

BRIEFING

Brexit: How universities can prepare for a no-deal scenario

March 2019

The current state of play

The Brexit negotiations have resulted in two documents: a Withdrawal Agreement relating to the issues to be solved as the UK leaves the EU; and a Political Declaration describing the UK and EU's future relationship.

Formally, negotiations have ended, but at the time of writing it is still uncertain whether UK Parliament will agree to these documents as they stand. Due to the short time before the UK will leave the EU (29 March 2019) and the difficulties that leaving without a separation agreement in place would create for universities in the EU and UK, it is necessary to plan for the consequences of a so-called “no-deal scenario”.

In this scenario, the UK would go from being an integral part of the EU on 29 March 2019, to having the status of a third country the day after – without a transition period. This would lead to disruption and uncertainty in a range of areas and require new arrangements and agreements to replace those currently in place.

It is important to underline that a no-deal is a worst-case scenario. We remain hopeful that the UK and EU will reach an agreement regarding the terms of the UK's departure. If the UK ratifies the Withdrawal Agreement the UK will remain a full participant in EU programmes such as Erasmus+ and Horizon 2020 until the end of these programmes in 2020. Plus, EU law will continue to apply during the negotiated implementation period, meaning that the UK will continue to enjoy the benefits of EU membership, but will no longer be involved in EU decision making processes. For citizens' rights this means that EU citizens arriving in the UK or UK citizens arriving in the EU by 31 December 2020 will be covered by the Withdrawal Agreement and will be allowed to remain where they are without changes to the rights that they are now enjoying.

The following overview is by no means exhaustive, but it provides a framework and a methodology to assist universities in the UK and in the EU¹ to prepare for a no-deal Brexit.

¹ Many of the points in the document will also be directly applicable to EEA and Swiss universities due to their close links to the EU, as well as to universities in Turkey with regards to issues concerning the Customs Union

What should universities do in a no-deal scenario?

In practice, a no-deal scenario would have consequences for universities both in the EU and the UK which have partnerships across the channel. In order to continue collaboration between EU and UK universities, it is important that universities:

1. Identify and compile an overview of potential problem area.
2. Engage in a dialogue with students and staff directly affected and listen to their needs.
3. Seek answers to questions that arise in these areas, be it from national authorities, the European Commission or other legal advice.
4. Find solutions with their partners in the UK or in the EU and act to face the challenges.

EUA and the Universities UK (UUK)² have identified four major areas of importance for universities that are likely to be affected by a no-deal scenario. These areas provide a framework for identifying problems, however, the examples given are not exhaustive, and UUK and the EUA advise universities to identify any other areas which are relevant for their specific context and type of collaborations.

The four areas are:

- 1. People:** students and staff affected by Brexit.
- 2. Cooperation:** the future of EU-funded activities.
- 3. Data:** shared information between the UK and the EU.
- 4. Trade:** goods and services passing between the UK and the EU.

PEOPLE

• *Legal status and residence permits:*

Concerning the consequences for students and staff, it is important to have answers to questions regarding their residency status from 30 March 2019. What will they need in terms of residence permits and what are their rights as third country citizens? Universities need to consult national authorities to see what the eventual procedure is for the transition from EU to third country citizens.

The European Commission has [recommended its member states](#) use temporary residence permits or other pragmatic solutions in order to ensure that UK nationals will be considered legal residents also in the case of a no-deal scenario. Some member states have implemented procedures to ensure this, but **it is important to seek guidance from the national authorities if this is the case, re: what is eventually needed to remain a legal resident.**

In the UK, the Prime Minister has [said](#) that “even in the event of no-deal” the rights of EU citizens living in the UK “will be protected”. The UK government has published a [technical note](#) on the citizens’ rights of EU nationals in the UK in the event of a no-deal, which gives assurances that EU nationals

² Universities UK (UUK) is the body which represents the Vice-Chancellors of 136 UK universities. In the context of Brexit, our aim is to ensure a continued basis for the close co-operation between our universities and partners in Europe.

arriving in the UK by 29 March 2019 will be able to stay and their rights will be protected.

The UK government has also published details of [immigration rules](#) which will apply to EU nationals entering the UK after the point of Brexit in the event of a no-deal:

- For a transitional period only (until 2021), EEA citizens and their family members, including Swiss citizens, will still be able to come to the UK to visit, work or study for up to three months without any extra administrative procedures.
- To stay longer than three months EEA citizens will need to apply for permission and receive European Temporary Leave to Remain, which is valid for a further three years.
- EU citizens wishing to stay for longer than three years will need to make a further application under a new skills-based immigration system, which will run from 2021.

