

## 7. Barriers to delivering new domestic policies

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### Key findings

- **The all-encompassing nature of Brexit, the lack of a parliamentary majority and tight public finances created difficulties for Theresa May in advancing domestic policies.** Brexit imposed significant demands on civil servants' and ministers' time, at the expense of progress on the government's domestic priorities such as tackling 'burning injustices', reforming social care and delivering major infrastructure projects.
- **Progress on domestic policies under Mrs May's government was also undermined by poor Cabinet and party discipline and rapid turnover of ministers, both of which were partly a result of disagreement over Brexit.** Mrs May's task was made harder by her loss of the Conservatives' parliamentary majority at the 2017 election, following which the government suffered defeats in parliament on both Brexit and non-Brexit legislation.
- **A general election could break the current parliamentary deadlock, which has left new prime minister Boris Johnson hamstrung. But any future prime minister could still face many of the same difficulties in making progress on domestic policy.** Brexit in whatever form will continue to place demands on civil servants' and ministers' time and could continue to test Cabinet discipline and party allegiances in parliament; keeping no deal on the table will make it harder still to make progress on domestic policy. Tight parliamentary arithmetic has made passing major legislation difficult. Without a general election – and perhaps with one – any government will struggle to build coalitions to pass new legislation.
- **Negotiating a future trade relationship with the EU once the UK has left the bloc – with or without a deal – would be more difficult than negotiating the Withdrawal Agreement over the past three years.** Negotiations with 'third countries' take place on a different legal basis with a more complicated process and require ratification by all 27 member states, while the difficult trade-offs revealed in the withdrawal negotiations' would be likely to persist.
- **Despite these challenges, the government could do more to make progress on domestic policy.** It must set clear and limited priorities, enforce Cabinet discipline, avoid frequent ministerial reshuffles and set clear fiscal objectives. To increase its likelihood of success, particularly in controversial policy areas, the next government should be clearer about how additional public spending can help achieve its objectives and where other approaches (beyond just money) are needed, build cross-party support in some areas and make space for long-term thinking.

## 7.1 Introduction

Brexit is the policy objective that defined Theresa May's government and will undoubtedly consume much of the government's time and energy over the next few years. Even so, in his first few weeks in office, Prime Minister Boris Johnson has set out an ambitious domestic policy agenda – including 'fix[ing] the crisis in social care once and for all';<sup>1</sup> increasing funding for schools, the police, prisons and the NHS; and reinvigorating growth across the country. Likewise, the Labour party – which could take power if, as seems likely, an election is held later this year – used its last election manifesto and recent party conference to set out a wide range of domestic policy priorities from scrapping university tuition fees to a substantial programme of nationalisation to universal free social care. If either were to deliver on these promises, it would mark a notable change from the past three years when domestic policy has languished. But achieving such objectives will require the government to overcome several major barriers that prevented Mrs May from making progress.

One of the issues will be finding the money needed to pay for some of these promises. Substantial permanent increases in spending that are financed through additional borrowing would, as is shown in Chapter 4, leave public sector net debt at an elevated level for longer.

But it was not money alone that stopped Mrs May's government from making good on her domestic policy promises. As Section 7.2 sets out, the last government was also hampered by: the pressures of delivering Brexit, which consumed civil servants', ministers' and parliamentary time; the lack of a parliamentary majority and the breakdown of Cabinet discipline, which made it difficult to pass anything other than routine legislation; and unusually frequent turnover of ministers, which deprived several areas of domestic policy of the political focus, continuity and drive needed to push through changes.

Many of the same challenges will continue to plague the government over the coming months and will need to be overcome if the government is to deliver changes to domestic policy. Section 7.3 sets out how these challenges are likely to evolve over the coming months; Section 7.4 summarises what the next government must do differently to make progress on domestic policies.

## 7.2 Limited progress on domestic policy

Mrs May's domestic policy ambitions were initially extensive. On the steps of Downing Street in 2016, she pledged to tackle 'burning injustices'.<sup>2</sup> The 2017 Conservative manifesto had more words than any previous offering from the party<sup>3</sup> and contained a range of promises from increasing spending on the NHS and schools to reforming social care and investing in infrastructure. But her government struggled to make progress on many areas of her agenda.

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<sup>1</sup> <https://www.gov.uk/government/speeches/boris-johnsons-first-speech-as-prime-minister-24-july-2019>.

<sup>2</sup> <https://www.gov.uk/government/speeches/statement-from-the-new-prime-minister-theresa-may>.

<sup>3</sup> <https://twitter.com/GavinFreeguard/status/864022074809081856>.

Having lost her parliamentary majority at the 2017 election, Mrs May was forced to abandon some of her manifesto promises in order to secure the backing of Northern Ireland's Democratic Unionist Party (DUP) through a confidence and supply agreement. To do that, the government agreed not to cut benefits for pensioners as it had intended – instead retaining the triple lock on the state pension and entitlement to a winter fuel payment for all pensioners – at a cost of around £1 billion a year<sup>4</sup> during this parliament, with that cost increasing in the long run. Mrs May also agreed to increase planned spending in Northern Ireland by a further £1 billion over the following five years.

At least two other explicit manifesto pledges were also dropped. Mrs May dropped her manifesto proposal to reform social care funding during the campaign, and shortly after the election she dropped a plan to replace free school lunches for infants with free breakfasts for all primary school children. She later stated her intent to bring forward a consultation on reforms to social care funding, but this did not materialise under her premiership.

Mrs May's lack of progress reflected the difficulties that faced a minority government in getting legislation through parliament and the pressures of Brexit on ministers, civil servants and parliament. There were also disagreements within the ruling Conservative party – and even within the Cabinet – over key policy issues, with normal Cabinet discipline breaking down.

### **Slim parliamentary majority has limited the government's ability to pass legislation**

Before the 2017 election, Mrs May enjoyed a majority of 16 in the House of Commons. The snap election was intended to strengthen her position and provide a mandate to push through her version of Brexit. But it had the opposite effect. Mrs May returned to Downing Street in June 2017 at the helm of a minority government – having won only 317 seats in the House of Commons, four seats short of a working majority.

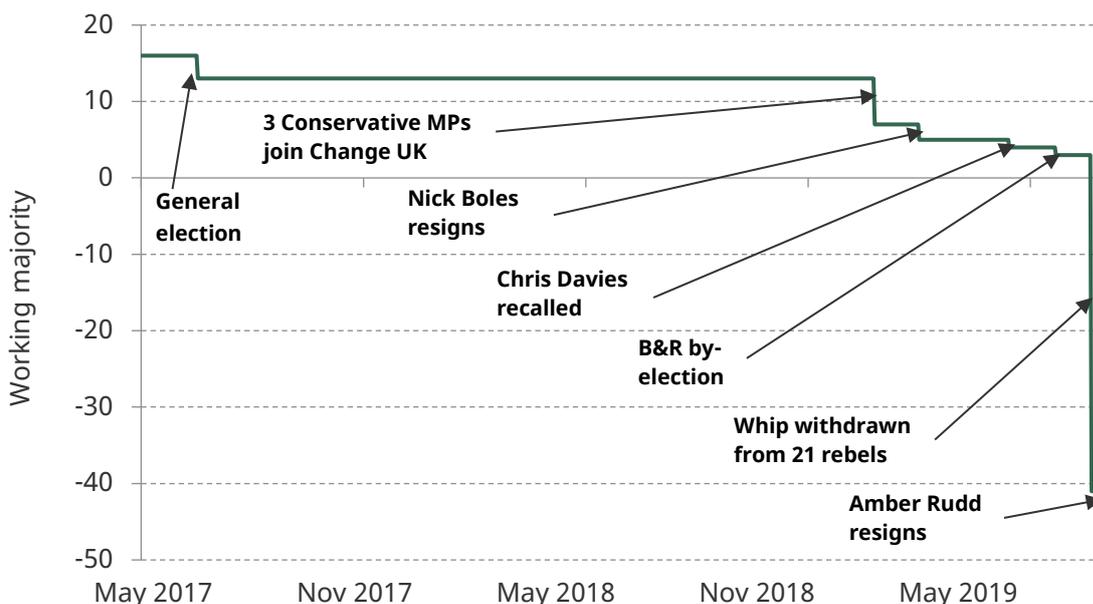
She was forced to enter into an agreement with the DUP in an attempt to ensure the government had the numbers (a working majority of 13 in June 2017) to pass Brexit legislation, finance bills, legislation to allow the government to spend money, and legislation to deliver priorities set out in the Queen's Speech. But the agreement did not guarantee DUP support on other issues.

As Figure 7.1 shows, the parliamentary arithmetic has become even more challenging for the government since then. During the first eight months of 2019, four Conservative MPs resigned the Tory whip and one seat was lost to the Liberal Democrats in the Brecon and Radnorshire by-election. As a result, Mr Johnson had an effective working majority of just three at the beginning of August.<sup>5</sup> But in the first week in September, the government lost its working majority: Phillip Lee defected to the Liberal Democrats, Mr Johnson decided to remove the whip from 21 Conservative MPs who rebelled against the government to support plans to prevent a no-deal Brexit on 31 October (precipitating another defection

<sup>4</sup> <https://www.ifs.org.uk/uploads/Presentations/Carl%20Emmerson%2C%202017%20General%20Election%2C%20manifesto%20analysis.pdf>.

<sup>5</sup> This figure is calculated on the basis that Charlie Elphicke – who has been suspended from the Conservative party – would continue to vote with the government.

**Figure 7.1. The government’s working majority since May 2017**



Note: Suspensions with pending permanent decisions are not shown. Where by-elections have been won by the incumbent party, the temporary change in majority has not been shown. Phillip Lee joined the Liberal Democrats at the same time as the whip was withdrawn from the 21 rebel MPs. ‘B&R’ is Brecon and Radnorshire.

