



National Audit Office

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## Report

by the Comptroller  
and Auditor General

Implementing the UK's exit  
from the European Union

# The Department for Business, Energy & Industrial Strategy

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Our vision is to help the nation spend wisely.

Our public audit perspective helps Parliament hold government to account and improve public services.

The National Audit Office scrutinises public spending for Parliament and is independent of government. The Comptroller and Auditor General (C&AG), Sir Amyas Morse KCB, is an Officer of the House of Commons and leads the NAO. The C&AG certifies the accounts of all government departments and many other public sector bodies. He has statutory authority to examine and report to Parliament on whether departments and the bodies they fund have used their resources efficiently, effectively, and with economy. Our studies evaluate the value for money of public spending, nationally and locally. Our recommendations and reports on good practice help government improve public services, and our work led to audited savings of £734 million in 2016.

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Implementing the UK's exit  
from the European Union

# The Department for Business, Energy & Industrial Strategy

Report by the Comptroller and Auditor General

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National Audit Act 1983 for presentation to the House of  
Commons in accordance with Section 9 of the Act

Sir Amyas Morse KCB  
Comptroller and Auditor General  
National Audit Office

27 November 2017

The Department for Business, Energy & Industrial Strategy (BEIS) was established as part of machinery of government changes in July 2016, after the referendum on European Union membership.

In this publication we set out how BEIS is preparing to deliver an effective exit from the EU.

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## **The National Audit Office's programme of work on Exiting the EU**

Leaving the European Union will be a key moment for the UK, and one that will have a very significant impact across the public sector.

The NAO has an ongoing programme of work across government to examine how government is organising itself to deliver a successful exit from the EU. This document is one of a series of briefings describing the arrangements being put in place.

Our back catalogue of work is set out in Appendix One.

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## Key facts

**350**

BEIS' estimate, as at September 2017, of the new full time equivalent staff required to support its EU Exit portfolio in 2017-18

**269**

newly recruited full time equivalent staff between May and November 2017 to support EU Exit work

**55**

public bodies other than government departments that BEIS coordinates with to deliver its EU Exit portfolio, as at November 2017

**180**

BEIS' estimate, as at September 2017, of the number of full time equivalent staff required in its arm's-length bodies in 2017-18 to support EU Exit

**22**

economic sectors led by BEIS that will be impacted by EU Exit, as at November 2017

**68**

EU Exit workstreams that BEIS leads, as at November 2017, of which 21 are considered critical by DExEU

**150**

BEIS' estimate, as at November 2017, of the number of pieces of EU-related secondary legislation required to deliver EU Exit

**£35.1m**

supplementary funding that BEIS has received from HM Treasury for 2017-18

## Summary

The Department for Business, Energy & Industrial Strategy (BEIS) has one of the largest and most complex EU Exit portfolios in government. BEIS is also responsible for a number of domestic policies that will shape the UK's economy after EU Exit, including the Industrial Strategy.

### The scale of BEIS' implementation task is substantial:

- BEIS was created in July 2016 following the merger of the Department for Business, Innovation & Skills with the Department of Energy & Climate Change. It now leads government policy on business, the Industrial Strategy, science and innovation, and energy and climate change.
- BEIS' domestic policy portfolio includes leading government's efforts for the new Industrial Strategy. As at March 2017, it has eight projects listed in the Government Major Project Portfolio (GMPP).
- BEIS also leads government policy in 22 economic sectors that will be impacted by EU Exit, including the energy market, aerospace, automotive and life sciences.
- In October 2017, the Department for Exiting the European Union (DExEU) identified 313 EU-related workstreams across all government departments. BEIS leads on 68 of these workstreams – the highest of any government department. They include Horizon 2020 – the EU research and innovation funding programme – and state aid.
- The scale of the implementation task varies significantly across these workstreams. For most workstreams, BEIS will have to formulate policies, prepare draft legislation, and consult with a range of stakeholders including devolved administrations, other government departments, partner organisations and businesses.
- Some workstreams are complex, and will require significant time to implement new structures to replace those currently administered by the EU. An example is the replacement of the Euratom Treaty, which covers the peaceful use of nuclear energy in the EU and the nuclear safeguards regime.
- As at November 2017, BEIS has submitted its first piece of primary legislation to Parliament – the Nuclear Safeguards Bill. It estimates that it will require 150 items of secondary legislation to support the implementation of its EU Exit portfolio. BEIS anticipates that the number of items of primary and secondary legislation required may change depending on the outcome of negotiations.

