

UK government's preparations for a 'no deal' scenario

On 24 September, the Department for Exiting the European Union published a further set of technical notices, which set out the preparations the government is undertaking to plan for a possible 'no-deal scenario'. These follow the earlier papers published on 23 August (see our [briefing](#)) and 13 September (see our [briefing](#)).

We highlight the key issues from the notices which might have an impact on health and social care services below. A full list of the latest papers and links to the technical notices can be found in Appendix 1.

Technical notices that may impact health and care

Merger review and anti-competitive activity if there's no Brexit deal

The UK will cease to be part of the EU competition regime. The government is not proposing to make any changes to the UK competition regime beyond those necessary to manage the UK's exit from the EU. UK businesses that conduct business in the EU (or that otherwise act in a way that affects competition in the EU) will continue to be subject to EU competition law. EU firms that conduct business in the UK will continue to be subject to UK competition law.

Exhaustion of intellectual property rights if there's no Brexit deal

The exhaustion of intellectual property (IP) rights refers to the loss of the right to control distribution and resale of that product after it has been placed on the market within a specified territory by, or with the permission of, the right holder. In the event of a no deal situation, the UK will continue to recognise the EEA regional exhaustion regime from exit day to provide continuity in the immediate term for businesses and consumers. The government is currently considering all options for how the exhaustion regime should operate after this temporary period.

Patents if there's no Brexit deal

Any existing rights and licences in force in the UK will remain in force after March 2019. For UK, EU and third country businesses there will be no significant change to the legal requirements or the application processes. The supplementary protection certificate regime in the UK will continue to operate as before for UK, EU and third country businesses. The conditions for patenting biotechnological inventions will remain in place. For compulsory licensing, UK, EU or third country businesses as holders of patents or plant variety rights which are valid in the UK will continue to be able to apply for a compulsory licence, where there is an overlap between the rights. UK, EU and third country businesses will continue to be able to obtain a compulsory licence for manufacturing a patented medicine to meet a specific health need in a developing country. For pharmaceutical product testing, UK, EU or third country businesses can continue to rely on

the exceptions from patent infringement provided for various studies, trials and tests carried out on a pharmaceutical product.

Aviation security if there's no Brexit deal

The EU has an inbound cargo regime called ACC3 (Air Cargo or Mail Carrier operating into the Union from a Third Country Airport), which requires carriers to hold a designation granted by an EU Member State (an "ACC3 designation"), in order to fly cargo into the EU:

- Cargo from the EU to the UK: The UK intends to recognise EU cargo security from the outset, and will not require new cargo security designations for carriers from EU airports. The UK would do this to prevent any disruption to the European and global cargo networks, and in recognition that security standards are already aligned and equivalent. However, the UK would expect this recognition to be reciprocated.
- Cargo from the UK to the EU: The EU has the ability to recognise the UK security regime as equivalent and allow cargo to continue to fly freely and avoid the need for unnecessary security designations. However, the European Commission has set out that, in the absence of any agreement, the default regulatory position will require carriers to hold ACC3 designations from an EU Member State in order to transport cargo from the UK into the EU. The EU has not yet provided details of how carriers should apply for an ACC3 designation.

Flights to and from the UK if there's no Brexit deal

If there is 'no deal' with the EU, airlines wishing to operate flights between the UK and the EU would have to seek individual permissions to operate from the respective states (be that the UK or an EU country). In this scenario the UK would envisage granting permission to EU airlines to continue to operate, and would expect EU countries to reciprocate in turn. If such permissions are not granted, there could be disruption to some flights.

In order to ensure permissions were granted and flights continued, the UK's preference would be to agree a basic arrangement or understanding on a multilateral basis between the UK and the EU. Alternatively, bilateral arrangements between the UK and an individual EU country could be put in place, specifying the conditions under which air services would be permitted. Airlines would then need to apply for appropriate permissions.

Appendix 1: Papers published on 24 September

Applying for EU-funded programmes

European Territorial Cooperation funding if there's no Brexit deal

Driving and transport

Aviation safety if there's no Brexit deal

Aviation security if there's no Brexit deal

Flights to and from the UK if there's no Brexit deal

Operating bus or coach services abroad if there's no Brexit deal

Vehicle insurance if there's no Brexit deal

Farming

Manufacturing and marketing fertilisers if there's no Brexit deal

Importing and exporting

Buying and selling timber if there's no Brexit deal

Commercial road haulage in the EU if there's no Brexit deal

Exporting animals and animal products if there's no Brexit deal

Importing and exporting plants if there's no Brexit deal

Importing animals and animal products if there's no Brexit deal

Labelling products and making them safe

Producing and labelling food if there's no Brexit deal

Protecting geographical food and drink names if there's no Brexit deal

Regulating chemicals (REACH) if there's no Brexit deal

Meeting business regulations

Copyright if there's no Brexit deal

Exhaustion of intellectual property rights if there's no Brexit deal

Patents if there's no Brexit deal

Trade marks and designs if there's no Brexit deal

Regulating energy

Generating low-carbon electricity if there's no Brexit deal

Regulating veterinary medicines

Accessing animal medicine IT systems if there's no Brexit deal

Registration of veterinary medicines if there's no Brexit deal

Regulation of veterinary medicines if there's no Brexit deal

Travelling between the UK and the EU

Taking your pet abroad if there's no Brexit deal

Travelling in the Common Travel Area if there's no Brexit deal

For a full list of all the technical papers released so far see:

<https://www.gov.uk/government/collections/how-to-prepare-if-the-uk-leaves-the-eu-with-no-deal>