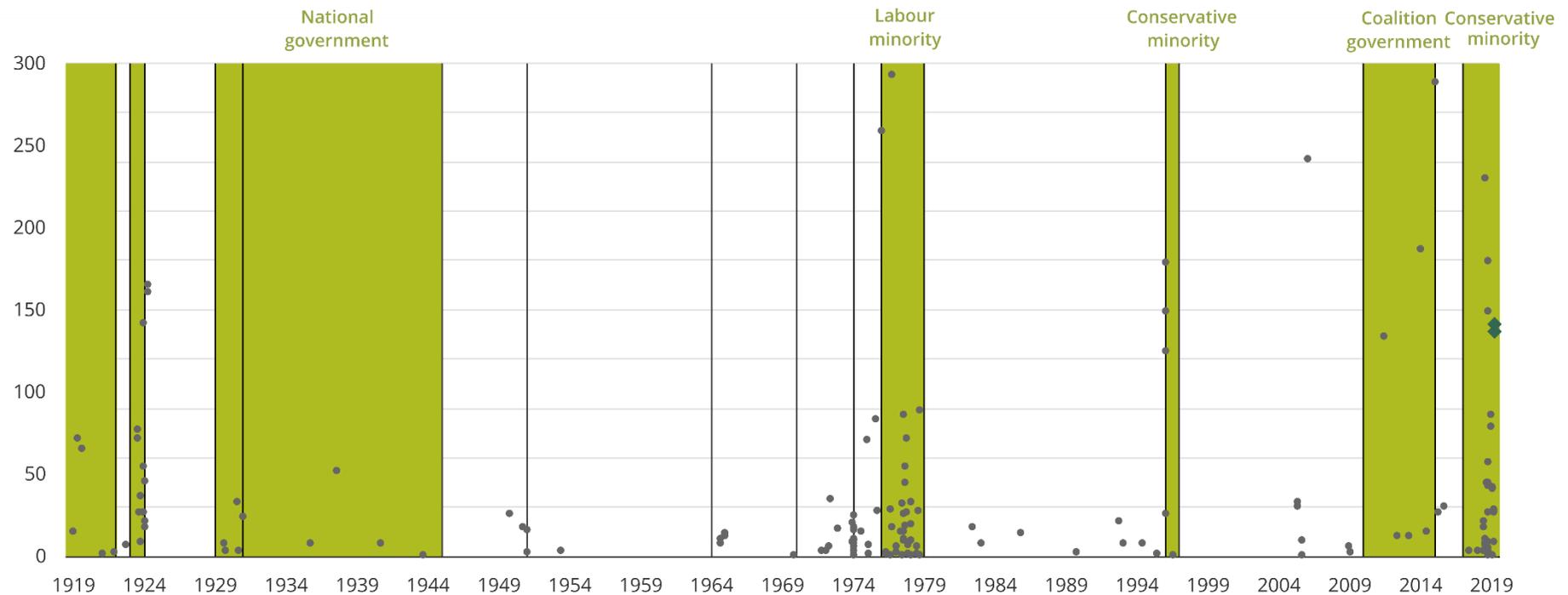
Source: Institute for Government analysis of state of the parties. Based on a chart by FT Research and Cale Tilford.

to the Liberal Democrats from Sam Gyimah), and Jo Johnson and Amber Rudd resigned from the Cabinet (and the latter also from the parliamentary Conservative party).

Like minority governments before it, over the past two years the May government faced opposition in many policy areas and suffered numerous heavy defeats in parliament. As Figure 7.2 shows, these included two of the largest defeats on record. The usual challenges of minority government were exacerbated by Brexit, which has cut across party lines, contributing to a breakdown in party discipline. Since the 2017 election, the government has lost eight votes by a margin of more than 50 (all of which have happened since the start of 2019); this compares with four defeats on such a scale during the 20 years between the 1997 and 2017 elections. Mrs May’s biggest defeat came in January 2019 when the first so-called meaningful vote on her Brexit deal was rejected by a majority of 230 – the largest defeat on a fully whipped vote in modern times.<sup>6</sup>

The government has suffered defeats not only on Brexit bills but also on non-Brexit bills, which have been targeted to try to force the government’s hand on Brexit. For example, in November 2018, a show of force by pro-Brexit Conservative MPs forced the Home Secretary to amend the Offensive Weapons Bill. In January 2019, the Finance Bill was

<sup>6</sup> The defeats shown in Figure 7.2 that are larger than the one experienced by Mrs May in January 2019 were not fully whipped votes. Government losses on fully whipped votes are more politically significant. Fully whipped votes are votes when all members of the governing party (or parties) are instructed to vote with the government. On other occasions, only ministers are instructed to vote with the government, allowing other MPs to vote against the government if they choose. As parties’ instructions on how to vote are often not public, it is not always possible to say how a vote has been whipped.

**Figure 7.2. Government defeats in the House of Commons (minority governments highlighted)**

Note: Includes defeats up to 9 September 2019. Motions to call an early general election under the Fixed-Term Parliaments Act (FTPA) are highlighted with green diamonds, as these constitute government 'losses' under the FTPA (since fewer than two-thirds of MPs voted for the motion), even though a majority of MPs who voted supported the government motion.

Source: Institute for Government analysis of D. Butler and G. Butler, *British Political Facts*, 2011, and Wikipedia. Excludes Opposition Day motions except 4 December 2018. Note that some non-whipped or partially whipped votes may be included in these data.

successfully amended to make the use of certain (relatively minor) provisions for post-Brexit tax changes conditional on parliament approving a Brexit deal, the government requesting an extension to the Article 50 period or MPs expressly approving the UK leaving the EU without a deal. The Northern Ireland (Executive Formation) Bill was also amended in July 2019 in an attempt to prevent the government proroguing parliament to force through a no-deal Brexit.

Parliamentarians also tried – albeit unsuccessfully – to amend the government’s spending plans in July 2019. Margaret Beckett and Dominic Grieve attempted to amend Estimates motions in July 2019 to make some government spending in 2019–20 contingent on having secured a deal with the EU – but failed when their proposed amendments were not chosen for debate by the Speaker.

Even when the government was successful in getting legislation through, it was often by a very slim margin. During the 2017–19 parliamentary session so far, 19 votes have passed the Commons with a majority of no more than 1% (and a further 13 by a majority of between 1% and 2%). Taken together, these equate to 7.2% of all the votes held during the 2017–19 parliamentary session.<sup>7</sup> The previous highest number of votes won with such a small margin in any previous parliament over the past decade was five (or 2.0% of votes) during the 2008–09 parliamentary session.

But, if anything, this analysis of opposition to votes put before parliament understates the parliamentary barriers that Mrs May’s government faced. This is because she avoided introducing non-essential legislation that she might have struggled to get passed (as previous minority governments may also have done).

Although quite a lot of non-Brexit legislation has been introduced since the 2017 general election, it has been lower-key than would normally be expected from a new government. The 2017 Queen’s Speech failed to mention some the Tories’ key manifesto pledges, such as the expansion of grammar schools. Ministers faced strong internal scrutiny of their legislative proposals, and were encouraged to use non-legislative means to implement their policies wherever possible.<sup>8</sup>

One example of legislation that fell victim to Mrs May’s loss of majority is the Prison and Courts Bill, which set out plans for prison reform and changes to prisoner rehabilitation. These reforms were initially flagged as a priority in the 2016 Queen’s Speech and the bill was introduced to the House of Commons in February 2017. But it was dropped because of the 2017 election and never reintroduced, despite a commitment in the 2017 election manifesto to ‘create a new legal framework for prisons’.

During the parliamentary session since Mrs May lost the Conservatives’ parliamentary majority, 51 government bills have received Royal Assent, or an average of one bill every seven sitting days. This is a bit below the average (nearly one every six sitting days) during the parliamentary sessions from May 2010 to June 2017.

However, the nature of the legislation passed during the current session has differed. Six of the bills achieving Royal Assent related to leaving the EU. Beyond that, most of the bills

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<sup>7</sup> These figures include votes held up to 24 September 2019.

<sup>8</sup> <https://www.gov.uk/government/speeches/leader-of-the-commons-addresses-institute-for-government>.

have either been routine (such as money bills), Northern-Ireland-specific or focused on narrow – often uncontroversial – policy areas. There have been eight routine money bills that the government had to pass (that is, Finance Acts and Supply and Appropriation Acts). There have been nine Northern-Ireland-specific pieces of legislation, which were required in the absence of an executive in Northern Ireland. The remaining 28 bills were mostly focused on specific policy areas – such as data protection, smart meters and the protection of wild animals in circuses – rather than on wholesale policy reform.

### Ministerial turnover and breakdown of Cabinet discipline also hampered progress

Mrs May's domestic policy agenda faced challenges not just from MPs in parliament but also from members of her own Cabinet. Throughout her time as prime minister, Mrs May attempted to retain a balance between former Remain and Leave supporters in top jobs in her Cabinet. This created problems in reaching decisions on Brexit and – after Mrs May lost her majority at the 2017 election – these splits spilled over to create problems for the domestic policy agenda.

Mrs May headed off some rebellions by limiting her policy ambitions, as described above. But there were also instances when she was forced to change course following objections from ministers. For example, the government was forced to accelerate the introduction of limits on fixed-odds betting terminals after sports minister Tracey Crouch resigned in November 2018, which caused political embarrassment for the government.<sup>9</sup>

Cabinet disunity also made it difficult to make progress on building HS2 – the high-speed rail link from London to the Midlands and the North – and expanding airport capacity at Heathrow. Mrs May's government was, in theory, committed to delivering both projects<sup>10</sup> – but these projects exposed the problems that Brexit created for collective decision-making in Cabinet. Mrs May was forced to suspend collective Cabinet responsibility – that is, the convention that government decisions are supported by all members of the Cabinet and that disagreements between ministers are kept behind closed doors – in October 2016 to allow a free vote on the Heathrow proposals. This was done to avoid Boris Johnson – and fellow Cabinet minister, Justine Greening – resigning from Mrs May's then only recently formed Cabinet. When she finally held a whipped vote on Heathrow expansion – in June 2018, which passed with a large majority – international trade minister Greg Hands resigned, and Mr Johnson missed the vote because he was travelling to Afghanistan. Despite spending having been approved for the first phase of HS2 (from London to the Midlands), the start of engineering work on the line and tunnels has been delayed.