The task of implementing the UK's exit from the EU has required BEIS to establish dedicated teams and governance structures, and to plan policy delivery amid significant uncertainty.

**In its response to EU Exit, BEIS has:**

- established dedicated teams to support the implementation of its EU Exit portfolio, and assigned a senior responsible owner to oversee it.
- continued to develop its governance structure as its understanding of the task of EU Exit evolves. It has established a separate Executive Committee for Exiting the EU as the key decision-making body within the department for all work related to EU Exit.
- estimated that, as of September 2017, to deliver its EU Exit portfolio in 2017-18, it will require an additional 350 full time equivalent (FTE) staff. It forecasts a need for a further 100 new FTE staff in 2018-19 to implement EU Exit. Between May and November 2017, BEIS recruited 77% of the FTE staff it said it requires for 2017-18. The recruitment to fill the remainder of the 2017-18 shortfall is ongoing.
- bid for supplementary funding from HM Treasury to support the delivery of its EU Exit portfolio. To date, BEIS has received £35.1 million in supplementary funding for 2017-18.

**In setting about its task, BEIS:**

- is expected to follow planning guidelines set by DExEU. This includes formulating delivery plans to support a preferred negotiation outcome and a 'no deal' outcome for each of its 68 EU Exit related workstreams.
- has conducted a prioritisation exercise of the primary and secondary legislation it expects to require to support EU Exit.
- has developed an assurance plan for its EU Exit portfolio in November 2017. The plan is scheduled to be approved by the EU Exit Programme Board in December 2017.
- is working with a range of stakeholders, including the devolved administrations and a wide range of government departments and businesses. BEIS has prioritised its engagement with the 55 public bodies (other than government departments) it has identified as having a role in delivering EU Exit.



## The scale of the Department's task

# BEIS leads on a broad range of government policies

### BEIS was established in July 2016

BEIS was created in July 2016 following the merger of the Department for Business, Innovation & Skills with the Department of Energy & Climate Change.

BEIS now leads government policy in business, the Industrial Strategy, science and innovation, and energy and climate change. The new department has a complement of 2,740 full time equivalent staff.<sup>1</sup>

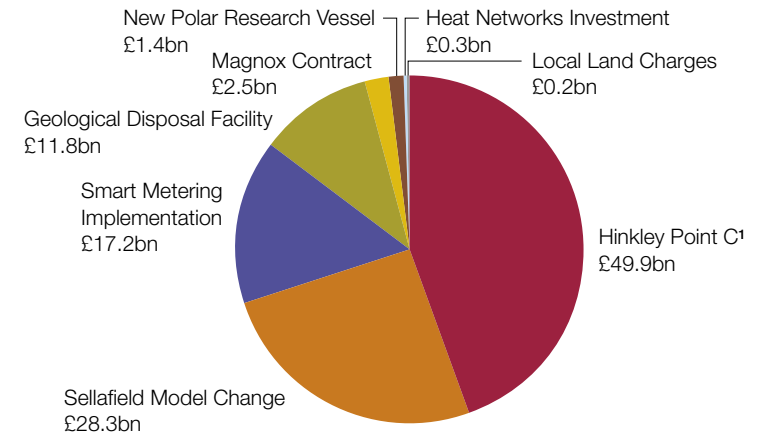
With the change, the Department for Education took on ministerial responsibilities for higher and further education and apprenticeships. The newly formed Department for International Trade (DIT) took over responsibility for overseas trade.

