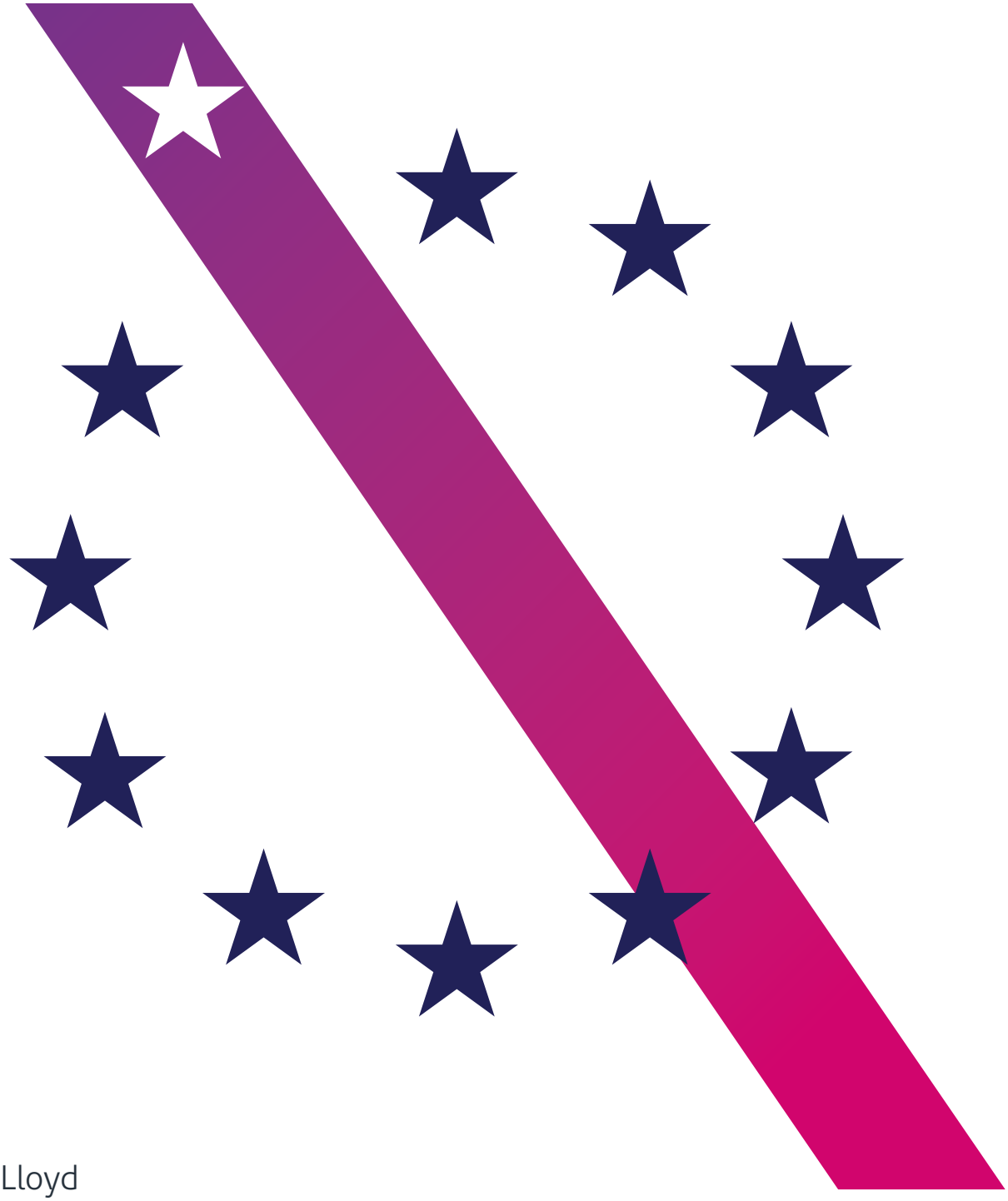
INSTITUTE FOR GOVERNMENT

The Brexit Effect

How government has changed since the EU referendum



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About this report

Implementing the result of the 2016 EU referendum has proven an unprecedented test for the UK Government – one that it has yet to pass. Brexit has challenged the status quo, upending conventions and inviting us to rethink how government, and politics more broadly, work in the UK.

On the day the UK was originally scheduled to leave the EU, this report assesses the impact on six areas that have been particularly subject to the "Brexit Effect": ministers, the civil service, public bodies, money, devolution, and Parliament.

Our Brexit work

The Institute for Government has a major programme of work looking at the negotiations, the UK's future relationship with the EU and how the UK is governed after Brexit.

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Contents

List of figures and tables

List of abbreviations

Acronym	Organisation
BEIS	Department for Business, Energy and Industrial Strategy
CMA	Competition and Markets Authority
CO	Cabinet Office
DCMS	Department for Digital, Culture, Media and Sport
Defra	Department for Environment, Food and Rural Affairs
DExEU	Department for Exiting the EU
DIT	Department for International Trade
DfE	Department for Education
DfT	Department for Transport
DHSC	Department of Health and Social Care
DVLA	Driver and Vehicle Licensing Agency
DVSA	Driver and Vehicle Standards Agency
DWP	Department for Work and Pensions
FCO	Foreign and Commonwealth Office
FSA	Food Standards Agency
HMRC	Her Majesty's Revenue and Customs
HMT	Her Majesty's Treasury
HO	Home Office
IMA	Independent Monitoring Authority
MHCLG	Ministry of Housing, Communities and Local Goverment
MoD	Ministry of Defence
MoJ	Ministry of Justice
NIO	Northern Ireland Office
OBR	Office for Budget Responsibility
OEP	Office for Environmental Protection
ONS	Office for National Statistics
PSNI	Police Service of Northern Ireland
TRA	Trade Remedies Authority

Summary

Brexit has called into question the political status quo

- **Cabinet collective responsibility has broken down.** The Prime Minister has struggled to unify her Cabinet, leading to repeated paralysis on key issues. Theresa May's Government has set records for ministerial resignations, but the extent to which she has been forced to tolerate dissent without being able to remove ministers has been even more striking.

- **The two-party system is under threat.** Brexit has divided both main parties, with neither managing to reach an internal consensus on how to leave the EU. New groups have risen to prominence, both within existing parties (the European Research Group) and outside them (The Independent Group).

Preparing for Brexit has posed a monumental challenge that cannot be met simply by extra resourcing

- **Brexit has put the civil service under unprecedented pressure.** Departments have grown dramatically but have still needed to put a range of existing work on hold, leaving their roles and significance in flux. Arm's-length bodies are also being created and expanded to fill the gap left by EU exit.

- **The Chancellor's extra money is only part of the picture.** The Government has committed over £4bn to Brexit so far, but other changes – ending our net contribution to the EU budget, meeting the financial settlement and substituting EU spending – will prove more substantial. The wider economic impact will be larger still.

The Brexit vote has catalysed a constitutional upheaval

- **The devolution settlement has come under challenge.** Brexit has exposed fundamental problems with the 20-year-old settlement, leaving the devoled governments unsettled. No decision has yet been made about the reallocation of EU powers and funding, not helped by the prolonged absence of a government in Stormont.

- **Clashes between Parliament and the Executive are now commonplace.** The Government has tried to keep parliament at arm's-length, but parliamentarians have fought back. They have become more assertive about their role and authority, challenging conventions to ensure their voices are heard.

Introduction

On 23 June 2016, the British public voted, narrowly, to leave the EU. The momentous decision set the UK on a course for the most significant change to its relationship with its closest trading partner in a generation. Few would have predicted, however, that attempting to implement the referendum result would have such a profound impact on government, even before the act of leaving.

Published on 29 March 2019, the day that the UK was originally scheduled to leave, this report takes a step back. It provides a 'snapshot' of six main areas, setting out how the "Brexit Effect" has changed government since the 2016 vote. The report looks in turn at:

- Ministers
- Civil service
- Public bodies
- Money
- Devolution
- Parliament.

In each area, we find that the challenge of negotiating, legislating and implementing Brexit has called into question how government works in the UK. The roles of the Prime Minister and her Cabinet, of civil servants and their departments (and those departments' arm's-length bodies), and of parliamentarians and the devolved administrations have all been thrown into a state of upheaval. Norms have been challenged, conventions upended, and a series of crises narrowly averted (for now).

Brexit is not the only cause. Many of the issues that have come under the spotlight in the last 33 months – the stability of the two main political parties, the relationships between Westminster and the devolved governments, and between Parliament and the Executive – are not new. Other factors, such as the Prime Minister's loss of her parliamentary majority in the 2017 General Election and the absence of a government in Northern Ireland, have also proven significant.

The unprecedented pressures of Brexit, though, have brought these issues into dramatic focus. And those pressures continue to grow, with MPs yet to unite around a way forward in the Brexit process. While it remains to be seen whether the changes so far are 'Brexit exceptions' or if they will endure, what is clear is that these issues remain unresolved. With the UK's future relationship with the EU and the road to get there still uncertain, there is more change ahead.

1. Ministers

The Prime Minister has had to balance her Cabinet with ex-Leavers and ex-Remainers, stymying decision making

Prime ministers have always been constrained by the need to balance political factions within the party. Margaret Thatcher had to balance the "wets" and "dries", Tony Blair had the "Blairites" and "Brownites" and, more formally, David Cameron needed to include Liberal Democrats in his Cabinet as part of the Coalition agreement. When David Cameron suspended collective responsibility in advance of the 2016 referendum, five then-serving Cabinet ministers declared for Leave. But the current Prime Minister has faced a bigger challenge.

Ministerial views have shifted since the referendum, but Theresa May has felt the need to continue to balance former Leavers with former Remainers in her Cabinet. One of her first moves as Prime Minister was to appoint three prominent Leave campaigners to the most Brexit-facing jobs in government: the new Departments for Exiting the EU (DExEU) and International Trade (DIT), and the Foreign and Commonwealth Office (FCO). The post of Brexit Secretary has been reserved consistently for the most senior Brexiteer prepared to take it – none of its three occupants have had previous Cabinet-level experience.

This balance may have been necessary for optics, given the Prime Minister's need to be seen to be 'delivering' a referendum result that she did not campaign for. And it is a balance that she has tried to maintain throughout the Brexit process, as can be seen in the evolution of her Brexit 'War Cabinet' (see Figure 1 below). But it has made getting already difficult decisions through Cabinet significantly harder. While no Cabinet minister has dissented from the purpose of delivering the referendum result, their initial positions have tended to inform their view on how close the UK's future relationship with the EU should be.*

* There are a handful of exceptions to this: Sajid Javid, Jeremy Hunt and Gavin Williamson all initially supported remaining in the EU, but their stance has hardened since then (hence the 'swing voter' label in Figure 1). Others, while largely sticking to their original positions, have softened slightly; former arch-Brexiteer Michael Gove, for instance, has warned of the problems leaving with no deal would cause for farming.

Figure 1 **Changes in Brexit 'War Cabinet' membership over time**

Department	EU Exit and Trade (Strategy and Negotiations) Sub-committee					
	March 2017	November 2017	February 2018	April 2018	September 2018	November 2018
PM	May	May	May	May	May	May
CO	Gummer	Green	Lidington	Lidington	Lidington	Lidington
HMT	Hammond	Hammond	Hammond	Hammond	Hammond	Hammond
HO	Rudd	Rudd	Rudd	Javid	Javid	Javid
FCO	Johnson	Johnson	Johnson	Johnson	Hunt	Hunt
DExEU	Davis	Davis	Davis	Davis	Raab	Barclay
DIT		Fox	Fox	Fox	Fox	Fox
BEIS		Clark	Clark	Clark	Clark	Clark
Defra		Gove	Gove	Gove	Gove	Gove
MoD		Fallon	Williamson	Williamson	Williamson	Williamson
NIO			Bradley	Bradley	Bradley	Bradley

Backed Remain Backed Leave Swing voter

Source: Institute for Government analysis of Cabinet Office data on cabinet committee membership.

To keep her divided government intact, the Prime Minister has delayed critical decisions until the last possible moment. This has compounded the lack of clarity around Brexit, with the civil service, business and citizens unable to prepare adequately while decisions have sat on the Prime Minister's desk for fear of triggering mass resignations on either side of the Cabinet fissure.

