INSTITUTE FOR GOVERNMENT

Preparing Brexit

How ready is the UK?

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About this report

Preparing Brexit: How ready is the UK? is our second report examining government and business preparations for the end of the transition period, building on *Preparing Brexit: The scale of the task left for UK government and business*, published in July. It assesses how ready the government, business and individuals are, identifies key areas of concern and outlines how government should prepare for Brexit and Covid disruption in January.

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Summary

In the four and a half years since the EU referendum, a huge amount of government time and resource has gone into preparing for life outside the EU. Although the UK left the political institutions of the EU in January, very little changed in practice. But there are now just eight weeks to go until the end of the transition period, when – deal or no deal – the UK will leave the single market and customs union, marking the start of a much more distant relationship with the European Union. The scale of the task to prepare businesses, people and the government itself is huge.

An agreement on the future relationship with the EU could make transitioning to these new trading terms less disruptive. It could, for instance, avoid new tariffs and streamline some of the most extensive new red tape. A deal would not, however, fundamentally change what both government and business need to do to prepare – much of which is the same regardless of the outcome of negotiations. But this message has not cut through to the public. And the government is only now making clear how urgent it is to act.

Despite the devastating effects of the coronavirus crisis, both in the UK and EU, the Johnson government chose not to extend the transition period. In doing so, it has effectively gambled that the UK can withstand the inevitable disruption from its preferred outcome, with minimal time to prepare – and that more time wouldn't have improved readiness. This is a high-risk bet, made riskier still with every week that passes without clarity on the outcome of the negotiations and in which the resurgence of coronavirus demands ever greater government and public attention, forcing most of the country back into lockdown. We assess how ready the government, business and individuals are for the end of the transition period and identify key areas of concern.

We find:

- **Government readiness in some areas has improved during the transition period.** Despite the delays to Brexit legislation as a result of the pandemic, most of the key bills needed to implement new policies in areas like immigration and agriculture are on track to become law before the end 2020. Where the direction of travel has been clear, regulators have been able to hire staff and put new processes in place to prepare for the UK's future outside the EU. There are still some gaps in the detail of how new domestic policy in areas like the environment, agriculture and fisheries will operate in practice – but most of these can be worked out next year. Nearly four million EU nationals have registered with the settled status scheme – although there are still concerns that some will not apply in time and that many could have problems with their immigration status in future.

But three key challenges remain:

- **The Northern Ireland protocol will not be fully implemented by January.** There remain decisions for the UK–EU Joint Committee, and the UK government, to make about how the protocol will operate in practice. The infrastructure needed to administer new processes on GB–NI trade, particularly on extensive agri-food checks, will not all be operational by 1 January 2021. This means the UK government will need to make a trade-off between applying the letter of EU law and facilitating the flow of goods. If it chooses the former, the disruption to trade will be more extreme, likely leading to long queues at the GB–NI border and limiting choice for NI consumers. If it chooses the latter, it will risk ending up before the European Court of Justice.

  - **The EU should acknowledge that fully implementing the Northern Ireland protocol by January will be almost impossible and be ready to show some flexibility. But to make this work, the UK government needs to prove that it will not renege on its international obligations. The powers taken in the UK Internal Market Bill have undermined trust so the first step should be removing the offending clauses.**

- The government has bought itself more time to prepare the GB–EU border, but **poor trader readiness and EU checks from January mean disruption is inevitable**. More work is needed to ensure that new border controls, to check customs paperwork and carry out inspections, are introduced without causing major disruption to trade. The government is just about on track to deliver the IT systems, infrastructure and people needed at the border. But even then, it still needs to make sure traders know how to navigate the new ways of working – and are prepared for EU controls from January. The government's decision to delay most border controls on GB imports has bought more time to prepare, but this means the preparation task will stretch well into 2021.

  - **The government's plans to manage traffic flows and minimise disruption will be vital. It is likely that the government will need to consider light-touch enforcement or further delays to new import controls to minimise disruption at the border. It will also need to clearly communicate the changes to import processes as checks are introduced in 2021.**

- Business readiness is the biggest problem for the end of 2020, with the **Covid crisis leaving many firms less prepared than last year**. There is only so much the government can do alone to prepare; businesses too need to be ready for new trading conditions and to comply with new checks and regulations. Yet, the government's own figures paint a worrying picture of just how few businesses are even aware of the changes coming, let alone prepared for them. As late as October, a third of small businesses believed that the transition period would be extended, despite the deadline for any extension having passed in June. The economic damage wrought by coronavirus has robbed many of the bandwidth, and cash, to do what is needed. The government's communication campaign has so far proved ineffective, until recently focusing too heavily on selling the opportunities of Brexit rather than driving the action that is needed to prepare for new red tape from January – deal or no deal.

- **The government should clearly communicate the practical impact of leaving the single market and customs union – in particular, the greater level of bureaucracy traders will face from the end of the year, deal or no deal. If businesses aren't prepared, they will be unable to trade on day one.**

Therefore government faces difficult decisions from the end of the year:

- The government will need to be ready to **manage the impact of the transition period ending alongside coronavirus**. It will need to step up its contingency plans and prepare to make difficult decisions about where to prioritise resources. Unlike its preparations for a possible no deal last year, the government will now need to do this alongside a resurgence of coronavirus. This will be difficult, and the government has made its task harder still with its decision not to extend the transition period. Even if the UK civil service has the necessary resources to do so, the devolved administrations, local authorities and businesses may well be overwhelmed.
    - **The government should learn from its initial handling of the pandemic and its 2019 no-deal Brexit preparations, working closely – and sharing information more openly – with other parts of the public sector and devolved administrations. But ministers will need to have a clear strategy for how they will handle the competing demands they will unavoidably face.**
- The government will need to grapple with the **economic consequences of Brexit**. It will need to identify which businesses will be viable in the longer term outside the single market and customs union, and which will not. This would be an extremely difficult task at the best of times, but has been made harder still by the devastating economic effect of the Covid crisis. With limited resources and political bandwidth, balancing its Brexit response against the ongoing demands of the pandemic and its domestic policy agenda will be difficult.
    - **The government will need to work closely with business groups to identify where targeted economic support for firms affected by Brexit may complement its coronavirus economic response.**

With just eight weeks and counting until the end of the transition period, the government still has a lot to do to get Brexit done.

Introduction

There are just over eight weeks to go until the end of the Brexit transition period. Deal or no deal, the end of the year will see wide-ranging changes to the UK's relationship with the EU, its largest trading partner, while the UK government will 'take back control' of many areas of domestic policy.

In the four and a half years since the EU referendum, government and business have taken huge steps to prepare for these changes. The government set up new departments, created new agencies, legislated to provide legal continuity in many areas and established the 'settled status' scheme to protect the rights of nearly four million EU citizens in the UK. Many businesses have also invested time and money – ahead of multiple Brexit deadlines – by assessing their supply chains, restructuring operations and readying themselves to recruit under the UK's new immigration system.

Government departments and public bodies have had more time to prepare during the transition period, leaving them in a better place than they would have been had the UK left the EU without a withdrawal agreement last year. This has been helped by the fact that most of these preparations will be needed regardless of the outcome of the negotiations. As a result, progress has been made on, for example, the many IT systems needed to manage new processes at the border, though questions remain about whether the additional systems announced this year will be ready in time. More staff have been recruited by both government departments and regulators taking on new or expanded functions.

But UK businesses are still far from fully prepared for the end of the year. Uncertainty over the outcome of negotiations and what unilateral steps the EU might take has undoubtedly delayed preparations and remains a concern. The short transition period always presented a demanding timetable, but has been made hugely more complicated by the coronavirus crisis. The government's decision not to seek an extension to the Brexit transition period – despite having the opportunity to do so as the seriousness of the pandemic became clear – made a difficult task much harder.

The government has effectively gambled that the UK can withstand the inevitable disruption from its preferred outcome of the negotiations with minimal time to prepare – and that more time wouldn't have helped preparations. But this was a risky strategy. The government has failed to effectively communicate that there will big and disruptive changes at the end of the year, deal or no deal, unlike last year where a deal meant nothing changed (at least, overnight) and no deal seemed very unlikely. That a deal brings disruption too could come as a surprise to both members of the public and those businesses that have not been able to engage with Brexit this year.

This paper examines how ready the UK is for the end of the transition period and what still needs to be done whether or not a deal is reached. First, we outline where the government has made progress. Second, we identify the three key areas where the scale of what still needs to be done is most daunting and poses most risk of economic and political disruption in January: the Northern Ireland protocol, the GB–EU border, and business preparedness. For all, some disruption is inevitable. Our third section sets out how the government will need to manage this alongside the pandemic – including its economic response – and be ready to make difficult decisions in January.

The imminent deadline has meant a renewed focus on Brexit preparations in government. But juggling both a resurgence of coronavirus and the end of the transition period is a complex task – especially as the civil service has spent most of this year firefighting, following a year of Brexit uncertainty in 2019. Ministers and senior civil servants will be forced to prioritise given the government's limited bandwidth and resources.

1. Government progress to date

The negotiations with the EU over the UK's future trading and security relationship are going down to the wire, with both sides playing to their domestic audience. Any compromise was always going to come late in the day.

Disagreements persist. The UK government wants a free trade agreement (FTA) that will give the UK control over its own laws, as well as the ability to strike other trade deals around the world. The EU is concerned about having a competitor on its doorstep and wants to tie the UK more closely to EU standards in areas such as workers' rights, the environment, consumer protections and state aid. The latter has been a particularly fraught point. As has fish. Maintaining access to UK waters is a key EU aim; for the UK, regaining control over its fishing waters has long been a much-vaunted prize from Brexit. The UK wants to keep as much access as possible to EU security measures. At present, the EU has said it will confine access to the EU's policing and criminal justice databases to member states or Schengen members.[1]

While these are yet to be ironed out, the difference now between a deal and no deal is not as stark as it would have been under Theresa May's plans. Whatever happens in the negotiations, the UK will leave the EU single market and customs union. This will mean that there will inevitably be new requirements for goods trading into the EU and it will be more difficult for UK firms to offer services the other side of the Channel. Much of what both government and business need to do to prepare will be necessary whatever the outcome of the talks – although this message does not seem to have cut through to the public.[2]

A deal would make some preparations easier – but pose its own readiness challenges

Reaching a deal would still make a difference. Some business groups believe it would provide the certainty needed to galvanise preparations.[3] It would also make it easier to prepare in some areas. Although customs checks will be introduced, deal or no deal, the two sides could negotiate ways to make these quicker and easier for businesses to comply with and prepare for. For example, a deal could reduce the number of goods subject to physical inspections, cover mutual recognition of trusted traders schemes and allow greater co-operation between customs authorities.

If the UK and EU do sign an FTA, businesses on both sides would need to comply with 'rules of origin' to benefit from reduced or zero-tariff access to the other's market. These define how much of a good can come from countries outside the free trade area before it can no longer benefit from any preferential access – so the terms of a deal could impact which businesses can take advantage of it. Until the details are ironed out, businesses cannot fully prepare. Some sectors expect it could take them at least six months just to collect the evidence needed to prove if their goods comply, and years to adapt their supply chains if they are found not to. To mitigate this, the UK and EU could agree to phase in some of the requirements relating to new rules of origin – in line with demands from UK and EU business groups.[4]

A deal could also make it easier for UK firms and individuals to continue providing services in the EU – although the offer is likely to be far less generous on services than goods. For instance, the UK wants to allow short business trips to continue freely and agree a route to mutual recognition of professional qualifications, which could remove the need to re-qualify in each member state or seek work permits. So far the EU has ruled this out.

Even without this, a deal could make a big difference to other businesses – like manufacturers – that are major customers of the financial, legal and professional services firms. The political goodwill a deal could bring could also help sustain good co-operation between UK and EU regulators – which could help firms more easily weather divergent regulatory regimes. There is some hope that a deal on goods will pave the way to agree more access on services in future,[5] but it is unclear what incentives the EU would have to continue negotiations on matters that would so clearly benefit the UK, which sells more services to the EU than it buys from the bloc.[6]

The critical difference between a deal and no deal is tariffs (taxes on imports). Without a deal, EU importers would pay the EU most-favoured nation (MFN) tariffs on any good imported from GB to the EU, and GB importers the UK Global Tariff on goods moving the other way. Essentially, businesses in the UK and EU would face the standard tariffs payable on imports from any other country with which their country does not have an FTA.

