

# BVA Submission to Northern Ireland Affairs Committee: Implications of the EU withdrawal agreement and the backstop for Northern Ireland inquiry

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## Introduction

1. The British Veterinary Association (BVA) is the national representative body for the veterinary profession in the United Kingdom. With 18,000 members, our primary aim is to represent, support and champion the interests of the United Kingdom's veterinary profession. We take a keen interest in all issues affecting the profession, including animal health and welfare, public health, regulatory issues and employment matters and the wellbeing of the profession.
2. The BVA's Northern Ireland Branch brings together representatives of local veterinary associations, BVA's specialist divisions, government, and research organisations in Northern Ireland. The Branch advises BVA on the consensus view of the Northern Ireland members on local and United Kingdom issues.
3. The United Kingdom's membership of the European Union (EU) has had a profound effect on the day-to-day working lives of veterinary surgeons through myriad pieces of legislation on animal health and welfare and public health; the free movement of people and associated impact on the veterinary workforce; the recognition of the veterinary professional qualification across the EU; the availability, safety and efficacy of the medicines we use; the rules that govern trade in animals and animal products; and the way our research is regulated.
4. BVA welcomes the opportunity to respond to this inquiry on the implications of the EU withdrawal agreement and the backstop for Northern Ireland. As the only part of the UK to share a land border with an EU Member State, the issues facing Northern Ireland are complex and unique. Across the border there are strong government, business and social relationships. Currently, there is uncertainty for vets, farmers, and pet owners who may wish to cross the border with their animals.

## Withdrawal Agreement

### Transition/ Implementation Period

5. If the Withdrawal Agreement that has been reached between the UK Government and the EU Commission is approved by Parliament, we would expect the following to happen. The UK would enter a transitional period during which time the UK, as a whole, will no longer be a member of the EU, but will be treated as such under EU law unless otherwise specified. During this time EU law and EU supervision and enforcement arrangements will continue to apply to the UK. Hence, during the transitional period:
  - there will be no need for the UK to be listed with the EU Commission for the purposes of trade, pet travel or equine movements.
  - there will be no need for export health certificates to be issued before animals or animal products can enter the EU Single Market.
  - There would be no necessity for animals or animal products to enter the EU Single Market through a Border Inspection Post.
6. This period would last until 31 December 2020, unless it is extended by mutual consent. UK and EU are expected to strike a future relationship which would supersede the need for the Northern Ireland backstop by December 2020.

### The Northern Ireland Backstop

7. The UK and EU would then be expected to strike a future relationship which would supersede the need for the Northern Ireland backstop by December 2020. If no deal is agreed, then the Northern Ireland backstop would be triggered, to avoid the hardening of the land border on the island of Ireland. In this event, a Single Customs Territory between the UK and the EU would be in operation. Such an arrangement removes the need for customs checks on goods between Northern Ireland, Great Britain, Ireland and the wider European Union.
8. Additionally, Northern Ireland would remain within the regulatory orbit of the EU Single Market for the purposes of goods, including animals and products of animal origin. This is intended to remove the requirement for additional Sanitary and Phytosanitary (SPS) checks at the land border between Northern Ireland and Ireland.
9. Imports of both animals and animal products may carry pathogens that represent a threat to public health and the health of animal populations. Within the EU Single Market, member states minimise this risk by ensuring appropriate

standards of biosecurity, production and certification at the point of production thereby obviating the need for most border checks. Consequently, trade in goods meet a recognised single standard providing assurances for consumers on food safety and authenticity. Therefore, within the backstop period there would be no need for any additional veterinary checks on goods between Northern Ireland and Ireland.