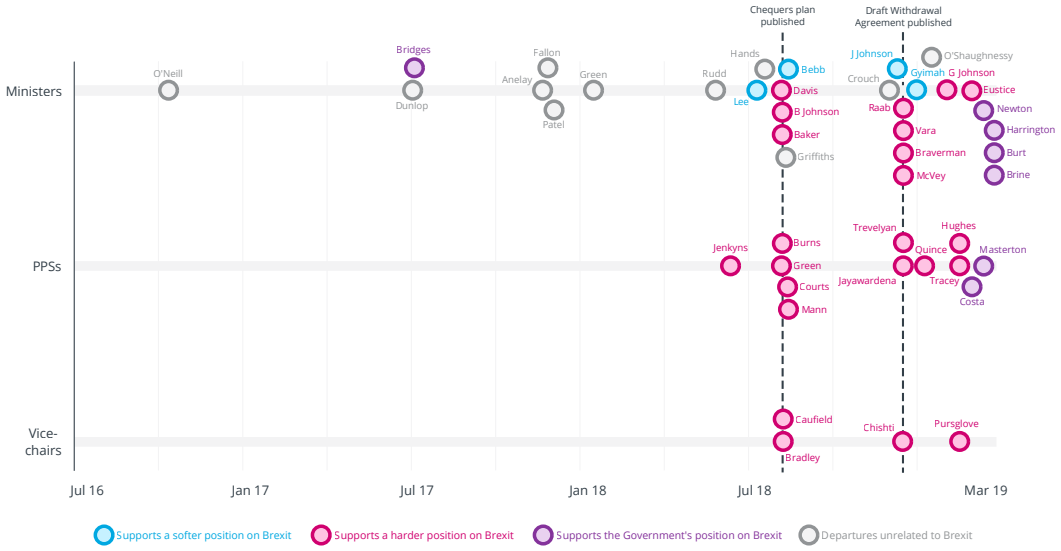
Brexit has led to a surge in ministerial resignations

These delays have only served to put off the inevitable, though. Rapid turnover in middle ranking and junior ministerial roles has long been a characteristic of the British government, but it has been turbocharged since the 2017 General Election. The Prime Minister has suffered from a large number of non-Brexit related resignations, through a combination of scandal, personal issues and other policy disagreements. But there have been another 18 driven by Brexit itself, with big increases coming at critical flashpoints when decisions could no longer be avoided.

2019 got off to a particularly bad start for Theresa May: by 1 March, she had already lost more ministers than any other recent Prime Minister had in a single year – with the exception of herself, in 2018. And there were more resignations to come later in the month. Overwhelmingly, it has been supporters of a harder Brexit who have felt forced to resign from the Government – with a few exceptions, the Prime Minister has done a

better job at keeping Remain-voting ministers on side. But this dynamic has changed slightly in recent weeks, with resignations typically coming from ministers opposing the Government on parliamentary process, rather than the content of the Prime Minister's deal (see Chapter 6 for more).

Figure 2 **Timeline of resignations under Theresa May, outside of reshuffles**

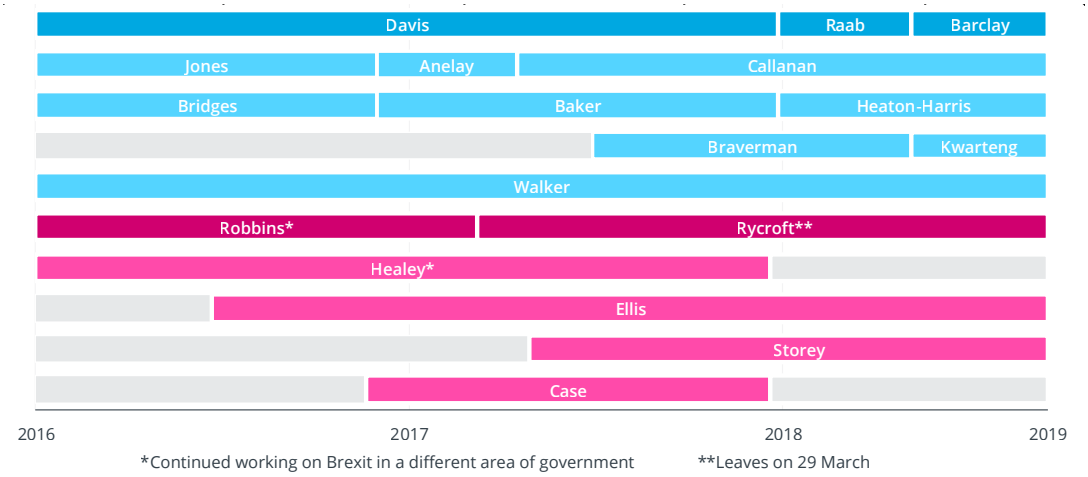


Note: PPSs – Parliamentary Private Secretaries.

Source: Institute for Government analysis of various sources including the IfG Ministerial Database.

The Brexit department has been most acutely affected by resignations, with only junior minister Robin Walker staying in post since the Prime Minister first assembled her government. Combined with civil service moves, that has meant the team in the department responsible for coordinating Brexit has been the most unstable in government.

Figure 3 **Ministers and senior civil servants in DExEU, June 2016 to present**



Source: Institute for Government analysis of various sources including the IfG Ministerial Database and GOV.UK.

Despite the constant changes at more junior levels (and across DExEU), other key Brexit delivery departments have seen continuity in their Secretaries of State. DIT, BEIS, DfT and the Treasury have maintained their most senior ministers throughout the Brexit process. Michael Gove has been overseeing Defra's Brexit preparations for most of the period, taking up his post in June 2017. The Prime Minister (or her successor) may be tempted to shake up the top team before phase two of the Brexit negotiations gets going in earnest: they need to make sure, if they do, they weigh the benefits of continuity against the desire for a fresh look.

The traditional discipline of collective responsibility has buckled under the pressure of Brexit

Resignation is the conventional way out if there are profound policy disagreements in government. But although the Prime Minister's Brexit policy has claimed casualties on both sides – from those who were concerned her policy risked keeping the UK too close to the EU to those who wanted to campaign for a People's Vote – the May administration has also been notable for the extent to which ministers, and especially those in the Cabinet, have been able to dissent from or criticise government policy without being asked to resign.

This did not happen before the 2017 General Election, when the PM was riding high in the polls and looked unassailable. But her authority was shredded by a disastrous election campaign and the loss of the Conservatives' parliamentary majority. Not long after the election, ministers were already engaging in public debates on the form Brexit should take, with the differing views of the Chancellor and International Trade Secretary visible for all to see by July 2017.[1] The then Foreign Secretary, Boris Johnson, developed a habit of intervening on Brexit at inconvenient moments – setting out his own vision for Brexit just before the Prime Minister's Florence Speech in September 2017,[2] and again ahead of the Conservative Party Conference a month later. A stronger Prime Minister could, and would, have stamped this out.

The disappearance of the Prime Minister's authority was further evident in her January 2018 reshuffle, with Jeremy Hunt turning down a move from Health (renamed Health and Social Care after the reshuffle) and Greg Clark successfully resisting attempts to move him from his role as Business Secretary. The only casualty of that reshuffle was Justine Greening, who refused to move from Education, quit the Cabinet and then became a leading Conservative advocate of another referendum.

The Prime Minister's uneasy Brexit truce held until the publication of her Chequers plan. That provoked the first wave of Brexit resignations, and since the Prime Minister tabled her Withdrawal Agreement the floodgates of ministerial commentary have opened. Acknowledged factions – from the Remainer phalanx of Amber Rudd, David Gauke and Greg Clark at one extreme to the Andrea Leadsom-led 'pizza club' at the other – have shaped up to wrestle final control of the Brexit process. In another twist, the January 2019 'Malthouse Compromise' saw two junior ministers conspiring with backbenchers to find a way through the parliamentary impasse and attempt to reunite the two sides of the party.

But it was the week of 11 March when the strains on Cabinet unity were truly laid bare. After her Brexit deal suffered another big defeat on 12 March, the Prime Minister was forced to concede that she could not force her Government into one lobby or the other in the following day's vote against a 29 March no deal Brexit. Initially she allowed a free vote, but when the motion was amended to rule out no deal for good - in part because of four Cabinet level abstentions* – the Government imposed a three-line whip against the amended motion. Strikingly, five Cabinet ministers, eight ministers and five PPSs abstained on that vote without handing in their resignations or facing dismissal (one minister and one PPS resigned to vote against the Government). On 14 March, 40 ministers voted against the Government's motion to seek an extension of Article 50, including six Cabinet ministers – among them Brexit Secretary Stephen Barclay, who had minutes earlier commended the motion to the House.

Brexit has also put relations between ministers and civil servants under strain

It is not just ministers who are struggling to work together, though: Brexit has also put the relationship between ministers and civil servants under the microscope. There is a suspicion among Brexit-supporting ministers and parliamentarians that the civil service is institutionally anti-Brexit, and that this is reflected in both the advice they give ministers and the lack of preparedness for no deal.

> **"If you added up all the Permanent Secretaries who voted to leave the EU the answer would be zero and the whole of Whitehall has a particular perspective and I think...they misread Europe"**[3] David Davis MP, September 2018

This suspicion has at times turned into overt hostility and personal attacks on officials. The first casualty was UK permanent representative in Brussels Sir Ivan Rogers, who quit in January 2017 after briefings against him which appeared to emanate from the Prime Minister's entourage. His resignation email appealed to his colleagues to continue to speak truth to power.[4]

Since then Oliver Robbins, the lead official negotiator, has been the lightning rod for successive Brexit Secretaries. The original organisational design put him on a collision course with the first Exiting the EU Secretary, David Davis: it was always difficult to see how a dual reporting line into both Davis and the Prime Minister could work, a problem compounded by the Prime Minister and Robbins' secretive styles and the diverging approaches to Brexit of the Prime Minister and her Brexit Secretary. That problem was repeated when it was made clear to Davis's replacement, Dominic Raab, that the real negotiations were being directed by No. 10 and taking place between Robbins and Michel Barnier's Deputy, Sabine Weyand, rather than at political level.[5]

* Five Cabinet ministers also voted in a separate free vote for the 'Malthouse compromise', which was not government policy.

The Prime Minister has been notably reluctant to defend her principal adviser in public, leaving that instead to her Cabinet Secretary and MPs in Parliament. Controversy around Robbins' role even led to suggestions in mid-March 2019 that he might be 'sacrificed' in attempts to garner more support for the Prime Minister's Brexit deal from parliamentarians.[6]

> **"I don't just do what Olly Robbins tells me to"**[7] Theresa May, February 2019

Ministers have also been publicly sceptical of officials' attempts to model the economic impacts of Brexit. One of the legacies of the Treasury's involvement in producing forecasts pre-Brexit is that government economic analysis is seen as fair game for those who disagree with it – even while in office. Asked on the floor of the House to name a "single civil service forecast which is accurate", then Brexit Minister Steve Baker replied: "No, I am not able to name an accurate forecast. They are always wrong, and wrong for good reasons."[8] Those views were echoed after he left office by former Brexit secretary Dominic Raab when he commented on the Government's economic analysis:[9]

> **"There is an economic credibility gap with all these Treasury-led forecasts, based on their track record of failure, the questionable assumptions they rely on, and the inherent challenge of making reliable long-term forecasts. Politically, it looks like a rehash of Project Fear."** Dominic Raab MP, November 2018

That said, a range of ministers – even Brexit-supporting ministers working in DExEU – have been complimentary about the efforts of the civil service to prepare for Brexit.

> **"The civil service is one of the greatest national resources of this country. The sheer professionalism of the officials who were taking on the biggest challenge that this country has had since the Second World War, and being quite prepared to deal with it, was so impressive."**[10] David Jones MP, January 2018

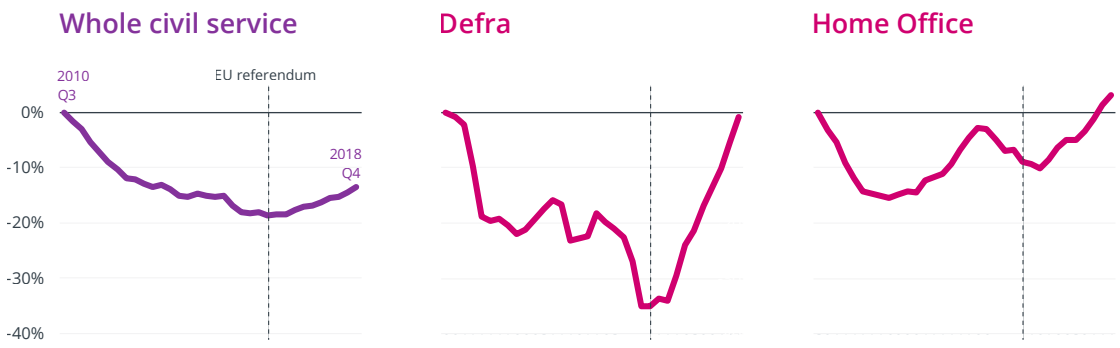
This is good news. To make the process of leaving the EU as smooth as possible, Brexit requires an enormous amount of legislative, policy and operational changes to be carried out by Government departments on very short timelines. In the next section, we look at the impact of this expanded workload on the civil service.

2. Civil service

Brexit is reversing years of cuts

Between the 2010 Spending Review and June 2016, the number of civil servants fell by nearly one-fifth to its lowest level since the Second World War. But numbers have increased every quarter since then. There are now 20,000 more civil servants than there were at the time of the EU referendum. In some of the departments most affected by Brexit, the cuts since 2010 have been entirely reversed.[1]

Figure 4 **Percentage change in staff numbers (FTE) for whole civil service, Defra and the Home Office, 2010–18**



Note: FTE – full-time equivalent.