Given the economic hardship wrought by coronavirus on both sides of the Channel, these additional costs – not only in paying the tariffs themselves but in staff and administration costs to arrange for payments – could make some businesses unviable, with the car manufacturing and agriculture sector particularly vulnerable. This would also complicate the operation of the Northern Ireland protocol.

UK and EU unilateral decisions will also affect what needs to be done

The EU also has unilateral decisions to take on data and how much access it will provide UK firms to its financial services markets. In theory, these decisions are distinct from negotiations, but are intricately tied up in the politics of the talks. Whether the EU grants the UK 'data adequacy' is particularly important, affecting how businesses can transfer data from the EU to the UK and how data sharing will work in the security field. The UK still hopes favourable decisions will be granted, but this is far from guaranteed before the end of the year, especially if no FTA is reached.

In the event of no deal, there will also be decisions both sides will need to make about whether, when and how to mitigate the inevitable disruption. Last year the EU put in place measures to ensure that planes could keep flying and hauliers could continue to operate between the UK and EU on a temporary basis. It is likely similar measures would be resurrected in the event of a breakdown in negotiations this year – but the EU has indicated that these would be "less generous" in both scope and how long they apply and are only likely to be considered when they are in its interest.[7] The prime minister has suggested the UK would see 'mini deals' in these areas – as well as social security co-operation.[8] The EU has so far ruled these out; instead, it is likely to opt for unilateral measures.

There are two reasons for this. First, unlike Johnson's mini deals, unilateral measures do not require negotiations, which means they can be taken at short notice. Second, and perhaps more importantly, they are likely to be more palatable to EU member states and avoid claims that the UK is having its cake and eating it. In time, however, there may be scope for genuine negotiated deals in some very narrow areas like aviation safety, where the EU has existing bilateral agreements with non-member states like Canada and the US.

The government has used the transition period to improve its Brexit preparations

The purpose of the transition period, first negotiated by Theresa May, was to give the UK and the EU time to finalise the future relationship (the hope at the time was that progress would have been made on this during the Article 50 period) and then give government and businesses more time to adjust to a relatively certain future relationship with the EU. The 21 months originally envisaged was already tight to negotiate and implement a deal – by comparison, the EU's FTA with Canada was signed some seven years after formal negotiations started. Parliament's rejection of May's initial deal and the subsequent renegotiation and general election meant just 11 months was left to prepare – a tough proposition even before the world was consumed by a global pandemic.

Responding to the coronavirus crisis has inevitably absorbed government time and resources. Officials were moved from Brexit preparations on to the coronavirus response earlier this year across many departments, including the team in the Cabinet Office responsible for co-ordinating Brexit preparations. Although the majority of officials have now returned, this has clearly delayed government preparations. Even where teams remained in place, political focus on the pandemic meant policy decisions were delayed, slowing the progress of individual projects.

But despite this, progress has been made and there are areas where preparations are on track for the end of the year – or where further delays won't cause significant disruption in January.

The majority of the Brexit legislation should, just about, be in place by the end of the year – although missing details still need to be filled in

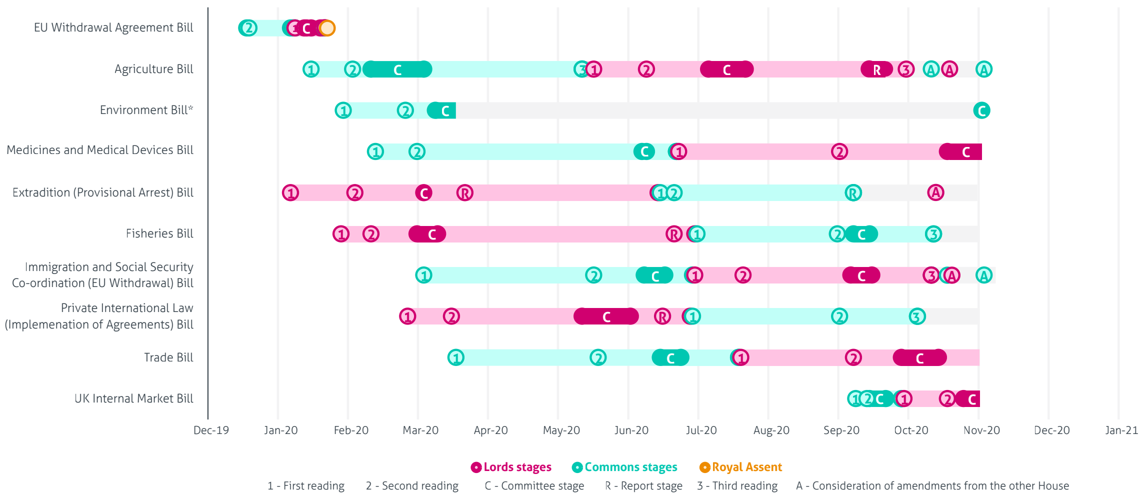
The government's negotiating position is intended to ensure the UK can 'take back control' and will have the freedom to set its own policies in areas like agriculture, fisheries and the environment. A new immigration policy will apply to EU citizens in the same ways as those from the rest of the world and the government will be able to negotiate new trade deals.

But in the majority of areas wholesale policy change will not happen immediately. The EU Withdrawal Act 2018, the May government's flagship Brexit legislation, is designed to provide legal certainty directly after the transition period ends, by essentially copying EU law into UK domestic law from January 2021. Using powers in the bill, ministers are able to amend this new category of 'EU retained law' to ensure it continues to make sense in a post-EU legal landscape.

Most of these changes have been drafted – although there are still some statutory instruments that need to be passed by the end of the year.

In the future, the government plans to change policy in many areas, making use of the greater regulatory freedom it will have outside the EU. To achieve this, it has introduced nine Brexit bills during the current parliament, designed to provide a legislative framework for new policies, covering key areas like agriculture, fisheries and trade. With less than two months to go until the end of the transition period, the government still needs to pass all nine of these, with progress on some delayed by Covid-19.

Figure 1 **Parliamentary progress of legislation introduced to implement Brexit 2019/20**



Source: Institute for Government analysis of parliament.uk. * Environment Bill treated as Brexit legislation because it establishes the Office for Environmental Protection.

Even once these bills are on the statute book, there will still be uncertainty about how new domestic policy will work in practice, as much of this detail will be implemented through secondary legislation after the bills have achieved royal assent.

For example, the Immigration and Social Security Co-ordination (EU Withdrawal) Bill will end free movement for EU citizens and pave the way for a new immigration system. But the government is waiting for it to become law before it can make the immigration rules and statutory instruments (secondary legislation) that will set out exactly how the new system will work. Draft rules laying out details on proposed visa categories and eligibility requirements were only published in late October[9] and may not become law until a matter of weeks before the end of the transition period.*

In the absence of legislative certainty, immigration advisers have had to rely on government policy documents to advise their clients on what changes can be expected from January – with many details only made available in July.[10] Given the delay in confirming the detail of the UK's post-Brexit immigration system, and the impact of Covid on the ability of businesses and individuals to prepare, the government may

* This secondary legislation will include statutory instruments under the Immigration and Social Security (EU Withdrawal) Bill and Immigration Rules under the Immigration Act 1973.

need to consider temporarily waiving or deferring some of the new requirements, such as the need to show proficiency in English, to avoid disrupted preparations preventing firms hiring from the EU from January.

Similarly, it is still unclear exactly how the UK's new agricultural subsidy scheme will work. The government published a white paper on the future of agriculture policy back in 2018, which set out its intention to move from the EU Common Agricultural Policy to the new 'public money for public goods' regime across seven years. However, the Agriculture Bill (and secondary legislation passed under powers in the bill) has not yet been passed. This is not just an issue for the UK government – the Welsh and Scottish governments are yet to bring forward their own agriculture legislation.

The Fisheries Bill also needs to be passed to set out a framework for the UK's new fisheries policy once it leaves the EU Common Fisheries Policy at the end of the year. The bill will give ministers powers to amend retained EU law on fisheries, implement any agreement the UK reaches on fisheries with the EU (and other coastal states) and set catch quotas. It also sets out measures to manage fishing between the four fisheries administrations of the UK.

One big gap in the UK government's domestic plans post-Brexit is the UK Shared Prosperity Fund, which will replace the EU structural funds. The government has taken powers to spend money in devolved areas in the UK Internal Market Bill but it has still not launched its long-promised consultation about how the fund should work.

If a deal is agreed, the government may also need to introduce new primary legislation to implement it in domestic law (although it already has powers under existing bills that could be used to implement key parts of an FTA without the need for a new Act of Parliament – such as those to vary tariffs under the Taxation (Cross-border Trade) Act 2018).

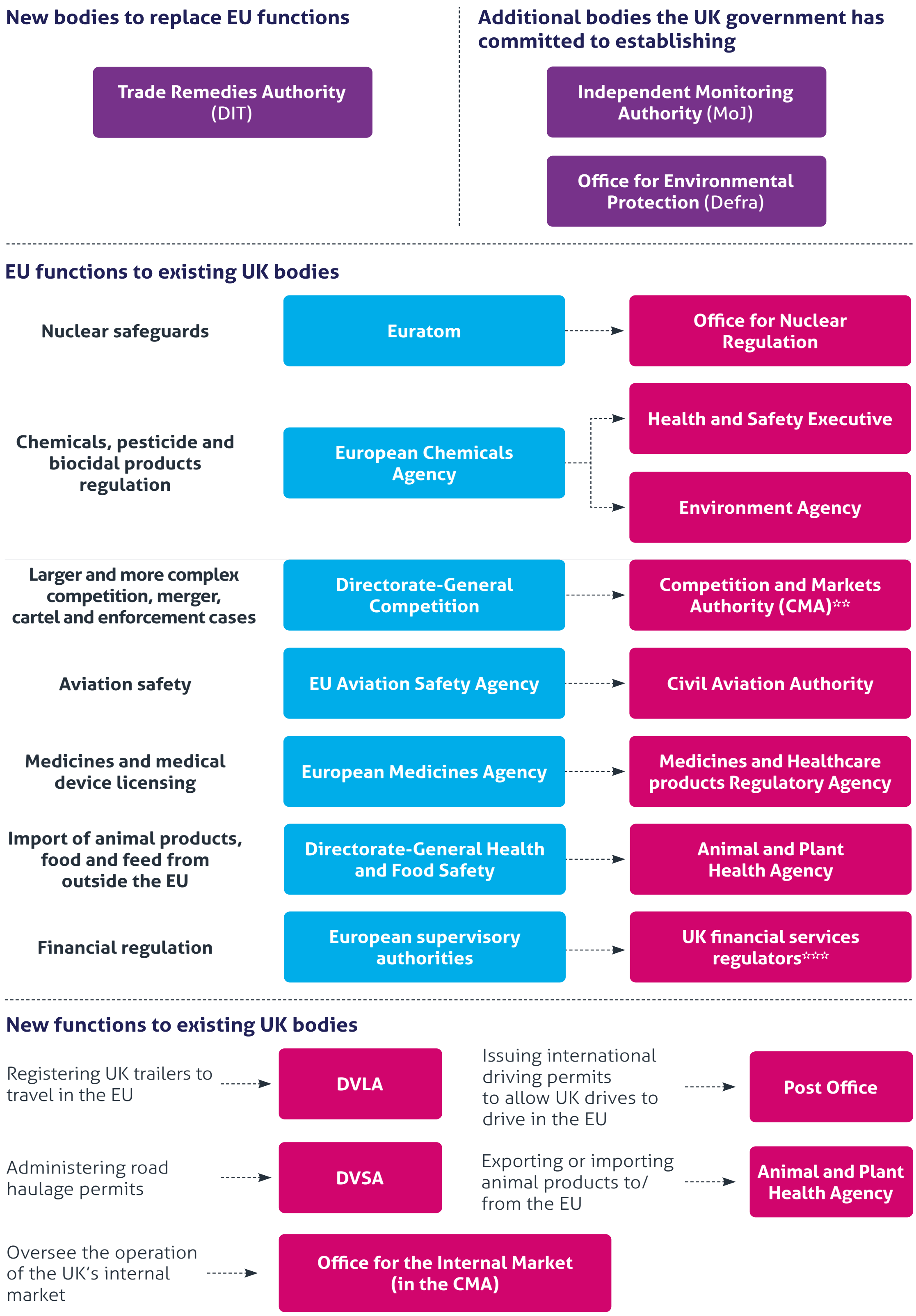
Time is tight to prepare the UK's statute book for January but the government is now pressing ahead rapidly. With a majority of 80, it is likely it will have most of the legislation it needs in place by the end of the year.