Discontent over the direction of government policy on Brexit also led to unusually rapid turnover of ministers, which deprived some areas of the domestic agenda of the ministerial attention, continuity and drive needed to push them forward. As Figure 7.3

<sup>9</sup> <https://www.theguardian.com/uk-news/2018/nov/01/sports-minister-resigns-over-chancellors-delay-to-gambling-curb>.

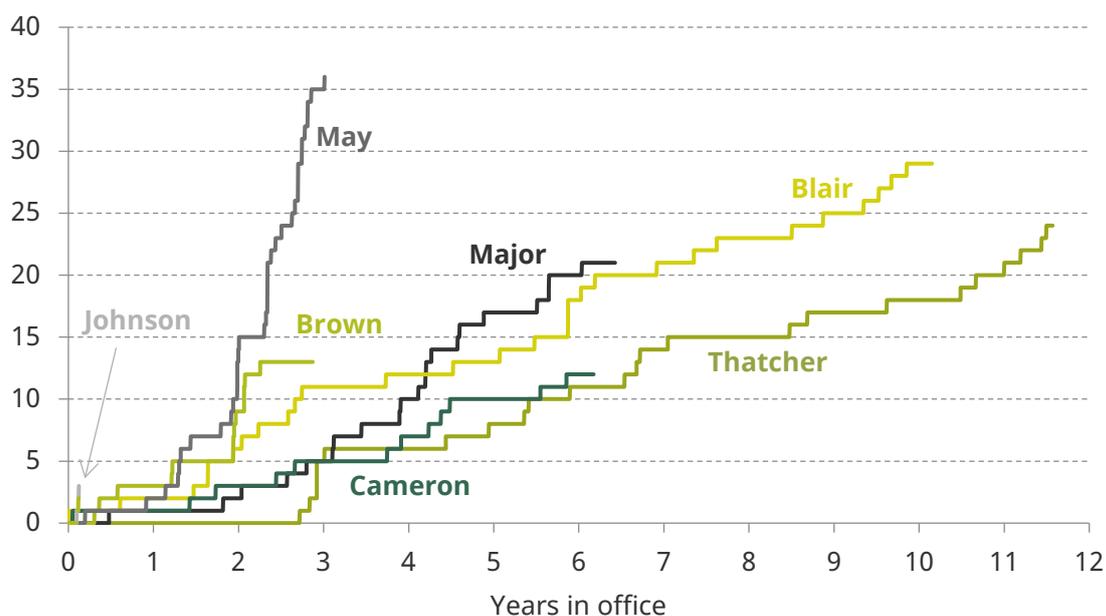
<sup>10</sup> Parliament voted to approve a national policy statement designating Heathrow the preferred option for airport expansion on 25 June 2018: <https://www.gov.uk/government/collections/heathrow-airport-expansion#history>. The hybrid bill for phase 1 of HS2 (which 'enables' but does not commit the government to build the line between London and Birmingham) was backed by 399 votes in favour to 42 against and received Royal Assent on 23 February 2017: <https://www.gov.uk/government/collections/high-speed-rail-london-west-midlands-bill>.

shows, a far greater number of ministers resigned under May’s premiership than over comparable periods under her predecessors.

As Figure 7.4 shows, departments such as the Department for Digital, Culture, Media and Sport (DCMS), the Department for Work and Pensions (DWP) and the Ministry of Justice (MoJ) have suffered particularly acutely from ministerial churn since 2010.

For example, the MoJ has so far had seven different secretaries of state; it has also had seven different prisons ministers since 2010. Over that period, the coalition and then Conservative governments have vacillated over prison and sentencing reform and efforts to cut reoffending. Ken Clarke, then justice minister, agreed to significant cuts to his department’s budget in 2010 alongside plans to reform sentencing guidelines, which would have helped reduce the prison population. But plans to introduce sentencing ‘discounts’ for early guilty pleas were scrapped in 2011 and other legislation since then – such as the Criminal Justice and Courts Act 2015 – has served to increase (rather than reduce) the use and length of custodial sentences. As a result, there has been little change in the number of people in prison since 2012. The House of Commons Justice Select Committee noted in April 2019 that frequent ministerial changes ‘hindered the sustained implementation of an overarching strategic approach to prisons policy’.<sup>11</sup>

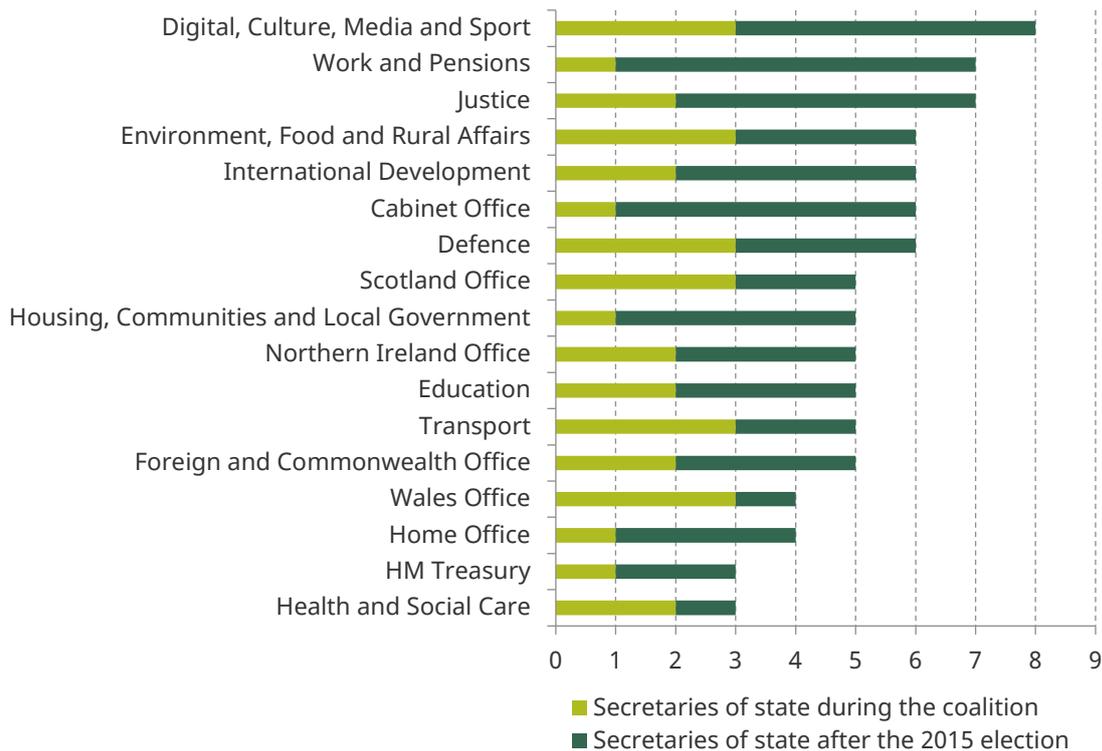
**Figure 7.3. Number of ministerial resignations outside reshuffles, 4 May 1979 to 24 September 2019**



Note: Excludes those resignations announced before a reshuffle but effectively taking place during it – e.g. Hurd (1995), Smith/Bleas/Hughes/Watson (2009), Dunlop (2017) – and sackings.

Source: Institute for Government analysis of sources including: D. Butler and G. Butler, *British Political Facts*, 2011; House of Commons Library; A. King and N. Allen, ‘Off with their heads: British prime ministers and the power to dismiss’, 2010, *British Journal of Political Science*, 40, 249–78, <https://doi.org/10.1017/S000712340999007X>; and IfG ministerial database.

<sup>11</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmjust/483/483.pdf>.

**Figure 7.4. Number of secretaries of state since 2010**

Note: Secretaries of state who returned to the same post after the 2015 election are counted only in the number of 'secretaries of state during the coalition'.

Source: Institute for Government ministerial database.

DWP has also had very rapid turnover of ministers over the past three years. Having had a single secretary of state (Iain Duncan Smith) from 2010 to 2016, the department has since had six secretaries of state in three-and-a-half years. This has come at a time when the department has been attempting to implement major and controversial changes to the working-age benefits system, which have taken much longer than originally envisaged to put in place, and dealing with the issues arising from this.

### Ministers', civil servants' and parliamentary time has been consumed by Brexit

As well as creating conflict within the government and in parliament, Brexit has also hindered progress on other policy areas because it has consumed time and energy that civil servants, ministers and MPs would otherwise have been able to devote to other issues.

Of the 2,640 hours that the House of Commons main chamber sat in the 2017–19 session (up to the beginning of its summer recess in July 2019), 485 hours (equivalent to roughly 61 sitting days) were spent debating Brexit-related issues. Although this means that only a fifth of MPs' time in the main chamber has been spent on Brexit, this is still a considerable amount of time to spend on one subject and the proportion will have risen in September 2019. In addition, MPs have spent much parliamentary time outside the main chamber debating Brexit – for example, MPs spent 135 hours discussing Brexit legislation in Public

Bill Committees over the same period, and almost every Commons Select Committee has conducted inquiries related to Brexit.

Despite this, parliamentary time itself does not seem to have been the major constraint on domestic policy progress. Mrs May's government tried as far as possible to limit parliament's engagement in Brexit<sup>12</sup> and the government deliberately padded out the parliamentary agenda from the end of April to July 2019 with low-priority issues. This included 8 hours and 33 minutes of debate in the House of Commons on the treatment of wild circus animals – legislation that affects only 19 animals in the UK<sup>13</sup> – and nine Opposition Day debates, following a four-month hiatus in which the government failed to schedule any Opposition Days.