Source: Institute for Government analysis of ONS, Public Sector Employment (Table 9), Q3 2010 to Q4 2018.

The most dramatic turnaround has been at Defra – one of the departments that was cut hardest in 2010 – which is bigger now than it has been at any time in the last decade. The department has roughly doubled in size since the referendum, taking on nearly 3,000 new staff.[2] The Home Office is also larger now than it was in 2010, with around 4,000 new Brexit staff in place.[3]

HMRC has been recruiting heavily to meet its target of 5,474 additional staff for 'day one' readiness, although it has actually seen a decrease in overall staff numbers since the referendum due to reductions which were already planned.[4] BEIS, the department with the most Brexit workstreams, has grown by nearly 40% since the 2016 vote.[5]

These numbers are still modest in comparison to the size of the civil service as a whole, which stands at over 400,000 people.[6] But they represent a dramatic shift for Whitehall and the centre of government, which has transformed rapidly to cope with Brexit – the 'biggest and most complex challenge' it has faced in its peacetime history.[7]

Thousands of other civil servants are being repurposed as 'non-critical' work is put on hold

New staff represent only part of that transformation. Departments have also had to divert existing staff, meaning the total number of civil servants working on EU exit is higher still.

HMRC has reprioritised its portfolio twice, entirely stopping or deferring a series of projects and moving 700 of its existing staff onto Brexit work in the process.[8] At BEIS, 500 of the 1,250 people currently covering EU exit were already in the department but working on something else,[9] and roughly one-third of Treasury staff are now preoccupied with leaving the EU.[10] Given that 80% of Defra's activity is framed by EU legislation, the overwhelming majority of its staff will find their work affected by Brexit.

Staff have also been moved between departments as the Article 50 clock has counted down. After the Government made preparing for a possible 'no deal' Brexit its principal operational focus in December 2018, reports suggested that up to 4,000 existing civil servants were being moved from departments with spare capacity onto no deal preparations elsewhere.[11]

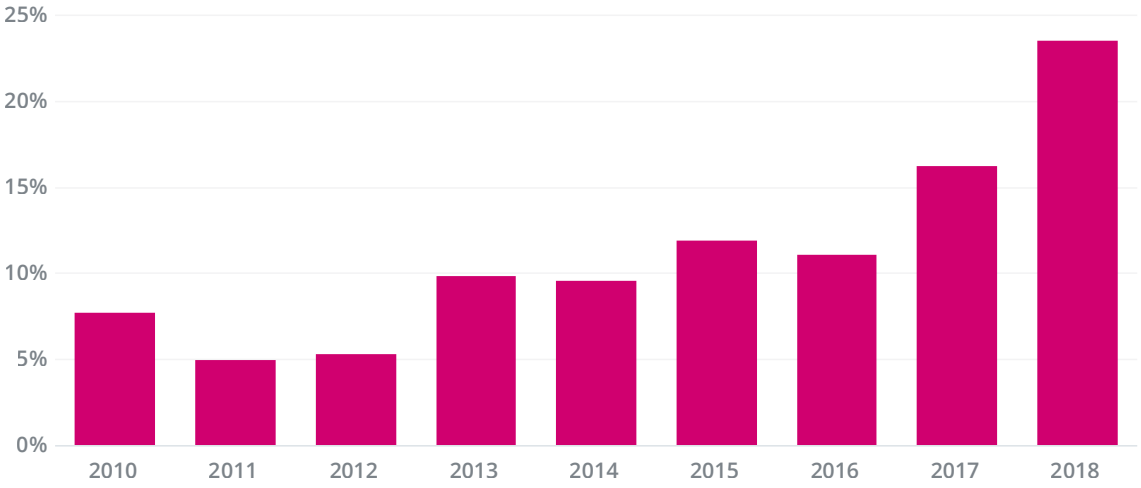
The full consequences of this reprioritisation will not be clear for some time, but it has already had a visible impact on the Government's ability to deliver non-Brexit work.* Flagship pieces of domestic policy such as the NHS Reform Plan, social care green paper and Domestic Abuse Bill have suffered significant delays.[12] And the situation is not going to improve any time soon: if a Brexit deal is agreed, the civil service will have to continue working at full tilt to negotiate and implement the detail of the future UK-EU relationship in time for the end of 2020, when the proposed transition period ends. Even with an extension to the end of 2022, this is an incredibly ambitious timeline.[13] If there is no deal, the foreseeable future will be a case of all hands on deck to minimise disruption and mitigate any impacts to the UK's security and economy.

Brexit is exacerbating existing problems with staff turnover

But not all the staff moves are intentional. In a report last year we observed that Brexit was driving an increase in turnover as civil servants took the opportunity for speedy promotion (and a pay rise) presented by thousands of new roles needing to be filled at short notice on the open internal jobs market.[14] This is disruptive both for the non-Brexit work they originally left behind and the EU exit teams they pass through.

* Civil service capacity is not the only constraint: the capacity of ministers is stretched, too, with the Government also lacking the political capital to address other issues. The food and farming industry has asked Defra to stop any non-Brexit consultations because they, too, are swamped by Brexit.

Figure 5 **Percentage of staff moving departments as a percentage of overall leavers, 2010–18**



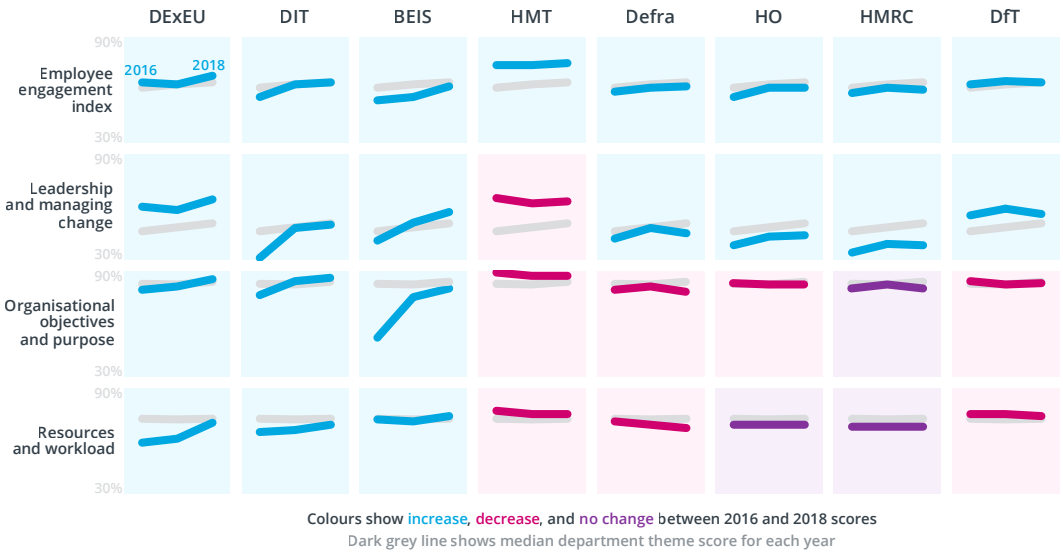
Source: Institute for Government analysis of Office for National Statistics, Annual Civil Service Statistics, 2010–18.

These problems with civil service turnover apply to senior just as much as junior staff. We highlighted ministerial turnover as a problem in the previous chapter but, following the departure of Philip Rycroft, DExEU will soon have had as many Permanent Secretaries (three) as Secretaries of State since its creation in 2016. Defra, arguably the department most affected by Brexit, is due to see its permanent secretary move on to DExEU in April. This change was announced before it was clear when and how the UK would leave the EU.

Faced with a monumental task, staff morale has gone up in key Brexit departments

Despite the scale of the task, the lack of certainty and constant change, employee engagement at the departments most affected by Brexit has improved since 2016.

Figure 6 **Civil Service People Survey theme scores for Brexit-affected departments, 2016–18**



Source: Institute for Government analysis of Cabinet Office, Civil Service People Survey, 2016–18.

The reasons behind these movements in scores are unclear, and as the survey was taken in the autumn of 2018, before the pressures of preparing for no deal ramped up further in early 2019, the levels of employee engagement may not have been sustained. One reason for the improvements could be the interest and challenge of the work, but it may also reflect the fact that newer recruits, who have joined departments to work on Brexit, are likely to be more motivated than their longer-serving peers.

Increases in staff satisfaction on key indicators such as organisational objectives and resourcing have been particularly marked at the new departments (DExEU, DIT and BEIS) – although this could reflect the time taken for those departments to find their feet after their formation, rather than any distinct Brexit effect. And the picture across those measures is less rosy at the more established departments: a dip in the (still high) scores at HMT may reflect the undermining of its role as its economic forecasts have come under repeated criticism from ministers, as noted in the previous chapter.

It is well-known that Defra has been struggling with resourcing due to the dramatic expansion in its workload. But it is curious that its staff are less clear on the objectives of their organisation at a time when its purpose seems clearer than ever, with Brexit likely to see the department take on a range of responsibilities that were previously exercised by the EU institutions. Along with the other departments sharing responsibility for border preparedness, Defra has seen a decline in scores in the last year as implementation work has ramped up.

In the longer term Brexit could reshape the landscape of government

Brexit has already reshaped Whitehall with the creation of DExEU and the DIT. The first question after Brexit will be how long DExEU – always intended as a temporary creation – lasts. The role and weight of DIT will depend on the scope for an independent trade policy and the outcome of a turf war with the FCO, with the latter able to point to the merged foreign policy and trade departments in Canada and Australia.[15] With a high profile Secretary of State, Defra has already emerged as a much more significant policy department as a result of Brexit: it remains to be seen whether that is a permanent shift or not.

The creation of the Border Delivery Group could herald the merging of responsibility for facilitating and securing the movement of goods, rather than this being split between HMRC and the Home Office's Border Force. And there are already questions being asked about whether the Home Office is best-placed to handle migration as the existing system is overhauled.[16] Brexit is also changing the wider landscape of government, with key arm's-length bodies expanding and their relationships with line departments in flux. We discuss this in more detail in the next chapter.

The Cabinet Secretary, Sir Mark Sedwill, has commissioned some early research into the future shape of the civil service after Brexit.[17] The rapid transformation we have seen so far may be only the start.

3. Public bodies

Brexit will increase the numbers and workload of arm's-length bodies

In 2010, the Coalition Government initiated a 'bonfire of the quangos'. This intended to make government more accountable by bringing more functions under ministerial control and saving money.[1] Brexit looks set to reverse this cull. New arm's-length bodies (ALBs) are being set up and existing bodies expanded to take over functions currently exercised by EU agencies – including chemicals and aviation safety regulation – and to fulfil additional functions to take account of new arrangements with the EU, such as issuing licences for EU trade that are not needed while the UK is in the Single Market.

Of the new bodies, one – the Trade Remedies Authority (TRA) – is needed to protect domestic industries against unfair trading practices, a role currently fulfilled by the European Commission. But ministers have also committed in the Withdrawal Agreement to create a new oversight body for EU citizens' rights – the Independent Monitoring Authority (IMA). The Secretary of State for Environment, Food and Rural Affairs, Michael Gove, has committed to one more: a new environmental watchdog, the Office for Environmental Protection (OEP).[2] A new unified farming regulator has also been recommended in a Gove-commissioned review, but the Government has not yet formally responded.[3] Each of these new bodies requires legislation.