Existing regulators are largely ready to take on new functions

Leaving the EU single market and customs union also means leaving the EU institutional framework. Ending the jurisdiction of the European Court of Justice (ECJ) has been one of the UK government's strongest red lines throughout the negotiations. Johnson's government made clear that this meant leaving many of the EU agencies and regulators that oversaw the implementation of EU policy areas in the UK, including the European Aviation Safety Agency (EASA), European Medicines Agency (EMA) and the European Chemicals Agency (ECHA).

As a result, new public bodies are being set up and existing bodies expanded to take over functions currently exercised by EU agencies and to fulfil additional functions to take account of new arrangements with the EU, such as issuing licences for some regulated activities, that have not been needed while the UK is in the single market.

Figure 2 **New public bodies and functions being taken on by existing public bodies after the end of the transition period**



* List is not exhaustive. **Depending on the outcome of negotiations, it is possible that the CMA (or another independent regulator) might also be required take on responsibilities for policing state aid / subsidy control.
*** Financial Conduct Authority, Bank of England and Prudential Regulation Authority.

Source: Institute for Government analysis of various UK government announcements.

Where it has been clear what the post-Brexit regime would look like, organisations have had more time to prepare. The UK took an early decision that leaving the EU also meant leaving the European Atomic Energy Community (Euratom) and that its responsibilities would pass to a domestic agency, the Office for Nuclear Regulation (ONR). This meant the ONR was readied for its new role in regulating the 'safeguarding' of special nuclear materials in January 2019, ahead of a possible no deal in March that year. It has been able to spend the intervening period further developing its arrangements and improving its capability. The Financial Conduct Authority is also prepared to take on new responsibilities regulating UK-registered and certified credit rating agencies and registering and supervising trade repositories operating in the UK.

In other areas, public bodies needed to be prepared to take on new functions in the event that the UK left the EU without a withdrawal agreement in 2019. However, they only had longer-term certainty about the scope of their post-transition roles once the Johnson administration confirmed its intention not to try to negotiate membership of EU agencies that the May government had hoped to remain part of. For instance, in March 2020, the government confirmed that it would not seek continued participation in EASA, with its regulatory functions transferring to the Civil Aviation Authority (CAA).[11]

While the CAA had been preparing for a no deal 'baseline' scenario since the EU referendum result, this decision provided the clarity that it needed to re-establish its ability to assess and certify aircraft designs to international standards.[12] Although the CAA plans to be ready to fulfil its new responsibilities by January, it has acknowledged that it will need to continue to build capability in certain areas beyond then. Similarly, the government's negotiating mandate in February confirmed the UK would leave the European Chemicals Agency and not seek access to the EU REACH chemicals database, which meant the Health and Safety Executive could press on and establish a UK equivalent (UK REACH).

Increased certainty over post-transition regulatory regimes has also made it easier for regulators like the CAA and Competition and Markets Authority (CMA) to recruit staff to take on functions currently exercised by the European Commission from January. Last year, the CMA was recruiting on a contingency basis for roles that would only have been needed immediately if there had been no withdrawal agreement and so no transition period. In contrast, this year, it has been clear that many new roles would be required deal or no deal. Ongoing negotiations, however, have limited the amount of information the Commission has been able or willing to share with the CMA about upcoming competition cases, which may have a bearing on the CMA's work beyond the end of the year.

However, the CMA still faces some uncertainty over its post-transition role. While it is well prepared to take on a greater number of more complex merger cases, having been granted new funding and recruited new staff, it will now need to set up the Office for the Internal Market due to be established by the UK Internal Market Bill (assuming it becomes law in its current form), only published in September.

Depending on the outcome of negotiations, an independent regulator might also be required to take on responsibilities for policing state aid/subsidy control. Under May's government, it was expected that the CMA would take on these functions and it remains possible that this could still be the case come January.[13]

Several regulators have not yet been established

In other areas, new regulators are being created, either to take over roles from EU regulators or oversee issues arising from the UK's withdrawal. However, coronavirus and delays in passing key Brexit legislation has held up progress in setting up many of these, leaving several existing only in shadow form – without full statutory authority.

In some areas, these delays are not critical. For instance, the Trade Remedies Authority (TRA) – which will recommend the imposition of additional tariffs where imports are 'dumped' (sold below their normal or cost price) or subsidised by foreign governments – still needs to be formally established by the Trade Bill. However, it has been operational in shadow form as a directorate of the Department for International Trade since March 2019. Once the bill is passed, the directorate will swiftly assume its full independent existence.

Similarly, the Environment Bill has been on pause since March and is not expected to be passed until the new year.[14] This has delayed progress in setting up the Office for Environmental Protection (OEP) – which will be given its powers by the bill. In the interim, the environment secretary, George Eustice, confirmed that the office and a secretariat are being established in "embryonic form".[15] The OEP does not need to be in place for the UK's environmental policy to function from day one, but does need to be set up in time to play a role in establishing the first set of new UK environmental standards in 2022. Its absence also risks leaving a governance gap for a short period, given the new regulator will play a key role in holding the government to account on its environmental commitments once the UK is no longer under the jurisdiction of the European Commission and ECJ.[16]

More pressingly, the UK has yet to fully establish the new Independent Monitoring Authority – one of its commitments under the citizens' rights provisions in the Withdrawal Agreement. In light of the Windrush scandal, this body will play an important role in safeguarding EU citizens' post-transition. It needs to be ready to go live on 1 January. While it does have premises and an interim chief executive, Kate Chamberlain, the chair has yet to be appointed. It is recruiting and has begun to engage with stakeholders – including groups representing EU nationals in the UK – but it has yet to clearly define how it will approach its role and has a big task to raise its profile among those to whom it is supposed to provide reassurance as well as with MPs and departments. It will play an important role in ensuring that people have confidence in the system and needs to establish its credibility quickly.

The government has rolled over many EU international agreements

The UK currently benefits from 38 trade deals the EU has with other countries or trade blocs, but these will lapse from the end of the transition period. To avoid this, the government has entered negotiations to 'roll over' these existing agreements. It has made good progress, with 22 agreements signed, as of 28 October 2020, including with South Korea, Norway and Iceland, and Switzerland.[17]

Japan did not agree to roll over its deal with the EU, but a new UK–Japan Comprehensive Economic Partnership Agreement has now been signed to replace it. It will come into force when the EU–Japan Agreement ceases to apply to the UK at the end of the transition period. While the agreement largely replicates that already in place between the EU and Japan (which the UK currently benefits from), it does include more preferable terms on digital and data, improved market access for UK financial services, tariff-free access to the Japanese market for more UK goods and more liberal rules of origin requirements for some goods.[18] Compared to a base case where there was no deal with Japan (as opposed to where the UK continued to benefit from the EU–Japan agreement), the government claims that there will be a £15.2 billion benefit. But as trade with Japan accounts for just 2% of UK trade, that means a GDP boost of just 0.07% over the long term.[19]

But there are still 16 EU agreements left to roll over – including with large markets like Canada and Turkey – which will lapse if this is not done in time. Any businesses that currently take advantage of the agreements that have not yet been rolled over need to understand what these changes will mean for them.

The government will also need to communicate any changes to rules of origin under rolled-over trade deals. As set out above, rules of origin determine whether a good is considered to 'come' from a party to the trade deal and so benefit from preferential tariffs. One common way to do so is to assess where its content originates. If more than a certain percentage of its content comes from a country that isn't party to the deal, the good will not qualify. As the UK's existing trade deals are deals between the EU and a third country, it doesn't matter whether components come from the UK or one of the other EU member states – all that counts is that the required percentage of the good was made in the EU (which includes the UK during the transition period).

But new trade deals might require content thresholds to be met by the UK alone. The government has tried to get its partners to accept that goods can still qualify if they contain a mix of UK and EU content. Some of them have agreed to this approach, while others (such as Japan and South Korea) have accepted this as only a transitional measure for a limited time.[20] Over the long term, unless further agreements can be reached, firms may need to rework their supply chains to be able to take advantage of rolled-over trade deals.

Beyond trade, the government has also been working to roll over agreements on a range of matters such as mutual recognition on conformity assessments (which allow each side to assess whether a good meets the other's standards – avoiding the need to submit goods for approval from regulators in both countries) and sector-specific deals in areas like aviation, nuclear co-operation and food standards. Nearly all of the aviation agreements have rolled over, and good progress has been made in many of the other sectors, including nuclear and fisheries.*

The government has made good progress in granting EU citizens settled status – but big problems may be on the horizon

Under the terms of the Withdrawal Agreement, the UK has agreed to protect the rights of all EU citizens living in the UK before the end of the transition period. To benefit from these rights, EU citizens need to apply to the government's 'settled status' scheme. Anyone who can prove they have lived in the UK continuously for five years or more should be eligible for settled status, which entitles them to continue living and working in the UK as they do now indefinitely. EU citizens who have not been in the UK for five years, including those who have moved during the transition period, are only eligible for 'pre-settled status', which entitles them to remain in UK while they gain the five years of residency needed to apply for 'settled status'.

The Home Office has made good progress in registering EU citizens under the scheme. As of October 2020, more than four million applications had been received, with nearly 3.8 million granted settled or pre-settled status.[21] In contrast, less progress has been made by EU member states in securing the rights of UK citizens living in the EU – something that the government is concerned about.[22] On the basis of initial estimates, the government might assume that the four million who have applied accounts for every EU citizen in the UK, and so it is close to successfully registering all eligible citizens. Unfortunately, the underlying data is so unreliable it cannot be confident that this is the case – or of how many people are yet to secure their status. That the number registered is already higher than the government's initial estimates around how many EU citizens were living in the UK should raise alarm bells.[23]

There are concerns about how to ensure that so-called 'hard to reach' groups register – those who do not speak English, lack access to the technology needed to complete an application or do not realise they need to apply (such as long-term residents). Children must also have their own applications – something not all parents are aware of.[24] The government has granted EU nationals a six-month 'grace period' to apply to the scheme, in effect giving any remaining applicants until 30 June 2021 to complete the process. The government is using advertising and targeted support through campaign groups to try to encourage people to apply, but the Home Office cannot hope to secure – or even know it has secured – the status of every eligible EU citizen.

This carries real risks, particularly in light of damage done to public trust in the immigration system by the Windrush scandal. Potentially thousands of EU nationals face being treated as illegal immigrants from next summer. This means they will lose their Withdrawal Agreement rights, unless they can show they have a 'good reason' for missing the deadline – a term that has yet to be defined but has a very high bar in other immigration contexts, such as being unable to comply due to being hospitalised.[25]

* The information available on GOV.UK is largely out of date so more progress may have been made but not noted.

Next year, the Home Office will face a critical decision when deciding how to approach the enforcement of the end of the grace period. It may need to be prepared to offer a longer grace period (as seven out of the 13 EU states running an equivalent registration scheme plan to do) or lower the bar for submitting late applications, as proposed by the Commons Future Relationship Committee.[26] Another major concern is the government's refusal to provide physical proof that settled or pre-settled status has been granted, instead relying on digital records, which many EU citizens and campaign groups do not trust will work.

The way the settled status scheme has been designed brings with it another cliff edge, or cliff edges, in the future. As of October, 42% of those registered had only been granted 'pre-settled status' – including many, it is believed, who were in fact eligible for full settled status.[27] This means more than 1.5 million people will need to re-apply to upgrade their status once they can demonstrate five years of residence, or face becoming illegal immigrants. This will not be an easy task to manage or communicate, as individuals will become eligible at different times. The easiest solution would be for the Home Office to automatically grant full settled status to anyone whom it can verify as eligible.

There will be an additional complication post-January too. The grace period only applies to EU citizens living in the UK before 31 December 2020, but the new immigration regime will be effective from 1 January 2021, and so apply to any EU citizens who move to the UK after then. Given a significant amount of immigration enforcement is done by those outside the Home Office – employers, social services and landlords, for example – the government must ensure the regulations are clear to all to ensure that EU citizens are subject to the correct set of rules.

2. Three areas of concern

The government has made progress in some areas of Brexit preparations, but this is not true for others. Preparations to implement the Northern Ireland protocol, prepare the GB–EU border, and ensure business and individuals are ready on 1 January 2021 are still major causes for concern, and are top priorities for government. Failing to address these issues risks serious economic and political disruption from day one. We examine each of these three key areas of concern in detail below.