• ***Tuition fees:***

In event of a no-deal, UK students in some countries would move from a national to a third-country fee regime. These students will need clarification on whether they need to pay fees, and if so for what period as the change would in many cases happen mid-semester. **The decision might be different from system to system, but it is likely that the question will need to be raised with national authorities in good time.**

Governments in England, Scotland, Wales and Northern Ireland have confirmed that EU students starting courses in 2019/20 (the first cycle post-Brexit) will pay the same fees and be eligible for the same financial support as they were before Brexit. This arrangement is not dependent on the ratification of a Withdrawal Agreement, and the [UK Secretary of State for Education](#) has confirmed that this will be upheld even if the UK leaves the EU without a deal.

• ***Recognition of qualifications:***

Recognition of **professional qualifications** is regulated by the EU, which [has confirmed](#) that qualifications recognised before 29 March 2019 will not be affected by Brexit. Moreover, individual member states can bilaterally or unilaterally recognise professional qualifications from a third country. **Universities are advised to seek information from national authorities on whether professional qualifications obtained after 29 March 2019 will still be recognised.** The [UK government has stated it will ensure](#) that professionals arriving in the UK with EEA and Swiss qualifications after the exit date will have a means to seek recognition of their qualifications.

Academic qualifications are covered by the Lisbon Recognition Convention, which is not an EU document and will still cover UK citizens in the EU and vice versa.

• ***Transnational education:***

UK institutions operating in the EU that are accredited under UK quality assurance (UK universities offering transnational education) may need to find new ways to ensure recognition of their academic qualifications in the receiving country.

• ***Travel:***

Risks include potential visa costs for travel to and from the UK and potential increases in travel time; potential disruption in the weeks immediately following Brexit; the European Health Insurance Card (EHIC) would no longer be valid in the UK for EU citizens, and UK citizens will no longer be able to use the EHIC so travellers could require additional health insurance for European travel. The European Commission has issued [detailed guidance](#) for travelling between the UK and the EU.

For each of these areas universities are advised to:

- Get an overview of who will be affected by Brexit.
- Contact those affected to understand their needs.
- Seek information from national authorities and from the European Commission.
- Give clear information about the consequences to students and staff.
- Assist and advise students and staff that might need documentation and/or information in order to remain legal citizens ('settled status' in the UK).

COOPERATION IN EU PROGRAMMES**• Horizon 2020**

In case of a 'no-deal' exit, the UK will become a third country and the UK government Underwrite Guarantee will come into effect. Through this guarantee the UK Government has committed to protect current ongoing projects in Horizon 2020 and also to pay for successful UK grant applications for funding streams open to third country participation (i.e. multi-beneficiary grants) which are submitted after the UK leaves the EU in March 2019. The UK government would financially guarantee the funding UK participants would have otherwise received from the EU. However, there are a number of uncertainties which would need to be resolved in the case of a no-deal. For example, UK partners would not count towards the minimum number of EU partners required in a consortium. This means some consortia would no longer fulfil the eligibility criteria. Under the Horizon 2020 rules, third countries should not be excluded from coordinating and fully participating in Horizon 2020 projects, once the minimum eligibility conditions are met. There might also, in some cases, be specific limitations for third countries in the original call which could affect consortia with UK partners.

The European Commission has suggested that if the UK continues to pay into the 2019 EU budget and agrees to fulfil conditions regarding audits and controls, UK participants in the programme would still be eligible for funding during 2019. However, the details of this potential arrangement would need to be determined and agreed.

• Erasmus+

This programme is potentially more complicated due to the decentralised nature of parts of the programme. In the case of a no-deal Brexit, the European Commission has [proposed](#) changing Erasmus+ regulation so that National Agencies would still be able to pay the remainder of the Erasmus+ grant to mobile EU students that are in the UK on 29 March 2019. This measure only applies to students already abroad and does not include any new mobilities. The proposed regulation would also let UK students in the EU receive the remainder of their grant, provided that the UK National Agency remains open for audits by the EU. The modalities of this proposal and its financing is still unclear.

As with Horizon 2020, the European Commission has proposed that UK participants remain eligible for funding in 2019 if the UK pays into the 2019 EU budget and agrees to audits and controls.

Additionally, on 29 January 2019 the UK Government published a new [technical notice](#) on how the UK government's underwrite would work for Erasmus+ and what the underwrite will - and will not - cover in case of a no-deal. Though the UK Government would try to negotiate access to the remainder of the Erasmus+ programme in case of a no-deal exit, if those negotiations fail, the underwrite indicates that the UK government will only cover grants that have already been agreed to before the exit date. This would mean that:

- The government would not underwrite the Erasmus+ funding the sector would otherwise have received to fund outward mobility from the 2019 call.
- Only current ongoing Erasmus partnerships, such as strategic partnerships and knowledge alliances, would be eligible for funding from the underwrite. Plus the UK partners would need to provide details of their EU funding entitlement and evidence that their Erasmus+ project will be able to continue after the exit. There are no guarantees for partnership projects submitted for the 2019 calls.

