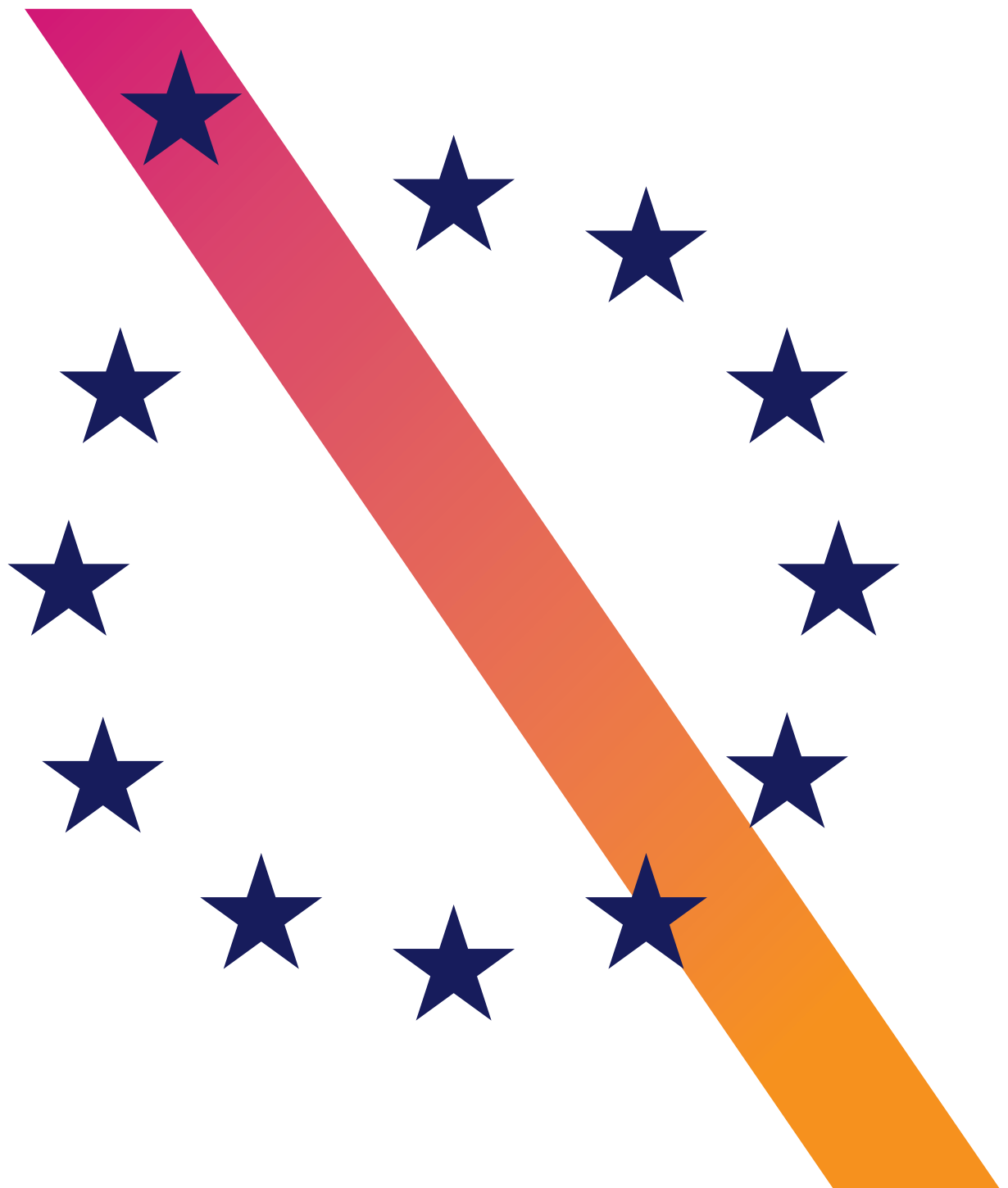


The civil service after Brexit

Lessons from the Article 50 period



About this report

The Article 50 period put immense pressure on the civil service – both in terms of the scale of the task and the tight timelines involved. This report looks back at the years since the 2016 EU referendum and draws out some of the key lessons for the civil service.

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Foreword

In 2017, Sir Jeremy Heywood, then the cabinet secretary, said Brexit represented “probably the biggest and most complex challenge” in the civil service’s peacetime history.¹ With the UK having left the European Union (EU) on 31 January 2020, the Institute for Government wanted to capture what this challenge and the accompanying tumult in British politics have meant for the civil service and how it has coped with the immense pressure since the 2016 referendum.

The government must still negotiate a future relationship with the EU and prepare for the practical implications of the UK’s departure from the EU, but the challenge has been overshadowed by the coronavirus pandemic. That is making demands of government that outweigh Brexit.

The focus on Brexit in recent years plus a decade of pressure on public spending in some ways arguably left the country underprepared for the coronavirus crisis. But the pressure of Brexit also prompted changes in the civil service that left it better prepared for its response to coronavirus.

Brexit forced innovation in Whitehall. Preparing for the possibility of a no-deal exit from the EU required large numbers of civil servants to work fast and co-ordinate across departments. It demanded closer working with officials in Scotland, Wales and Northern Ireland, as well as quick decision making under pressure. All of this has, no doubt, proved useful as the civil service has been forced to respond to an even bigger crisis in recent months.

But while coronavirus has shifted attention away from the issue that dominated British politics for almost four years, it should not mean that other valuable lessons from that period are not learnt. The political paralysis under Theresa May meant decisions were not taken when they needed to be, delaying important practical preparations for no deal, as well as for the UK’s position outside the EU. And the anonymous briefings under Boris Johnson threatening to break convention – and the law – to achieve a no-deal exit on 31 October 2019 against parliament’s wishes, placed their own strain on the civil service. Brexit raised the question of what it really means for impartial civil servants to ‘serve the government of the day’, particularly when the government is riven by factions or cannot command the confidence of parliament.

We hope this analysis will prompt a broader conversation about where the past four years have left the professional civil service and the principles of impartiality on which it is founded, and where there is further need for reform.



Bronwen Maddox

Director, Institute for Government

Summary

The vote to leave the EU in June 2016 left the civil service facing an enormous challenge. It needed to unpick a 43-year relationship with the EU, negotiate an entirely new relationship, and prepare for all the changes Brexit would mean for government, businesses and individuals. This was without any blueprint – no manifesto from the Leave campaign, a new prime minister who had not campaigned for Leave but was keen to burnish her credentials and a cabinet as divided as the country.

Almost four years later, the UK has formally left the EU. There is still a huge amount to do – almost all of the big practical changes are yet to happen and the future relationship with the EU is still to be agreed – but Brexit has already left a huge, lasting impression on the civil service.

We have seen the civil service at its best in the sheer scale and complexity of the work it has done, often in new, innovative ways and at breakneck speed. But we have also seen some of its weaknesses exposed – extreme pressure has highlighted issues in its workforce model and policy making.

The civil service's work on a divisive political issue saw its impartiality questioned. It faced political attacks and was caught in the middle of a bitter fight between the executive and the legislature.

This report draws on conversations with officials and politicians to reflect on lessons the UK civil service – and the government more widely – can take from the Brexit process so far. Much of what can be learnt from the Article 50 period can be applied to the next phase of Brexit, but beyond that there are lessons that are immediately relevant to the government's handling of coronavirus.

We find:

- **The civil service was unable to influence the pace of political decision making on critical issues. The lack of a clear plan hampered the huge job of practical preparations.** As indecision and division grew under Theresa May, the civil service worked hard to offer new policies in the hope of keeping both sides of the cabinet happy or to use ambiguous wording to defer conflict. But it was unable to broker compromise. Instead, critical decisions were deferred for too long, options were never ruled out and preparations for the huge practical realities of Brexit were held back – leaving the UK underprepared ahead of key deadlines.

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- **The pressures from Brexit led to more innovative ways of working.** The scale of the task and the extraordinarily tight timelines, often compounded by indecision, drove innovation in Whitehall. Departments had to work in different ways – using data more effectively, visualising progress and abandoning cumbersome processes – to speed up their work and reach decisions. But there were downsides: timelines were often too short to deliver effectively and work sometimes lacked the rigour that longstanding processes and procedures were designed to provide. Unclear lines of responsibility led to duplication and inefficiency.
 - **But the unprecedented circumstances saw the government prepared to risk major harm in Northern Ireland without a clear plan for minimising it.** Brexit forced some extremely difficult trade-offs, which had to be made in a hostile political environment. But the government too often failed to be upfront about the consequences of its actions. In particular, the Johnson government – both ministers and senior officials – claimed to be ready to leave the EU without a withdrawal agreement but failed to address, or admit, the economic and political implications for the people and businesses of Northern Ireland.
 - **The civil service became a more agile workforce, with a greater focus on staff wellbeing, but Brexit exacerbated existing problems of high staff turnover and clunky recruitment processes.** Preparing for no deal meant civil servants had to be temporarily moved between departments to support emergency operational centres or priority projects. Unprecedented on such a scale, this proved the civil service was able to reconfigure and reprioritise to handle the biggest national problems – although this process was not without challenges. But the strain on officials throughout the Article 50 period meant civil service leaders had to invest heavily in staff support and structures to build resilience and wellbeing – introducing more job shares and hiring mental health first aid nurses. High staff turnover remained a problem across the civil service; some of the most senior civil servants preparing for no deal ahead of the 29 March 2019 deadline had left their roles by the 31 October 2019 deadline.
 - **Brexit placed new pressures on the relationship between the UK government and the devolved administrations – and exposed ministers’ and civil servants’ patchy understanding of the devolution settlements.** Theresa May’s government’s initial approach to Brexit increasingly alienated the first ministers in Scotland and Wales. This had implications for the ability of officials, who needed to work together, to prepare the whole of the UK for life after Brexit. It was often easier for officials in London to work with those in Northern Ireland as the absence of ministers reduced political tensions. Although, through necessity, these were largely overcome with the Scottish and Welsh governments during the no-deal preparations, Boris Johnson’s government was less willing to work with the devolved administrations on Brexit, increasing the potential for the further deterioration of an already fragile relationship.
 - **The environment of secrecy in a tense political climate undermined the government’s relationship with business.** For a long time, civil servants could not engage in useful discussion with businesses. That evolved into more fruitful

discussions under the cloak of non-disclosure agreements. But businesses felt many ministers ignored their serious concerns while ministers questioned whether businesses accepted their priorities for Brexit. The civil service was left in a difficult position of trying to construct a middle way that worked for both. With the economic relationship with the EU still to be negotiated and huge practical changes still to be made, it's imperative that government and business work much more closely together. The close working in response to the coronavirus may help to repair this relationship.

- **Government communications telling the UK to prepare for no deal failed to produce action.** Brexit shows clearly that government communications do not operate in a vacuum. Although public communications improved under Boris Johnson, it was ultimately impossible to persuade businesses to spend money on preparing for no deal when the front pages of newspapers were full of stories about it being blocked by parliament. Official government communications will only ever be one source of information; businesses and individuals will also consider other information before making decisions. A clear strategy regarding the UK's future relationship with the EU, and messages about what changes businesses need to make ahead of the end of the transition period, should help improve communication. But communications need to be based on more than political statements, and given with enough notice.
- **The civil service and individual officials were left exposed in a polarised political environment – with prime ministers unwilling to offer protection.** As cabinet government broke down under Theresa May, the civil service was increasingly left to operate in a vacuum without clear political leadership. Those suspicious of the civil service's role in the EU referendum campaign used this vacuum to deliver increasingly public attacks on individual civil servants, in particular May's chief negotiator, Sir Oliver (Olly) Robbins. Both May and Johnson failed to offer any significant protection. Vocal former civil servants criticising the principle of the Brexit project have not made life any easier for those still in government trying to pursue the agenda of the government of the day.
- **Brexit raised fundamental questions about the civil service's constitutional role.** The biggest questions over the civil service's role came when the government was openly suggesting it was willing to play fast and loose with the law and the constitution. Some senior civil servants were left considering what, if any, role they were obliged to play if rumours the government would be willing to break the law became reality. Brexit has exposed tensions in the civil service's role to serve the government of the day, particularly when it came into conflict with parliament, the law and the civil service code. The civil service has no democratic mandate separate from the government of the day, but when parliament and the government were at loggerheads, the civil service too often found itself stuck in the middle without clarity over what was expected of it and by whom. This has raised questions about whether the civil service has appropriate tools at its disposal when the relationship between ministers, parliament and the civil service comes under pressure.

Introduction

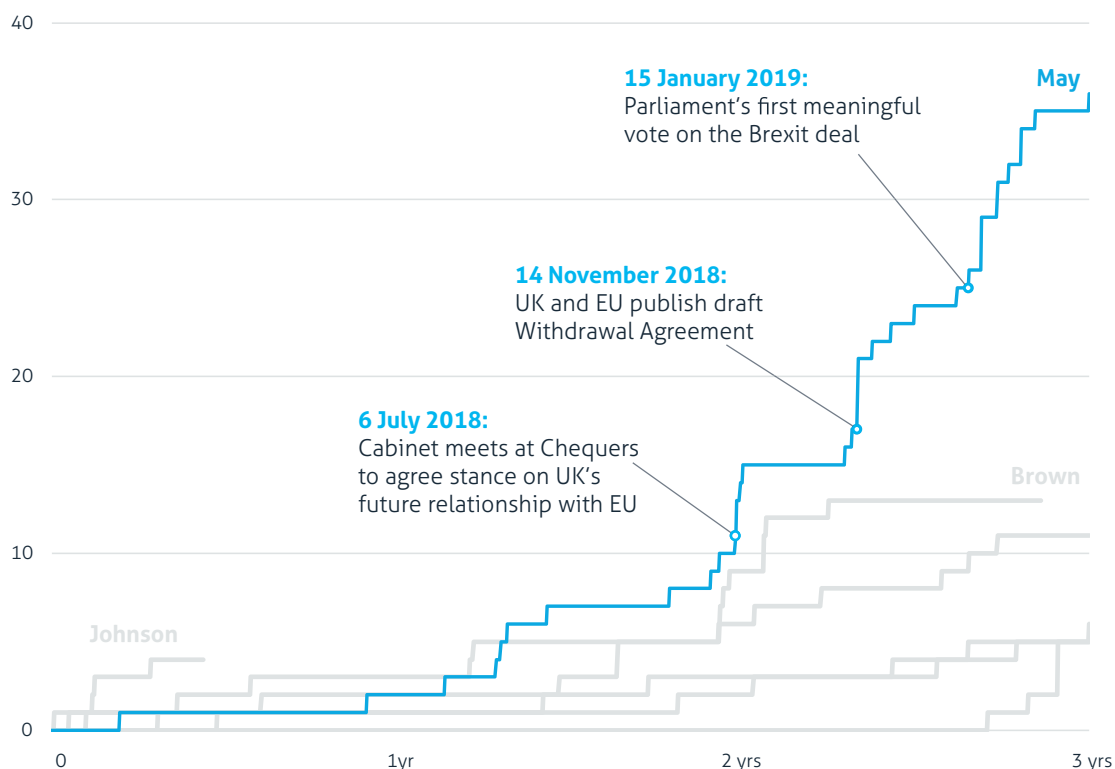
The 2016 EU referendum result presented the government with a huge challenge. For more than 40 years, EU membership had provided the context for the way that much policy was developed and implemented in the UK. The EU set the policy framework in a broad range of areas, from agriculture to trade, and provided systems and institutions that played a constitutional role in the UK – the devolution settlements would probably have looked very different if the UK had not been a member of the EU. Untangling this relationship would be a mammoth task for the civil service – and one that no other country had undertaken before.