1. The Northern Ireland protocol

The Northern Ireland protocol, agreed in October 2019 as part of the Withdrawal Agreement, requires EU law on customs and single market regulation on goods to be applied in Northern Ireland. Businesses trading across the Irish Sea will need to demonstrate that they comply with these measures. This means that new customs and regulatory paperwork, checks and processes will be required on goods entering Northern Ireland from Great Britain from 1 January 2021. The UK government is legally obliged to ensure that these new systems and infrastructure are in place to support the arrangements. Businesses need to be ready to use them. But in reality, preparations are off track.

Critical decisions on the protocol have still not been made

A key barrier to readiness is the fact that with under two months until the protocol is to be fully implemented, there is still significant uncertainty about some of the details about how it will operate. The Withdrawal Agreement deferred some major decisions to the Joint Committee, the UK–EU body tasked with overseeing the implementation of the Withdrawal Agreement, including on:

- the practical arrangements for EU representatives to be present during the application of EU law
- the conditions under which certain fisheries and aquaculture products will be exempt from customs duties
- (most importantly) the criteria according to which goods are considered 'not at risk' of moving from Great Britain to Northern Ireland, and then subsequently into the EU, and therefore not subject to customs duties.

The Joint Committee is yet to agree on what 'not at risk' means; if no decision is made, the legal default is that tariffs would apply on *all* goods moving GB–NI. The UK government has said that it will take further powers – on top of those taken in the UK Internal Market Bill – to override elements of the protocol and allow ministers to unilaterally define 'at risk' if no agreement on definition is reached,[28] even though this would be a breach of international law.

The government claims this approach – taking powers to make decisions unilaterally – is necessary to provide certainty for business. However, Northern Ireland businesses told us that related powers proposed in the bill have provided less certainty, not more. The UK's apparent willingness to disregard what it signed up to just a year ago has reopened previously closed questions about the possibility of a land border on the island of Ireland, with potentially serious implications for peace and security in Northern Ireland. It also puts businesses, who do not want to break the law, in a difficult position – caught between applicable EU law and the UK's non-application of it.

Certainty can only come through decisions agreed by both sides in the Joint Committee. This must be provided as a matter of urgency.

Beyond those to be taken by the Joint Committee, the UK government still has to make decisions that do not require agreement with the EU. The government has said it wants to "make full use of the provisions in the Protocol giving us the powers to waive and/or reimburse tariffs"[29] to compensate traders whose goods are deemed at risk of moving into the EU, but is yet to set out how this would work. A zero-tariff deal may increase both the proportion and the quantity of goods likely to be considered 'not at risk' of moving into the EU, as UK-originating goods will be eligible for tariff-free access. However, it will not eliminate the need for a scheme entirely, as some goods may not be able to meet high rules of origin thresholds to prove they qualify. Questions remain about whether – and if so, how – traders will need to prove they qualify for the scheme.

The UK government has not provided any detail on how arrangements for goods moving the other way – from Northern Ireland to Great Britain – will work in the long term. The UK government has guaranteed "unfettered access" to the UK internal market for 'qualifying' Northern Ireland goods. If passed, the UK Internal Market Bill would explicitly prohibit new checks or processes on 'qualifying' Northern Ireland goods entering Great Britain being introduced.[30] However, there remain unanswered questions about how Northern Ireland businesses will prove their goods qualify.

As an interim measure, the UK government has defined 'qualifying goods' very broadly as all goods present and/or processed in Northern Ireland that are not subject to a customs restriction or control.[31] The government has said it will develop further proposals to allow Northern Ireland businesses to obtain "qualifying status" in the longer term.[32] But some Northern Ireland businesses are concerned that if the process is too lax, competitors in the Republic of Ireland or the rest of the EU could set up shell companies in Northern Ireland to gain access to the UK market. The UK government will need to strike a balance between minimising new burdens on Northern Ireland businesses and preventing Northern Ireland becoming a 'back door' into the UK – a risk identified in UK Treasury analysis last year.[33]

The UK government also needs to provide further guidance on how the 'at risk' criteria and 'unfettered access' commitment will apply to goods moving between Great Britain and Northern Ireland through the Republic of Ireland. This is a significant trade route, between Wales and Northern Ireland; around 25% of goods on the Dublin–Holyhead route are destined for Northern Ireland.[34]

The outcome of these decisions will determine whether a business's goods are subject to tariffs, whether and how they will be reimbursed, and whether they will continue to benefit from unfettered access to the UK internal market in the long term. All this could have significant implications for how businesses trading across the Irish Sea will operate after the end of the transition period. The uncertainty has also delayed the government publishing its detailed plans for how GB–NI trade will work, making it almost impossible for businesses to prepare to date. Clarity is urgently needed.

Not all the government's other preparations will be ready in time

One new government IT system will be particularly critical to ensuring customs procedures can be applied to the high-volume roll-on, roll-off (Ro-Ro) lorry traffic at both the GB–NI and GB–EU borders. The government plans to use the Goods Vehicle Movement Service (GVMS) to handle GB–NI trade and transit traffic crossing the GB–EU border from January. The system will allow customs declarations to be submitted in advance, reducing the amount of time it will take to complete formalities at the border compared to the standard 'temporary storage' approach, which can mean goods are held at the frontier for weeks until customs requirements are complete. GVMS has the potential to be highly effective, linking together a range of customs information such as customs declarations, safety and security declarations and sanitary and phytosanitary data into a single reference number that can be easily tracked across the border.

However, there are concerns over whether it will be ready in time. While some technical details were published in July and testing with industry began ahead of schedule in September,[35] this has so far been limited to a sub-set of businesses. There are concerns that – unlike the French equivalent – GVMS does not currently produce a single barcode that can be easily and quickly scanned, delaying the movement of goods through ports. Full scale end-to-end testing has yet to take place and is not due to be complete until 4 December, less than a month before some firms will be expected to use it.[36] Businesses are also worried that there is little time left for them to learn how to use the system and link it to their own internal computer systems – reducing its effectiveness.[37]

The government has also had to upscale and adapt its Customs Declarations Service (CDS). This was originally due to replace the UK's main system for customs declarations – the Customs Handling of Import and Export Freight (CHIEF) system – from January 2019.[38] However, this switch has been repeatedly delayed, and CHIEF will continue to be used for most trade at the GB–EU border.[*] Few traders currently have experience of using CDS, and those carrying out both GB–NI and GB–EU trade will need to input into both systems from January.[**] While the government is confident the service is on track to handle customs declarations at the GB–NI border from January, the Association of Freight Software Suppliers believes final details may be delivered too late for companies to adapt their internal IT systems by January.[39]

* CDS is being used for GB–NI trade as it is capable of applying two different tariff rates to a product, which may be needed if tariffs apply to 'at risk' goods.

** The government still intends to replace CHIEF with CDS, but no date for this switch has been confirmed.

The UK government has committed to avoiding any new physical customs infrastructure as a result of the protocol but has acknowledged it will need to expand facilities for checks on agri-food goods in Northern Ireland ports and airports. As agriculture is a devolved matter, responsibility for implementing this aspect of the protocol falls to the Northern Ireland executive.

Practical problems and political resistance from the Northern Ireland agriculture minister, Edwin Poots, has reportedly slowed progress in this area.[40] The permanent secretary of the Department of Agriculture, Environment and Rural Affairs told a Northern Ireland assembly committee that "successful delivery of the programme appears to be unachievable".[41] Contingency work is under way but full facilities for agri-food controls will not be in place by the end of the year.

Under the protocol, Northern Ireland will continue as part of the EU VAT area, and is required to apply certain EU rules for VAT. HMRC will remain responsible for collecting VAT and for administration of these rules.[42] At the end of July the European Commission proposed changes to the EU's VAT rules to allow Northern Ireland businesses to be given a special identification number to allow them to register with both EU and UK systems.[43] However, registering businesses was one of the outstanding tasks identified following the September meeting of the Joint Committee.[44] If Northern Ireland businesses are not registered they may face problems trading with the EU from January.[45]

In short, the to-do list to implement the protocol is long. There is little if any chance that it will be fully operational in time.

The Trader Support Service aims to remove the burdens on business, but will need to increase capacity quickly

In *Implementing Brexit: The Northern Ireland protocol*, we identified the biggest challenge as ensuring traders are ready to comply with their new obligations. To alleviate the pressure on businesses, the UK government has awarded a £200 million tender for a new Trader Support Service (TSS) for those trading across the Irish Sea. The TSS is expected to complete customs formalities on behalf of traders as well as provide advice and educational services,[46] although some trade experts have raised concerns that the service may be more limited in scope than initially hoped.[47] Nonetheless, it is a welcome development – removing some of the need to communicate the details of new customs requirements to businesses (though it is only currently due to be in place for two years).[48]

The tender for the TSS was only awarded in September, and the service launched later that month.[49] Building up the service to ensure it has sufficient capacity to deal with the anticipated demand will be difficult – it will need to recruit new staff in advisory and administrative functions, establish or expand IT systems to manage a high volume of clients, and ensure businesses are registered for its services. In September one of the partners in the consortium awarded the contract put out a job advert for

35 customs consultants with at least seven years' experience who will be required to regularly work in Belfast. Those familiar with the customs industry in Northern Ireland have suggested they may struggle to find that many suitable candidates.

Whether the service can quickly increase capacity to meet demand will have a significant impact on the level of disruption at the Irish Sea border. While the UK government has essentially outsourced business readiness for customs, it cannot outsource the responsibility if things don't go to plan.

The TSS will also only help businesses with new customs requirements, meaning the UK government still has a large task getting businesses ready to comply with the new regulatory requirements – including extensive new processes on agri-food.

The UK government will need to make a trade-off between compliance and flow

Arrangements for new checks and processes on goods entering Northern Ireland from Great Britain are highly unlikely to be ready by 1 January 2021, so the UK government and Northern Ireland executive will need to put contingency plans in place.

At the GB–EU border, where the government faces similar challenges in being ready to impose new customs checks on imports, it plans to gradually phase in new border processes, prioritising the flow of goods over compliance. But under the protocol the UK government is required to apply the letter of EU law so cannot, at least legally, take the same approach. The UK is also subject to oversight from the European Commission and the jurisdiction of the ECJ, so if it fails to comply with its legal obligations, the EU could launch infringement proceedings (as it already has in response to the UK Internal Market Bill) and the UK could ultimately end up with a fine.

However, applying full controls when the systems and infrastructure necessary to administer them are not ready could make the inevitable disruption to trade even worse. Delays would have a detrimental impact on Northern Ireland businesses, affecting 'just-in-time' supply chains as well as supply to supermarkets, which could limit both the choice and availability for Northern Ireland consumers.

The UK will be forced to strike a balance between complying with its international obligations and limiting damage to the Northern Ireland economy. In the face of major disruption, the UK government may decide to relax border controls. To avoid infringement proceedings under the Withdrawal Agreement, UK ministers will need to rely on the EU showing some flexibility in its attitude to compliance. But such goodwill is highly unlikely if the EU thinks this is another attempt by the UK to renege on its international obligations.

The UK will need to reassure the EU that it is only seeking flexibility on the *timing* of the protocol's implementation, not on its substance. To do this, the UK should produce a detailed plan setting out how it will ensure the arrangements for the protocol are fully compliant with EU law, as soon after the end of the transition period as possible, and recommit to full adherence to the Withdrawal Agreement.

The fallout over the UK Internal Market Bill has badly damaged trust with the EU; it will take a lot to restore it, but removing these provisions would be a first step.

To protect the interests of Northern Ireland, and the Good Friday Agreement, the EU should be willing to show some flexibility in the timetable for full implementation of border processes – particularly in light of the impact of coronavirus and the continued delay in reaching consensus at the Joint Committee. Poorly managed implementation of the Northern Ireland protocol has the potential to cause significant damage to the Northern Ireland economy from 1 January 2021.

The more damage the protocol causes, the greater the political fallout will be and the more likely it will be that the Northern Ireland assembly will withhold consent for its continued operation (required every four years under the terms of the protocol).[*] Neither side should be willing to risk the peace and prosperity of Northern Ireland for political gain.

* Under Article 18 of the protocol, the Northern Ireland assembly will be asked to vote every four to eight years (depending on the result of the previous vote) on the continued operation of Articles 5–10 of the protocol (covering customs and regulation). The first vote is due to take place in 2024, four years after the end of the transition period.

