



National Audit Office

Report

by the Comptroller
and Auditor General

Implementing the UK's exit
from the European Union

The Department for Exiting the European Union and the centre of government

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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from the European Union

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Report by the Comptroller and Auditor General

Ordered by the House of Commons
to be printed on 16 November 2017

This report has been prepared under Section 6 of the
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

15 November 2017

This briefing describes the mechanisms established by the centre of government to oversee and take forward implementation of the UK's exit from the European Union.

The briefing focuses in particular on the coordination role of the Department for Exiting the European Union (DExEU).

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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 reports that provides insight on aspects of government's preparedness for Exiting the EU.

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

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Summary

The task of implementing the UK's exit from the EU will require government to develop new policies to operate post-exit, put in place the necessary primary and secondary legislation, and establish new processes and systems

The work undertaken by government departments illustrates the scale of the implementation task. For example:

- The Department for Exiting the EU (DExEU), drawing upon work from across departments, has identified more than 310 work streams that need to be taken forward to support the Exit process.
- The number of work streams is greatest for some mid-sized departments. For example, DExEU records 43 work streams for the Department for Environment, Food & Rural Affairs and 69 work streams for the Department for Business, Energy & Industrial Strategy.
- The nature and scale of the implementation task varies significantly across the work streams. In many instances it will require the formulation of new policies, the preparation of draft legislation, along with consultation with the devolved administrations and the wider public and private sectors. In some instances, work streams will require new systems and processes to be developed, goods and services bought, and people recruited. Departments must plan for negotiated outcome and 'no deal' scenarios.
- Many work streams require a coordinated effort spanning a number of departments. For example, preparations for implementing changes at the border require a coordinated approach across several departments including HM Revenue & Customs, HM Treasury, the Home Office, Department for Transport, and the Department for Environment, Food & Rural Affairs.
- DExEU, drawing upon assessments provided by departments, estimates that up to 1,000 pieces of secondary legislation must be in place by the time the UK leaves the EU in March 2019. The government is also preparing nine bills related to exiting the EU.

DExEU and the departments at the centre of government have established mechanisms that seek to coordinate the Exit programme, identify priorities, allocate resources and monitor progress with the work streams

The mechanisms put in place at the centre of government include:

- DExEU has put in place processes to map out the scale and extent of the Exit task. It has established a policy and delivery coordination directorate to work with departments to define, prioritise and track progress on the various work streams.
- HM Treasury expects departments to work within their existing budgets but this is not always possible. Treasury reviewed and agreed bids for additional funding for 2017-18 over summer and autumn 2017.
- Treasury has made more than £250 million of additional money available to departments for preparing for Exit during 2017-18. Treasury has provided advice to accounting officers on how they should approach spending money on services in critical areas ahead of legislation being passed.
- Secondary legislation required for Exit is being managed centrally. A team from DExEU and the Government Legal Department are monitoring and managing secondary legislation across government for Exit. This is intended to allow for greater coordination and prioritisation of work.
- Specialist functions at the centre of government are being drawn upon by DExEU and departments to support the implementation of Exit. They include bodies that advise and support on major projects, human resources, and commercial and digital skills.

The scale of the task

Membership of the EU has wide reaching impact on UK policy

The impact of EU membership on UK policy

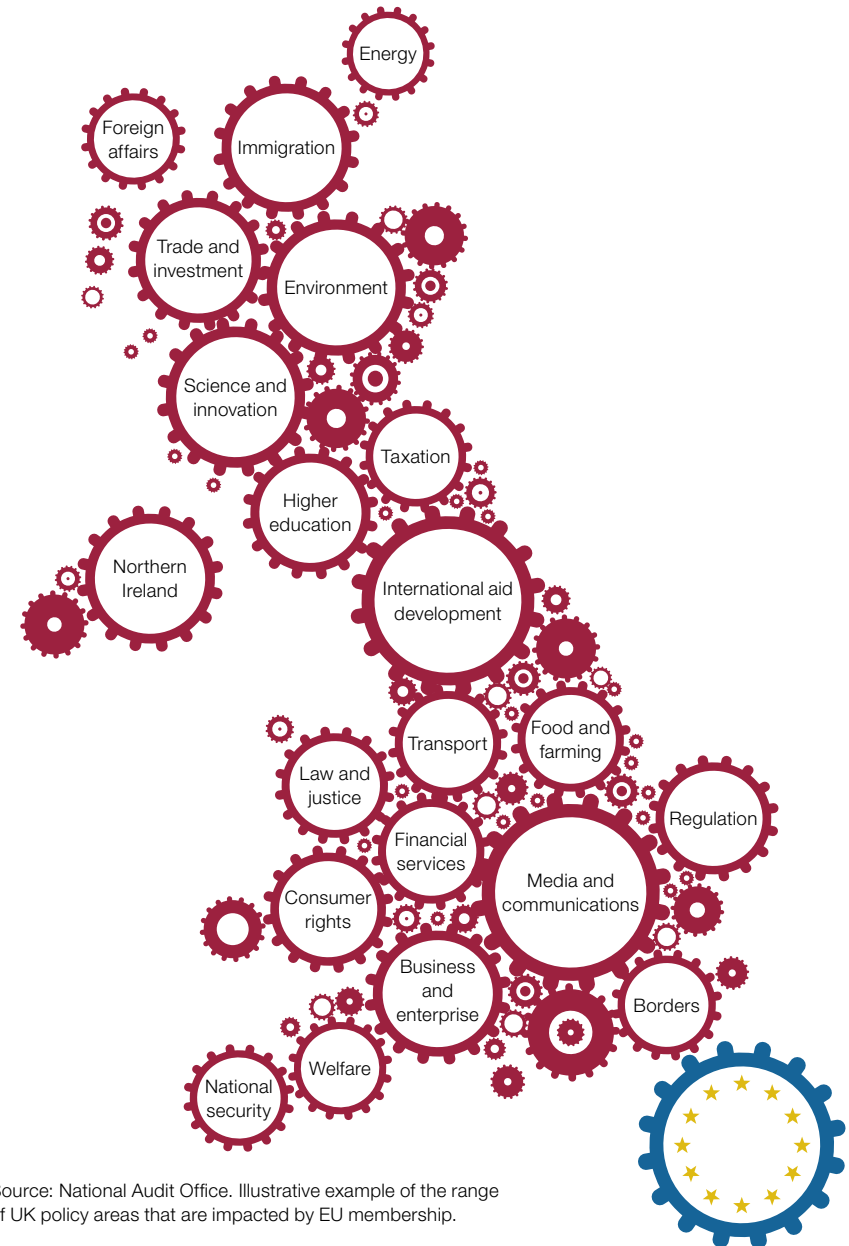
The government carried out a review between 2012 and 2014 examining what the EU does and how it affects the UK. It reported on 32 areas where membership of the EU impacts on UK policy, such as energy, financial services and taxation.