But balancing the demands of Brexit with progress on the domestic policy agenda has been a more serious challenge for ministers and civil servants, particularly in some departments. Figures 7.5–7.7 provide various indications of the demands that Brexit has placed on different departments. Figure 7.5 examines the number of Brexit-related workstreams underway in each department – totalling over 300, according to the National Audit Office.<sup>14</sup> (This figure excludes the Department for Exiting the EU, DExEU, since all of its activity is focused on leaving the EU.) Figure 7.6 shows how much money has been added to each department's budget to pay for Brexit preparations, while Figure 7.7 shows how many pieces of Brexit-related primary legislation and Brexit-related statutory instruments<sup>15</sup> each department laid before parliament during the 2017–19 parliamentary session (up to 24 September 2019). Figure 7.8 combines all of these metrics, summarising how departments have been affected: on each of the metrics, the departments that are most affected (for example, with the most workstreams or receiving the most additional funding) are ranked first.

Taken together, these figures suggest that preparing for Brexit has imposed particular burdens on the Department for Business, Energy and Industrial Strategy (BEIS), the Department for the Environment, Food and Rural Affairs (Defra) and the Department for Transport (DfT). For example, Defra has had to set up a new environmental governance body, while the DfT has had to put in place international air service agreements.

Other departments rank highly on only some of these metrics. For example, while the Home Office has only a relatively small number of workstreams and has not introduced much Brexit-related legislation or statutory instruments, it has been given more money than any other department to help put in place a new immigration system to deal with EU citizens, a future immigration regime and new security systems.

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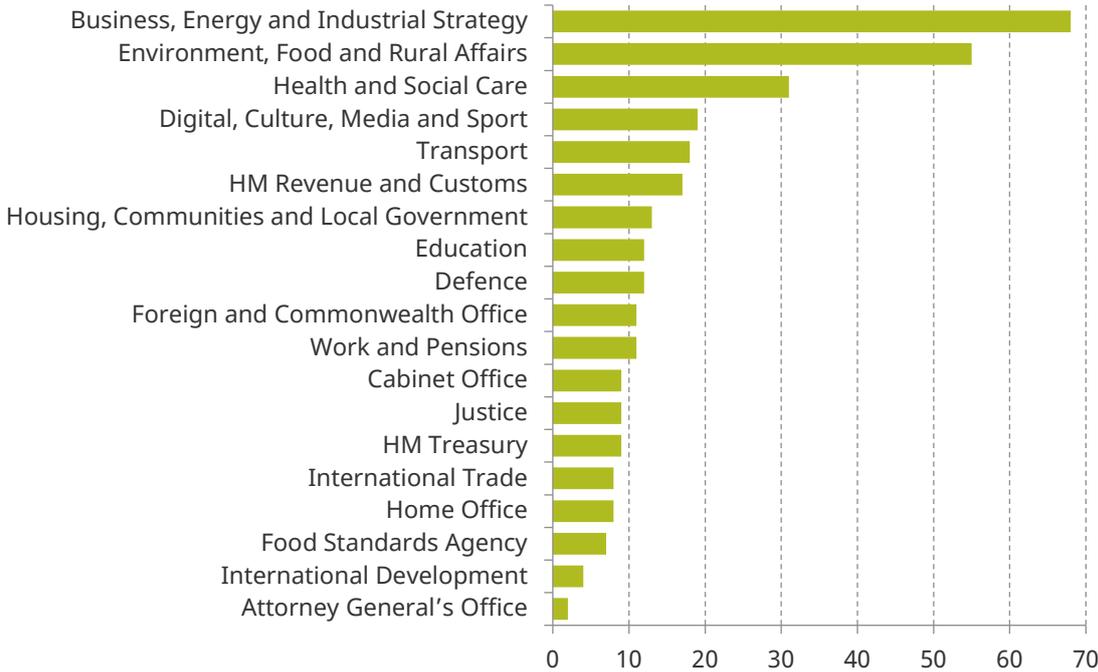
<sup>12</sup> For further details, see <https://www.instituteforgovernment.org.uk/publications/brexit-effect>.

<sup>13</sup> David Rutley (Parliamentary Under Secretary of State) told the House of Commons that there were only 19 wild animals left in two travelling circuses that would be affected by the ban (<http://bit.ly/2I6YZT0>). Department for the Environment, Food and Rural Affairs (Defra) figures show that in 2018 two licences were applied for, covering six reindeer, four zebras, three camels, three racoons, a fox, a blue and gold macaw and a zebu. (<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN05992#fullreport>).

<sup>14</sup> Figure 7.5 includes all central government departments (apart from DExEU) and agencies that have explicit Brexit workstreams.

<sup>15</sup> To prepare the UK statute book for Brexit, the government has had to pass a large amount of secondary legislation. This has predominantly been in the form of statutory instruments, which are usually used to make technical legal changes. Many of these have been passed using powers granted to government in the European Union (Withdrawal) Act 2018.

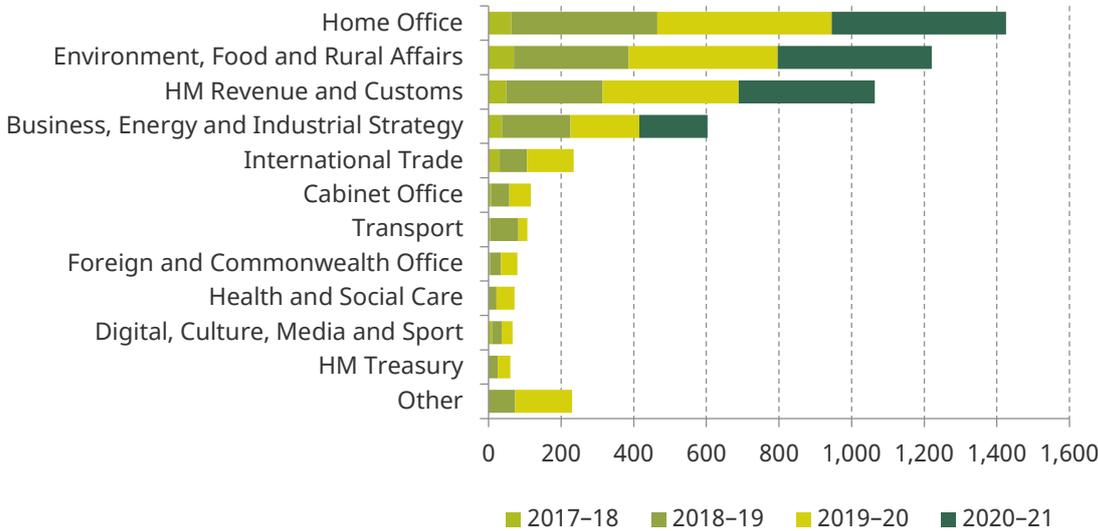
**Figure 7.5. Number of Brexit-related workstreams in each government department**



Note: Estimates for all departments are from November 2017 except for Department for International Trade (January 2018), Foreign and Commonwealth Office (April 2018), Department for Transport (July 2018) and Department for the Environment, Food and Rural Affairs (September 2018).

Source: Institute for Government analysis of National Audit Office reports.

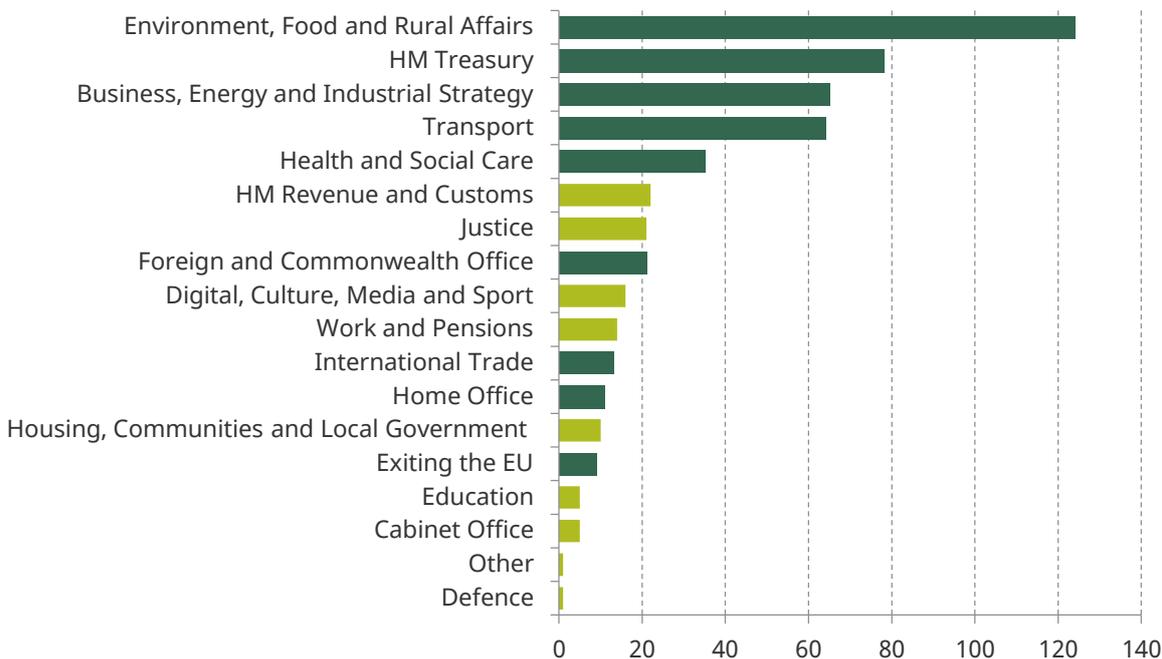
**Figure 7.6. Brexit funding allocated to departments (2019–20 prices)**



Note: Some of the additional Brexit funding allocations announced in August 2019 are not included as the government has yet to make clear to which departments additional funding will be allocated.

