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# Has Brexit changed detection and prevention of illicit trade in drugs, alcohol, and tobacco in Wales?



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## Limitations

Due to the complex and real-time nature of the subject matter, the evidence used within the briefing is a mixture of grey and academic literature. Grey literature included non-governmental organisation reports, government reports, Think Tank pieces, policy papers, experts' blogs, and news articles. Academic literature included expert opinion pieces based on theory, primary research, and literature reviews.

The researchers also noted a lack of information on illicit alcohol. Further research on this topic is needed.



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## About this briefing

Illegally traded drugs, alcohol and tobacco have a damaging impact on population health and well-being that exceeds the risk already posed by their legal forms. In Wales, illicit drug deaths are now at their highest levels since records began in 1993. Alcohol deaths are also high, and smoking remains the leading cause of preventable death in Wales.

This briefing by Public Health Wales summarises the international systems the UK and Wales participated in to tackle illicit alcohol, tobacco, and drugs before Brexit. It will then explore how these have changed post-Brexit and what potential impact that may have on health and well-being in Wales.

The significant increase in deaths and hospitalisations associated with illicit drug and alcohol use, alongside the persistent risk posed by tobacco, is a public health crisis that requires cross-sector and multi-agency collaboration and coordination. We hope this briefing will be a valuable resource for those involved in tackling illicit trade (e.g. town, city and county councils, law enforcement, data intelligence and customs officials), and of wider interest to public health professionals and officials working on public health policy as a demonstration of the many ways that Brexit has the potential to influence the health and well-being of the people of Wales.

### *Table 1. Glossary of terminology*

#### **Illicit drugs**

In this report, we use the term 'drugs' to mean all illicit drugs. This is defined as any drug that is named in the Misuse of Drugs Act 1971 or the Psychoactive Substance Act 2016. These Acts make it illegal to possess or supply drugs like heroine, crack cocaine and synthetic drugs (1)(2)(3). Other illegal drugs also include unregulated prescription medications and counterfeit prescription medication.

#### **Illicit alcohol**

In this report, the term 'illicit alcohol' refers to illegally produced or sold alcohol and smuggled legal alcohol products. However, some data collection and monitoring refers only to alcohol sold without being appropriately taxed, or can also include other forms of 'unrecorded alcohol', such as home-made alcohol and surrogate alcohol not for human consumption (e.g. mouthwash and perfumes) (4).

#### **Illicit tobacco**

In this report, the term 'illicit tobacco' is used as an overarching term that includes (5):

- Counterfeit tobacco – the illegal manufacture and sale of products without the consent of the trademark or copyright holder;
- Non-duty paid (smuggled) tobacco – the illegal import and sale of genuine products without paying tax;
- Cheap (illicit) whites – cigarettes manufactured specifically for the illegal market and illegally imported to the UK; and
- Bootlegging – smuggled products from low tax areas into the UK for resale.

#### **Illicit trade**

In this report, 'illicit trade' means any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale, or purchase, including any practice or conduct intended to facilitate such activity (20).

## Key findings

- Brexit has **changed the way in which the UK and Wales can participate in the detection and prevention of illicitly traded alcohol, tobacco, and drugs**. This has implications for the health and well-being of people in Wales and beyond.
- **Drug deaths** have reached their highest ever levels in Wales. **Alcohol deaths** are also worryingly high, and **smoking remains the leading cause of preventable death in Wales**. Illegally traded drugs, alcohol and tobacco have a damaging impact on population health and well-being that **exceeds the risk already posed by their legal forms**, making the detection and prevention of illicit trade in these goods vital. Individuals from the **worst-off areas of the UK and Wales are more likely to experience negative health outcomes** from the use of illicit products, including deaths and hospitalisations.
- The main ways that Brexit has changed collaboration between the UK and EU are through:
  - **Data and information sharing:** The UK does not have the same access to several EU databases for identifying criminals and illicit activity across Europe as it did before Brexit, potentially reducing its ability to detect and prevent illicit trade in the UK and Wales.
  - **Border and import controls:** Now that the UK sits outside of the EU, it no longer participates in the Single Market or Customs Union. This could be advantageous for tackling illicit trade if goods are subject to additional checks at UK borders. However, new international trade agreements and proposals for freeports in the UK and Wales, create new opportunities, which criminals may seek to exploit to smuggle illicit goods into Wales and the UK.
  - **Supply and demand:** Post-Brexit, the UK is negotiating new international trade agreements, which have the potential to create new supply routes and opportunities for criminal exploitation. Brexit also has the potential to shape the demand for illicit alcohol, tobacco and drugs in the UK and Wales by increasing exposure, poor mental health, and financial stress; all risk factors for increased consumption and/or misuse.
- **Effective strategies for reducing illicit trade of alcohol, tobacco and drugs** in the UK and Wales to benefit population health and well-being need to:
  - Take account of how **Brexit has affected international collaboration for detecting and preventing illicit trade**, as well as its potential to **shape the supply of illicit goods** through new international trade agreements; and
  - Respond to the ways in which **Brexit may have negatively impacted on health and well-being in Wales to decrease demand** for these goods.

# 1. What risk does illicit trade in drugs, alcohol and tobacco pose for health?

It has long been established that alcohol, tobacco and drugs have a damaging impact on health and well-being (6)(7). Each of these substances has an individual impact on health: “high-risk” drinking – more than 14 units of alcohol a week – can cause cancers, liver and heart disease, and brain damage, while “single session” drinking can exacerbate mental health problems and contribute to violent behaviour (8)(9); tobacco causes lung diseases and cancers (10); and the impact of drugs varies by type, but most can have negative physical and mental health impacts (7). Excessive use of any of these substances can lead to early death.

Illicit trade poses a further risk to health. Illicit products are often substandard, as they do not go through the required regulatory controls, and as such contribute further to the existing negative impacts of alcohol, tobacco and drugs on physical and mental health (11). See Table 2 for more detailed information on the public health implications of these substances.