EU membership impacts people, businesses and government. For example, the rules governing customs in the UK are mostly EU laws. They impact:

People: when they buy, sell, send or receive items outside the UK, or travel to and from the UK with personal goods, tobacco and alcohol. Consumers are also impacted when they buy food and goods in the UK – such as in supermarkets – but which are imported from outside the UK.

Businesses: when importing and exporting goods to and from the UK; when they are part of an EU or global supply chain, including on the island of Ireland. The level of security checks and administration required, varies according to whether the goods are imported from within the EU Customs Union.

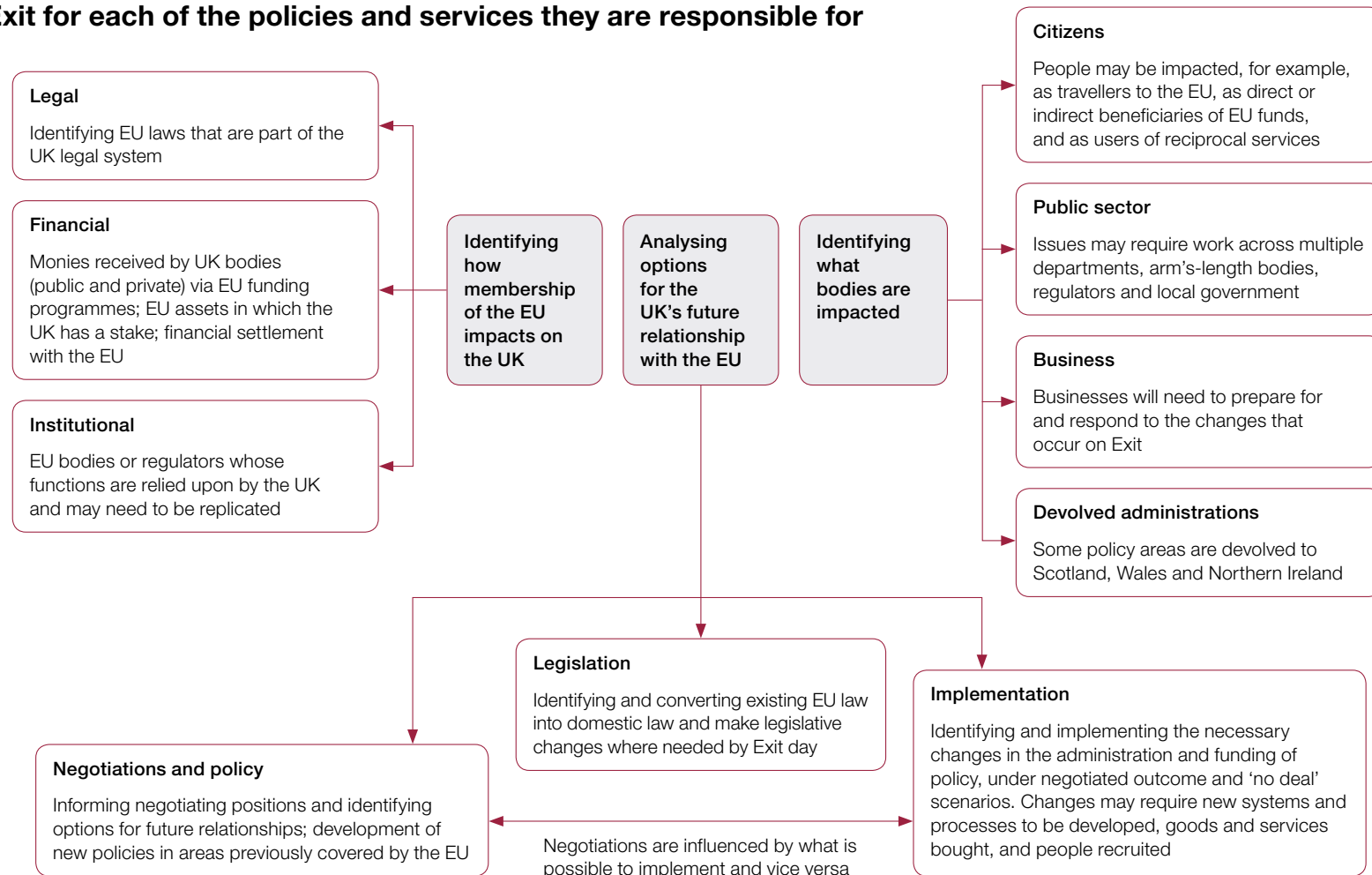
Departments: HM Revenue & Customs and HM Treasury in administering and setting VAT and excise duty.