Source: IfG analysis of: Chief Secretary to the Treasury, Written Statements HCWS1205 and HCWS540, 18 December 2018 and 13 March 2018; HM Treasury, 'Central government supply estimates 2017-18'; HM Treasury, 'Supplementary estimates', 7 February 2018; and HM Treasury, 'Spending Round 2019'.

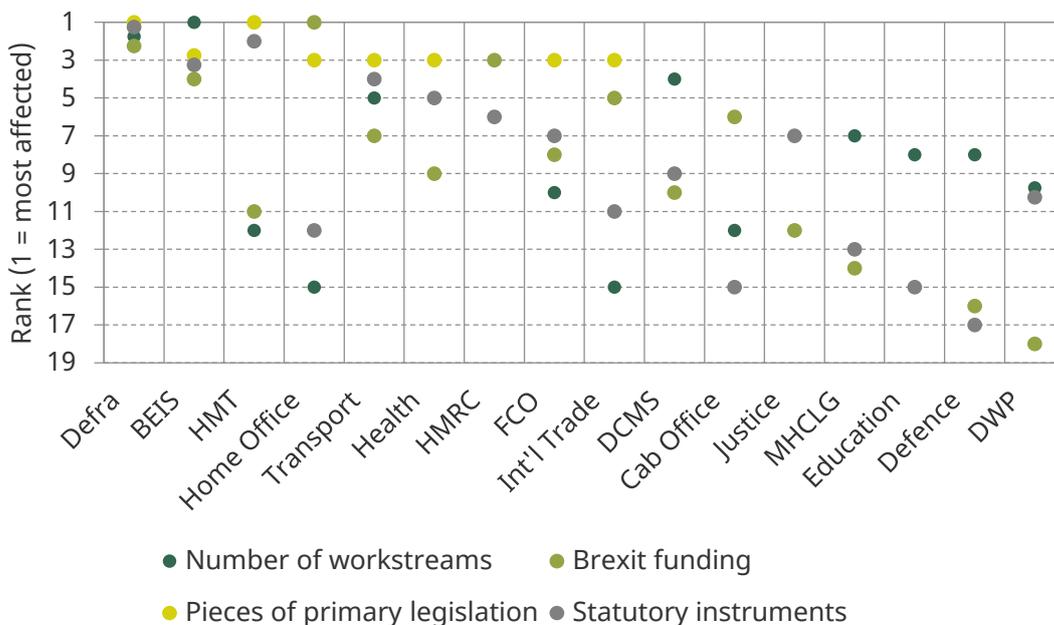
**Figure 7.7. Number of Brexit-related statutory instruments introduced to parliament, by department**



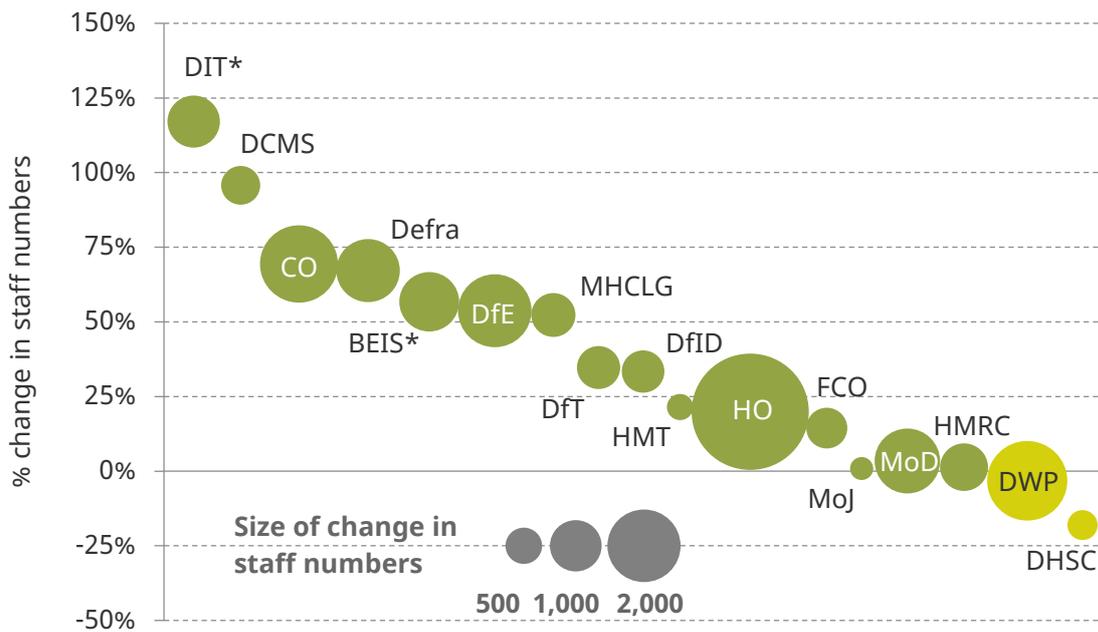
Note: Bars show the number of statutory instruments (excluding proposed negative statutory instruments) laid by each department between 21 June 2017 and 13 June 2019. Bars highlighted in darker green indicate departments that also introduced primary legislation during the 2017–19 parliamentary session (up to 24 September 2019).

Source: IfG analysis of Parliament.UK and data provided by the House of Commons Journal Office.

**Figure 7.8. Departmental rankings on different measures of Brexit affectedness**



Note and source: As for Figures 7.5–7.7. Note that rankings are vertically offset ('jittered') to ensure all points are visible. DExEU is excluded from this figure as it cannot be ranked on some measures (i.e. Brexit-related workstreams and funding) because its entire portfolio is Brexit-related.

**Figure 7.9. Change in staff numbers (2016 Q2 to 2019 Q2), by department**

\* Change for DIT and BEIS are since 2016 Q4 (the first quarter of available data) rather than 2016 Q2.

Note: Departments that have increased in size are shown in green; those that have shrunk are shown in yellow. DExEU is not shown because it is not possible to show a percentage change for the department since the EU referendum (as the department is completely new). By now the department has 600 full-time-equivalent staff. Figures for MoJ exclude HM Prison Service.

Source: Institute for Government analysis of table 9 of ONS, 'Public sector employment'.

The size of the civil service has expanded since the Brexit referendum to help accommodate these various additional demands. But, despite this, Brexit has still hampered the day-to-day work of government. The total number of civil servants rose by just over 29,000 between June 2016 and June 2019<sup>16</sup> – this reversed some of the steady decline in numbers that had occurred since 2010. Among the departments that have had the largest increase in headcount are those departments most affected by Brexit – such as the Department for International Trade (DIT) – as Figure 7.9 shows.

John Manzoni – chief executive of the civil service – estimated that in total 16,000 civil servants were working on Brexit in late February 2019, which is fewer than the 29,000 overall increase in civil servant numbers since the referendum.<sup>17</sup> However, only scattered evidence is available on the demands on individual departments. Treasury permanent secretary Sir Tom Scholar told the Treasury Select Committee in October 2018 that around 400 full-time-equivalent staff in his department (out of the Treasury's full complement of

<sup>16</sup> Table 9 of Office for National Statistics, 'Public sector employment'. This figure excludes the Scottish and Welsh governments. It is, however, likely to overstate the number of additional civil servants available to work on Brexit demands, since it includes an increase in the HM Prison and Probation Service headcount of 6,120. HMPPS has recruited a large number of prison officers in recent years to tackle rising levels of violence and deteriorating standards in prisons.

<sup>17</sup> <https://www.civilserviceworld.com/articles/news/over-16000-civil-servants-now-working-brexit-sedwill-and-manzoni-reveal>.

1,300 staff at that point) were working on Brexit.<sup>18</sup> This suggests the demands within the Treasury for staff to work on Brexit have not been fully compensated for by the 260 additional staff who have been recruited since the referendum. In March 2019, it was reported that more than two-thirds of Defra's staff were working on delivering Brexit;<sup>19</sup> for comparison, Defra's staff numbers have increased by 58% since the referendum.

To prepare for no deal in March 2019, large numbers of staff were temporarily redeployed from their usual roles. Again, no comprehensive data are available on how all departments were affected. However, some evidence was revealed through freedom of information requests that Ben Chu of Newsnight submitted to each government department.<sup>20</sup>

BEIS reported that it had temporarily redeployed 532 civil servants internally (out of a total of 4,480) to work on 'priority EU exit work'. The Department for Education (DfE) seconded 209 members of staff during the first three months of 2019 to help other departments prepare for EU exit, with 140 having returned to the department by mid June.<sup>21</sup>

It is difficult to pinpoint all the ways in which Brexit has distracted attention from other policy priorities: ministers have not set out which policies have been downgraded, though departments have been told to reprioritise their work to accommodate the demands of Brexit. However, in addition to the general paucity of progress on domestic policy over the past three years, there are some documented cases of Brexit directly sapping resource and attention from other areas.

The former chancellor Philip Hammond had intended to carry out a spending review over the summer of 2019, to agree spending plans for the next three years.<sup>22</sup> But this was derailed by Mrs May's failure to secure parliamentary support for her Brexit deal and, in September 2019, Mr Johnson's government announced just a one-year settlement to cover spending in 2020–21.

Draft legislation to extend indemnity for dispensing errors to pharmacists in hospitals and prisons was delayed because civil service lawyers were instead focused on work related to Brexit.<sup>23</sup> A similar problem stood in the way of progress on plans for stricter online regulation. Plans to shield former soldiers from prosecution for alleged offences during the Troubles in Northern Ireland were also reported to have been held up by a lack of ministerial engagement.<sup>24</sup>

On the face of it, Defra appears to have been very active despite the demands of Brexit – launching consultations on a range of new policy proposals, including a plastic packaging tax and deposit return scheme for plastic bottles, and launching an independent review of

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<sup>18</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/treasury-committee/the-work-of-hm-treasury/oral/91987.pdf>, Q36.

<sup>19</sup> <https://www.theguardian.com/politics/2019/mar/30/defra-staff-brexit-related-roles>.

<sup>20</sup> <https://www.bbc.co.uk/news/uk-politics-48883817>.

