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Committee of Public Accounts

Brexit and the UK border: further progress review

Eighty-Sixth Report of Session 2017–19

*Report, together with formal minutes
relating to the report*

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The Committee of Public Accounts

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Summary

Departments face an unprecedented challenge in preparing for the UK's exit from the European Union, especially with the continuing political uncertainty over the final outcome. Despite raising our concerns throughout 2018, departments have continued to struggle to prepare should the UK leave the EU without a deal. We are disappointed to see that some of our early concerns have now been realised. The Department for Transport has failed to make timely preparations to procure the additional freight capacity needed to transport critical goods. Despite being aware that the ferry industry would need time to put in place additional capacity, the Department did not start serious preparations to procure this additional capacity until September 2018, just six months before the UK is due to leave the EU. The Department's procurement approach has been rushed and risky and preparations have been conducted in secrecy with inadequate stakeholder engagement.

Our inquiry has thrown up that the Department did not have any written assurance that Seaborne Freight had a shipping partner until after the contract was agreed and then signed. The Department for Transport has been also over-optimistic about how much capacity it could secure and has ultimately failed to deliver the freight capacity it required. This was in part because of the late decision to procure the capacity and the unusual and secretive approach to procurement. Time has now run out to procure significant additional capacity by other means. This has implications for securing the flow of priority goods. While the Department for the Environment, Food and Rural Affairs asserts that the impact on food supplies will not lead to shortages, we are concerned this is another example of over-optimism. We are unconvinced that the departments are prepared for the practical challenges that no deal would bring, particularly in managing the flow of priority goods.

Introduction

We examined the government's preparedness for Brexit, particularly should there be no deal with the EU before the end of March, throughout 2018. In our eight reports we expressed concern about the pace of progress and departments' lack of urgency. This remained our key concern when we took evidence in February 2019 from the Department for Transport and the Department for the Environment, Food & Rural Affairs, just 7 weeks before the UK would leave the EU.

The Department for Transport (DfT) is responsible for preparing the transport system for when the UK leaves the EU, including maintaining transport connectivity between the UK and the EU via road, rail, maritime and air. The Department for the Environment, Food & Rural Affairs (Defra) is one of the departments most affected by Brexit, with almost all of its areas of responsibility framed by EU legislation, including imports and exports of food, animals and animal products and regulation of the chemical industry. The impact of exiting the EU on the movement of freight at the border forms a key part of preparations within both Departments.

During autumn 2018, the government updated its planning assumptions relating to freight crossing the border should no deal be agreed with the EU. By the end of October, departments agreed a revised worst-case assumption that the normal flow of goods across the short channel crossings could be reduced by up to 87 per cent, with the situation persisting for up to six months. In response to the changed assumptions, DfT developed options to mitigate the risks to freight transport of the UK leaving the EU without a deal. DfT decided to procure additional ferry capacity at ports other than those at the short straits – the Dover to Calais channel crossings. To ensure that services would be in place in time for 29 March 2019, DfT used an unusual exemption to usual procurement processes which allowed it to act outside normal procurement rules on the basis that it was dealing with an emergency. The DfT approached nine companies and after receiving no compliant bids in the first round it opened up bidding the next weekend for 8 days and received three bids. The DfT signed contracts with these three companies. Two of these, Brittany Ferries and DFDS, are long-established ferry companies. The third, Seaborne Freight, is a start-up company which did not operate any services at the time of procurement. Seaborne had not passed normal due diligence. The three contracts were due to provide additional freight capacity equivalent to 11% of the normal flow across the short crossings. On 9 February 2019, DfT announced that it was terminating the contract with Seaborne Freight. The procurement was also subject to a legal challenge from Eurotunnel. On 1 March it was reported that the Department for Transport had come to a £33 million settlement with Eurotunnel in that case. We are seeking information on the costs and implications of the settlement with the Department.

Conclusions

1. **Despite our previous concerns that departments were moving too slowly in preparing for Brexit, planning and action for a no deal scenario has still happened too late in the day.** We have been concerned since early 2018 that departments were not progressing quickly enough from planning to implementation should the UK leave the EU without a deal. The Department for Transport told us that it has been thinking about border issues since March 2018. But the Department did not decide to take action to procure freight capacity until late autumn 2018. The Department told us that its decision was triggered by a general increased focus on no deal planning across government, a lack of preparations for no deal by other Member States at their borders and the absence of any action by UK-EU ferry operators. The Department told us that its decision to procure additional capacity was also in response to changes in the government's assumption that in a "reasonable worst case" scenario, flows of goods across the short channel crossings might be reduced by up to 87 per cent, and disruption could persist for six months, longer than the six weeks previously assumed. We are not convinced that the Department needed to wait for the situation to get this bad before developing deliverable plans and taking action especially as it was buying capacity only if it needed to use it.