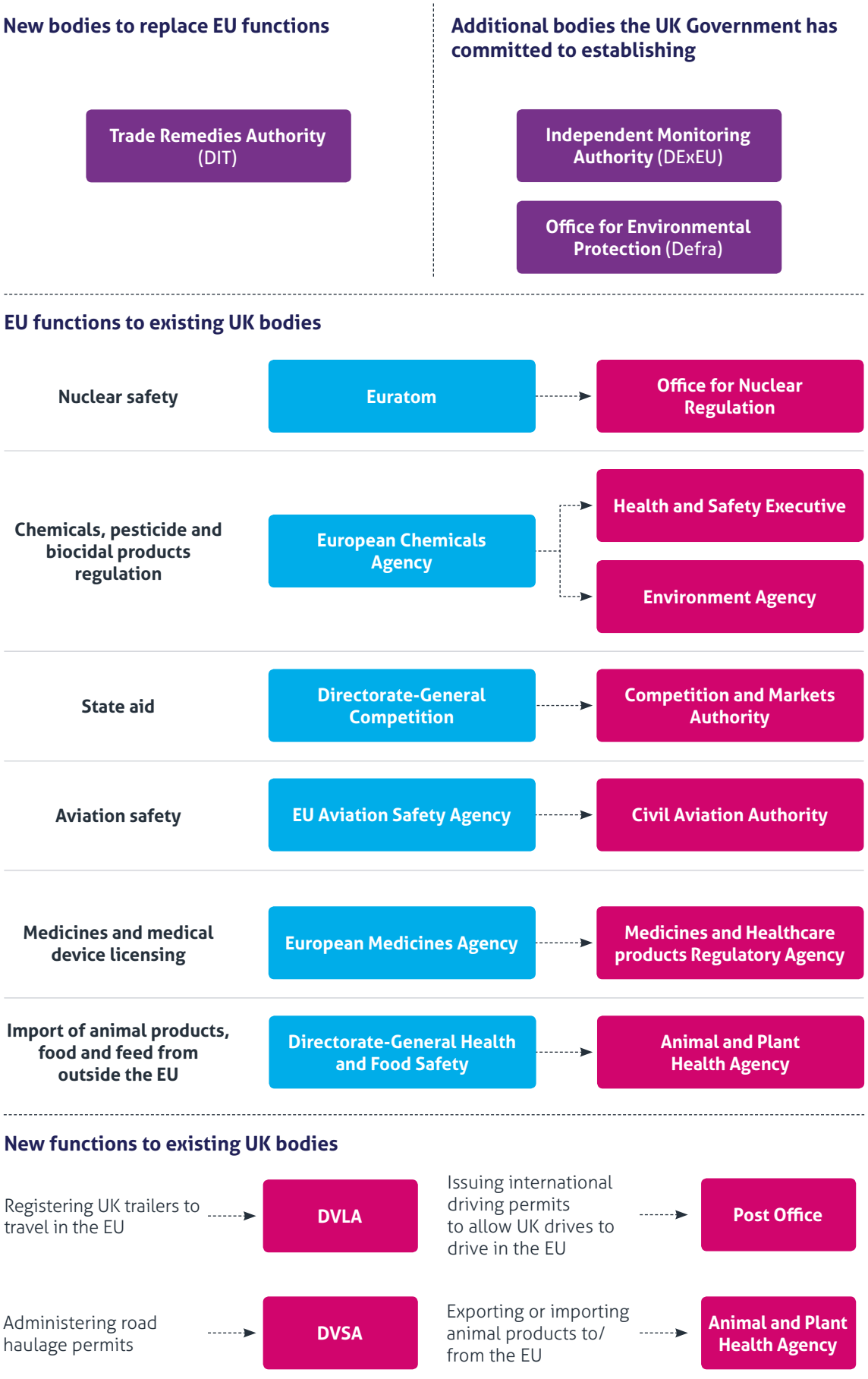
Many of the new functions have been readied for a no deal Brexit on 30 March, but may not be needed until January 2023 – if ever

Public bodies have had to get ready to exercise many of these new functions from 30 March 2019, in case of no deal. But if the Withdrawal Agreement goes through they will not be needed until January 2021 at the earliest – and that could become January 2023 in the case of an extended transition. If the UK succeeds in negotiating a close relationship and participation in EU agencies such as the European Aviation Safety (EASA), Chemicals (ECHA) and Medicines (EMA) Agencies, some may never be needed.

The Trade Remedies Authority is subject to arguably the most uncertainty. It has been set up in shadow form, designed to be ready to go on 30 March 2019 in the event of a no deal Brexit. But the bill establishing it, the Trade Bill, has yet to get through its Parliamentary stages, despite being introduced in December 2017.[4] In a stark illustration of the challenge of managing multiple scenarios, if the UK ends up in a permanent customs union with the EU the body will never be needed.

This uncertainty running right up to the (now moving) Brexit deadline makes management difficult. New recruits could have nothing to do, training may be wasted and there is a big retention risk if those who have come on board see no prospect of having a role to play.

Figure 7 **New public bodies and functions being taken on by existing public bodies after Brexit**

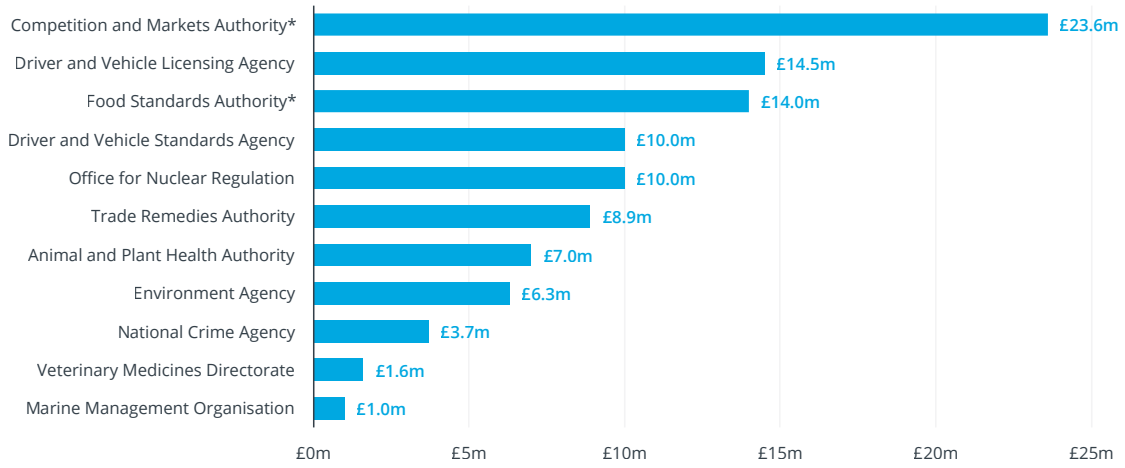


Source: Institute for Government analysis of various UK Government announcements.

Impacted ALBs are receiving extra funding

Most ALBs receive their money as grants-in-aid from their departments, making it difficult to see how much they are receiving to support their Brexit preparations. But ALBs which are classified as "non-ministerial departments" receive money direct from the Treasury. Apart from HMRC, which is a non-ministerial department in name only so not included here, the prime direct recipients of Treasury money to support Brexit preparations – the Competition and Markets Authority and Food Standards Authority – are included in Figure 9.[5] The other figures reflect publicly available information on money given to public bodies by their departments to prepare for Brexit in the most recent financial year.[6] In reality, more public bodies are likely to be getting support than are listed here, and the full totals received may be higher.

Figure 8 **Money allocated to public bodies for Brexit preparations, 2018/19**



Source: Institute for Government analysis of various UK Government announcements. *Money direct from HM Treasury.

This money appears to have been spent on a combination of staff, accommodation and the new systems required post-Brexit, reflecting the types of task that these bodies deliver.

But Brexit may also mean ALBs lose income and technical expertise

Extra costs are only one side of the equation for some arm's-length bodies. Many currently have income streams derived from functions they are exercising because the UK is an EU member; as those functions disappear, they will lose income which may not be immediately reflected in lower costs. For example, as an EU member, a number of UK bodies can license activities across the EU. After Brexit, a UK licence or authorisation will only be valid in the UK, and those bodies will not be able to levy additional charges for licences in the EU27.

Staffing presents another problem. One of the Coalition's criteria for retaining arm's-length status was that bodies exercised "technical expertise", reflected by the larger proportion of technical roles in ALBs compared to government departments. But this expertise can be hard to come by. Being able to freely recruit EU nationals makes filling these roles much easier: significant numbers of UK vets[7] and medical professionals[8] come from the continent, for instance. Applications from EU nationals in

these areas have already been decreasing, in line with declining EU immigration figures.[9] Even where ALBs can attract non-EU applicants to fill shortages, there are steeply increased costs – both for the organisation and for applicants, who would have to pay around £5,000 for a three-year visa.[10] These charges will kick in for EU nationals after the transition period, meaning any non-UK applicant would come at a cost for both the public body and any successful candidate.

Brexit has also meant that some ALBs have been used as a resource pool for their department

This is not the only pressure on ALB staffing. Departments need to be able to use the expertise in their arm's-length bodies as they prepare to take on functions from the EU – or may simply need people to fill vacancies in the department. In the Defra group, which even before Brexit had started to operate on a more combined basis across department and ALBs, around 400 staff have been moved from ALBs into the core department as part of the reversal of staff cuts since 2010.[11] What is not clear is whether those moves are temporary or will be sustained.

That pooling could be the start of a longer-term redrawing of some of the boundaries between departments and their ALBs. The extent of that will depend on the shape of the UK's final relationship with the EU. But if the UK ceases to "align" with EU rules in key areas and has to develop its own policy (as opposed to feeding UK interests into a policy process driven from the EU Commission), governments will need a bigger policy capacity in departments and may well want to redirect the more technical expertise that has hitherto been in ALBs accordingly.

UK ALBs can never be as independent overseers as the European Commission

Two of the proposed new bodies are designed to exercise oversight of the UK Government's implementation of policy. The IMA will oversee the way in which the UK implements the citizens' rights elements of the Withdrawal Agreement. Its status derives from an international treaty – the Withdrawal Agreement – but it will be a UK domestic body and subject to elements of ministerial control. The Exiting the EU Committee has already suggested that its chair should be appointed only with the consent of a parliamentary select committee.[12] The OEP is supposed to enforce environmental obligations on the Government, as the Commission and European Court of Justice do now, as well as provide advice.

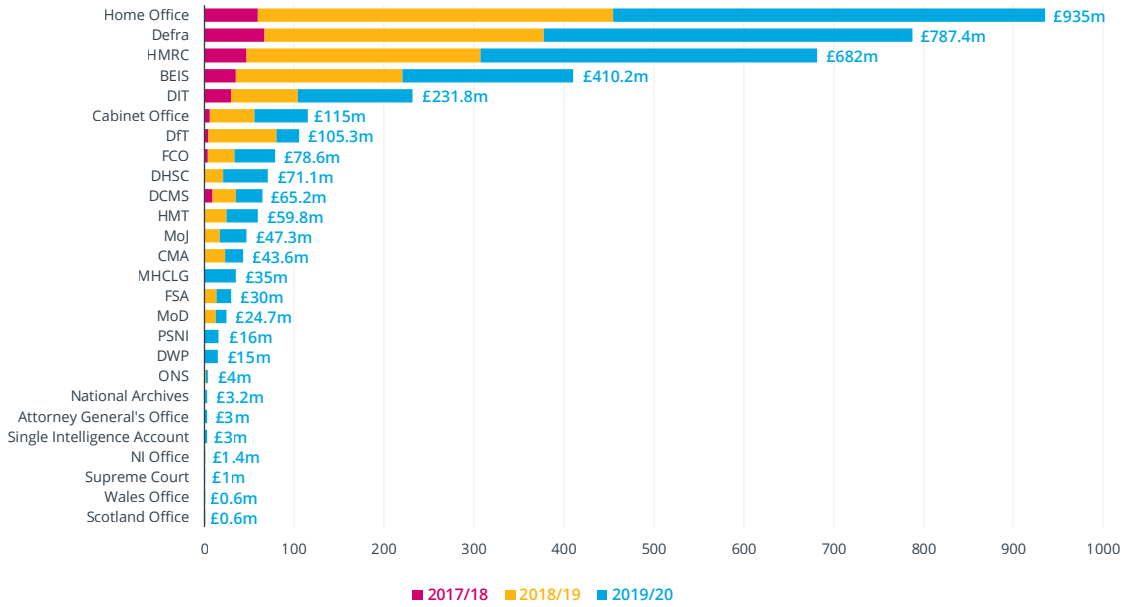
But the UK lacks an effective mechanism to entrench such bodies.[13] This means they are always vulnerable to abolition even once established. One outcome of Brexit should be a longer-term focus on whether the UK needs a way of providing stronger protection for bodies intended to play a long-term supervisory role.

4. Money

Brexit spending commitments so far are a relatively modest £4bn over four years

New civil servants, public bodies and border systems do not come for free. Since the EU Referendum, the Government has spent over £2bn on preparing for leaving the EU. A further £2bn has been provisionally allocated to departments for the 2019/20 financial year.[1] Roughly a third of the £4.2bn total has gone to departments with responsibility for preparing the Irish border – the most complex Brexit task.

Figure 9 **Brexit funding allocated to departments by year, 2017–20**



Source: IfG analysis of Chief Secretary to the Treasury, Written Statements HCWS1205 and HCSW540, 18 December 2018 and 13 March 2018; and HM Treasury, Central Government Supply Estimates 2017–18: Supplementary Estimates, HC808, 7 February 2018.

