



House of Commons  
Committee of Public Accounts

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# Exiting the European Union: The Department for Business, Energy and Industrial Strategy

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**Thirty-Fourth Report of Session 2017–19**

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

*Ordered by the House of Commons  
to be printed 18 April 2018*

## The Committee of Public Accounts

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Powers of the Committee of Public Accounts are set out in House of Commons Standing Orders, principally in SO No. 148. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk).

### Publication

Committee reports are published on the [Committee’s website](#) and in print by Order of the House.

Evidence relating to this report is published on the [inquiry publications page](#) of the Committee’s website.

### Committee staff

The current staff of the Committee are Richard Cooke (Clerk), Dominic Stockbridge (Second Clerk), Hannah Wentworth (Chair Support), Ruby Radley (Senior Committee Assistant), Carolyn Bowes and Kutumya Kibedi (Committee Assistants), and Tim Bowden (Media Officer).

### Contacts

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## Summary

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Given the scale of the Brexit task facing the Department for Business, Energy & Industrial Strategy (the Department) and its significant domestic policy agenda, we are alarmed that the Department has made virtually no attempt to re-order its priorities. It is crucial that it recognises the importance of doing so, particularly as it moves from Brexit planning to implementation where the task is even greater. The Department has recruited nearly 90% of the staff it needs to carry out its Brexit work in 2017–18 but we are concerned that the mix of staff it has recruited so far lacks the required level of experience and expertise to deliver a very challenging programme of work at pace. As we reported in February 2018, the paucity of information in the public domain about what departments are doing to prepare for Brexit is undermining scrutiny of progress and we expect our Committee, Parliament and the public to be kept meaningfully informed on what progress is being made, and at what cost. The Department is a case in point.

## Introduction

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The Department for Business, Energy & Industrial Strategy (the Department) has one of the largest Brexit portfolios of any government department. It is responsible for 22 of the 58 economic sectors the government says will be affected by Brexit, and 68 of the over 300 Brexit-related areas of work, or ‘work streams’ that departments need to complete as a consequence of the UK leaving the EU. To be ready for March 2019, the Department must plan for both a negotiated and a no deal scenario, prepare the necessary secondary legislation, and establish new processes and systems, including building new IT systems.

Alongside its work on Brexit, the Department leads a substantial portfolio of domestic policies and projects, eight of which are listed on the Government’s Major Projects Portfolio. The scale of the work is substantial and the Department has recruited more staff to support its Brexit work. We took evidence on 31 January 2018. On 19 March 2018 the Department for Exiting the European Union published the draft Withdrawal Agreement, which includes a transition period running to 31 December 2020, and stated that the UK and the EU negotiating teams aim to finalise the entire Withdrawal Agreement by October 2018.

## Conclusions and recommendations

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1. **The Department for Business, Energy and Industrial Strategy conveyed no clear sense of the need or urgency to re-prioritise its overall programme of work.** We reported in February 2018 that departments across government have yet to face up to the need to re-prioritise existing activity to make space for Brexit work. Our concern is reinforced by hearing that the Department has not taken steps to re-prioritise its work, despite it now being responsible for 68 of the 300 plus work streams that departments need to complete. The Department's Brexit workload will only increase as it moves from planning to implementation, but the Department insists that there is very little of its workload it can stop or postpone, and that it expects to deliver all of the policies that fall within its remit.

**Recommendation:** *The Department should look again at its priorities for business as usual and its Brexit portfolio to reassess which programmes could be stopped, paused or slowed down, taking into account its capacity and skills. It should update us within 2 months confirming that it has done so and what has changed as a result.*

2. **We doubt the realism of the Department's plans to deliver the numerous IT systems required to support the implementation of its Brexit work streams, especially when it has yet to start procurement.** The Department needs to build upwards of 12 new digital systems, such as a database to register trademarks. We took evidence in January 2018, before publication of the Draft Withdrawal Agreement proposing a transition period to December 2020. Extraordinarily, the Department had not yet started to procure any of these systems despite them being required by March 2019 in the event of a no deal scenario. They may still be required if negotiations should break down. The Department said it hoped to begin procurement in the next few months and that it was confident that it could acquire and test the systems by March 2019. Given the government's generally poor track record in delivering IT projects, we are extremely sceptical that the Department will be able to deliver these systems in time. The Department has been relying too heavily on a transition period for the UK's departure if it is to properly test the new IT systems. The Department may prove to have been lucky with the Draft Agreement now including a transition period. But we are concerned that, given the number of IT systems involved and the Department's other competing demands, these procurements may prematurely slip down its list of priorities.