The referendum offered no agreed vision for Brexit. The Leave campaign offered no detailed blueprint and David Cameron had largely prevented civil servants from doing detailed preparations during the referendum campaign. The country was deeply divided, and so were the two main political parties.

The civil service was facing its biggest peacetime challenge – at least until the coronavirus pandemic – when it was smaller in size than at any point since the second world war, after more than half a decade of staff and budget reductions. It had to navigate complex negotiations, an enormous legislative programme to ready the UK statute book and a series of practical changes to prepare for the UK's departure from the EU.

The political environment added new dimensions of complexity. Theresa May was left to try to unite a bitterly divided party whose members had been openly campaigning against one another during the referendum. Her decision to call a general election in 2017 – in which she lost her majority – further destabilised the party and left her incapable of asserting authority and making decisions. May ended up facing more resignations from her cabinet than any other prime minister since 1900, both from positions relating to Brexit and from other departments, as a result of both the government's Brexit position as well as issues not relating to Brexit. This affected the continuity of government business. At almost every key breakthrough, she lost ministers. She suffered the biggest defeat in modern history in the House of Commons when MPs rejected her withdrawal agreement on 15 January 2019.

Figure 1 Ministerial resignations under Theresa May, compared with other prime ministers



Source: Institute for Government analysis of sources including Butler and Butler, *British Political Facts*; House of Commons Library; King and Allen, 'Off with their heads: British prime ministers and the power to dismiss' (PJPoLS, 40); and IfG ministerial database. Data taken up to 3 May 2020 (inclusive). We have excluded resignations during reshuffles and resignations announced before a reshuffle but effectively taking place during it.

When Boris Johnson became prime minister on 24 July 2019, he brought in a new cabinet united behind a government position and set a clear course for the first time. But it was a collision course between the executive and the legislature, with constitutional conventions challenged and the government openly threatening to ignore parliament.

But on 31 January 2020, the UK finally left the EU – three and a half years after the referendum and almost a year later than was originally planned.

This report seeks to capture the lessons from that period for the civil service. In some instances, these lessons are immediately relevant – the government's response to coronavirus draws on many of the ways the civil service approached Brexit. In other instances, these lessons will be relevant for the next phase of Brexit and other challenges the civil service will be expected to overcome in the years down the line.

For this report we spoke to senior officials and politicians about how the civil service navigated the challenges after the referendum result, and how well it has come through this intensely difficult period in its history. We look at what that means for its ability to manage the tasks it now confronts but also whether the position of an impartial civil service has been undermined through the process. We do not look in detail at the UK's negotiating strategy, or the objectives it sought to achieve through Brexit.

Structure of the report

The report is structured by key lessons.

The first lesson (Chapter 1), looks primarily at the implications of the unique and extreme political environment, driven by division and indecision. It sketches out some of the key challenges for the civil service throughout the process and asks whether or not it could have done more to help manage this unprecedented situation.

The next five lessons (Chapters 2 to 6) look thematically at key areas of civil service work affected by Brexit: policy making, the workforce, staff wellbeing, working with the devolved administrations and the relationship with business.

The final lesson (Chapter 7) looks at how the fractious political context left the civil service and civil servants politicised and exposed tensions in the role of the civil service more broadly.

1 The civil service was unable to influence the pace of political decision making on critical issues

Brexit required decisions, not clever drafting. The unbridgeable divisions in the cabinet meant officials spent too long trying to find policies that could unite them, rather than forcing ministers to make choices and confront the huge practical challenges. The enormous job of practical preparations was hampered without a clear plan. Boris Johnson's cabinet was constructed to avoid gridlock – and made progress as a result, although his preparations for no deal were never tested.

The civil service started on the back foot after the referendum and took time to grasp the implications of Brexit

During the referendum campaign, officials used the public position of Vote Leave to work out what a decision to leave might mean and what the immediate consequences would be in the days afterwards, particularly for the financial markets. But this was nothing like the work done in a general election to prepare for a change of government.¹ The work was massively hamstrung by two key factors: first, David Cameron's decision to ban officials from contingency planning; and second, the absence of a clearly articulated vision for what Leave would mean. That meant when Theresa May took office, as someone who'd not supported Leave and hadn't advocated any specific approach, there was a vacuum where a clear strategy should have been, with only limited work on her options. She was under pressure to prove her Brexit credentials.

Whitehall was caught unprepared for the scale and complexity of Brexit – Sir Ivan Rogers, former representative of the UK in Brussels, recently told a conference: "Most of them [permanent secretaries] did not see massive systemic consequences for their own departments, in terms of what they would have to do after exit."² The process exposed that government ministers, the civil service and MPs did not, in detail, understand the overall impact of the EU on the operation of the UK economy or how EU processes provided the 'plumbing' underpinning much of how the country functioned – despite the painstaking "balance of competences"³ review that David Cameron's government had undertaken. There wasn't enough recognition of exactly how EU membership had provided the framework for devolution and its importance as a context for the Good Friday Agreement.

The UK also began the process without expertise or investment in other policy areas critical to the Brexit process, such as trade and the border. The UK had not needed significant trade expertise and negotiating capacity as an EU member state and the specialist knowledge that did exist was distributed in pockets across Whitehall.

The UK was already under criticism from the EU for underinvestment in the border:⁴ it was seen as having poor infrastructure and an excessively lax approach. As a policy area, the border had not been looked at – effectively – as a single policy and operational challenge for some time.

The relatively small numbers of officials with EU experience – those best placed to advise on the implications of Brexit and how to secure a good outcome with the EU – were unable to bring their expertise to bear. They were either outside of the narrow decision-making structures or, in some circumstances, regarded by some Brexit-supporting ministers as compromised by the very fact of that knowledge. It put Whitehall at a disadvantage from the start, facing an experienced negotiating machine in the shape of the European Commission.

But beyond any policy or institutional knowledge gaps that existed at the beginning of the Brexit process, often for entirely logical reasons, the shock at the top of the civil service at the result of the referendum revealed a lack of appreciation of what was going on in the country beyond London. The civil service was not alone – it was true of other sectors and parts of the media, for instance. But it suggested that the civil service – Whitehall in particular – operated too often in a political and social silo.

Brexit-supporting politicians, as well as some members of the public, perceived the civil service as having been on the losing side of the referendum. David Cameron's decision to use the civil service during the referendum campaign to support the government's anti-Brexit position, in particular with the publication of Treasury assessments, meant that Brexit-supporting politicians accused the civil service of bias.⁵ They believed that some senior officials had revealed their preferences. The civil service's position was compromised in a way that never happens in general election campaigns.

A new administration took office on 13 July 2016, 21 days after the referendum, and was responsible for turning the Brexit vote into reality. But with very little in the way of a manifesto, and a prime minister who repeated "Brexit means Brexit", the civil service would struggle with the fact that Brexit meant different things to different people – across the country and around the cabinet table.

Theresa May's approach to Brexit – relying on vague speeches rather than detailed policy papers – delayed decisions

Theresa May's first months in office were marked by silence about her strategy – a refusal to give a "running commentary".⁶ After nearly three months, May set out her red lines and timetable at the 2016 Conservative Party conference.⁷ For almost every single person in the room, including the cabinet, this was the first they had heard of them. Philip Hammond described how Cabinet "only really discovered where she was going to go when [they] heard the [party] conference speech that she made... I remember sitting in the conference hall saying to myself internally: 'The cameras will be on your face, do not twitch a muscle.'"⁸

The prime minister had not consulted her key officials in advance and seemed not to understand the implications of her emerging position.⁹ When the UK's representative in Brussels, Sir Ivan Rogers, played back what he thought the speech meant for the UK's negotiating ambitions, May responded: "I have agreed no such thing."¹⁰

May's initial red lines, including leaving the jurisdiction of the European Court of Justice and ending free movement, would mean the UK leaving the EU single market and the customs union – a so-called 'hard Brexit', a vision she put more flesh on in her speech at Lancaster House in January 2017.¹¹ But while it won her support from across her party, she spent the rest of her premiership rowing back from that early position once the consequences for business and for Northern Ireland became clear and the EU refused to accommodate her demand for a bespoke deal. Each subsequent speech – the Florence speech in September 2017 and the Mansion House speech in March 2018 – represented a move towards a slightly closer relationship with the EU.

By making policy through speeches rather than formal policy papers, the prime minister was able to defer decisions through ambiguity. Cabinet ministers put huge amounts of energy into the excruciatingly slow process of persuading Number 10 to tweak the wording of phrases in single sentences in speeches.¹² Officials were left to interpret political messages like "no deal is better than a bad deal", with little formal direction as to what was and was not being ruled out.

May tried to build political consensus by reaching across her divided party. Both her first Brexit cabinet committee (the EU Exit and Trade Committee, or EUXT) and the smaller subcommittee on negotiations with senior ministers set up in March 2017 were deliberately equally balanced between those who supported Leave and those who supported Remain, leaving May with the casting vote.¹³ But institutionalising these political divisions did not build bridges; instead it left May exposed in the middle and unable to decide – even more so than after the 2017 general election.

As individuals changed roles, or position, on Brexit, the prime minister found it harder to choreograph decisions through cabinet committees. She had to keep adding people to manage the balance and get the outcome she wanted. For example, the cabinet committee for strategy and negotiations doubled in size between spring 2017 and spring 2018. When the committee got stuck, the prime minister created a series of smaller informal groupings – which also expanded over time, as she brought in different ministers to help ensure she got her preferred outcome.¹⁴

The civil service failed to get ministers to take the big decisions at the critical time

The political divisions meant there was almost no serious cabinet-level discussion on the future relationship with the EU before the UK government triggered Article 50 in March 2017. May refused to consider any 'off-the-shelf' options – such as the Norwegian-style European Economic Area (EEA) approach and the Canadian-style free trade agreement. Instead, she wanted a bespoke arrangement for the UK.¹⁵ That meant officials had to map out the options by policy area, offering ministers a menu of options to try to identify preferences.

The government's future partnership papers in the summer of 2017 reflected this early thinking on the future relationship. The papers served as a tool for officials to try to force decisions from the cabinet, narrowing down options to allow work to progress and enable external discussions to start. But while this had some success in facilitating some decisions in the cabinet, the papers were less successful in offering a concrete way forward as they were too vague and ultimately dodged some of the most contentious issues. In some cases, the papers served more to help the prime minister in her aim of avoiding cabinet conflict, rather than presenting the very difficult decisions that needed to be made and the consequences of deferral. For example, the future partnership paper on customs arrangements contained two different models¹⁶ as ministers were unable to agree on one model.

Faced with a divided cabinet, civil servants attempted to find common ground and come up with policy proposals that could unite ministers. The 'new customs partnership' was the most high-profile example of civil servants' attempts to find a middle way. This was a proposal for the UK to run a dual tariff regime at its border to secure frictionless trade with the EU, while allowing the UK to run an independent trade policy.¹⁷ The problem was that the scheme designed to unify the cabinet was not underpinned by any kind of clear plan for making it work and the EU ruled it out as soon as it was presented to its members: it was policy for domestic unity, not EU negotiability or practical delivery.

But not even compromises such as the 'new customs partnership' proposal could bring the cabinet together – some ministers preferred the other customs arrangement presented in the future partnership paper: so-called 'maximum facilitation'.¹⁸ The split became severe¹⁹ and by May 2018, the civil service once again drafted a new system designed to take in elements of both – the 'facilitated customs arrangement', which ultimately ended up in the government's white paper on the future relationship.²⁰ It was no more negotiable or deliverable than the last.

The lack of a clear, agreed endpoint made conducting negotiations with the EU even harder, in particular on the issue of the Irish backstop – which dominated the talks for more than a year. Officials worked up a proposal for how to meet the commitments to avoid a hard border, made at the end of 2017 in the joint EU–UK report on progress during phase one of the negotiations.²¹ But the inability to reach agreement in Whitehall meant it could not be published.²² Instead, the EU put forward its proposal first and set the basis of the negotiations. The UK ultimately faced a choice of three options when it came to the question of customs arrangements and the Irish border: it had to choose between a border in the Irish Sea, a border on the island of Ireland or no border at all and agreeing to a customs union. Under both May and Johnson, the civil service struggled to get decisions until the 11th hour and spent too long looking for a fourth option – which never materialised.

But even in the situations where civil servants presented ministers – the prime minister in particular – with blunt assessments, they were often ignored.²³ May gradually and eventually made the binary choice on regulatory alignment after being confronted with the need to choose, deciding that continued alignment was a political

choice worth making in return for minimising friction at the border and solving some of the most difficult issues on the island of Ireland. But despite efforts from all her most senior officials and advisers, she refused to take a decision on customs. Eventually, May was prepared to accept a UK–EU customs union in the backstop, but she refused to rule out the facilitated customs arrangement in the future relationship negotiations. The invention of these ‘middle ways’ on customs meant the UK’s position on the question of a customs union was still uncertain even by summer 2019 when Theresa May left Downing Street.

The government spent too long arguing over policy and the failure to make decisions held back practical preparations

For too long, the government saw Brexit as a challenge of politics, parliament and policy; the sheer practical difficulties of ‘getting it done’ played second fiddle. Navigating cabinet rifts and trying to find ‘middle ways’ to satisfy ministers or Conservative MPs meant the government let the main delivery challenges drift – without the decisions needed to make progress and turn plans into practice. All across Whitehall, departments were hurtling towards deadlines but with no clarity around what the UK’s preferred outcome looked like. At any one time there were multiple scenarios in play and very few decisions being taken to reduce the number of options for which departments had to prepare.

From the very start, the government saw operations as a lesser challenge than getting the policy right. In summer 2016, the Cabinet Office collected assessments from each department detailing how Brexit would affect their work. These highlighted concerns with policy but relative confidence over operational capacity.

Figure 2 Cabinet Office Brexit impact ratings by department, summer 2016

	Policy			Operations		
	Short term	Medium term	Long term	Short term	Medium term	Long term
CO	Manageable	Manageable	Manageable	Manageable	Manageable	Manageable
DHSC	Manageable	Manageable	Manageable	Manageable	Manageable	Manageable
HMT	Manageable	Considerable	Manageable	Manageable	Manageable	Manageable
FCO	Manageable	Significant	Significant	Manageable	Considerable	Manageable
BEIS	Significant	Considerable	Unknown	Manageable	Manageable	Considerable
DfT	Manageable	Considerable	Unknown	Manageable	Unknown	Unknown
HO	Considerable	Considerable	Unknown	Considerable	Unknown	Unknown
DIT	Significant	Significant	Significant	Manageable	Considerable	Significant
Defra	Significant	Significant	Significant	Manageable	Significant	Significant

Manageable
Considerable
Significant
Unknown

Source: Institute for Government analysis of Cabinet Office data, 2016. DExEU was not listed in the analysis. Short term is considered July 2016 – December 2016; medium term is considered January 2017 – March 2018; and long term is considered after March 2018. Manageable impact is classed as ‘impact manageable within departments by reprioritising resources’. Unknown impact is classed as ‘not yet known’/‘known unknowns’. CO = Cabinet Office, DHSC = Department of Health and Social Care, HMT = the Treasury, FCO = Foreign and Commonwealth Office, BEIS = Department for Business and Industrial Strategy, DfT = Department for Transport, HO = Home Office, DIT = Department for International Trade, Defra = Department for Environment, Food and Rural Affairs.