Trade of this kind also has a significant impact on the economy (11). Illicit trade has the potential to cost the global economy 2.2 trillion USD annually (3% of the world’s economy) (see Box 1) (12). That is because trading alcohol and tobacco products illegally means the taxes on these goods go unpaid. This has a cost as it means less public money is available to spend on areas important for public health, such as education, housing, and health and social care services (13).

## Box 1: The economic impact of illicit drugs, alcohol and tobacco

- The harms from drug misuse e.g. health- and crime-related harms, cost the UK approximately £19.3 billion a year (14). In 2017, the global market for counterfeit medicines was estimated to be 200 billion USD and growing annually (15).
- Illicit alcohol cost the UK Government £1.2 billion in unpaid taxes between 2020-2021 (16).
- Illicit tobacco cost the UK Government £2.5 billion in unpaid taxes between 2020-2021 (16)(17).

Illicit trade is typically carried out by criminals and organised crime groups, but can also be executed by legitimate organisations whose business operations do not meet the applicable laws and regulations (18)(19)(11). Profits made from illicit trade can then be fed back into other criminal activities, such as sex trafficking, which can have further, negative consequences for public health (20)(21)(22)(23)(24)(11)(25).

Table 2. The prevalence and the health impacts of illicit drugs, alcohol and tobacco in the UK and Wales

## Drugs



The illicit drug market is considered to be the largest criminal market in Europe (26). Most forms of illegal drugs originate overseas and are trafficked into the UK via various routes (27). National Crime Agency (NCA) assessments have shown that “the demand for drugs in the UK remains high and the overall trend is that the use of drugs is increasing” (28). In 2019 and 2020, nearly 3 in 100 people (2.7%) in the UK said they used cocaine, with the UK consuming around 117 tonnes of cocaine every year. Approximately 300,000 people in the UK use heroin, consuming around 38 tonnes a year (28).

Over 3 million adults from England and Wales reported using drugs in 2020 (14). The most commonly used drugs are cannabis, powdered cocaine, MDMA, ketamine and amphetamine (29). There has been a recent increase in the number of unregulated prescription medications on the market e.g. Benzodiazepines such as Xanax and gabapentinoids (30)(31).

The misuse of drugs has a significant impact on the health and well-being of the Welsh population. These include: mental health problems (e.g. anxiety, depression and suicide), lung damage, cardiovascular disease and early death (2).

There have been a record number of fatalities attributed to illicit drug use in Wales. In 2021, there were 322 deaths due to drug poisoning in Wales, an increase of 44% from 2020 (164). 65% of drug-poisoning deaths were defined as drug misuse deaths, specifically drug deaths involving illicit drugs controlled under the Misuse of Drugs Act 1971 and related legislation (164). In addition to diazepam, cocaine and methadone, opioids were the most reported substance group, of which 93% involved heroin or morphine (164).

As the illegal drug market is also unregulated, there is no guarantee that purchased drugs are as described or free from other products that are damaging to health. For example, drugs are often contaminated or combined with cheaper products to create higher profits (11)(32). Although these additions may be harmless, or less harmful than the drug itself, some can be extremely dangerous to health (33)(34). The absence of regulation also means that drugs, including smuggled medicines, can be stored incorrectly and become unsafe to use (11).

In Wales, drug policy is rooted in a harm reduction approach, which recognises substance misuse as a health and social care issue as opposed to one that is solely associated with criminal justice (35). In 2021, the UK Government introduced a new drug strategy that brought it closer to the Welsh approach, which aims to reduce supply and demand for drugs by delivering a high-quality treatment and recovery system (36). Previously, experts and politicians have called out the current zero-tolerance approach to drugs and drug laws in the UK as failing by punishing the most vulnerable, driving trade underground and feeding money back into the pockets of criminals (35). They view countries, such as Portugal, as demonstrating the benefits of prioritising public health (treatment and prevention) over criminalisation and treating drug users as patients, not criminals (35).

## Alcohol



Between 2020-2021 it was estimated, based on the tax gap estimates, that alcohol accounted for nearly one tenth (9.9%) of the illicit market (16). Regular alcohol consumption has serious public health implications, including: high blood pressure, cancer and heart disease (21)(37). Because illegally produced alcohol is not regulated, there is more risk associated with its safety and quality (38)(39)(21). Illicit alcohol is often stronger and cheaper. It can also be produced using dangerous alcohols (e.g. methanol), or chemicals such as anti-freeze, which can cause nausea, blindness and even death (21)(39).

Alcohol-specific deaths have reached worrying levels in Wales. In 2021, rates of alcohol-specific deaths rose in Wales compared to 2020; there were 15 alcohol-specific deaths per 100,000 persons in Wales (165). When compared to 2019 – the last pre-pandemic year – rates of alcohol specific deaths increased 27.1% in Wales and 27.5% in England (165).

## Tobacco



The UK is recognised as a world leader in tobacco control (40)(41), but it remains a target market for illicit goods; posing a security, health, and economic risk to the UK (42)(43). Tobacco use is associated with cancers and heart and respiratory diseases. Tobacco is also a key contributing factor in deaths from infectious diseases (157). Smoking is the leading cause of preventable death in Wales with around 5,600 deaths in people aged 35 and over attributable to smoking in 2018 (167).

Globally, it is estimated that 1 in 10 tobacco products are illegal (43). Between 2020-2021, this increased to 16% in the UK (16)(17), and the market share was higher again for Wales (23)(44). According to one UK-based survey, 20% of respondents had been offered black market cigarettes (18).

Illicit tobacco undermines a range of tobacco control measures used to reduce tobacco use and its negative health effects (18)(44)(23)(24)(45) such as:

- Health warnings – health warning images are legally required on tobacco packaging. Illegal products often lack this imaging or do not meet the specifications e.g. are written in a smaller print or foreign language (44)(24)(46).
- Age restriction – legal products are restricted to those aged over 18 years old. Illegal products are sold to persons of any age, increasing its accessibility for children and young people (44)(23)(18)(46)(24). For example, over half (55%) of 14- and 15-year-olds who smoke buy illegal tobacco (23).
- Tax – tobacco products are taxed at higher rates to discourage their use (43). Low prices can cause smokers who have quit to relapse and makes it more accessible to those on lower incomes (5)(47)(23)(48).