**Recommendation:** *The Department should take the necessary steps to get procurement and testing of its IT projects back on track. It should set out what it has done in its update to us in two months.*

3. **The Department has recruited more staff to undertake the work needed for Brexit, but we are not convinced it has yet got the right mix of skills and experience in place to implement its Brexit work effectively.** It cannot even explain the skills in its existing workforce. The Department says it is on track to recruit the staff it needs to deliver its Brexit work in 2017–18, having recruited, up to December 2017, 305 of the 350 full-time equivalent staff it requires. The Department was unable to tell us vital information about its workforce, such as the breakdown of experienced staff compared to new recruits, the skills it has recruited so far, or the skills it is finding

more difficult to recruit. We were not reassured that the Department has recruited people with the sufficient negotiating expertise or is providing adequate training to strengthen these skills. The Department was unable to specify how many more staff it will need to recruit for its Brexit work in 2018–19, because it had not yet agreed with HM Treasury what additional funding it would receive for 2018–19. There will be challenges ahead for the Department in recruiting specialist skills in areas such as digital, where demand outstrips supply and where it will be competing with other public and private sector employers for the same set of skills.

**Recommendation:** *The Department should set out how the skills and experience of the staff it recruited in 2017–18 met its needs, identify any gaps, and set out the number, skills and experience of those it needs to recruit in 2018–19. It should update us accordingly in two months.*

4. **The Department’s Brexit task is significant and complex, but the lack of transparency over its activities undermines proper scrutiny of the progress and pace of its Brexit work.** Many of the Department’s 68 Brexit work streams are very complex and it will require significant time to implement the new policies and structures required. We reported in February 2018 that we expected much greater transparency from the Department for Exiting the European Union (DExEU) on the over 300 Brexit related work streams and on the progress that is being made. Similarly, there is a lack of information on the Department’s 68 work streams, including which of them are considered critical and whether projects are being delivered in line with expectations. We reiterate here that sensitivities around negotiations with the EU should not be used as an excuse for keeping the public and Parliament in the dark.

**Recommendation:** *Given how BEIS has one of the most significant and important workloads of any department with 68 workstreams, including 21 priority ones, it is imperative that it should set out, in its update to us in two months’ time, the full details of progress with these workstreams, including current risks ratings and progress against high-level milestones.*

5. **We are not confident that existing cross-department processes for preparing secondary legislation for Brexit will be able to cope with the volume required in the short timescale available.** To implement its Brexit-related work, the Department needs to pass around 150 statutory instruments through Parliament. In addition, as negotiations progress, the situation is likely to change rapidly and require decisions to be made at speed. The Department says its programme of legislation is achievable, provided it has good cooperation from other parts of government. The Department agreed however that the current processes to consult with other government departments to gain consensus will need to be reviewed to ensure they are agile enough to keep up with the pace of work. The Department’s 150 statutory instruments will be just the tip of the iceberg compared to government as a whole. Without new ways of working, current processes are likely to hinder the pace at which all government departments are able to deliver.

***Recommendation: The Cabinet Office, working with the Department for Exiting the EU, should carry out an urgent review of the planned processes in place, including a timeline to develop draft legislation. These departments should write to us with the results of the review by the end of May 2018.***

# 1 Preparing to implement Brexit

1. On the basis of a report by the Comptroller and Auditor General, we took evidence on 31 January 2018 from the Department for Business, Energy & Industrial Strategy (the Department).<sup>1</sup> The Department was established in July 2016 following the merger of the Department for Business, Innovation & Skills with the Department of Energy & Climate Change.<sup>2</sup>

2. The Department leads on 68 of the over 300 Brexit work streams identified across government, the highest number of any other government department. Of the 68, 21 are considered critical by the Department for Exiting the European Union. It also leads government policy in 22 of the 58 economic sectors that will be impacted by Brexit. Alongside this challenging task, the Department must also deliver a significant domestic policy agenda. This includes major projects, eight of which are listed on the Government Major Projects Portfolio, and significant policies that will shape the UK's economy after Brexit, including implementing a new industrial strategy.<sup>3</sup>

