

Home Affairs Committee

Oral evidence: [Government Preparations for Brexit: Border and Security Operations](#), HC 1674

Tuesday 30 October 2018

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Members present: Yvette Cooper (Chair); Sir Christopher Chope; Stephen Doughty; Kate Green; Tim Loughton; Stuart C. McDonald; Alex Norris; Douglas Ross; John Woodcock.

Questions 1-249

Witnesses

I: Rt Hon Caroline Nokes MP, Minister of State for Immigration, Home Office, Shona Dunn, Second Permanent Secretary, Home Office, Paul Lincoln, Director General, Border Force, and Jon Thompson, Permanent Secretary and Chief Executive, HM Revenue and Customs.

II: Deputy Assistant Commissioner Richard Martin, Metropolitan Police and National Police Chiefs' Council and Lynne Owens, Director General, National Crime Agency.

Examination of witnesses

Witnesses: Rt Hon Caroline Nokes MP, Shona Dunn, Paul Lincoln and Jon Thompson.

Chair: I welcome everyone to this session of the Home Affairs Committee inquiry into preparations for no deal. Obviously, we and the Government all hope that there will be some kind of deal and that this is about contingency planning. Today, we will focus particularly on those contingency plans and the consequences in the event of no deal. May I ask our panel briefly to introduce themselves and set out their area of responsibility, starting with Immigration Minister Caroline Nokes?

Caroline Nokes: I am the Immigration Minister, so I am significantly involved in our preparations for the border post Brexit. I do not know whether it is easiest to say at the outset that we are working very hard towards securing a deal; we do not want a no-deal situation. That might just get that out of the way, so that I do not have to preface every single answer I give with that.

Chair: Taken. Shona Dunn.

Shona Dunn: I am Shona Dunn, the new second permanent secretary at the Home Office. I have Home Office-wide leadership responsibility with particular responsibility for the borders, immigration and citizenship system.

Paul Lincoln: I am Paul Lincoln and I am the director general of UK Border Force.

Jon Thompson: I am Jon Thompson, and I am the chief executive officer of Her Majesty's Revenue and Customs. I am also the chair of the cross-Government border delivery group.

Chair: Thank you very much. Do please respond to each of the questions according to who you think is most appropriate, and do not feel the need to respond, all of you, to every question.

We wanted to start by focusing on people at the border and on what the arrangements will be.

Q1 **Stuart C. McDonald:** Welcome to our Committee. May I start by asking simply what the border arrangements for EU citizens arriving on or after 29 March 2019 will be if there is no deal, starting, for example, with which passport queue they would be using?

Caroline Nokes: It is important to look at this in the round. There are ongoing discussions about segregation of queues, but you will have heard the announcement from the Chancellor yesterday about wanting to expand the cohorts of passengers that can use the e-passport gates. That is a really important step. We want a Britain that is open for business, that is welcoming to visitors and to people who are coming here to conduct short-term business trips post Brexit. To me, that is really important. We are



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certainly not going to prevent EU passengers from using e-passport gates. As far as I am concerned, we will continue conversations about how best to segregate queues, and indeed whether that is appropriate. From my perspective, EU passengers will not require visas for visits and will be continuing to use the e-passports gates as they do now.

- Q2 **Stuart C. McDonald:** So discussions are ongoing. Do you know when you will reach a decision about how the queues would be organised in the event of no deal?

Caroline Nokes: Deal or no deal, it is important that we have a Britain that is open for business, that we use the e-passports gates as, quite frankly, the most efficient mechanism to get people through the border quickly. We know that e-passport gates are one of the best mechanisms for identifying not necessarily forgeries but imposters—the way they triangulate people's faces is state of the art. It is certainly not our intention to make transit through the border harder for EU citizens post Brexit, deal or no deal.

- Q3 **Stuart C. McDonald:** But I am still no clearer on how the queues are going to be arranged, or when we are going to have a decision on how they will be arranged if there is no deal.

Caroline Nokes: We will continue conversations but I am not going to give you a hard deadline today.

- Q4 **Chair:** Presumably, your options are that you have three queues—EU, UK and non-EU or non-EEA—you move the EU citizens into the non-EU, or you keep the EU citizens with the UK. Have you modelled all three options?

Caroline Nokes: I think it is fair to comment that if you were to move the EU citizens into the non-EEA queues, it would have a significant impact on the border—if all of them had to be individually processed by a Border Force officer. Obviously, there is always a Border Force officer monitoring the EU passport gates, but we know that at present it takes in the region of 25 seconds for an e-passport gate to process one passenger, and it takes 85 second for somebody to go through a PCP point. It is self-explanatory that if one of your priorities is flow, the way to ensure flow is not to put all your EEA passengers in the rest of the world queue.

- Q5 **Chair:** So you are not planning to do that?

Caroline Nokes: No.

- Q6 **Chair:** Does that mean that you will have to change the technology for the e-passport gates, because you will need to check something new or different for EU citizens, or will the checks in April 2019 simply be exactly the same as the ones we have at the moment?

Caroline Nokes: For those who have biometric passports, yes. I will just look at Paul to check that that is right. Of course some EEA passengers still can, will be able to and do use their identity cards. I have to say that that is not my preference. I wish everybody would travel on a biometric



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passport. Those EU citizens who use them currently will still be entitled to use them post Brexit as part of the citizens' rights agreement that we reached with the EU up until 2025, which gives them plenty of time to plan to have a biometric passport. Of course, many of them already do have a biometric passport, because they travel around the globe.

Q7 Chair: But no deal means no additional checks for EU citizens at the border.

Caroline Nokes: We already use checks for EU citizens according to the—

Chair: I know, but just in terms of any additional ones.

Caroline Nokes: No.

Q8 Stuart C. McDonald: Do you anticipate the need for additional staff at the border? You say there will be no additional checks, but we have already seen the Heathrow Border Force struggling to meet KPIs in relation to the time it takes for non-EEA nationals to get through the border. Will there be additional staff to cope with that and will there be additional staff needed to cope with any changes brought about as the result of a no-deal Brexit?

Caroline Nokes: As part of our preparedness for Brexit, we are already in the process of significantly increasing Border Force staff numbers with a roughly 300-person readiness taskforce, which will be on stream in December. We have ambitions to recruit an additional 600 before Brexit. But the reality is that if you continue to allow EEA passengers through the e-passport gates—we are not anticipating a sudden influx of numbers, but we have to have an agile and flexible Border Force that will be able to respond to the live situation as we find it on day one of exit.

Q9 Stuart C. McDonald: If no-deal Brexit means losing access to SIS II and passenger name records, would not alternative checks have to be performed? If we do not do that, is it not harder to intercept people who pose a risk to security?

Caroline Nokes: We would use a range of tools including our warnings index. You are right to highlight SIS II, but we have advanced passenger information, which comes to us via the carriers, so is distinct from passenger name records. But I think it is accurate to say that there is a range of security tools, which we very much hope we will continue to access post Brexit and during our continuing negotiations with the EU and on a bilateral level, if it comes to that.

Q10 Stuart C. McDonald: But you do not anticipate that that sort of change would increase the amount of time that it would take for an EU national to get through passport control.

Caroline Nokes: Well, it is not going to change the amount of time it takes for them to go through an e-passport gate.

Q11 Stuart C. McDonald: Okay. What immigration rules do you envisage applying to EU citizens in the event of a no-deal Brexit? I think you said



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at the outset that you do not anticipate visit visas being required, for example.

Caroline Nokes: No, we certainly do not. I think it is really important that as part of a future mobility framework, we continue to work closely with the EU and individual member states, to ensure that going forward we can have a reciprocal arrangement where EU citizens can continue to travel here for short-term visits for up to three months, and we would very much hope that we will be able to secure a reciprocal agreement for British citizens who are travelling to EU member states.

Q12 **Stuart C. McDonald:** Would there be any difference in treatment for an EU national who arrives at the border having secured settled status already, and an EU national who arrives at the border and has not managed to get settled status stamped in their passport or provided in an e-document? Is that not going to have any effect on their ability to come in and out of the country?

Caroline Nokes: Obviously, with the settled status scheme there is a significant period—in the region of two years—when we are allowing individuals to get their settled status. In the intervening period of any transition period it will be incredibly difficult to differentiate between an EU citizen who is coming here for the first time, for example, and somebody who has been here for a significant period of time but simply has not yet applied for their settled status but would be perfectly entitled to it if they were to apply. So that poses some challenges, but actually, as we have said, anybody who is coming here on a short-term visit will be entitled to pass through the border using any passport gate, in the normal way, but if they wish to come here and work, different rules will be applied, which will be set out in our future immigration system.

Q13 **Stuart C. McDonald:** Can you give us anything further on the timetable for the publication of the White Paper and any subsequent immigration Bill?

Caroline Nokes: It is coming very soon.

Q14 **Stuart C. McDonald:** There is a need for an immigration Bill. Is the timetable for an immigration Bill altered if no deal looks likely?

Caroline Nokes: The immigration Bill will be in place to turn off free movement. The timetable has not yet been set out, but that, too, is coming very soon indeed.

Q15 **Chair:** Just to follow that up: you cannot differentiate at the border between somebody who is newly arriving and somebody who might have been here for 10 years and has gone to visit their nan, and is coming back again. Does that mean that you will be equally unable to differentiate when it comes to employment? Does it mean that until the settled status scheme is fully in place and fully rolled out, even in the event of no deal there will be no change to employment rules or restrictions for newly arriving EU citizens?



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Caroline Nokes: I do think it is important that we are not placing new burdens on employers, traders and so on in a transition period. In any transition period, it will be, as I have said, impossible to differentiate between somebody who has been here and not yet applied for settled status and somebody who has just arrived. That is why we have set out the importance of a transition period, and want to make sure, through our citizens rights deal, that we get those rights conferred on EU citizens who are going to apply for settled status and will be entitled to it as effectively and efficiently as possible.

Q16 **Chair:** So are you saying that effectively you will apply a transition period even if there is no deal?

Caroline Nokes: I think we have to have a realistic period in which we allow employers and so on to adjust.

Q17 **Chair:** Is there any way for employers to adjust in advance of the settled status scheme being fully in place?

Caroline Nokes: Adjust as to who they are allowed to employ and who not?

Chair: Yes.

Caroline Nokes: As you may know, we are bringing on stream the employers' digital right to work check, which obviously will be a useful tool in due course for those who go through the settled status scheme.

Q18 **Chair:** But what will they be checking if somebody has not got their settled status in place yet?

Caroline Nokes: The reality is that we have 3.5 million EU citizens whose rights we are determined to protect, so it is likely that there will be a period during which it is impossible for employers to differentiate between them and somebody who is newly arrived. But it is important that all those here for more than three months will be required to register and go through the mandatory registration scheme, so that once they have been here for three months it will be possible for somebody to differentiate.

Q19 **Chair:** But in practice, those requirements on employers to differentiate between those who have settled status and those who have newly arrived are not likely to happen until the end of an equivalent transitional period to the one that you have got in place, if there is a deal.

Caroline Nokes: Well, the new arrivals, if they are planning on staying for three months, will be required to go through the mandatory registration process, which will be a mechanism which would enable employers to check; but we would hope that employers would make sure that they were employing people who had the right to work, who they could verify via the employers' digital check. What I am very conscious of is that this presents an enormous challenge for those who have already been here, but have not yet completed the settled status scheme, whose rights we want to protect.

Q20 **Chair:** If so, if there is no deal, this time next year will an employer be



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expected to do a digital check on a French citizen, for example, who they want to employ, or will they just be able to carry on as they would at the moment?