## 2. What is the role of international collaboration in tackling illicit trade?

By definition, the trade of illicit drugs, alcohol and tobacco into Wales and the UK requires it to first be produced by and trafficked through other countries. Consequently, many of the mechanisms to tackle illicit trade involve cooperation and collaboration with these other countries. Globalisation, and the increasing interconnectedness of the world, has helped expand illicit trade opportunities, making the task of policing it harder and collaboration between countries even more important (49)(11).

There are three main mechanisms for international collaboration that can help tackle illicit trade:

### Law enforcement data and intelligence sharing

The UK's National Crime Agency is clear that it is in the best interests of law enforcement and public health to share information on illicit trade. This is because there is a strong international and European dimension to many of the UK's Serious Organised Crime threats (50).

The sharing of data and intelligence was a central element of the UK's membership of the European Union (EU) and helped underpin its cooperation on policing and criminal justice (18)(49)(51). The extent to which the UK can participate in data sharing has changed substantially since Brexit with reduced access to international agencies, systems and databases (see Section 3.1). As it did before Brexit, the UK continues to participate in several data and intelligence sharing networks at a global level (see Section 3.1).



### Border and import controls

Although the UK is relatively small, its border is complex with approximately 270 crossing points (18). This creates multiple opportunities and locations for illicit trade to occur. Therefore, collaboration between the UK and EU at borders was an important component used to reduce illicit trade.

As part of the EU, goods that were produced in EU Member States or passed through the EU were free to enter the UK without any additional checks. Some goods, such as tobacco, were required to be tracked to combat tax evasion and illicit trade. Now that the UK sits outside of the EU, some of these regulations have changed, while others remain, or comparable systems have been established. These changes, and their impact on illicit trade, can be found in Section 3.2.



## Supply and demand reduction



Despite the barriers caused by Brexit and the COVID-19 pandemic, the supply of and demand for illegal substances has remained at a similar level. Reducing demand is one of the most effective ways to lessen supply. Evidence shows that one of the ways this can be accomplished is by tackling inequalities and improving population health and well-being. This is particularly important given that individuals from the most deprived portions of the population and areas of the UK are more likely to experience negative health outcomes from the use of illicit products, including deaths and hospitalisations (164)(166)(168) (see Section 3.3).

It is important to acknowledge that the secretive nature of illicit trade makes it impossible to build a complete picture of activity. Illicit trade of tobacco and alcohol is currently best measured through government tax gap estimates.<sup>1</sup> The estimated tax gap for the 2020-2021 tax year was 5.1% (163). Unfortunately, this estimate is the best assessment based on the evidence available and there is some uncertainty around the estimates for the first year of the pandemic (163). Therefore, this briefing looks only at the potential risks and opportunities the new landscape of international cooperation presents for the UK and Wales and is unable to comment on whether there has been a measurable change in the volume of illicit trade. However, according to HMRC's 2022 annual Measuring Tax Gap publication, criminals represented the second largest proportion of the tax gap by customer group at 16% (£5.2 billion) and criminal attacks (16%), non-payment (15%) and evasion (15%) were some of the main reasons for the tax gap by behaviour (163).

<sup>1</sup> The tax gap measure estimates the difference between the total amount of tax expected to be paid and the total amount of tax actually paid during the financial year (163).

### 3. How has Brexit changed international collaboration on illicit trade?

The UK's departure from the EU has rewritten the ways in which the UK and Wales collaborate with EU Member States. This has been set out in the UK-EU Trade and Cooperation Agreement (TCA), which came into force on 1st May 2021 (52). Understanding the implications of the new relationship between the UK and the EU for collaboration on illicit trade is a priority for Wales for two reasons:

- Many of the legislative areas that intersect with illicit trade are reserved to the UK Government (see Box 2), although they can impact health, which is devolved; and
- A significant proportion of goods entering the UK/Wales will have come from EU countries.

Before Brexit, goods that cleared customs anywhere in the EU could be moved freely between other Member States, including the UK, without further checks (53)(54)(18). Consequently, the UK worked closely with other Members to gather intelligence and carry out strategic and operational activities on illicit trade to protect each other's borders.

Post-Brexit, cross-border travel and trade between the UK and the EU is still common. In 2021, over three quarters (78%) of UK visits abroad were to Europe, and in 2021 just under half (45%) of the UK's imports came from the EU, totalling £292 billion (55)(56). The volume of goods and people moving across the border, and the proximity of the UK to EU countries, means there remains a high risk of illicit trade from the EU (18)(51). For example, it is common for drug shipments of Mexican heroin, cocaine and MDMA to reach the UK via the EU (57).

However, Brexit has not only changed the way the UK interacts with the EU, but with the rest of the world as well. For example, now that the UK sits outside of the EU, the UK Government is negotiating its own international trade agreements for the first time in almost 50 years (58). These new trade agreements have the potential to create opportunities that criminals and others may exploit to move illicit goods, as well as new opportunities for the UK to collaborate with other non-EU countries on illicit trade. The negotiation of international trade agreements is reserved to the UK Government. Therefore, devolved nations will need to collaborate with the UK Government to 1) influence international trade and its interaction with illicit trade; and 2) be better able to detect and police illicit trade in their jurisdictions to benefit public health (see Box 2).

## Box 2: Collaboration within the UK on illicit trade

Not all the mechanisms and/or policy levers necessary to prevent illicit trade are within the remit of the Welsh Government. Only the UK Government is empowered to negotiate and sign international trade agreements. Currently neither Welsh MPs in Parliament nor members of the Senedd can amend or reject trade agreements or trade policies. Welsh Government would need to advocate for trade policies that work for Wales through the UK Government during the negotiation process.

