggested by some participants that local communities would have to find their own ways to try and minimise any negative repercussions as a result of changes related to leaving the EU.

⁸ <https://www.skillsforcare.org.uk/adult-social-care-workforce-data/Workforce-intelligence/documents/State-of-the-adult-social-care-sector/State-of-Report-2019.pdf>

⁹ Carers Week 2020 Research Report. Available at <https://www.carersweek.org/images/CW%202020%20Research%20Report%20WEB.pdf>

¹⁰ <https://www.alliance-scotland.org.uk/wp-content/uploads/2019/02/Brexit-What-Matters-to-You-Final.pdf>

Organisations with strong links across the EU are likely to be the most vulnerable as the UK leaves the EU, and freedom of movement for EU nationals is replaced by the Points-Based Immigration System. This is illustrated by a 2017 joint report¹¹ 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.

It would appear that Brexit has already had an impact upon the Camphill communities' recruitment of volunteers, with volunteer numbers falling from 251 short-term volunteers in 2017 to 215 short-term volunteers in 2020.

Camphill in Scotland also faces challenges as a result of the Tier 5 Visa arrangements for non-EU nationals. There are, for example, currently 62 Tier 5 volunteers from non-EU countries currently working in Camphill communities in Scotland, and of these, the visas of 41 volunteers will run out before 1st October 2020. This means that the visas of 41 out of Camphill's 215 international co-worker volunteers are due to expire. This is a significant number of Camphill's international volunteers in Scotland, and represents 19% of Camphill in Scotland's total number of international co-worker volunteers.

The end of freedom of movement for EU nationals, and any future restrictions upon their rights to live and work in the UK, could have far reaching consequences 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.

Our organisations are concerned that the move towards a Points-Based immigration system will have a major impact upon the ability of the Camphill communities, and of other health and social care providers across the UK, to recruit EU nationals and non-European nationals. This is likely to be exacerbated by the fact that many health and social care staff would not meet the income threshold for working in the UK under the proposed Points Based Immigration system.

The adequacy of public funding for the health and social care sectors

¹¹ <https://www.camphillscotland.org.uk/wp-content/uploads/2017/09/Brexit-survey.pdf>

The ALLIANCE reports 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 support¹². 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. Another factor would be the, as yet unknown, financial and social impact of COVID-19 upon the health and social care sectors across the UK.

The proposed evaluation could take a holistic and strategic approach to the issues arising from the UK leaving the EU, and from the introduction of a Points-Based Immigration System. 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.

Next Steps

Against this background, our organisations believe that the need for an independent evaluation of the effects of the UK Government's introduction of a Points-Based Immigration system on the health and social care sectors through Amendment No.[TBC] is absolutely vital. Such an evaluation would allow Governments, local authorities, Health and other key agencies across the UK to consider, and to mitigate against potential negative consequences of a points-based immigration system on 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.

¹² <https://www.alliance-scotland.org.uk/wp-content/uploads/2019/02/Brexit-What-Matters-to-You-Final.pdf>

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