A key example where the difficulty of making a policy decision delayed practical preparations was with post-Brexit immigration policy. Although the government saw ending free movement as a huge political priority, the cabinet couldn't agree on what would replace it. The government had planned to publish its new policy in spring 2017,²⁴ but conflicting camps within the cabinet – with the prime minister an outlier – meant it was December 2018 before a decision could be made and a white paper published.²⁵ This delayed the critical practical work that would be necessary to end free movement, which at one point the government had hoped to do in March 2019. Changes on this scale take years from the point at which policy is agreed, but indecision meant work on the practicalities couldn't begin in earnest – the debate was stuck on policy.

The delay in focusing on practicalities was also evident at the border. The Border Planning Group was set up in summer 2017 to try to co-ordinate the different departments and agencies with an interest at the border.²⁶ But the most complex border issue – the border on the island of Ireland – remained outside its remit. Over time, the group took greater control over the practical delivery – reflected in its name change to the Border Delivery Group – where it managed the interdependencies, set a common set of planning assumptions and led on communications around the border, taking over responsibility for the Irish border in 2018.

For the border, the divided set of ministers and the lack of a single minister responsible made driving the process much harder. The scale of interdependencies, with almost 30 departments and agencies playing a policy or operational role, meant practical preparations were limited without coherent political leadership. Inter-ministerial groups were used to try to ensure consistency, and Brandon Lewis as Cabinet Office minister and chair of the Conservative Party even played a role. But ultimately, the inability to get clear decisions – with enough notice – on the extent to which the UK was going to prepare for no deal meant progress suffered. The lack of clear political ownership did give officials a bit more leeway to communicate more clearly externally without needing approval. This allowed officials to build trust, but it also left them exposed to ministers who didn't like their work, with no ministerial cover of their own to deflect pot shots.²⁷

Although Theresa May declared “no deal is better than a bad deal”, cabinet divisions delayed progress on no-deal planning

During 2016 and 2017, the government struggled to move from the design phase of many plans into the practical delivery mode. A long time was spent agreeing the no-deal planning assumptions both for the border and for Operation Yellowhammer (the small but high-profile contingency planning subset of no-deal work). While the other key planning assumptions were agreed in spring 2017, in these areas ministers were unable to agree what a reasonable worst-case scenario would look like.²⁸ One side of the cabinet felt the impact would be worse, the other arguing that in practice it would involve less disruption.

There was concern in Whitehall, Number 10, the Cabinet Office and the Treasury that preparing for no deal would become a self-fulfilling prophecy – and that moving too soon would have an economic impact on the UK.²⁹ The cabinet repeatedly decided not to prepare in earnest for no deal, even though Theresa May had first declared “no deal for Britain is better than a bad deal for Britain” in January 2017,³⁰ concerned it would undermine the government’s reassuring messages to business and its attempts to talk up the value of the pound. The key decision points to ‘turn everything on’ for no deal often came and went without a decision either way – it wasn’t yes, it wasn’t no, it was just ‘not yet’. The continued failure to decide meant nothing was ruled out, but the ability of the government to prepare for the outcomes that were still on the table was more and more limited.

It was not until towards the end of 2018 that the scale of the practical challenge was fully recognised across government – the prospects of a politically acceptable deal looked slim and the government decided to turn no-deal plans on in a way it had previously avoided. In 2017/18, the Treasury only allocated around £280 million to departments to prepare for Brexit, departments instead relying on internal reprioritisation.³¹ This was later increased to £1.5 billion in 2018/19 and a total of more than £4bn was made available to departments for 2019/20 – although almost half of the latter was unspent.³² But decisions to spend money on no deal were not without contention; many cabinet ministers felt that it would be wrong to waste money preparing for an outcome they saw as disastrous but entirely avoidable.

Cabinet division over no deal harmed the civil service’s ability to take the necessary steps to prepare and meant departments’ responses reflected the views of their secretary of state – rather than a whole-of-government approach. The Department for Environment, Food and Rural Affairs (Defra) restructured itself around the priority of being ready for no deal. But as one of the departments most focused on no-deal preparations, it took 18 months of iteration to turn projects into detailed plans with clear milestones and outputs.³³ Others had to react late in the day to move to a no-deal footing, with some departments shifting around a third of their staff onto Brexit workstreams in late 2018.

The lack of decision making limited the time available to plan for certain outcomes – for example, the late decision around the tender for ferry capacity to transport medicines in the event of no deal made a rushed process even more frantic.

There was public criticism of the Treasury – in practice, the chancellor – for dragging its heels on being willing to fund no-deal preparations, but there was little evidence of money being held back for agreed plans.³⁴ Hammond himself has argued he was only opposed to “demonstration spending”.³⁵ By March 2019, over £2bn had been spent on the practical preparations for Brexit.³⁶ The focus on delivery throughout 2019 meant that as much as a further £2.3bn was spent in the 2019/20 financial year alone. But this leap onto a delivery footing came too late – there was much that could not be done in time for key deadlines as a result of indecision.

DExEU's unclear role caused political and practical problems

Dysfunction in the cabinet was reflected in Whitehall structures. May's decision to create the Department for Exiting the European Union (DExEU) and give the Brexit secretary post to a senior Brexiteer, David Davis, was made during her leadership campaign for clear political reasons,³⁷ but always threatened administrative confusion and caused headaches throughout her premiership.

DExEU carried out critical functions, playing a co-ordinating role on negotiations, legislation and readiness, but the prime minister was unprepared to delegate strategic decisions to her Brexit secretary and the rest of the cabinet kept him out of their departments' Brexit policies. Over time, responsibilities on Brexit shifted away from DExEU.

DExEU got up and running quickly. For a department that was not really a 'line department' like others, but also not formally part of the central structures, its work – for example on the cross-government co-ordination in scoping the size of the task and identifying more than 300 workstreams – was impressive. But the political friction caused by its position with its own secretary of state was evident from the start of the negotiations. While David Davis rejected the EU's proposal for the sequencing of the Brexit talks, saying this would be the "row of the summer",³⁸ Theresa May overruled him and agreed to it – dealing with withdrawal issues before the future relationship. While Davis claimed this wasn't a capitulation,³⁹ it showed a tension between his preferred approach and the prime minister's.

The prime minister eventually took back control of Brexit negotiations policy from the Brexit secretary, creating the Europe Unit in the Cabinet Office. In July 2016, the Europe and Global Issues Secretariat in the Cabinet Office had moved into DExEU, and its recently appointed head, Sir Oliver (Olly) Robbins, became permanent secretary in the new department, as well as the prime minister's lead Europe adviser. But the tension of both supporting David Davis and advising the prime minister became unsustainable. In September 2017, Robbins and a small team of negotiators were moved from the Brexit department, reporting directly to May.⁴⁰ This signalled to Whitehall that Number 10 was making key decisions, not DExEU.

On the practical preparations, DExEU continued to play a role – along with scoping for the next phase of talks, communications, working with the devolved administrations and having responsibility for key legislation. But its position in having a separate secretary of state did not always make that job easier – it didn't always get the support from departments it needed because of cabinet politics.

Cabinet divisions – and the prime minister's style – led to internal secrecy

May was always known for her closed style, with centralised control characterising her time at the Home Office. When prime minister, May's advisers enjoyed significant power in deciding what ministers saw and which factions within cabinet were informed on issues. May limited what even her close circle could see, specifically requesting that certain ministers – sometimes her most senior cabinet colleagues – were not shown particular documents.⁴¹

Key information was sometimes shared through ad-hoc backchannels rather than formal routes, with documents left on carefully selected ministers' desks for short periods in hard copy before being removed.⁴²

The negotiations were always going to be kept tight, but frustration grew at the lack of a cross-government approach agreed in advance. This anger came to a head after the publication of the Chequers white paper in July 2018,⁴³ when the prime minister was accused of running an opaque and parallel process in the Cabinet Office to the one her Brexit secretary was undertaking.⁴⁴ Brexit-supporting MPs accused May's official EU adviser, Olly Robbins, of freelancing and setting policy without the knowledge of ministers.⁴⁵ Distrust between politicians inevitably bled through to how ministries interacted, leading to an almost complete breakdown of cabinet government by the middle of 2018.

The excessive secrecy on Brexit extended well beyond the negotiations. It was prevalent in preparations for no deal under May. Number 10 used unnecessarily high security classifications for important documents, restricting access to a chosen few.

The over-classification of documents, increasingly using the classification 'secret' for Brexit issues, meant officials had to rely on 'Rosa terminals' – secure computers that the National Cyber Security Centre has put in place – to access critical information. While some departments were used to handling this kind of classified information at scale, others were not set up for it or used to it. It took time to get the systems in place, particularly for those who had offices around the country. The high security classifications made the difficult job of effective co-ordination within departments and across government even more challenging.⁴⁶ The government's reliance on these terminals was necessary in certain cases, but they were too often used for documents that needed to be shared either for briefing purposes or to cascade important decisions.

Secrecy caused a lot of unnecessary stress in the run-up to 29 March 2019, with far too few people having access to vital documents.⁴⁷ The concerns were leaks – but throughout this period it was mainly the political teams in departments, not officials working on Brexit readiness or negotiations, that were responsible for leaking.

A new prime minister streamlined delivery with his new approach to cabinet committees – although the approach to negotiations remained closed

Boris Johnson wanted to avoid the same political divisions as Theresa May. His top team, comprised overwhelmingly of MPs who backed Leave, was tasked immediately with no-deal preparations for 31 October 2019. This approach echoed the final months of May's premiership, but with a different cabinet composition and a prime minister with political authority, the context was completely different. Officials began to receive the quick and clear instructions on issues they had been raising for months around no-deal readiness – calls for greater investment in a coherent public information campaign to improve awareness, for example, were fulfilled.⁴⁸

At the centre of the process was Michael Gove, Chancellor of the Duchy of Lancaster and the minister responsible for no-deal preparations. As Defra secretary under May, he regularly pushed for cross-government decisions on no-deal readiness. In his new role under Johnson, he had the authority to drive progress.

Gove chaired the new cabinet committee formed to deal with no-deal preparations: the EU Exit Operations committee, or XO, which was based on the model he developed in Defra under May’s premiership. Cabinet ministers attended XO’s daily meetings, alongside senior officials and Number 10 advisers in relevant areas. As chair, Gove was across much of the detail and was willing to challenge ministers on their departments’ readiness. XO worked through the policy decisions on no deal that the previous government had taken, reaffirming or changing them, before assessing at-risk areas for key deadlines.

Figure 3 **Composition of cabinet committees and subcommittees by Brexit stance, 2016–19**

Theresa May		Boris Johnson		
Strategy and negotiations	Domestic preparedness	Exit strategy	Exit operations	
Johnson (FCO)	Davis* (DExEU)	Johnson (PM)	Sunak (HMT)	Leave
Davis (DExEU)	Fox (DIT)	Raab (FCO)	Raab (FCO)	Remain
Fox (DIT)	McVey (DWP)	Gove (CDL)	Patel (HO)	Swing vote
Gove (Defra)	Gove (Defra)	Barclay (DExEU)	Gove (CDL)	Civil service
Williamson (MoD)	Grayling (DfT)	Cox (AGO)	Barclay (DExEU)	No data
May (PM)	Evans (HoL)	Javid (HMT)	Leadsom (BEIS)	
Hammond (HMT)	Leadsom (HoC)		Villiers (Defra)	
Rudd (HO)	Hammond (HMT)		Jack (SO)	
Lidington (CDL)	Rudd (HO)		Dowden (CO)	
Clark (BEIS)	Lidington (CDL)		Hancock (DHSC)	
Bradley (NIO)	Dowden (CO)		Shapps (DfT)	
	Gauke (MoJ)		Smith (NIO)	
	Clark (BEIS)		Cairns (WO)	
	Bradley (NIO)		Thompson (HMRC)	
	Mundell (SO)			
	Cairns (WO)			
	Smith (Chief Whip)			
	Wright (AGO)			
	Taylor (Lords Whip)			

*Accompanied by Steve Baker

Source: Institute for Government analysis, including of Cabinet Office data and public statements from ministers, 2017–19. The first iteration of each committee is displayed. Cabinet committee attendance at each meeting varied, with additional ministers invited to attend where required.

XO operated at a level of detail unprecedented in cabinet committees, which helped ministers and officials forge a common understanding of the task ahead. Using a dashboard, developed by DExEU, tracking progress against more than 350 milestones to be met ahead of the deadline, XO operated more like a programme management board than a traditional cabinet committee. Even secrecy improved: XO relied heavily on information flow to make the tight turnaround timelines possible, so the government could no longer base documents on secure computers in dark rooms.⁴⁹

While the daily rhythm of XO drove progress, it was unsustainable. Papers outlining details of the next meeting arrived at 18:00. Departments would have three hours to compile briefings on technical issues that relied on specialist input. By 21:30, briefings would go to senior civil servants, who worked overnight to make changes, request clarifications and sign off proposals. By 9:30 the next morning, the secretary of state would be briefed for the 10:00 meeting.⁵⁰ The system of working around the clock, reliant on a small group of officials, ran for almost six months.

Briefings were often scrambled together for deadlines rather than prioritising content and ministers too often entered meetings poorly informed. Sometimes papers arrived with only minutes to spare. Departments had to double staff teams supporting XO, running a shift pattern covering early mornings and late nights.⁵¹ The focus was on what day one of no deal would look like, but there was too little work done on the issues the government would encounter in the following weeks and months and on building in capacity to deal with the unknowable issues likely to surface. But for its flaws, the XO model is one that could easily be adjusted and rolled out to other cross-government delivery projects. The daily rhythm and mix of officials and ministers is already being used as part of the UK's response to coronavirus – the fact that there are similar individuals involved too, in responding to both no deal and Covid-19, will also help.

The EU Exit Strategy committee, or XS, was a much smaller group of cabinet ministers. It met twice a week and took strategic decisions on negotiations and no deal. Comprised of just six cabinet ministers, XS was secretive: ministers were covering issues outside their departmental authority. Officials had to develop their own mechanisms to ensure that the appropriate departments had the opportunity to contribute relevant expertise to the papers going to XS.

When XS shared information, it did so poorly. For example, one department received a single paper copy of proposed UK no-deal tariff schedules, so officials couldn't share the information with the relevant experts.⁵² Civil servants had to huddle around a single piece of paper before giving advice quickly to their secretary of state. Departments had to build their own structures to provide coherence across Whitehall. The model is unsustainable for the breadth and depth of the next phase of negotiations – the centre of government cannot both decide and deliver: knowledge, expertise, money and policy levers are all located in departments.