2. **The Department for Transport and the Department for the Environment, Food & Rural Affairs have been, and remain, over-optimistic in their preparations for a no deal Brexit.** The Department for Transport's optimism in awarding a contract to Seaborne Freight, a start-up company with no proven track record in delivering services, to operate a new ferry route has quickly proved to be misplaced. The additional freight capacity provided by the contracts awarded to the three winning bidders was equivalent to 11 per cent of normal flows of freight across the short crossings, substantially less than the Department's initial goal of 25 per cent. The termination of the Seaborne contract means that the additional capacity procured has reduced further to 7 per cent of normal flows of freight across the short crossings. The limited additional capacity that will now be available will limit what government can achieve with it. Defra told us that its understanding is that food will not be carried on this additional capacity, but it is optimistic that there will not be shortages of food in a no deal scenario. We are concerned by Defra's admission there could be reductions in the availability and choice of some foods and that some groups, including "geographically vulnerable communities", will be harder hit by interruptions in the food supply in a no deal scenario.

3. **The departments' preparations for Brexit have lacked transparency and stakeholder engagement has been inadequate.** We have previously expressed our concern about the lack of transparency surrounding departments' preparations for Brexit. The Department for Transport claims it engaged with every ferry operator it believed capable of delivering services, yet still felt the need to communicate under non-disclosure agreements. While DfT accepts that this is not its usual practice, it asserts that it took this approach to avoid disturbing the wider market. Eurotunnel's subsequent legal challenge against DfT gives the impression that the Department did not sufficiently engage and manage the wider range of stakeholders. As part of its broader Brexit preparations, DfT claims that it is improving stakeholder engagement. However, we are concerned that it is still over-reliant on third parties,

such as local resilience forums, to solve issues like transport disruption. Similarly, Defra's engagement with stakeholders has been slow off the mark. It has relied on guidance being provided by the European Chemicals Agency to the chemical industry, and specific guidance for UK companies was only published by the European Chemicals Agency on 8 February 2019.

4. **The pace at which the Department for Transport had to procure freight capacity forced it into a rushed and risky approach with significant consequences.** The Department for Transport knew that ferry operators required three or four months to introduce new services. By the time it took action in autumn 2018 the options available to the Department were restricted. It carried out what it described as "an emergency accelerated procedure" to procure additional freight capacity and used the condition of "extreme urgency" to bypass government's normal procurement procedures. The Department has struggled to get ferry operators to follow government processes, and took forward all three of the bids it received despite the fact that two did not comply with the department's requirements. We are concerned that the Department did limited work to review the bids it did receive. It has acknowledged that its contract with Seaborne was high risk, but went ahead without any written guarantees as to what Seaborne's backers were prepared to provide, taking too much assurance from what Seaborne told it. The department received a letter from Arklow, via Seaborne, on 28 December some 8 days after DfT and the Treasury signed off the contract and 6 days after the contract was signed with Seaborne. The DfT received a letter of comfort from Arklow on 18 January which underlined that no formal contract had been signed for Arklow to supply ships to Seaborne. The Department has ultimately terminated the contract because Seaborne's backers have pulled out. The procurement was the subject of a legal challenge from Eurotunnel, demonstrating the risks the Department took in following this non-standard process.
5. **Time has run out for the Department for Transport to procure the level of freight capacity it planned for to help secure the supply of critical goods in a "reasonable worst case" no deal scenario.** In November 2018, the Department for Transport recommended additional options, such as rail or air freight, be taken forward at a later date, but told us that time has now run out to procure them before 29 March 2019. The Department for Health and Social Care has taken matters into its own hands to procure its own additional air freight capacity. The Department for Transport asserts that preparations that have now begun at French ports to reduce the likelihood of the "reasonable worst-case" scenario occurring if there is no deal. However, it is not in a position to guarantee that the French ports will be ready on time and this reliance cannot be a substitute for its own planning.
6. **We are not convinced that the departments' current plans will be enough to address the practical challenges they would face in the event of no deal.** Both DfT and Defra were unable to explain to us how the additional freight capacity DfT has procured would be used or how goods would be prioritised. They were unwilling to speculate about using emergency powers to manage freight, such as prioritising certain categories of freight, claiming to do so would be "playing in markets". We are not convinced that they are sufficiently taking into account the potential behaviour of the public in such a scenario. DfT told us that Operation Brock, which

is designed to manage disruption in Kent, remains challenging to deliver in time. We remain concerned that any significant displacement of traffic away from Dover could have a proportionately larger impact on the smaller ports it would move to. Defra is developing new IT systems in the event of no deal. These backup plans include introducing manual processes which will be slower, have a higher error rate and be more burdensome for users. Both departments are currently considering the staffing requirements for the issues that will be created by a no deal scenario, including the creation of 24-hour emergency centres.

7. **It is not clear what benefits the department's £33 million settlement with Eurotunnel will secure for the UK.** The department has provided us with a redacted copy of the settlement agreement and has published a document setting out Eurotunnel's obligations under the agreement. The department argues that the settlement contributes to the Government's plans to ensure the flow of vital medical supplies in the event of a no-deal Brexit.¹ It argued that, without a settlement, there was a risk that the courts might render the existing contracts with the ferry companies ineffective. It is not, however, clear what additional value the types of projects Eurotunnel will undertake in return for the £33 million will secure for the UK, the timescale over which they will be delivered, how the benefits will be measured, or whether the department tested whether settlement of the case with Eurotunnel was the most efficient and effective method of securing the desired benefits. We will pursue these issues with the department.