### BEIS leads a substantial portfolio of government policy and projects

BEIS leads government's efforts for a new Industrial Strategy which aims to coordinate a wide range of economic policies to improve living standards and economic growth.

As at March 2017, BEIS had eight projects listed in the Government's Major Project Portfolio (GMPP). Typically, the GMPP lists projects across government that – given their size, risk or strategic importance – require HM Treasury approval to proceed.

In March 2017, BEIS' projects in the GMPP were worth £111.6 billion



#### Notes

- <sup>1</sup> As reported in BEIS Annual Report and Accounts 2016-17, the value of Hinkley Point C is £28.8 billion when a net present value approach is applied using HM Treasury's financial instrument discount rate to the lifetime costs in GMPP data.

Source: National Audit Office analysis of GMPP data

<sup>1</sup> Annual Civil Service Employment Survey, Office for National Statistics, March 2017

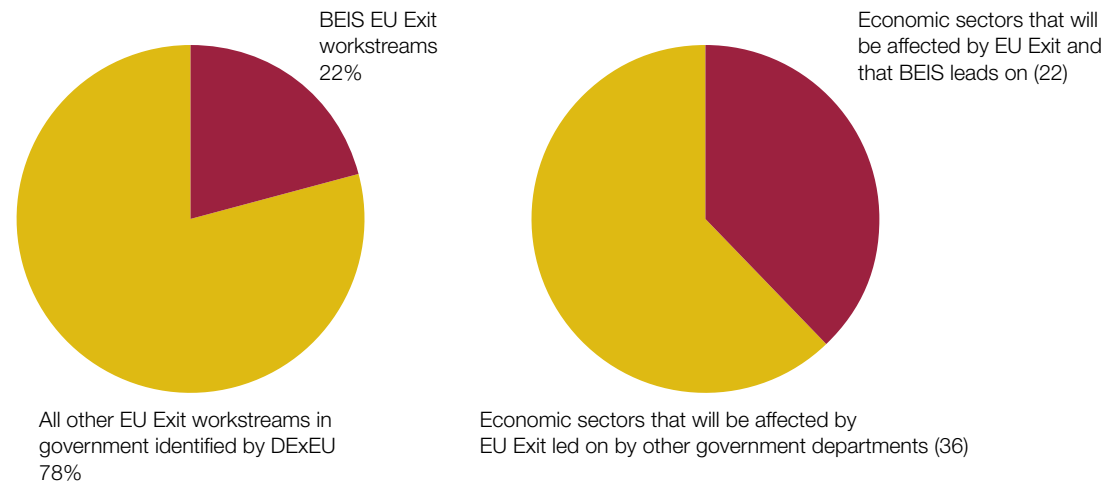
## BEIS has one of the largest EU Exit portfolios in government

### EU Exit will impact on a number of economic sectors and policies that BEIS leads on

BEIS' 68 EU Exit workstreams include Horizon 2020 (the EU research and innovation funding programme), energy and climate change, competition law, and state aid. Of these 68 issues, 21 are considered critical by DExEU.

BEIS also has an interest in other EU-related policy areas led by other government departments, including the movement of people, chemicals, and customs and tariffs. The nature and scale of the implementation task varies across these workstreams.

As part of its task, BEIS must plan for the UK's withdrawal from several EU funding programmes. It also leads on, and contributes expertise to, a number of issues within the withdrawal negotiations in conjunction with DExEU. It also provides support to DIT on trade negotiations.



**Note**

1 The percentage of workstreams is based on DExEU data as of 10 November 2017, at which time there were 313 workstreams across government in total. The number of workstreams has changed over time as the recording of some workstreams have been split or merged to reflect the development of departments' plans. Other departments may record the amount of work to be undertaken in a different way reflecting their own methodologies.