However, international trade intersects with many of the policy areas within the remit of Welsh Government. Trade is a key determinant of health and well-being, affecting a range of areas, from food to healthcare to jobs. This means post-Brexit changes to who the UK collaborates with to detect and prevent illicit trade, and under what terms, are of vital importance to Wales and its ability to achieve the vision set out in the Well-being of Future Generations Act (162).

In 2017, an all-party parliamentary group (APPG) on illicit trade was established (25). In their research, they found that stakeholders from a range of organisations, including the public and private sector, agreed that a coordinated approach to illicit trade was necessary in a post-Brexit world. As a response, it was recommended that a UK Anti-Illicit Trade group be established to facilitate this collaboration (25). This group would aim to improve information sharing and resources and strengthen cross-organisational relationships to detect and prevent illicit trade. The APPG has since been discontinued (as it considered its aims met) and it is not apparent from the literature that a 'UK Anti-Illicit Trade Group' was ever formed (62).

Several cooperation and sharing mechanisms, which have a role in detecting and preventing illicit trade, have remained in place or have been established since Brexit. For example, the Mutual Assistance for Recovery of Debt (MARD) is an arrangement which allows a relevant authority in another country to ask HMRC for assistance in obtaining information, serving legal documents, or recovering a tax or duty debt where the defaulting taxpayer is living in, or has assets in, the UK (176). MARD applies to all taxes and duties collected by HMRC as well as all regional and local taxes administered by the devolved administrations (176). In relation to illicit drugs, the Medicines and Healthcare products Regulatory Agency (MHRA) became the UK's independent agency for medicines post-Brexit – the UK withdrew from participating in EU institutions such as the European Medicines Agency (EMA), and EU pharmaceutical law is no longer in effect in the UK, except for Northern Ireland (110)(177). The MHRA makes decisions and carries out all functions which were performed at EU-level except for decisions on Market Authorization Applications (MAA), which are submitted to the EMA to market a medicinal product in EU member states and Northern Ireland (110)(178).

## 3.1 Law enforcement data and intelligence sharing

### Before Brexit

Before Brexit, the UK was a member of several EU-wide agencies, databases, and systems to understand, prevent and respond to crime. This provided access to real-time criminal intelligence and enabled collaboration with the law enforcement agencies of Member States, including on joint investigations to tackle illicit trade (63)(18).

The UK, both before Brexit and now, is also a member of Interpol, the world's largest international police organisation, which helps to facilitate police cooperation among its 190 members (18)(64)(65). Specifically, Interpol states that it aims to reduce illicit trade by: collecting and disseminating data; coordinating transnational law enforcement operations; supporting multi-agency task forces to improve cooperation across sectors; delivering training; and raising public awareness of illicit trade (66).

For illicit tobacco, the UK was and continues to be a member of the World Health Organization's Framework Convention on Tobacco Control (WHO FCTC) (2005) (18)(48)(44)(67). Under this treaty, members commit to eliminating the trade of illicit tobacco products through a range of measures, including information sharing and the implementation of a track and trace system for tobacco products (18)(20)(48). The FCTC is the only public health treaty under the WHO (18).

### After Brexit

The UK's National Crime Agency has stated that despite the different post-Brexit landscape, there remains a strong European dimension to serious crime threats and that UK law enforcement will continue to benefit from sharing intelligence and developing investigations with the EU (50). The UK-EU TCA includes commitments to ongoing cooperation on law enforcement, demonstrating that the EU shares this view (52)(18)(68). For example, Box 3 provides more information on the criminal extradition rules post-Brexit.

#### Box 3: Changes to criminal extradition from the EU to the UK post-Brexit

As an EU Member State, the UK had the ability to make use of the European Arrest Warrant (EAW). This meant that UK law enforcement could have a suspected criminal arrested in the EU and returned to the UK for prosecution or sentencing (63)(18)(69). This could be applied to individuals suspected of producing, distributing, or selling illicit drugs, alcohol, or tobacco.

Following Brexit, a new 'surrender agreement' has replaced the EAW as a fast-tracked system of extradition between EU Member States and the UK with limited grounds for refusal and time-limited processes. Much of the new system mirrors the arrangements previously in place under the EAW arrangements and that which the EU currently has with Iceland and Norway (70)(71)(63). However, several law enforcement representatives have stated that the new process could be less efficient, more fragmented, and more challenging to deliver than the EAW (63). This could have implications for tackling illicit trade, but none have been flagged to date.

Specifically on illicit trade, the TCA sets out the extent to which the UK can access certain EU databases and networks (63). Table 3 provides an in-depth summary of what each of these systems are for and how the UK's participation has changed since Brexit.

Overall, the UK has either lost or has had its access to most agencies and databases reduced, or they have been replaced by slower and less comprehensive alternatives. Consequently, the UK does not have the same level of instantaneous data sharing as it did prior to Brexit (63)(18) (51). It also represents a loss in terms of the expertise shared amongst these networks – for both the UK and the EU. However, it is possible that this expertise will continue to be shared via informal routes and long-established relationships (50). In addition, the UK now has less input into the strategic and operational direction of these databases and networks than previously (71)(72)(63).

In April 2023, a new unit, the Joint International Crime Centre (JICC), was set up to lead the UK's work on international crime (73). The JICC combines the capabilities of the National Crime Agency's International Crime Bureau (UKICB) and policing's International Crime coordination Centre (ICCC) (73). According to NCA, the new JICC makes the UK better placed to respond to the growing threat of transnational crime by bringing the UK's processes, teams, systems, and data together (73). When its predecessor, the ICC, was established after Brexit, the UK Government stated that the arrangements were working well in practice (71)(63). However, experts argued that the databases and networks that inform it, such as Interpol, were unsatisfactory compared to previous arrangements available before Brexit. They feared that the effectiveness of policing in the UK had been negatively impacted as a result, reducing the ability of law enforcement to identify and mitigate threats (63).

Table 3. A description of the EU based agencies, databases, and systems that the UK were a member of, and how access to them has changed since Brexit.