The Europe Unit in the Cabinet Office was disbanded, with staff dispersed across Whitehall, but DExEU's powers were still divided. The department had two new decision makers playing a role – Michael Gove was directly tasking those in the department working on no-deal preparations while civil servants working on the Brexit negotiations were working to David Frost, the prime minister's Europe adviser. Steve Barclay, the secretary of state for exiting the EU, had an increasingly unclear position and role. The tight timelines and eagerness of all involved to make it work – not least civil servants having to carefully balance the competing interests – ensured the system coped, but it was ultimately unsustainable.

Lessons from the Article 50 period

The civil service started on the back foot – not appreciating the scale of the task it faced in disentangling the UK from the EU – and without any 'manifesto for Brexit' to work from.

The political division and indecision left the civil service trying to build consensus through the tried-and-tested methods of ambiguous wording and ingenious drafting. But the realities of Brexit – the fact it required negotiation and had a set timeframe – meant the ambiguity quickly unravelled when the decision to leave the EU had to be put into practice. Ultimately, the UK government was too slow in making key decisions – it meant negotiations with the EU were hampered by the absence of a clear strategy and the practical preparations were held back by a failure to decide what scenarios to prepare for and to what extent.

Ensuring political decisions are made on the right issues at the right time is an important role for the civil service. On Brexit, that didn't happen. While the extreme political division and Theresa May's crippling loss of authority after the 2017 general election were the overwhelming causes of indecision, the civil service must ask whether it facilitated it for longer – in hunting for policy solutions that were not realistic or not impressing enough the hard choices that had to be made and the implications of a failure to choose.

2 The government was innovative under Brexit pressures

Critical deadlines in March and October 2019 put the civil service under huge pressure – showing government at its best and worst.

The civil service performed well on an extraordinary scale, often being highly innovative

While government was late to start on delivery, the work that was done across Whitehall was extraordinary. Almost 20 departments laid more than 550 statutory instruments (more than 10,000 pages of new law) in under a year running up to 29 March 2019. Unpicking the effects of 47 years of EU membership on the UK's statute book was a huge achievement – even if it is still untested.

Individual projects progressed at an unprecedented speed, under huge pressure and scrutiny. The EU Settlement Scheme is one example. A broad approach was agreed in summer 2017¹ and the government secured the rights of almost three million EU citizens by January 2020.² Over the same period, only three of the EU27 had begun accepting applications from British citizens to settle their status on the continent.

The Home Office designed, developed and implemented a system based on cross-government data sharing in a fraction of the time of most big government technology projects. Time and policy constraints mean that the scheme still faces huge challenges but the progress is remarkable. The project has overcome major obstacles – not least when May announced the abolition of charges,³ which forced the Home Office to redesign key elements of the system and develop a refunds policy at the same time as the scheme was made available to millions of people.

The civil service also had to design and deliver 26 new systems ready to go live on 29 March 2019⁴ if the UK left the EU without a deal, replacing EU systems the UK used as a member state. These were in varying states of preparedness when the deadline actually hit, but an extraordinary amount of work had been done. The fact the civil service had managed to do much of this work in a relatively short period of time is a huge achievement.

Departments had to innovate to be able to track progress on project delivery and the production of statutory instruments to tight deadlines. For example, Defra used a central operations centre to track no-deal preparations, bringing in ministers to talk through the preparations with visual aids, thrash out issues and take decisions.⁵ This was supported by specific control rooms, which took particularly challenging issues and brought the key people together to work through them.

Policy and operations teams had to work more closely together, with no time for rework when policy met reality. There was a vast increase in the use of project management techniques, which in many areas helped departments organise and deliver their key priorities – something Whitehall had been looking to build up for a long time. Many senior civil servants are concerned that these innovations will be lost when the pressure of Brexit subsides.

The time pressure meant corners had to be cut and processes rushed

While civil servants delivered new IT services, introduced a raft of new regulations and bills and made plans for the worst-case scenario in the event of no deal, the time pressure placed limits on how far those preparations could go. The Border Delivery Group did not test whether the 10 highest-priority systems needed at the border would actually work in the event of no deal on 29 March 2019,⁶ which would have caused huge challenges if they had needed to be used. Some testing was subsequently carried out after the March deadline passed,⁷ but if the UK had left without a deal in March the government would have been relying on untested systems for critical national infrastructure.

The tight timeline also made mistakes in legislation more likely – particularly regarding the statutory instruments needed under the European Union (Withdrawal) Act 2018 to ensure there would be no legal gaps in a no-deal scenario. On more than one occasion, statutory instruments had to be relaid when explanatory memorandums referred to the wrong instrument.⁸ One statutory instrument accidentally took the UK out of the European University Institute because civil servants thought membership was contingent on EU membership (it was later withdrawn).⁹

The pressure of no deal meant decisions and processes were rushed, leading to examples of poorer outcomes than otherwise would have been the case. The Department for Transport's rapid tendering of contracts for ferries got the government sued by Eurotunnel,¹⁰ risking this critical element of preparations unravelling weeks before exit, as well as by P&O over its subsequent settlement with Eurotunnel.¹¹

No-deal planning forced officials to prioritise goods for import, from fresh food to medicines, with ministers deciding which would be earmarked for priority treatment under no deal. The government tried to procure cargo planes to airlift trucks holding priority goods to the UK and bulk-buy fridges to store medicines.¹² There were even discussions on means-testing some medicines. This might be the normal stuff of crisis contingency planning; the difference in 2019 was that this was necessary because the government was willing to entertain the possibility of a no-deal exit.

The government's approach to Northern Ireland risked major harm without a clear plan for minimising it

The most extraordinary element of no-deal planning was for Northern Ireland, the part of the UK most exposed to Brexit and where disruption could destabilise peace. Neither the assembly nor the executive was sitting and, since Sinn Féin do not take their seats, Northern Ireland was represented at Westminster by only 10 Democratic Unionist Party (DUP) MPs and one independent. Theresa May's decision to enter into a confidence-and-supply relationship¹³ with the DUP immediately compromised the UK government's role as neutral arbiter in Northern Ireland.

The government's no-deal plan relied on leaving the border with the Republic of Ireland open and not checking goods as they came into Northern Ireland.¹⁴ Inside government, it was recognised that the plans were completely inadequate.¹⁵ The asymmetric approach taken by the UK and the EU would mean that a border on the island of Ireland was inevitable – whether there was government infrastructure in place or not. The UK would continue to allow goods to flow from the Republic into Northern Ireland, but Northern Irish businesses would be unable to sell into the south without severe restrictions.¹⁶

There was a serious risk that this would result in direct action along the border and a growth in the illegal economy, supporting dissident groups and bringing about political instability. Northern Ireland's power supply was also at risk: ministers discussed limiting electricity in Northern Ireland and putting generators in barges in the Irish Sea if Northern Ireland was forced to leave the single electricity market on the island of Ireland.¹⁷

The government knew it would have to take the significant and politically controversial step of implementing direct rule¹⁸ to support the economy in Northern Ireland in the absence of the executive (the Northern Ireland civil service expected 40,000 jobs to be at risk in a no-deal scenario¹⁹).

But when the government published a report on no-deal readiness in October 2019,²⁰ it didn't disclose any of the real risks to Northern Ireland. The prime minister claimed that government "can now confidently say that the UK is prepared to leave the EU without a deal on 31st October"²¹ and the cabinet secretary, Sir Mark Sedwill, said that the UK was in "pretty good shape" for no deal.²² That, clearly, was not accurate – either of preparations for Northern Ireland or readiness by business more generally. There was no workable plan for Northern Ireland. In the end, the only serious government assessment of the impact of no deal on Northern Ireland came from a response to a humble address motion that parliament passed in September 2019 – the Operation Yellowhammer planning assumptions – which acknowledged that the government's plan for Northern Ireland was "likely to prove unsustainable due to significant economic, legal and biosecurity risks".²³

Lessons from the Article 50 period

The pressure of Brexit showed how agile and innovative the civil service could be and its capability to work at pace when it needed to. The new ways of working developed across Whitehall should be captured and shared more widely. But the government should also reflect on the negative impact tight timelines have had on normal processes designed to facilitate decision making with robust analysis and evidence – particularly as the government continues to operate in crisis mode.

But it is also profoundly worrying that a UK government could avoid being transparent with the public, and parliament, about the critical trade-offs and implications of its decisions, in particular its lack of transparency around the implications of no deal. This is especially so for Northern Ireland, given the major economic damage it would cause there, as well as its political instability and troubled recent history.

3 Brexit showed that the civil service workforce could be agile and adaptable, but it highlighted longstanding weaknesses

As the civil service workforce grew, with new officials coming in at different levels, it showed real agility and expanded skills in areas like project management. But it further exposed weaknesses in the system of workforce management.

Departments showed unprecedented solidarity in moving staff

At the time of the EU referendum in June 2016, the civil service was the smallest it had been since the second world war, after years of cuts and efficiency savings.¹ By September 2019, there were 35,000 more civil servants.² Not all of these were hired to work on Brexit, but at the end of 2019 there were 25,000 civil servants working on EU exit – more than the nine smallest Whitehall departments combined.³

While civil service numbers grew every quarter from the referendum onwards, the Article 50 deadlines and threat of no deal needed the system to surge additional support to the most affected areas. Staff from five departments, including the Department for Education (DfE), the Ministry of Defence (MoD) and the Department for Work and Pensions (DWP), were asked to volunteer to temporarily move between – and within – departments to support key areas and run operational centres.⁴ More than 1,500 civil servants were moved off their day jobs to work on emergency no-deal preparations for October 2019 – the equivalent of repurposing the whole of the Treasury.⁵ This was a huge task, which the government had to do twice in 2019: by July, 75% of civil servants who had moved for the March deadline had returned to their home departments.⁶

Staff moved willingly for the March deadline, but there was greater reluctance to do it again in October – with fewer civil servants willing to volunteer outright. As a result, departments focused on training and career development to incentivise moving for the next set of preparations.⁷ In early 2019, there was concern that departments less affected by Brexit would only be prepared to lose staff they thought were dispensable and wouldn't give up high-quality individuals – but this was not borne out in practice. It showed a cross-government sense of purpose on a scale rarely seen. But it was still hamstrung by process, not least security clearance.

The process for moving people did get smoother as it continued, though, and the government became better at prioritising people within specific roles. In the run-up to the end of the transition period, and for the future of large, time-sensitive projects, the government now has a model it can work from – most immediately, it has been able to draw on this for its response to coronavirus.

The Cabinet Office was key to facilitating the movement of staff. In a Public Accounts Committee hearing, Bernadette Kelly – permanent secretary at the Department for Transport (DfT) – described a centrally located clearing hub, where departments that did not need additional resources to prepare for no deal would offer staff on loan, and the departments that needed temporary staff could apply to employ them for the preparation period. According to Kelly, this was intended to allocate resources “rapidly and with minimum bureaucracy”.⁸ However, its slow, process-driven approach meant that some departments also dealt with one another bilaterally, instead of through the clearing hub. Departments with major Brexit workstreams were given ‘buddy’ departments, from which they could secure more staff. For example, DfE was a ‘buddy’ for Defra and DfT drew on staff from MoD and the Ministry of Justice (MoJ).⁹

But moving staff between departments involved more than just a staff loan mechanism. Civil servants had to be trained to carry out tasks, which often involved completely different functions in completely different policy areas to the day job they were used to performing. Arriving in a new department also meant that these civil servants needed to learn how that department worked and who was responsible for delivering what. Typically, it took a month to bring civil servants into a new department and give them training to help with no-deal preparations – and the tight deadlines meant that in some instances, the Article 50 extension was secured by the time civil servants were up to speed. DExEU was one department that had an extensive training programme to support the vast number of new starters and which also served as an incentive to keep staff in place.¹⁰

The Department for Business, Energy and Industrial Strategy (BEIS) was one department that decided to manage no-deal preparations by only moving civil servants internally – from workstreams with less Brexit impact to those focusing on no-deal preparations – rather than drawing staff from other departments.¹¹ This meant that it could try to retain experience and area-specific specialisms and could focus on preparations, rather than training staff. Other departments did this too, but having exhausted this route were reliant on support from other parts of government.

Figure 4 **Models for moving civil servants to support Brexit preparations**

Model 1: Buddy departments

A department which was not focused on Brexit partnered with another department which had a large Brexit workload. Staff moved from one department to the other.

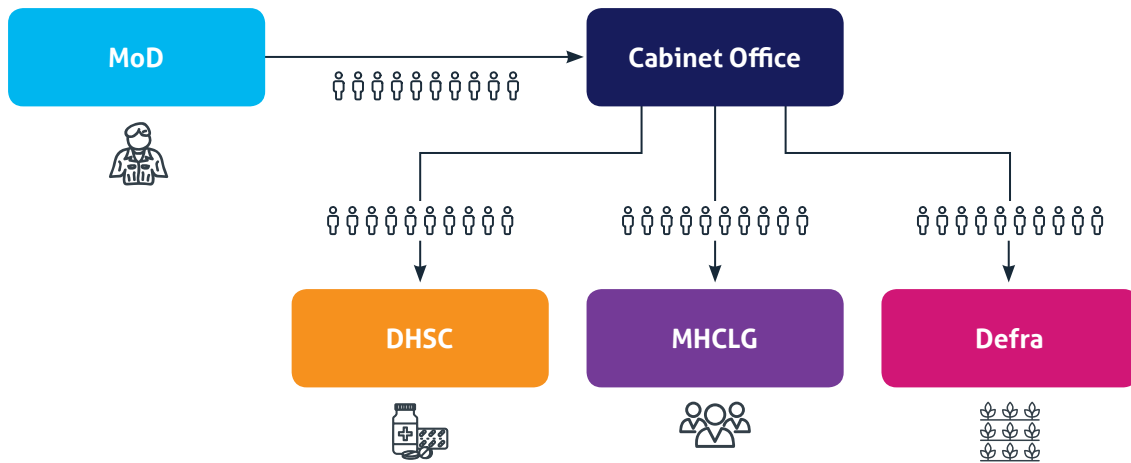
For example, staff from DfE moved temporarily to Defra for no-deal preparations. Clare Moriarty, former Defra permanent secretary, stated in 2019 that her department gained “about 100” loan staff from DfE.*



Model 2: Clearing hubs

Departments with fewer Brexit workstreams registered the number of staff available for secondment with the Cabinet Office. Departments with a large Brexit workload then bid for additional staff from the Cabinet Office clearing hub.

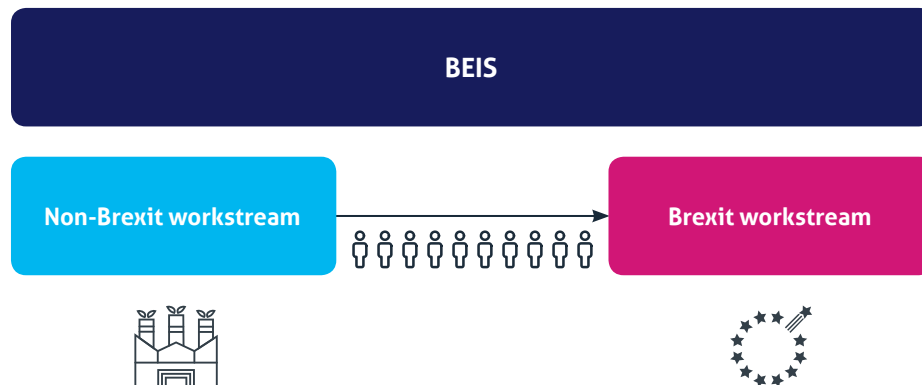
The largest example was MoD, which loaned 339 staff to departments including MHCLG, DHSC and Defra.**



Model 3: Internal movements

Some departments chose to move staff from 'business as usual' workstreams to Brexit workstreams within the department.