Source: National Audit Office analysis of departmental data

## BEIS' task involves planning for different scenarios and introducing new legislation

In preparation for EU Exit, BEIS must, for each of its 68 EU Exit related workstreams:

- develop preferred negotiation positions and contingency options for a 'no deal' scenario, assessing each option in terms of the legislation required, funding and delivery plans;
- formulate primary and secondary legislation to ensure a functional legal framework is in place after EU Exit;
- implement the domestic consequences of EU Exit, which could include setting up new regulators.

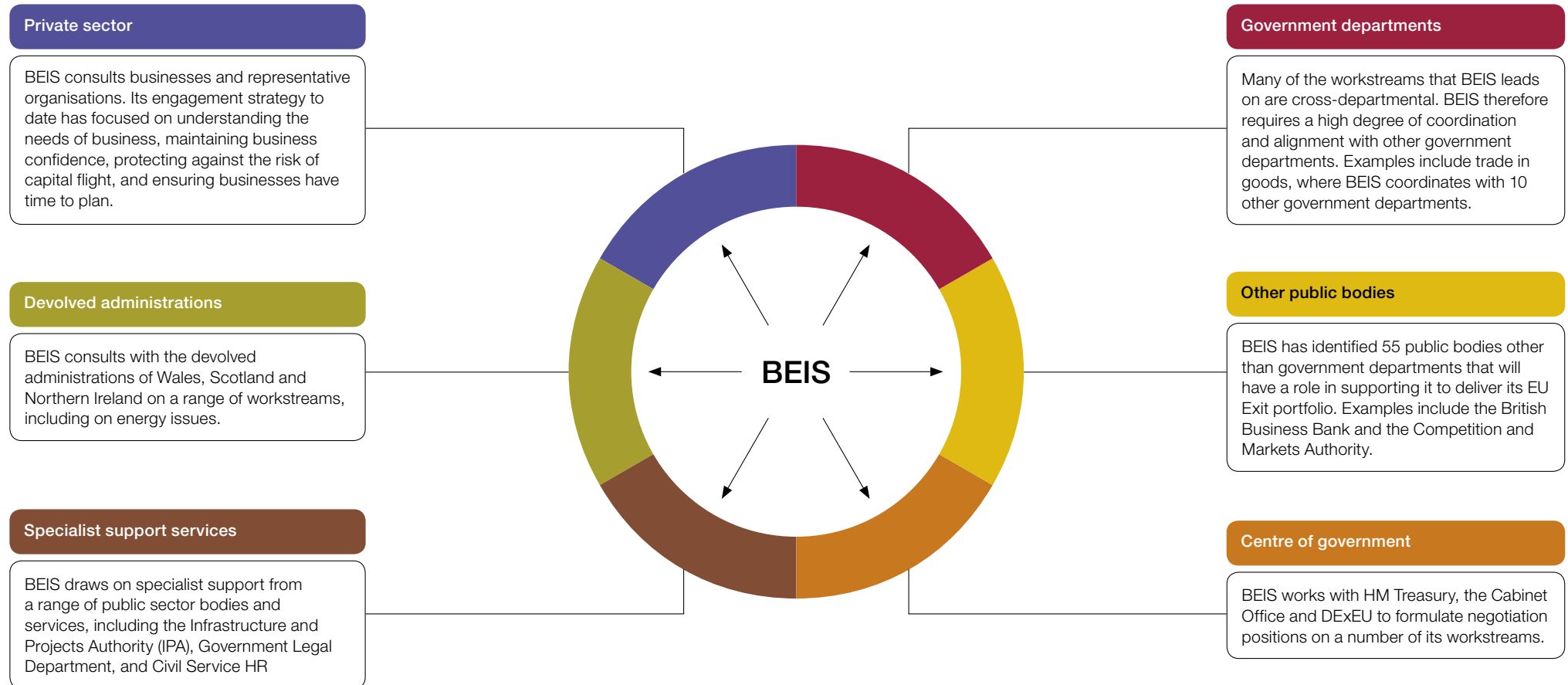
Some workstreams are complex, and will require significant time to implement new structures to replace those currently administered by the EU. An example is the replacement for the Euratom Treaty, which covers the peaceful use of nuclear energy in the EU and the nuclear safeguards regime.