Agencies	Agency Description	Changes since Brexit
<b>Europol</b>	<p>The EU’s agency for law enforcement, which manages criminal intelligence from across the EU and aims to prevent international organised crime (e.g. the unlawful manufacturing and selling of goods) through cooperation (18)(74).</p> <p>Europol is responsible for organising data sharing through SIENA and EIS (63).</p>	<p>The UK will continue to have a role in operational meetings but will no longer be able to input into Europol’s strategic direction and or have a role in management (50)(71).</p> <p>The UK and EU will continue to share intelligence, and currently there has been no deterioration in the volume, speed or quality of information being shared (71).</p>
<b>Eurojust</b>	<p>The EU’s agency for criminal justice cooperation, which aims to strengthen and support coordination/ cooperation between national investigating and prosecuting authorities in relation to serious crime (75)(63)(18).</p> <p>Eurojust is responsible for data sharing through the Passenger Name Record (PNR) system.</p>	<p>The UK will continue to participate in strategic and operational meetings at Eurojust but as a third party (76)(77).</p>
<b>European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)</b>	<p>Provides independent scientific evidence and analysis on drugs and drug addiction, with the aim of contributing to national policy and the protection of EU citizens from drug related harms (78).</p> <p>The centre also hosts an early warning system that provides information on newly developed drugs (51).</p>	<p>The UK is no longer a member of the EMCDDA and cannot formally access its intelligence and expertise (51) (79)(80). However, information may be shared through well-established informal routes that have been developed over years of close working.</p> <p>The loss of the early warning system element has the potential to slow the UK’s response to newly developed drugs and new drug threats (51).</p> <p>Some non-EU countries have relationships with EMCDDA e.g. Turkey and Sweden. The UK may be able to develop a similar relationship in the future (81)(82).</p>
<b>European Anti-Fraud Office (OLAF)</b>	<p>Works closely with national law enforcement agencies and customs services inside and outside of the EU to prevent, detect and investigate illicit tobacco and alcohol trade (18) (75)(83)(84)(85). The UK’S HMRC worked closely with OLAF on data sharing for many years (18).</p>	<p>OLAF continue to detect and prevent fraud, including the trade of illicit tobacco and alcohol in the UK (86). The literature is unclear as to whether the UK will continue to share data with OLAF.</p>

Continued or similar access
  Reduced/change in access
  Loss of access

Databases	Database Description	Changes since Brexit
<b>Schengen Information System (SIS II)</b>	Allows EU members to share instantaneous information on missing and wanted individuals, and stolen property in the EU (63)(87)(88)(65).	<p>The UK no longer has access to SIS II information (71)(87)(65). Law enforcement officials have highlighted this as one of the biggest losses of Brexit in terms of intelligence sharing (65)(87).</p> <p>Interpol is expected to fulfil this function for the UK going forward. Although a well-known and widely used system, many consider it to be slower (taking hours instead of seconds for data uploads) and less efficient (uploading EU data is on a voluntary basis) when compared to SIS II (88)(89)(71)(63).</p> <p>Work is currently being carried out by the UK Government to improve Interpol's data sharing and to raise awareness to encourage EU members to input data on both systems (71). For example, the International Law Enforcement Alerts Platform (I-LEAP) programme seeks to enhance international cooperation through improved access and use of Interpol data (172). The programme is currently in Phase 1. Phase 2 has a longer-term objective of accessing EU data and building mutual capacities for alert exchange with trusted international partners (172).</p>
<b>The Secure Information Exchange Network Application (SIENA)</b>	Europol's messaging exchange platform for EU Member States, cooperating partners (e.g. Interpol and Eurojust) and third party countries to share sensitive/ restricted crime related data (90)(65)(88)(91).	The EU-UK will continue to share intelligence through a seconded liaison officer (92)(71).
<b>Europol's Information System (EIS)</b>	Europol's central database for criminal intelligence, including information on serious international crimes, criminal structures, and suspected or convicted individuals (88)(93)(65).	The UK no longer has access to this information and expertise (88).

■ Continued or similar access    
■ Reduced/change in access    
■ Loss of access

Databases	Database Description	Changes since Brexit
<b>The European Criminal Records Information system (ECRIS)</b>	Improves the exchange of criminal information amongst members. Data is stored in a national database and shared through central authorities on request (94)(18)(63).	A similar level of information sharing is expected to remain but with a new, comparable system (63)(71). As the system is currently in development, it will need to be monitored to understand its true comparability (71). There is no precedent for third country access to ECRIS (65).
<b>Passenger Name Record (PNR) system</b>	Facilitates the exchange of airline passenger records between EU Member States (63).	Continued access (71)(63)(95)(75)(77).
<b>Prüm</b>	A law enforcement treaty that aims to improve cross-border cooperation on criminal matters between EU states. The treaty enables Member States to exchange intelligence on DNA, fingerprints and vehicle registrations (89)(96).	The UK has negotiated enhanced access compared to other non-EU countries (97)(71)(98)(65).

■ Continued or similar access    
 ■ Reduced/change in access    
 ■ Loss of access

### 3.2 Border and import control

When goods enter a country, they are subject to import controls or restrictions - methods used by governments to control the type and quantity of goods entering the country. These include: tariffs; the requirement of licences; quotas on certain goods to limit the amount that can enter a country; and bans on products considered dangerous (99). Import controls and restrictions are an essential part of preventing illicit activity; many of which have been affected by Brexit.

A number of additional border control issues that have been shaped by Brexit are also explored below, including: movement of citizens; track and trace systems; freeports; personal allowances; and the Northern Ireland border.

#### Before Brexit

The UK is part of the World Customs Organization (WCO), both before Brexit and now. The WCO is an independent, intergovernmental body whose mission is to “enhance the effectiveness and efficiency of customs administrations” (100). WCO represents 184 customs administrations across the world that collectively process approximately 98% of world trade (100). Every year the WCO publishes an Illicit Trade Report (latest version: 2021) (101), which highlights worldwide trends and patterns of illicit trade to inform decisions on customs enforcement to secure cross border trade (101).