Table 1 **Actions necessary to implement the Ireland/Northern Ireland Protocol**

Area	Key actions	RAG rating*
Customs	Progress has been made on IT systems for customs administration, but time is tight to test these and for traders to prepare to use them. The UK government has awarded the tender for the Trader Support Service (TSS) to support businesses with new customs processes, but capacity needs to be increased.	
Tariffs	The Joint Committee has yet to make a decision on the criteria according to which goods are assessed to be 'not at risk' of moving from GB to NI and subsequently into the EU. No information has been provided on the UK system for reimbursing or waiving tariffs on relevant goods.	
VAT	Arrangements to allow NI businesses to register on both UK and EU VAT systems have been put in place but the UK government needs to ensure businesses are registered.	
Fisheries	The Joint Committee has yet to make a decision on conditions under which NI fisheries and aquaculture products will be exempt from duties.	
Agri-food regulation	Successful delivery of infrastructure for agri-food checks in NI is deemed 'unachievable'. TSS will only provide information on agri-food checks – not help traders complete paperwork. More support is required to ensure GB businesses are ready to comply with new requirements.	
Manufactured goods regulation	Regulations setting out the legislative framework for manufactured goods is expected to be in place at the end of the year. Business will need to be ready to comply.	
EU oversight	Discussions on the practical working arrangements for EU officials to be present where the UK is applying EU law under the protocol (in accordance with Article 12) are ongoing.	

Source: Institute for Government analysis. * RAG = Red, Amber and Green.

2. The GB–EU border

Deal or no deal, the UK will leave the single market and customs union on 31 December. This means that government – and business – needs to prepare for customs formalities at the GB–EU border for the first time in decades (separate rules apply to GB–NI and NI–EU trade under the NI protocol, as set out above).

This is a huge task, with more than 35 government departments and public bodies involved.* In July, the government published its delayed Border Operating Model, setting out how checks would work in practice. More detail was added in October, less than three months before some changes come into effect. While the latest version has not answered all outstanding questions, the government has made clear that it represents the "last major guidance" it plans to issue,[50] although it will update advice where necessary. Traders also need to be ready for new EU processes. There are four key areas where the government needs to build capacity:

- **Systems**: the government still needs to deliver a range of IT systems necessary to apply new customs and regulatory checks at the border.
- **Infrastructure**: the government and private ports still need to build new infrastructure. Full border control posts to carry out customs and sanitary and phytosanitary (SPS) checks aren't needed until July, but facilities to carry out basic customs checks and manage traffic disruption will be needed from January.
- **People**: progress has been made in recruiting new staff to run the border, but there are still vacancies to fill.
- **Customs agents**: more capacity is needed in the private customs sector to help businesses comply with new customs requirements.

The government has been working hard to ensure plans are in place for the end of the year and is confident it will meet its deadline. But industry is still concerned by the tight timelines involved and it is very unlikely all businesses will be ready to comply with the new requirements.

The government has bought itself and importers more time to prepare, but exporters will need to be ready for EU checks from January

As shown in Figure 2, the government has decided to phase in customs checks on imports from the EU to Great Britain in three stages over a six-month period, to provide more time to prepare. This means that full customs checks will only apply to imports from the EU from July 2021 and the majority of importers of most goods will be eligible to defer their customs declarations (and payment of any applicable customs duties) for six months from the point of import.**

* Other public authorities, such as local authorities, port health authorities and trading standards, also play a role at the border. In the devolved administrations, some functions are carried out by devolved authorities.

** In a no-deal scenario, some business groups would like the government to allow duty payments to be deferred even if traders choose to submit customs declarations at the time of import, to help support their cash flow.

But this does not mean there is nothing to do for January. Importers of controlled goods – including critical goods like medicines – will be subject to import checks from the end of the year, as will traders transporting goods under the Common Transit Convention (including many hauliers transporting goods to the Republic of Ireland using the UK as a 'landbridge') or under the ATA carnet system (which allows goods to be temporarily moved across the border without having to complete full customs procedures). Importers of high-risk goods like live animals and some plants and plant products will also need to pre-notify UK authorities and submit to SPS inspections. From April, a wider range of agri-food imports will be subject to pre-notification and documentation requirements. Some businesses have already indicated that they will choose to submit full customs declarations from January, in order to avoid two sets of changes and to more quickly align their EU and non-EU trade processes.

Critically, this phased approach only applies in one direction. The EU has made clear it plans to require member states to impose full customs checks on EU imports from GB from 1 January, meaning UK exporters must be ready to comply with EU customs requirements from the end of the year. It has been reported, however, that some member states – such as Belgium – will initially adopt a light touch approach to penalising genuine errors.[51] Lorries that do not have the necessary paperwork and are not ready will be unable to trade and turned away from the ports – a message that the government is only now beginning to make explicit.[52]

There is also a risk that the phased approach pushes some issues into next year – a problem delayed not solved. The government may have a difficult job maintaining momentum among businesses to prepare for further changes in April and July. There is also a risk that firms that have chosen to defer declarations and duties will later find that they lack the administrative or financial resources required to meet their obligations. This is particularly true given the perilous economic circumstances some firms are operating under. To address this, the government must continue to communicate with traders beyond the end of the transition period and drive home the message that new customs obligations are only being suspended, not removed, during the phase-in period.

Figure 2 **Phase-in of checks and processes at the GB–EU border from 1 January 2021**

	January	February	March	April	May	June	July
Exports	**UK export controls:** UK customs export declarations and safety and security declarations.* Trucks using the Kent ports will also need a 'Kent Access Pass' from the 'Check an HGV' system. **EU import controls:** Full customs checks, including: customs declarations, duty and excise payments, sanitary and phytosanitary documents and checks, and safety and security declarations.						
Imports	**Phase 1:** Full customs checks for controlled goods, basic controls on other goods. Most importers of most goods can defer customs declarations and duty payments for six months from the point of import.			**Phase 2:** Additional agri-food products will require pre-notification and documentation.			**Phase 3:** Full import controls on all goods. Agri-food goods must pass through a Border Control Post.
Systems	**10 key border systems** must be ready, including **GVMS** for GB–EU transit and '**Check an HGV**' for traffic management						Border systems need to be at full capacity. **GVMS** available for all GB–EU trade.**
Infrastructure	Must be ready for transit and traffic management***						Border Control Posts needed for full customs checks and Sanitary and Phytosanitary controls.
People	Additional staff needed at Border Force and HMRC. More private-sector vets and customs agents required.						All government agencies to be fully staffed. 35,000–50,000 customs agents needed.

Note: This diagram shows a simplified version of the UK government's approach to phasing in checks at the GB–EU border and key deadlines for new systems, infrastructure and people to facilitate them. Full details can be found in the government's Border Operating Model. * Some controlled goods will need additional paperwork. ** GVMS may not be used by all British ports that handle GB–EU trade. *** Infrastructure also required for ATA carnet processes and CITES endangered species checks.

Source: Institute for Government analysis of the UK government's Border Operating Model.

Most IT systems are on track, but key ones are still not ready

There are 10 critical IT systems that are needed at the GB–EU border (see Table 2). Good progress has been made on some of these, with the transition period allowing more time to build on no-deal preparations from last year.

In some cases, this has involved improving existing systems. The government has increased the capacity of its main customs declaration system, CHIEF, and plans to test it to an annual capacity of 400 million declarations[53] – significantly higher than the 215 million additional declarations expected per year.

In other areas, the government is building new systems, including the Import of Products, Animals, Food and Feed System (IPAFFS), which will be used to notify UK authorities about the import of agri-food products in place of the EU TRACES system. The government has made good progress with the system, which is open to registrations and has been extensively tested. The government's new Export Health Certificate Online system has also been in place since 1 June.

But other new systems are still being developed. The critical GVMS system must be ready to handle pre-lodged customs declarations for GB–EU trade from July 2021. The phased approach to import controls means the government has bought itself more time to increase system capacity and learn lessons from its partial introduction for GB–NI trade in January, but time is still short. In contrast, the French equivalent, SI Brexit, which will be used for imports from GB into the EU from January, was operational last year and has been fully tested several times.[54]

Table 2 **Key government IT systems at the border**

Name	Department	Function	Key tasks to complete for January 2021
CHIEF	HMRC	Handle customs declarations (for GB–EU trade)	Increase capacity
CDS	HMRC	Handle customs declarations (for GB–NI trade and limited GB–EU trade)	Increase capacity and adapt to GB-NI trade requirements
S&S GB	HMRC	Handle safety and security declarations	Increase capacity
New Computerised Transit System	HMRC	Manage goods moving under the Common Transit Convention	Increase capacity
ALVS	Defra	Allow Defra and HMRC systems to speak to each other	Adapt to work with new Defra and HMRC Brexit systems

IPAFFS	Defra	Monitor and control agri-food imports	Finalise the system which is new and will replace EU TRACES NT
EHCO	Defra and APHA	Handle Export Health Certificates (EHCs) and allow them to be completed online	Finalise the system, which is new
Tarif Application Platform	DIT	Transmit tariff data to HMRC	Finalise the system, which is new and will replace EU TARIC
GVMS	HMRC	Allow 'pre-lodgement' of customs declarations and link together a range of customs information into a single reference number that can be easily tracked across the border	Finalise the system, which is new and needed for 'pre-lodgement' customs model at the Ro-Ro ports. Must be available for GB–NI trade and limited GB–EU trade from January and wider GB–EU trade from July
Check an HGV is ready to cross the border (formerly Smart Freight)	BPDG (CO)	A web service to allow hauliers to check they have the correct documentation for EU customs checks before arriving at the border. Will be legally enforceable in Kent	Finalise the system, which is new and part of improved traffic management plans

Source: Institute for Government analysis of UK Government, 'The Border Operating Model', 2020. CHIEF = Customs Handling of Import and Export Freight system. CDS = Customs Declarations Service. S&S GB = Safety and Security GB system. ALVS = Automatic Licence Verification System. IPAFFS = Import of Products, Animals, Food and Feed System. EHCO = Export Health Certificates Online service. GVMS = Goods and Vehicle Movement Service. This is not an exhaustive list of all IT systems at the border.

New infrastructure is still being built

The introduction of customs checks will mean that new facilities are needed at the border, although the phasing in of import controls means that not all will need to be in place by January. Where space allows, infrastructure has been, or is being, built at privately operated ports. Where this is infeasible – such as at space-constrained Dover – the government is building its own inland facilities.

Infrastructure to handle goods being moved under the Common Transit Convention or ATA carnet system, as well as to monitor the movement of endangered species and manage traffic queues, will need to be in place by the end of the year. This may include installing new computer equipment, signage and road layouts to facilitate new checks and IT systems. Additional parking spaces and traffic management infrastructure – like contraflow systems on major roads – will also be necessary to accommodate the queues of lorries that are likely to arise if traders are not ready for new checks.

The government has already identified five sites where government infrastructure will be needed by January – including a 27-acre site owned by the Department for Transport at Sevington, near Ashford in Kent, capable of holding 2,000 lorries.[55] Further locations have been earmarked in case additional space is needed to hold lorries and avoid traffic disruption, and to provide facilities to handle transit traffic.

In October, the government launched a £200 million Port Infrastructure Fund.[56] Before this announcement, some large transport hubs, such as Eurotunnel, had already spent millions of pounds on construction projects for new customs checks, recognising that infrastructure would be needed and take a long time to build. But vital construction work is still ongoing, including at the Port of Dover – the UK's main trading gateway to the EU.[57] Dover and other ports are also waiting for the National Approvals and Frontiers Unit (part of the Border Force) to provide 'Wharf Approvals', required to handle goods subject to customs procedures.[58] If these aren't completed in time, the government may need to consider temporarily waiving requirements.

Smaller ports have generally found it harder to prepare – particularly for full import controls being introduced next July. Many have lacked the financial resources to build the infrastructure required before government funding was released. While the British Ports Association has welcomed the new money,[59] it remains uncertain it will be sufficient – particularly given the high costs associated with expedited construction projects – or if projects will be completed on time.

By July, additional facilities to check compliance with new customs requirements and to handle SPS checks – border control posts – will need to be complete. Some will be located at private ports, but the government also plans to build new posts to serve Dover, Holyhead and the South West Wales ports. It has yet to provide full details on where these (potentially very large) new sites will be located or how long they will take to build.

To speed up construction at ports and inland sites, the government has passed legislation to streamline planning processes.[60] But even so, time is tight to deliver the infrastructure required.