10. There could however, be a requirement for additional checks on goods from Great Britain, as they enter Northern Ireland. Specifically, documentary, identity and physical checks of live animals and products of animal origin to ensure EU animal health, animal welfare and food safety standards are met. Michel Barnier has stated that EU border controls could be applied to “100% of imports of live animals and products of animal origin”.<sup>1</sup>
11. This would mean veterinary checks would be required as goods enter Northern Ireland from Great Britain, but not when they cross the Irish land border. The requirement for veterinary checks on animals and products of animal origin at ports could reduce the efficiency of traffic. Additional capacity at ports would be necessary. Extra inspections and inspection points would be needed. Furthermore, additional Official Veterinarians (OVs) would be required on site to execute the inspections.
12. There are some arrangements in place today for live animal movements from Great Britain into Northern Ireland. 100% of live animals are subject to some form of check, with about 10% of animals taken off their vehicles and checked more thoroughly. This is limited compared with the level of checks that would apply to live animals during a transition period. Veterinary checks would also be necessary across a wide range of products of animal origin including meat, milk, eggs and honey (and products containing such products) which is not the case today.
13. Great Britain would begin the period after the implementation period aligned with EU regulatory regimes concerning goods. This fact could be reflected in assurances for goods moving from Great Britain to Northern Ireland, reducing the requirement for checks at the border. However, if Great Britain, chose to diverge from EU specifications or sign trade deals allowing goods which do not comply with EU regulations, the requirement for checks would increase.
14. Imports of animals or animal products from a third country into the Single Market must, as a rule, be accompanied by the health certification laid down in

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<sup>1</sup> European Commission, *Speech by Michel Barnier at the European Economic and Social Committee Brussels*, 6 July 2017 [http://europa.eu/rapid/press-release\\_SPEECH-17-1922\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-17-1922_en.htm)

EU legislation. This sets out the conditions that must be satisfied, and the checks that must have been undertaken. The certification must be signed by an OV and must respect the provisions of Council Directive 96/93/EC on the certification of animals and animal products. Strict rules apply to the production, signing and issuing of certificates, as they confirm compliance with EU rules. Each category of animal and product has its own set of animal and public health requirements.

15. There is uncertainty about whether an Export Health Certificate (EHC) would be required to travel alongside a consignment that moved from Great Britain to Northern Ireland during the operation of the backstop. Or indeed, goods that travel from Northern Ireland into Ireland.

## No Deal Brexit

16. BVA has developed a detailed and up-to-date briefing document presenting the impacts of the UK leaving the EU without a withdrawal agreement in place (a “no deal” scenario). The document discusses issues important to the veterinary profession, including animal health and welfare, public health, regulatory issues and employment matters and the wellbeing of the profession.<sup>2</sup> This covers issues that will affect the UK as a whole, as well as giving particular attention to the specific needs of Northern Ireland.
17. A no deal Brexit will exacerbate current shortages in the veterinary profession and create significant risks for trade, animal health and welfare, and food safety. Vets are central to ensuring standards are upheld in animal health and welfare, food safety and public health, and the prospect of no deal Brexit has raised concerns that there will not be the veterinary capacity to carry out these fundamental roles, especially with regards to export certification.
18. With the prospect of a no deal Brexit increasing, questions remain over what will replace the EU systems and legislation that have hitherto been central to our standards in animal health and welfare, food safety and trade. The veterinary profession has major concerns over the potential increase in export health certification and whether we will have the veterinary capacity to meet these demands. Indeed, the combination of Brexit deterring non-UK EU vets from working in the UK and the increased pressures on the veterinary workforce

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<sup>2</sup>British Veterinary Association, “*No Deal*” *Brexit and the Veterinary Profession*, Updated January 2019 [https://www.bva.co.uk/uploadedFiles/Content/News,\\_campaigns\\_and\\_policies/Policies/Future\\_of\\_the\\_profession/No%20Deal%20Brexit%20and%20the%20Veterinary%20Profession%20final%20Jan%202019.pdf](https://www.bva.co.uk/uploadedFiles/Content/News,_campaigns_and_policies/Policies/Future_of_the_profession/No%20Deal%20Brexit%20and%20the%20Veterinary%20Profession%20final%20Jan%202019.pdf)

calls for immediate measures to be taken, and BVA and RCVS are urging the government to place vets on the shortage occupation list.<sup>3</sup>

19. Diseases do not respect political borders. North-South cooperation has enabled the island of Ireland to be treated in policy and operational terms as a single epidemiological unit for the purposes of animal health and welfare. Currently, there is an all-island approach taken to the control of animal disease and disease surveillance through government and non-government initiatives which will need to be maintained post Brexit. There is uncertainty with respect to Northern Ireland in the event of a no deal Brexit.