3. The Department for Exiting the European Union (DExEU) has provided guidance to departments on what they should do to plan and implement their Brexit workload. In line with this guidance, the Department must develop delivery plans to support a range of scenarios that are dependent on the outcome of Brexit negotiations. It must also formulate new policies, establish new systems to replace those currently administered by the EU and prepare draft primary and secondary legislation. The nature and scale of the task varies significantly across the work streams; some for example require new digital systems to be developed.<sup>4</sup> The Department has recruited new staff to support its increased workload.<sup>5</sup>

4. On 19 March 2018 the DExEU published the 'Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community'. The draft agreement includes a transition period running to 31 December 2020. DExEU stated that the UK and the EU negotiating teams aim to finalise the entire Withdrawal Agreement by October.<sup>6</sup>

## Prioritisation

5. In February 2018, we reported that despite the pressing need to re-prioritise work to make space for Brexit, departments have not yet undertaken this with the speed or scale needed to meet the challenges. In December 2017, the Cabinet Office had told us that within the next six months departments would need to have "serious conversations" about prioritisation and these conversations should cover all of a department's activities.<sup>7</sup>

1 Report by the Comptroller and Auditor General, [Implementing the UK's exit from the European Union: The Department for Business, Energy and Industrial Strategy](#), Session 2017–19, HC 608, 30 November 2017

2 [C&AG's Report](#), page 7

3 [C&AG's report](#), pages 5, 8

4 [C&AG's Report](#), page 5

5 Qq 40, 41

6 Policy paper, Department for Exiting the European Union, [Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#), 19 March 2018

7 Committee of Public Accounts, [Exiting the European Union](#), Eighteenth Report of Session 2017–19, HC 467, 7 February 2018, paras 2, 8–10

6. This Department is just one example of the lack of prioritisation across government. When we asked the Department about the approach it is taking to prioritisation, it insisted there is very little of its statutory duties, policies or major projects that it can discontinue.<sup>8</sup> Despite responding positively to the Infrastructure and Projects Authority's (IPA) offer to support prioritisation, the Department was unable to point to any real progress on this. Instead, it said that assurance conducted jointly with the IPA pointed out areas where the Department's governance structure and project management capability could be simplified and strengthened. This does not amount to a credible response to the prioritisation challenge.<sup>9</sup>

7. The Department told us it has reallocated 100 staff from existing duties on to higher priority Brexit work.<sup>10</sup> The Department explained that where projects are coming to an end, it would redeploy freed up staff to Brexit work. For example, it expects that when its project to establish a new body, UK Research and Innovation, comes to an end in April 2018, it would move approximately 30 people working on that project to support Brexit work. It added that it has asked its partner organisations to take a similar approach of reallocating staff where possible before asking for any additional staff.<sup>11</sup>

## IT requirements

8. The scale and requirements of the implementation task varies significantly across the Department's 68 Brexit work streams. The Department told us that over a dozen of its work streams require new digital systems to replace many of the current databases currently shared by the UK and EU. It has only recently started the process of setting out the system requirements, and told us it will need to begin the procurement process over the next two or three months. This leaves little time for designing, building and testing these systems. The Department explained that the systems it needs are not "cutting edge," as most of the systems it requires are simple databases such as those to register trademarks or to record funding of companies from Horizon 2020. The Department told us that "a proper implementation period" would allow users to have more time to test the systems. It commented that "if we are up against a hard deadline of March [20]19, there is less opportunity for that testing".<sup>12</sup>

9. As the Department has to consider a range of scenarios tied to the outcome of the negotiations, it does not yet know what the exact requirements of any IT systems will need to be. For example, the Department explained that if the outcome of the negotiations on the emissions trading scheme means it has to build a trading system, then a much more complicated IT system will be required. The Department acknowledged the added challenge of working with multiple scenarios and the implication on procuring its IT systems, but maintained its IT systems will be ready on time.<sup>13</sup> A further challenge the Department must overcome is a historical lack of digital skills: it told us it does not have a big digital development team as it has not been necessary for the work it has done in the past.<sup>14</sup>