Caroline Nokes: We expect employers to do right to work checks and, indeed, with British citizens, they will ask to see their birth certificate, passport or some other form of ID to check who they are.

Q21 **Chair:** Okay. Suppose somebody shows their French passport, and they are applying for a job this time next year, and there has been no deal. When they show their French passport will that be sufficient for them to be able to get a job, or will there be some additional check that the employer will be expected to do if there is no deal?

Caroline Nokes: We expect employers to make sure that they are behaving within the law. We would expect an individual to have gone through the mandatory registration scheme if they were planning to be here for more than three months.

Q22 **Chair:** But would the employer have to check that they had been through the mandatory registration scheme?

Caroline Nokes: As part of the right to work check, we expect employers to make sure that they are not employing people who do not have the right to work here.

Q23 **Chair:** I am still confused. Let us suppose that this French citizen has actually been here for 10 years. They will not have gone through the mandatory registration scheme and they may well not have filled in the settled status forms yet because they have so far been told that they have some extra time to do that. How does the employer tell the difference between somebody who is newly arrived and needs a mandatory registration form, and somebody who has lived here for 10 years and has the right to work but has not filled in the settled status form yet?

Caroline Nokes: As part of our planning for the settled status scheme, we have factored in that there may be pressures on employers, on the DWP, and around access to other services. At various points during the scheme, we anticipate that there will be up-ticks in the number of people going through the process. For some there may be a significant time pressure if, for example, they have applied for a new job. We are anticipating that those people will make contact and go through the settled status scheme. For them there will obviously be a time pressure because they will want to be able to evidence to their employer that they have the right to be here.

You are absolutely right to point out that it will be almost impossible for an employer to differentiate between a new arrival and somebody who has been here for 10 years and has simply not yet been through the scheme.

Q24 **Chair:** If that is the case, what will the Government's position be? Will the



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Government choose a requirement on employers to check mandatory registration, in which case there is a risk that somebody who has been here for 10 years could face discrimination because they cannot prove it? Or will the Government choose to say, "Actually we are not going to make it a requirement to assess mandatory registration"?

Caroline Nokes: We have always said that when it comes to the settled status scheme, we are going to adopt a pragmatic approach and make sure that any enforcement regime is not overly rigorous in any early period, because we are quite clear that it is one of the conundrums that employers will face and that we might expect the health service to face. There will be people who have rights under the agreement and under the settled status scheme, but who have not yet gone through the process to be able to evidence that.

Q25 **Chair:** Sure, but that is about whether the Government are enforcing this or not. What are you expecting from an employer? Is the employer going to have to check the mandatory registration this time next year or not?

Caroline Nokes: The mandatory registration scheme does not confer on somebody the right to work. The Prime Minister has been very clear that free movement ends when we leave the EU, so somebody coming here from the EU for more than a visit will have to go through the normal immigration scheme that we are going to bring forward—the future one—so that they have the right to work for a period in the UK.

Q26 **Chair:** I understand what you just said about free movement ending, but you have already said that if there is no deal, that will not make any difference to who will come through the border or to any additional checks that they will face. I am still struggling to understand. This time next year—as opposed to in five years' time—will there be any change to who has a right to work here?

Caroline Nokes: Yes, because we will have brought forward the future immigration system, and EU citizens will not have an automatic right to work in the UK unless they have been through the same processes that we are going to apply to the rest of the world.

Chair: But you just said that employers are not going to be able to tell the difference.

Caroline Nokes: I have said that it will be an enormous challenge both for employers and for EU citizens who have the right to work here to make sure that we get them through the settled status scheme as efficiently as we possibly can, which is why we opened it up to private beta testing over the summer and why phase 2 opens in November. We know that it is a huge challenge, but there is absolutely going to be a difficulty in differentiating between those who have been here and not been through the process, and those who have come as visitors and then seek to work.

Q27 **Chair:** So it is unworkable, then?

Caroline Nokes: It is not unworkable because we are going to make sure that by the end of the transition period we have 3.5 million or so EU



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citizens through the settled status scheme who will be able to evidence digitally their right to be here.

Q28 **Chair:** That is at the end of the transition process this time next year?

Caroline Nokes: Yes, but we are very conscious that this is an enormous challenge. The question is, do you wish us to discriminate against those EU citizens who have absolutely every right to be here and work, or shall we have a pragmatic approach to make sure that we implement a system as part of our future immigration system whereby EU citizens who are coming here for more than a visit have to go through the same processes as everybody else?

Q29 **Chair:** I am still really baffled. I understand that there is a time at the end of a transition period, whether there is a deal or no deal, when you can bring in new rules. I am just trying to work out what happens this time next year—it would have been within the transition period if there were a deal, but if there is no deal, this time next year. You have rightly and understandably said you do not want any discrimination against EU citizens who have lived here for very many years, but who have not yet filled in their settled status. What I am asking you, then, is why and how you think you can then have different rules that will apply to new arrivals—people who have just come after March 2019—when employers cannot differentiate between them.

Caroline Nokes: Because we are going to have to implement a future immigration system that reflects that we have ended free movement—

Q30 **Chair:** By this time next year, if there is no deal?

Caroline Nokes: No, not by this time next year, but we will have ended free movement, so people coming here from the EU will have to go through a mandatory registration scheme. We have to make sure that we have a future immigration scheme that can differentiate between the two, but I think we have been perfectly clear that there are going to be challenges during the transition period.

Q31 **Chair:** So surely you are either going to have a system that in practice is unworkable because employers cannot implement it, or you are going to have to accept that people who are arriving after May 2019 will just be covered by exactly the same rules as people who are already here.

Caroline Nokes: They will have to go through mandatory registration.

Q32 **Chair:** How will anybody check that, if employers cannot tell the difference?

Caroline Nokes: If somebody has been through the settled status scheme, they will be able to evidence that. If somebody has not been here prior to the end of March next year, then employers will have to make sure that they go through adequately rigorous checks to evidence somebody's right to work.

It is a very fair point that we do not wish to discriminate against people who have every right to be here, who we want to stay, and who we have



said very clearly are welcome to stay. Indeed, we recognise that they have played an enormous part, both in our economy and our communities. We want to make sure that we do not discriminate against them, which will pose a challenge to Government and, indeed, employers in differentiating between those two groups of people.

- Q33 **Stuart C. McDonald:** You say you want to avoid discrimination against EU nationals who have the right to live and work here, but that is exactly what the effect of your policy would be. It is not just employers who will be reluctant because they are unclear whether or not somebody has the right to work; landlords will be even more reluctant. You will have landlords who are not going to touch EU nationals with a bargepole if they have not already gone through the settled status scheme. Surely, the only sensible proposal in the event of no deal is to postpone the end to free movement and postpone the new system until the registration scheme closes in the middle of 2021.

Caroline Nokes: I disagree with that. We have been very clear that we will end free movement when we leave the EU.

- Q34 **Stuart C. McDonald:** Are you denying that there is going to be a hell of an impact on EU nationals who have the right to live and work here, and that they will struggle to access accommodation and will find it harder to work, even though they have the right to work?

Caroline Nokes: We want as many people as possible to go through the settled status scheme, as quickly and efficiently as they possibly can.

- Q35 **Stuart C. McDonald:** How many do you think you can get through the scheme by March?

Caroline Nokes: We have said that we are going to adopt a pragmatic approach to following that up and to enforcement, and I think it is really important that we do that. We have to give people time.

Stuart C. McDonald: But you are not giving them time.

Caroline Nokes: I am hugely encouraged by the progress we have made with the private beta testing phase 1.

Stuart C. McDonald: It has 600 people in.

Caroline Nokes: It was deliberately a small trial to make sure it worked.

Stuart C. McDonald: Yes, but we have three million people to get through it by March.

Caroline Nokes: And 95% of them found it a quick and simple process, going through within 15 to 20 minutes. It is really important that we make sure that we have a scheme that works, and that is why we are moving to phase 2, where it could be several hundred thousand people who go through the scheme.

- Q36 **Stuart C. McDonald:** Do you realistically think that the Home Office can get a new immigration system up and running by March in the event of



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no deal?

Caroline Nokes: No, I have said we are going to end free movement by March. The new immigration system will obviously—

Q37 **Stuart C. McDonald:** If you end free movement in March, how does somebody employ an EU national after March if they do not have settled status?

Caroline Nokes: We will be ending free movement. EU nationals will be subject to the same requirements as non-EEA nationals, but it is really important that we put in place a future system that recognises that the will of the British people, as expressed in the referendum, was that we end free movement, and we are determined to do that—

Q38 **Stuart C. McDonald:** But you do not need to do it by March. No one voted for a catastrophic cliff edge.

Caroline Nokes: As part of the immigration rules, we will have to turn on a system that allows EU nationals to continue to come here until such time as the future immigration system is implemented.

Q39 **Stuart C. McDonald:** Yes, but why not wait until the settled status system is essentially complete? Why do it in March when it will have a catastrophic impact on whether people can access work and accommodation? You will have industries completely unable to recruit from the EU in lots of posts.

Caroline Nokes: We are very conscious that in harmony with other Government Departments we have the modern industrial strategy. We are working very hard with the DFE to make sure that British employers have an attitude of seeing their first port of call for recruitment within the UK. As part of the immigration rules, we will have to turn on a system that allows EU citizens to continue to come here post-March until such time as the new immigration system is implemented.

Q40 **Stuart C. McDonald:** To take just one example, in the construction sector some 80% of its migrant workforce would not qualify under tier II. Essentially what you are saying to the construction industry is, "Come March, 80% of your international recruitment will just come to an end. You will have to train up all these people within the next four or five months to fill that gap."

Caroline Nokes: We are not saying that. As part of—

Q41 **Stuart C. McDonald:** That is the implication of ending free movement in March.

Caroline Nokes: As I said, as part of the immigration rules, we will have to find a mechanism that will still allow our industries and businesses to find the staff they need. We are very clear that as part of the future immigration system, we will move to a position where we are applying the same rules to the EU as we are to the rest of the world so that we will have a skills-based immigration system that enables us to continue to



attract the talent we need from around the globe, while putting us in control of immigration for the first time since free movement came in.

- Q42 **Kate Green:** You said a moment ago that you did not intend for there to be new burdens on employers, but what is the situation for someone who is here currently, who would be entitled to settled status, but who has not completed the process before the aftermath of 29 March next year? The employer can look at the registration process, but that person has not come through that electronic registration process. They may have been here for many years. Are you saying that the employer will have to make other checks—absent the person having applied for settled status, but none the less probably being eligible for it had they applied—to ensure that they would have the right to work or carry on working?

Caroline Nokes: It is really important that we do not make life any more difficult for employers. We expect employers now to make reasonable checks on someone's right to be employed, whether they are British citizens, here from the EU or here under a tier II visa. As part of the immigration rules, we occasionally update those requirements. For example, one that is coming down the tracks is that we will no longer be asking employers to require the long birth certificate—we are changing it to the short birth certificate.

I am absolutely conscious that there will be a challenge around how EU citizens evidence their right to work if they have not been through the settled status scheme and how employers check that, but it is important that we continue with the process. I do not particularly like this term, but the current term is a statutory excuse. If an employer can demonstrate that they have made checks on whether someone is entitled to work, that can be viewed by the Home Office as them having gone through the necessary process.

- Q43 **Kate Green:** I am sorry, but if an EU or EEA national wants to work now, the employer has virtually nothing to do except confirm the individual's identity.

Caroline Nokes: If it is a British citizen, they might to ask to see their ID, their passport and their birth certificate.

- Q44 **Kate Green:** Exactly. But if they have the right to settled status and have not applied for it yet, what checks do you expect the employer to make on those individuals?