The government is still short of people to run the border

More staff are also required to handle the new checks at the border. In some areas, the government has made good progress. Border Force already recruited 900 additional staff ahead of a possible no deal last year and is on track to recruit 1,000 more, with 670 expected to be in post by January 2021 and the remainder by July.[61]

However, there are still gaps in other areas. HMRC needs just over 7,000 new staff to administer new customs systems by January, of which around 5,800 are currently in place. A further 850 are still needed to operate new HMRC sites dealing with transit traffic.[62] The Cabinet Office and Treasury minister, Lord Agnew, told the Treasury Select Committee he was 99% confident that these staff will be trained and ready in time, although trade experts are less convinced, citing the complexities involved in these new customs roles.[63]

More private sector vets will also be needed to act as 'official veterinarians' to complete up to a fivefold increase in export health certificates, which will need to accompany some agri-food exports from January. Additional local authority environmental health officers will also be required to complete catch certificates to accompany fish exports. Defra and the Animal and Plant Health Agency – which are overseeing the increase in capacity – appear confident that there will be enough people in place come January.[64] The number of official veterinarians has doubled to 1,200 since last February, although there are still around 200 full-time equivalent vacancies to fill. A tight labour market for vets and the end of free movement in January have made this more difficult, the latter biting particularly hard given over 50% of new vets are EEA qualified.[65]

The government has provided £300,000 to support training and has been able to reduce the number of vets needed by authorising 'certified support officers' to complete some paperwork, although it is still making contingency plans for state-employed vets to step in if necessary.[66] Even if there are enough vets in total, the Food and Drink Federation is concerned that the new capacity will not be available in the parts of the country it is needed, which may make it hard for some exporters to acquire the necessary certificates.[67]

There are still not enough private customs agents to complete new border forms

The customs sector will play a particularly vital role in ensuring the GB–EU border works effectively from the end of the transition period. Many businesses trading with the EU are likely to employ a private sector customs agent (businesses that specialise in customs procedures) to complete documentation on their behalf. Although some, usually larger, firms may instead choose to build this capacity in-house – in many cases expanding their existing capacity for rest of world trade – it is estimated that between 35,000–50,000 additional private sector customs agents will be needed to meet increased demand,[*] though the full number will not be required before next July, when UK import controls are introduced.

The government has relied on a combination of market forces and financial incentives to increase the sector's capacity. It also hopes that new technology and working practices will improve efficiency, allowing a single customs agent to complete more declarations, citing survey data suggesting that capacity is improving.[68] However, the number available still falls well short of what is required – and some major companies have said they are struggling to secure customs support.[69] Estimates of the number of customs agents currently available range between 5,000–15,000,[70] with recruitment

* The exact number of customs agents required is subject to debate. In February, the government recognised industry calculations that around 50,000 additional private sector customs agents would be needed to meet demand – but has since distanced itself from this figure. Industry leaders have suggested the true figure is likely to be smaller (around 35,000) and even lower if an agreement on zero tariffs is reached, since customs formalities would be easier to complete. For more, see *Preparing Brexit: the scale of the task left for UK government and business*, p. 19, www.instituteforgovernment.org.uk/publications/preparing-brexit-scale-task

hampered by the pandemic.[71] It is also unclear if newly recruited agents will have the necessary expertise, which can take around a year to gain, to complete forms efficiently from day one.[72] Covid also makes training new staff more difficult.[73]

The government has provided funding to help the sector prepare, with Cabinet Office figures showing that more than 20,000 training courses have been funded. However, as of mid-October, just over £52 million of the £84 million on offer had been taken up,[74] with some firms reportedly using funds to 'poach' existing agents from other businesses rather than train new ones.[75] As we highlighted in *Preparing Brexit: The scale of the task left for UK government and business*, there are many reasons why customs firms may be unwilling to expand, despite the seemingly attractive business opportunity. For example, some firms have been reluctant to take on new salary costs to build capacity that will not be needed in full until next July.

Some business groups have stepped in to provide capacity for their members. For instance, the British Chambers of Commerce – which already has experience in producing documents for international trade – has trained its trade teams to offer additional customs services – including checking whether its members have completed customs forms correctly.[76]

If things don't improve, the government may need to take a more interventionist approach. While it has already ruled out replicating the TSS planned for GB–NI trade at the GB–EU border (see above), it could consider granting wider access to the money already set aside to prepare the sector. At present, the funding is only open to customs firms and those businesses planning to complete their own declarations.

However, even firms using a customs agent will take on new costs associated with collating information and hiring a third party. The government could widen the scheme's scope so that all firms importing or exporting to the EU are eligible. Where eligible, firms may also be able to recoup new staffing costs from the government's Kickstarter scheme, which is designed to encourage new jobs for 16–24-year-olds.[77]

The government's plans to manage border disruption are sensible, but no panacea

The short straits crossing is particularly vulnerable to the disruption that could arise if there are delays to government preparations or – more likely – if traders aren't clear what they need to do. Trains and ferries cross the Channel multiple times a day, with delays to one service quickly having knock-on effects on others. The volume of traffic passing through the ports means that just a small minority of traders need to be unprepared to cause major disruption.

The government's own *Reasonable Worst Case Scenario* (RWCS) suggests that queues of 7,000 lorries could form at the key Channel crossings if traders don't have the right paperwork, taking up to two days to clear. Such delays could cause widespread economic disruption, particularly for sectors such as manufacturing, pharmaceuticals and food that rely on complex supply chains embedded in the EU. Last year, the Society of Motor Manufacturers and Traders (SMMT) estimated that border delays could cost the automotive sector alone £50,000 per lorry for every minute spent queuing.[78]

The head of EU exit at the Port of Dover, Tim Reardon, has referred to the port as a "gateway not a depot": the space-constrained port cannot cope with a deluge of unprepared vehicles. The government, again in its RWCS assessment, suggests that even if the majority of trucks were border-ready, flow could still be reduced to between 60–80% of normal levels.[79]

To manage this disruption, the government plans to prevent unprepared lorries arriving at the ports. Key to achieving this will be the new 'Check an HGV is Ready to Cross the Border Service' (formerly known as the 'Smart Freight Service'), which will allow hauliers (or drivers) heading to the GB–EU border to check whether they have the right documentation beforehand. In Kent, where traffic disruption is most likely, using the system will be mandatory; HGV drivers will need a 'Kent access pass' showing they have been cleared by the service, or face fines of £300.

While the system has been welcomed by the logistics industry[80] and could prove effective, it is not a panacea. Although a beta version was shared with industry in October, it is not expected to be made publicly available until the end of November or December,[81] leaving little time for firms to prepare to use it. The service will not be linked to EU customs systems and will operate on a self-certification basis, meaning that there will be no guarantee that the documents traders claim to have completed will be correct and be accepted by EU customs authorities. The government is developing plans for manual checks as a contingency should the system not be ready on time or fail to work effectively.[82]

Critics have also raised concerns about the prospect of introducing a 'border to Kent' and questioned the fairness of making drivers responsible for non-compliance.[83] There are also worries that the system could result in unprepared lorries being stuck at warehouses, potentially displacing disruption from the ports to other parts of the supply network.

The Check an HGV system will form part of the revived Operation Brock, the government's traffic management plan originally introduced ahead of a possible no deal last year in Kent. The government has been working closely with the Kent Resilience Forum to ensure measures are in place to deal with disruption. As part of this, two large sites at Sevington, near Ashford, and the former Manston Airport are due to be available to hold lorries, as well as a 15-mile stretch of the M20 motorway.

Kent has experience of traffic management measures on the approach to the Channel ports – with Operation Stack having been implemented several times in recent years to deal with non-Brexit related disruption, such as strikes. However, the longest Operation Stack has ever been in force was just under two weeks during strikes by French ferry staff in 2015.[84] In contrast, the government's RWCS for disruption from January suggests measures under Operation Brock may need to be in place for many months.[85] Such prospective timeframes have led the Commons Transport Committee to raise a number of practical 'ground level' questions, among them whether there will be sufficient toilet facilities for drivers caught up in disruption.[86]

To reduce their exposure to delays, some traders are planning to adjust their supply routes away from the short straits. The government has recommended that importers of category one goods – like medicines – also consider this option.[87] However, it is likely that only a small amount of traffic currently using the short straits will ultimately be re-routed in this way. The convenient geographical location, short crossing time, high capacity and multiple daily services mean the Kent ports are likely to retain a competitive advantage, even in the event of disruption.[88] Smaller, alternative ports are also less likely to have been able to make the infrastructure investments necessary and so may be less prepared for new checks, and one alternative service – the Hull–Zeebrugge route – has recently been cancelled after the Covid crisis reduced demand.[89]

While these measures will help manage disruption for the end of the year, they are not the end of the story. The government will need to ensure preparations continue for the planned introduction of further import controls expected in April and July. If not, there is a risk that businesses could believe that the changes introduced on 1 January are all they need to prepare for. To counter this, the government will need a clear communications campaign, and work closely with business groups, to signpost what will be necessary and when.

Ensuring that traders, ports and hauliers are aware of when these phased-in controls will hit will be an ongoing task next year – and made all the harder by continuing Covid disruption and Brexit fatigue.

The government may be forced into further delays if disruption at the border is not resolved

While the government is already planning to mitigate disruption at the border, it may need to be ready to take further action next year. As the extent of lack of preparedness becomes clear in the new year, the government will need to work with traders who haven't taken the relevant steps for 1 January to ensure they become compliant as soon as possible. As part of this, the government could choose to selectively enforce new customs requirements for a temporary period, and instead adopt an advisory and educational approach designed to promote compliance in future.[90]

If this fails and the situation at the border doesn't improve, the government may also have to revisit its plans to phase in new customs checks on GB imports and consider further postponing the introduction of full checks planned for July. Although, as with wider Brexit preparations, there is a risk that further delays could deter firms from preparing sooner.

Both of these measures would involve the government accepting further delays to the introduction of full control over the GB border to prioritise the flow of trade. This may become less politically palatable over time, given it undermines the government's ambitions to 'take back control'. Providing such preferential treatment to EU imports could also increase the risk of challenge from non-EU trade partners under WTO most-favoured nation rules – which are designed to prevent favourable treatment being granted to some trading partners and not others. It also doesn't resolve the problem faced by British exporters – where the EU and member states will be fully implementing the Union Customs Code from day one, even if some countries are considering an initial light-touch approach to enforcement.

Table 3 **Actions necessary to deliver a functioning GB–EU border**

Area	Key Actions	RAG rating
IT systems	Existing IT systems need to be upgraded and new ones built. Most are ready but GVMS, critical for facilitating customs checks at the main Channel ports, is still being tested and has not yet been formally launched.	
Infrastructure	New infrastructure for basic customs checks and to manage traffic disruption from January is still being built. The government has provided funding and streamlined planning rules to help ports prepare. It is building its own sites inland where space is not available at ports. Construction has not yet started on several key 'border control posts' to handle full customs compliance checks and physical inspections on agri-food goods which must be ready by July 2021.	
People	Progress has been made in recruiting new staff to operate new border systems. There are still vacancies in HMRC and Border Force and not yet enough private sector vets to complete export health certificates for agri-food exports, although most are on track to be filled by January.	
Private sector customs capacity	There are still not enough customs agents to complete customs forms on behalf of businesses. The government has provided £84m in funding to help the sector prepare, much of which has yet to be spent. Although the government believes there will be sufficient capacity for January, many business voices disagree and argue that even if new staff can be recruited in time, they may be inexperienced.	
Managing disruption	The government is developing a new 'Check an HGV is Ready to Cross the Border' tool to ensure lorry drivers are ready for customs checks and avoid unprepared lorries causing disruption – but is only just making it available to traders. In Kent, this system will form part of Operation Brock, the government's plan to handle Brexit-related traffic disruption. This plan includes a contraflow system on the M20 and new holding sites for lorries.	
Trader readiness	Traders' readiness for new GB–EU customs checks is poor and remains one the government's key concerns. It plans to open 45 new advice centres in November and is stepping up its wider Brexit communications campaign. But even if the majority of traders are prepared, the government's *Reasonable Worst Case Scenario* suggests flow through the border could still be reduced to between 60–80% of normal levels.	

3. Business and individual preparations

The end of the transition period will bring sweeping changes for businesses, affecting their ability to import and export, how they are regulated and how they hire staff from the EU. Individuals will also face new requirements when travelling or moving to, or working in, the EU. But it is clear that these messages have not cut though, and readiness is poor.

A second wave of coronavirus and ongoing Brexit uncertainty are making it almost impossible for some businesses to prepare

In July, we concluded UK businesses were not ready for the end of the transition period, as a punishing combination Covid-19 and uncertainty hindered preparations. Four months on, the picture remains largely unchanged. In many cases businesses are still less prepared than they were a year ago.[91]

Many firms lost several months of Brexit preparations earlier this year, as staff were diverted to the coronavirus response or furloughed. Some 21% of firms responding to a Confederation of British Industries (CBI) survey said their preparations had gone backwards in the first six months of this year, with a further 58% stating that their readiness had not improved.[92] While some firms were able to turn their attention back to Brexit over the summer, the resurgence of the virus this autumn means that many are focused again on trying to survive the next few months (and in many cases navigating the latest lockdown measures), so cannot even think about investing in costly preparations for a very different kind of difficulty in January.