Source: National Audit Office. Illustrative example of the range of UK policy areas that are impacted by EU membership.

Preparing to Exit the European Union is a complex task

Departments need to consider a range of matters to identify what work they need to do to deliver Exit for each of the policies and services they are responsible for



Government has identified more than 310 areas of Exit work

DExEU has established a database of the work that departments need to carry out in order to implement Exit. These Exit work streams include:

- designing possible replacements for EU funded programmes, such as the Common Agricultural Policy schemes;
- ensuring effective regulatory regimes are in place in areas currently regulated by EU bodies, such as the European Food Safety Authority, the European Medicines Agency and the European Chemicals Agency; and
- considering the transition of existing EU free trade agreements with third countries to agreements between those countries and the UK.

DExEU's database records departmental Exit work streams and holds information on the range and prioritisation of policy options.

There are 313 Exit work streams in DExEU's database (as at 10 November 2017). The number of work streams has changed over time as the recording of some work streams have been split or merged to reflect the development of departments' plans. Departments work with DExEU to update the information held by both parties. The approach taken by DExEU to classify and therefore count work streams may differ from that adopted by individual departments.

The nature and scale of the implementation task varies across the work streams. Some work streams will require extensive work, involving the coordination of action across several departments and the devolved administrations. This includes, for example, work relating to what the government does at the border. Some work streams, while challenging for the department responsible, are less significant in size and complexity. Some caution is therefore required in interpreting the number of work streams as relating directly to the scale of the task in each department.

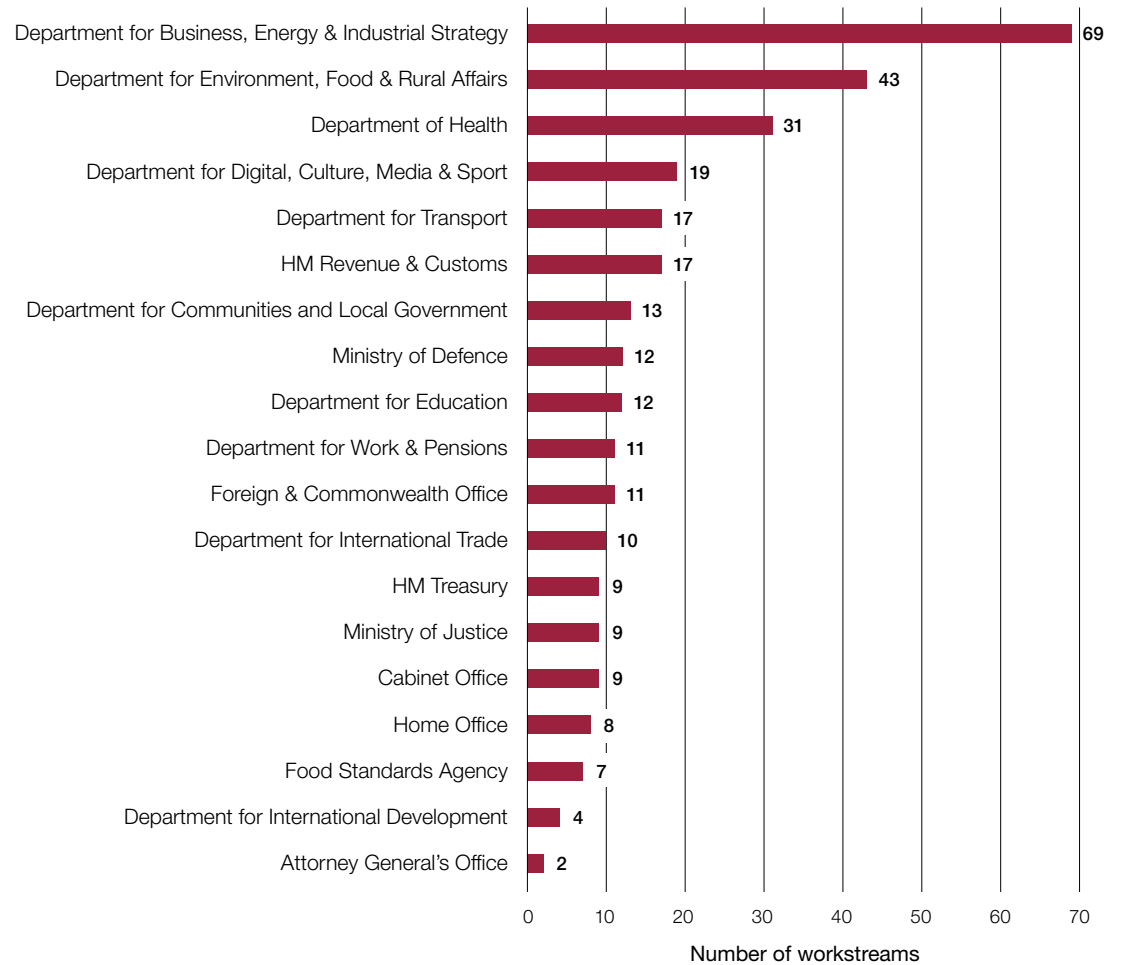
The scale of the task for each department also has to take into account the size of that department.