UK partners in all current projects, including mobility, must demonstrate their funding entitlements and evidence that the project or mobility is able to continue after 29 March. The UK government will open a portal – the Grants Management Function – for UK institutions to initiate claims. However, there are no details yet on what universities will need to provide or how the underwrite would be administered and will work in practice.

Universities are advised to:

- Get an overview of who will be affected by Brexit. Which collaborative EU research projects include a UK partner and/or coordinator? Which mobile students will be affected?
- Contact those affected to understand their needs
- Contact partners in the UK and EU and plan together.
- Give clear information about the consequences to students and staff. Are the UK government funding commitments understood by staff in your institution and are there any concerns?
- **For Horizon 2020**
 - Seek information:
 - ◇ For the management of Horizon 2020, answers to these questions should come from the European Commission, its respective executive agencies responsible for programme implementation, and the National Contact Points.
 - ◇ For the UK, questions about the practical implementation of the funding for UK partners should be directed to the UK Government and UKRI, who are responsible for the collection of the data of UK based researchers' grants through the [portal](#).
- **For Erasmus+**
 - Seek information:
 - ◇ For Erasmus+, answers to these questions should come from the European Commission, its respective executive agencies responsible for programme implementation, and the Erasmus National Agency (notably for decentralised actions).
 - ◇ For the UK, questions about the practical implementation of the funding for UK partners and students should be directed to the UK Government and the British Council, in particular for Erasmus+.
 - Ask national governments if funding will be available to support mobility to and from the UK in the event that the UK government fails to agree continued participation in Erasmus+.
 - Seek to create bilateral parallel or back-up partnership agreements before the exit date to allow exchanges to continue as they are. Universities in the EU should check if there are any national regulations which would prevent them from continuing exchanges on a bilateral basis.
 - For UK universities: As soon as the Grants Management Function portal is available, submit the requested information to become eligible for funding under the underwrite.

DATA

• **Data protection rules:**

In the case of a no-deal scenario, the UK stop being compliant with the EU General Data Protection Regulation (GDPR), even if the UK does still have the same rules as the EU. It will be relevant for universities to see what data is shared with UK partners, if any is sensitive, and if practices need to be changed. Affected areas could include the exchange of research data or student and staff data.

The European Commission proposes to investigate the use of 'derogations' and existing tools for transfer of data to third countries. **Universities should consult with their legal experts regarding these changes, seeking advice from the European Commission as necessary.**

Universities are advised to:

- Review data transfers from the EU to the UK: what, who to/from, how much/often, via which mechanisms?
- Review contracts, for example references to data transfers with the UK, to see if and how they could be made compliant with EU legislation.
- Where applicable insert new clauses into existing contracts to deal with the 'adequacy' issue.

TRADE

Rules governing the purchase of goods and services from the UK will change radically if the framework for the relationship moves from the EU Customs Union and Single Market to the rules of the World Trade Organisation (WTO). This will relate to physical goods which may be subject to tariffs or other restrictions depending on their nature, and goods which require phytosanitary checks (for example animal products). The latter may be particularly difficult as a system for the required checks would need to be set up in a very short time.

Universities should consider: the continuity of the supply of materials from the UK (shortage of materials; delays to supply arising from changes in customs clearance at ports or driver licence requirements for transporting goods), additional costs (potential new tariffs), and related risks (suppliers ceasing to trade; capacity for procurement teams to manage all of the above).

Universities should also how services bought in the UK would be affected and how procurement rules could change if the UK becomes a third country over night. Moreover, access to UK financial services would be affected and should be reviewed.

Universities are advised to:

- Evaluate existing contracts regarding suppliers in the UK (for EU-based universities) and in the EU (for UK-based universities) and see which contracts pertain to key products and services.
- Identify staff that will be directly affected and understand their needs.
- Evaluate which contracts are higher risk financially (consider the impact of exchange rate fluctuations especially on large construction contracts for example).
- Consider staffing arrangements, possible shortages of supplies (consider raw materials not just end products), possible increased tax/duty/tariffs, and possible border blockages/import duty/delays.
- Seek guidance from the [European Commission](#) and from national governments (links to relevant UK government websites [here](#) and [here](#)).
- Maintain communications with key suppliers to understand their 'no-deal' plans and anticipated implications.

CONCLUSION

While the questions raised by no-deal scenario planning may seem numerous and complicated, the university sector remains relatively uncomplicated compared to many other sectors. The university sector is one in which there is a lot of understanding for the need to continue to collaborate, regardless of the type of exit. Even a no-deal Brexit should not prevent universities on our continent from ongoing cooperation.



European University Association

The European University Association (EUA) is the representative organisation of universities and national rectors' conferences in 48 European countries. EUA plays a crucial role in the Bologna Process and in influencing EU policies on higher education, research and innovation. Thanks to its interaction with a range of other European and international organisations, EUA ensures that the voice of European universities is heard wherever decisions are being taken that will impact their activities.

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