Caroline Nokes: As part of the changes to immigration rules, when we turn off free movement we will have to give an enablement to EU citizens to continue to come here and be here. On the specifics of what additional checks we might expect employers to make if people have not been through the settled status scheme—there is a challenge around how someone who has not yet been through the scheme but has every right to be here evidences that—I might have to write to the Committee with further information.

- Q45 **Kate Green:** It will be very important for employers to know very soon



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what you are expecting them to check that they do not have to check currently. What discussions have you had with employer bodies about this?

Caroline Nokes: On this specific point?

Q46 **Kate Green:** On the specific point of people who could apply for and receive settled status but have not yet done so post 29 March.

Caroline Nokes: Having met a significant number of employer bodies including the CBI and chambers of commerce, having done three roundtables in Scotland, Northern Ireland and Wales over the course of the summer recess, and having met organisations such as the National Farmers' Union, during the process of those engagement sessions not a single employer raised that with me.

Q47 **Kate Green:** How many EEA citizens do you expect to have received settled status, completed the application process and successfully been granted settled status by 29 March next year?

Caroline Nokes: I think I have written to the Committee already with the update of—

Kate Green: Sorry—if you could remind me.

Caroline Nokes: In the beta phase 1, in the region of 4,000 people were eligible to go through the process and 1,000 actually did. That was making an appointment with Home Office staff and going through the process in almost a hand-holding way. So 25% of those who were eligible had gone through the process. We are now opening—

Q48 **Kate Green:** Of those who were eligible to participate in the pilot?

Caroline Nokes: Of those who were eligible to participate in phase 1 of the pilot.

Q49 **Kate Green:** So a very small number, in truth, out of the totality of EEA citizens currently here.

Caroline Nokes: If you will let me continue, I will bore you with some numbers. In the second phase of the beta testing we have opened it up to all NHS trusts and the equivalents in Scotland, Wales and Northern Ireland, and indeed to those employed by universities, although not students. We think that is a cohort in the region of a quarter of a million people. We might expect, on the current stats, that maybe a quarter of them will go through the process, although it is much less—I am struggling to find the right term—hands on.

People will be provided with a link to go through the scheme, and they will effectively be doing it on their own on whatever device that they so choose. If a quarter of those go through I would be very happy indeed, because of course when you have a voluntary link, who knows who will or will not go through it? We expect phase 2 to come to an end at the end of December, and then there will be a fire break between phases 2 and 3, as



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indeed there was between phases 1 and 2. Then we will open it more widely at the start of next year.

I am not sure that I can put a solid number on how many people I expect to go through by the end of March, but it is absolutely imperative that we have tested it, first in a smaller, controlled way and then at scale, before we open it up much more widely. My ambition is to make sure that we have as many people go through the process as swiftly as possible.

Q50 Kate Green: Has the Department modelled different scenarios for different numbers having completed the process by March 2019?

Caroline Nokes: Yes, we have, and we have considered the impact of flow through the system. Obviously our anticipation, as with all such large-scale digital-based operations, is that people might very enthusiastically seek to go through the process to begin with. There will then be a lull in the process no doubt, and then ramping up towards the end, but of course the end does not come until the end of 2019.

If everything were to go through in a steady flow—I apologise that I cannot remember the precise number, but I think it was in the region of 8,000 per day—obviously you have to have systems that are sufficiently robust to cope with many, many times that number, in case everybody tries to sign up on day 1.

Q51 Stephen Doughty: Just a couple of follow-up questions on those issues. Is it true that the application process for settled status can still be done only on an Android phone, and not on an iPhone?

Caroline Nokes: The application can be done on any device, but the chip-checker currently works only on Android.

Q52 Stephen Doughty: So half the population will be disadvantaged in making that application easily.

Caroline Nokes: Well, that is Apple's choice. That is the reality. The Home Office has been working really closely with Apple, certainly since I have been in the job, so for the last 10 months, to encourage them to move to a position where they will allow the chip-checker to be used on their devices, but you can go through the settled status scheme on an Apple device, and it saves it every step of the way, much like doing your tax return online—you do not have to start from scratch every single time. You can then complete it by using an Android device at the very end.

Q53 Stephen Doughty: Do you think this can be resolved, or are you just going to blame Apple?

Caroline Nokes: Well, it is Apple that will not release the upgrade that we need in order for it to function.

Q54 Stephen Doughty: Well, it is you who are requesting that the system changes and that people have to register. One would think that you would design a system that was accessible to as many people in the population as possible in the easiest way possible.



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Caroline Nokes: It is accessible—

Q55 **Stephen Doughty:** To half the population.

Caroline Nokes: It is accessible via any device, but the chip-checker has not been released by Apple. To try to blame that on the Home Office is very unfair of you.

Q56 **Stephen Doughty:** Okay. Can I ask what individuals receive as proof once they have applied for settled status?

Caroline Nokes: They get a digital status that they can forward, via a secure link, to employers, landlords and a wide range—

Q57 **Stephen Doughty:** Do they get a physical document—a biometric permit or anything like that?

Caroline Nokes: No.

Q58 **Stephen Doughty:** So if an employer or another person who had to check their status was unable to access an online system at that time, how could they check?

Caroline Nokes: The Government's mission is to move to services that are digital by default. We think that providing this—there are several examples of where this is working successfully, such as the digital right to work check. We are rolling out the digital right to rent check, which landlords will be able to access. It might be of interest to the Committee—I know that we have previously demoed how the settled status scheme would work; I am not sure if this Committee took up that offer, but it might be of interest to you to do so, and at the same time have a walk-through of the digital right to work check. It is a fantastic example of how Government services can be delivered digitally.

Q59 **Stephen Doughty:** Given the Windrush scandal, the serious delays in issuing biometric permits to individuals who have the right to live or work here and need to be able to demonstrate that to an employer or otherwise, and the mistakes that are regularly made in those processes, why should we have confidence that the system will work effectively in any way for a whole series of individuals?

Caroline Nokes: You highlighted, in your words, the delay in issuing biometric residence permits, but of course we are not issuing a physical permit—

Q60 **Stephen Doughty:** No, but we are talking about the proof of the right, Minister, and the mistakes that are often made at the Home Office end in those systems.

Caroline Nokes: We are sending a digital proof that does not require any manual construction or the printing of a card, so that is one enormous step forward. You are right to highlight the lessons learned from Windrush. I am very conscious that in the last couple of months a child of EU parents was probably born in the UK who may well live to 120 or 130. It is absolutely imperative that we have a durable system and do not fall back



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into the trap of Acts of Parliament that give deemed leave, for example, which nobody has any institutional memory of 40 years later. It is really important to us that we have a scheme that is durable and that will be able to be evidenced forever, not only by the Home Office but by the individuals concerned.

Q61 Douglas Ross: How important is it to have adequate numbers of Border Force staff before we leave the European Union?

Caroline Nokes: It is very important to have not only adequate numbers but sufficiently flexible and agile staff so that we can deploy them where they are needed at the correct time to fulfil roles that may indeed occur.

Q62 Douglas Ross: How would you rate the progress to recruit and employ the additional staff required?

Caroline Nokes: We are doing very well on recruiting the readiness taskforce, and we expect to have about 280 of the projected 300 in post by December. We are taking steps around centralised recruitment and around the fast-track vetting of individuals. Border Force has increased its capacity for training so that we can meet the requirements, but you are absolutely right to highlight that it is important that we remain on track in that respect. I am not sure if Mr Lincoln wants to add anything.

Paul Lincoln: The Committee will probably be aware that two different sets of numbers are normally talked of in this space: about 300 in the readiness taskforce, which we committed to recruit, and then, as part of our preparations, about another 600 additional officers. If you take our baseline against which that was originally done, in March, we were at about 7,700, and at the end of last month—we do not routinely publish this, but we recognise that we are in slightly unusual times—we were at 8,190. We are making significant progress towards that target.

Beyond that, we also have other areas that we can fall back on if we need to do so. For example, we work very successfully with immigration enforcement staff who we utilised as part of our summer surge this year, and beyond that, we routinely use HMRC surge during the summer as part of the support for us, if we require it.

Q63 Douglas Ross: What is the average time taken for someone to apply for a job with Border Force, to be offered and then to accept the job?

Paul Lincoln: We have said that routinely it would take somewhere between about six and 12 months, depending on the process that has been put in place. We stepped up our recruitment campaign in March, recognising that there was going to be the potential for it to take some time for things to come into place. That is why we started at that date.

Q64 Douglas Ross: Do you think six to 12 months is acceptable?

Paul Lincoln: It is a very long time to get people into government, which is why Government are currently trying to shorten the number of steps that it takes to bring people in. There are a significant number of steps that we have to go through. As the Minister said, we have now put in place



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the ability to fast-track every one of Border Force's new recruits through security clearances.

Q65 **Douglas Ross:** At what point in the process do you ask about a notice period?

Paul Lincoln: We ask about a notice period as we give the offer, so someone can say whether or not they need to work to that—

Q66 **Douglas Ross:** But surely before you give someone an offer you could ask what their notice period is?

Paul Lincoln: Yes, you could ask that as part of the process, but routinely it would be when you offer. The average that we have experienced is—

Q67 **Douglas Ross:** My question was why don't you?

Paul Lincoln: We do occasionally—

Q68 **Douglas Ross:** So why don't you routinely?

The routine practice—this is not necessarily conducted by us in all cases but is done by Capita and Government recruitment resourcing. We follow the standard processes that they have put in place.

Q69 **Douglas Ross:** I have an example. Someone applied to join Border Force in April. They went through various application forms, questions, online tests and interview in early June. They were then given a provisional offer in early October, three months after the interview and six months after applying. They are now going through final checks. Assuming that is okay, they are told they will get a formal offer at the end of November. In the eight months it has taken, they have not been asked if they have a notice period, which for them is three months. It will take this person over a year from originally saying that they want to join Border Force.

The Minister has accepted that we need to have sufficient numbers in place. Eight months after going through all these hoops, with significant investment of Border Force's time, Capita's time and the individual's time, there will be another three-month period for notice. It seems there is no urgency to recruit these staff. We saw in the NAO report that since the start of October there have been 452 offers but only 149 acceptances. Do you think part of the reason is that it is taking you too long to offer these jobs?

Paul Lincoln: We have said that we need to improve the time it takes to do that. We are working very closely with the chief people officer.

Q70 **Douglas Ross:** You have not told the Committee how you are going to do that.

Paul Lincoln: We have fast-tracked the number of people who can go through. We have up to 320 places available every month to put through our security clearances. As part of our process, we were already moving towards a centralised recruitment process within Border Force, to make sure that we were speedier. Beyond that, we are trying to improve the



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process, including helping people to fill in their forms to speed things up, having learned the lessons from the last campaign.

Q71 **Douglas Ross:** What is the reason that you have such a low acceptance to the offers given?

Paul Lincoln: The current information that we have from Capita is that we are running at about a 70% acceptance rate.

Douglas Ross: But 452 offers to 149 acceptances is not 70%.

Paul Lincoln: We are told there is a reporting lag in that, so the acceptance rate is running at about 70%.

Q72 **Douglas Ross:** You have issued no further offers, but the number of people who have accepted has gone up significantly in about three weeks?

Paul Lincoln: At the end of 26 October we had 405 acceptances.

Q73 **Douglas Ross:** Out of 452 offers?

Paul Lincoln: Out of a reported 700 offers.

Q74 **Douglas Ross:** So 405 out of 700.

Paul Lincoln: It is still just over 50%, in terms of the reported acceptance rate, but as I said we are told there is a reporting lag.

Q75 **Douglas Ross:** Is that a reporting lag with the NAO?