<sup>21</sup> There are 6,240 staff in total in DfE. However, this figure includes teachers and other staff in academy schools.

<sup>22</sup> <https://www.gov.uk/government/speeches/spring-statement-2019-philip-hammonds-speech>.

<sup>23</sup> <https://www.pharmaceutical-journal.com/news-and-analysis/news/appg-chair-urges-government-not-to-let-brexit-delay-dispensing-errors-legislation/20206261.article?firstPass=false>.

<sup>24</sup> <https://www.theguardian.com/politics/2019/mar/31/anger-whitehall-brexit-strife-delays-key-policies-legislation>.

England's national parks and Areas of Outstanding Natural Beauty. However, many of these policy proposals have yet to make any real progress.

### Summary

Mrs May made more limited progress on domestic policy than would usually have been expected of a new prime minister. Departments' ability to focus on developing domestic policies was hampered by the demands of preparing for Brexit, even though a large number of extra civil servants have been hired since 2016. The pressures on some departments (such as BEIS, Defra, the DfT and Home Office) have been particularly acute. Progress has also been hampered by rapid ministerial turnover – partly, though not solely, as a result of disagreements over Brexit – which has deprived various policy areas of the ministerial drive and attention needed to make progress. The breakdown of Cabinet discipline also made it harder to push ahead with controversial reforms as disagreements among ministers were aired in public, rather than being resolved behind closed doors. The challenges facing Mrs May were intensified after she lost her parliamentary majority in 2017, which made her more wary of introducing legislation to parliament and meant more time had to be devoted to shepherding bills through, as MPs targeted both Brexit and non-Brexit legislation to express their discontent over the government's Brexit strategy.

### 7.3 What now stands in the way of domestic policy priorities?

The outlook for UK domestic policy remains uncertain given the ongoing demands of Brexit and the loss of Mr Johnson's working majority in parliament, which has substantially raised the likelihood of a general election within the next few months. Mr Johnson has set out a range of ambitions – keen that his premiership should not be defined solely by Brexit. This year's party conference season has also made clear that other parties have domestic policy ambitions as well.

#### **Without a majority in parliament, Mr Johnson will find it easier to make progress in areas where parliamentary approval is not needed**

Even with the support of the DUP, Mr Johnson is more than 40 seats short of a working majority in parliament. He lost all six of the votes held in the House of Commons after parliament returned in September 2019 before it was then (unlawfully) prorogued, as a majority of MPs demonstrated they would be willing to use all avenues open to them to try to prevent the government taking the UK out of the EU without a deal. Mr Johnson subsequently lost a seventh vote at the end of September on plans for a short parliamentary recess to be held during the Conservative party conference, after parliament resumed following the Supreme Court's judgement on the unlawful prorogation.

Mr Johnson's decision to commit to leaving the EU at the end of October 2019 'do or die' and his decision then to withdraw the whip from Conservative MPs who sought to frustrate his intentions have left the current government in an unusually debilitating position. He is well short of a majority in the Commons but so far unable to call an election, having failed to get the consent of the requisite two-thirds of MPs under the terms of the Fixed-Term Parliaments Act 2011. Mr Johnson would have faced a major test in mid October – when he would have had to present a Queen's Speech when parliament reconvened – had the Supreme Court not ruled his prorogation unlawful.

Though Mr Johnson will now avoid facing this immediate test of the government's ability to command the confidence of parliament, without a parliamentary majority, the government still faces major barriers to changing policy. Its best chance is likely to be in those areas where decision-making powers lie with the executive.

In this section, we outline some areas where Mr Johnson could make policy without relying on parliament. First, however, we outline policy areas – such as a Budget – where primary or secondary legislation is required.

### Some policy changes require primary legislation

The government has little scope to change most taxes without seeking parliament's approval, with some notable exceptions as discussed below. If Chancellor Sajid Javid wanted to make changes to most bits of the tax system – including of the sort described in Chapter 8 – he would need to present these in the expected autumn Budget. Without changes to increase taxation, the additional spending announced in the September 2019 Spending Round (described further below) is due to be funded by higher borrowing. Borrowing would be even further increased if an eventual Budget introduced net tax cuts (some of which Mr Johnson has already suggested), rather than rises.

There are broadly three stages to parliament's approval of the Budget:

1. Immediately following the exchanges on the Budget Statement in the House of Commons, the chancellor moves a motion to give immediate effect to any tax changes or new tax measures that the government wants to come into effect on the day of the Budget. These are typically changes in the rates of duty on beer, spirits, tobacco and road fuel, or changes to stamp duty land tax, where advance notice of a change in tax rates might lead people to change the timing of their purchases to avoid the higher rate of tax. If that motion is agreed to, these changes have provisional (and immediate) legal effect but they must be confirmed by resolution of the House within 10 sitting days.
2. The chancellor then moves the first of several motions that outline specific tax measures and form the basis of the Finance Bill. These motions are debated together over four sitting days. They must be agreed within 10 sitting days of the Budget Statement to have legal effect. When agreed to by the House of Commons, they form the Budget Resolutions.<sup>25</sup>
3. Tax measures are given full legal effect in a Finance Bill, which is introduced as soon as the Budget Resolutions are agreed to. It must receive its second reading in the House of Commons within 30 days of the Budget Resolutions being passed and must become law within seven months.

Even if the government chooses to make no changes to tax policy whatsoever, Mr Johnson cannot avoid putting some form of a Finance Bill to parliament before the end of April 2020. This is because two existing taxes – income tax and corporation tax – are technically

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<sup>25</sup> Tax changes having immediate legal effect, or which are intended to have legal effect before the Finance Bill to enact them is passed, must be debated and agreed within 10 days of the Budget Statement. But the government could in theory choose to delay debate on measures that are due to take effect at a later date. Budget Resolutions can be moved at any time but it would be unusual for a chancellor to separate them from the Budget Statement.

'temporary' and the government's right to collect them must be renewed by parliament each year. Income tax provides around a quarter of government revenues, while corporation tax provides around 7% of revenues.

Defeat on all or part of the Budget would not automatically bring down a government. However, it could still be enormously damaging for the government, particularly if it lost a vote on a tax that was of major significance to its financial plans.

The government is also likely to face scrutiny on economic and fiscal policy as and when the Office for Budget Responsibility (OBR) presents updated economic and fiscal forecasts. Under the terms of the Budget Responsibility and National Audit Act 2011, the OBR is required to publish two forecasts every financial year. So far this year, the OBR has not published a forecast – meaning that to comply with this law, it would have to publish two between now and the end of March, even if these do not accompany a fiscal event.

Some changes to the benefit system also require primary legislation. These include fundamental reforms to the benefit system but also some changes to existing provisions set out in primary legislation – such as if the government wanted to uprate various existing benefits by something other than growth in prices.<sup>26</sup> Changes to the benefit system are usually announced during a Budget or fiscal statement but are legislated for separately, usually through legislation introduced by the DWP.

Primary legislation is also required (usually biannually) to approve government spending as a whole.<sup>27</sup> However, the rules governing parliament's authorisation of spending differ from those on tax: the time frame for securing parliament's approval of the government's spending plans is more flexible, and MPs have more limited opportunities to make amendments to spending proposals. This was evident in the spending round announced on 4 September. The government was able to set out its plans for spending on public services in 2020–21 (and for some services, such as health and schools, beyond that) without needing to put the plans quickly to a parliamentary vote. This allowed Mr Javid to set out ambitious objectives and commitments for public services without risking rapid defeat in the Commons.

But parliamentary approval will eventually be needed for these spending plans. Parliamentary approval for government spending each year is provided in three stages:

1. Before the end of each financial year (i.e. the end of March) the government must pass a Supply and Appropriation (Anticipation and Adjustment) Bill, which authorises any additional spending required in the current financial year and/or authorises changes in the purpose for which the money is sought by departments. This Bill also gives approval to the government to spend money during the first few months of the next financial year (known as 'votes on account' – usually authorising the government to spend 45% of the previous financial year's total).

<sup>26</sup> <http://researchbriefings.files.parliament.uk/documents/RP13-1/RP13-1.pdf>.

<sup>27</sup> Some government spending can also be authorised by parliament through statute without the need for further, annual, parliamentary authority. This includes, for example, spending on judges' salaries and some election costs, which is covered by the 'Consolidated Fund Standing Services'. This spending is listed as 'non-voted' in the Estimates.

2. The government then sets out its formal spending plans by department for the current financial year in the Main Estimates. The House of Commons rules that enable Estimates to be approved as a package require these to be debated no later than 5 August, although these debates usually happen in late June or early July. The planned expenditure from the Main Estimates must then be legally authorised by parliament in a Supply and Appropriation (Main Estimates) Bill, introduced immediately after the Estimates have been approved. Under Commons rules, the Bill is put to the House for approval the following day; such Bills typically receive Royal Assent by mid July.
3. If the government ultimately wants to spend more than the amount set out in the Main Estimates, this must be approved in the Supplementary Estimates (and given legal effect in a Supply and Appropriation (Anticipation and Adjustment) Bill) before the end of the financial year. If the government overspends before it has been able to request additional spending authority, it must seek retrospective approval through 'excess votes'.

MPs can only make limited amendments<sup>28</sup> to the motions to approve the Main and Supplementary Estimates – and those can only be used to reduce spending – and cannot currently amend the Supply Bills that subsequently authorise the expenditure. Beyond that, MPs only have the extreme option of voting against the Estimates motions as a whole or trying to vote down the entire Supply Bill at second reading<sup>29</sup> – in other words, preventing almost all government spending. In practice, rejection at either stage would not necessarily be fatal to the government but would require it to pass fresh Estimates and a new Bill before the money it was already authorised to spend ran out.