Much of this money has had to be spent without clarity on when post-Brexit systems will be needed, with multiple scenarios still in the air. The short time frame for preparation and the delays to legislation has meant departments have had to resort to ministerial directions[2] to enable them to spend on "new services" in advance of normal legislative cover.[3]

And this is only the beginning. Brexit spending will not stop once the UK leaves the EU, regardless of the outcome of the negotiations. If there is a deal, the months through to January 2021 should see work ramping up further as the end of the proposed 'transition period' approaches. Many staff will stay on beyond that date to implement whatever is agreed in the future relationship negotiations. The Government has already admitted that new customs systems may not be fully up and running until 2022 or later.[4] The Home Office is hoping to have a new migration system ready by January 2021 at the earliest.[5]

There are other costs the Government may yet have to meet. Although its initial approach was to let citizens and businesses shoulder additional financial burdens as a result of Brexit, that has started to change. £8m of grants have been made available to help SMEs complete customs declarations after Brexit,[6] and in January 2019 the Prime Minister announced that the Government would waive the fee for EU citizens applying for 'settled status' – leaving a hole in Home Office finances of £170–190m over the period.[7] Depending on when people were predicted to register, that could translate into a £100m gap next financial year.

Spending Review 2019 will be the first post-Brexit spending round

Despite the headlines, £4bn is a tiny percentage of the total amount of public spending. The next Spending Round will, however, have to take account of much more substantial consequences of Brexit, including:

- An end to the UK's net contribution to the EU budget
- The UK making good its financial settlement, estimated to total around £39bn spread over the next 40–50 years (although heavily front-loaded)[8]
- The UK taking over big EU funding programmes such as farm support
- Possible contributions to participate in EU programmes such as Erasmus and Horizon Europe (science and research funding)
- Where the UK decides not to replace EU agencies and systems, it may choose to stay in EU ones – and pay to do so.

Brexit will save the UK Government its net contribution to the EU budget of around £13.5bn a year, but it also means UK beneficiaries of EU funding – farmers, recipients of structural funds and research institutions to take three examples – will lose that income. For the first 21 months (assuming a transition period ending in December 2020), the UK will continue with its current budget contributions as part of the financial settlement commitment to make good its commitments in the 2014–20 Multi-Annual Financial Framework and UK beneficiaries will continue to receive EU funding. But as time goes on, those 'divorce bill' payments will decrease, creating the appearance of a growing Brexit dividend (see Table 1).[9]

Table 1 **The UK's forecast net contributions to the EU budget if it remained a member, compared to financial commitments under the Withdrawal Agreement**

Item (£bn)	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Net contribution (saving)	9.5	12.2	(12.7)	(13.4)	(13.4)	(13.2)	(13.4)
Financial settlement transfers	-	-	12.7	10.5	10.4	7.7	4.1
Net change	-	-	-	(3.0)	(3.0)	(5.6)	(9.4)

Source: Institute for Government analysis of OBR, March 2019 Economic and fiscal outlook, Table 4.20.

That dividend is bigger if you take into account the tariff revenue that the UK will be able to hold onto after Brexit. The UK currently pays any customs duties collected by HMRC to the EU (the EU covers the cost of collecting those duties), but this arrangement will end once the UK is no longer a member state – except during any transition period. Based on the Office for Budget Responsibility's (OBR) most recent forecast this should leave the UK £2.8bn per year better off after Brexit.[10]

However, the Government has already committed to substitute some EU spending – and there may be more to come. The two most substantial commitments so far have been to substitute farm payments that would have been made under the EU's Common Agricultural Policy, totalling approximately £3bn per year,[11] and covering the roughly £2.4bn per year of EU structural funding that was anticipated to come to UK regions.[12] These commitments will expire by the end of this Parliament, but the Government has indicated that it anticipates maintaining some level of funding for future years. Although in both cases it is not yet clear how much, what is clear is that the Government intends to find more effective ways of distributing funding to achieve the same – or even better – outcomes.[13]

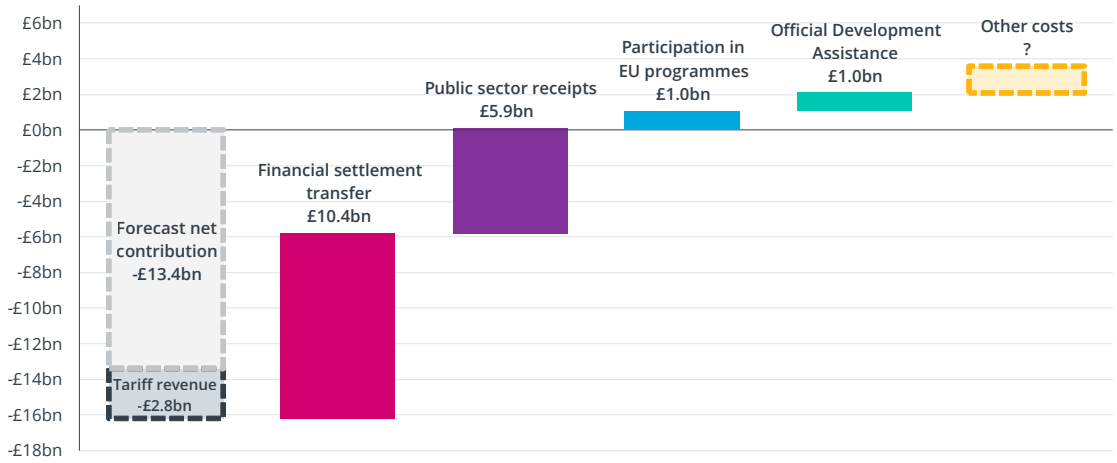
On top of this, the UK has indicated that, after Brexit, it may seek to continue participating in other EU programmes such as Erasmus and research projects under Horizon (in a no deal scenario the Government has already guaranteed funding for any grants that were successfully awarded pre-Brexit). This would cost at least another £1bn annually.[14] Whereas the UK has been a net beneficiary of Horizon 2020, as a third country the UK will not be able to receive more funding from these programmes than it contributes. The share of the EU's aid budget (£1bn) that the UK currently counts towards its statutory target of spending 0.7% of gross national income on Official Development Assistance (ODA) will need to be replaced by UK ODA funding.

There will be other costs. The Government has given up efforts to retain access to the EU's landmark satellite navigation system, Galileo, despite its £1.2bn investment so far, committing £92m to investigating the feasibility of an alternative. A direct replacement could cost around £8bn, spread over a number of years.[15]

There are other smaller programmes where the UK will be required to substitute funding, for example, the Chancellor has already announced that the UK may give £200m to the British Business Bank to make up for loss of access to the European Investment Fund.[16] The UK may also end up paying to participate in EU agencies (though this would, of course, remove the need to set up the UK's own bodies to perform those functions). Some existing UK bodies may seek extra funding to cover lost revenues from EU-related activity, and the Treasury may be under pressure to find resources if Brexit leads to additional wage pressures in services such as social care.

Figure 10 shows how these spending pressures might play out in 2021/22, possibly the first year after an orderly Brexit. This picture will change in later years, though. As noted above, the financial settlement is very front-loaded. Even by 2023/4, as transfers to the EU under the financial settlement reduce, the direct impacts on public finances could be positive – particularly if ministers scale back agricultural and industrial support.

Figure 10 **Forecast UK Government Brexit spending commitments, 2021/22**



Source: Institute for Government analysis of the Office for Budget Responsibility, *Economic and Fiscal Outlook*, November 2017 and March 2019.

All these effects may be swamped by how the economy reacts to Brexit

However, any apparent boost to the public finances would likely be outweighed by the economic impact of leaving the EU. Following the referendum, the OBR estimated that – as a direct result of the vote for Brexit – annual UK public borrowing would be 0.7% of national income (or around £14bn in today's terms) higher in the medium-term.[17] This was due to lower expected migration, lower productivity growth and higher inflation.

A variety of studies suggest the UK economy is already around 2% smaller than it would have been had the 2016 vote gone the other way.[18] Analysis by the Centre for European Reform, for example, suggests that the UK economy was 2.3% smaller by the end of September 2018 than it would have been had the UK voted to remain in the EU – at a cost of around £17bn a year to the UK's public finances.[19]

Longer-term forecasts for the impact of Brexit on the UK economy vary – and depend on the outcome of the ongoing negotiations. But middling estimates indicate that UK GDP could be 5% smaller by 2030 relative to remaining in the EU.[20] The analysis published by the Government in November 2018 suggested that the UK economy would be 4.9% smaller if the UK signed a free trade agreement with the EU, rather than remaining a member – raising borrowing by 1.8% of national income (or around £38bn in today's terms) by 2035/36.[21] These are, of course, only forecasts. But they suggest that the financial and economic impacts of Brexit we are seeing now are just the start.

5. Devolution

Brexit has placed the relationship between the UK and devolved governments under severe strain

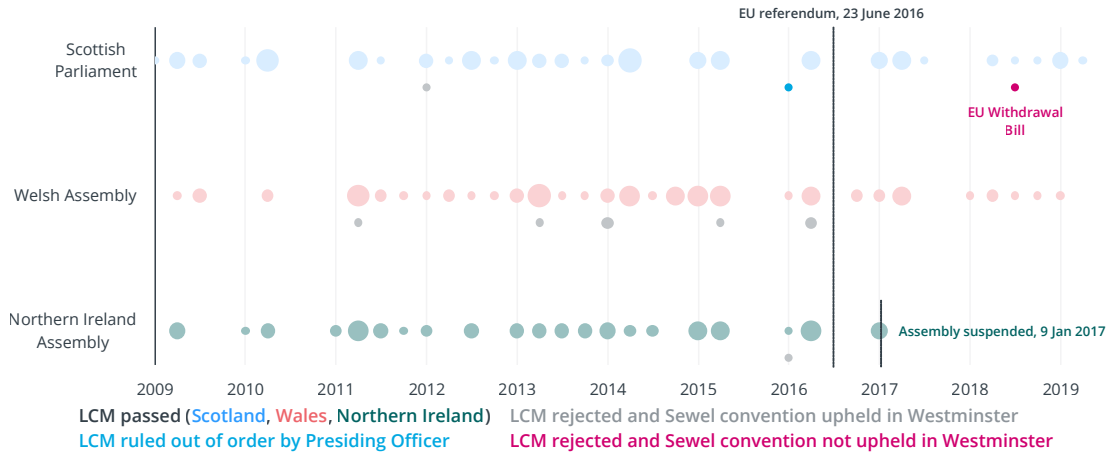
Devolution was predicated on UK membership of the European Union. EU rules provided a framework within which the devolved governments could diverge from UK Government policy for England in areas such as agriculture and the environment. This allowed the four nations to develop separate approaches, at least to an extent, without creating regulatory barriers for businesses looking to trade between them. Leaving the EU means the UK loses that framework and repatriates those powers.* The question of where and how they should be exercised after Brexit has introduced new tensions into the relationship, with the principles of devolution running up against the desire to retain a functioning UK internal market and for the UK Government to be able to make international commitments on behalf of the whole country.

These tensions have so far manifested themselves most explicitly in debates over the EU Withdrawal Bill. A fundamental part of the devolution settlement is the 'legislative consent' convention – which means Westminster should 'normally' get agreement from the devolved administrations before legislating in devolved areas.** Both Scotland and Wales pledged to refuse consent to the Withdrawal Bill in Summer 2017, accusing the UK Government of a "power grab".[1] While the Welsh Government eventually reached an agreement with Westminster and its Assembly gave consent, no such compromise was found with Scotland. The UK Government passed the Act anyway.

* The extent to which these powers are repatriated will depend on the future relationship, but the Withdrawal Bill assumes the EU framework ceases to apply in its entirety – and even a close, 'Norway +' relationship with the EU would remove the UK from some of the most substantial relevant policy areas, including the Common Agricultural Policy.

** The principle was a way to square the fact that the UK Parliament is sovereign and therefore able to change laws where it wants with the need to assure the devolved administrations that Westminster would not arbitrarily interfere in devolved areas without agreement. For more, see: Institute for Government, 'Brexit and the Sewel (legislative consent) Convention', updated 17 May 2018, www.instituteforgovernment.org.uk/explainers/brexit-sewel-legislative-consent-convention

Figure 11 **Legislative consent motions (LCMs) in the UK devolved legislatures, 2009 to March 2019**



Note: Size of dot reflects number of consent motions considered at each point.

Source: Institute for Government analysis of data from the Scottish Parliament, Welsh Assembly, and Northern Ireland Assembly websites.