Recommendations

8. Departments have responded to the pressure to prepare for a no-deal Brexit by resorting to taking action which is far from business-as-usual. Whether a deal is reached with the EU or not, this pressure will eventually ease. We make the following recommendations on the areas where Government should learn from the experience.
 - (a) Government must not allow the risky and rushed activity undertaken by departments arising from the pressure to prepare for a no deal Brexit to become business-as-usual.
 - (b) Government must ensure that the lack of transparency surrounding departments' preparations for Brexit, which impedes proper scrutiny by Parliament and the public, does not continue into the longer term and we believe much of it is unnecessary even in the light of Brexit.
 - (c) If a deal is reached with the EU, then government should ensure that the time, money and effort which has gone into planning for a potential no deal is used to learn lessons and deliver longer-term improvements to how departments operate.
 - (d) Government needs to be realistic about what freight capacity it will have available for priority supplies and how it would manage that capacity should it be needed. In doing so, it must understand the likely needs of individual departments and the potential users of such capacity, and any interdependencies between them and how it might manage the demand for those priority supplies.

Freight traffic at the border

1. On the basis of a memorandum by the Comptroller and Auditor General, we took evidence from the Department of Transport (DfT) and the Department for Environment, Food & Rural Affairs (Defra) about their preparations for Brexit, and particularly the award of contracts for ferry services to provide additional freight capacity.²

2. At the time of our evidence session on 13 February 2019, a deal had not been formally agreed between the United Kingdom and the European Union. The risk of the UK leaving the EU on 29 March 2019 without a deal ('no deal'), less than 7 weeks later, was therefore still a possibility. We examined the government's preparedness for Brexit, particularly for a no deal, throughout 2018. Our report on Exiting the European Union in January 2018, referring to the state of preparedness, concluded "that DExEU has been too slow to turn its attention to how departments will put those plans into practice and that the plans may not be sufficiently developed to enable implementation to start quickly".³

3. DfT is responsible for preparing the transport system for when the UK leaves the EU, including maintaining transport connectivity between the UK and the EU via road, rail, maritime and air. Defra is one of the departments most affected by Brexit, with almost all of its areas of responsibility framed by EU legislation, including the imports and exports of food, animals and animal products and regulation of the chemical industry. For both departments, the impact of exiting the EU on the movement of freight at the border forms a key part of their preparations. For DfT, this work has included Operation Brock, the plan to manage traffic in Kent. For Defra, this work has included developing replacements for the EU systems used to manage the registration of chemicals and trade in animals and animal products.

4. We examined both Departments' preparations for Brexit in November 2018.⁴ Our report on DfT identified "a significant and growing risk that the Department will not be ready if the UK exits the EU without a deal" across all of its work, and that the Department's approach to preparations "appears complacent".⁵ It also highlighted, as a matter of particular concern, that the Department's "preparations for avoiding disruption around major ports are worryingly under-developed".⁶ Our report on Defra noted that it was "too complacent about the levels of disruption or interruption to trade that may be faced", particularly to the chemicals industry. Under a no-deal Exit, the registration of UK chemical products on the EU's product registration system will no longer be recognised. Companies would not be able to continue exporting their products to EU member states until they have re-registered their products with the EU.⁷ This report examines the further progress of these two departments in preparing for Brexit, and specifically how they are planning for the movement of goods at the border in the event of no deal.

2 C&AG's memorandum, The award of contracts for additional freight capacity on ferry services, Session 2017–19, February 2019

3 Committee of Public Accounts, Exiting the European Union, Session 2017–19, HC 467, 29 January 2018

4 Committee of Public Accounts, Defra's progress towards Brexit, Session 2017–19, HC 1514, 5 November 2018; and Committee of Public Accounts, Department for Transport's implementation of Brexit, Session 2017–19, HC 1657, 28 November 2018

5 Committee of Public Accounts, Department for Transport's implementation of Brexit, Session 2017–19, HC 1657, 28 November 2018 – Conclusion 1

6 Committee of Public Accounts, Department for Transport's implementation of Brexit, Session 2017–19, HC 1657, 28 November 2018 – Conclusion 1

7 Committee of Public Accounts, Defra's progress towards Brexit, Session 2017–19, HC 1514, 5 November 2018 – Summary

5. Departments have been required to prepare for a no deal scenario since at least 2017.⁸ In autumn 2018, the government revised its planning assumptions that guided “no deal” planning across departments. The assumptions included a ‘reasonable worst case’ scenario where border controls imposed by the EU would cause delays to freight traffic. For the short channel crossings between Dover and Folkestone, and France, the analysis suggested that the flow of freight could be reduced by up to 87 per cent of normal levels, and this level of disruption could continue for 6 months, longer than the previous assumption of six weeks.⁹ These assumptions underpin Defra’s planning around food supplies and the transport of animals and animal products, and DfT’s planning around the movement of all goods. We asked DfT why it did not see the need to secure additional freight sooner but the Department told us that “obviously, we knew the prospect of no deal existed much earlier than that... [but also] what I don’t think we could have seen—and what I suspect others, also, would not have seen—was the practical responses on the ground”.¹⁰