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8 Qq 22, 23

9 Q 33

10 Qq 1, 36

11 Qq 36–39

12 Qq 10, 12–13

13 Qq 11, 62–64

14 Q 59

10. We questioned whether, given the Government’s track record on the delivery of IT systems on time, and the short time now available, it could really be confident that IT would not be an impediment to delivering relevant work streams on time. The Department agreed that it is difficult always to feel confident that IT systems will be set up on time, given experiences that very often they do not.<sup>15</sup> Yet the Department said it was currently “very confident” the projects would be ready for when the UK leaves the EU in March 2019.<sup>16</sup>

## Skills and resources

11. To carry out its Brexit related activities in 2017–18 the Department identified it needed 350 additional staff and it received supplementary funding of £35.1 million from HM Treasury.<sup>17</sup> By the end of December 2017, the Department had recruited 305 staff and said it was on track to recruit another 45 staff by the end of the financial year.<sup>18</sup> The Department told us that it was “pleasantly reassured” to see that its estimated requirement of £35.1 million in supplementary funding was a good estimate for the funding it needed.<sup>19</sup>

12. The Department told us that, so far, it has mainly hired people with policy skills. It expects that as its Brexit work progresses, it will need people with experience of digital skills, knowledge of particular sectors and subject matter experts.<sup>20</sup> The Department agreed with our view that these skills are in high demand but told us it has not had an issue in recruiting so far.<sup>21</sup>

13. The Department has recruited a mix of permanent staff, fixed-term contracts, and secondments. The Department told us it recruited about 150 people a year through the civil service fast stream programme, but it was unable to specify how many of those were working on Brexit-related activities.<sup>22</sup> Overall, the Department was not clear on what skill sets it has recruited, and whether new recruits had the experience required for the complexity of the Brexit task. For example, it had little understanding of the extent of negotiating experience amongst its staff, and it has only provided a two day course on negotiation and influencing skills to inexperienced staff. It indicated it has been recruiting more people with EU knowledge but was unable to put a number on how many.<sup>23</sup>

14. At the time of the session, the Department had not yet agreed with HM Treasury what, if any, additional funding it will receive for its Brexit work in 2018–19. It hoped that it would come to an agreement with HM Treasury on this “in a matter of weeks” after which it could begin recruiting for the staff it needs in the months ahead.<sup>24</sup> The Department acknowledged that the range of scenarios for which it was planning might change. As an example, the Department explained that there are three possible options following the outcome of the emissions trading scheme negotiations. It may need to build an entirely new IT system for the UK to use; it may be able to continue using the current EU system;

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15 Q 13

16 Qq 11

17 Qq 1,61

18 Q 41

19 Q 61

20 Q 42

21 Qq 45–46

22 Qq 46, 50

23 Qq 52–55

24 Q 48

or it may transpire that there is no time for building a new system and the Department has to find a workaround that does not disrupt the market. Each scenario will require a different number and set of skills. The Department assured us that its resourcing plans cover all three of these possible scenarios.<sup>25</sup>

## 2 Transparency and legislation

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### Information in the public domain

15. We reported in February 2018 that “the paucity of information in the public domain about what departments are doing to support Brexit is undermining scrutiny of progress”. The Cabinet Office had told us that the government will be in a “satisfactory” position by March 2019 but has not set out what this means or how progress will be communicated. The Department for Exiting the European Union (DExEU) told us the negotiations with the EU inhibited how transparent it could be.<sup>26</sup>

16. The lack of transparency of this Department’s progress with its Brexit-related activities is a case in point. Its work streams are significant and complex and yet we have no detail on what the work streams are, how critical they are, nor the progress being made against them. The Department told us it is a decision for the whole of government over what level of transparency to bring to the detail of individual work streams.<sup>27</sup>

17. The Department indicated there is a group of work streams that are more challenging because they rely on other parties. It explained it is progressing all aspects of implementing the work streams that it can, but other aspects, such as the Parliamentary time required to pass legislation, are outside of its control. We have no meaningful information on what these work streams are nor what the Department is doing to mitigate for these situations.<sup>28</sup> The Department told us it is confident that it is doing all it can to be ready for when the UK leaves the EU in March 2019.<sup>29</sup>

### Delivering the necessary legislation

18. Across government, DExEU has estimated that up to 1,000 pieces of secondary legislation must be in place by the time the UK leaves in the EU in March 2019.<sup>30</sup> This is in addition to the business-as-usual statutory instruments that departments need to pass each year. The additional 1,000 statutory instruments are mostly dependent on the powers in the EU (Withdrawal Bill), and most departments cannot finalise or lay their pieces of secondary legislation until the Bill has completed its passage.<sup>31</sup>