The government's recent decision to extend the Coronavirus Job Retention Scheme (the furlough scheme) for another month until the start of December, and to provide further economic support for affected businesses, will mitigate some of the worst effects on business finances from greater public health restrictions, but these are by no means a silver bullet. Businesses still face an unenviable task as they try to recover from the economic impact of the first wave of coronavirus, battle the resurgence of the disease – and try to prepare for Brexit. Given these concurrent challenges, it is no surprise that the Institute of Directors reports that a quarter of its members do not expect to be ready by the end of the year.[93]

Compounding the issue is a continued lack of clarity as to what businesses actually need to prepare for, and when. Less than a third of businesses feel they have a "good understanding" of what the end of the transition period will mean, according to a recent survey by accountancy firm EY.[94] Important decisions remain tied up in the UK–EU future relationship negotiations, including whether tariffs will be introduced and if mutual recognition agreements will be in place. These outcomes will have a sizeable impact on businesses post-January – as will decisions on data adequacy and financial services equivalence, for which businesses are also still waiting.

The UK government has also been slow to clearly define its own policies, including how new customs checks at the border will work, the shape of the new immigration system and whether it would replicate all of the easements planned ahead of a possible no deal last year.

The combined impact of these factors has been particularly brutal for small and medium-sized enterprises (SMEs), which have often lacked the bandwidth or financial resilience to manage Covid and Brexit preparations simultaneously. However, other parts of the business community are better prepared. As in July, the highly regulated services sectors – such as financial and legal services – are generally well prepared for Brexit. While these sectors are among those most affected by leaving the EU, it has been clear for some time that any deal was unlikely to include extensive services provisions, providing greater certainty that preparations would be needed, deal or no deal.

Firms were also compelled to prepare by regulators last year, and have been able to carry many of these preparations over for the end of the transition period.[95] While this may mean that many firms are prepared, this does not mean the end of the transition period will be plain sailing. For many of these firms, preparing means moving assets and staff and redirecting business (and potentially profits) outside of the UK, with a detrimental longer-term impact on the UK economy.

Given how poorly prepared many businesses are, there is a risk that some may inadvertently find themselves acting illegally come January – by failing to fill out the right customs paperwork or not complying with new regulations.[96] The government may have to make difficult decisions about how to enforce new rules, and whether to prioritise maintaining business activity over strict enforcement. This could include instructing regulators and government agencies to adopt a lenient approach to breaches, at least temporarily, and instead focus resources on raising awareness and driving compliance. Notably, some regulators, such as the CAA and Financial Conduct Authority, already have powers to waive or vary some obligations on the businesses they oversee.

Government measures have helped ease the burden on business – but only go so far

As well as phasing in new import controls at the border, other sectors have also been given extra time to adjust. The UK will be implementing a new regulatory framework for chemicals after the transition period, UK REACH. Existing chemical authorisations have been 'grandfathered' (carried over) to the UK system, with businesses being given 120 days to notify the Health and Safety Executive (HSE) and provide basic data and proof of their existing EU registration.[97]

The government has also announced it will continue to recognise the CE marking (printed on products to demonstrate that they comply with EU health, safety and environmental standards) until the end of 2021, and then allow the replacement 'UK Conformity Assessment' (UKCA) marking to be printed on a label or accompanying document, rather than directly to the product, until the end of 2022.[98] These steps have been welcomed by industry, but clear information about these changes will need to be communicated to relevant businesses. The readiness task will not be over on 1 January.

Similarly, the Medicines and Healthcare products Regulatory Agency (MHRA) plans to carry over some existing EU approvals for medicines to the new UK scheme and allow firms time to provide supporting information.[99] It also intends to allow those importing medical devices to rely on some EU certifications until 30 June 2023 and provide a grace period before firms have to comply with new requirements to register certain products with the agency.[100]

The government and financial services regulators have also taken steps to help the financial services sector prepare, which have been welcomed by industry.[101] The Treasury has provided the Financial Conduct Authority, Bank of England and Prudential Regulation Authority with a 'temporary transitional power'[102] – originally introduced ahead of a possible no deal Brexit – to allow them to delay or modify new regulatory requirements on firms. In addition, the government and the financial services regulators have established the 'temporary permissions regime'[103], which will allow eligible EU firms currently using their EU authorisation to continue operating in the UK for up to three years while they secure full UK authorisation.

These measures do buy more time for companies operating in certain sectors – but don't address the broader problem that most businesses still have a huge amount to do by the end of the year in dire economic circumstances.

Individuals may not realise that they need to prepare until they try to travel to the EU

The end of the transition period will bring many changes for individuals. UK passport holders will need to have at least six months left on their passport to travel to the EU from January, while anyone planning to drive in Europe may also need to get new documentation, including an International Driving Permit and a car insurance 'green card'. It will also be more difficult to travel with pets, with new paperwork and vaccination requirements. Health insurance will be required as EHIC cards will no longer be valid; some – such as the elderly and those with pre-existing medical conditions – may find it hard to get the necessary cover.

Living and working in the EU could also involve new restrictions. For the first time in a generation, UK citizens wanting to live and work in an EU country will need to apply for a visa under local immigration rules. Some member states may require business visas or different professional qualifications for certain types of work trips.

Given the time required to meet some of these new requirements, individuals may need to act now to be ready by January – from checking their passport's expiry date to researching immigration processes. In some cases, it may already be too late.* As these will vary from person to person, there is no clear deadline by which all members of the public need to be ready. This makes the task of communicating what needs to be done, and ensuring individuals take those steps, more difficult.[104] The result will be nothing like as acute as for businesses. But individuals will find it more difficult to prepare for travel or life in the EU than they did before. A gap year working in Italy or a dream

* For example, if the UK does not become a 'listed country' for pet travel, it could take up to four months to complete the necessary paperwork and veterinary requirements to travel with pets. For more information, see www.instituteforgovernment.org.uk/explainers/what-end-brexit-transition-means-individuals

retirement in Spain will suddenly become a lot less straightforward – and failure to comply may result in being refused permission to travel or lead to problems when they turn out to lack the right paperwork when they are abroad.

The government's rebooted communications campaign risks being too little too late

Ensuring businesses and individuals make the necessary preparation is imperative if the government is to minimise disruption on 1 January. But so far, its £70 million[105] 'Check, change, go' communication campaign has failed to hit its targets. A reluctance, at least initially, to clearly outline what the new red tape and disruption would mean for the public – or to even mention the word 'Brexit' – has hindered its effectiveness. Adam Marshall, director general of the British Chambers of Commerce, said it gave the "impression that Brexit-related changes are like getting an MOT – whereas the reality is that for many businesses, they're more akin to planning a moon landing".[106]

Among the biggest challenges is clearly communicating that change is happening, deal or no deal. Speaking to the Public Accounts Committee, the Cabinet Office permanent secretary, Alex Chisholm, said: "I do not want people to feel they are waiting for the outcome of the negotiations... Most of what people need to do has been absolutely plain throughout the year, so there is not a wait-for moment."[107]

But this message has clearly not cut through. Government figures from 23 October showed that almost four in ten (38%) of small businesses believed that the transition period will be extended[108] despite the deadline for doing so having passed in June and repeated assertions from cabinet ministers that no extra time would be sought. Rightly, this figure appears to have spooked government and brought home just how ill-prepared many firms are for Brexit. The succession of false 'no deal' deadlines last year has only made it harder for the government to make clear that this time is different.

But communicating the realities of any agreement with the EU will present government with a real headache too. If a deal is agreed, the government – which won the 2019 election on a platform of getting Brexit done – will have to carefully balance a desire to sell it as a 'victory' to the public with making clear that it still requires many of the same preparations as a no deal outcome.

With less than three months to go and preparedness poor, there are signs that the government is beginning to change its approach, having recently launched a more direct 'Time is running out' campaign.[109] In an urgent message to businesses on 12 October, the business secretary, Alok Sharma, delivered a stern warning that "unless you take action, there is a risk business operations will be interrupted". This came just two weeks after the government outlined its *Reasonable Worst Case Scenario* from disruption at the border, which the minister for the Cabinet Office, Michael Gove, was at pains to stress applied in a deal or no deal scenario. This move to 'shock and awe' was always part of the plan – but as the second wave of coronavirus hits, it isn't clear it will have the necessary cut through. If the government continues to insist on using confusing language – such as referring to 'no deal' as an 'Australian style deal' – it will struggle to make progress.

The government must also be careful not to sound as if it is blaming business, after Cabinet Office minister Lord Agnew told the Treasury Select Committee businesses had their "head in the sand" when it came to Brexit preparations.[110] Carolyn Fairbairn, director general of the CBI, told an IfG event this was "profoundly unfair". It was the Johnson government's decision not to seek an extension to the transition period and so force businesses to prepare for enormous changes while also managing a global pandemic – so it cannot avoid responsibility if many are not ready.

Another element of the government's communication strategy is to contact key businesses directly. Using VAT records, HMRC has been able to identify and write to 11,250 high-value traders whose only experience of trading internationally has been with the EU.[111] Ensuring these firms are prepared for new customs formalities will be critical to avoiding disruption from January. On 18 October, the government also wrote to all VAT-registered businesses, urging them to prepare and making clear that they will be unable to trade if they do not.[112] But there are limits to this approach, with many key audiences, including small businesses and EU firms[*], often not VAT registered, making the government's visibility of their readiness generally poor.

To some extent, this can be remedied by using departmental contacts and business groups to assess the state of business preparations and ensure that information reaches firms that may otherwise slip through the net. Industry groups are also able to distil government advice and present it in a way that is most accessible to their sector – and the government has made £10.1 million in grants available to business organisations to support them in this work.[113] Over recent months, the government has been able to draw on the constructive relationships built with business groups during the pandemic, which has gone some way to repair the strains that had emerged earlier in the Brexit process.

From 2 November, the government also plans to open new advice centres at 45 locations around the UK, with multilingual staff to provide information on what traders need to do to prepare. From January, these centres will also be able to advise hauliers on whether they are border ready.[114] Export advisers from DIT are also being made available to provide one-to-one guidance and support to firms, and HMRC helplines are available to guide firms through the changes they must prepare for.[115] These measures are welcome.

Larger companies also have a role to play. Their greater bandwidth and experience of international trade means they are generally better prepared for the end of the transition period than SMEs. The government is encouraging these firms to communicate with others in their supply chain. Many are already doing so. Large professional services firms like Deloitte and EY have hosted a series of Brexit preparation webinars throughout 2020, while one large manufacturer is using an online portal to communicate with its suppliers. The government is also planning joint webinars with some large businesses to access their customs and members, alongside those it will be holding on its own.

* Around 85% of lorries transporting goods across the short straits are EU registered, which means ensuring they are prepared for new checks is critical to limiting disruption.

Ministers have appeared reluctant to spell out the practical consequences for businesses and individuals of the political decisions the government has taken on Brexit, including the decision not to extend the transition period. This has hampered the impact of the communications campaign to date. While the work being undertaken to directly reach out to businesses to communicate the necessary changes is welcome, the broader campaign has failed to cut through. The government is finally seeking to remedy this – but the change of approach has come late in the day and still does not do enough to communicate in plain English and convey the amount of red tape coming down the track.

3. How government should prepare for Brexit and Covid disruption in January

Even if the government can successfully increase public awareness of these upcoming changes – and fully implement its own preparations – it will still need to be prepared to respond to the consequences of them, both anticipated and unanticipated. Government departments and the Civil Contingencies Secretariat are putting in place plans to respond to the most severe short-term disruption at the end of the year. But while planning undertaken last year ahead of a potential no-deal Brexit will help the civil service, those plans did not, understandably, take into account Brexit happening during an ongoing pandemic.

The government will need to adapt last year's no-deal contingency plans to cope with this year's problems

Ahead of a possible no-deal Brexit last year the government developed contingency plans codenamed Operation Yellowhammer. These plans have been rebranded this year and departments will be revisiting them as they gear up for winter disruption. The big difference compared to last year – when a deal meant a transition period would allow the status quo to continue – is that these plans are necessary regardless of whether or not a deal is reached with the EU. It is more like planning for a major project like the Olympics rather than contingency planning for an event that might not happen. The government's pursuit of a 'harder' Brexit means many of the same changes will be coming into force deal or no deal – along with the associated disruption.