6. In Autumn 2018, DfT decided to procure additional capacity for freight transport to ensure the movement of critical goods. It examined nine options and took forward one for immediate action. Its aim was to stimulate ferry operators into running additional services on routes away from the short channel crossings by purchasing tickets on those services. To ensure that services could be in place on time for 29 March 2019, the Department did not follow its normal procurement processes and instead opted to use a quicker negotiated process without prior public notification of the procurement.¹¹

7. DfT began procurement for the additional freight capacity on 30 November 2018. After an initial failed bidding round, it received bids from three companies on 14 December 2018. Two of these companies, Brittany Ferries and DFDS, are long-established ferry companies. The third, Seaborne Freight, is a start-up company which planned to operate a ferry service between Ramsgate and Ostend but did not operate any services at the time of procurement. Although two of the three bids did not comply with the requirements DfT had set out, the Department continued negotiations and signed contracts for the supply of services with all three companies on 21–22 December 2018. Recognising that Seaborne Freight was a riskier proposition than Brittany Ferries or DFDS, the Department wrote additional conditions into its contracts with the company to protect the taxpayer should the company be unable to deliver the services.¹² On 9 February 2019, the Department announced that it was terminating its contract with Seaborne Freight. The Department told us this was because one of Seaborne’s backers had withdrawn its support for the company.¹³

8 Committee of Public Accounts, *Exiting the European Union, Session 2017–19, HC 467, 29 January 2018* – Introduction

9 C&AG’s memorandum, paragraphs 1.5–1.6

10 Qq 3, 5–6, 99–100

11 C&AG’s memorandum, paragraphs 1.12–1.13, 2.6

12 C&AG’s memorandum, paragraphs 2.11, 2.19, 3.6, Figure 3, Appendix One

13 Qq 62–64

Planning for additional freight capacity

8. DfT told us that, although it was not a formal part of its reporting process to DExEU, it had been considering movement across the UK border after Brexit since Spring 2017.¹⁴ It told us that three developments over the summer of 2018 had triggered its decision to look at the availability of freight capacity specifically. These were: the general increase in no deal planning across government; the apparent lack of preparations for no deal by other Member States at their borders; and the absence of a market response by UK-EU ferry operators. It told us it had also been influenced by the change to the cross-government assumptions for a “reasonable worst case” scenario.¹⁵

9. We asked DfT what engagement they had with ferry market before it undertook its procurement exercise in autumn 2018. The Department told us that it had a long-standing relationship with the ferry market, but that the market typically operated without government intervention. The Department told us that it approached nine operators, which it described as “key” and who were either currently operating shipping freight or reasonably could be expected to do so. Despite its efforts to generate interest in providing extra ferry capacity the Department only received three bids, which it admitted was fewer than it had hoped for.¹⁶

10. DfT’s business case used an assumption that it could purchase additional freight capacity equivalent to 25 per cent of normal flows across the short channel crossings. The capacity provided by the contracts awarded to the three bidders was equivalent to 11 per cent of normal flows. The Department also had to purchase a higher proportion of the additional capacity created by the ferry operators: between 50 and 100 per cent, compared to the 20 per cent it had planned.¹⁷ DfT accepted that the limited capacity purchased as a result will also limit what government can achieve with it. It confirmed that medical supplies will be a “key priority”, although deciding priorities would be a “cross-government decision”.¹⁸ Defra told us that it did not expect that food would be carried on this additional capacity. Defra told us that it was optimistic that, even in the reasonable worst-case scenario, there will not be shortages of food, and did not believe there was a need to take any specific action in relation to food or exercise the government’s emergency powers. However, the Department did admit that there could be a reduction in availability and choice, particularly for perishable goods. Defra acknowledged that some groups, including “geographically vulnerable communities”, would be harder hit by interruptions in the food supply in a no deal scenario, and other vulnerable groups that may be affected by higher food prices.¹⁹

11. We asked the Department whether it would have secured more bids, or more competitive bids, from ferry operators had it started work to secure additional freight capacity earlier than autumn 2018. DfT asserted that it had engaged with every ferry operator it believed capable of delivering the services required, and that it had been explicit that this would be a competitive process.²⁰ However it still communicated

14 Q 99; Letter from Bernadette Kelly to the Chair of PAC regarding Seaborne Freight’s financial backers, 18 February 2019