BEIS was the clearest example of this approach, where 532 staff moved internally to focus on Brexit preparations.***



Sources: Institute for Government analysis of * = Commons Public Accounts Committee, *Oral Evidence: Brexit and the UK border: Further progress review* (HC 1942), 13 February 2019; ** = Comptroller and Auditor General, *Exiting the European Union: The cost of EU exit preparations*, Session 2019–2021, HC 102, National Audit Office, 2020; *** = Department for Business, Energy and Industrial Strategy response to FoI request, 26 June 2019.

Staff turnover was very high in the central Brexit departments

But while the pressure of Brexit showed that the civil service was capable of being agile and responsive as an employer, it also exposed the cracks in the staffing model that have long been a problem. Above all, Brexit exacerbated the issue of high staff turnover. The turnover issue is particularly pronounced for senior civil servants, policy departments and departments based in London – in short, the sorts of people who were often in the centre of the Brexit challenge. At its worst, some departments regularly lose up to 20–25% of their staff every year – the figure for turnover internally within departments is higher.¹²

Departments with a large role in Brexit – most notably DExEU and the Cabinet Office – typically saw their turnover increase from 2018 to 2019. DExEU's turnover rate jumped to 40% over the past year, more than double the rate a year earlier.¹³ This was in large part due to the contracting system set up for Brexit preparations, in which staff were seconded from other departments or placed on fixed-term contracts.¹⁴ DExEU factored high churn into its business model – whether because of the temporary nature of employment or recognition that the nature of the roles and high intensity meant people were unlikely to stay long term. The department prepared for a high number of new recruits with extensive training programmes.¹⁵ But the figures highlighted here likely underestimate the full number as fast-stream recruits are not counted.

The high turnover rate among Brexit-focused departments was also caused by failures in workforce management. In some cases, ambitious civil servants were drawn to high-profile Brexit jobs as a route to quick promotion. But they often didn't stick around for long before moving on to other areas.¹⁶ Civil servants are rewarded by moving jobs and departments, so with a jobs boom in Whitehall the incentives were driving people to move around to get experience, promotion and reward.¹⁷ The career incentives are not to stick around and see through critical projects.

Fatigue and pressure meant that some civil servants left for other workstreams – or in some cases, quit the civil service altogether.¹⁸ There was particularly high turnover after key Brexit deadlines. Defra introduced a 'firebreak' after the second Brexit deadline in April where the department paused some Brexit work for a few weeks. This was intended to allow civil servants to recover from no-deal preparations by having fewer meetings on Brexit and more relaxed deadlines. But in certain cases, some members of staff took this as an opportunity to apply for jobs on different teams, and left their roles in the next two to three months¹⁹ – avoiding having to ramp up again for the October deadline. While that is one specific example, there was evidence of the March deadline being a point at which many more officials decided to move on.

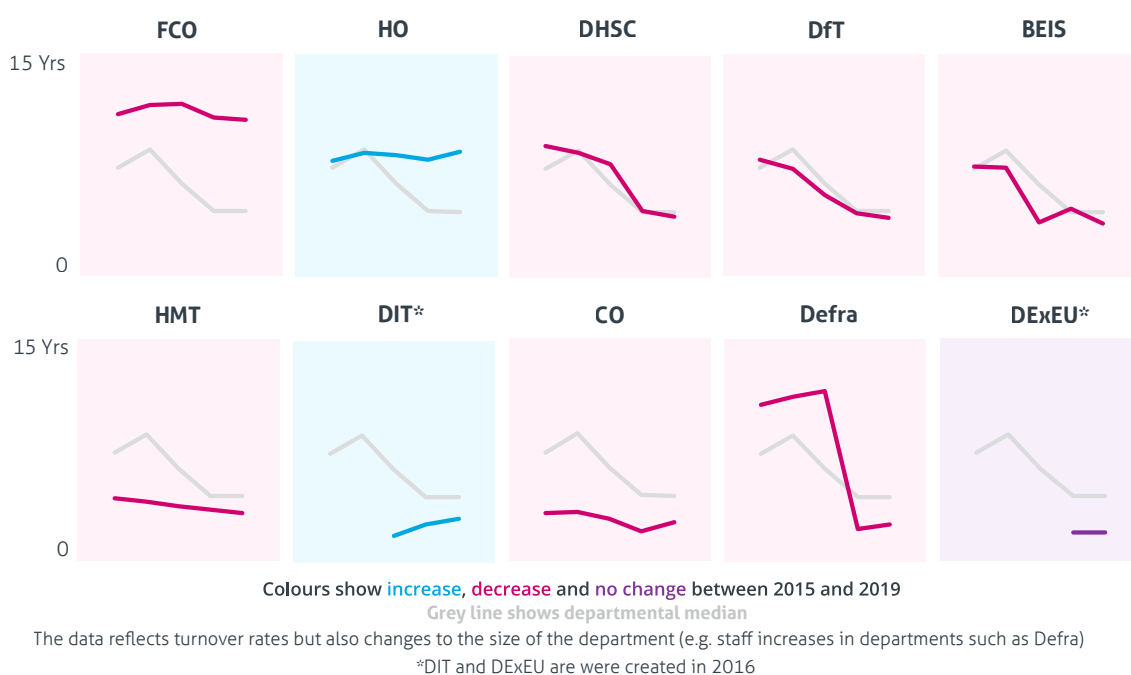
The high churn after the March deadline was notable among senior civil servants. A large chunk of Brexit-focused civil servants left shortly after this deadline. Philip Rycroft (the permanent secretary at DExEU) left, and he was replaced by Clare Moriarty, the permanent secretary at Defra – one of the most Brexit-affected departments.²⁰ DExEU's high turnover rate meant that only five of the 20 most senior civil servants in the department in November 2019 were in the role 18 months earlier.^{21,22}

Key civil servants working on no-deal readiness left over the course of the summer 2019, including Sir Jonathon Thompson²³ (chief executive of HMRC), Karen Wheeler²⁴ (head of the Border Delivery Group) and Tom Shinner²⁵ (head of no-deal preparations at DExEU).

In many ways, the turnover after the March deadline was understandable – it had been an intense few years, with a particularly intense six months, and individuals had to make personal sacrifices just to endure the pace and intensity. In some cases, individuals were replaced with people who'd been working closely with them before. But with another deadline so close and a likely renewed focus on no deal, the civil service lost important experience on quite a large scale after March 2019.

The high turnover across government, combined with the mass-hiring of civil servants and movement between departments, meant that at any one point over the period, there was often a high number of civil servants working on projects they had little experience of and in policy areas they had little knowledge of – in the run-in to the October 2019 deadline, some had only been in post for a few months. Between 2017 and 2018, the median length of time a civil servant had been in Defra plummeted from more than 12 years to just one year.

Figure 5 **Median length of time spent by civil servants in department by department, 2015–19**



Source: Institute for Government analysis of Cabinet Office data, Civil servants by median time in department, 2015–19, 27 February 2020. BEIS and DHSC scores include Department for Business, Innovation and Skills (BIS) and Department of Health (DH) data respectively.

The story of high turnover was not consistent across all Brexit-focused departments. The Department for International Trade (DIT), DfT and BEIS all saw fewer staff leave in 2019 than in 2018.²⁶ This may be a result of senior civil servants' efforts to increase morale and retain staff. Across Whitehall, there was an effort to use the levers available to minimise disruption. Recruitment and retention allowances were used

selectively to offer key staff increased pay, but they caused a headache for managers if individuals became aware of the special treatment that other staff were receiving.²⁷ If an individual was offered a job on promotion from a new department, the current department sometimes offered to match it, but again that disrupted the recruitment processes in the new department.

Consultants were hired en masse to support project management

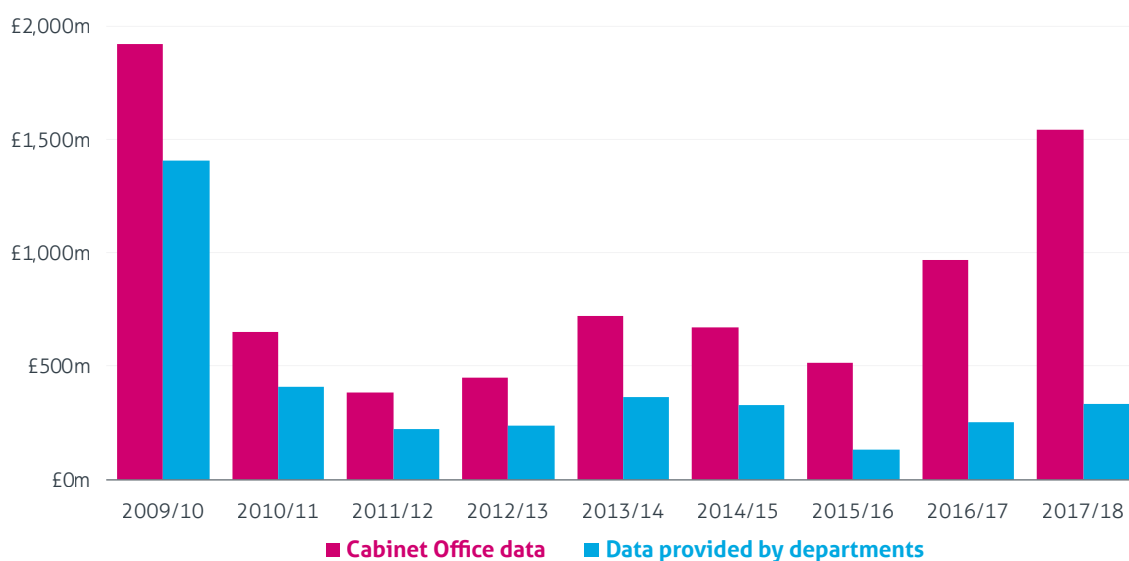
Shortages of skills and lengthy recruitment processes meant that departments looked to consultants and contractors to increase capacity, aid project management and – to a lesser extent – provide area-specific knowledge. Many departments had never seen a delivery challenge as large as Brexit and preparations for no deal. After the referendum, 12 out of 17 departments identified at least a considerable impact to their policy, operational and specialist skills areas.²⁸ Defra stated that it only had the capability for short-term operational work, with all other areas significantly affected. The Cabinet Office classified BEIS, Defra, DIT and the Foreign and Commonwealth Office (FCO) as the departments with the most strain on money, policy, operations, capability and capacity.²⁹

As part of the 2010–16 spending reforms, government restricted departments' use of consultants.³⁰ Alongside the structural barriers, such as the requirement to have central approval for any spending more than £20,000 for a nine-month project, resorting to consultants required a high bar, with difficult procedures to follow and recognition that it was culturally unwelcome.³¹ But after the vote to leave the EU, consultants were brought in in large numbers to certain departments in order to start preparations. In some departments, such as Defra, ministers actively encouraged the use of consultants.³²

In 2015/16, the amount of money the government spent on consultants was £0.5bn.³³ By 2017/18, this had tripled to £1.5bn.³⁴ While this figure is not entirely a result of Brexit – there were other major projects making use of external support – Brexit is seen as a big driver of the increased use of external support.

Consulting firms immediately made themselves available to support departments after the EU referendum, in some situations initially acting pro bono.³⁵ While in some cases they were given specific policy or strategy questions to answer – for example looking at options for the UK border after Brexit for HMRC or the no-deal supply chain in the Department of Health and Social Care (DHSC) – in other cases they were used more like additional staff – acting alongside civil servants and ministers within the central structures of the department.³⁶ When Michael Gove led Defra, he was particularly keen to include consultants within central decision making processes. Where the civil service lacked capacity for operations and administrative tasks, short-term contractors were brought in to boost staff numbers.

Figure 6 **Government spending on consultants, 2009/10 to 2017/18**



Source: Institute for Government analysis of National Audit Office data. Discrepancies between Cabinet Office and departmental data are due to departmental differences in classifying consultancy costs and inconsistencies in reporting between departments and years.

A new procurement method supported the ballooning consultant numbers. The Cabinet Office chose to co-ordinate most contracts centrally, creating a call-off arrangement with firms. This had already been partly done through the Crown Commercial Service, but new reforms expanded the range of contracts available to include more generalist management advice.³⁷ Departments in need of support would contact the Cabinet Office, be allocated consultants and charged from the centre of government for the consultants' work.³⁸

This was quicker and more effective than individual departments hiring on their own – contracts were agreed within weeks (and sometimes within days), there was a greater oversight of departmental needs and costs fell. Central procurement allowed departments to keep to their budget requirements due to the extreme flexibility the contracts afforded them. Departments were able to wind down contracts if they were due to go over budget.

The steep rise in consultancy costs underlined the existing capacity issues of the civil service. Over the Brexit process, departments were able to learn from consultants and their preparations naturally brought further skills and knowledge to the permanent civil service. Departments need to retain this project management skill so they have less need for consultants in the future. To do this, departments should look to expand their training offers to officials.

Lessons from the Article 50 period

The movement of staff to support no deal was a significant achievement. It showed that the civil service was capable of making significant centralised staffing decisions and acting corporately beyond departmental boundaries in a way never seen before. Permanent secretaries, heads of function and the chief people officer should see this as a successful case study in resolving some workforce issues through a more corporate approach, and apply it to other areas – in particular staff turnover.

Already this experience has proved valuable, as the government has relied on moving officials onto priority projects when managing the response to coronavirus – allowing greater agility in the government’s response. The quality of the training offer to civil servants remains an important part of this process.

4 The prolonged political uncertainty took its toll on the civil service, prompting more support for staff wellbeing

Despite their commitment, civil servants struggled with repeated deadlines and constant uncertainty. Resilience and wellbeing approaches improved, but a huge workload tested them.

Repeated no-deal deadlines and extreme uncertainty caused Brexit fatigue

The civil service showed agility and flexibility to ensure that people were available to support key projects. Most of Whitehall was contributing, in one way or another, to a shared endeavour – even if it was just delivering non-Brexit work with less resources. But beneath this collective effort, individuals and teams faced huge pressure.

Brexit preparations, particularly during the run-up to each no-deal deadline, saw teams dealing with extraordinarily high-profile projects on tight timeframes and in constant uncertainty. For more than a year, the vast majority of the thousands of civil servants working on Brexit were working on the Withdrawal Agreement but unsure if parliament would ever pass it; preparing for no deal but in the knowledge that parliament was attempting to block it; or preparing for the policy on the future relationship but without any certainty that the UK would ever get there. For almost all of 2019, there was huge uncertainty about what would happen next week – let alone next year.

Dave Penman, of the civil service union FDA, summarised this feeling, saying: “It’s tough for the civil service to spend so much time and energy planning for something that just disappears when deadline day arrives.”¹ At the crunch points, teams were starting to burn out, with an unusually high level of turnover and sick leave.