### Some policy changes can be made through secondary legislation

As Mrs May demonstrated during her time in office, the government has scope to make some policy changes through secondary legislation. Such legislation allows the executive to make technical changes to the law and flesh out the details of Acts of Parliament. Most secondary legislation takes the form of statutory instruments, which are usually subject to one of two types of parliamentary procedure, both involving less parliamentary scrutiny than passing an Act of Parliament:

- **The affirmative procedure** requires statutory instruments to be actively approved by both Houses of Parliament (the exception being statutory instruments related to

<sup>28</sup> To authorise most government spending, the House of Commons must approve both Supply motions and the subsequent Supply and Appropriation Bill. Only those Supply motions covering individual departmental Estimates that are chosen for debate (on the advice of the Backbench Business Committee and the Liaison Committee) can be amended. Even then, the scope of amendments is limited, and MPs may only propose a reduction – not an increase – in proposed spending. 'Roll-up' Supply motions, which provide approval for departmental Estimates that are not chosen for debate, cannot be amended.

<sup>29</sup> MPs' opportunities to vote down the Supply Bill are far more limited than would be the case for most other primary legislation. As the Commons has already approved the Supply resolutions during debate on the estimates, the Supply Bill is not subject to debate or amendment at any stage: there is no committee stage and no report stage and under Commons rules the questions in second and third reading of the Bill are put to the House 'forthwith' (i.e. without debate). Although parliamentary norms have been tested during Brexit, the underlying financial machinery has not been subject to serious challenge: for example, as described above, Margaret Beckett and Dominic Grieve's amendment to make the passage of Estimates conditional on the avoidance of 'no deal' was not selected by the Speaker. Supply Bills have passed without challenge, although it is technically possible for MPs to force votes on them.

taxation, which only need to be approved by the Commons, due to its privilege in financial matters).

- Under **the negative procedure**, a piece of secondary legislation usually becomes law so long as neither House objects within a given time period (usually 40 days).

One major tax change that the government can make through secondary legislation is to change the rate of VAT for up to a year. The Value Added Tax Act 1994 allows the government to reduce the rate of VAT temporarily through a negative procedure and to increase it temporarily through an affirmative procedure.<sup>30</sup> The former happened in 2008 in response to the financial crisis.

Some benefit changes can also be made through secondary legislation. For example, Section 96A of the Welfare Reform Act 2012 allows the Secretary of State for Work and Pensions, following a review, to vary the benefit cap by affirmative statutory instrument. Some other welfare changes – including some changes to the personal independence payment (PIP) system under Part 4 of the Welfare Reform Act 2012 – can be made by negative statutory instrument. However, past experience suggests that an attempt to make major changes to benefits through secondary legislation could encounter resistance in the House of Lords. A constitutional row – over the House of Commons’s financial privilege – erupted in 2015 when Chancellor George Osborne attempted to make large cuts to tax credits through secondary legislation, which the House of Lords blocked.

The government also has many other existing powers to change policy through secondary legislation. For instance, the government can make significant changes to immigration policy using Immigration Rules under the Immigration Act 1971, and governments have previously introduced many criminal offences using secondary legislation.<sup>31</sup>

### In other areas, the executive can make announcements and changes without parliamentary approval

Mr Johnson’s government could also continue to pursue objectives that do not require either primary or secondary legislation. For example, changes to the operation, staffing and delivery of public services can typically be made without legislation – provided the changes do not need to be backed by extra spending.

The prime minister may even be able to deliver on his ambitious commitment to ‘fix the crisis in social care once and for all’ if he were willing to put his weight behind reforms that were put forward by Sir Andrew Dilnot as chair of the Commission on Funding of Care and Support and were initially backed by former prime minister David Cameron and chancellor George Osborne.

The Care Act 2014 put in place the legislation necessary to replace the current system for funding social care with one in which individuals’ lifetime contributions to their care costs would be capped and the government would pick up the remaining cost, as

<sup>30</sup> Increases in the rate of VAT under the Value Added Tax Act 1994 are made using the ‘made affirmative’ procedure. Statutory instruments made using this procedure can come into effect immediately but need to be retrospectively approved within a given period to continue to have effect. See <http://researchbriefings.files.parliament.uk/documents/SN00701/SN00701.pdf>.

<sup>31</sup> J. Chalmers and F. Leverick, ‘Criminal law in the shadows: creating offences in delegated legislation’, *Legal Studies*, 2018, 38, 221–41.

recommended by the Dilnot Commission. But Mr Osborne delayed full implementation of these plans after the 2015 election.

The Dilnot proposals received broad support when they were debated in parliament in 2014,<sup>32</sup> but that is now some years ago and there is no guarantee that support among parliamentarians – not to mention the broader public – exists today. However, if Mr Johnson were to put his weight behind these changes, it would overcome one barrier that has stood in the way of progress in this area since 2015. Reflecting on the stalled progress of the reforms, Sir Andrew said: ‘The major obstacle is almost always the money, and honestly a lack of strong support from the Treasury and strong support from the Prime Minister’.<sup>33</sup>

### **Even a government with a parliamentary majority will face challenges in reinvigorating domestic policy**

As Chapter 4 outlines, domestic policy will continue to be constrained by the public finances. Exactly how tight the fiscal constraints will be will depend partly on the fiscal rules chosen by the chancellor (as discussed in Chapter 5) and the outcome of Brexit. As Chapters 3 and 4 discuss, leaving the EU without a deal would weaken growth for at least the next few years and do permanent damage to the public finances. But the government will also face other barriers to making progress on domestic policy.

### **Brexit demands will not dissipate and could intensify**

Whoever is in office – whether Mr Johnson’s current administration, a new post-election Johnson government with a renewed majority, or a different government – Brexit is likely to continue to divert civil servants’, ministers’ and parliament’s time and resources for years to come. This will limit what any government is able to achieve on domestic policy.

Exactly what demands it will place on the government will depend on the nature of the UK’s departure from the EU. Whatever happens, however, the demands of Brexit will not end on 31 October 2019 (nor on 31 January 2020 if the EU grants the extension for which parliament has legislated Mr Johnson to ask for).

To prepare for the possibility of leaving without a deal, Mr Johnson has stepped up ‘no deal’ preparations more intensively than those carried out by Mrs May in early 2019 – with 1,700 civil servants working on Operation Yellowhammer, the government’s contingency planning for the potential short-term disruption in the event of a no-deal Brexit.<sup>34</sup> If the UK does leave without a deal, those civil servants are likely to need to remain in those temporary posts – and more may need to be deployed – to help the government put in place the systems and policies necessary to operate outside the EU, such as establishing fully functioning border and immigration systems.

Five key Brexit bills (on trade, agriculture, fisheries, immigration and environmental principles) have yet to pass parliament but will need to do so shortly after the UK leaves the bloc – whether the UK leaves with or without a deal. A sixth – on financial services – will be needed if the UK leaves without a deal. Five of these bills have already been

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<sup>32</sup> At second reading, the Care Bill passed by 519 votes to 59.

<sup>33</sup> <https://www.carehomeprofessional.com/sir-andrew-dilnot-on-social-care-reform-where-did-it-all-go-wrong/>.

<sup>34</sup> <https://www.parliamentlive.tv/Event/Index/d3716de3-baa9-4ebe-9dba-a7201e9f1553>.

introduced to parliament<sup>35</sup> but the one on environmental principles has not yet been introduced.

After leaving the bloc, the government will also have to start new trade negotiations with the EU, which will be more difficult than negotiating the Withdrawal Agreement over the past three years. Negotiations with ‘third countries’ take place on a different legal basis with a more complicated process and require ratification by all 27 member states.<sup>36</sup> Meanwhile, the difficult trade-offs revealed in the withdrawal negotiations would be likely to remain.

The negotiation of the UK and EU’s future relationship would go beyond what has been discussed for the Withdrawal Agreement, requiring greater time and effort from many government departments than they have put in over the past three years. Negotiations with the EU have thus far focused mainly on withdrawal issues – citizens’ rights, Northern Ireland, the financial settlement and transition. Future trade negotiations will require a range of departments (particularly BEIS and Defra) to be involved in negotiating on a wide range of detailed issues, including individual product regulations, standards and tariffs.

If the UK manages to reach an agreement for withdrawal from the EU that is acceptable to both the EU and parliament, the UK would enter a transition period. This transition period, which is expected to run to the end of 2020, provides some additional time compared with no deal but is still not long compared with the amount of time usually required to draw up and ratify international trade deals. For example, it took over four years of negotiation before the EU’s free trade agreement with South Korea was provisionally in force and over seven years for the EU’s agreements with Ukraine and Canada.

The government will therefore continue to be under pressure and Mr Johnson (or any successor) is likely to have to expend political capital to handle the difficult trade-offs that any future negotiations with the EU and trade deals with other countries will inevitably throw up. The government will also then have to adapt to the new arrangements, which will require major changes to systems and processes in areas such as the border.

### Addressing problems in public services will require long-term thinking, political capital and civil servants’ time

After eight years of cuts to many government departments and tight control of spending growth for others, there have been growing signs over the past few years of problems in public services. As the Institute for Government’s Performance Tracker illustrates, these range from rising levels of violence and self-harm in prisons to reductions in the availability and scope of publicly funded social care packages (even as the number of adults in need has grown) and increasing delays in visiting children under the supervision of children’s social services.<sup>37</sup> Mr Johnson has also highlighted other areas of public services where he believes more is needed – including police numbers and spending on NHS hospitals. The opposition Labour party has also made sizeable commitments to expand public services, as have the Liberal Democrats.

<sup>35</sup> <https://www.instituteforgovernment.org.uk/charts/parliamentary-progress-legislation-introduced-implement-brexit>.

<sup>36</sup> For further details, see <https://www.instituteforgovernment.org.uk/publications/preparing-brexit-no-deal>.

<sup>37</sup> <https://www.instituteforgovernment.org.uk/our-work/performance-tracker>.