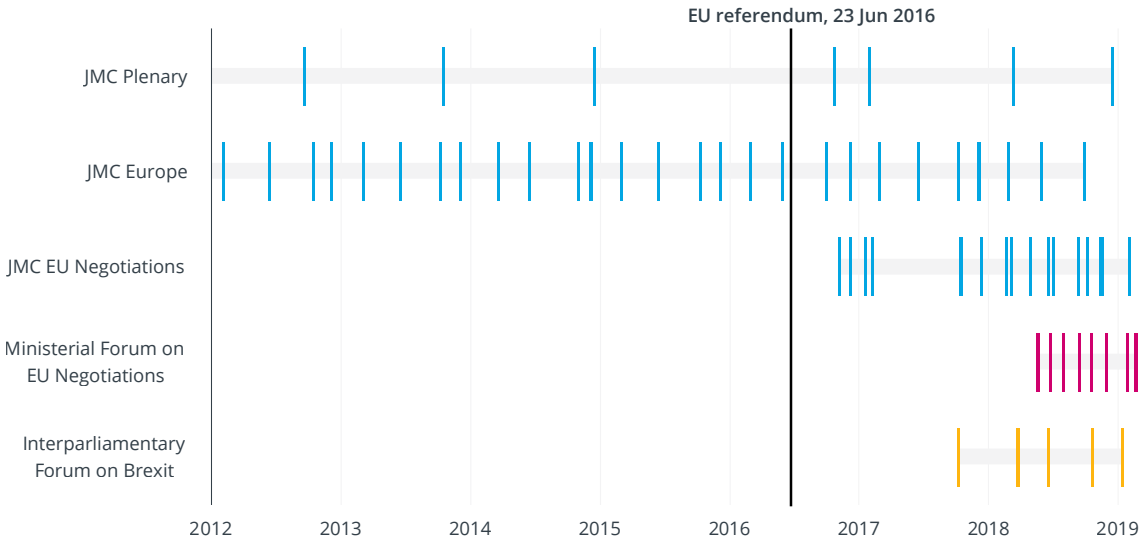
This marked the first time that the Government had passed legislation without devolved consent on a matter which it acknowledged would usually require that consent, challenging the conventions that have underpinned 20 years of devolution.[2] First Minister of Scotland, Nicola Sturgeon, accused the UK Government of 'ripping up' the devolution settlement.[3] Scottish Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, has said that Scottish MSPs need to see reform before they can give consent to any Brexit bills in the future.[4] The Welsh Government is similarly unsettled: in September 2018, then First Minister Carwyn Jones proposed a set of changes that would 'revive' the convention, addressing Welsh concerns.[5]

Brexit has forced more interaction between Westminster, Whitehall and the devolved governments

Theresa May started her premiership in 2016 with a commitment to 'fully engage' with the devolved administrations. And the process got off to a good start. There were two swift meetings of the Joint Ministerial Committee (JMC) Plenary, the key piece of inter-governmental machinery. A new sub-committee – the JMC EU Negotiations (JMC(EN)) – was established for Brexit issues in November 2016 and started meeting on a monthly basis.

But after February 2017, engagement seemed to stop. The JMC(EN) did not reconvene until October 2017, despite the Government triggering Article 50 and producing a white paper on the withdrawal legislation – which contained a promise to "work closely with the devolved administrations to deliver an approach that works for the whole of the United Kingdom"[6] – as well as the EU Withdrawal Bill itself in that period. The JMC Plenary only met again in March 2018.

Figure 12 **Timeline of interactions between Westminster and the devolved nations**



Source: Institute for Government analysis of Joint Ministerial Committee reports, UCL Constitution Unit Devolution Monitoring reports, UK Government announcements, Scottish Government Annual Intergovernmental reports, and Welsh Government documents.

The mood between the four nations was said to have improved during Damian Green's spell as First Secretary, and then further when David Lidington took over responsibility for the relationship.[7] Since the end of 2017, the JMC(EN) has met regularly – and although not perfect, the quality of the discussion is apparently improving.[8] In May 2018 a further piece of intergovernmental machinery was set up to support Brexit – the Ministerial Forum on EU Negotiations – and has since met eight times. The devolved administrations also have representation on the new EU Exit and Trade (Preparedness) Cabinet sub-Committee. These routes for political engagement at the ministerial level are supported by more frequent technical meetings at official level.[9]

There now seem to be more, and more purposeful, interactions between the Government in London and the devolved institutions than ever. But an even sterner test is yet to come. The devolved governments have potentially very different interests in post-Brexit policy: on farm payments, for instance, the Scottish Government believes the UK Government's plan to phase out direct support is 'completely the wrong route'.[10] Both will have strong interests in future trade policy.[11]

The devolved governments are already feeling a direct impact from Brexit

The planning and preparations for Brexit that have dominated business in Whitehall departments are also taking up significant resource and energy in the devolveds.

The devolved governments have been given extra money for 2017/18 and 2018/19, and have recently been allocated further money for 2019/20, as part of the

Chancellor's allocations to civil service departments.* As in Whitehall, a lot of that money is going on new staff: after losing around 1,000 people to austerity cuts in the last five years, the Welsh Government now has roughly 200 working on Brexit.[12] The Scottish Government is also having to redeploy staff to handle the extra workload.[13]

There is still, however, a question about whether the Chancellor has given the devolved administrations enough money to adequately prepare. In January 2019 the Welsh First Minister, Mark Drakeford, said that his government was 'stretched financially, and...in terms of hands on deck'.[14] The cost to set up a new public body, for example, is not always directly correlated to the population it is responsible for.

While one non-UK public body – the Police Service of Northern Ireland – has been allocated money directly from the Treasury,[15] others are reliant on reprioritising their existing resources or being given extra from their own cash-strapped governments.[16] Given this situation, it is perhaps unsurprising that many are not preparing for Brexit to the same degree as their counterparts in England, despite facing significant increases in responsibility after Brexit – especially in the event of no deal.[17]

Finally, the devolved Parliaments are facing a similar increase in workload to Westminster. Although the UK Government has been responsible for getting the majority of Brexit secondary legislation, or statutory instruments (SIs), through in devolved areas, the devolved governments also need to pass some of their own – around 43 for Wales, and 36 'critical' SIs in Scotland.[18] The Scottish Parliament also still needs to be involved to approve statutory instruments laid by UK ministers.[19]

But critical decisions on funding and the reallocation of powers coming back from the EU have yet to be made

One of the most fundamental questions for the future of devolution after Brexit is where to return powers coming back from Brussels that currently relate to devolved areas. The devolved administrations believe these powers should bypass Westminster and instead be handed directly to their own institutions. But the UK Government has been reluctant to give them that kind of freedom, not least to prevent any future divergence that could damage the integrity of the UK's very own internal market.

The compromise has been to replace the EU structure with a new set of 'Common Frameworks', either through legislation or more likely a series of intergovernmental concordats or memoranda of understanding. There have been ongoing conversations between the UK and devolved governments – with Northern Ireland represented by officials – on some specific policy areas, as well as cross-cutting issues like the internal market.[20] But no deal planning and coordination has taken up more bandwidth in recent months.

* The amounts received by the devolved governments are based on the 'Barnett' formula, which ensures the devolved administrations receive a proportion of the UK Government's spend relative to their population size.

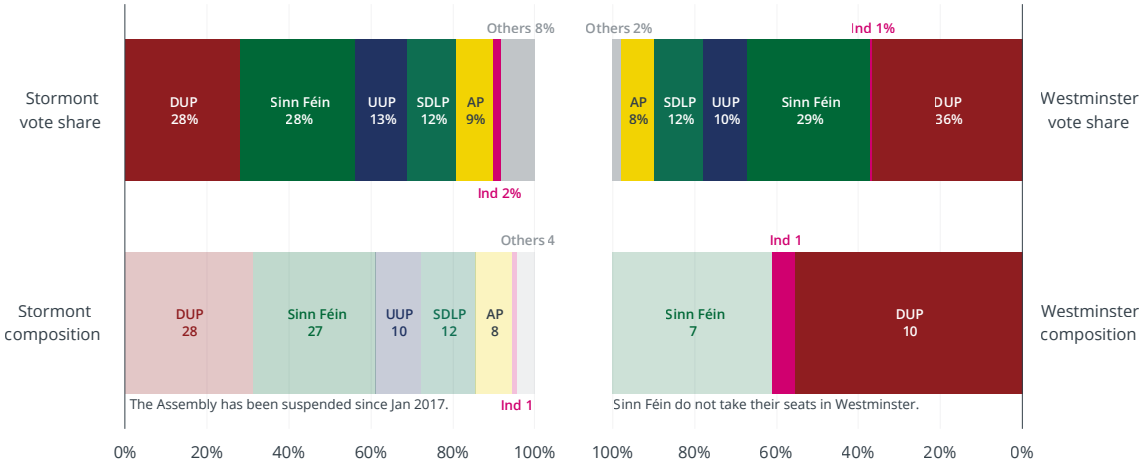
There is also a big question over what happens to EU money. Wales is a significant beneficiary of EU structural funds and a net beneficiary from the EU as a whole, while Scotland and Northern Ireland both benefit heavily from agricultural funding. Although the UK Government has pledged £300m to Northern Ireland to support the continuation of EU-funded peace and cross-border projects from 2021–27, no clarity has been given on the future of other EU funding beyond the end of 2020.[21] The planned Shared Prosperity Fund, intended to replace EU structural funding, is supposed to 'reduce inequalities' across the four nations, but the consultation promised before the end of 2018 has yet to happen so no details are yet available – and the devolveds are concerned that decisions about where any funding goes will be determined unilaterally by the UK Government.[22]

For Wales and Scotland, the biggest worry is the economic impact of Brexit – not least because it would have a further impact on the devolved budgets. For Northern Ireland, however, the concerns are more existential.

The absence of the power-sharing Executive in Northern Ireland and the Government's confidence and supply agreement with the DUP has given one set of NI interests disproportionate weight

If the relationship between Westminster and both Cardiff and Edinburgh has been tense, the relationship between Westminster and Belfast has been – inevitably – passive. After the power-sharing Executive fell in January 2017, the island of Ireland has been centre stage in Brexit negotiations. But neither the Assembly in Stormont, nor the other parties who would have had a role in that executive, have had a voice.

Figure 13 **Northern Ireland Stormont and Westminster election results, March 2017 and June 2017**



Note: DUP – Democratic Unionist Party; UUP – Ulster Unionist Party; SDLP – Social Democratic and Labour Party; AP – Alliance Party; Ind – Independent.

Source: Institute for Government analysis of The Electoral Office for Northern Ireland website.

The main voice for Northern Ireland has been the DUP, the UK Government's confidence and supply partners, who only received around a third of the vote in the 2017 Northern Ireland election. It is left to the Independent MP, Lady Sylvia Hermon, to represent non-DUP opinion in the House of Commons, as Sinn Féin continue to refuse to take their seven seats. The absence of Sinn Féin means that, unusually, there are currently no nationalist MPs sat in Westminster.

The Prime Minister's reliance on the DUP for her narrow Parliamentary majority has amplified their voice further – particularly over the "backstop", with the Government recently offering them a *de facto* right to prevent UK-wide divergence from EU regulation.[23] Theresa May has also offered the DUP a formal role in the future relationship negotiations, if the UK ever reaches that stage. Suffice to say that those offers have not gone unnoticed by the Scottish Government, which both rejects the idea that the DUP could pre-empt Scotland's ability to diverge from UK regulation, and seeks to be similarly involved in any future negotiations.[24]

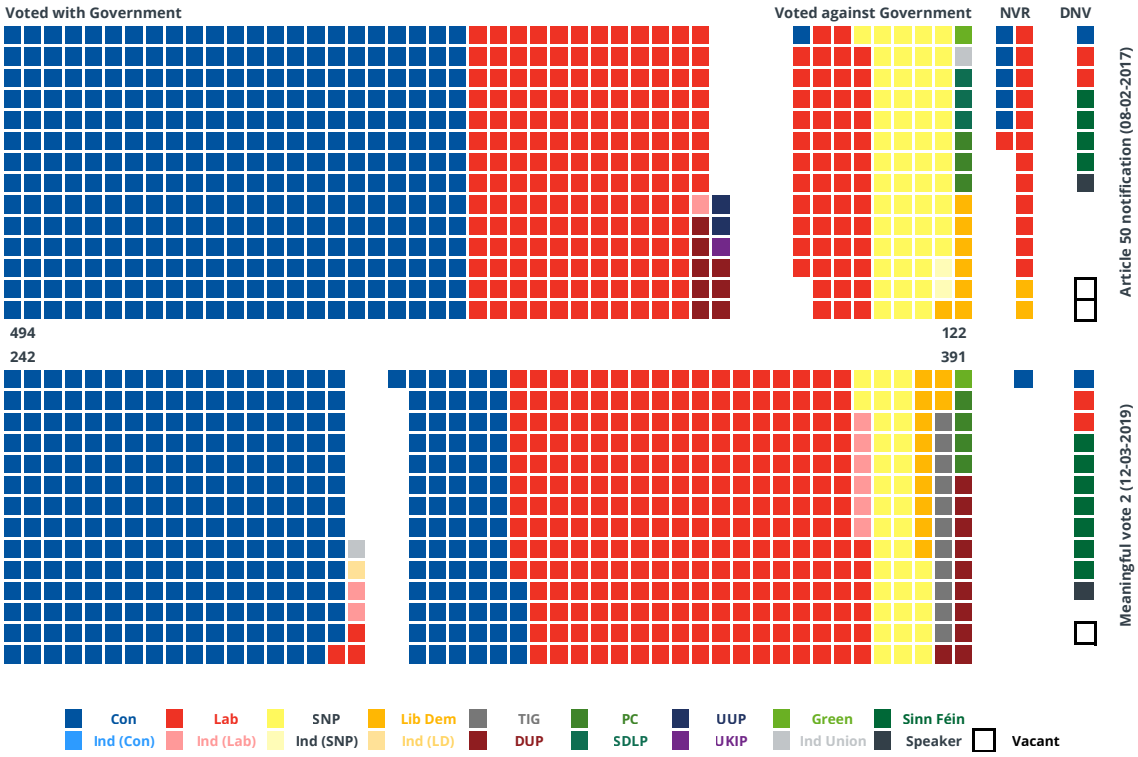
The absence of the government and Assembly in Northern Ireland has created further problems. The necessary legislation to prepare for Brexit has had to be passed in Westminster, and inquiries into the impact of Brexit on Northern Ireland take place in the Northern Ireland Affairs Committee rather than Stormont. It also means that the Northern Ireland Civil Service has to fill some of the vacuum left by the absence of ministers, with legislation passed in Westminster in November 2018 to empower the civil service to properly exercise government functions in the absence of ministers.[25] This also means that civil servants have had to bear the brunt of any criticism: the head of the Northern Ireland Civil Service, David Sterling, was criticised for a letter he wrote to political parties in Northern Ireland in early March setting out the possible consequences of a no deal Brexit.[26]

6. Parliament

Brexit has divided Parliament like no other issue, challenging the two-party system

Parliamentarians have consistently disagreed on how best to leave the EU. Despite voting by a huge majority in February 2017 to notify the EU of the UK's intention to leave, neither of the two main parties has since managed to reach an internal consensus on how the process should pan out. Nor has there yet been any sizeable cross-party coalition in favour of any individual possible outcome. The only two things a majority of MPs seems able to agree on are that leaving without a deal should not happen, and that the Prime Minister's deal – the only deal on the table, without major changes to the UK's negotiating red lines – is unacceptable.