The whole of government was affected by the run-in to a potential no-deal scenario, with operational centres being set up to operate 24/7 in March and October 2019. The people who were not working on Brexit saw team members move to support no-deal preparations, so were left to cover their existing tasks but with far fewer resources. The lack of senior attention was demoralising too, with the most senior officials and ministers having to focus firmly on Brexit.

Despite the disruptive consequences of these no-deal operational centres for work in Whitehall, the government decided to trigger the most intensive preparations on 20 October 2019 – even though a deal had been agreed and the UK had asked for an extension as required under the European Union (Withdrawal) (No. 2) Act 2019 (the so-called ‘Benn Act’).² This was no more than political signalling by the government and showed that it was prepared to use the civil service to do so.

But even while fatigue took hold, engagement scores continued to increase among civil servants, from 59% in 2016 to 63% in 2019.³ While this was not a wholly uniform uptick – DExEU, for example, experienced a sharp increase from 2016 to 2018, and then dropped by four percentage points in 2019⁴ – there was clearly a cross-departmental trend upward. These results can be partly explained by a focus on wellbeing by directors, teams and departments but also by the energising effect of Brexit on some teams and departments.

Departments developed new resilience and wellbeing approaches

To deal with the increasing pressure on the civil service, departments developed a variety of resilience and wellbeing approaches. Some departments were much more vocal than they had been in the past about the culture they wanted to develop and the behaviours they expected from staff. Most departments looked to establish routes for frustrations to be aired and issues to be raised; senior civil servants held regular team meetings and 'town halls'.⁵ Formal wellbeing support was also provided – for example, DExEU hired a specific mental health first aid nurse to be on hand during particularly intense periods, and trained many staff as mental health first aiders.⁶

Many departments overhauled their work arrangements to make them more flexible. Departments introduced major new job-sharing schemes across the senior civil service, intended to allow for genuine periods of rest and increase resilience – for example, bringing in 200% job shares where two civil servants shared the same role but on a full-time basis. These recognised the pressure individuals were under and were largely successful⁷ – although they did present some challenges in places. Shift patterns in operational centres were designed to reflect the intensity of work. Departments traditionally more focused on delivery were better at this – for example, using a 'four days on, four days off' approach to allow operational centres to run for longer if needed.⁸

The focus on resilience and wellbeing in the civil service workforce is seen as a benefit of the intense pressure of the past few years. But many civil servants feel that this has not yet gone far enough, and improved practices have not fully tackled the level of strain the civil service has felt. The focus also largely neglected the huge pressure senior civil servants were under – trying to build resilience in more junior colleagues but being ultimately responsible for the delivery of huge projects in a short space of time. Wellbeing practices can only go so far – clear decision making and ruthless prioritisation are vital to reduce pressure on individuals. The civil service will likely build on these practices as officials are put under a different kind of pressure to tackle the Covid-19 crisis.

DExEU staff – and the demise of the department – were particularly poorly handled

DExEU always suffered from the awkward politics of Brexit. The department had to lurch between priorities as the politics changed and its formal responsibilities were adjusted. Its people were working under high pressure and with huge amounts of uncertainty.

DExEU worked hard to support its staff. It invested in important wellbeing programmes and training. But despite all of this careful thinking about support, ultimately many of those who were in the department in January 2020 were left in a difficult position after the decision to wind the department up.

This made sense from a practical perspective. The structures for phase one of the negotiations with the EU were unsuitable for the future relationship. The department was put on notice several times over the course of the Brexit process that it was due to be wound down after the UK's formal exit from the EU.⁹ But that does not justify the way the final decision to abolish the department was handled.

The decision was announced after the 2019 general election – as part of the government's mantra that it was "getting Brexit done".¹⁰ But there was widespread speculation across the media that it would be disbanded before staff were officially notified that the department would be shut down on 31 January 2020. The government said at the time that everyone employed at DExEU would be assigned new roles, but gave little information on where the roles would be and what staff would work on.

The approach meant that much expertise was lost as people were dispersed across Whitehall and those without new roles to go to were left to worry about what would happen. As civil servants in DExEU considered new roles within the civil service, the uncertainty about whether or not there would be major machinery-of-government changes in the upcoming reshuffle meant that there was a government-wide reluctance to hire for specific roles.¹¹ Although DExEU under successive permanent secretaries had built up its capacity for phase two of the negotiations, jobs in the much smaller Taskforce Europe were all filled by a new competition. A large proportion of the people in DExEU were preparing for this second phase, but many of those individuals are now working in unrelated areas.

Uncertainty over jobs has been compounded by concerns over employability. In DExEU, like in some other parts of government such as the Cabinet Office, the B2 grade was very broad, containing two regular civil service ranks: higher executive officer (HEO) and senior executive officer (SEO). There were some civil servants who had high pay and responsibility in DExEU, who were later moved to the lower HEO band, despite the nature of their former work.¹² Other civil servants have raised concerns about the fact that training in DExEU was a key selling point, so that they could prepare for progression in the wider civil service.¹³ But as the Brexit process progressed, that became a less marketable skill as departments built up their own capacity.

Ministers lost sight of the human dimension of their machinery-of-government changes and in particular the abolition of DExEU, which was badly communicated and where there was no agreed transition plan for staff. This was a bad way to end a trying year – and a waste of the knowledge accumulated over the previous three years.

Lessons from the Article 50 period

The civil service quickly recognised the intense pressure that Brexit was putting on individuals across government. The initiative to more openly talk about wellbeing, providing time and investment to support staff, is widely considered a major step forward, driven largely by Brexit. But these measures will never be as effective as ruthless prioritisation in managing stress levels in Whitehall. Both the need for prioritisation and support for staff mental health will be key in the extreme circumstances of the government's coronavirus response.

5 Whitehall's patchy understanding of the devolved settlements was exposed

Despite the government's pro-Union stance, toxic politics and a lack of knowledge in Whitehall meant that the devolved administrations were excluded through much of the Brexit process.

The breakdown in the relationship between politicians affected officials' ability to work together across the UK

Shortly after Theresa May became prime minister in the aftermath of the 2016 referendum, she visited Scotland, Wales and Northern Ireland, promising a "UK approach and objectives"¹ for the Brexit negotiations. But Brexit has been marked by a turbulent relationship between the devolved administrations and the UK government, not least due to their conflicting political positions on Brexit. The Scottish National Party (SNP) government in Scotland wants an independent Scotland with the freedom to join the EU in the future, so was in favour of the UK aligning with EU rules.² The Labour-led government in Wales, where a majority of Welsh voters voted in favour of leaving the EU, also favoured a close relationship with the EU to protect Welsh jobs and businesses.³ In Northern Ireland, the biggest challenge was the lack of an executive for much of the Brexit process.⁴

The UK government made key decisions without consultation with the devolved administrations, most notably drafting and introducing the European Union (Withdrawal) Bill with little consultation. This made the devolved powers returning from the EU default to Westminster and was labelled a "power grab"⁵ by both first ministers of Wales and Scotland, undermining the warm words that Theresa May expressed at the start of the Brexit process. Although the UK government made changes to the bill to address these concerns and as a result was able to reach agreement with the Welsh government over the legislation, it eventually passed the European Union (Withdrawal) Act 2018 without the consent of the Scottish parliament; this was the first time the UK government had passed legislation without consent from Holyrood on a matter for which it had accepted that consent should be sought.*

Devolved ministers and officials were frustrated at the poor information flow:⁶ often they were not told anything they couldn't read on the front pages of the newspapers – even in private forums – and sometimes the government wouldn't even tell them what they could read on the front pages. While certain parts of the Chequers white paper⁷ were shared before publication in July 2018, the most sensitive parts were not.⁸

* On the previous occasions where one of the devolved legislatures has refused to give consent to legislation, the UK government has argued the legislation did not relate to devolved matters so consent did not need to be sought.

This centralising tendency reflected the lack of consensus in the cabinet, since officials were reluctant to share information if it wasn't clear they had sign-off from their ministers. But it also exposed a broader attitude in parts of Whitehall towards the devolved governments, which were sometimes treated as an afterthought rather than a priority. For civil servants, it was often easier to share information with their counterparts in Northern Ireland than in Scotland and Wales. The absence of ministers in Northern Ireland meant that civil servants there were able to work more closely with Whitehall⁹ as they were not constrained by the same political pressures as, in particular, their Scottish counterparts. At certain points in the process, the reluctance to share information with the devolved administrations reflected concern that information would be leaked. Effective communication requires trust on both sides, which is lacking.

Devolution was often treated as an afterthought in Whitehall – a problem exacerbated by the political climate

There is no one model of devolution – Scotland, Wales and Northern Ireland all have different settlements with different powers. Wales more recently moved to a reserved powers model,¹⁰ whereby the Welsh parliament has the competence to legislate in all areas unless stated otherwise, while Northern Ireland has a markedly different model for devolution, based on the principle of power sharing between unionists and nationalists. In normal times, many Whitehall departments did not need to understand, or work closely with, the devolved administrations. When it did think about this issue, Whitehall tended to view devolution through the Scottish lens, which was particularly problematic when it came to Northern Ireland. Ministers failed to appreciate what Brexit would mean for Northern Ireland, and how it would interact with the Good Friday Agreement – but civil servants also did not always consider political sensitivities when designing policy, nor the shared geography on the island of Ireland.¹¹

But Brexit will require much more collaboration across the UK, even once the negotiations are complete. Devolution took place within the context of EU membership, and this has meant that in certain areas that are devolved on paper, the devolved institutions have been constrained by EU law. But outside the single market, each nation will have the freedom to take different approaches in these areas. The UK and devolved governments have agreed that new 'common frameworks'¹² will be needed in some of these areas, in the form of legislation for areas such as food labelling and chemicals regulation, and intergovernmental agreements in others.

In autumn 2018, departments began work with the devolved administrations to form these frameworks. Defra has traditionally had a better working relationship with devolved officials as many of its policy areas are devolved but touch on reserved competence. For example, agriculture is devolved but features in trade negotiations, while fisheries are devolved but subject to international negotiations so the four governments would work together ahead of negotiations at the Fisheries Council. Brexit has placed additional pressures on the department, but it responded effectively by establishing a new Inter-Ministerial Group for Environment, Food and Rural Affairs, which meets regularly¹³ and is supported by different policy working groups.

But other departments such as BEIS, DfT and DHSC initially struggled to work effectively with their counterparts as previously there was less need for effective co-operation between Whitehall and devolved officials. The Home Office is also traditionally poor at positive engagement with the devolved governments, taking little account of their different interests in migration policy as it is reserved – but officials in the Home Office did work more closely with their counterparts on settled status.¹⁴

The pressure of no-deal planning forced the governments to co-operate

The chance of a no-deal exit in March and October 2019 put pressure on the entire UK. The UK government and devolved administrations needed to work together to pass secondary legislation under the European Union (Withdrawal) Act 2019 to address legal gaps in the event of no deal, as well as take steps to address the practical fallout: designing new systems at the border, putting in place a traffic management system at ports and making plans to ensure medicine supplies could continue, to name just a few.¹⁵ While much of the co-ordination came from the UK government, devolved input into no-deal planning was essential as the impact of a no-deal Brexit would have been severe for the whole UK.¹⁶

In some cases, such as the border, devolved administrations were at the sharp end of readiness issues. While the UK government had overall responsibility for borders, it needed to work with the devolved administrations and local authorities to manage transport and traffic, for example the Welsh government at Holyhead. The UK government also had to rely on the devolved governments for preparations in devolved areas, such as medicine, and issues that required local information, such as business, community and citizen readiness. Slow engagement with the devolved administrations reflected the delay in adopting cross-government planning assumptions for no deal – officials couldn't share enough information when ministers hadn't taken decisions. In some instances, technical notices published on GOV.UK were shared with devolved officials with very little notice before publication.¹⁷

Engagement belatedly stepped up as no deal became a real possibility. The work Whitehall did with devolved officials around passing the statutory instruments was generally positive: the limited capacity, as well as the nature of the legislation required, meant that the devolved administrations were willing for the majority of statutory instruments to be drafted and passed in Westminster, even in devolved areas. Chancellor of the Duchy of Lancaster at the time, David Lidington, and Sir Mark Sedwill were seen to have a positive impact on the relationship with the devolved administrations around no deal.¹⁸ Devolved ministers and officials were invited to attend the EU Exit and Trade Preparedness (EUXTP) cabinet committee.

In some cases, their attendance at these cabinet meetings meant that the devolved administrations had greater sight of UK government thinking than some in Whitehall. Devolved ministers would share the papers more widely within their administrations than the papers were shared within Whitehall. There were also instances in which officials from the devolved administrations attended official-level meetings, despite the devolved administrations not being represented at the ministerial meetings.¹⁹

Although there was some criticism that this co-operation was more about information sharing than input into decision making, this was the first time that devolved ministers were invited to Whitehall cabinet committees. Despite the fractious political relationship, the risks surrounding no deal forced co-operation.

Relations deteriorated under Boris Johnson, who needs to do more to live up to his title as 'minister for the Union'

Despite labelling himself 'minister for the Union', Boris Johnson's succession saw a deterioration in UK–devolved relations. After XO was established, there was a drop-off in devolved attendance. Partly this was down to the change in pace and rhythm of no-deal planning; by mid-September 2019, devolved ministers attended roughly one in five XO meetings,²⁰ which meant they were still attending a cabinet committee once a week. But due to the increased pressure on the civil service supporting XO, devolved officials found there was less time for engagement with officials in Whitehall. Senior meetings did continue, but civil servants felt they were less free to share information.

The Welsh government said that “under the new UK government, engagement and information flow has significantly reduced”,²¹ making clear that it could only do so much to respond to no deal since it was also reliant on the actions that the UK government took. The Scottish government took a similar view, suggesting the UK government's secretive approach would affect “the wellbeing of the people and economy of Scotland”.²²

Although the immediate risk of no deal may have dissipated, the risk of no trade or security agreement remains. Even if a deal is struck, the UK government has already made it clear that it is willing to entertain increased friction in trade to maintain the UK's freedom to set its own standards. The entire civil service has a huge amount of work to do to prepare for a new trading relationship in January 2021²³ and the devolved administrations have a vital role to play. With powers returning from the EU and new common frameworks being worked on, joint working is more important now than ever.

Lessons from the Article 50 period

No-deal planning showed that the UK government and the devolved administrations were able to co-operate on core practical issues – using processes the UK coronavirus response is building on. But it took too long for the UK and devolved governments to move to this mode of working. For much of the Article 50 period, the tense political environment – as well as the differing perceptions of devolution in Whitehall – prevented this.

After Brexit, the UK government will need to more systematically work with the devolved administrations in multiple policy areas, which will have implications for intergovernmental relations more broadly. Departments should allocate enough resources to systems and processes that have previously only existed in certain pockets of Whitehall – learning from where officials have already successfully done this.

6 Uncertainty and political division did major damage to government's relationship with business

Brexit has had huge implications for business. It will mean the need for new trading arrangements, recruitment requirements and regulatory regimes. But both Theresa May and Boris Johnson have largely ignored business concerns.