There are some key differences between last year and this that will mitigate some of the problems foreseen in a no-deal exit in 2019. First, a withdrawal agreement is now in place between the UK and EU. This protects the rights of EU citizens living in the UK (and vice versa) before the end of the transition period and prevents goods placed on the market and legal proceedings started before the end of the transition period suddenly being subject to different rules. Critically, it includes the Northern Ireland protocol to avoid a hard border on the island of Ireland – though, as already mentioned, much needs to be done on this count, and the Withdrawal Agreement must be implemented in full if the benefits it provides on paper are to be seen in practice.

However, this year poses a new challenge. The UK and the EU are grappling with a global pandemic alongside Brexit. The government's civil contingency planning this winter has to anticipate the combined disruption of both Brexit and the resurgence of the coronavirus. It also needs to take into account traditional winter crises such as flooding and spikes in flu – as well as the other seasonal impacts, such as the reduced warehouse space available for stockpiling in the run up to Christmas.

The impact of Covid is complex. Disrupted supply chains during a second wave may ease pressure at the border, with fewer trucks moving between the UK and the EU. But the government's own *Reasonable Worst Case Scenario* acknowledges that there could be greater delays if large numbers of port or border staff need to self-isolate or miss work through illness. The government and businesses have also drawn down many of the stockpiles that were built up ahead of no deal last year – and certain products, including some medicines, will likely be more difficult to stockpile in the face of increased global demand and disrupted supply.

The Institute for Government has previously found that the preparations carried out last year ahead of a possible no-deal exit in March and October helped public services in their response to coronavirus. The reverse is also true. In some departments, officials feel they have a better understanding of the nature of supply chains and the challenges facing business as a result of the pandemic. Planning for no deal may have helped respond to coronavirus, but dealing with the pandemic has – in some areas – benefited Brexit planning.

But as the government grapples with a second wave of coronavirus, and the majority of the UK is under lockdown, it appears to have failed to learn from mistakes made during the first. It is vital it remedies this. The government has chosen to do battle on two fronts this winter, and should be prepared to apply the lessons it has learnt over the last two years and redeploy resources and adjust plans where necessary.

The government will need to be ready for its 'Reasonable Worst Case Scenario'

Last year, ahead of the October Brexit deadline, parliament used a 'humble address' to force the government to publish its *Reasonable Worst Case Scenario* that formed the basis for the Operation Yellowhammer contingency planning. The plans, once published, identified 12 key areas of risk in the event of no deal.[116] This included areas such as trade in goods, food and water supplies, and medicines. The government document set out the possible risks for each of these areas as well as the key steps it would take to mitigate the risks.

This year, the government has been more transparent and has actively published its *Reasonable Worst Case Scenario* for the border – deal or no deal – in an attempt to drive readiness among traders. One of the most eye-catching descriptions was of the queues of 7,000 trucks in Kent discussed above, and for which Operation Brock will be revived.

Although a reasonable worst case scenario hasn't been shared for the other high-risk issues identified ahead of no deal last year, much will likely be similar – the impact on the supply of food and medicines, for example, will depend on the level of disruption at the border. A leak of planning documents to Guido Fawkes confirmed that the government was anticipating a "reduced supply availability, especially of certain fresh products" as a result of border disruption.

Other no-deal planning from last year, therefore, will be dusted off. For example, DfT's Freight Capacity Framework,[117] a four-year agreement with ferry, rail and aircraft operators the government can use to run 'mini-competitions' if additional freight capacity is needed. This may be used to ensure the supply of category one goods – including medicines, medical supplies and veterinary medicines – into the UK.

While some issues can be identified and planned for, the government will also need to be prepared to respond to the 'unknown unknowns'. As in 2019, government departments will be stepping up 24-hour operational centres ahead of the end of the year to co-ordinate emergency responses – and these could well need to be in place until into March. This is a challenging proposition, with Covid-related absences likely and civil servants working on Brexit and Covid preparations back to back. The government also plans an improved 'border impact centre' to co-ordinate a cross-departmental response to border disruption and share data in real time. To enable the greater cross-government data sharing that this would require, the government is hoping to rely on clauses in the Trade Bill.[118]

Preparing for the reasonable worst case is not just an activity for central government. The devolved administrations will also need to put in place plans and central government will also be relying on local resilience forums, which have already played a crucial role in the response to the pandemic. As the UK faces a challenging winter, close co-operation will be needed more than ever, not least to understand the combined effect of coronavirus and Brexit in local contexts. The government has recently been criticised for failing to share all its Brexit planning documents with the devolved administrations,[119] and there have been similar examples of the government failing to share sufficient data with local authorities during the pandemic.[120] This needs to change before 31 December.

The pandemic will make these plans harder. For example, critical staff may fall ill or need to isolate and resources may well be redirected to the pandemic response. And although central government has managed to shift resources back to Brexit preparations after they were redeployed to help with the pandemic earlier this year, there is less capacity among the devolved governments and local authorities to handle both. Recognising, and communicating, the interplay between the two will be important but even so, the government will also be forced to prioritise if resources are stretched. In practice this may mean actions to manage Brexit disruption trumped by the more immediate need to protect public health.

The government will have to make difficult choices about economic support

The end of the transition period will bring more upheaval for many businesses still grappling with the pandemic. Deal or no deal, some businesses may no longer be viable because of new non-tariff barriers to trade with the EU, which will raise their costs and make them uncompetitive. In the event of no deal, tariffs would protect some UK firms but increase costs and reduce demand for others.

In addition, in the immediate aftermath of the end of transition, some firms could face delays and costs as they and others adapt to new processes, and as the border systems and infrastructure start to handle the new demands. Delays at the border could interrupt just-in-time supply chains. This is likely to have a particularly large impact on small firms with reduced resilience. Any further depreciation of sterling would also make imports from the EU more expensive, which would have an adverse effect on those businesses that rely on imports as intermediate inputs into their production processes. The Bank of England predicted in 2018 that a disruptive Brexit could see sterling fall by around 15% against the euro,[121] potentially increasing costs to businesses which could be passed on to consumers.

The government has given little indication of what economic measures it may use to support businesses adapting to this changing relationship with the EU. Ahead of a possible no-deal Brexit last year, the government launched Operation Kingfisher – a fund for businesses temporarily affected by changes of circumstance. This was intended for 'fundamentally viable' businesses to help tide them over – that is, those that may have been impacted by short-term disruption at the border but which, with some public support, would be able to adapt.[122] There has been little public discussion about what economic measures the government may bring in to help businesses struggling in January next year. In part, this is because the Treasury has been so focused on managing the economic response to the pandemic.

In 2019, targeting Operation Kingfisher only at the firms the government wanted to help would have been extremely difficult. How would the government have known if a firm was struggling because of Brexit or some other reason, or whether a business's Brexit travails were temporary or permanent? Trying to roll out a similar package of support in January 2021, to Covid-ravaged businesses up and down the country, will be even harder.

With the government already supporting large numbers of businesses to cope with coronavirus (through wage subsidies, guaranteed loans, tax cuts and tax deferrals), the question ministers will face this winter is not only which businesses should be propped up through temporary Brexit support but also whether existing Covid support should be withdrawn from businesses that will no longer be viable in January.

The chancellor, Rishi Sunak, has said he only wants the government to subsidise wages for 'viable' jobs during the Covid crisis – but Brexit might make many jobs unviable, even if Covid does not. And as it stands, the (Coronavirus) Job Support Scheme would be open to businesses affected by Brexit disruption in January, making it even harder to target support.

As well as being difficult to achieve practically, limiting support for businesses affected by Brexit would also be extremely difficult politically, not least because the government will not be able to perfectly identify which businesses are viable and which are not because much of the permanent economic impact of the UK's new trading relationship with the EU (deal or no deal) will only unfold over time. This is much more complicated than identifying which businesses are affected by coronavirus, which are quite concentrated in relatively few sectors.[123] But offering too much public support to businesses that cannot weather the longer-term impacts of Brexit risks wasting taxpayer money and merely delaying the point at which firms go under.

The government must decide soon which businesses it will try to help and how. The nature and extent of any government support for business could also be constrained by whatever state aid/subsidy regime is in place from January (which will in part depend on the outcome of negotiations).

The chancellor is under considerable pressure as he has had to continually revise the Treasury's support to business in response to changes in broader government policy – most recently the decision to implement another national lockdown in England. But immediate pressures should not blind him to the very real challenges awaiting his department in a matter of weeks, and it was notable that he did not mention Brexit, the EU, Europe or Brussels once in his Conservative Party conference speech.[124]

But as the end of the transition period draws closer, the Treasury will need to more explicitly factor in the impact of leaving the single market and customs union within its broader economic plans. The decision to delay the budget and three-year spending review was the right one – ongoing uncertainty around Covid and Brexit means now is not the time to set out a medium-term plan for the economy – but the chancellor and the Treasury need to consider what economic support it will, or won't, make available for those businesses which may not have the cash flow, or resilience, to handle short-term disruption.

Ahead of a possible no-deal Brexit last year, the Institute for Government argued the government needed to develop clear principles to decide what sectors and businesses should be supported through Brexit – and which should be let go as they will be unable to survive in the new economic landscape. Covid complicates that picture. Businesses that may once have been able to survive any short-term upheaval at the border, or absorb the additional costs associated with hiring expertise from the EU, may no longer have the cash flow to do so because of coronavirus. And businesses that may be able to weather the coronavirus pandemic may be severely impacted by disruption at the border or the permanent changes to the UK's trading relationship with the EU. The government will need to take this into account when designing its interventions.

Currently the Treasury, like much of government, is in firefighting mode. But beyond the immediate choices around economic intervention, it will need to set out a clear strategy for longer-term recovery – as it aims to deliver on its domestic agenda. Brexit complicates this picture, too, precipitating widespread changes in the economy which the government must take into account as it confronts the difficult economic choices ahead.

Conclusion

With little over eight weeks to go until the end of the transition period, the government still has much to do. Deal or no deal, the UK needs to be braced for big change. Government preparations in many areas have improved since last year, but there is little time left to address the key outstanding tasks of implementing the Northern Ireland protocol, establishing an effective GB–EU border and driving business and individual readiness.

The government – and the EU – needs to acknowledge that the UK is unlikely to be able to implement the Northern Ireland protocol in full by January and agree contingency plans. This will require goodwill on both sides; removing the contentious clauses from the UK Internal Market Bill would be a good start.

New customs checks and poor trader readiness mean that delays at the GB–EU border are inevitable in January. The government's plans to manage this are welcome, but it may need to go further and consider light-touch enforcement or further delay the introduction of new import controls if readiness doesn't improve.

Businesses and individuals are poorly prepared for the end of the transition period, risking confusion and disruption in January. The government's recent move to a more urgent public communications campaign is a step in the right direction, but has come late in the day. But it should spell out clearly that even reaching a deal will be no magic bullet, and that most preparations are needed regardless of the outcome of negotiations – even if it is politically unpalatable for ministers to do so.

Even if readiness improves in these key areas, the UK is unlikely to be fully prepared by January. In the new year, the government will have difficult decisions to take about how to mitigate the inevitable disruption while also grappling with the ongoing Covid crisis. In doing so, it should learn the lessons from both its earlier response to the coronavirus and last year's no-deal Brexit plans – including working closely and sharing information more openly with other parts of the public sector and devolved administrations. It will also need to collaborate with business to identify where targeted Brexit economic support could complement existing coronavirus measures.

Beyond the immediate impact, leaving the EU will continue to cast a long shadow. In many areas, Brexit changes have been delayed until later in 2021, or beyond. Brexit will in no sense be done on New Year's Day. The government will need to ensure this message gets across and that it and business continue to prepare. The UK's relationship with the EU is also likely to evolve over time, deal or no deal – although Brexit will no longer be on the front pages, the government will not be able to ignore economic and political developments on the other side of the Channel.

The government is keen to present 1 January as the UK's 'new start'. Leaving the EU provides opportunities to do things differently, but it many areas, it is still not clear exactly what this will entail. As the government pivots from crisis response to 'business as usual' – whenever that may be – it will have to address many as yet unanswered questions. Much of the last four years have been taken up with the process of leaving – and internal party politics (leading to two general elections and as many changes of prime minister) about what the future relationship with the EU will look like.

Despite Brexit dominating the political landscape for so long, the UK is still not ready for life outside the EU. The government made a choice when it decided not to seek an extension to the transition period so set itself and the country a difficult task in preparing to leave the EU while battling a global pandemic. In the weeks ahead, the government needs to prove that it made the right call.

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