The number of work streams are not distributed evenly across government. The number of staff working in each department varies from less than 1,000 to over 70,000.

The scale and complexity of task is greatest for some mid-sized departments. For example, two departments – the Department for Business, Energy & Industrial Strategy (BEIS) and the Department for Environment, Food & Rural Affairs (Defra) – have responsibility for areas of government work that are greatly impacted by the EU. These areas include agriculture and fisheries (Defra), and nuclear safeguards and state aid (BEIS).

DExEU's record of Exit work streams by department, as at 10 November 2017

The size and complexity of each work stream varies. As such the number of work streams does not necessarily indicate the scale of the task for each department. Departments work with DExEU to update the information on work streams, the number of which has changed over time.



Source: National Audit Office analysis of the Department for Exiting the European Union's data, 10 November 2017. The number of work streams reflects DExEU's approach to counting and recording the work to be done. Departments may record the amount of work to be undertaken in a different way reflecting their own methodologies.

Exiting the EU will require a large amount of legislation

Exiting the EU requires changes to UK law

Membership of the EU has required the UK to reflect EU laws and regulations into UK law. The House of Commons Library estimates that around 7,900 statutory instruments have made EU legislation part of UK law.

The Queen's Speech 2017 announced a number of bills that relate to exiting the EU:

- **EU (Withdrawal) Bill:** repeal the 1972 European Communities Act giving European law precedence over UK law. It will convert existing EU law into domestic law on Exit.
- **Immigration Bill:** establish new powers concerning the immigration status of European Economic Area nationals.
- **Trade Bill:** establish the framework for the UK to operate its own trade policy.
- **Taxation (Cross-border Trade) Bill:** set up a standalone UK customs regime on Exit.
- **Agriculture Bill:** put in place a system to support UK farmers and protect the natural environment.
- **Fisheries Bill:** establish UK responsibility for access to fisheries and management of its waters.

- **Nuclear Safeguards Bill:** establish a nuclear safeguards regime.
- **International Sanctions and Anti-Money Laundering Bill:** set framework for UK to implement international sanctions on a multilateral or unilateral basis.

In November 2017, the government announced plans for the **Withdrawal Agreement and Implementation Bill** which will legislate for withdrawal arrangements and the planned implementation period.

A large amount of secondary legislation is needed

Statutory instruments, the main form of secondary legislation, will be needed to complete the conversion of EU law into UK law at the point of Exit.

- DExEU estimates that between 800 and 1,000 statutory instruments will be needed by Exit. This is in addition to those statutory instruments that will be necessary for purposes other than Exit.

- In the 2010-15 Parliament around 1,200 statutory instruments were scrutinised each year.
- The amount of time between the passing of the EU (Withdrawal) Bill and Exit may be less than one year.

Departments routinely manage secondary legislation. Due to its scale, the secondary legislation required for Exit is monitored, coordinated and prioritised by DExEU and the Government Legal Department working with departments.

DExEU has advised departments that they should assume there will be minimal room for non-critical non-Exit secondary legislation in the run up to Exit and that they should plan accordingly.

Who does what across government

The Department for Exiting the EU was set up to manage the process of Exit

DExEU is responsible for overseeing negotiations to leave the EU and establishing the future relationship between the UK and the EU. DExEU leads and coordinates work across government to ensure operational readiness for implementing Exit.

DExEU's overall objectives are to:

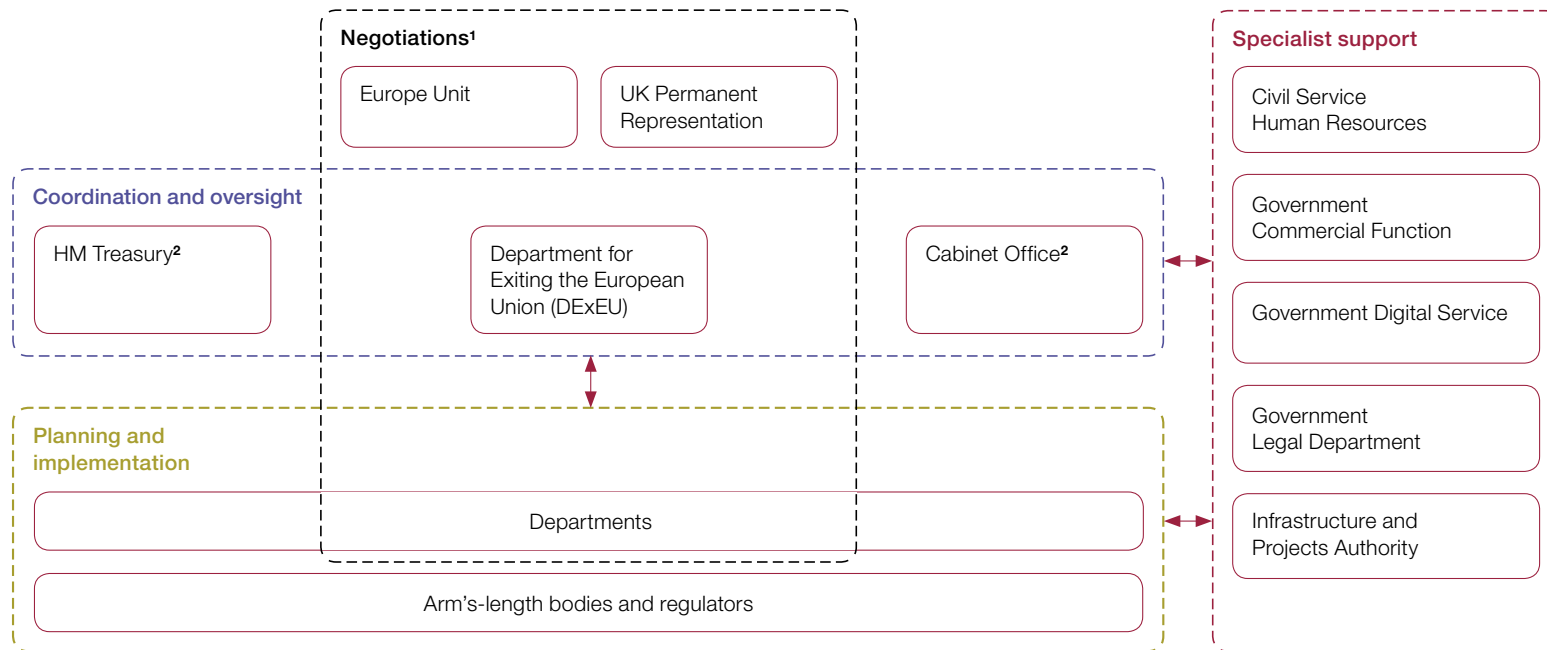
- 1** Lead the UK's negotiations to leave the EU and establish a new partnership between the EU and the UK.
- 2** Work with the devolved administrations, Parliament and a wide range of other interested parties throughout the negotiations.
- 3** Lead and coordinate cross-government work to seize the opportunities and ensure a smooth process of exit, including the required domestic legislation, on the best possible terms.
- 4** Continue work across government and in Brussels to ensure collective government on European business, exercise the UK's rights and meet the UK's obligations as a member of the EU until exit.
- 5** Attract and develop great people and organise itself flexibly to deliver its objectives efficiently and effectively.

DExEU's current priorities are to:

- Ensure the government is able to take decisions on the UK's withdrawal and new partnership with the EU on the basis of the best possible advice.
- Oversee the negotiations to establish a new partnership with the EU, based on the 12 objectives outlined in the White Paper on the UK's exit from and new partnership with the EU.
- Continuously engage with stakeholders to provide as much certainty as possible throughout the negotiations.
- Strengthen capability across government in preparation for the UK's exit from and new partnership with the EU.
- Deliver the EU (Withdrawal) Bill as part of a wider programme of domestic legislation required for a smooth and orderly exit.

There are a range of government bodies involved in Exit

Different parts of government have primary responsibility for negotiations, oversight and delivery alongside No. 10



Note

- 1 Officials from departments are also involved in negotiations, with HM Treasury and Home Office leading on aspects of the negotiations.
- 2 HM Treasury and Cabinet Office also have responsibility for planning and implementing their own work streams.

Source: National Audit Office

Roles and responsibilities

The centre of government

The centre of government is responsible for coordinating and overseeing the entire work of government, enabling it to achieve its strategic aims and ensuring that there is a central view of the effective operation of government as a whole.

The **Department for Exiting the European Union (DExEU)** was set up specifically to manage the process of Exit from the centre of government.

DExEU has responsibility for the overall coordination and strategy for Exit, including coordination of departments' planning and delivery.

Europe Unit, in the Cabinet Office, supports the development and execution of the government's strategy for an orderly withdrawal from, and establishment of a new partnership with the EU. Its main roles are to: advise the Prime Minister on how to lead the government's approach to EU Exit; support coherent and timely cross-government decision-making; and, work with other departments to advocate and deliver the government's position with European partners.

HM Treasury has overall responsibility for public spending. It discusses with and allocates funding to departments for the work that is needed for Exit, including the approval of business cases for large projects. Treasury also has responsibility for overseeing specific Exit priorities including the EU budget, customs, financial services and fiscal implications such as tax.

Cabinet Office supports the Prime Minister and Cabinet to ensure the government runs effectively. The Head of the Civil Service chairs the Civil Service Board, which is responsible for managing performance and risk to ensure the civil service is successfully implementing the government's programme.