15 Q 3, C&AG’s memorandum, paragraph 1.6

16 Qq 7–8, 13–15

17 Q 39

18 Q169

19 Qq 171, 189–190, 199

20 Qq 14–15, 22

under non-disclosure agreements, which we have raised before with the Department as “undermining transparency”.²¹ In our November 2018 report on the Department for Transport’s implementation of Brexit, we recommended that the Department “limit its use of non-disclosure agreements to commercially sensitive discussions”.²² DfT told us that its rationale for using non-disclosure agreements in this case was to avoid disturbing the wider market, and due to the sensitivity of the timing in relation to agreeing a deal.²³ It confirmed that using non-disclosure agreements in this way was not its usual procurement practice, but was “very specific in terms of this particular process”.²⁴ We questioned DfT on the engagement it had had with other freight markets, specifically Eurotunnel given that company’s decision to take the Department to Court. The Department claimed it had “regular discussions” with Eurotunnel, but could not satisfactorily explain why this legal action had been taken.²⁵

12. The Department wrote to us in December 2018 in response to our previous report outlining the progress made on key areas of work, and on communication with the public and businesses.²⁶ We asked the Department how it was using what it had learned from these activities to improve its communication with the transport sector leading up to Brexit. DfT claimed that it had good stakeholder engagement with the aviation industry. It admitted that engagement with the road haulage sector had been more critical and challenging, but told us that this had now become much more constructive”.²⁷ DfT told us that discussions with road hauliers were an “integral part” of creating the road haulage permit system, but was unable to tell us how these discussions had influenced its communications strategy.²⁸

The process used to procure freight capacity

13. DfT determined that ferry operators required three or four months’ lead-in time to introduce new services.²⁹ Due to the Department taking no action until autumn 2018, the Department told us it had to carry out what it described as “an emergency accelerated procedure” to procure the additional freight capacity and used the condition of “extreme urgency” to bypass normal procurement processes. We were surprised that the Department had not foreseen this need earlier.³⁰ We were concerned that DfT struggled to get ferry operators to follow the processes it had set during this accelerated procurement. It told us that the ferry industry was “not used to contracting with Government and therefore did not find it naturally easy to understand how to be compliant with this sort of process”.³¹ The Department’s first procurement attempt received no bids and of the three bids it received in the second attempt, two did not comply with its requirements. Nonetheless, it took all three bids forward to contract.³²

21 Committee of Public Accounts, Department for Transport’s implementation of Brexit, Session 2017–19, HC 1657, 28 November 2018

22 Committee of Public Accounts, Department for Transport’s implementation of Brexit, Session 2017–19, HC 1657, 28 November 2018

23 Qq 24, 33–35

24 Qq 25–29

25 Qq 108–112

26 Letter from Bernadette Kelly to the Chair of Committee of Public Accounts, 21 December 2018

27 Qq 155–156

28 Q 154

29 Q 5; C&AG’s memorandum, paragraph 2.5

30 Qq 4–6, 106

31 Qq 17–21

32 C&AG’s memorandum, paragraphs 2.11–12 and 2.19

14. DfT undertook a limited review of the three bids it did receive, including using consultants to assess the bids against a ‘reasonable’ price benchmark. In the case of Seaborne, which DfT acknowledged was high risk, the Department proceeded without firm guarantees as to what Seaborne’s backers were prepared to provide, taking too much assurance from what Seaborne told them.³³ The Department informed us that it had received written assurances from Seaborne Freight’s proposed backer, the Irish shipping firm Arklow Shipping, on 18 January, having previously received confirmation on 28 December, via Seaborne, that Arklow Shipping intended to provide equity investment.³⁴ Both of these assurances came after the contract had been signed. We asked whether this lack of early or formal assurances was the reason that the Department’s contract with Seaborne had been cancelled abruptly. DfT told us it had been committed to the success of its contract with Seaborne as long as the ferry company was making progress against the milestones DfT had set for the contract, and that this was its “desired outcome”. DfT told us that while there was evidence that Seaborne was making good progress in key areas such as leasing ships, securing financial backing, and port operations, it had terminated Seaborne’s contract when Arklow Shipping pulled out.³⁵

15. The Department’s procurement of additional freight capacity has also been the subject of a legal challenge from Eurotunnel. The Department told us that it had acted on legal advice in determining how to take the procurement process forward and had taken what mitigations were needed.³⁶ On 1 March, however, it was reported that the Department for Transport had come to a £33 million settlement with Eurotunnel over its legal challenge. The Department provided us with a redacted copy of the settlement agreement and on the 5 March published a document setting out Eurotunnel’s obligations under the agreement.³⁷ The Department asserted that the settlement contributed to the Government’s plans to ensure the flow of vital medical supplies in the event of a no-deal Brexit and that, without a settlement, there was a risk that the courts might render the existing contracts with the ferry companies ineffective.³⁸ We asked the Department about the extent to which the settlement was linked to future work by Eurotunnel or projects that were already in the pipeline. The Department told us that the terms of the settlement focused on “purposes rather than very specific things” but that it would audit what the money was spent on. It simultaneously asserted that it was “very firmly linking this agreement to very specific things that we believe have benefits for Eurotunnel but also for the wider economy”. The Department could not say whether this work would have been undertaken anyway by Eurotunnel regardless of the settlement. It was not able to provide further detail about the timeline for the work, but confirmed that Eurotunnel will have to produce a schedule.³⁹