As of November 2017, BEIS has submitted its first piece of primary legislation to Parliament – the Nuclear Safeguards Bill – to establish a new nuclear safeguards regime in the UK.

Statutory instruments, the main form of secondary legislation, will also be needed to complete the conversion of EU law into UK law. As of November 2017 BEIS estimates it will require 150 statutory instruments – a significant proportion of all government's secondary legislation needs in the run up to EU Exit.

BEIS anticipates that the number of primary and statutory instruments required may change depending on the outcome of negotiations.

## BEIS has to work with a wide range of stakeholders to implement EU Exit



Source: National Audit Office analysis of departmental data

## How BEIS has organised its response

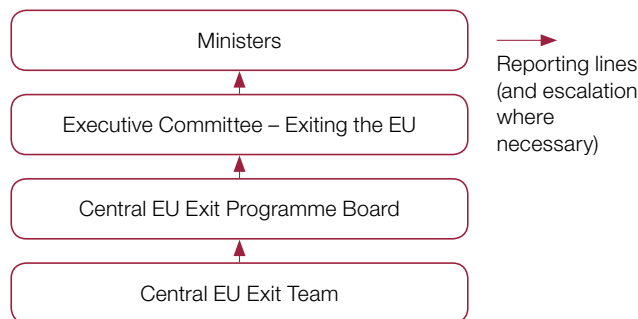
BEIS has established a dedicated governance structure and team to support the implementation of its EU Exit portfolio

### BEIS has made changes to its governance structure supporting its EU Exit portfolio

In August 2017, a joint review between the government’s centre for expertise in infrastructure and major projects, the Infrastructure and Projects Authority (IPA), and BEIS, recommended that BEIS simplify its EU Exit governance structure.

BEIS simplified its governance structure in September 2017. It established a separate Executive Committee for Exiting the EU as the key decision-making body for EU Exit work in the department.

The governance approach is based on responsibility for the EU Exit portfolio being shared across programme SROs and Directors General. Directors General are represented on the Executive Committee for Exiting the EU. Issues can be escalated to the Programme Board and EU Executive Committee for Exiting the EU as needed.



Source: National Audit Office analysis of BEIS documents

### BEIS’ current EU Exit team structure

BEIS has established a dedicated team to support the implementation of its EU Exit portfolio.

All teams report to BEIS’ senior responsible owner (SRO) for the EU Exit portfolio.