#### Cross-border trade

20. The shared land border between the Republic of Ireland and Northern Ireland has resulted in the development of a highly integrated agri-food sector. According to figures from the Irish Farmers' Association,<sup>4</sup> the scale of agri-food trade across the Irish land border is vast, annually:
  - Over 400,000 pigs are exported from the Republic of Ireland for processing in Northern Ireland.
  - Almost 400,000 lambs are exported from Northern Ireland to the Republic of Ireland for processing.
  - Over 800m litres of milk are exported from Northern Ireland to be processed and then exported from the Republic of Ireland.
21. If the UK leaves the EU in March 2019 with no deal in place, the EU will require the UK to become a listed third country before any animals or products of animal origin can be exported into the Single Market. The UK may not be permitted to make this application until the UK becomes a "third country" i.e. 11pm 29 March 2019. This process can take several months. According to The National Farmers Union (NFU), Defra has indicated this may take 6 months.<sup>5</sup> The UK government notes it would seek to engage in this process ahead of this happening.
22. Following listing, to meet World Trade Organisation (WTO) Most-favoured-nation (MFN) rules, border checks on animals and products of animal origin

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<sup>3</sup> British Veterinary Association and Royal College of Veterinary Surgeons, *Migration Advisory Committee: Call for evidence Shortage Occupation List review 2018*, January 2019

<sup>4</sup> Irish Farmers' Association, *Brexit: The Imperatives for Irish Farmers & the Agri-Food Sector* 2016

<sup>5</sup> The Guardian, *No-deal Brexit 'would stop British farming exports for six months'*  
<https://www.theguardian.com/politics/2018/sep/26/no-deal-brexit-will-be-catastrophic-say-britishfarmers-national-farmers-union-eu>

may be necessary in order for the EU to apply its legal requirements in a way that does not discriminate in favour of the UK, if no trade deal is in place.

23. Establishing designated BIPs on the land border would additionally have the effect of directing the movements of live animals and products of animal origin through assigned points on the border. The requirement for veterinary checks on animals could reduce the efficiency of traffic passing across the border. Inspections and inspection points will be needed. Furthermore, OV's will be required on site to execute the inspections, again putting additional pressure on veterinary capacity.

### Veterinary Capacity

24. Before the EU referendum, UK veterinary practices reported difficulties recruiting. This problem has intensified following the Brexit vote, as non-UK EU vets have faced considerable uncertainty about their futures. Almost half of the veterinary surgeons who register in the UK each year qualified elsewhere in the European Union. In some sectors, such as official veterinarians (OV's) in abattoirs, approximately 95% of veterinary surgeons are EU nationals.
25. The Major Employers Group which represents some of the largest UK veterinary businesses providing primary care directly to the public, conducted a recent survey of vacancy rates amongst its members in July 2017. This found an average workforce shortage of approximately 11% for veterinary surgeons and 5.6% for veterinary nursing. A subsequent survey was conducted in November 2018 and showed 890 vacancies in member practices employing over 7700 veterinary surgeons, representing a veterinary workforce shortage of approximately 11.5%. A survey of veterinary nursing vacancies 475 vacancies in practices employing over 6200 veterinary nurses representing a shortage of approximately 7.6%.
26. A no deal Brexit will require more work from vets to meet increased demands for the certification needed for export of animals and animal products and for pet travel. Once listing with the European Commission has occurred, Export Health Certificates (EHC) would be required for exports of all animal products and live animals from the UK to the EU. Official veterinarians are required to sign EHCs to attest that relevant public and animal health requirements have been met.
27. Under the Mutual Recognition of Professional Qualifications Directive (MRPQ) EEA qualified vets have the automatic right to register with the Royal College of Veterinary Surgeons (RCVS) to practise in the UK. In turn, UK vets have the register and work elsewhere in the EU. If veterinary qualifications gained in the