Figure 14 **Voting patterns for the Article 50 notification and the second meaningful vote**



Notes: NVR – No vote recorded for MPs who either abstained or were absent. DNV – Does not vote (Speaker, Deputy Speakers, Sinn Féin). These two votes are from different sessions of Parliament, 517/650 MPs were members of both Parliaments.

Source: Institute for Government analysis of Commons Divisions from Parliament Data, explore.data.parliament.uk.

Divisions have been particularly stark in the Conservative Party. Theresa May has had to navigate between members of the European Research Group (ERG), who champion a loose relationship with the EU after Brexit, and two factions of former Remainers – those who favour a soft Brexit, many of whom now support the cross-party campaign for Common Market 2.0, and those who support a 'People's Vote'. The Government has appeared more willing to concede ground to the ERG, for example accepting the four amendments the group tabled to the Customs Bill (Taxation (Cross-border Trade) Bill in Figure 16).[1] By contrast, it has consistently opposed amendments from former Remainers, with the result that more rebellions have come from this camp. Dominic Grieve MP, a former Attorney General who had never rebelled before the EU Withdrawal Bill debates in December 2017, has now rebelled over 20 times.

It is not just the Conservative Party that has had difficulties, though: the Labour Party, too, is fragmenting. Disagreements over the ideological direction of the party (not to mention concerns about anti-Semitism) run deep, but Brexit has added to Labour's problems. One of the few groups the Prime Minister has been able to rely on for support in key Brexit divisions has been a small core of committed Leave-supporting Labour MPs. At the other extreme, Jeremy Corbyn has also had to manage the approximately 80 Labour MPs who have already declared their support for a People's Vote – 25 of whom refused to follow the three-line whip to abstain on an amendment calling for a second referendum on 14 March 2019.

The fragmentation of the traditional parties has opened up more space for cross-party coalitions. The most formal of these so far is The Independent Group (TIG), an 11-strong *de facto* party made up of former Labour and Conservative MPs. The emergence of TIG has added to the already sizeable independent faction in Parliament, which also includes eight former Labour MPs who no longer take the Labour whip for a variety of reasons, Lady Sylvia Hermon, the former Ulster Unionist, and a pro-Brexit former Liberal Democrat.

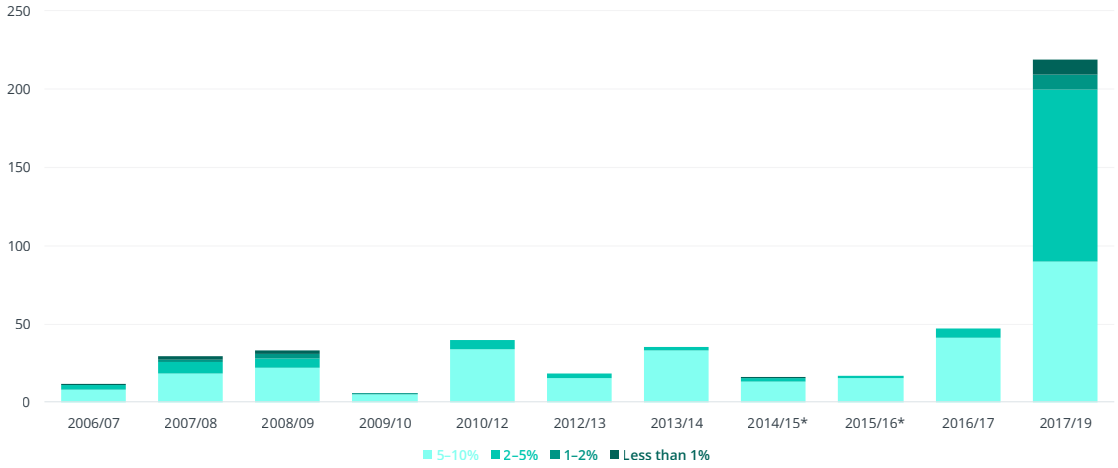
The combination of Brexit and minority government have left Commons votes on a knife edge

These splits were always going to make Parliament's handling of Brexit complicated. But the Prime Minister's loss of her majority in the 2017 General Election made things even trickier. The Government has spent nearly two years trying to steer its business through the Commons with a wafer thin majority held in place by its confidence and supply agreement with the Democratic Unionist Party, fending off rebellions from both sides of the Conservative Party at the same time.*

The compounding of these two factors has left an astonishingly high number of Commons votes in this parliamentary session on a knife edge. Ten have been decided by a margin of less than 1%, with nine of those votes on Brexit. There were only six similarly close votes in the House of Commons in the preceding decade.

* The Prime Minister's majority shrunk even further when three of her MPs left to join The Independent Group – although they were already consistently rebelling on Brexit votes anyway.

Figure 15 **Close Commons votes in recent parliamentary sessions**



Source: Institute for Government analysis of Commons Divisions from Parliament Data, explore.data.parliament.uk. Data from 26 March 2015 to 8 March 2016 was unavailable for analysis. Data used in the figure last updated 22 March 2019.

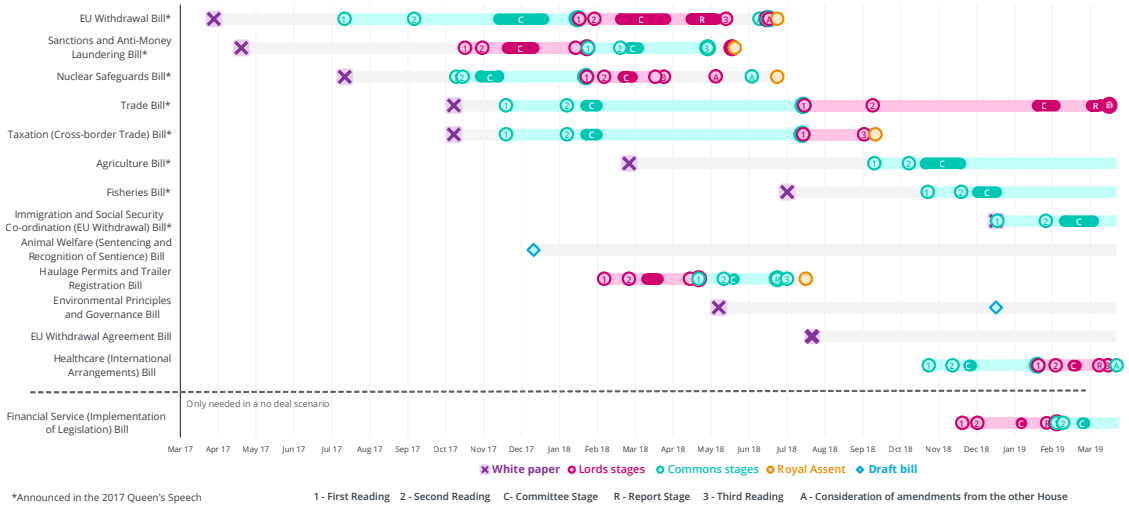
Added to this is the fact that the Government has no majority of any sort in the House of Lords. Although the Lords is constitutionally expected to bow to the elected Chamber, it makes the most of its power to scrutinise legislation by proposing and passing tricky amendments to bills which can force the Government to make further concessions.

Passing key Brexit legislation has been a tortured process

The frailty of the Government's position in Parliament has made passing the legislation required for Brexit much more complicated. Its first and most significant piece of Brexit legislation, the EU Withdrawal Act, took almost a year to get through Parliament. The Government was only defeated on one amendment in the Commons, but it was forced to make substantial concessions: the final Act was almost two-thirds longer than the initial bill presented to Parliament.[2]

Other key pieces of legislation, such as the Customs and Trade Bills, have also suffered significant delays. Unable to guarantee it would win votes on difficult amendments intended to force its hand on the UK's future relationship with the EU, the Government took both bills out of action for the best part of six months in 2018. The Trade Bill, which contains powers that will be needed in the event of a no deal Brexit (although the Government claims it has workarounds), has only just completed its Lords stages, which means that any changes made by the Lords still need to be approved by the Commons.

Figure 16 **Parliamentary progress of legislation introduced to implement Brexit**



Source: Institute for Government analysis of parliament.uk.

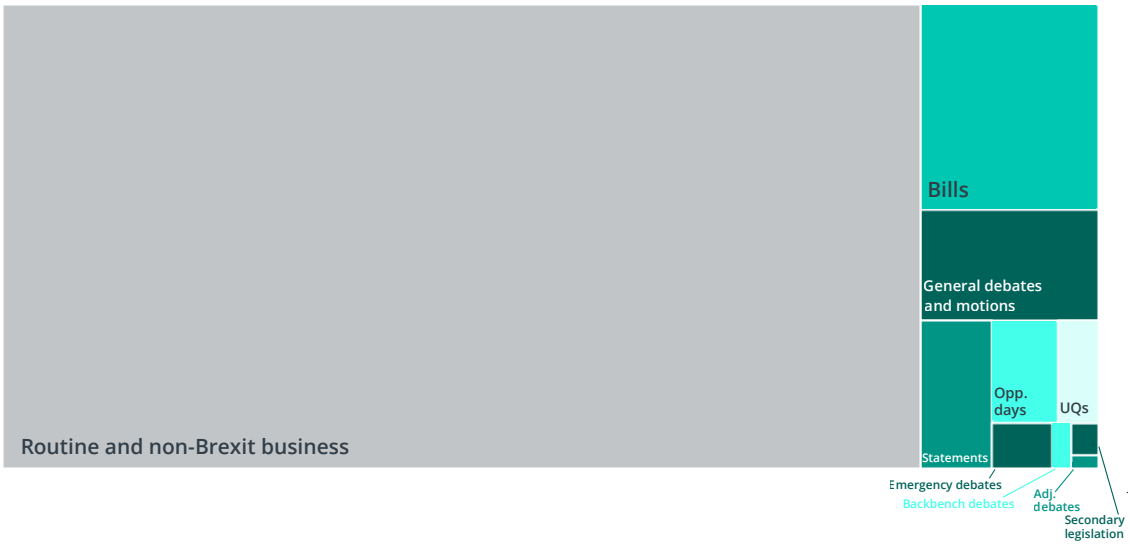
Some Brexit bills, such as the Nuclear Safeguards and Sanctions and Anti-Money Laundering Bills, had a relatively quick passage through Parliament. But even these saw a series of government defeats in the Lords and concessions in the Commons.

Other proposed legislation has struggled to even make it to Parliament. Having been first scheduled for summer 2017, the Immigration White Paper was only published in December 2018 because of Cabinet disagreements. The Agriculture and Fisheries White Papers also took months to appear, with their corresponding bills now being held back by the Government from consideration in the Lords despite passing their Commons committee stages in late 2018.

The Government has done its best to keep Brexit and Parliament apart

These delays reflect a broader desire by the Government to engage Parliament on Brexit on its own terms, keeping it at arm's length where possible. In practice this has meant that the Government's engagement with Parliament on Brexit has gone little beyond what is strictly necessary. Some senior parliamentarians have pushed back – the select committee chairs who make up the Liaison Committee used some of the little time available to them to schedule a debate on membership of a customs union in April 2018 – but the Government's control of much of the Commons' time has meant that there is little scope for them to do more, causing some MPs to contemplate changes to Parliament's rules that would give them more time to debate and vote on Brexit.[3] Although this will be known as the Brexit Parliament, we estimate that only one-sixth of the time on the floor of the House has been spent on matters related to leaving the EU.