16. The termination of the Seaborne contract means that the additional ferry freight capacity procured has been reduced from the equivalent of 11 per cent of the normal flows of freight across the short channel crossings to 7 per cent. The government had initially planned to secure additional ferry freight capacity equivalent to 25 per cent. We asked the Department how it was now going to secure the additional freight capacity it needed should there be no deal with the EU. In November 2018 DfT had explored other

33 Qq 59–61, C&AG’s memorandum, paragraph 2.16–2.21

34 Qq 46–48; Letter from Bernadette Kelly to the Chair of PAC regarding Seaborne Freight’s financial backers, 18 February 2019

35 Qq 62–63

36 Qq 108–112

37 Department for Transport, Eurotunnel obligations under government settlement agreement, 5 March 2019

38 Q156, Public Accounts Committee, Crossrail, 6 March 2019 oral evidence session

39 Qq 161–163, 172–179, Public Accounts Committee, Crossrail, 6 March 2019 oral evidence session

possible options to secure additional capacity, such as rail or air freight. The Department recommended these options but put off taking a final decision, due to the shorter lead times needed to deliver these services.⁴⁰ However, the Department admitted that time had now run out and it “would not be possible to complete a procurement and make it operational” before 29 March 2019. It told us that the Department for Health and Social Care has taken matters into its own hands to procure its own additional air freight capacity.⁴¹ DfT told us that it believes that “quite a serious programme of work” has now begun at French ports, reducing the likelihood of the “worst-case” scenario occurring if there is no deal.⁴² Defra told us that the most useful thing it felt it could do was “working with the French to make sure that the delays are less than the worst-case scenario that has been described”. However, the government is only able to “encourage and persuade and support” the French authorities into “taking steps on their side of the border”.⁴³

Putting plans into action

17. Both DfT and Defra were unable to explain to us how the additional freight capacity procured would be used or how goods would be prioritised. DfT told us that it had acted “as an agent of wider Government” in procuring capacity and it expected the Department for Health and Social Care to assess how it wishes to use the capacity procured for medical supplies.⁴⁴ DfT was not able to tell us whether it had used the haulage permit process, which has now closed, to ensure the right licenses were in place for the hauliers of priority goods.⁴⁵ Defra told us that it was still undertaking wider work to understand the different categories of freight for prioritisation. Defra assured us that permits for the movement of live animals would not be granted if there was a significant risk of them being caught in significant queues.⁴⁶ Both departments were unwilling to speculate about using emergency powers to manage freight more widely, claiming to do so would be “playing in markets”.⁴⁷

18. Defra asserted that, despite the reduced level of additional freight capacity, “there would not be an absence of food” given the UK’s “very wide and diverse supply chains”. But it acknowledged that there may be a difference between “the actual availability of food, versus the perception”. Defra told us that it was “working very closely with the retail sector, because we know that the voice of retailers is more immediately trusted”, to ensure that “we not only have an adequate supply of food but that people feel enough confidence in that supply”. It also asserted that it was working with other parts of government which were significant buyers of food, such as the Ministry of Justice and the Department for Education, to ensure that government has a “sensible, joined-up approach”. We were not convinced that this would be sufficient to prevent behaviour such as panic buying which we have seen in less serious situations.⁴⁸

19. DfT told us that Operation Brock, which is designed to manage traffic congestion in Kent caused by disruption at the Port of Dover, is the area of its Brexit work it considered

40 C&AG’s memorandum, Figure 1

41 Qq 114–118, 167

42 Q 113, 116

43 Qq 171, 179

44 Qq 187–188

45 Qq 168–169

46 Q174

47 Q186–192

48 Qq 199–20

“most challenging” to deliver on time, although its delivery confidence has improved.⁴⁹ It described it as a “complicated, difficult and sensitive project” and one which is key to managing the disruption which may arise from delays at the border.⁵⁰ When questioned further, the Department was unable to provide detail itself but “would have to ask the Kent resilience forum” for information.⁵¹ On transport disruption at other ports, the Department said “that is a discussion we are making sure ports and local resilience forums, involving us, continue to work through”.⁵² DfT told us that it was much less concerned about other ports, asserting they do not “present the same challenges that we see at Dover, in terms of the potential for disruption”.⁵³ However, we remained concerned that any significant displacement of traffic away from Dover would have a proportionately larger impact on the smaller ports it would move to.⁵⁴

20. Defra told us that it was developing six key IT systems it is developing as part of its no-deal planning, for example the system for getting an export health certificate. Two of the six systems had gone live and four were in the process of being tested. It told us that the biggest risk to their successful delivery was that “a number of them depend on a common registration module” and it was working to make that “user-friendly”. Defra admitted that it had “manual fall-backs” in case the IT was not ready, and that the manual process, if needed, would be slower and lose “the integration with other systems”.⁵⁵