When the UK was a member of the EU it was a member of the EU’s Customs Union and Single Market. This meant that goods entering the UK from EU member states were not subject to any tariffs or non-tariff barriers (53)(54)(18). Therefore, goods which had cleared customs in the EU could enter the UK without further checks or additional, more comprehensive paperwork.

## Track and trace systems

The UK used several EU processes and systems to help identify and track illicit goods. For example, the UK used the EU's 'track and trace' system to monitor the movement of tobacco products throughout the supply chain. This enabled the UK to meet the WHO's Framework Convention on Tobacco Control (WHO FCTC) (2005), which requires such a monitoring system to be in place (18)(102)(103). It also utilised the EU's Excise Movement Control System (EMCS) to record the movement of goods where duty (e.g. taxes) are paid at the point of consumption rather than at the point of import e.g. alcohol and tobacco (18)(104). The system tracks products in real-time to ensure correct duties are paid (18)(45)(105).

## Movement of citizens

The EU Single Market guarantees the free movement of goods and people – and as such, EU citizens were free to enter the UK pre-Brexit with minimal barriers, such as limited paperwork and no fees (54). The same was true for UK nationals travelling to the EU.

## Freeports

Ports have historically been key entry points for illicit goods. The UK previously had seven freeports but, in 2012, the UK Government decided not to renew the legislation governing them. Although there is no single definition, freeports typically offer businesses low or no taxes, reduced tariffs and relaxed customs rules and regulations (106)(107)(108). Advocates for freeports in the UK argued that their effectiveness was limited by EU rules (107).

## Personal Allowances

Contraband or smuggled alcohol includes beverages brought across the UK border in excess of the applicable traveller's regulated allowance (158). Specific types and volumes of alcohol imported into the UK for sale must have the appropriate legal documentation and labelling (159).

Before Brexit, UK nationals travelling from EU Member States were permitted unlimited amounts of duty and tax paid goods, including alcohol and tobacco products, providing they could evidence it was for personal use (Minimum Indicative Levels (MILs) serve as a guide to establishing whether goods are for personal use) (109). Allowances for travellers from non-EU Member States were limited.

## Northern Ireland border

Before Brexit, both Ireland and Northern Ireland were members of the EU and therefore were part of the Single Market and Customs Union. This meant that there was no further requirement to check goods that arrived from elsewhere in the EU, or international goods that had entered via other EU Member States (53)(54)(18).

## After Brexit

In July 2022, the UK Government put into force its new post-Brexit border and import restrictions, which aimed to make the UK border the “most effective in the world” (40)(111). The new controls include: increased checks and paperwork (e.g. determining a product’s origin, quota compliance and new applicable tariffs) (18)(112). These restrictions apply to all international goods. The UK Government states that the more stringent controls give UK law enforcement access to enhanced data on goods entering the UK, which will help to reduce the number of illicit goods reaching the UK (113) (111).

The implementation of these measures was said to be delayed to allow the border regime to be redesigned with greater emphasis on data, IT and risk-based checks (HMRC expert int.). While the National Audit Office (NAO) noted that gaps in border controls can be exploited by criminal activity and that there would be a knock-on delay to UK law enforcement agencies receiving information relevant to illicit trade, it felt the impact would not be significant (114)(50).

However, the NAO previously expressed its concerns in 2017 about UK Border Force’s ability to cope with the increased number of checks required on people and goods after Brexit. This view was shared by HMRC and UK Border Force (115). They highlighted that insufficient staffing would reduce the effectiveness of new border restrictions and may allow more illegal goods to pass into the UK (115).

In response, the UK Government has introduced funding to recruit more border force personnel and said they would relocate/employ more staff at HMRC (116)(117). However, it is unclear from the literature whether staff targets have been met or are sufficient to meet demand. Critics have argued that only 16 additional staff were employed by 2020 in HMRC compared to the 5,000 required (118).

In April 2023, the UK Government proposed a new model for importing goods into the UK from countries inside and outside the EU (160). The Border Target Operating Model, which is due to be published in the summer of 2023, will confirm when physical checks will start on the west coast in Wales with the intention of allowing time to discuss how the new arrangements in Northern Ireland (see below) will affect border controls (160). This will replace the EU system, set out in the Official Controls Regulations currently retained in UK law (Border policy expert int.).

### Track and trace systems

As the UK is no longer a Member State, it can no longer remain part of the EU’s track and trace system for tobacco products. However, the UK adopted a comparable system in December 2020 (42)(18)(23)(125). The stated aim of the new system is to reduce the circulation of non-compliant tobacco products – those that have not paid the correct taxes or do not meet legal content and packaging requirements – in order to protect public health and legitimate businesses from the impacts of illicit trade (42)(23)(125). Northern Ireland businesses still report to the EU’s track and trace system, as per the Northern Ireland Protocol obligations (HMRC expert int.).

The UK also no longer has access to the EMCS – and therefore EU intelligence – in connection with goods entering the UK from the EU. Certain goods from the EU to the UK will be treated like imports from the rest of the world and will require a customs declaration – for alcohol and tobacco products there is the choice of a Customs Freight Simplified Procedures (18)(104).

The EMCS will continue to be active for goods moving within the UK, including movements to and from UK ports, airports, and via the channel tunnel (18)(104); therefore these goods from the EU will need to be tracked by EMCS only at the point at which they begin their journey through the UK (18)(104).

### **Movement of citizens**

The UK no longer recognises European Economic Area and Swiss National identity cards. These forms of identification were considered by the UK's National Crime Agency to be one of the most insecure and exploited identification documents used by criminals at the UK border. They have stated that removal of these cards will make it more difficult for criminals to penetrate the border for illicit activity (50).