Paul Lincoln: No, with our recruitment campaigns. Capita give us the information as they get it, and there is a lag in terms of the information about when someone accepts. If there is a gap, it is not necessarily because they have refused the job but because they have not necessarily accepted it yet.

Q76 **Douglas Ross:** Mr Thompson, how do HMRC do in terms of recruitment?

Jon Thompson: How long end to end?

Q77 **Douglas Ross:** Well, how do you rate your department's progress with that?

Jon Thompson: End to end—between advert and someone starting with us—it takes four months on average. It was nine months when I started. We stripped the process down significantly, identified where the barriers were and removed them.

Q78 **Douglas Ross:** HMRC require 5,454 full-time equivalents for EU exit work and in September you had 2,374 in place.

Jon Thompson: Correct.

Q79 **Douglas Ross:** Do you think that is good enough?

Jon Thompson: I think we are well on track to where we need to be.



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Q80 **Douglas Ross:** So you think that is—

Jon Thompson: The key area that I guess—

Douglas Ross: Sorry—do you think that is good enough?

Jon Thompson: Yes, at this point.

Q81 **Douglas Ross:** So you are satisfied that you will meet the 5,454 target?

Jon Thompson: Yes.

Q82 **Douglas Ross:** Without any caveat?

Jon Thompson: I think we'll be very close to it.

Q83 **Douglas Ross:** "Yes" or "very close"?

Jon Thompson: We are never quite at 100% staffing, because there is always some fluidity to our workforce, but it would certainly be around 95%.

Q84 **Douglas Ross:** Do you have similar problems to Border Force in terms of timeframes?

Jon Thompson: No, because—as I said, when I took over as CEO it was taking us nine months from advert to somebody starting. We did a full process stripdown of that and have got it down to, on average, four months.

Q85 **Douglas Ross:** Can you share some of your good practice with Border Force?

Jon Thompson: We certainly can.

Q86 **Douglas Ross:** Have they asked you?

Jon Thompson: I do not recall us having a conversation about it; we certainly can. We have been at the forefront—

Q87 **Douglas Ross:** Mr Lincoln, Border Force take six to 12 months, which is quite a large range. HMRC have it down to four months. Why have you not asked them for their good practice?

Paul Lincoln: We are using the good practice of the chief people officer, who takes—

Q88 **Douglas Ross:** But not of HMRC, who have got it down to four months?

Paul Lincoln: —who takes best practice from across Government.

Q89 **Douglas Ross:** But you have not thought of going to HMRC, who are working in a similar field to you?

Paul Lincoln: The chief people officer is taking best practice from across Government, to reduce our overall recruiting timeframes.



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Jon Thompson: There is one significant difference between us, which is the length of time it takes to get through a security check. I guess you need an SC.

Paul Lincoln: We do.

Jon Thompson: Whereas working at HMRC you don't; there is a lower security check, and that is a factor that drives some of the time issue.

Q90 **Alex Norris:** Jon Thompson, how many staff have HMRC lost over the last eight years?

Jon Thompson: How many have been lost over the last eight years?

Alex Norris: Yes, what is the reduction in establishment over the last eight years?

Jon Thompson: I couldn't honestly answer that question off the top of my head, but it would be tens of thousands.

Q91 **Alex Norris:** And as a percentage?

Jon Thompson: I couldn't honestly tell you: I have been the chief exec for two and a half years, so I couldn't give you the eight-year number off the top of my head.

Q92 **Alex Norris:** And the two and a half year number for reduction in staff?

Jon Thompson: We are roughly where we started when I took over, because there have been fiscal events that have added customer compliance staff for evasion and avoidance work while we have reduced the customer service estate.

Q93 **Alex Norris:** In relation to your Building our Future programme, for the rest of that programme do you anticipate future staff loss?

Jon Thompson: No.

Q94 **Alex Norris:** No staff loss?

Jon Thompson: No. The original anticipation was that—when we saw our settled spending review 2015, it was anticipated that by 2020 we would be down at 48,000 full-time equivalents. We now anticipate that will be 58,000. There are the 5,300 for Brexit. There has been a series of fiscal events that have given us more than 2,000 additional staff to focus on avoidance and evasion. And the programme that is universal credit impacts on us because tax credits is reducing significantly slower because universal credit is taking longer to build up, and therefore I anticipate we will have 3,000 additional staff compared with what we would have had by the original plan for universal credit. So that's 10,000 more.

Q95 **Alex Norris:** In the event of no deal, what would that 58,000 staffing number need to be?

Jon Thompson: I gave you the no-deal numbers.

Alex Norris: Oh, those are the no-deal numbers.



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Jon Thompson: Those are the no-deal numbers—5,300.

Q96 **Alex Norris:** I know we are talking about no deal today, but let me just ask this for comparison purposes. In the event of Brexit with the Brexit deal that the Government are currently pursuing, what would the staffing numbers be?

Jon Thompson: The deal that I have struck with the Chancellor of the Exchequer is that those people who are no longer required for no deal we would apply to other productive work.

Q97 **Alex Norris:** Within HMRC or—

Jon Thompson: Within HMRC as long as, essentially, we get more tax revenues; then they pay for themselves.

Q98 **Alex Norris:** So it is 58,000, deal or no deal, for HMRC.

Jon Thompson: Were it today, yes.

Q99 **Alex Norris:** Okay, that is really helpful; thank you. Minister Nokes and Shona Dunn, how many staff in the Home Office will need to be diverted into no-deal preparation if we get to that point?

Caroline Nokes: Staffing in the Home Office is always responsive to particular priorities. I don't think I can give you a specific number for how many are specifically working on no deal. As you have heard, there will be in Border Force an uptick in the region of 900 in the number of staff in place by March 2019 compared with March 2018, but of course we have significant numbers of additional staff working on the EU settled status scheme—in the region of 1,500, I think. But deal or no deal, they will be required.

Q100 **Alex Norris:** But will there come a point, if no deal becomes the most probable of the highly probable outcomes, where you have to divert staff from other programmes within the Home Office to deal with that?

Caroline Nokes: I think that if you consider Border Force very much as the delivery arm of HMRC when it comes to customs, in a no-deal scenario that is where the most significant pressure is going to be for the Home Office.

Alex Norris: I am talking about within the Home Office itself—civil servants and planners who might be working on other projects that are not related to this at all. Will any of them have to do a different job for a time period to support you in a no-deal situation?

Caroline Nokes: It is inevitable that people will have to be reallocated to no deal, but I cannot give you a precise number.

Q101 **Alex Norris:** What projects will you choose to deprioritise first?

Caroline Nokes: The Home Office is a very large organisation.

Alex Norris: Yes. It does lots of very important things as well.



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Caroline Nokes: From my perspective—you will be conscious of this because your Committee has been very interested in it—the performance of UKVI is paramount. I would be very reluctant to see any staff from that area moved over to Border—

John Woodcock: So not from that.

Caroline Nokes: Ah—Mr Woodcock is going to take me through a “not from this” and “not from that” process, which could be extremely painful for me indeed. The reality is that obviously that would be a matter to decide across the whole of the Home Office. I am not going to sit here and, on the hoof, make it up as we go along.

Q102 **Alex Norris:** In terms of how Government will plan to make that prioritisation if it has not happened yet, will there be an inter-ministerial arm wrestle to decide? Not a literal one, a metaphorical one.

Caroline Nokes: No, not an inter-ministerial arm wrestle. The reality is that from the start of the summer onwards we have significantly increased our no-deal contingency planning, which is absolutely the right thing to do. I am going to bore you all with the comment that of course we are working for a deal, and that is what we want to get out of it, but it is absolutely right that we are now working very closely alongside other Departments on our no-deal planning.

I would highlight the work of bodies such as the border delivery group, and the work that is currently going on across Government with Departments such as the Department for Transport and the Department of Health and Social Care, making sure that we have contingency planning in place. Of course that goes alongside things such as the Civil Contingencies Secretariat at the Cabinet Office. It is very wide ranging, but we have certainly increased the attention on the prospect of no deal since the beginning of the summer, and rightly so. I do not know whether Shona wants to add anything.

Shona Dunn: Briefly—you have covered most of it, Minister—in terms of Border Force, the numbers that we have been recruiting are very much designed to be able to cope with any scenario that we deal with. As you say, numbers have significantly increased on the UKVI side in order to undertake European casework and to support the EU settled status scheme.

The thing I would add is that the Department has in recent months been looking in a consolidated and integrated way at its no-deal planning across the piece. We are absolutely not in a position to say that these things will stop, but we are looking at everything that is going on and making sure that we are in a position to make those judgments as and when we need to do so.

Q103 **Alex Norris:** Do you have the ability to bring in people who are working in Government but not in the Home Office as supernumerary support for a short period of time?



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Shona Dunn: If we found ourselves in that position—coming back to the point that Paul made about the chief people officer and cross-civil service HR—I think there would be questions to be asked about the degree to which that was possible. I don't think we anticipate at the moment that that would be necessary, but that depends on the circumstances that we face at the time.

Q104 **Chair:** I am going to stick on the border staffing issues at the moment. Can I quickly clarify, Mr Lincoln, the point you made, I think to Douglas Ross? You said you had a target. At the moment you have 7,700 staff.

Paul Lincoln: The baseline which the NAO report, for example, speaks about was 7,700-ish.

Q105 **Chair:** You are now on to 8,190, and your target is—

Paul Lincoln: About 8,600, so it is on track for that. I should also point out that the requirements to be placed on us in a day one no-deal scenario are actually less than that which we are recruiting for. The NAO report also says that.

Q106 **Chair:** Say that again: the requirements on you in a no-deal scenario are actually less?

Paul Lincoln: We are recruiting higher than the specific requirements that other Government Departments are placing on us in a no-deal scenario.

Q107 **Chair:** Does this just take you back to your 2014 staffing levels?

Paul Lincoln: The NAO report says that we have, over a period of time, reduced by about 7%. We are looking to move up by 8%. The difference here, of course, is that it is not just a linear question of numbers. Between those times we have had significant changes in technology. We talked earlier about e-gates and automation. That makes a big difference to the way in which you deploy your staff.

Q108 **Chair:** And a 25% increase in passengers.

Paul Lincoln: The key difference there is mostly around the non-EEA. There are about 20 million non-EEA passengers, and the announcement yesterday by the Chancellor will affect a cohort of 9.5 million. We expect somewhere over 6 million to make use of the e-gates as a result.

Q109 **Stephen Doughty:** With the greatest respect to many of your staff, Mr Lincoln, who do an incredible job in keeping us safe and making the appropriate checks, we have had some pretty damning evidence from Heathrow, other airport operators and others about performance levels. This obviously refers to non-EEA, but there have been 6,024 non-EEA breaches of your targets in just the last four months across all four terminals at Heathrow. You can regularly see the levels of queues and the challenges faced at any port of entry to the UK, so why should we have confidence in the organisation being able to deliver what will potentially be a very, very challenging environment—a very uncertain environment—at your current staffing levels?



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Paul Lincoln: We recognise that the performance during the summer in some of the larger airports such as Heathrow was not what we had hoped. We provided about 220 additional staff, which made a difference; Heathrow and others will say that it made a difference to performance during the summer. In fact, I was with the Airport Operators Association yesterday—I met with them a number of different times during the summer. They are all very pleased, of course, by the announcement that was made yesterday, and they all think it will have a significant effect on performance next year.

Q110 **Stephen Doughty:** May I ask you about e-passport gates? From personal experience of travelling through them, I have not been through them at a time when there hasn't been a failure of one of them, when numerous of them have not been out of service and when there has not been an intervention by a physical Border Force individual, when an individual has not been recognised and so on. Do you believe that you have the physical human staff to cope with failure and, indeed, with when individuals do not get recognised by the system?