The UK Permanent Representation to the EU (UKRep) represents the UK's interests to the EU on issues such as trade, foreign affairs and the economy. UKRep represents the UK in negotiations that take place in the EU.

Roles and responsibilities *continued*

The work of specialist functions in government

The Cabinet Office hosts a number of specialist functions that support programmes of work across government. These functions provide support to departments on issues relating to Exit.

Infrastructure and Projects Authority (the Authority) is the government's centre of expertise for infrastructure and major projects. It supports delivery of the biggest, most strategically significant and riskiest projects across government. The Authority has increased the scale of its support and assurance work in response to Exit. It leads on the coordination and recruitment of project and programme managers across government, which is focused on Exit at present.

Civil Service Human Resources (CSHR) comprises HR staff working across the civil service. The central team in Cabinet Office leads on workforce strategy, with departments and executive agencies remaining responsible and accountable for their own workforce planning. It works with departments to ensure that they have the people and skills needed for Exit, including working with the other functions to identify skill gaps and support cross-government recruitment.

Government Commercial Function (GCF) works across government on commercial activity. GCF is working with DExEU and departments to examine the need for commercial skills across government, including the people needed to assess commercial aspects of departments' Exit plans.

Government Digital Service coordinates government digital activity. It works with departments to identify the digital skills departments need to prepare for Exit. It works with DExEU to review, support and challenge departmental plans where they rely on digital expertise.

In addition, the **Government Legal Department** provides legal advice on the development, design and implementation of government policies and decisions about the UK's future relationship with the EU. It works with DExEU and departments to plan, coordinate and draft secondary legislation needed for Exit. It works with the Parliamentary Counsel on primary legislation.

Government departments

Departments are responsible for assessing the impact of EU Exit on the policy and operations that they are responsible for and for developing and implementing Exit plans. These plans should ensure that departments are ready for Exit whether or not a deal is reached with the EU.

Departments may be dependent on regulators and arm's-length bodies for technical advice, or key operational aspects of delivering their plans. Departments are responsible for involving these bodies in planning.

Devolved administrations

Departments are responsible for consulting and managing the devolution elements of their operational plans for exiting the EU.

DExEU, Cabinet Office and the territorial offices lead engagement with devolved administrations on negotiations with the EU.

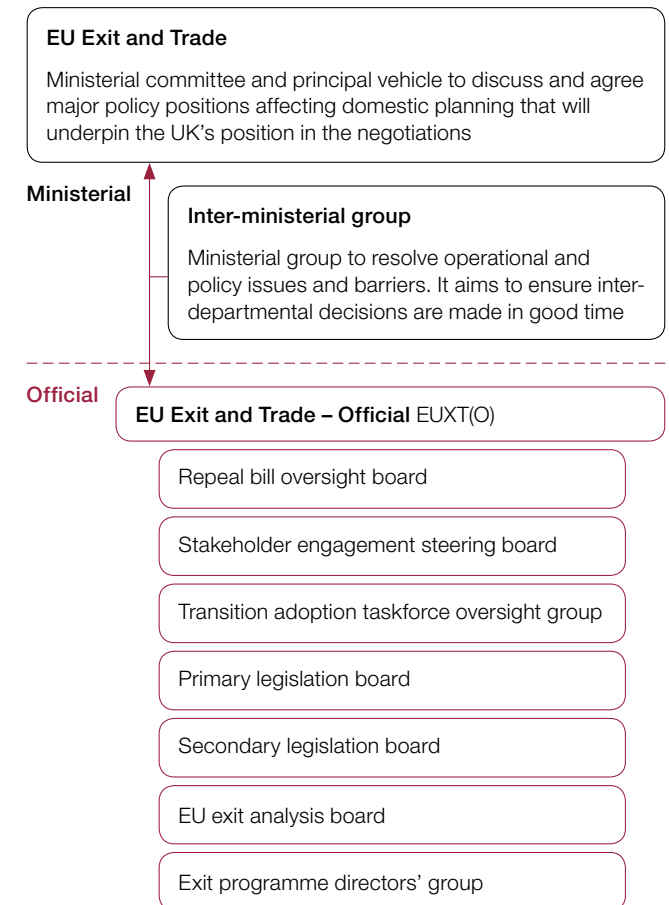
DExEU set up cross-government boards to advise Cabinet on Exit

Four ministerial committees focus on preparations for withdrawal, negotiations and international trade with non-EU countries. We focus on the domestic planning committee and its official-level boards.

EUXT(O) oversees all preparations for withdrawal and future relationship with the EU. It aims to ensure cross-government views are represented and acts as the main point of escalation for seven other official-level boards.

Seven boards provide information and advice to EUXT(O). These boards include the **Exit programme directors' group** which ensures departments are informed of latest positions to inform their planning and implementation. It acts as a forum to share good practice, explain instructions from the centre and for departments to provide feedback.

The seven boards are in turn supported by eight working groups (not shown here) to inform their activities. Most of the working groups support the **EU exit analysis board**, which provides oversight and direction to analytical work across government.