21. We sought an update from Defra on other issues covered by this Committee in our 2018 report on its progress towards Brexit, particularly the impact of Brexit on the chemical industry and on animal exports.⁵⁶ Defra explained that the actions required by UK chemical manufacturers will depend on whether they were registered with the EU REACH system and whether they wished to continue to access the EU or UK markets. It told us that its engagement with the chemical industry had so far been based on guidance provided by the European Chemicals Agency and specific guidance for UK companies was published by the European Chemicals Agency on 8 February 2019.⁵⁷ We were concerned whether enough vets would be trained in time to meet the potential demand for export health certificates in a no-deal scenario. Defra told us that it had funded places for vets to acquire the training needed to sign export health certificates, but that it did not plan to otherwise intervene in the market to ensure the necessary capacity.⁵⁸

22. Both departments told us that they were still considering their staffing requirements should the UK leave the EU without a deal having been agreed. DfT told us that in the event of a no-deal exit, and the Department having to exercise all of its contingency plans, it expected to see a very significant increase in the number of staff working on Brexit. It expected to need “up to between 600 and 700 at the point of peak activity, dealing with disruption”, as opposed to the 260 full-time equivalent staff it currently had working on Brexit, and that around 40 staff were due to come from the Ministry of Justice. Defra told us that it currently had “about 2,500 people” working on Brexit, and that it expected 100 people to join it on a temporary basis from the Department for Education

49 Q 130

50 Qq 130, 187

51 Qq 136–137

52 Q 139

53 Q139

54 Q 177

55 Q 211–214

56 Committee of Public Accounts, Defra’s progress towards Brexit, Session 2017–19, HC 1514, 5 November 2018

57 Qq 206–207

58 Qq 202–203

to support no-deal planning. In both cases, the staff had been recruited from within the department, from external recruitments, and from re-deployment across government. Both departments told us that they were considering how to set up and staff 24-hour teams to manage emergency cover.⁵⁹

Formal Minutes

Monday 11 March 2019

Members present:

Meg Hillier, in the Chair

Sir Geoffrey Clifton-Brown Layla Moran
Caroline Flint Lee Rowley

Draft Report (*Brexit and the UK border: further progress review*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 22 read and agreed to.

Introduction agreed to.

Conclusions and recommendations agreed to.

Summary agreed to.

Resolved, That the Report be the Eighty-sixth of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 13 March at 2:00pm]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Wednesday 13 February 2019

Bernadette Kelly, Permanent Secretary, **Lucy Chadwick**, Director General,
Department for Transport, **Clare Moriarty**, Permanent Secretary,
Department for the Environment, Food and Rural Affairs

Q1-234

List of Reports from the Committee during the current Parliaments

All publications from the Committee are available on the publications page of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2017–19

First Report	Tackling online VAT fraud and error	HC 312 (Cm 9549)
Second Report	Brexit and the future of Customs	HC 401 (Cm 9565)
Third Report	Hinkley Point C	HC 393 (Cm 9565)
Fourth Report	Clinical correspondence handling at NHS Shared Business Services	HC 396 (Cm 9575)
Fifth Report	Managing the costs of clinical negligence in hospital trusts	HC 397 (Cm 9575)
Sixth Report	The growing threat of online fraud	HC 399 (Cm 9575)
Seventh Report	Brexit and the UK border	HC 558 (Cm 9575)
Eighth Report	Mental health in prisons	HC 400 (Cm 9575) (Cm 9596)
Ninth Report	Sheffield to Rotherham tram-trains	HC 453 (Cm 9575)
Tenth Report	High Speed 2 Annual Report and Accounts	HC 454 (Cm 9575)
Eleventh Report	Homeless households	HC 462 (Cm 9575) (Cm 9618)
Twelfth Report	HMRC's Performance in 2016–17	HC 456 (Cm 9596)
Thirteenth Report	NHS continuing healthcare funding	HC 455 (Cm 9596)
Fourteenth Report	Delivering Carrier Strike	HC 394 (Cm 9596)
Fifteenth Report	Offender-monitoring tags	HC 458 (Cm 9596)
Sixteenth Report	Government borrowing and the Whole of Government Accounts	HC 463 (Cm 9596)
Seventeenth Report	Retaining and developing the teaching workforce	HC 460 (Cm 9596)