Paul Lincoln: The availability of the gates that we have running at any given time runs at more than 99%. There are times when we choose not to have certain banks of gates open, which is the issue you are probably referring to, and that is around what is the best use of our staff at any given time. We run to service level agreements with the airports, which means that we do not need to have all those gates open and our staff are better deployed in the non-EEA queues as a result.

Q111 **Stephen Doughty:** What percentage of the individuals going through require an intervention by a physical human?

Paul Lincoln: The reason why people might require an intervention is not simply that the gates are wrong. We do assessments of what is going on there. We actually expect referrals out of that. We specifically want there to be referrals.

Q112 **Stephen Doughty:** But what percentage?

Paul Lincoln: I am not prepared to say publicly the percentage on that, but we want to have referrals out of that because we want to check if we think there are people who may be imposters or are using forged documents.

Q113 **Stephen Doughty:** But it requires a significant investment. If you are going to increase the use of e-passport gates, you will have to increase the number of physical human staff there, to be able to do those additional checks.

Paul Lincoln: We do not expect there to be a significant increase as a result of that.

Q114 **Stephen Doughty:** But what are the actual metrics? Have you modelled this?



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Paul Lincoln: We have done modelling of this, but, as I say, I am not prepared to say in open committee what the answers to those questions are.

Q115 **Stephen Doughty:** Okay. One last question: Minister, in terms of the money that has been provided to the Home Office, you have had £500 million extra in the last two years for Brexit preparations. How much of that has been spent on the preparations we have been talking about today, and what additional money were you granted yesterday in the Budget for additional preparations and what will it be used on?

Caroline Nokes: A significant proportion of the money has been spent on the EU settled status scheme, which I hope the Committee will agree is an important and good use of the funds. I am conscious that the Home Office is currently bidding to the Chancellor for the next round of Brexit funding. I do not think I am at liberty to divulge the number, but it is obvious that our focus has been on the EU settled status scheme and EEA caseworkers. It has been about Border Force preparedness and ensuring that we have enough officers in place there.

Q116 **Stephen Doughty:** So you were not specifically granted extra money yesterday. You are in the process of bidding for it now.

Caroline Nokes: I believe so.

Q117 **Stephen Doughty:** But you cannot tell us the amount you are asking for?

Caroline Nokes: No.

Q118 **Stephen Doughty:** Is it more or less than £500 million?

Caroline Nokes: I am not going to tell you. I don't think I can tell you. I don't think I am at liberty to divulge that number.

Q119 **Chair:** Will the Border Force be expected to do additional security checks if there is no deal?

Paul Lincoln: We will continue to do all the checks we already do—100% of all scheduled arrivals; we will continue to do that. If you think about the juxtaposed controls in France, we already screen all the lorries coming through—100% have sniffer dogs go around, for example. That is one of our most significant finders for organised immigration criminality. We will continue to do forgery protections, we will continue to do safeguarding and modern slavery examinations, and we will continue to do CT referrals and schedule 7 examinations with CT policing.

Q120 **Chair:** If there is no deal, though, you will lose SIS II and you will lose the passenger name record data, so you will lose routine data on individuals subject to European arrest warrants, missing people, witnesses, absconders, people or vehicles needing checks or surveillance and significant objects that should be seized, including firearms or passports. How much of a loss of intelligence is that to you at the border?

Paul Lincoln: On the passenger name records, Barnier is on record as saying that he would like to continue that even in a no deal—

Q121 **Chair:** I know; we are assuming that in an ideal world all this is sorted. What I am just figuring out is, in a no-deal situation, what will be lost?

Paul Lincoln: The reason I made that point was because he was saying that in a no-deal situation he hoped it would continue. If we did lose some of those things, of course, we do not just work purely off EU tools, but we work with a range of other partners on this. We work, for example, with the counter-terrorism group, which is done through counter-terrorism national security networks rather than through EU Commission tools, and we also work with our Five Eyes partners. We will continue to get a range of other information and a lot of the information put on our systems is not done through SIS II. It is also done through local police forces and other institutions we work with.

Chair: I am sure all of that is true.

Paul Lincoln: That said, I am not saying it will not be more difficult. The witnesses who are due to follow will probably say that for them it will be more difficult as a result. We work with a lot of people and we are working with all those partners to try to ensure that we minimise any disruption.

Q122 **Chair:** But the evidence we took from Rob Wainwright used the example of a sex offender arriving at the border and the Border Force not being able to check that, or not receiving that information, because they do not have access to SIS II. We also received information saying that, on average, police, Border Force and immigration officials access SIS II more than 1.4 million times a day. How many of that 1.4 million times are Border Force and immigration?

Paul Lincoln: I do not have the statistics in front of me on the number of times we have accessed it and for what purpose.

Q123 **Chair:** Does that not feel like a pretty important thing to know if you are planning for no deal? If that is the loss of intelligence that you will have to make good through other routes, surely that is an important thing to know?

Paul Lincoln: We routinely check a huge system and huge number of records—I am not prepared to say how many of those records there are—in order to check for people against a range of different outcomes, some of which will be immigration, some of which will be counter-terrorism and some of which will be national offenders, as part of that.

Q124 **Chair:** However, I think Parliament needs to know what the loss is in terms of the scale of the intelligence and information that we will have at our borders if there is no deal, so I am going to press you again: what is the loss of intelligence as a result of not having access to SIS II at our borders for our Border Force? What information will they routinely not get that they are getting at the moment?

Paul Lincoln: We have contingency plans to work with Interpol, which will provide us with other sources of information as part of that.

Q125 **Chair:** Will it provide the same extent of information?



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Paul Lincoln: It will provide similar sources of information. Of course, all EU member states are part of Interpol. There are 193 members of Interpol from whom we would be looking to try to get information.

Q126 **Chair:** So that will provide all the information, for example, on significant objects that might need to be seized—firearms or passports? Will it provide all of the same information?

Paul Lincoln: I am not saying it will provide all of the same information. It will provide similar information and we are working with people to ensure that, as close as possible, Border Force officers will have the right information to be able to make interventions where they need to.

Q127 **Chair:** Will it provide all the same information on people or vehicles that need checks and surveillance?

Paul Lincoln: I don't think it will provide all of the same information; it will provide similar information, and we are working—

Q128 **Chair:** I don't understand what "similar information" means. If it is not all of the same information, does that mean you will have some additional information that will be better, or you will have less information?

Paul Lincoln: We will have different information in some cases, because different sources will give us different things. It is worth saying that in a no-deal situation we will also be able, in some cases, to get additional data that we are not currently able to get, particularly in the goods space.

Q129 **Chair:** Why?

Paul Lincoln: Because we do not routinely take customs data, for example, on goods that we could use for targeting in the future.

Q130 **Chair:** Can you explain that some more?

Paul Lincoln: Because we do not routinely use customs data, because goods come in to the EU under free movement of goods, we could in the future request information from people on their goods, and on the basis of that we could do more advanced targeting on goods.

Q131 **Chair:** Will you be able to do that from April?

Paul Lincoln: There are some things that we might be able to do from April, but we would expect to build that capability over time.

Q132 **Chair:** In terms of people? Mr Thompson, you seem to be shaking your head.

Jon Thompson: I am really sorry, but I have to correct Mr Lincoln. That will not be ready in April 2019. We are talking about a so-called inventory-linked system, in which you make a customs declaration and say, "These are the goods that I propose to ship on this vehicle and in this ferry, and they will arrive at Dover in this particular time/day window." That system will take approximately two years to get to any kind of optimal level,



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because ferry companies and hauliers will need to undertake the vast majority of that work needed, and they will not be ready for April 2019. Sorry; I think it is worth saying.

Q133 **Chair:** That is fine; it is very helpful. This time next year, we will not have any additional helpful security information in terms of customs, but we will have lost SIS II. I do not understand your reluctance on this. Will we lose significant intelligence information, and if so, on what scale?

Paul Lincoln: The Home Secretary said to the Committee that it would be sub-optimal if we were to lose the tools that we are talking about.

Q134 **Chair:** If there are going to be discussions on whether there will be a no-deal situation, surely Parliament has a right to know whether less security information will be available to our Border Force officers when they make a decision about whether to let somebody in the country.

Paul Lincoln: On SIS II, we are doing all that we can to mitigate the potential disruption.

Q135 **Chair:** I am sure you are. I am sure that you will do absolutely everything you can to mitigate these risks. What I want to understand is the scale of the risks. Surely Parliament has a right to know that information?

Paul Lincoln: I think it would probably be better for me to come back to the Committee on that.

Shona Dunn: It strikes me that part of the answer to your question can be known only once we have had the necessary conversations if we find ourselves in that position. The sort of things that Mr Lincoln talks about involve some of those discussions with Interpol, and bilateral arrangements.

Q136 **Chair:** You only have five months left. If there is no deal, surely you will have done this work. Surely it was one of your top priorities to do a security assessment of the consequences at the border of no deal?

Shona Dunn: Absolutely. The Home Secretary has already said that he thinks there are elements of this that it would be sub-optimal to lose. My point is that your question on precisely what elements of that will be replaced and whether we will have a complete match is a difficult judgment for us to make at this point.

Q137 **Chair:** So you don't know what the level of security downgrade at the border will be if there is no deal?

Shona Dunn: I think it is extremely difficult for us to state at this point what the precise match would be of any contingency measures that we could put in place.

Q138 **Chair:** It is really hard to have any confidence in your processes of planning and contingency planning for no deal if you do not know the scale of the security downgrade. It is a basic question. If you have to find this information out through other routes, or have to do additional checks at the border—you will presumably need additional staff to do those extra



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checks—how will you reassure the British public that the borders have not become less secure as a result of no deal?

Shona Dunn: We have a range of mitigations that we will consider and take as we deal with that situation.

Q139 **Chair:** Okay. I have a final question on this. The Home Secretary says that this would be sub-optimal. Are you saying that we will have less security information on people arriving at our borders if there is no deal? Yes or no?

Shona Dunn: That depends on the circumstances at the time.

Q140 **Chair:** You are going to lose SIS II if we have no deal. In what circumstances might we be able to replicate all the SIS II information by April?

Shona Dunn: There are a range of mitigating actions that we could potentially take, as Mr Lincoln referred to.

Chair: I just think that you are not being straight with us. I really think that, at this stage of the process, when Parliament will have to make some decisions about whether there is no deal or not, you really have an obligation to be straight with us about what the security issues are.

Q141 **Sir Christopher Chope:** Following up on that point, when the Brexit Committee went to Ireland, we were told that the Irish Republic was not a member of the Schengen information system at that stage, but that it was thinking of joining. Has it now joined?

Jon Thompson: You are looking at me like I might know the answer to that question.

Sir Christopher Chope: I am looking at Mr Thompson because I thought he was the expert on this. Certainly at that stage, when we went to Ireland, Ireland was not in the Schengen information system. My question is that if the Irish can currently defend an EU border without being in the Schengen information system, why is it going to be so difficult for us to have adequate security if we are no longer allowed to be in the Schengen information system?

Jon Thompson: If you are looking at me, I can't answer that question. I am here to answer questions about goods as opposed to people. I have to look to my right—sorry.

Chair: We will come back to that.

Q142 **Sir Christopher Chope:** Okay, perhaps in due course somebody will be able to give me an answer to that point.

Can I get back to what the Minister was saying? She said the White Paper is coming very soon. When?

Caroline Nokes: Soon. I think the Home Secretary said in the autumn.