### **Freeports**

Some have raised concerns that UK ports, especially if they become freeports, will become more attractive to criminals post-Brexit (119)(57)(11). In 2019, the European Parliament called for freeports to be scrapped because of their vulnerability to criminal activity resulting from limited checks and controls (106). A UK Government consultation on freeports also highlighted the links between freeports and illicit trade activities including smuggling and counterfeiting (107). In particular, the Royal United Services Institute warns that freeports may facilitate the illegal import of drugs (174). Pre-existing risks may exacerbate the issue of illicit trade: if a freeport is established in a area that is already an entry point for illicit goods (for example, due to its geographical location), reduced customs oversight can increase this activity (174).

Freeports are a key element of the UK Government's levelling up plan claiming that they will boost international trade, innovation and economic growth in areas which need it most (173). In March 2021, the UK Government announced plans to re-establish 10 freeports across the UK (108)(106). The first of these opened in November 2021 in Teeside, England, and several others have been approved (108)(120)(173). This includes two recently announced new freeports that are set to be established in Wales and become operational in 2023: the Celtic Freeport covering Milford Haven and Port Talbot, and Anglesey Freeport in North Wales (175). According to Welsh Government, the freeports will form special zones with the benefits of simplified customs procedures, relief on customs duties, tax benefits, and flexibility (175).

Recognising the potential risks posed by freeports when they become operational, the UK Government has set out plans that it hopes will reduce criminal activity, such as requiring authorisation by HMRC and carrying out HMRC and Border Force custom checks (107)(174). However other experts highlight that the UK Government's current proposals do not go far enough and do not take account of all the potential risk factors (174). The measures need to ensure compliance with the OECD Code of Conduct on 'Countering Illicit Trade: Enhancing Transparency in Free Trade Zones', which includes ensuring transparency at freeports (122)(123)(107)(124)(174).

### **Personal Allowances**

Now that the UK is not a member of the EU it can implement its own allowances. From January 2021, MILs will no longer apply; instead, personal allowances will be applied to those travelling from the EU to Great Britain. If passengers exceed the personal limits, they will need to pay tax or duty on all the goods in that category, not just the excess amount (109). The new allowances implemented in 2021 are among the most generous in the world (126)(127).

As these new duty regulations incentivise increased numbers of cigarettes and alcoholic beverages entering the UK, it increases opportunities for these goods to be traded illicitly within the UK by increasing supply (as also discussed in Section 3.3). Increased allowances are also considered to pose their own public health concern by normalising the use of these products and undermining policies which seek to improve health by reducing their consumption (Health improvement expert Int.).

### **Northern Ireland border**

There is emerging evidence that the stricter security measures at UK borders may be leading criminals to opt for moving their goods from the EU into Ireland (which is still a Member State) before entering the UK via Northern Ireland, avoiding further checks (128).

Indeed, price differences between EU and UK products may lead to products being bought at a lower price and then smuggled across the Northern Ireland border to be illicitly sold at a higher one (129)(130)(131). For example, the price of tobacco products in the UK is one of the highest in the world due to the high taxes they incur (approximately €8.77 per pack of 20 cigarettes) (132). Information sharing and cooperation mechanisms between the EU and Northern Ireland continue to exist since Brexit, particularly around customs and movement of goods (179).

The UK Government announced proposals for new arrangements at the Northern Ireland border on 27th February 2023. At the time of publication, these proposals had not been brought into law. It is not yet clear whether or how the proposed changes may impact the illicit trade of alcohol, tobacco, or drugs across the border. However, as they currently stand, the proposals maintain a route from the EU Single Market into the UK for certain goods that has fewer checks, which has the potential to be exploited for illicit activity.

## **3.3 Supply and demand reduction**

### **Supply**

There are several factors that contribute to the supply of illicit alcohol, tobacco, and drugs reaching UK and Welsh shores including: tax differentials across jurisdictions; economic embargoes; corruption at many points in the supply chain; poverty and forced labour; and the COVID-19 pandemic, which affected the international political and security landscape as well as national law enforcement capacity (161). One enabler is the opportunity provided by international trade: it is reasonable to expect that increasing the volume or ease with which trade between the UK and other countries occurs also increases the potential for illicit trade. By opening new supply chain routes into the UK, new opportunities are created that criminals could exploit.

Now that the UK has left the EU, it can negotiate its own international trade agreements and seek new trading partners. To date, most of the illicit drugs in the UK have come through EU countries, but agreements with other non-EU countries could create new direct routes into the UK. This may bring new opportunities for tackling illicit trade as well as new risks.

Of relevance to illicit drugs is the UK Government's discussions with Mexico to update their rolled-over EU trade agreement. Mexico is known to be a significant source of illicit drugs. Experts have warned that deeper trading relationships between the UK and Mexico could increase opportunities for these drugs to be smuggled into the UK (57).

Experts have also highlighted how reorienting the UK's primary trading relationships away from the EU and towards the US could increase the risk of illicit trade in prescription medicines. For example, a trade agreement could make it easier for online US pharmaceutical companies to reach the UK and Welsh populations, and therefore make it easier for people to access medicines that are legal in the US but are not authorised, or are prescription-only, in the UK and Wales, such as Xanax (Policing & Substance Misuse Expert Int.).

The same experts also raised concerns around the potential for the UK to enter trade agreements with countries that are known to produce large quantities of illicit tobacco products (Policing & Substance Misuse Expert Int.). These countries include Montenegro, South Africa, Malaysia, and Libya (133).

## Demand

Unfortunately, it is often the case that if there is a demand for an illicit product then criminals will find a means to supply them, regardless of the laws and policies that are in place (18)(51) (11). COVID-19 provides a good example of this: despite tight restrictions and stricter border controls, evidence shows that the accessibility of illicit goods did not change (134)(135). For instance, a survey from Manchester University found that drug users were just as able to source illicit drugs during the pandemic as before. In addition, a greater proportion of respondents (43%) said that their drug use had increased during lockdown compared to those who said it had decreased (21%) (134). Overall, as highlighted in Section 1.0, alcohol- and illicit drug-related deaths have increased in recent years. This could be attributed to higher demand being met with additional supply.

