

Health Governance After Brexit: Law, Language and Legitimacy
ES/S00730X/1

Six month report for the steering group

September 2020 - February 2021

Here is a summary of what we have done in the last six months. If you would like further information about any of the items here, please get in touch with Ivanka Antova I.Antova@qub.ac.uk.

Staffing:

- During this period, the core team (Tamara Hervey, Mark Flear, Matthew Wood, Ivanka Antova) continued to work with two students, Natalia Miernik and James C Murphy, Sheffield (paid for by UK in a Changing Europe and then paid for by us after we had secured a change in our grant conditions from ESRC);
- Luke Pavoni continued to provide administrative support, working on the Twitter feed and website;
- We also had administrative support from Katie Pruszynski for our webinar with UKiCE/Festival of Social Science.

Street ethnography, results and themes:

- The journal article focused on the street ethnography was rejected by the *British Journal of Political Science* and *European Journal of Politics Research*;
- Matthew Wood has now submitted this article to the *American Political Science Review*.

Elite semi-structured interviews: themes and continued co-produced outputs:

- Since the start of the project, we have now completed detailed legal and/or policy analysis and detailed briefings for:
 - Faculty of Public Health;
 - Kidney Care UK;
 - Cancer Research UK;
 - British Medical Association (in Northern Ireland) x 2;
 - NHS Confederation x 2;
- We agreed a repurposing of dissemination funds with ESRC, which will allow us to produce high quality pdfs of these reports, for sharing online more effectively;
- We continue to work with the Faculty of Public Health, informing their engagement on future UK public health governance;
- We continue to work with Kidney Care UK, most recently on cross-border health care in the UK-EU Trade and Cooperation Agreement;
- Our Cancer Research UK briefing formed the background to their recommendations on the UK-EU negotiations, particularly concerning future clinical research. It continues to inform their work on UK future governance of clinical research;
- Our NHS Confederation briefings are informing the recommendations of the Brexit Health Alliance on the UK-EU negotiations, particularly concerning NHS and social care staffing. They continue to inform their work on future EU-UK relations in the health sphere;
- With Liam Sunner, Maynooth, Tamara Hervey wrote a briefing for the Socialist Health Association on 'Post Brexit Trade Agreements and the National Health System';

- We remain open to further approaches from/co-production with our health policy sector collaborators, and others in the sector.

Outputs

- Academic conferences/workshops:
 - We presented papers at:
 - The Health in Europe Webinar Series, Lancaster, November 2020 and January 2021;
 - The Northern/Irish Health Law and Ethics Network Seminar Series, held virtually, in December 2020;
 - CREDIMI Institute Webinar, University of Dijon, November 2020
 - The Institute of European and Comparative Law Webinar, Oxford, in September 2020;
 - The University Association of Contemporary European Studies Annual Conference, held virtually in September 2020.
 - We will present papers at:
 - Ivanka Antova will be presenting a paper on the NHS Long-Term plan and responsabilisation in health governance post-Brexit at the The Health in Europe Webinar Series, Lancaster in March 2021;
 - Mark Flear will be presenting a paper at Sociolegal Studies Association Annual Conference, held virtually, Cardiff, in April 2021.
- Public/policy engagements:
 - In collaboration with UK in a Changing Europe and the Festival of Social Science, we organised a webinar on Health in Changing Times in November 2020. We had four external speakers, who watched our film *Brexit, Health and Me* in advance of the event, and gave their reflections on it, then took questions from the audience which was over 100 people;
 - We have also presented the project at:
 - Faculty of Public Health Webinar on Brexit and Public Health, Policy, Planning and Preparedness, October 2020;
 - Socialist Medicine Association Webinar, November 2020;
 - EU-UK Forum Webinar on Healthy Partnerships, January 2021;
 - European Parliament Green Party, January 2021;
 - Tamara Hervey, 'Explainer: Health Insurance in the Brexit Deal', for UK in a Changing Europe website, January 2021;
 - Ivanka Antova, Mark Flear, Tamara Hervey, Matthew Wood, 'Health', in *Brexit and Beyond*, UK in a Changing Europe Report, January 2021;
 - Mark Flear and Tamara Hervey, 'Britain's Pharmaceutical Industry and No Deal' for UK in a Changing Europe Commentary section, October 2020;
 - The Health Governance after Brexit team was approached by the House of Lords EU Environment Sub-Committee to submit written evidence to its Inquiry on the EU-UK Trade and Cooperation Agreement. We submitted 37 pages of close analysis;
 - Mark Flear and Ivanka Antova will present 'Health in Challenging Times' in Belfast's *Imagine Festival of Politics and Ideas*, in March 2021.
 - blogs
 - Tamara Hervey, Liam Sunner and Brian Fisher wrote a blog for the Socialist Health Association website;