19. The Department has around 150 of the 1,000 or so statutory instruments that need to pass through parliament to support its 68 Brexit-related work streams. These are in addition to its 120–130 business-as-usual statutory instruments which it needs to pass within the next year.<sup>32</sup> The Department described how it has attempted to streamline the process by combining statutory instruments where possible.<sup>33</sup> The Department told us its programme of legislation is “doable but it requires a great deal of good work not only

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26 Committee of Public Accounts, [Exiting the European Union](#), Eighteenth Report of Session 2017–19, HC 467, 7 February 2018, paras 5, 19

27 Q 3

28 Q 4

29 Q 8

30 Committee of Public Accounts, [Exiting the European Union](#), Eighteenth Report of Session 2017–19, HC 467, 7 February 2018, para 2

31 Q 27

32 Q 23

33 Q 30

from the Government side, but good co-operation from Parliament”.<sup>34</sup> Depending on the amendments that are included in the EU Withdrawal Bill, the Department may need to do more work on its statutory instruments, but it has not planned for that scenario.<sup>35</sup> It has also not planned any contingency to resort to in the event that the legislation it has proposed is not passed by Parliament.<sup>36</sup>

20. The pace at which the Department must prepare and present legislation to Parliament means that decisions need to be made at speed. The current process of individual Ministers making decisions and writing around to see if others object may not be able to cope with the volume of changes required in the short timescales available. The Department told us it is likely that some innovation will be required in the current procedures so they are more suited to the forthcoming challenge.<sup>37</sup>

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34 Q 25

35 Qq 28–29

36 Q 32

37 Qq 26, 83

## Formal minutes

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**Wednesday 18 April 2018**

Members present:

Meg Hillier, in the Chair

Bim Afolami

Layla Moran

Sir Geoffrey Clifton-Brown

Anne Marie Morris

Caroline Flint

Bridget Phillipson

Gillian Keegan

Gareth Snell

Shabana Mahmood

Draft Report (*Exiting the European Union: The Department for Business, Energy and Industrial Strategy*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 20 read and agreed to.

Introduction agreed to.

Conclusions and recommendations agreed to.

Summary agreed to.

*Resolved*, That the Report be the Thirty-fourth 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 Monday 23 April 2018 at 3.30pm]

## Witnesses

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

### Wednesday 31 January 2018

*Question number*

**Alex Chisholm**, Permanent Secretary, Department for Business, Energy and Industrial Strategy, **Samantha Beckett**, Director General and senior responsible officer for EU Exit, Business, Energy and Industrial Strategy, and **Emma Ward**, Director, EU Exit Portfolio, Business, Energy and Industrial Strategy

[Q1-84](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

IEE numbers are generated by the evidence processing system and so may not be complete.

- 1 Department for Business, Energy & Industrial Strategy ([IEE0003](#))
- 2 EURIS ([IEE0001](#))
- 3 Prospect union ([IEE0002](#))

## List of Reports from the Committee during the current session

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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)
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
Twenty-First Report	The Nuclear Decommissioning Authority's Magnox	HC 461
Twenty-Second Report	The monitoring, inspection and funding of Learndirect Ltd.	HC 875
Twenty-Third Report	Alternative Higher Education Providers	HC 736
Twenty-Fourth Report	Care Quality Commission: regulating health and social care	HC 468
Twenty-Fifth Report	The sale of the Green Investment Bank	HC 468
Twenty-Sixth Report	Governance and departmental oversight of the Greater Cambridge Greater Peterborough Local Enterprise Partnership	HC 896
Twenty-Seventh Report	Government contracts for Community Rehabilitation Companies	HC 897
Twenty-Eighth Report	Ministry of Defence: Acquisition and support of defence equipment	HC 724
Twenty-Ninth Report	Sustainability and transformation in the NHS	HC 793
Thirtieth Report	Academy schools' finances	HC 760
Thirty-First Report	The future of the National Lottery	HC 898
Thirty-Second Report	Cyber-attack on the NHS	HC 787
Thirty-Third Report	Research and Development funding across government	HC 668
First Special Report	Chair of the Public Accounts Committee's Second Annual Report	HC 347