- EEA are not automatically recognised in the UK and vice versa following Brexit, this could disrupt the UK's veterinary workforce pipeline.
28. The UK Government has issued a no deal technical notice on this issue,<sup>6</sup> stating existing or pending recognition decisions will be valid. The corresponding EU Commission no deal preparedness notice mirrors the UK commitment for the EU and therefore Ireland.<sup>7</sup> There is uncertainty where no application has been made prior to 29 March 2019.
  29. There are particular challenges on the island of Ireland, where vets practice on both sides of the border. It would also affect students from Northern Ireland studying veterinary medicine at University College Dublin, or elsewhere in the EEA. If there is no automatic recognition, vets will be required to sit the RCVS statutory exam, with a cost of £2,500.
  30. Nigel Gibbens, the then Chief Veterinary Officer UK, suggested that the volume of products requiring veterinary export health certification could increase by as much as 325% in the case of no deal being reached between the EU and UK. The figure of 225% has been used more recently by the current Chief Veterinary Officer UK, Christine Middlemiss. The figure for Northern Ireland is likely to be much higher, reflecting the interconnected nature of supply chains on the island and higher significance of agri-food to the local economy. Meeting this additional demand will substantially impact upon the capacity of the veterinary profession.
  31. In a survey of the profession,<sup>8</sup> nearly two thirds (64%) of vets felt that Brexit was more of a threat than an opportunity for the veterinary profession and nearly nine out of ten (88%) are concerned about the potential lack of veterinary capacity to undertake certification post-Brexit.
  32. The veterinary profession is already experiencing shortages and recent figures from the Royal College of Veterinary Surgeons (RCVS) show that 32 per cent of non-UK EU veterinary surgeons are considering a move back home and 18 per cent are actively looking for work outside the UK, indicating Brexit will exacerbate these shortages.<sup>9</sup>

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<sup>6</sup> HM Government, *Providing services including those of a qualified professional if there's no Brexit deal*, October 2018,

<sup>7</sup> EU Commission, *Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of regulated professions and the recognition of professional qualifications*, June 2018

<sup>8</sup> British Veterinary Association, *Voice of the Veterinary Profession Panel*, Autumn 2018 Survey Report

<sup>9</sup> Royal College of Veterinary Surgeons (RCVS), Robinson D, Everett C, Williams M, *European veterinary surgeons working in the UK: The impact of Brexit (baseline survey)* June 2017 <https://www.employment-studies.co.uk/resource/european-veterinary-surgeons-workinguk-impact-brexit-baseline-survey>

## Animal Welfare

33. Around 80% of UK animal welfare legislation originates from the EU via 44 EU animal welfare laws, which cover: farm animals (17 laws); wildlife (11 laws); animals in research (nine); and companion animals (four).<sup>10</sup> In order to transpose this EU legislation into UK law, Defra will be required to pass several statutory instruments before 29 March 2019. As the National Audit Office (NAO) has noted:<sup>11</sup>

“In a no deal scenario, there is a high risk that Defra will be unable to deliver all the Statutory Instruments (SIs) it needs in time and it is identifying those that it needs to prioritise.”

34. Given the limitations of Parliamentary time and the considerable number of statutory instruments and substantial primary legislation that will be necessary in preparation for a potential no deal Brexit, legislation needed to protect animal welfare in Northern Ireland may not be in ready in time in the event of a no deal Brexit.

35. Certain agricultural sectors in Northern Ireland rely on abattoirs in Ireland. In a no deal scenario where movements of animals across the border are not permitted until the UK becomes listed by the EU Commission, this would have knock on effects on farms. If livestock is unable to move to an abattoir there this can lead to overstocking occurring on farms resulting in detrimental effects on animal welfare and health.

## Veterinary medicines

36. To ensure consumer safety, and facilitate trade in animal food products, maximum residue limits (MRLs) are set by the European Commission. MRLs are scientifically determined highest levels of pharmacologically active substances that are allowed in food derived from farmed animals following treatment with veterinary medicines.

37. In the event of a no deal Brexit, existing EU MRLs would become UK law via the EU Withdrawal Act. This would ensure the UK can continue to trade animal food products with the EU and the majority of third countries that recognise the EU process. After this, the UK could set new MRLs and modify existing MRLs on a UK domestic basis. If in the future, UK authorities diverted from the EU MRLs this would impact on the ability to trade in animal products without testing for residue levels at the border. There would additionally be confusion for vets

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<sup>10</sup> Veterinary Policy Research Foundation, 2016

<sup>11</sup> National Audit Office, *Department for Environment, Food & Rural Affairs Progress in Implementing EU Exit*, 2018



operating on both sides of the border between Ireland and Northern Ireland, where two separate regimes would operate, where there is currently one.