Q143 **Sir Christopher Chope:** We are already more than halfway through the



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autumn. His predecessor told this Committee that it was going to be before the end of 2017. Then, when the new Home Secretary was appointed, he said it was going to be before the summer recess. If we are going to have immigration legislation implemented prior to 29 March next year, haven't we got to get on with it? Would many of the questions that have been asked today not have been answered in that White Paper? What I cannot understand is why the White Paper is being so delayed.

Caroline Nokes: The Home Secretary said it would be published in the autumn. It is still the autumn.

Q144 **Sir Christopher Chope:** But why is it being so delayed?

Caroline Nokes: It is better that we have a White Paper that we are content with. We waited for the expert evidence of the Migration Advisory Committee, which reported on 18 September. Certainly since I have been in this job, I have always said that we were going to wait for that information, and the White Paper will be published very soon indeed.

Q145 **Sir Christopher Chope:** Is the White Paper going to be published before or after the much vaunted and hoped-for deal?

Caroline Nokes: I cannot give you the precise timing. I cannot predict when the deal will come, can I? I think it is impossible, given that I don't have a date for a deal, to tell you whether the White Paper will come pre or post deal.

Q146 **Sir Christopher Chope:** There is a suspicion that the delay in the White Paper is either to keep the EU in the dark during the negotiating period or to keep Parliament and the British public in the dark while a secret deal is done with the EU, selling out on some of the commitments that have been made hitherto to the public in relation to the security of our borders and control over immigration. I go back to my question. This is a very important document. Now you have the report from the Migration Advisory Committee and the Home Secretary has said that he accepts the main thrust of that report, why can't we see this White Paper now? Can you assure this that the EU negotiators have not seen it from the EU side?

Caroline Nokes: I can absolutely give you that assurance. The EU negotiators have not seen it. You will see it this autumn, as the Home Secretary said.

Q147 **Sir Christopher Chope:** But we do not know whether that is going to be before or after.

Caroline Nokes: I very much hope a deal is coming, but I don't know when. I cannot put a date on it. The White Paper will be published this autumn, as the Home Secretary said.

Q148 **Sir Christopher Chope:** With a view to being able to implement that in legislation before the end of March.

Caroline Nokes: Certainly there will be an immigration Bill, which will both turn off free movement and put in place future arrangements for EU



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citizens in the interim. We will bring forward the full proposals. You will be aware that many of our immigration changes can be done through the immigration rules and might not necessarily form part of an immigration Bill that is required just to turn off free movement.

Q149 Sir Christopher Chope: Okay, I cannot get any answers on that. Can I try something else?

On the Irish border at the moment, there is a lot of smuggling of tobacco, fuel, drugs, people, arms—you name it—because we do not have any fixed border there. There is no hard border. To what extent, if we leave without a deal, will that smuggling get worse?

Caroline Nokes: I am not sure why it should get worse. We have said that there will be no infrastructure at the border. The PM and the Secretary of State for Northern Ireland have been very clear on that, so there will be no hard border. You are right to point out that there are certain trades in fuel and other things across the Irish border, which obviously are of concern to HMRC, but I am not sure that we have seen any indication of why that should necessarily improve or worsen in the event of deal or no deal.

Q150 Sir Christopher Chope: The current level of smuggling across that border is obviously of no interest whatsoever to the European Union and the European Commission, or so we understand, but they seem to be absolutely paranoid about any smuggling that would take place when we leave the EU without having a hard border across Ireland. Can you explain that anomaly? Perhaps Mr Thompson can have a go.

Jon Thompson: I will attempt to. Under the various EU legislative requirements, the tolerance imposed by the European Union is rather incredible, in my opinion: it is €20. If you think about the fact that we collected £3.7 billion-worth of tariffs, and there is more than £7 billion-worth of excise and more than £20 billion-worth of import VAT, trying to run that to a tolerance of €20 seems somewhat over-specific, or whatever adjective you like. Therefore, there is this concern about being incredibly absolute.

One of the three key risks in running the border about day one no deal is where exactly member states will be on controls. I think you heard me give this evidence last week. At the minute, we do not know where member states will be between pragmatic and practical at one end and legalistic at the other end. This is a fundamental uncertainty for us, and it is one of the three fundamental risks about running the border in day one no deal.

Q151 Sir Christopher Chope: Where does this tolerance of €20 come from?

Jon Thompson: I want to say it comes from the Union customs code, but I could not be that definitive. It definitely comes from EU legislation, and there have been infractions on most member states for relatively small amounts of money. It is not that I am casual about public money, but that seems to be a relatively small tolerance on a fairly large number.



Q152 **Sir Christopher Chope:** What tolerance does HMRC have in relation to tobacco excise smuggling, for example, across the Irish border?

Jon Thompson: Across the Irish border? We do not particularly set a tolerance on that. One of the things that is really important to understand about the border is there are some checks that need actually to take place at the physical border—checking somebody's passport, for example. You have heard extensive evidence about that. That needs to take place at the physical border, but in relation to goods, you can move the goods away from the border and do checks not at the physical border.

One of the ways around checking goods that we have devised between the two organisations is the concept of, for example, an inland pre-clearance centre. You move the goods somewhere inland, you check them there, you clear them there, and then you release them into general circulation. In the Government's paper of June this year, they set out some of that thinking in relation to Northern Ireland. One of the reasons why we have been arguing that we do not need any built infrastructure at the physical border is that you move the checks away from the physical border, and you also move through a self-assessment, trusted trader scheme and so on and so forth. A combination of those areas allows you to move the checks to somewhere else.

Q153 **Sir Christopher Chope:** You are dealing with goods, but what about people? People who are coming into the Republic of Ireland, which is not in the Schengen system, at the moment are having to go through checks. If, subsequent to us leaving the European Union, the Irish Republic were to become a member of Schengen, what would the implications be for the Irish border?

Paul Lincoln: I refer back to where we are on the common travel area. That is a series of bilateral agreements that existed before any of us entered into the EU, and both the Commission and ourselves have said that we will continue to operate those arrangements, which do not require routine immigration checks to be conducted for travel between those locations.

Q154 **Sir Christopher Chope:** So that would mean that any EU citizen who was not a citizen of the Irish Republic but was in Ireland having gone there through the Schengen system, would automatically be able to move into Northern Ireland and into the United Kingdom as part of the common travel area, after we have left.

Paul Lincoln: People could move between those parties, as they currently do—that would be no different. The key issue, which we set up a programme on with the Irish Government, is to strengthen the external Irish border so that we can make our best endeavours to understand who may be coming into Ireland in the first instance.

Q155 **Sir Christopher Chope:** If Ireland were to join Schengen, that would be more difficult, because there would not be physical checks of people coming into Ireland. Is that right?



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Paul Lincoln: I am not sure why that would necessarily make a difference.

Q156 **Sir Christopher Chope:** Because once a country is in Schengen, as I understand it, people can go straight across the border from other Schengen countries without it having the right to impose checks on them other than in exceptional circumstances.

Paul Lincoln: That is effectively what we do in the CTA now: we do not apply routine immigration checks to people moving between the different parties.

Q157 **Sir Christopher Chope:** Notwithstanding the fact that the south of Ireland has not been in the Schengen information system?

Paul Lincoln: Yes.

Q158 **John Woodcock:** Minister, you have been clear that the Prime Minister's pledge that there will be no physical infrastructure remains in place. Are the goods-checking facilities virtual, imaginary or physical? I am guessing that they have a physicality; they are not imaginary, virtual or online.

Jon Thompson: It is worth explaining that the vast majority of checks that we do on imports to the United Kingdom are virtual. You declare something, we put it through a risk engine—

Q159 **John Woodcock:** But you are talking about building a centre.

Jon Thompson: No. We already have one of those, so that is not a problem, but we need to expand it fairly significantly—by five times the volume.

Q160 **John Woodcock:** Right. And goods will have to go through it, under the new system.

Jon Thompson: Yes. You make a customs declaration, it goes through a system—

Q161 **John Woodcock:** So it is physical for all goods.

Jon Thompson: Under day one no deal, you have to assume that goods movements that are currently intra-EU will now be subject to customs declarations. That is what drives the volume increase of customs declarations from 55 million a year to 250 million a year.

Q162 **John Woodcock:** So that is physical infrastructure.

Jon Thompson: It is not physical infrastructure.

Q163 **John Woodcock:** It applies to all goods going over the border; it just happens to be moved slightly away from the border. How is that consistent with the Good Friday agreement?

Jon Thompson: Let me explain. Forget Northern Ireland; if you are importing or exporting between the United Kingdom and the rest of the world, you make a customs declaration. The vast majority of the checks made are virtual checks on the basis of the information that you give us.



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We put it through a risk engine, and 98% come out the other side with the answer “We approve the movement of your goods,” whether importing or exporting. For the residual, we say that we would like a check, and either we move it inland, or we ask Paul whether Border Force will do it at the actual border. That is broadly how it splits: 98% is done virtually, and 2% is done physically.

Where might that take us with Northern Ireland? The Government set that out fairly extensively in a paper. You take that one step further: you do not do any physical checks at the border, and you add in the fact that there is a Union customs code trusted trader scheme, the authorised economic operator scheme. For large businesses in Northern Ireland, we would want to adopt the policy of saying, “We trust you as a trader, so you can move your goods freely.” The Government has argued that there should be a derogation for small traders because of the unique nature of the economy in Northern Ireland; we do not want a plumber to have to declare, not declare, and declare again as he travels back and forth across the border.

If you put that combination of things together—the electronic declaration, the derogation for small traders, and the trusted trader scheme for larger traders—you do not need any physical infrastructure at the border. You still need to check things, but you can do it without necessarily physically handling the goods. The vast majority are not physically handled now.

Q164 **John Woodcock:** But to do that you are increasing the physical infrastructure to five times what it is; it just happens not to be exactly on the border.

Jon Thompson: Where we are talking past each other is that I do not think that that is physical infrastructure. I think what people mean by physical infrastructure is putting up a camera, a gate, a post or anything like that, which is not the case.

Q165 **John Woodcock:** But there will be increased levels of checks, as you have described.

Jon Thompson: There will be 200 million new customs declarations, and they will need to go through some sort of checking process.

Q166 **John Woodcock:** How is that commensurate with the Good Friday agreement?

Caroline Nokes: We have said, “No infrastructure at the border. No hard border.” We are trying to achieve a pragmatic solution that works for the whole of the United Kingdom, including Northern Ireland. I am the first to acknowledge that there are enormous challenges.

Q167 **John Woodcock:** But having increased checks at the border breaks the Good Friday agreement, doesn't it?

Caroline Nokes: But there are not increased checks at the border. You just said that but Mr Thompson has been very clear that they are not on



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the border. Many of the checks done on customs declarations are wholly electronic.

Q168 **John Woodcock:** Having increased checks going through the border—including some physical checks that happen to take place a bit further back from the border—breaks the Good Friday agreement, doesn't it?

Caroline Nokes: As we have said, it is about customs declarations, which predominantly are done electronically.

John Woodcock: Predominantly, but not—

Jon Thompson: To be really clear, because this is relevant to Sir Christopher's question, we currently check somewhere in Northern Ireland. For instance, we would dip test whether fuel is what someone says it is. That exists now. The question is about physical infrastructure in the sense of a gate or a camera at the border. We would definitely not do that. The Prime Minister could not have been clearer on multiple occasions that that is the situation. That does not mean that we need to reduce the compliance checking process. You do it in somebody's premises—if you happen to be a road haulier, I come to your premises and do it there. What is wrong with that?

Q169 **John Woodcock:** For people, there will be no checks when they move between the Republic and Northern Ireland.