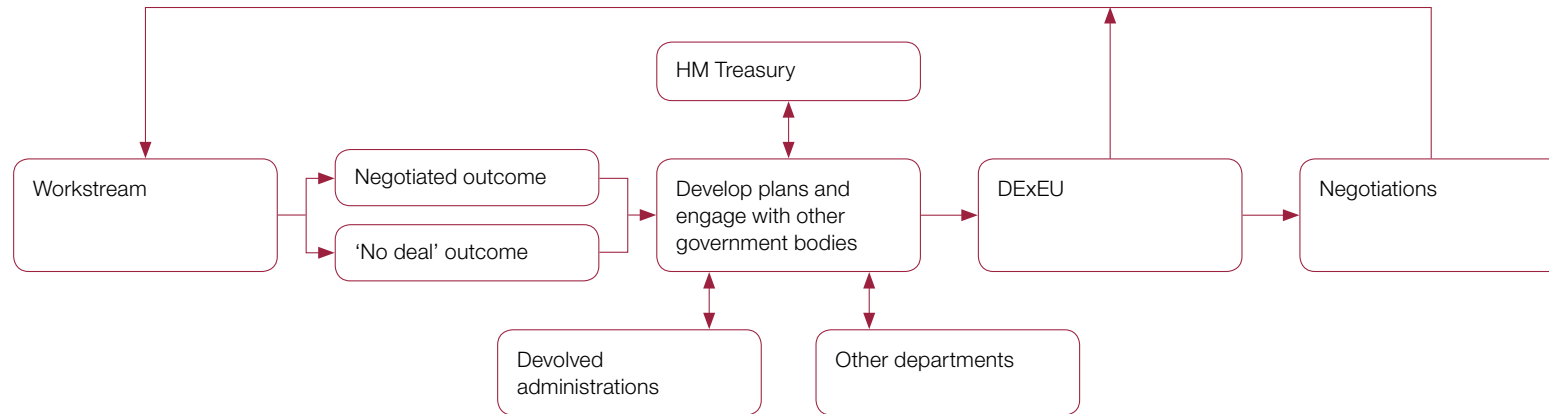
#### Central exit teams



Source: National Audit Office analysis of BEIS documents

**How BEIS has set about its task**

DExEU has instructed departments to develop plans for each workstream



Departments identify their Exit workstreams.

Departments need to consider what they will need to do to implement:

- a negotiated outcome; and,
- a 'no deal' scenario.

Departments must put in place a named responsible officer to oversee implementation of plans for these scenarios.

**HM Treasury** is working with all departments to understand the funding requirements to prepare for EU Exit, and related costs beyond Exit. Departments need to estimate the costs of their plans to inform decisions on implementation.

**Devolved administrations:** Departments must consult devolved administrations throughout the planning process.

**Other departments:** Departments need to identify where their plans have a knock-on effect on other departments, consult with them and keep them updated of any changes.

DExEU works with departments in the development of their plans.

DExEU has asked departments to provide for each workstream, and for negotiated and 'no deal' outcomes, decision points and key milestones.

Departments prepare more detailed plans for implementation, but DExEU will not typically see these.

The Infrastructure and Projects Authority is examining plans for 15 workstreams across 8 departments between summer 2017 and early 2018.

Planning feeds into the negotiations.

Departments need to amend their plans as negotiations develop.

## BEIS is expected to follow planning guidelines set by DExEU

### **BEIS has set out its objectives for its EU Exit portfolio**

BEIS has set the following objectives for its EU Exit work:

- secure the best possible economic outcome from negotiations for business, consumers and workers;
- secure the legislation needed;
- secure the architecture for the UK's future economic success; and
- maintain business confidence throughout.

### **BEIS is required to develop delivery plans for each of its EU Exit workstreams**

DExEU provided guidance in the spring and autumn of 2017, setting out the responsibilities of departments in the implementation of EU Exit.

In line with this guidance, BEIS is tasked with formulating delivery plans to support a preferred negotiation outcome and a 'no deal' outcome for each of its 68 EU Exit related workstreams.

When preparing delivery plans, BEIS must consult devolved administrations, other government departments that share a policy interest, and partner organisations where relevant.

DExEU has also asked departments to develop critical paths. This provides a high level view of what needs to be done when. It includes:

- dates by which key decisions need to be made;
- the timing of specific legislation, and if there are dependencies on other legislation such as the EU (Withdrawal) Bill; and
- interdependencies with the work of other departments.