Note

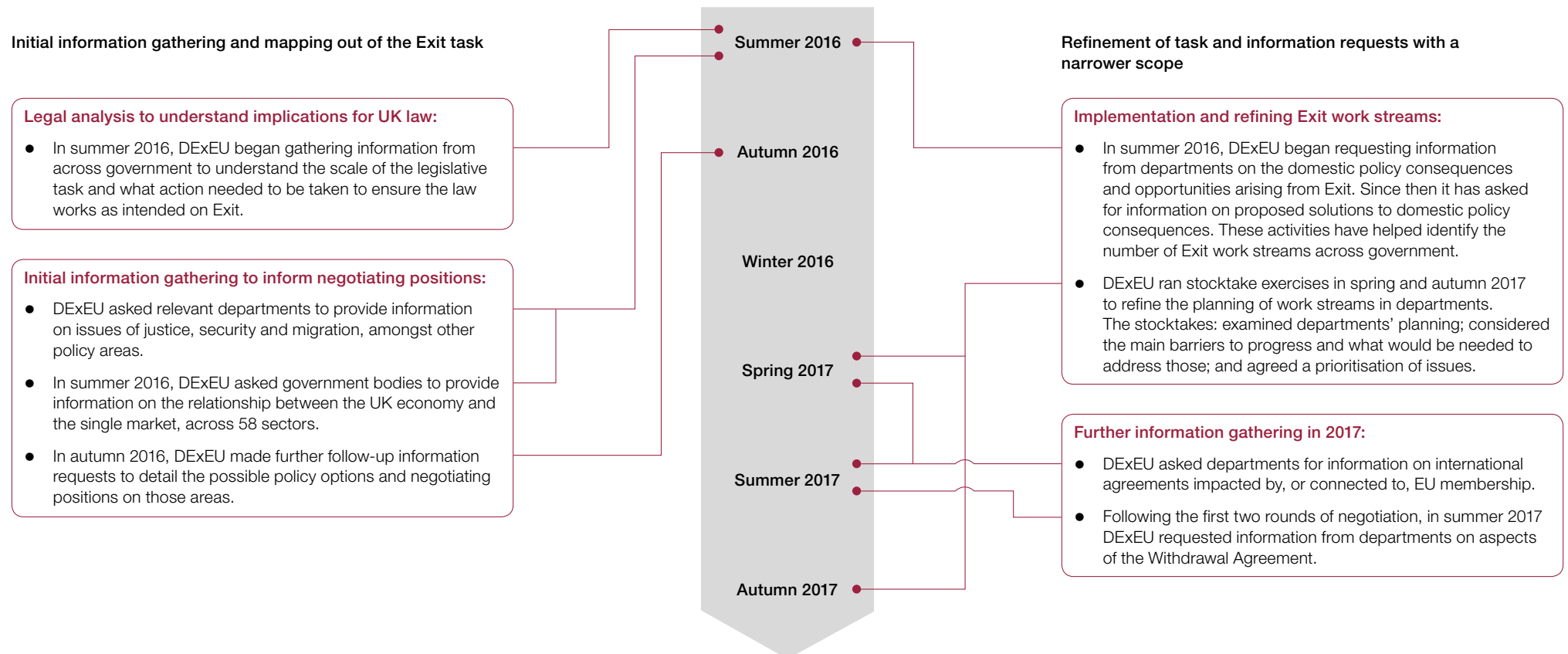
1 This is a simplified diagram presenting the domestic planning committee and official-level boards and groups at start of November 2017.

Source: National Audit Office analysis of the Department for Exiting the European Union's documents

How DExEU has set about its task

DExEU gathers information from across government to inform negotiations and the implementation of Exit

DExEU works with departments on a day-to-day basis. We summarise below a selection of the key information gathering activities up to autumn 2017.



DExEU issued implementation guidance to departments

DExEU has provided and updated guidance that sets out the responsibilities of departments and DExEU in the implementation of Exit.

Implementation responsibilities: departments

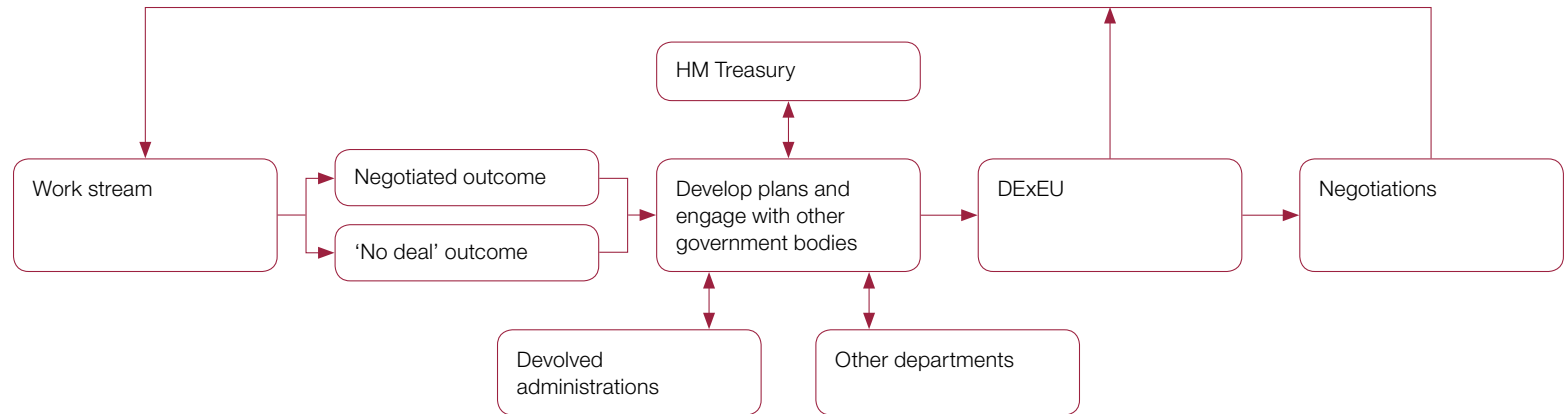
- Developing and – where relevant – implementing Exit work plans, for a negotiated outcome and a ‘no deal’ outcome by the time they are needed.
- Sharing plans and assumptions with DExEU so that it can coordinate dependencies between departments.
- Maintaining a single view of their portfolio of Exit work streams and agreeing a master list of these and their prioritisation with DExEU.
- Working with other departments and DExEU to resolve cross-cutting issues relevant to their work streams.
- Managing the devolution element of work streams.
- Liaising with HM Treasury to establish which spending will require Treasury approval, given scale of spending or novel or contentious nature.