Caroline Nokes: As part of the common travel area; that is a principle that has held since the 1920s.

Q170 **John Woodcock:** Sure. And there will be no increased checks in the Irish Sea.

Caroline Nokes: I don't think the Prime Minister could have been clearer about the integrity of the United Kingdom as a whole.

Q171 **John Woodcock:** Sorry, was that a yes or a no?

Caroline Nokes: There will not be a border down the Irish Sea.

Q172 **John Woodcock:** No, but will there be increased checks?

Caroline Nokes: Currently, to come from Northern Ireland to Great Britain, you do not have to show your passport, as part of the common travel area. Of course, we receive from some carriers advanced passenger information, because they require passengers to travel with a passport, but that is only Ryanair, I believe. No; it is really important to us that we keep the integrity of the United Kingdom of Great Britain and Northern Ireland.

Q173 **John Woodcock:** Does that mean there will be no increased checks?

Caroline Nokes: I do believe that it means no more checks than there are currently. The Government have been absolutely adamant that we want to maintain the integrity of the Union. Not just want to—we are determined to.



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Q174 **Stephen Doughty:** What about checks between the Republic and Wales, for example? At Pembroke, Fishguard and Holyhead, currently there are minimal, if any, checks. Will there be increased checks there?

Caroline Nokes: I would expect there to be a similar level of checking as we have currently, unless Mr Lincoln wants to correct me on that.

Paul Lincoln: We need to separate goods and passengers when we talk about this. As Mr Thompson said, if there are goods that under those circumstances are moving from the EU—from Ireland—into the UK wherever that might be, there will be a position for submitting customs declarations as part of that process. Passengers will continue to be travelling within the common travel area, and we do not routinely apply immigration checks to those passengers.

Chair: Tim Loughton?

Tim Loughton: I think my question has been answered.

Q175 **Chair:** Can checks on goods be done without cameras at the border, whether that is through Dover or across the Northern Ireland border? If you are going to do your physical checks somewhere else, how do you avoid that if you do not know who has been taking goods across and which lorries have been going to and fro?

Jon Thompson: Just to be clear, are you asking Great Britain as opposed to Northern Ireland?

Chair: I am asking the question for both but I accept it may be a very different answer for each.

Jon Thompson: Okay. In relation to Dover—I will be specific because you asked about it—the Government do not run the vast majority of ports or airports. The Government's strategy has been to agree a so-called ro-ro specification, which sets out what the Government would expect a port to introduce. It will then be for individual ports to decide how they will comply with the Government's requirements. The Government are not specifying that we require ANPR, for example, but if a port decided that it wanted ANPR to give us the necessary level of compliance, it can do that.

The fundamental issue in relation to roll-on roll-off ports is that of the inventory linking system. To compare and contrast, say you move a shipping container to Felixstowe and make a customs declaration, and in doing so you say, "This is a shipping container. This is its number. This is when it's going to arrive." It arrives at Felixstowe, it goes through the electronic clearing process and we decide to release it. Then it can be driven away.

Nothing like that exists intra-EU because there is no requirement for customs declarations, so we do not know what is arriving at Dover, on which lorry or ferry. It is envisaged that we would want that information. If you want to be an independent trading nation you want to gather that information—what are you importing and what are you exporting? That is

captured in this specification, and then we would say to Dover, “We require this information from your ferry operators,” and therefore that would be passed on to hauliers and other transport logistics organisations, and so on.

Q176 **Chair:** Is that because you are starting from the declarations and then you are telling the ports, “These are the ones that we need checking,” or do you in addition need to know from the ports whether another 300 big lorries are arriving that nobody seems to have done any declarations on?

Jon Thompson: We will start off in a sub-optimal space, but in a purist way we would like to know what is being imported to the UK and what is being exported from the UK. That requires customs declarations. We know the EU would also require customs declarations, so you get two customs declarations—an export and an import—one way or the other. Does that make sense?

Q177 **Chair:** Yes, but if we move to a no-deal situation, and we move to WTO tariffs, and we have a period in which you are in a sub-optimal situation where you are not able to check and you are still reliant on a whole load of people submitting declarations, if there is then an opportunity for organised crime, for example, to decide to take advantage of this and start bringing goods through without paying the tariffs or submitting any declarations, how will you know?

Jon Thompson: We won’t.

Q178 **Chair:** So you will not know if there is a massive explosion of organised crime taking advantage of a tariff gap after no deal?

Jon Thompson: The Government have not made any statements at all about whether they will or will not impose tariffs on intra-EU trade.

Q179 **Chair:** If we are in a WTO situation.

Jon Thompson: Hang on a minute—it could be zero. A significant amount of goods movements do not have any tariffs on them now, so you cannot presume that there would be tariffs. You are asking me hypothetically if we did impose tariffs, when the Government have not given any position at all on that, whether we would know.

The answer is that because business readiness is low for day one no deal, we anticipate that many businesses may not submit customs declarations. We would need to go through what we have termed a managed transition, which I think was relevant to some of the questions you were asking earlier, into which we would need to have a practical compliance model about what is flowing in and out of the country. That may increase risks on revenues.

Q180 **Chair:** Under the WTO rules with most favoured nation status, what proportion of areas would we have to introduce tariffs on, or would it be possible to introduce no tariffs without changing non-EU tariffs?

Jon Thompson: When the Government have something to say about tariffs, they will say it.



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Q181 **Chair:** But what is possible within the WTO rules, because you must have had to contingency plan? I accept that you are not taking the decisions about tariffs, but you presumably must have had to contingency plan for every scenario. Have you had to contingency plan for changes to non-EU tariffs as well as changes to EU tariffs in order to comply with WTO rules?

Jon Thompson: The lead Departments for this are the Department for International Trade and the Treasury, but in the spirit of trying to answer your question—you will take it that I am not the primary expert on this—my understanding is that we will not be able to replicate EU tariff differentials in the United Kingdom. In other words, if the UK is going to have a tariff, it needs to have a tariff for all countries that is the same until it strikes free trade agreements, at which point you can vary the tariffs.

Q182 **Chair:** Does that mean you would have to apply tariffs to EU goods where there are currently non-EU tariffs, or you would have to reduce the non-EU tariffs? I am just trying to understand how it works.

Jon Thompson: It could be both of those, and the Government will need to work its way through the 17,500 tariffs that there are and make decisions one by one.

Q183 **Chair:** That sounds like quite a task.

Jon Thompson: I am sure the Department for International Trade and the Treasury are up for it.

Q184 **Chair:** Just to clarify, in the absence of cameras to assess how many very full-looking lorries are going to and fro across the border, you don't have any way to gather any sort of intelligence on whether organised crime is exploiting any potential tariff gaps in the event of no deal?

Jon Thompson: To be really clear, I said it is not for us to make a decision about whether we require ANPR at all. That would be for somebody else to make a decision about. We will be asking for a customs declaration, which we can match with what mode of transport the goods are moving on and when they are arriving in the United Kingdom. If we have that set of information, we can then select, as we currently do with trade from the rest of the world, that it is this lorry, and not those ones, that we would like Mr Lincoln's team to stop.

Paul Lincoln: I should be clear that we also stop tens of thousands of other people in addition to those we get from HMRC when thinking about anti-smuggling. We look at that from a range of different intelligence services, working with partners—

Q185 **Chair:** Like SIS II?

Paul Lincoln: I was going to say including partners from the NCA, to look at what we might want to intervene against.

Q186 **Chair:** Who might also get it from SIS II.



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Paul Lincoln: On occasion, they might well get that information from SIS II, but we also use a range of other techniques, including behavioural spotting, and we work with other partners, including the airports and ports, on broader intelligence.

Q187 **Chair:** But you have to apply that behavioural spotting to so many additional potential checks. In the end, this comes back to your scale of preparation, your assessment of the security risks and the scale of your staffing preparation. Both of them, to be honest, feel a long way away from where we would hope you would be by now in your contingency planning.

Paul Lincoln: We have done a range of contingency planning, including thinking about whether there may be additional organised immigration crime. We work very closely with the French on that. The Prime Minister signed up, with President Macron, to additional things in the Sandhurst treaty for us to work with the French on. They are a key partner in part of this.

Q188 **Chair:** But even with your e-gates supposedly helping you with your checks, it still feels as if you will have an awful lot more checks, and you are only restoring your staffing to 2014 levels.

Paul Lincoln: The additional checks that we are being asked to do by other Government Departments are built into the requirements that we have set for our recruitment.

Q189 **Chair:** Finally, I will ask you about the preparations for how you will handle border issues for people and goods leaving the country, and in particular the consequences of juxtaposed checks at Calais. Obviously, we understand that the Department for Transport is making the preparations around lorry parks and checks and so on. What is your role and what border preparation have you been doing in the event of the EU imposing both goods checks and people checks, and the potential impact on delays to traffic leaving the country?

Jon Thompson: I will kick off and then maybe Mr Lincoln might follow on. It is worth recognising four things about the current UK border: it is high functioning, parts of it are at full capacity, it is highly efficient and it is technologically quite advanced. The second of the three biggest risks we face in relation to a future border is what member states will decide to do. We do not know where member states will be between being pragmatic and legalistic, which goes to other questions that Sir Christopher Chope was asking. If the French decide they are going to check every single lorry and do it in a legalistic way, then you will definitely end up with a sub-optimal border. You will have queues and time delays on the French side first, and then, because it is a closed loop system, that would manifest on the UK side of the border.

The Department for Transport is putting together a series of contingency plans about what you do with lorries and lorry parks and so on and so forth. There are other mitigations it is possible to do, and in the event that no deal is struck, we actually have a plan to go into a series of bilaterals



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with, in particular, the French, the Belgians, the Dutch and the Irish, to say “How do we actually practically manage this, because it is a problem for both our countries, not just for the United Kingdom?”

Caroline Nokes: There are some very pragmatic and practical steps that you have to take in the worst case scenario of no deal and significant queues at Dover, as Jon has just perfectly described—the closed-loop system; the French imposing 100% controls—Border Force will be in a position to respond, so that if there is a diversion of flow of traffic to other ports, we will be able to respond so that the necessary officers are, for example, sent to places like Ramsgate or Sheerness if there were to be alternative provisions for crossings. That flexibility is absolutely imperative. Our priorities in the event of no deal are, first of all, security and making sure that we make checks at the border; secondly, it is flow, and we are very conscious of the impact of reduced flow of traffic of goods specifically but also of people across the border; and finally revenue, as Jon has highlighted.

Q190 **Chair:** Do you expect those delays to apply to people as well as to goods?

Caroline Nokes: We hope very much to have reciprocal arrangements with the EU so that there will not be delays to people, but yes, of course it is feasible that there could be delays for people travelling through EU airports. The prospect of them ending up in the rest of the world queues at some major airports across the continent is not unrealistic. I have to say—this is a thing that impresses me about Border Force—we already have officials working closely with, in particular, the French, the Dutch and the Belgians, to make sure that we have good bilateral relations. That is where much of the informal intelligence comes from. Border Force officers are on the ground every single day and working very hard to make sure that we maintain those relations in the event of a no-deal scenario.

Q191 **Chair:** Can you tell us what legislation you need in the event of no deal to cover any of these sorts of borders, immigration and customs arrangements? What legislation would you need in place in advance of the end of March?

Caroline Nokes: We plan to put in place an immigration Bill that will turn off free movement but facilitate mobility for EU citizens post 29 March. That will be controlled movement that we will decide.

Q192 **Chair:** Will you have that immigration Bill in place by the end of March?

Caroline Nokes: No, we will have introduced an immigration Bill—I might have to flick to Shona for confirmation on this—but we will have to put in place provisions to turn off free movement as quickly as we possibly can.