## BEIS has organised its EU Exit portfolio into five substantive policy streams and eight cross-cutting activities

		<b>Responsibilities</b>
Policy streams	Energy Transformation	Electricity and gas trading policy and the delivery of energy programmes such as smart meters
	Energy and Security	Developing future energy sources, and replacing the Euratom Treaty which currently covers the nuclear safeguards regime
	International growth and analysis	Policies including structural funds, trade in goods and services, and state aid
	Market frameworks	Regulatory delivery policy, and policies governing company law, consumer protection, competition and the labour market
	Business and Science	Formulating policies in a number of sectors and service areas including research, development and innovation policy
Cross-cutting activities	EU exit strategy	Formulating preferred negotiation positions and contingency options, and guide engagement and delivery planning
	Negotiations	Contributing to the UK's negotiations with the EU on Exit and the UK's future relationships
	Legislation	Delivering the required legislation, including the Nuclear Safeguards Bill and 150 statutory instruments to convert EU law into UK law
	Devolution and stakeholder engagement	Consulting with devolved administrations and a wide range of public and private sector stakeholders
	EU analysis	Conducting analysis to support the Department's EU Exit work
	Finance	Resourcing BEIS' EU Exit programme, and engaging with HM Treasury to secure funding
	Trade	Working with sectors and businesses on trade issues and priorities for future economic partnerships with the EU and the rest of the world
	Planning	Delivery planning with policy teams and partner organisations, governance and secretariat, risk management and assurance



## BEIS has identified a staffing shortfall

### BEIS has identified a staffing gap

BEIS estimates that to deliver its EU Exit portfolio, it requires an uplift in its staffing headcount to support its policymaking activities, the repatriation of EU functions, and to consider options for programmes currently funded by the EU. It also requires more staff to support planning and project management, to undertake ongoing economic and sectoral analyses, and prepare draft legislation.

As at September 2017, BEIS estimated that to deliver its EU Exit portfolio in 2017-18, it requires an additional 350 full time equivalent (FTE) staff. It further forecasts a need for a further 100 new FTE staff in 2018-19. It estimated its arm's-length bodies will require up to 180 additional FTE in 2017-18, and up to 110 new FTE in 2018-19. Staffing figures for 2018-19 have not yet been agreed by HM Treasury and BEIS.

Some of the required capacity may be needed to address short-term need. BEIS however expects the majority to be required on a longer term basis, particularly where BEIS is taking on competencies currently administered by the EU.

Between May and November 2017, BEIS recruited 269 new FTE staff – 77% of its requirement for 2017-18. The recruitment process to fill the remaining shortfall is ongoing.

BEIS told us its difficulty in recruiting and deploying staff stems from:

- competition for high calibre staff by other government departments;
- delays in acquiring the appropriate level of security clearance for new recruits; and
- effort required to induct and train new recruits into the civil service.

### BEIS has received supplementary funding to support the recruitment of more staff

HM Treasury expects departments, as far as possible, to live within their existing budgets in preparing for EU Exit, but this is not always possible. Departments are planning for a range of scenarios that are expected to narrow as negotiations progress.

HM Treasury has taken a tranche approach to reviewing departmental funding requirements. It reviewed and agreed bids for supplementary funding for 2017-18 in two tranches over the summer and autumn of 2017.

BEIS has received £35.1 million in supplementary funding from HM Treasury for 2017-18.<sup>2</sup>

<sup>2</sup> The figure for supplementary funding was reported to the NAO verbally.

## BEIS recognises the need to reprioritise

### **BEIS recognises that reprioritising its policy workload will be challenging**

BEIS recognises that the scale of its EU Exit portfolio significantly pressures its capability and capacity, and places pressure on ministerial time.

BEIS has to balance its EU Exit portfolio with a substantial and pressing domestic policy agenda, including the development of the new Industrial Strategy, taking forward the new nuclear agenda, and ensuring the successful creation of a new body, UK Research and Innovation.

BEIS recognises that it must strike a balance among these pressures but has yet to do so in a structured way. It also acknowledges that the pressure on the Parliamentary calendar challenges its ability to pass the legislation it requires to support the delivery of a number of its domestic and EU Exit-related workstreams.

This pressure is likely to force a prioritisation process by default. BEIS is aware that a reactive prioritisation process such as one dictated by Parliamentary timetables will make planning and advising ministers more challenging.

To date, BEIS has reprioritised 100 staff from existing duties to its EU Exit portfolio. BEIS has no immediate plans to internally redeploy further staff to support its EU Exit portfolio, but it told us it is keeping this under review. It has also undertaken a prioritisation exercise of the statutory instruments it requires to deliver its EU Exit portfolio.