#### Exiting from EU surveillance, food safety and trade systems

38. Under a no deal Brexit the UK will lose or have limited access to a range of EU systems and organisations that are central to safeguarding public and animal health. These include the Animal Disease Notification System (ADNS) which permits access to information about contagious animal disease outbreaks, the European Food Safety Authority (EFSA) which provides scientific advice and communication on existing and emerging risks to food safety and the Trade Control and Expert System (TRACES) which records the outcome of biosecurity and food safety checks on imported commodities. Uncertainty over access to veterinary medicines is another potential threat to animal health and welfare.
39. Alternative systems need to be in place to ensure Northern Ireland's reputation in animal disease surveillance, food safety and biosecurity is maintained on Brexit day and vets should be involved in the development of these systems. Currently it is not clear what, if any, form these systems will take and the level of veterinary involvement in their development and application.

#### Delays to pet travel and animal transport

40. With no deal in place, when the UK leaves the EU it will have to become a 'listed third country' for the purposes of trade, pet travel and animal movement. This will mean increasing demands on the veterinary profession in terms of signing Export Health Certificates (EHCs) for the export of animals or animal products as well as certification, testing and vaccination for pet travel and equine transport.
41. Without approval from the European Union, the UK will not achieve listed third country status on Brexit day and there could be a delay of several months during which animals may not be able to travel and abattoirs may not be able to operate due to the increasing demands for export certification which could lead to overstocking on farms with negative impacts on animal health and welfare.

#### Devolution

42. Much of the legislation and regulation governing the work of the veterinary profession comes from the EU. However, implementation happens at both UK and devolved levels. Regulation of the veterinary profession and legislation relating to veterinary medicines, for example, are UK-wide, while animal health

and welfare are devolved matters. Directives and regulations from the EU have thus far provided for common approaches across the UK.

43. Brexit may allow policy differentiation within the UK in areas where EU law has previously provided a common legal framework. According to analysis conducted by the UK government, there are a total of 142 distinct policy areas where EU law intersects with devolved powers in at least one of the three devolved nations. The department with the greatest number of policy areas falling into this category is Defra.<sup>12</sup>
44. The UK, Scottish and Welsh governments agreed in October 2017 that new UK-wide arrangements should be created to replace EU law in some areas, to provide legal certainty and regulatory consistency. Northern Ireland was represented by civil servants. Together they announced six broad principles to determine where new UK-wide “common frameworks” should be established.<sup>13</sup>
45. To prevent or limit divergence, common frameworks may need to be created to “set out a common UK, or GB, approach and how it will be operated and governed”. Depending upon the policy area, “this may consist of common goals, minimum or maximum standards, harmonisation, limits on action, or mutual recognition”.<sup>14</sup>
46. A no deal Brexit will mean there will be no transition period where EU law will continue to take effect across the UK. In turn, this will result in much of the time where common frameworks can be agreed being truncated. The European Union (Withdrawal) Act 2018 makes provision for the period where these common frameworks are being designed and implemented. In this time the UK government will be able to maintain the existing common arrangements through the exercise of regulations in specific areas.<sup>15</sup>

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<sup>12</sup>Institute for Government, *Brexit, devolution and common frameworks*,

<https://www.instituteforgovernment.org.uk/explainers/brexit-devolution-and-common-frameworks>

<sup>13</sup> Cabinet Office, Northern Ireland Office, Office of the Secretary of State for Scotland, Office of the Secretary of State for Wales, Department for Exiting the European Union, The Rt Hon David Davis MP and The Rt Hon Damian Green MP, *Joint Ministerial Committee Communiqué: 16 October 2017*, retrieved 23 February 2018, [www.gov.uk/government/publications/joint-ministerial-committee-communique-16-october-2017](http://www.gov.uk/government/publications/joint-ministerial-committee-communique-16-october-2017)

<sup>14</sup> HM Government, *Joint Ministerial Committee communiqué: 16 October 2017*

<https://www.gov.uk/government/publications/joint-ministerial-committee-communique-16-october2017>

<sup>15</sup> Written Ministerial Statement: European Union (Withdrawal) Bill - Agreement between the UK and Welsh governments Statement from the Chancellor of the Duchy of Lancaster, David Lidington. 25 April 2018 <https://www.gov.uk/government/publications/written-ministerial-statement-european-union-withdrawal-bill-agreement-between-the-uk-and-welsh-governments>