Figure 17 **Estimated time (hours) spent on the floor of the Commons on Brexit, by type of parliamentary business, 27 June 2016 to 14 March 2019**



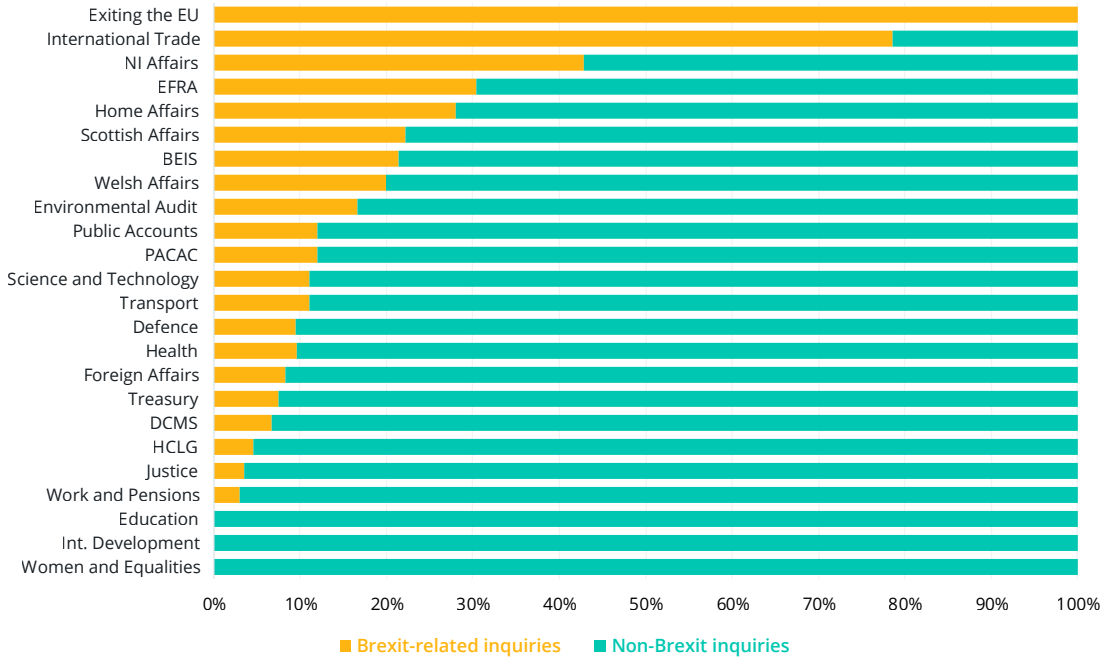
Note: Opp. Days – Opposition days; UQs – Urgent Questions; Adj. debates – Adjournment debates.

Source: Institute for Government analysis of UK Parliament, Sessional Diary 2016/17, and UK Parliament, House of Commons Hansard, 27 June 2016 to 14 March 2019. Business conducted off the floor of the House is excluded.

This is still a significant amount of time, amounting to almost 63 whole sitting days. The Prime Minister alone has been responsible for over 33 hours of statements on Brexit. It also underestimates the total amount of time the Commons has spent considering Brexit: leaving the EU has featured regularly at routine business such as Prime Minister's and departmental question times, in debates in Westminster Hall, and in legislative committees away from the main Commons chamber, which have spent some 200 hours on Brexit legislation. And then there is the Lords, which spent 161 hours on the EU Withdrawal Act alone.[4] But it is much less than might have been the case with a stronger government that felt willing and able to engage Parliament fully.

Even away from the Chamber, the majority of Commons time seems to have been spent on other issues. Almost all departmental select committees have undertaken Brexit inquiries, but beyond the dedicated Exiting the EU Committee the subject has only taken up a substantial proportion of time at the International Trade, Northern Ireland Affairs, Environment, Food and Rural Affairs and Home Affairs Select Committees.

Figure 18 **Brexit-related inquiries as a proportion of all inquiries launched by Commons departmental and cross-cutting committees, 21 June 2017 to 13 February 2018**



Note: NI Affairs – Northern Ireland Affairs; EFRA – Environment, Food and Rural Affairs; BEIS – Business, Energy and Industrial Strategy; PACAC – Public Administration and Constitutional Affairs Committee; DCMS – Digital, Culture, Media and Sport; HCLG – Housing, Communities and Local Government; Int. Development – International Development.

Source: Institute for Government analysis of select committee webpages.

The amount of time spent by MPs on non-Brexit matters – both inside and outside the Chamber – also reflects the multifaceted nature of MPs' roles. While Brexit is the major issue of the day, MPs will also want to consider a wide range of other matters, including those in which they have particular interests or expertise, and those of importance to their constituents.

Brexit has challenged the relationship between Parliament and the Executive

In response to the Government's attempts to sideline them in the Brexit process, parliamentarians have become more assertive about their role and authority, exhibiting a greater willingness to challenge conventions and adapt their ways of working to ensure their voices are heard. Questions about the relationship between Parliament and the Executive have been raised before, but the combination of Brexit and a minority government – not to mention the Government's repeated parliamentary mismanagement – has brought this issue into the open in a new, more urgent way.

One of Parliament's early interventions was to add an extra layer of scrutiny to part of the legislative process. Accompanying the bills outlined above is a mass of statutory instruments (secondary legislation) which the Government needs to have in place to be ready for a possible no deal exit. Concerns about the quality of existing scrutiny, compounded by the wide-ranging powers which the EU Withdrawal Act sought to give ministers, prompted Parliament to force new arrangements on the Government. These arrangements allow Commons and Lords committees to check whether the form of

scrutiny the Government proposes for Brexit-related secondary legislation is appropriate.* This approach is currently limited to secondary legislation tabled under the EU Withdrawal Act, but the new way of thinking could lead to more change in the years ahead.

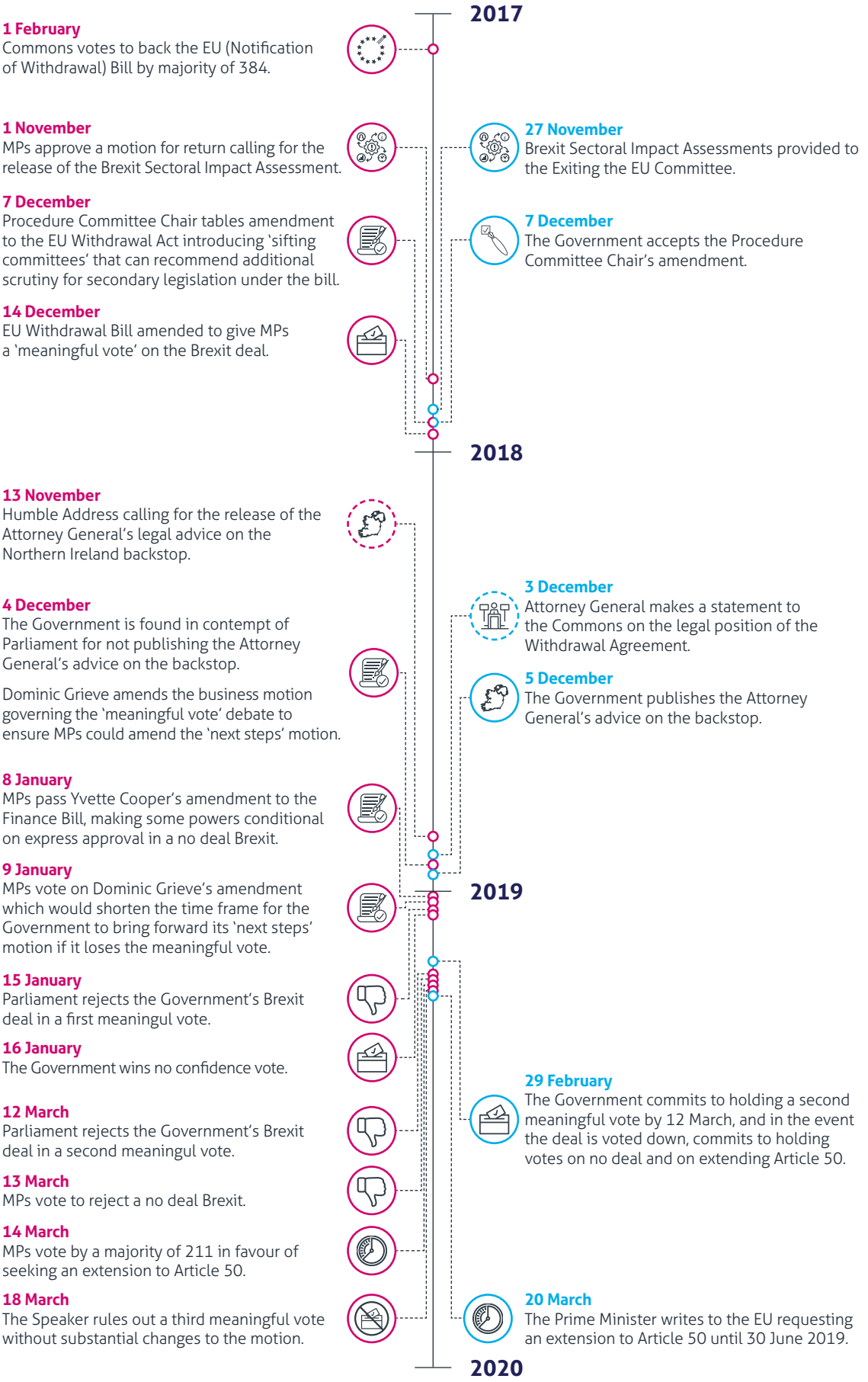
Other interventions have focused on extracting additional information from the Government on Brexit. The archaic 'humble address' motion, last used to obtain information from a government back in the 19th century,[5] was used to try and force the Government to publish its sectoral impact assessments – which were subsequently given to the Exiting the EU Committee – in November 2017, and again a year later to demand the release of the Attorney General's legal advice on the Northern Ireland 'backstop'. When the Government refused to publish the legal advice, it was found in contempt of Parliament for the first time in modern parliamentary history. Recent delays to the Trade Bill in the Lords were also driven by the desire for more information from the Government, with peers refusing to allow the bill to progress without more clarity on the role Parliament would play in future trade negotiations.

Of most significance, arguably, have been Parliament's attempts to wrest control of the Brexit process more broadly. MPs used amendments to the EU Withdrawal Bill to force the Government into giving MPs a 'meaningful vote' on the Prime Minister's Brexit deal, setting up a hurdle that the Government still has not been able to clear. MPs have also tabled amendments to recent government motions seeking to take control of parliamentary time to give Parliament the power to shape the Government's next steps on Brexit. These attempts finally succeeded on 25 March 2019 when an amendment tabled by former Conservative minister Oliver Letwin passed by 329 votes to 302. This set MPs up for a series of 'indicative votes' two days later in an attempt to find a way forward on Brexit that could command a majority in the House. The question of who should control time in the Commons is not new – the Wright Committee reforms suggested ways to loosen the Government's grip on parliamentary time back in 2009[6] – but Brexit has brought this important issue back under the spotlight.

In its attempts to 'take back control', Parliament has been aided and abetted by the Speaker, who continues to see his role as championing the interests of backbenchers against the Executive. On Brexit, he has broken with precedent to reflect his perception of the wishes of the House – for instance by allowing an amendment to a supplementary business motion, which gave the Commons the chance to vote on an amendment speeding up the timetable on Brexit motions. But he has also followed precedent at critical moments to confound the Government. His statement making clear that the Prime Minister could not repeatedly ask the Commons to vote on an unchanged proposition – and therefore could not bring the Government's Brexit deal back to the Commons for a third time unless changes were made – being the most recent example. These decisions have called into question the extent of the Speaker's discretion over how parliamentary rules are interpreted. But the process has also underlined that even in these circumstances, the power to determine what happens in the Commons still lies overwhelmingly with the Executive.

* For more information on procedures for scrutinising secondary legislation, see Lilly A, White H and Haigh J, 'Secondary legislation', in *Parliamentary Monitor 2018*, Institute for Government, 2018, www.instituteforgovernment.org.uk/publication/parliamentary-monitor-2018/secondary-legislation

Figure 19 **Timeline of Parliament's actions on Brexit and the Government's response up to 20 March 2019**



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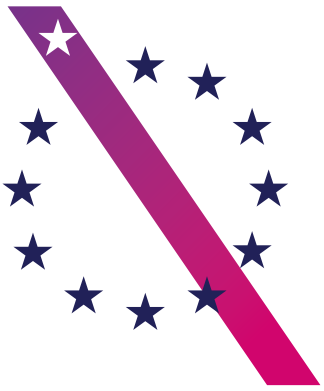

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