- Tamara Hervey and David Yeates wrote for the French Property.com website, January 2021;
 - Tamara Hervey, 'Analysis 1 of the Brexit Deal: Healthcare entitlements in the EU-UK Trade and Cooperation Agreement' for EU Law Analysis blog, December 2020;
 - Tamara Hervey, Natalia Miernik and James Murphy, 'Coordination of Social Security under the Withdrawal Agreement' for EU Relations Law blog, November 2020.
- media engagements:
 - Tamara Hervey was quoted by *Bloomberg* in December 2020;
 - Tamara Hervey was quoted in *Politico* in September 2020.
- Publications:
 - Hervey, T., & De Ruijter, A. (2020). The Dynamic Potential of European Union Health Law. *European Journal of Risk Regulation*, 11(4), 726-735;
 - Antova, I. (2020) Disability Rights During COVID-19: Emergency Law and Guidelines in England. *Medical Law Review*, 28 (4), 804–816;
 - Hervey, T. et al, (2021) Health “Breexternalities”: The Brexit Effect on Health and Health Care outside the United Kingdom. *Journal of Health Politics, Policy and Law* 46 (1), 177–203;
 - Phillips A.M., Hervey T.K. (2021) Brexit and Biobanking: GDPR Perspectives. In: Slokenberga S., Tzortzatou O., Reichel J. (eds) GDPR and Biobanking. Law, Governance and Technology Series, vol 43. Springer, Cham.
 - Antova, I., Flear M.L., Hervey T.K., Wood, M (2021 in press) 'Accountability for health and the NHS in post-Brexit COVID-19 UK: the 'left behind' and the rules of law' in Mumford, A., Cowan D., (eds) Pandemic Legalities. Bristol University Press;
 - Wood, M. (2021) Europe's New Technocracy, *JCMS: Journal of Common Market Studies*, in press.

Documentary film:

- With ShoutOutUK, we modified the original dissemination plans for the film, in light of the unfolding pandemic;
- We used ShoutOutUK's online platform to showcase the film along with two sets of learning materials that we wrote. These reached at least 111 students/young people aged 16-19, accessing via the ShoutOutUK portal (75 young people), or by 3 virtual workshops involving online screenings (36 young people) run by ShoutOutUK. All of these workshops were based in London, despite efforts to persuade schools or colleges elsewhere to take up the offer. We repurposed some of our dissemination funding to support these workshops, with the support of the ESRC. Feedback from the workshops was positive: 'very informative. Covered the issues needed for us to enter into the next stage of Brexit' (Senior Youth Worker/Pastoral Tutor, South Thames College);
- Negotiations between ShoutOutUK and London Live eventually came to nothing, despite ShoutOutUK's considerable efforts to seek to satisfy London Live's compliance unit;
- The film *Brexit Health & Me* is now available on Amazon, free for Amazon Prime users and at a nominal cost of £0.99 for others.

Current work in addition to the above:

- The project team is still focusing on academic outputs, locating ourselves in various literatures, and contributing to methodological development in the field of social science:
 - Matthew Wood resubmitted the article discussing the project's ethnographic methodology to *American Political Science Review*;
 - Ivanka Antova submitted an article on COVID-19 ethical guidelines and disability rights to the *Northern Ireland Legal Quarterly*;
 - Mark Flear and Ivanka Antova are working on an article on responsabilisation for health post Brexit;
 - Ivanka Antova is working on an article discussing COVID-19 and health law post Brexit from a disability perspective;
 - Our book proposal, entitled *Health Governance after Brexit: Law, Language and Legitimacy* has been accepted by Hart/Bloomsbury Publishing. Tamara Hervey will be lead author, with Ivanka Antova and Matthew Wood as co-authors;
 - Tamara Hervey is working on an analysis of the EU-UK Trade and Cooperation Agreement and health, aimed at *Health Economics, Policy and Law*;
 - Mark Flear is leading, with Tamara Hervey and Dan Wincott, a stream on *Epistemic Injustice* in the Sociolegal Studies Association Annual conference, which will take place online in April 2021. The hope is to produce a special issue of a journal which will include work from the project.
- Tamara Hervey is working with the Nuffield Trust, who secured funding from the Health Foundation for a pilot study, benchmarking health law and policy changes post-Brexit, August 2020-December 2020. Nuffield Trust is seeking ongoing funding from the Health Foundation for this project.

Other:

- Ivanka Antova applied to the British Academy Early Career Fellowship scheme and the AHRC Equality, Diversity and Inclusion scheme. Neither application was successful.

Future work:

- We received COVID-19 follow-on funding from EPSRC/UKRI. This covers Ivanka Antova's salary until July 2021 (QUB funding) and up to two student interns until July 2021 (Sheffield funding). Ivanka Antova will mentor these student interns. Technically speaking these are *new* projects, but they will of course continue the work of this project.
- Legal analysis: we will continue to carry out doctrinal legal research on health law after Brexit, working with our co-producers from the health policy field. These will focus on the EU-UK Trade and Cooperation Agreement, other UK Trade Agreements, and domestic law in the UK and Northern Ireland, as capacity allows.
- We have abandoned a number of previous plans, in light of the pandemic:
 - In person dissemination events screening the film in London, Newry, Derry, Sheffield, Rotherham and Rochdale;
 - Team writing retreat;
 - In person academic conferences.
- Mark Flear secured continued funding from the EU Public Development / EU Partnerships funding to support further research into COVID, Brexit and disability.
- Mark Flear is seeking further funding for 3 further months of Ivanka's salary from QUB's COVID-19 impact Department for the Economy funding.
- Mark Flear is applying for future funding for a project on health security.

- Matthew Wood is applying for future funding for a project on governance and public health.
- Tamara Hervey has applied to the BA/Leverhulme Senior Fellowship scheme.

Practical:

- Budget: we agreed a small number of budget adjustments with ESRC. The project came in under budget, but not by too much.
- It was not permissible to ask for a no-cost extension as well as having the COVID-19 EPSRC/UKRI funding. It took some time to clarify this. We consequently withdrew our application to ESRC for a no-cost extension.