In 2019, Public Health Wales undertook a Health Impact Assessment (HIA) of Brexit, examining the potential implications for health and well-being across population groups (136). It found that Brexit had many potentially negative implications including, for example, increased risk of unemployment in sectors that are highly exposed to trade, and poorer mental health due to uncertainty and a feeling of not being in control. It found that those living in poverty were among those who were likely to be the worst affected. Other recent challenges, including the COVID-19 pandemic and the current cost-of-living crisis, will likely have exacerbated the issues of unemployment, poor mental health and financial strain, contributing to even poorer health outcomes and widened health inequalities (169)(170)(171).

Unemployment, poor mental health, and economic strain are all risk factors for increased drug, alcohol, and tobacco use (137-156). This could specifically increase the demand for the illicit forms of those goods as they tend to be lower cost and more available to individuals who may not be able to buy them legally. Between 2019 and 2020, the proportion of all patients admitted to hospital for alcohol-specific conditions living in the worst-off areas of Wales was 2.7 times higher than those from the best-off areas (166). Of the 1,660 drug misuse deaths in Wales over the last 10 years, 4 in 10 occurred among those from the poorest fifth of the population – 5.2 times higher than those in the richest fifth (166)(164). Finally, the rate of smoking-attributed mortality was around 3.5 times higher among women in the poorest fifth than in the richest fifth; it was 2.5 times higher for men (168).

Consequently, when considering the potential impact of Brexit on illicit trade, it is necessary to look beyond the mechanisms of detecting and policing these trade flows. Policymakers should also consider how it may affect the health and well-being of the population, and therefore the demand for such goods. It is important that potential ways to best reduce illicit trade for the benefit of population health in a post-Brexit Wales are considered through this lens.

## 4. Conclusion

The illicit trade of drugs, alcohol, and tobacco is a serious public health issue for Wales. Drugs are causing more deaths than ever previously recorded, deaths attributed to alcohol are almost a third higher now than in 2019, and smoking remains the leading cause of preventable deaths in Wales. For alcohol and tobacco, the health harms of illicit forms exceed the risk already posed by their legal forms, and it is people living in the worst-off parts of Wales whose health is being harmed the most. Consequently, tackling the illicit trade of these goods, and the drivers of supply and demand that underpin it, are of vital public health concern.

The process of leaving the EU has necessitated a change in the UK's ability to participate in EU mechanisms to detect and police illicit trade. For example, the UK can no longer input into the strategic and operational functioning of EU-based agencies or access the same level of criminal intelligence and data that it did before. This has the potential to make detecting and preventing the illicit trade of alcohol, drugs, and tobacco more difficult. However, now that the UK sits outside of the Customs Union and Single Market, there is an opportunity to make UK and Welsh borders more secure, with more stringent checks and measures. Both situations continue to evolve as post-Brexit arrangements take shape – as do other important contributing factors such as the movement of people, the creation of freeports, personal allowances and, of course, arrangements at the Northern Ireland border.

But it is important to recognise how Brexit has the potential to affect not just the feasibility of illicit trade, but also the supply and demand of illicit goods. For example, as set out in this report, new international trade agreements can open new supply chains and Brexit, alongside COVID-19 and the cost-of-living crisis, has the potential to cause stress, poverty and worsen mental health in a way that could drive demand by putting more people at risk of engaging in unhealthy behaviours.

Collaboration between Wales and the rest of the UK, and between the UK and the rest of the world is essential for tackling illicit trade, and Brexit has created opportunities and challenges for Wales in this regard. But a clear learning from the COVID-19 pandemic is that, even with extremely tight restrictions, if there is a demand for illicit goods then criminals will find a way to supply them. As Wales considers its response to worryingly high deaths due to drugs, alcohol, and tobacco, a key priority must therefore be to tackle the conditions that drive demand. We hope the work Public Health Wales has done to date to understand the potential impacts of Brexit on population health and well-being – as well as on the specific mechanisms for international collaboration on illicit trade – will help inform those discussions.



## 5. Further reading



*The public health implications of Brexit in Wales*



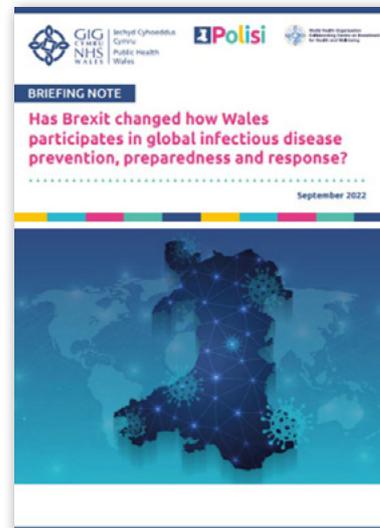
*What could post-Brexit trade agreements mean for public health in Wales?*



*Rising to the Triple Challenge of Brexit, COVID-19 and Climate Change for health, well-being and equity in Wales*



*Brexit and Poverty in Wales: A Public Health Lens*



*Has Brexit changes how Wales participates in global infectious disease prevention, preparedness and response?*

## 6. Abbreviation list

<b>UK</b>	United Kingdom	<b>TCA</b>	Trade and Cooperation Agreement
<b>EU</b>	European Union	<b>PHW</b>	Public Health Wales
<b>US</b>	United States	<b>WHO</b>	World Health Organization
<b>EMCDDA</b>	European Monitoring Centre for Drugs and Drug Addiction	<b>SIS II</b>	Schengen Information System II
<b>EIS</b>	Europol's Information System	<b>SIENA</b>	The Secure Information Exchange Network Application
<b>FCTC</b>	Framework Convention on Tobacco Control	<b>APPG</b>	All-Party Parliamentary Group
<b>OLAF</b>	European Anti-Fraud Office	<b>ECRIS</b>	The European Criminal Records Information System
<b>EMCS</b>	EU's Excise Movement Control System	<b>WCO</b>	World Customs Organization
<b>EAW</b>	European Arrest Warrant	<b>PNR</b>	Passenger Name Record
<b>HMRC</b>	His Majesty's Revenue and Customs	<b>HIA</b>	Health Impact Assessment

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