The government showed a lack of interest in what business wanted from Brexit

Theresa May appeared largely indifferent to the interests of business and the economy. She had never held or shadowed an economic portfolio, and in her only role in government other than prime minister – home secretary – she prioritised control over migration above business calls for greater flexibility. May was also more interventionist than her predecessor, wanting to end “untrammelled free markets”¹ and have the state “[step] up to a new, active role”² in the economy. Business, initially at least, had very little influence on her approach to Brexit.

Beyond the prime minister, external engagement with the private sector varied across departments and secretaries of state. Both Michael Gove and Greg Clark, then secretaries of state for Defra and BEIS respectively, took an active approach in talking to business – and trying to understand the issues that would affect the private sector. Gove ran weekly meetings with food industry stakeholders in Defra and developed good working relationships with suppliers, allowing a more open conversation to take place.³ Philip Hammond, as chancellor, also regularly represented the views of business in cabinet discussions.

Clark held regular meetings with key industry stakeholders – the ‘B5’, consisting of the Confederation of British Industry (CBI), the Federation of Small Businesses (FSB), the British Chambers of Commerce (BCC), the Institute of Directors (IoD) and Make UK – and worked with BEIS officials to understand business supply chains.⁴ Under him, BEIS became a key advocate of the need to maintain just-in-time supply chains for manufactures.⁵ Richard Harrington, a junior minister in BEIS under Clark, said that “we communicated a lot with the businesses” and that “people used to call me the minister for the CBI”. At the Chequers meeting, Clark walked the cabinet through the implications of friction for automotive supply chains, encouraging his colleagues to accept regulatory alignment in order to secure frictionless trade.⁶

Industry was reluctant to speak publicly about the government's Brexit strategy – since the referendum, there was a large price for taking a critical stance. The chief executive of Airbus faced a political backlash for his opposition to no deal.⁷ For some groups such as the FSB, their members were as split as the cabinet and the country – the key demands being more around transition and avoiding no deal, rather than the nature of the future UK–EU relationship.

Through fear of similar responses, individual businesses preferred to push their messages through trade groups such as the CBI. But some ministers felt those business groups were pursuing their own agenda – particular when reluctant businesses didn't echo the same messages in private meetings. When faced with critical headlines from the CBI, senior figures from Vote Leave accused the confederation of being the “voice of Brussels”.⁸

Business did gain some successes lobbying the government through sympathetic ministers. May initially opposed the inclusion of a transition period in the Withdrawal Agreement – her later change of approach was marked down as an early win for business-supporting members of her cabinet.⁹ Her final agreement to the approach set out in Chequers showed the influence of those lobbying on behalf of manufacturing dependent on just-in-time supply chains – but the UK's strong services sector made little impact on government thinking.¹⁰

No-deal engagement was a bit better, but was stymied by a fear of leaks early on

Divisions in cabinet under Theresa May made it hard for civil servants to share information with industry – instead their approach was to be ‘in listening mode’ as they didn't always have clearance to share relevant information. Disagreement in cabinet and wider party handling concerns also meant that the no-deal tariffs were only published on 13 March 2019¹¹ without any consultation with business.

Whitehall under May was very secretive about no-deal preparations. As it was in a particularly weak position – unstable and unable to win key votes in parliament – the government feared leaks and did not want to have a public conversation over the consequences of no deal. When key stakeholders were invited to read planning information, they had to sign non-disclosure agreements (NDAs) and were told not to take any papers with them, nor to take photographs of any information.¹² The then health minister, Stephen Hammond, explained in 2019 that DHSC alone had signed 26 NDAs.¹³ This was particularly frustrating for industry, who felt that political leaks and disagreements were the cause of the government's caution but that businesses were penalised.

Engagement did improve towards the end of 2018 – even if it wasn't uniform across departments. For example, there were weekly meetings for business readiness at both BEIS and HMRC from December 2018 to the run-up to the March 2019 deadline.¹⁴ Although this gave businesses some insight into how to prepare for no deal, the approach was disjointed: for seemingly related topics, industry had to speak to entirely different departments with divergent approaches; while the information that BEIS gave was not subject to NDAs, but information from HMRC was.¹⁵ The Food and Drink Federation commented that “one of our frustrations throughout the process of no-deal planning has been an inconsistent approach to confidentiality across government”.¹⁶

This was in contrast to the communications of other European countries, where Brexit was not a driver of political division. Preparations for Brexit started early in the Netherlands, with a report on the possible scenarios and steps to take being published before the UK triggered Article 50.¹⁷ The Dutch government started a wide-ranging business engagement campaign, featuring the ‘Brexit muppet’, in February 2019.¹⁸

Ireland also conducted a 'Getting Ireland Brexit Ready' campaign, which started in September 2018, and began conducting business preparedness roadshows,^{19,20} although, as with the UK government, the Irish struggled to come up with a plausible plan for the Irish border in the event of no deal.

As the deadline for no deal came closer, the government began making statements that appeared it was allocating blame for no-deal fallout onto businesses. In a statement it published in February 2019, it insisted that it had been "accelerating its preparations for a no-deal scenario", but that "the lack of preparation by businesses and individuals is likely to add to the disruption experienced".²¹ Major government changes are rarely successful without co-operation with business, and these actions started to create an 'us and them' approach. In reality, it was poor government communication that was to blame for industry inaction.

The government relied on generic technical notices as a one-size-fits-all solution

'Technical notices' published on GOV.UK were the government's main tool for encouraging business preparedness. The first batch was published in August 2018, and they were updated and revised up until the no-deal deadline in March 2019. But because of uncertainty and presentation, they were of limited use to business, and in February 2019, HMRC estimated that only a fifth of at-risk businesses had done the minimum to show they were preparing for no deal.²²

The way the information was presented on GOV.UK was disjointed and unclear. The site featured a Q&A function to divide up information into what was relevant for UK nationals, EU nationals, UK businesses and EU businesses. But individuals regularly fell into multiple categories, not being well served by any one in particular. A firm catching and selling fish could be faced with changes in available waters, the export of products, client data and the status of employed EU citizens. It was a problem inherent in the task – the scale of change required, across multiple areas, affecting huge numbers of businesses of different shapes and sizes, was always going to make communications a challenge. But in particular the late notice given made communications even harder.

Small and medium-sized enterprises were also less likely to have the technical knowledge to understand the technical advice. The FSB rewrote several communications in 'small-business-friendly' language as not all business owners had the digital literacy necessary to properly use them. No deal would have caused huge challenges for data sharing, for example, but many smaller firms thought they wouldn't be affected. Businesses struggled to make real use of the notices. Allie Renison, head of EU and Trade Policy at the Institute of Directors, told an Institute for Government event in July 2019:

"[The government provided] advice, which is... just too generic for companies to use. A lot of the questions are very situational [sic] specific and take a professional or legal mind to really deal with."²³

In some instances, so little information was available that the government simply instructed businesses to look elsewhere; one briefing advised traders in Northern Ireland to “consider whether you will need advice from the Irish government” while simultaneously dodging some of the bigger questions the UK government needed to answer.²⁴ The Government Digital Service (GDS), which – alongside the Government Communication Service (GCS) – was responsible for presenting information from across government on GOV.UK and co-ordinating work in conjunction with a team in DExEU, struggled to work effectively with warring departments, particularly on cross-cutting policy areas.²⁵ Different departments used different definitions and conceptions of key Brexit terms – and there were varying levels of detail in the notices themselves. The process of compiling the technical notices exposed gaps in information and forced civil servants to make more details available.

Boris Johnson’s government was more open – but was still too late in sharing relevant information with business

When Boris Johnson became prime minister, he did little to engage business on the details of the negotiations – he saw the process as necessarily driven by politics, and so made no real effort to engage the private sector. He actively ignored Northern Irish business, who preferred Theresa May’s backstop to the deal he negotiated.²⁶

However, Johnson’s government took a much more open approach to engaging businesses on no-deal readiness. It stopped using NDAs in August 2019, acknowledging that “they hinder constructive debate and exchange of information, with some organisations saying they restrict their ability to properly tell members how to prepare for Brexit”.²⁷

The government also took a more proactive approach to sharing information (although this followed leaks about Operation Yellowhammer to the press in August).²⁸ For example, the Cabinet Office and DExEU published their *No-Deal Readiness Report* in October 2019²⁹ – although it didn’t necessarily add any new information to the guidance updated on GOV.UK. In some cases, the government’s approach to engagement was better as a result of lessons learnt under Theresa May – issues were resolved and business groups were relied on more to be a conduit for information.

The government was still late in providing essential information to business. Like Theresa May’s government, Johnson’s government delayed publication of its no-deal tariff schedule.³⁰ There were some small changes, reflecting business concerns in March 2019, but the schedule was similarly not published until three weeks before the possible no-deal exit. And although the government published more useful flowcharts on procedures for export to the EU,³¹ these were only made available just six weeks before the 31 October 2019 deadline. This often did not leave enough time to prepare, for citizens and businesses alike.

Equally, the government was never clear on what no deal would mean for business support. Ministers, such as Michael Gove, made public statements on Operation Kingfisher – the government’s plan to support businesses through the no-deal period.³² But they never specified what that would mean, how long businesses could expect to enjoy government assistance, nor which businesses would qualify. Gove said that

“fundamentally viable businesses that may have the occasional cash flow or other issue can be supported”,³³ but set no further parameters. In part, this was deliberate, as a way to stop businesses relying on government to carry them through a no-deal Brexit.

The government is still not giving business the guidance it needs on how to prepare for the new trading regime laid out in the Northern Ireland protocol.³⁴ Business has been frustrated by the prime minister’s failure to admit that there will be new checks needed.³⁵ Both government and business have a huge amount of work to do to be ready for the new arrangements and that progress is not being helped by denial.

The government’s communications campaign failed to achieve its aims as businesses ultimately didn’t believe no deal would happen

After 12 April 2019, the deadline of the first Article 50 extension, civil servants had more time to reflect on what had and hadn’t worked in the run-up to the March deadline. One thing they knew needed to be improved was business preparedness.³⁶

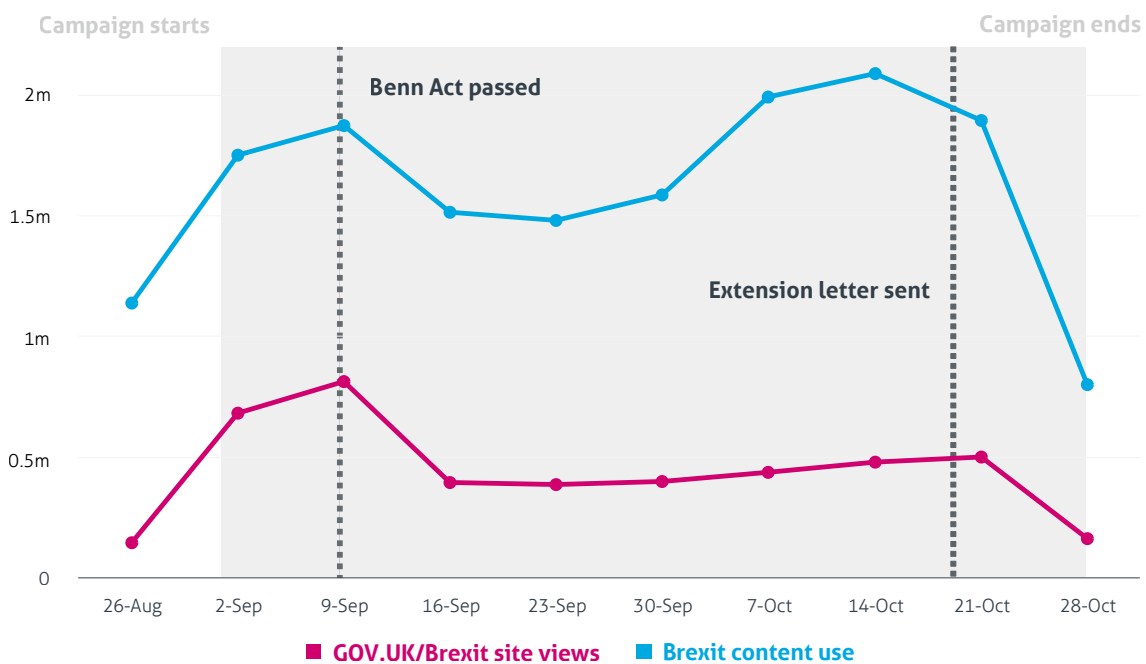
The Johnson administration allocated £100m to a cross-government communications campaign (of which £46m was spent) – launched on 1 September 2019 and using the slogan ‘Get Ready for Brexit’ – largely conducted through TV, radio and digital advertising.³⁷ Although the National Audit Office reports that the Cabinet Office estimated that “the air campaign had reached 99.8% of the population”, it very clearly did not translate into more businesses taking action to prepare for no deal.³⁸

The ‘air campaign’ was supplemented by a ‘ground campaign’, focusing on areas of trade disruption, such as encouraging businesses to apply for haulier permits and EORI (economic operator registration and identification) numbers, as well as ensuring that businesses specialising in medical supplies were prepared for the logistical challenges.³⁹ As departments with responsibility for business and freight respectively, BEIS and DfT were allocated £6m each for their respective ground campaigns, higher than any other department.⁴⁰ DfT focused on groups who were hardest to reach, primarily hauliers, through mailing lists, pop-up information stands and roadshow events.⁴¹

But although the government made money available for no-deal readiness training for businesses – where they could, for example, bid to train other companies on how to deal with customs procedures – only 741 firms had signed up for the grants by August 2019.⁴²

Ultimately, the political environment meant that persuading businesses to spend money to prepare for an increasingly unlikely outcome was near impossible. This was the case for both May and Johnson – although businesses also had to contend with the Christmas rush ahead of the October 2019 deadline. While Johnson’s government appeared more determined that no deal was a real possibility, after the passage of the European Union (Withdrawal) (No. 2) Act 2019, the so-called ‘Benn Act’, in September business owners were seeing a much stronger message on the front pages of the newspapers – and the 10 o’clock news – that no deal wasn’t going to happen. John Manzoni, the then chief executive of the civil service, told the Public Accounts Committee that “[people] were clearly watching the politics: political uncertainty, existing opinions, existing biases... clearly, they were watching what was happening in parliament, doing its best to block it”.⁴³

Figure 7 **Web traffic during the 2019 'Get Ready for Brexit' campaign**



Source: Institute for Government analysis of National Audit Office data, EU exit: the Get Ready for Brexit campaign, 2019.

Despite the government’s best efforts, politics meant that the September communications campaign could not have the desired impact. The number of site views reflected political events. After the Benn Act passed, there was a clear dip in the number of users looking to access Brexit content, although this did gradually pick up as the 31 October deadline approached. When the extension letter was sent, visits to GOV.UK sharply reduced. By the final week of the campaign, 34% of UK citizens had looked for, or had started to look for, information. This was no different from the 35–36% of people who had started to look for information previously.⁴⁴ In the same period, the number of people who believed the UK was likely to leave the EU on the government’s stated date fell by 14 percentage points – from a majority of respondents to less than 40%.⁴⁵

Lessons from the Article 50 period

The civil service’s relationship with business suffered from the unstable political climate. Normal channels of communication were restricted and ministers were often indifferent to the concerns of many in business. Trust was damaged.