Deciding how to prioritise spending demands, how to trade them off against other calls for money – for example, for more support for low-income households – and what scope there is to spend more efficiently should be the subject of a spending review. Any such review will need to be framed by a decision about the government’s overall fiscal objectives (see Chapter 5): how are priorities for spending to be traded off against any desire to restrain borrowing and to avoid higher taxes? The choice of rules will be an important statement of the government’s approach to managing the public finances.

Such decisions need to be made regardless of who is in office. Most central government departments (apart from schools and the NHS in England), all local authorities and the devolved nations still face considerable uncertainty about their finances beyond the end of March 2021. That lack of certainty makes it harder to plan and manage budgets effectively. It is, for example, more difficult to enter into long-term contracts or to commit to employing staff permanently if you are unsure what your budget will be in the coming years.

The one-year spending round, announced on 4 September 2019, required the government to make some important choices – for example, choosing to focus some extra spending next year on areas such as adult social care, courts and prisons that have struggled in recent years. But next year’s planned spending review – covering, presumably, several future years – will require a wider set of decisions. The new government will also need to decide what (if any) fiscal targets to adopt. If the government wanted to make more money available for services without increasing borrowing, it would need to raise taxes or cut benefit spending. Either option would be likely to require parliamentary approval via a Budget.

To complete a successful longer-term spending review, the government will need to look at the evidence on public services and benefits. That evidence will help it decide how to allocate spending to achieve its objectives with the best possible value and impact (within the constraints implied by the chosen fiscal targets and tax policy). The Treasury has recently shown an increasing interest in going beyond controlling spending to push more strongly for it to achieve value and impact, through its new Public Value Framework.

Reaching good-quality decisions will require a lot of work from each government department, their agencies and arm’s-length bodies, and local authorities to understand what spending pressures they are likely to face and explore how public services and investment could be managed to achieve better results and deliver value for money. Done well, spending reviews provide an opportunity to assess what the government’s priorities are, how resources should be allocated and how government performance might be improved, including through departments working together on cross-cutting issues. However, done badly, they can lead to government setting unrealistic targets and ministers scrapping for cash in ‘a series of haggles’<sup>38</sup> – sometimes in the public glare through leaks to the media.

Cabinet unity can make it easier to balance competing ministerial demands in a spending review. The 2010 Spending Review, for example, was aided by strong working relationships between the chancellor, the chief secretary to the Treasury and the prime

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<sup>38</sup> Page 16 of <https://www.instituteforgovernment.org.uk/publications/2019-spending-review>.

minister.<sup>39</sup> While Mrs May was hampered by a breakdown in Cabinet collective responsibility, as a result of disagreements over Brexit, Mr Johnson has so far sought to enforce greater discipline on his Cabinet, appointing only those who were prepared to back his approach to Brexit. He has suffered two high-profile ministerial resignations over his approach to Brexit – of his brother, Jo Johnson, and Work and Pensions Secretary Amber Rudd. But the fact that these ministers resigned demonstrates in itself that adherence to collective responsibility may have returned, rather than ministers openly dissenting from the government line. It is still early days for the Johnson administration, however, and the strength of discipline within the Cabinet has yet to be tested on domestic social and economic policy.

Reforming public services to meet the public's expectations within fiscal constraints may require changes to legislation. This is likely to be true, for example, in the case of Mr Johnson's desire to ensure some types of offenders are 'caught, locked up, punished and properly rehabilitated'.<sup>40</sup> Changes to the funding and provision of adult social care – aside from those already legislated in Care Act 2014 – are also likely to require new legislation. Completing major infrastructure projects, such as HS2, will require further parliamentary votes too. Drawing up such legislation will require time from civil servants. It is likely to require continuity of ministerial oversight, and getting it through parliament may require cross-party consensus if there is a minority or coalition government. Cross-party consensus may also be needed for changes – such as to social care or major infrastructure projects – which will only be effective if they continue to be backed by future administrations.

## 7.4 Conclusion

Mrs May left office having failed to fulfil her early promises on domestic policy. Her ambitions were thwarted by Brexit – which undermined Cabinet and party unity and took up a substantial amount of civil servants' and ministers' time – and the challenges she faced were compounded after she lost her parliamentary majority in 2017.

Mr Johnson began his premiership eager to show that his government would not be defined solely by leaving the EU. But he has been left politically impotent after his decision to withdraw the whip from 21 Conservative MPs who sought to thwart his ability to leave the EU without a deal left him well short of a parliamentary majority but unable to call an election.

There is a high chance that an election will be held over the next few months. Whoever is prime minister after that election is likely to want to make progress on domestic policies beyond Brexit. To do that, the government will need to accept and work within some of the same constraints that Mrs May faced:

- **Keeping no deal on the table makes it harder to make progress on domestic policy:** To be ready for no deal, Mrs May and Mr Johnson diverted hundreds of civil servants to operational centres and to roll out an extensive communications campaign.

<sup>39</sup> Page 14 of [https://www.instituteforgovernment.org.uk/sites/default/files/publications/IfG\\_2019\\_%20spending\\_review\\_web.pdf](https://www.instituteforgovernment.org.uk/sites/default/files/publications/IfG_2019_%20spending_review_web.pdf).

<sup>40</sup> <https://www.ft.com/content/48fe1ed0-bc18-11e9-89e2-41e555e96722>.

This means fewer civil servants are available to maintain and develop policy elsewhere. The threat from MPs opposed to no deal also means that the government will probably continue to minimise what legislation it puts before parliament before the UK has left the EU.<sup>41</sup> If the UK leaves the EU without a deal, the government will have to commit further time and resources to ensure the systems and policies needed to operate outside the EU are in place – continuing to squeeze out domestic policy beyond October 2019.

- **Brexit demands will not end on 31 October 2019 (or 31 January 2020):** Whatever happens on 31 October 2019 (or 31 January 2020), Brexit will continue to place demands on civil servants, ministers and parliament. Leaving the EU – whether with some form of withdrawal agreement or not – is just the first step in redefining the UK’s relationship with its nearest neighbours.
- **Fiscal constraints:** Public borrowing is lower now than it was under Mrs May’s premiership, making the fiscal constraints on domestic policy superficially looser. But debt remains high and Mr Javid has set out significant new spending pledges for 2020–21, using up almost all of the current government’s claimed ‘fiscal headroom’. These changes, if adopted by a potential Labour government, would also reduce the unallocated money available under the Fiscal Credibility Rule laid out in Labour’s 2017 manifesto.
- **Parliamentary arithmetic:** Making changes to many areas of domestic policy, including most changes to taxation and benefits, requires passing legislation in parliament. Mr Johnson currently faces an even more daunting challenge than Mrs May did on this front, having lost his parliamentary majority. A general election could – but is not by any means guaranteed to – return a majority government.

To have the best chance of delivering on a domestic policy agenda, the prime minister – either Mr Johnson in the current administration, or Mr Johnson or some other candidate after an election – will need to:

- **Limit the list of priorities:** The government should avoid having too many priorities. This would be good advice for any government: designing and implementing policy takes time and controversial policies can require prime ministers to expend political capital in getting them passed. But it is particularly pertinent now because Brexit will continue to place significant demands on most government departments and ministers and could deplete some of the government’s political capital. Some policies that Mr Johnson has discussed, for example, will only make progress with unwavering support from him and Mr Javid. The Dilnot proposals for social care reform, for instance, were kicked into the long grass after David Cameron and George Osborne lost interest in the idea. Many of the policies advocated by the opposition Labour party would also require unwavering support and leadership from the centre of government.
- **Enforce Cabinet discipline:** Mrs May’s ability to change domestic policy was hampered by a lack of Cabinet discipline. The UK government over the next few months and years will inevitably have to make controversial decisions, including how to prioritise spending in next year’s spending review. To maintain control of the agenda and

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<sup>41</sup> <https://www.instituteforgovernment.org.uk/publications/parliament-role-before-31-october-brexit>.

decision-making, the prime minister will need to maintain Cabinet discipline and prevent the leaks and media briefings from Cabinet attendees that plagued Mrs May's time in office.

- **Avoid changing ministers too often:** Ministers play a crucial role in getting policies through their departments and through parliament. It takes time for new ministers to get on top of their brief. But ministers – particularly junior ministers – changed at an unprecedented rate during Mrs May's premiership. Avoiding this excessive churn will help the government to make progress on its policy agenda, including on areas such as prison reform which have suffered from high levels of ministerial turnover in recent years.
- **Decide on fiscal objectives and priorities for spending:** Many of the policy proposals put forward by Mr Johnson and by the main opposition Labour party will require extra money to be found from somewhere. Mr Javid and Shadow Chancellor John McDonnell have indicated that they intend to retain some rules limiting public borrowing. Having such rules in place will help clarify what the government's fiscal objectives are, the trade-offs that need to be made, and could help the chancellor – like predecessors – resist special pleading from fellow ministers. But within those constraints, the prime minister must decide what the priorities are for extra spending. Next year's spending review will need to spell out the detail and which areas of public spending will be ramped up and which will not.
- **Carve out time for long-term thinking:** Conducting a successful spending review in 2020 and making decisions about infrastructure investment, which Mr Johnson and Mr McDonnell have both indicated they want to prioritise, will require officials to have the time to analyse and understand the challenges they face and where the possibilities are for improvement. It will require the Treasury to assess competing bids from different departments and understand how government priorities cross departmental boundaries. This will involve the prime minister and chancellor assessing the resulting analysis and the accompanying bids from their fellow ministers. All groups will need to carve out time for this longer-term thinking. These tasks are likely to be more than usually difficult in next year's spending review because there are likely to be unresolved questions about the UK's future relationship with Europe, which will continue to create uncertainty about what policies, services and institutions will be needed in future.
- **Be clear on how spending decisions can help deliver the government's objectives.** The government will need to think about how best to achieve impact through spending decisions, rather than how to grab headlines.
- **Build cross-party support:** Several of the areas that Mr Johnson wants to pursue (such as social care reform and major infrastructure projects) require cross-party support – both to ensure that a minority government can pass the necessary legislation and to ensure that any changes are sustained for the long term.