Implementation responsibilities: DExEU

- Producing a single picture of policy changes required across government to ensure nothing is missed and links between delivery programmes are identified.
- Scrutinising the assumptions underpinning policy options to ensure the wider programme is cumulatively viable, coherent, aligns with the negotiation and prepares for each scenario.
- Coordinating work to resolve significant cross-cutting issues, where required.
- Monitoring departmental progress toward resolving each issue, to ensure an understanding where delivery is off-track so remedial action can be taken or negotiation adjusted.
- Ensuring the negotiation strategy reflects implementation considerations.

Implementing Exit work streams

High-level overview of how DExEU has instructed departments to develop plans to implement each of their work streams



Departments identify their Exit work streams.

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 work stream, 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 work streams across 8 departments between summer 2017 and early 2018.

Planning feeds into the negotiations.

Departments need to amend their plans as negotiations develop.

DExEU is monitoring the progress of departments' plans

DExEU works with departments to develop their plans

DExEU has teams that shadow each department on Exit, and has worked with departments as they develop their Exit plans. These teams provide guidance and scrutiny of planning and ensure that the information required by DExEU is produced by departments.

DExEU has 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.

DExEU uses the data on key milestones to identify what needs to be done when across government. This can be used to identify how a change in the timing of one activity can have a knock-on effect on other areas of government.

DExEU ran two 'stocktake' exercises during 2017 to scrutinise departments' plans

DExEU ran 'stocktake' exercises in spring and autumn 2017 to examine departments' readiness for Exit, agree a prioritisation of issues, identify any barriers to progress and the actions needed to address them.

Each department was asked to look across its work streams and provide detail on progress, including:

- readiness to deliver;
- legislation required;
- costs associated with changes; and,
- additional headcount needs.

The autumn 2017 stocktake also looked at cross-cutting issues such as borders, regulation, digital and EU funded programmes.

The Cabinet Secretary chaired the stocktake meetings with the departments most impacted by Exit.

Other meetings were chaired by senior officials in DExEU and Cabinet Office.

Funding of Exit work streams

Funding of Exit work streams

HM Treasury expects departments, as far as possible, to live within their existing budgets in preparing for Exit. However this is not always possible. Departments are planning for scenarios and these are expected to narrow as negotiations progress.

Treasury reviewed departments' funding requests for 2017-18 in two tranches over summer and autumn 2017. This has allowed Treasury to: review the requests from departments in light of progress in negotiations; ensure that spending does not occur before the point of need; and ensure that plans can be adapted to address multiple scenarios where possible.

By October 2017, HM Treasury had committed more than £250 million for this purpose in 2017-18. The principal recipients include the Department for Environment, Food & Rural Affairs, the Home Office, HM Revenue & Customs, the Department for Business, Energy & Industrial Strategy and the Department for Transport.

Treasury guidance on spending for Exit

Accounting officers are responsible for the implementation of government policies and delivery of public services; but they are only able to do so where Parliament grants the right to spend resources.

Spending beyond what parliament has granted falls short of the standards that Parliament expects.

In preparing for Exit, departments may need to implement new services. *Managing Public Money* requires that expenditure on new services must rest on specific legislation. However, the Chief Secretary to the Treasury set out in October 2017 that:

“delaying spend until legislation has reached Royal Assent could jeopardise readiness for Brexit.

To address this, for the small proportion of spending affected, ministers can issue a technical direction, allowing critical spending to be incurred ahead of Royal Assent, whilst ensuring transparency to Parliament.

In these cases, the use of a direction will be a matter of timing. Departments will still need to ensure spending is in all other respects regular, proper, feasible and good value for money, in the usual way.”

When a direction is made the C&AG will draw it to the attention of the Public Accounts Committee.

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 historical 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

The UK Border (October 2017)

The Customs Declaration Service (July 2017)

HM Treasury's economic analysis in the lead-up to the referendum on European Union membership (July 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

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National Audit Office

Design and Production by NAO External Relations
DP Ref: 11604-001

£10.00

ISBN 978-1-78604-154-8