The government’s communications campaign on Brexit faced challenges of the government’s own making, in terms of timing and content, but overwhelmingly they were undermined by political reality. The Get Ready for Brexit campaign showed that government official communications are only ever one source of information for businesses and citizens; other sources, like the media, are often just as important in informing reasoned decisions. The response to coronavirus reiterates this – while government was, in the early days of the virus in the UK, recommending relatively little change to normal life, businesses and individuals were looking at both other countries and the media and acting on that.

7 The lack of strong political leadership left the civil service – and individual civil servants – exposed

The divided nature of the cabinet and Conservative Party saw the civil service and civil servants become the target of political attacks under Theresa May – who was not prepared to stand up for them. But when Boris Johnson’s government appeared willing to challenge the rule of law and ignore constitutional conventions, senior civil servants were left wondering what their role was.

The civil service was left open to attack on Brexit by the way the Cameron government used it in the referendum campaign

The then prime minister David Cameron’s decision to publish Treasury analysis during the referendum campaign, of both the long-term impact of Brexit on the UK economy¹ as well as the short-term impact,² didn’t have the desired effect. It did little to boost his campaign for remaining in the EU, being dismissed as “project fear”,³ and instead had longlasting implications for the civil service’s role in the Brexit process. Cameron and the then chancellor George Osborne’s decision to use the Treasury to make their political case for Remain gave ammunition to those who saw the civil service as a hotbed of Remainers.

Departments found themselves working for Brexit-supporting ministers who were suspicious of the civil service’s sympathies as well as its role during the referendum campaign. Senior officials, particularly given the events of the referendum, wanted to show enthusiasm to facilitate the new government’s agenda.⁴ But in some instances that manifested in a reluctance to challenge decisions, opting instead to focus on building trust. In the same way that Theresa May, who supported Remain during the referendum campaign, had to prove herself to her party as a prime minister who could deliver Brexit, civil servants were also under pressure.

There were plenty of positive working relationships between ministers and civil servants. Greg Clark at BEIS listened to advice from his civil servants, building a positive relationship with business,⁵ and the then chancellor Philip Hammond’s views aligned with mainstream economic thinking in the Treasury. These positive relationships were not confined to those who had supported Remain in the referendum. Michael Gove energised Defra, forming good relationships with environmental non-governmental organisations as well as relevant industry bodies.⁶ He was also upfront about the implications of no deal under Theresa May⁷ (although he later supported the policy under Boris Johnson). And although Chris Grayling was comfortable at the prospect of leaving the EU without a deal, he worked closely with civil servants on no-deal preparations.⁸

The breakdown of collective responsibility left the civil service exposed

Civil servants could claim a technocratic success in much of their work on Brexit after the referendum – completing hugely complex negotiations and delivering massive projects, both on extremely tight timelines. That is also true for the task of devising the Chequers proposals, which bridged some of the cabinet divisions – the civil service brokered a compromise, even if it was successful only temporarily and ultimately rejected by the EU. But that success came at a price: for months afterwards there were accusations, both from those who had been inside government and the prime minister’s critics outside, that the civil service had constructed the proposals without the oversight of ministers.⁹ The political ownership of the white paper¹⁰ at the meeting at Chequers in July evaporated.

This accusation of the civil service was part of a wider trend. When Steve Baker was still a minister at DExEU, he confirmed on the floor of the House of Commons that he had been told that officials in the Treasury were deliberately using economic modelling to influence policy.¹¹ The next day he apologised for suggesting this and put on record his “highest regard” for hard-working civil servants.¹² But his initial comments illustrated the scepticism among Brexit-supporting ministers about both the Treasury and the efforts of government analysts.

The divisions in cabinet left the cabinet secretary particularly exposed. Sir Jeremy Heywood and his team of officials were under pressure to find policy solutions for the cabinet to unite around – but the cabinet’s divisions were at times simply too great for any official-level smoothing over. Sir Mark Sedwill similarly had to broker high-stakes decisions ahead of 29 March 2019 to ensure the civil service was as ready as it could be for a possible no-deal exit from the EU – during a febrile political environment.¹³

Individual civil servants faced an unprecedented attack, with both Johnson and May offering little protection

It wasn’t just the civil service as an institution that was exposed – individual civil servants were too and none more so than Olly Robbins. As cabinet splits widened, the prime minister was perceived to be relying increasingly on Robbins – UK chief official negotiator and her sherpa in Brussels, which meant some came to see him as a political player in his own right. He received widespread media coverage, including a 10-minute *Newsnight* profile in January 2018, calling him the “real Brexit secretary”.¹⁴

This was reflected in MPs’ treatment of Robbins. In July 2018, Jacob Rees-Mogg MP, then on the Exiting the EU Committee in the House of Commons, grilled Robbins over the prime minister’s decision to restructure the government’s approach to the negotiations as if he were responsible for the decision.¹⁵ Richard Drax MP went further at the European Scrutiny Committee, asking Robbins: “Do you believe that leaving the EU is a good thing? You personally, in your heart of heart.” Robbins responded that, as a civil servant, he was “right behind the policy of the Government of the day”.¹⁶ The prime minister was notably silent:¹⁷ she offered no support to her key adviser, who was taking personal and professional attacks as a result of her policy decisions.

It was not just the policy advisers and analysts who were exposed: this extended to the people in charge of preparing for Brexit. At an Institute for Government event in October 2018,¹⁸ Sir Jonathan Thompson, the then head of HMRC, revealed he had received two death threats after an appearance at the Treasury select committee where he said that the 'maximum facilitation' proposal to resolve customs issues would cost firms up to £20bn a year.¹⁹ Ministers did not support him when his appearance at the committee received widespread media coverage: the prime minister's spokesman dismissed his analysis as "speculation".²⁰ As politicians refused to take responsibility for the government of the day's decisions, the civil service became more vulnerable. The only formal public defence of officials came from Sir Mark Sedwill, who wrote a letter to *The Times* defending civil servants²¹ – not the prime minister.

Boris Johnson also stayed silent when civil servants faced public attacks, and indeed his lack of support²² seemed to trigger the resignation of the UK's ambassador to Washington, Sir Kim Darroch. Those actions – and inaction – sent a message to officials that ministers were prepared to allow voiceless officials to act as political punchbags in situations where the alternative would see a hit to their own standing. But the decision to appoint Dame Karen Pierce, a career diplomat, to replace Sir Kim Darroch as the UK's ambassador to Washington, rather than make a political appointment, will have been reassuring.

The tense atmosphere was not helped by the behaviour of a small number of civil servants – past and present. Anonymous briefings from civil servants to newspapers fostered both mistrust and excessive secrecy.²³

Although no longer in government, former civil servants, including those in the House of Lords, taking a vocal stance against Brexit in principle and the government's Brexit policy²⁴ gave credence to the charge that the civil service was institutionally anti-Brexit.

When political leadership was restored, the civil service withdrew from the Brexit limelight

There was a concern that when Boris Johnson's government came in, civil servants would struggle to gain the trust of new ministers who had previously been openly critical of the civil service. In fact, in the early days of the Johnson administration, civil servants found it easier to work with a government that could give clear direction.²⁵

In place of stasis, they were dealing with a cabinet who had to sign up to the prime minister's Brexit approach as a condition of their appointment. As a government willing to pursue a no-deal Brexit, Sajid Javid was keen to be perceived as loosening the purse strings on no-deal spending²⁶ and the daily XO cabinet committee meetings drove momentum.

On the negotiations side, the replacement of Olly Robbins by a political appointee, albeit one with a background in the civil service, David Frost, energised the civil service after the gridlock of the previous year. But at the same time, it put more distance between the civil service and the prime minister – most civil service advice on negotiations was now filtered through Frost.²⁷

In the autumn negotiations, Frost's role largely made sense. Although he was appointed as a political adviser to the prime minister, there was still, nominally, a ministerial lead in the shape of Brexit secretary, Steve Barclay. But his position on the future relationship negotiations is more unorthodox²⁸ – a political appointee working directly to the prime minister, able to air his views in public, directly managing civil servants with no other ministerial oversight and who neither parliamentary chamber (the House of Commons or the House of Lords) can question. This leaves a gap in accountability to parliament and unanswered questions about the detail of his role that the government should clarify.

Civil servants were hugely unsettled by threats from the government on how far it was prepared to go to ensure the UK left the EU on 31 October 2019

Although there was clearer direction for the civil service under Johnson, it was put in a challenging position by the government's approach ahead of the 31 October 2019 deadline. The government's decision to prorogue parliament for five weeks – to limit MPs' opportunity to legislate to stop no deal – revealed a gap in the UK's constitutional arrangement: reliance on conventions only works with a government that is prepared to respect them. The Supreme Court then stepped in to quash the decision, arguing it was protecting the role of parliament in holding government to account.²⁹ Although the attorney general declared himself "disappointed" with the judgment³⁰ (while nonetheless complying with it), Jacob Rees-Mogg, the leader of the House of Commons went much further, labelling it a "constitutional coup".³¹

Once the European Union (Withdrawal) (No. 2) Act 2019 (the so-called 'Benn Act') was passed and no deal looked much more unlikely, Johnson's government repeatedly implied it would be willing to break the law to deliver on its pledge to take the UK out of the EU on 31 October.³² This placed the civil service in an extremely difficult position. The government appeared to be openly challenging the rule of law, and under the civil service code,³³ civil servants cannot help ministers break the law. But the senior civil service had few public tools at its disposal to challenge the government in this context.

This also had an impact on more junior civil servants as their leaders had to repeatedly reassure them that they would not be asked to break the law, despite the anonymous briefings³⁴ suggesting this was exactly what the prime minister planned to do – briefings at variance with ministerial reassurances to officials that the government respected the rule of law. Although this was not the case for all civil servants – particularly for those working in operational roles required to prepare for no deal regardless of the politics.

It was not just a question of whether or not the government would break the law and leave the EU on 31 October. The prime minister's team in Downing Street were also briefing that the prime minister would not allow an alternative government to be formed after a vote of no confidence;³⁵ that he would leave the EU without a deal during a general election campaign while restrictions on government activity applied;³⁶ and that he would boycott parliament.³⁷ These were not laws, but conventions that the government was threatening to ignore. The briefings may only

have been meant as threats, but they were extraordinary threats to make. Had the government pursued that course, the cabinet secretary would have been placed in an unprecedented position – forced to make a judgment about how the civil service should respond when it's stuck between the law and the constitution on one side and its duty to the government of the day on the other.

Accounting officers appeared to sanction spending on misleading communications – and what looked like campaign material directed at an upcoming election

In a practical sense, the civil service and government accounting officers (usually permanent secretaries in charge of departments) could justify continuing to spend money on no-deal planning for the end of October, on the basis that the EU might veto an extension and it was still a theoretical possibility. But some senior officials were left wondering what, if anything, was expected of them if the government was on track to leave due to direct defiance of parliament and the law.

The government was also pushing the boundaries of what is usually permitted using public money. The government communications campaign, 'Get Ready for Brexit', continued to assert – misleadingly – that the UK "*will be* leaving the EU on 31 October" (emphasis ours), after parliament had passed legislation to the contrary, which at least left room for doubt as it took the decision out of the government's hands. Behind the scenes there was tension between officials and ministers, in particular around what was and was not permitted through government communications.³⁸ But it relied on individual senior civil servants being prepared to stake their personal reputation.

'Ministerial directions' are the main tool for permanent secretaries if they object to a minister's spending proposal. These are formal instructions telling departments to proceed, despite objections based on whether a spending proposal breaches one of the following four criteria: regularity, if it is beyond the legal powers or agreed spending budgets; propriety, if it doesn't meet 'high standards of public conduct'; value for money; or feasibility.³⁹ This makes the minister, rather than the permanent secretary, accountable for the decision.

It is striking that during the Article 50 period, only 'technical directions' on Brexit were requested – these were necessary as the civil service needed to start spending money on Brexit preparations before the necessary legislation had passed. No other ministerial directions were asked for or granted. In part, this may be because much of the no-deal money went on projects that would be required, deal or no deal – so officials may not have felt decisions were appropriate, given the Article 50 default.

But given the challenging circumstances surrounding both government communications and the briefings coming out of Downing Street suggesting the prime minister would be willing to ignore both the law and constitutional conventions in autumn 2019, it raises the question about whether the civil service has sufficient tools at its disposal to raise concerns and ensure that they are properly considered. Ministerial directions relate to spending proposals and arguably would not be appropriate in these kinds of circumstances. Instead, senior officials were forced to rely on private conversations with ministers and advisers to influence their behaviour.

Lessons from the Article 50 period

Brexit exposed some of the tension in the role of the civil service and its duty to 'serve the government of the day'.

Under Theresa May, officials had to try to serve a government and a cabinet that contained individuals with irreconcilably different views on the most important policy questions. With collective responsibility breaking down, and secretaries of state wanting to pursue different agendas, it left the civil service with a near-impossible task of serving a government that was increasingly a set of opposing factions rather than a single entity. When the civil service served the prime minister, it was left open to attacks from ministers who disagreed with their leader's position – and it was afforded little protection.

Under Boris Johnson, the civil service had a united government with clear leadership, but was left asking what to do when its duty to the government of the day comes into conflict with the civil service code, the sovereignty of parliament and the law.

In practice, the implications of these tensions often fell on individuals – at a personal cost. But while the stresses and strains on Brexit have largely subsided for now, some fundamental questions remain and if the system is placed under considerable pressure again, these could very easily resurface.

Conclusion

In almost four years, the civil service has done an extraordinary amount of work. It has had to grapple with the most complex political, policy and practical problems for decades. While there is still a huge amount to do, the fact that the UK has handled the political turmoil of the past three years and formally left the EU in an orderly way is down to a huge amount of the highest-quality work from the civil service.

The process has changed the civil service. It's bigger – it has grown by 18% since 2016.¹ It is younger and more diverse. It covers new areas of policy – the UK is building its own trade policy. Its capability has grown – project management was once a neglected specialism in government. And it has got a better understanding of the constitution – both how parliament works and the devolution settlements. In short, Brexit has invigorated the civil service.

The intense pressure of the past few years has driven innovation in how the civil service works. The recent talk about the need for civil service reform – making it more agile and outcome focused – ignores the reform that's been happening behind the scenes in delivering Brexit. Preparing for no deal, not once, but twice, meant adopting new ways of taking quick decisions, and facilitating the movement of people to build capacity in particular departments and operational centres.

But the civil service needs to also reflect on how its structures and culture facilitated the political paralysis and excessive secrecy that caused the problems over the past few years that we have highlighted in this report. By focusing on finding policy solutions to bridge cabinet divisions, rather than what was negotiable with the EU or deliverable on a tight timeframe, the UK was slow to understand the complexity of issues like the Irish border. This approach undermined the government's relationship with business, whose priorities were largely dismissed and who only received information after signing NDAs.

The Brexit process up until now has exposed some of the limitations in the way the UK system functions: not least what the constitutional role of the civil service should be, and what tools it should have at its disposal when the government of the day is unable to properly fulfil its duties, or threatens to ignore the civil service code, constitutional conventions and the law. With significant political challenges coming down the tracks, not least in terms of the UK's relationship with the EU and the future of the Union of the UK, these questions don't go away just because the first stage of Brexit is over and majority government has returned.

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9 Conclusion

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