Eighteenth Report	Exiting the European Union	HC 467 (Cm 9596)
Nineteenth Report	Excess Votes 2016–17	HC 806 (Cm 9596)
Twentieth Report	Update on the Thameslink Programme	HC 466 (Cm 9618)
Twenty-First Report	The Nuclear Decommissioning Authority's Magnox	HC 461 (Cm 9618)
Twenty-Second Report	The monitoring, inspection and funding of Learndirect Ltd.	HC 875 (Cm 9618)
Twenty-Third Report	Alternative Higher Education Providers	HC 736 (Cm 9618)
Twenty-Fourth Report	Care Quality Commission: regulating health and social care	HC 468 (Cm 9618)
Twenty-Fifth Report	The sale of the Green Investment Bank	HC 468 (Cm 9618)
Twenty-Sixth Report	Governance and departmental oversight of the Greater Cambridge Greater Peterborough Local Enterprise Partnership	HC 896 (Cm 9618)
Twenty-Seventh Report	Government contracts for Community Rehabilitation Companies	HC 897 (Cm 9618)
Twenty-Eighth Report	Ministry of Defence: Acquisition and support of defence equipment	HC 724 (Cm 9618)
Twenty-Ninth Report	Sustainability and transformation in the NHS	HC 793 (Cm 9618)
Thirtieth Report	Academy schools' finances	HC 760 (Cm 9618)
Thirty-First Report	The future of the National Lottery	HC 898 (Cm 9643)
Thirty-Second Report	Cyber-attack on the NHS	HC 787 (Cm 9643)
Thirty-Third Report	Research and Development funding across government	HC 668 (Cm 9643)
Thirty-Fourth Report	Exiting the European Union: The Department for Business, Energy and Industrial Strategy	HC 687 (Cm 9643)
Thirty-Fifth Report	Rail franchising in the UK	HC 689 (Cm 9643)
Thirty-Sixth Report	Reducing modern slavery	HC 886 (Cm 9643)
Thirty-Seventh Report	Exiting the European Union: The Department for Environment, Food & Rural Affairs and the Department for International Trade	HC 699 (Cm 9643)
Thirty-Eighth Report	The adult social care workforce in England	HC 690 (Cm 9667)
Thirty-Ninth Report	The Defence Equipment Plan 2017–2027	HC 880 (Cm 9667)

Fortieth Report	Renewable Heat Incentive in Great Britain	HC 696 (Cm 9667)
Forty-First Report	Government risk assessments relating to Carillion	HC 1045 (Cm 9667)
Forty-Second Report	Modernising the Disclosure and Barring Service	HC 695 (Cm 9667)
Forty-Third Report	Clinical correspondence handling in the NHS	HC 929
Forty-Fourth Report	Reducing emergency admissions	HC 795
Forty-Fifth Report	The higher education market	HC 693
Forty-Sixth Report	Private Finance Initiatives	HC 894
Forty-Seventh Report	Delivering STEM skills for the economy	HC 691
Forty-Eighth Report	Exiting the EU: The financial settlement	HC 973
Forty-Ninth Report	Progress in tackling online VAT fraud	HC 1304
Fiftieth Report	Financial sustainability of local authorities	HC 970
Fifty-First Report	BBC commercial activities	HC 670
Fifty-Second Report	Converting schools to academies	HC 697
Fifty-Third Report	Ministry of Defence's contract with Annington Property Limited	HC 974
Fifty-Fourth Report	Visit to Washington DC	HC 1404
Fifty-Fifth Report	Employment and Support Allowance	HC 975
Fifty-Sixth Report	Transforming courts and tribunals	HC 976
Fifty-Seventh Report	Supporting Primary Care Services: NHS England's contract with Capita	HC 698
Fifty-Eighth Report	Strategic Suppliers	HC 1031
Fifty-Ninth Report	Skill shortages in the Armed Forces	HC 1027
Sixtieth Report	Ofsted's inspection of schools	HC1029
Sixty-First Report	Ministry of Defence nuclear programme	HC 1028
Sixty-Second Report	Price increases for generic medications	HC 1184

Sixty-Third Report	Interface between health and social care	HC 1376
Sixty-Fourth Report	Universal Credit	HC 1375
Sixty-Fifth Report	Nuclear Decommissioning Authority	HC 1375
Sixty-Sixth Report	HMRC's performance in 2017–18	HC 1526
Sixty-Seventh Report	Financial Sustainability of police forces in England and Wales	HC 1513
Sixty-Eighth Report	Defra's progress towards Brexit	HC 1514
Sixty-Ninth Report	Sale of student loans	HC 1527
Seventieth Report	Department for Transport's implementation of Brexit	HC 1657
Seventy-First Report	Department for Health and Social Care accounts	HC 1515
Seventy-Second Report	Mental health services for children and young people	HC 1593
Seventy-Third Report	Academy accounts and performance	HC 1597
Seventy-Fourth Report	Whole of Government accounts	HC 464
Seventy-Fifth Report	Pre-appointment hearing: preferred candidate for Comptroller and Auditor General	HC 1883
Seventy-Sixth Report	Local Government Spending	HC 1775
Seventy-Seventh Report	Defence Equipment Plan 2018–28	HC 1519
Seventy-Eighth Report	Improving Government planning and spending	HC 1596
Seventy-Ninth Report	Excess Votes 2017–18	HC 1931
Eightieth Report	Capita's contracts with the Ministry of Defence	HC 1736
Eighty-First Report	Rail management and timetabling	HC 1793
Eighty-Second Report	Windrush generation and the Home Office	HC 1518
Eighty-Third Report	Clinical Commissioning Groups	HC 1740
Eighty-Fourth Report	Bank of England's central services	HC 1739
Eighty-Fifth Report	Auditing local government	HC 1738

First Special Report	Chair of the Public Accounts Committee's Second Annual Report	HC 347
Second Special Report	Third Annual Report of the Chair of the Committee of Public Accounts	HC 1399