### **BEIS has prioritised its legislative requirements to support EU Exit**

BEIS has conducted a prioritisation exercise of the legislation it will require to support its EU Exit portfolio. BEIS is also developing non-legislative options for areas of policy it thinks it can implement without introducing new legislation.

To prioritise the secondary legislation (known as statutory instruments) it requires, BEIS assessed the impact of not having legislation in place on time against the following criteria: policy impact; economic impact; implications for other government departments; devolution and regional impacts; political feasibility; and international obligations.

BEIS then ranked the statutory instruments into six groupings, ranging from 'critical' to 'no impact'. Examples include:

- Nuclear safeguards: Statutory instruments are required to ensure the UK has nuclear safeguards regulations in place before EU Exit.
- Workers' rights: Statutory instruments to ensure employment rights continue to be protected after EU Exit.
- Market frameworks: Statutory instruments to ensure a clear and reliable framework for the economy and consumers after EU Exit.

## BEIS has developed an assurance plan and is developing a consistent approach for performance and risk reporting

### **BEIS has identified risks to its EU Exit portfolio**

To ensure an effective implementation of its EU Exit portfolio, BEIS must ensure that it meets its stated objectives, and reacts quickly to emerging issues and policy developments. To do this, it will require an active management of the risks across its workstreams.

BEIS has identified risks related to its EU Exit portfolio. The risk register is underpinned by factors including the Parliamentary legislation burden and cross-government coordination around BEIS' preferred options. Each risk is described, and its impact on a successful EU Exit is rated. Examples include:

- short timeframes meaning there is compressed time for briefing and securing decisions from ministers;
- the challenge of passing necessary legislation due to pressures on the Parliamentary calendar; and
- the need to gain agreement with other departments on BEIS' preferred negotiating positions.

BEIS is developing a more structured approach to reporting on risk and monitoring the performance of its EU Exit portfolio.

### **As of November 2017, BEIS has developed an assurance plan**

The joint BEIS / IPA review in August 2017 recommended that BEIS develop an integrated assurance plan for its EU Exit portfolio by the end of November 2017. This document should set out the requirements and sources of assurance that will be needed to deliver the programme of work to exit the EU in a coordinated, systematic and structured way.

As of November 2017, BEIS has developed an assurance plan for its EU Exit portfolio. This is scheduled to be approved by the EU Exit Programme Board in December 2017.

## Appendix One

# NAO programme of work and publications

### **NAO's programme of work on implementing the UK's exit from the EU**

In scrutinising public spending the National Audit Office (NAO) routinely monitors the challenges faced by departments and, where the C&AG identifies a pressing or relevant issue, reports on those to Parliament.

Leaving the European Union will be a historic moment for the UK, and one that will have a very significant impact across the public sector. As with other aspects of government activity, it is not for the NAO to comment on the policy choices being made in relation to exiting the EU. But the management systems that support the implementation of these policies fall naturally within the NAO's remit.

The NAO has an ongoing programme of work across government to examine how government is organising itself to deliver a successful exit from the EU. This covers the key bodies in the centre of government and the major spending departments that have to deliver Exit programmes.

Out of this work, we are publishing a series of reports to provide insight on aspects of government's preparedness for exiting the EU.

### **Recent NAO publications relevant to the UK exiting the European Union**

**Implementing the UK's exit from the European Union: the Infrastructure and Projects Authority** (24 November 2017)

**Implementing the UK's exit from the European Union: the Department for Exiting the EU and the centre of government** (17 November 2017)

**The UK Border** (20 October 2017)

**Customs Declaration Service** (July 2017)

**HM Treasury's economic analysis in the lead-up to the referendum on European Union membership** (June 2017)

**Capability in the Civil Service** (March 2017)

**Briefing on the EU-UK finances** (December 2016).

These reports are available on the NAO website: [www.nao.org.uk/search/pi\\_area/european-union/type/report](http://www.nao.org.uk/search/pi_area/european-union/type/report)

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