Shona Dunn: Indeed and I think that if that was the case, the Prime Minister has been very clear, as we said earlier, that she would want free movement turned off at that point in time. So it would be our intention to try to have it done at that point in time. There will be a number of bits of secondary legislation I imagine—

Q193 **Chair:** So you will have a piece of legislation that is going to be in place



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and through Parliament before the end of March?

Shona Dunn: That clearly depends on parliamentary time and programming, but it would be introduced as soon as possible.

Q194 **Chair:** Okay, and it is going to deal with a series of issues on which you could not even answer questions for us at the beginning of the session: what people's employment rights are going to be and what employer checks—

Caroline Nokes: That can be done through immigration rules.

Shona Dunn: Indeed. It would focus on turning off free movement and a small number of—

Q195 **Chair:** I still do not know what turning off free movement means to you. Given the discussion that we had at the beginning about how people will still be able to come into the country and how you still seem not to have any clarity about who employers would be checking for, it is hard to know what would be in this legislation that you would have to get through Parliament in a rush.

Caroline Nokes: You will have to wait for its introduction.

Q196 **Stuart C. McDonald:** I am looking at an article that was published on 24 September, which is headed "Britain could retain free movement for two years under a no-deal Brexit". It says that the Home Secretary will "propose a plan to Cabinet that sees EU citizens waved through the border for 30 months", and that essentially, free movement rights can go on until September 2021. That is pretty much the opposite of what you have just told us.

Caroline Nokes: I am not going to comment on something that is a report from Cabinet that is clearly leaked.

Stuart C. McDonald: You are not saying whether or not—

Caroline Nokes: I am not going to comment on a leak from Cabinet.

Chair: I was going to bring in Mr Thompson—

Caroline Nokes: May I just say that this meeting was meant to be an hour?

Chair: You have been incredibly generous with your time, and we very much appreciate it, but I would also say that we only have five months until these no-deal arrangements have to be in place and this is our opportunity. We have a whole series of questions to which Parliament has not had answers. I am hugely grateful for your time but, equally, I hope that you, Minister, understand the importance of being able to answer to Parliament.

Caroline Nokes: And with only five months to go, some of my time this afternoon might have been scheduled for future planning. Two cancelled meetings so far.



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Stephen Doughty: So you don't want to appear before Parliament to answer questions?

Caroline Nokes: I am sorry, Mr Doughty, but this meeting was scheduled for an hour.

Stephen Doughty: Well, that is kind of tough luck, Minister. You have to come to answer questions before us.

Caroline Nokes: This meeting was scheduled for an hour.

Chair: Okay. I think, Minister, you appreciate the importance of answering questions to Parliament—

Caroline Nokes: Absolutely, and I have done—

Q197 **Chair:** We are very grateful for your time, but I think you appreciate the importance of answering questions to Parliament. I want to give Mr Thompson the opportunity to answer the question put, then a very brief question from Christopher Chope and, finally, there is the information that it will be useful for you to write to us about.

Jon Thompson: We have the Taxation (Cross-border Trade) Act on the statute books and we require 48 statutory instruments to be passed to bring that into operation—30 on customs, 13 on VAT and five on excise. We are evaluating how many further SIs we would anticipate for no deal, but we think it would be a very small number in addition to the 48.

Q198 **Sir Christopher Chope:** Minister, you were talking about the use of statutory instruments to change the immigration rules. Will you remind me how long you have to consult on those drafts before you can actually implement them? There is a period of weeks, if not month, which has to be taken into accounts, isn't there?

Caroline Nokes: I believe it is weeks, not months. Historically, that is how the immigration rules have always been done. Many Governments preceding this one have changed immigration rules as a matter of routine twice a year.

Q199 **Sir Christopher Chope:** That is written into your timetable.

Caroline Nokes: Yes.

Chair: We are grateful for the panel's time this afternoon. There is some further information that we would be very grateful for, in response to some of the unanswered questions.

On the issues around people and what employment rights will apply, it would be helpful to know whether people who register—those who arrive after 31 March in a no-deal scenario but who go through the mandatory registration process—will have the right to work here this time next year. Secondly, will employers have to do additional checks, beyond asking for a passport, when offering an EU citizen a job next year; and in a no-deal scenario, how will employers be expected to differentiate between someone who is entitled to settled status but has not yet completed their



settled status, and someone who has just arrived? What safeguards will be in place to ensure that those settled status rights are respected?

Will you also tell us—this is perhaps a question to Mr Lincoln—how many SIS II checks Border Force and immigration officials do every day, and on what kinds or which categories of things? How many of those SIS II checks lead to intervention of any form? What assessment has been done of which of those areas you can replicate with other sources of information, be it through Interpol or others? Which of those sources of information can you not replicate, and what action are you taking?

It would also be helpful to know what the Home Office's planning is in order to assess how far organised crime may be exploiting the gaps in customs checks. There is the point that Mr Thompson made. It would be very helpful to have that additional information for the Committee. Thank you very much, we are very grateful for your time.

Examination of witnesses

Witnesses: Deputy Assistant Commissioner Richard Martin and Lynne Owens.

Q200 **Chair:** I welcome our second panel and thank you for your patience. Will you introduce yourselves and tell us your role in the preparations and planning in the case of no deal?

Lynne Owens: My name is Lynne Owens and I am the director-general of the National Crime Agency. Along with the National Police Chiefs' Council, we are leading the UK law enforcement response to Brexit no-deal planning. The NCA's role is to lead the fight to cut serious and organised crime. We run the UK International Crime Bureau. We have an overseas footprint, including in Europol. We operate an organised crime partnership with Police Scotland and we are part of the paramilitary crime taskforce in Northern Ireland. We operate some of the tools on behalf of the UK system.

Deputy Assistant Commissioner Richard Martin: Good afternoon. I am Richard Martin, from the Metropolitan police. I am the National Police Chiefs' Council's lead for preparing forces for Brexit. As Lynne said, we work with the NCA on that.

Q201 **Tim Loughton:** Can we start with Europol? We have heard evidence, both from Rob Wainwright, soon after he stood down as the head of Europol, and from conversations with some of your colleagues, that, realistically, there should be no problem with us continuing to have a dialogue and relationship—albeit in a slightly different form—with Europol that should not actually diminish the intelligence-sharing effort that exists now. However, as Rob Wainwright put it, it is just a matter of politics. Do you share that view?

Lynne Owens: Perhaps I can put it in context. We use 36 tools, and they are often connected. If we think about them in three broad chunks, the first is about practical co-operation and collaboration. That is European arrest warrants and European investigatory orders. The second is about



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the exchange of data. I heard the conversation you just had about SIS II, which would be one example of that. The third is about relationships, which is our membership of Europol and Eurojust.

As you might expect, both Richard and I have spent much time with our European police chief colleagues. All of them, including the person who replaced Rob Wainwright as head of Europol, see the absolute criticality to both partners of our remaining in those relationships. However, the reality is that they cannot individually influence that, because it is fundamentally a political decision.

Q202 Tim Loughton: I think that was a yes. In terms of no deal—you said a lot of your time is spent gaming and preparing for no deal—what happens to those joint investigations currently under way between the NCA and Europol?

Lynne Owens: It is our hope that some of those investigations could continue, but that would require member states to agree with our current interpretation of the law.

Q203 Tim Loughton: So in practice, on March 30 or whatever, your ongoing inquiry against a criminal gang operating in eastern Europe or wherever, on which you have been working closely with other Europol parties, could come to an end, and you would have to find new ways of communicating?

Lynne Owens: If the joint investigation team was set up purely under the provisions of our membership of Europol—if it was between European states—it may be that the member state concerned required their law enforcement partner to no longer work with us. If it was set up in a different way, through Eurojust, and there were member states and non-member states, it may be that it could continue. However, that is absolutely reliant on member states' interpretation of the law, and we do not currently have clarity on that.

Tim Loughton: Are you saying that there is autonomy for member states to effectively carry on as if nothing has happened, if they choose to do that, and that they would otherwise have to be instructed by Europol to refuse to co-operate?

Lynne Owens: I do not believe it is a Europol decision. It will depend on the negotiation that is achieved.

Q204 Tim Loughton: If we have achieved nothing in negotiations, what is to stop a member country—if it is minded to do so and if its police intelligence organisation has convinced its political leaders that it is in their interest to do so—carrying on regardless? Nothing can override them if Europol as an organisation takes a different view? Is that what you are saying?

Lynne Owens: What I am saying is that I do not think it is a Europol decision. At that stage, it will be a member state decision.

Q205 Tim Loughton: Right, okay. What can Europol stop?

Lynne Owens: Our relationship with Europol is a number of things. Joint investigation teams are set up through Europol and Eurojust. Our fundamental membership of Europol is about access to information and access to data. It is also about accessing their comprehensive co-ordination and analytical skills. If we did not have membership of Europol in any of its forms, we would lose all of that.

Q206 **Tim Loughton:** Okay, but my understanding is that the data that is logged and administered, for want of a better word, by Europol remains the property of the individual country's forces providing that information; and it is up to those individual member nations whether it is freely shared or restricted shared with Europol members and associate and other non-complete members. Is that right?

Lynne Owens: Europol operates off an intelligence sharing system called SIENA. We put information into that system—in fact, we are the biggest inputter of serious and organised crime data into that system. We would no longer have access to that system, so it would require an independent member state to take the view that they were prepared to share the data with us. One of our concerns is that you don't know what you don't know.

Q207 **Tim Loughton:** Sure. If we have a joint operation going on with Lithuania, and Lithuania has input into Europol some data that has been usefully utilised by us as well as Lithuania and we are no longer part of Europol, Lithuania could, if it unilaterally decided, continue to share that information—it otherwise would have been routed through Europol and vice versa from us—directly with us.

Lynne Owens: As long as their domestic law allowed it. My understanding is that there are some countries—I do not know whether Lithuania is one—whose domestic law would not allow sharing in those circumstances. It would require primary legislation to be passed through their parliament to allow that to happen.

Q208 **Tim Loughton:** Is that a big problem? How many countries does that involve? Does it involve the bigger countries or just the newer countries? How big of an issue is it?

Lynne Owens: My understanding—this is in the work that the Home Office is doing on our behalf—is that the country we are most concerned that it relates to is Germany.

Q209 **Tim Loughton:** Germany may have to pass legislation to share intelligence with us that they have routinely shared through Europol?

Lynne Owens: As I understand it, yes.

Q210 **Tim Loughton:** Which would be an issue.

Lynne Owens: Yes.



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Q211 **Tim Loughton:** Looking to a post-Europol relationship in a no-deal scenario, there is nothing to stop us applying to become associate members, as America, Canada, Australia, New Zealand and others are. What are the downsides of that ultimately, or are there not any?

Lynne Owens: The primary downside is that at the moment we have a very strong leadership voice in influencing priorities. We have been a big voice on child sexual abuse, modern slavery and human trafficking, for example. We would lose a leadership voice on the priorities that Europol is giving to certain crimes.

Q212 **Tim Loughton:** But America does not have a voice in that respect, yet there are more Homeland Security staff based at Europol in The Hague than there are staff from many of the European police forces. Certainly that was our experience when we went to visit The Hague a while back. Why is that a problem? It does not appear to be if all the associate members get a lot out of it.

Lynne Owens: Being present in the building of course has huge benefit, were that to be agreed with us as a third party. We are not deriding that in any way, shape or form. What we would potentially lose, though, is free access to the information data, free access to the analytical tools and free access and influence as part of the management of the committee.

Q213 **Tim Loughton:** Unless those countries chose unilaterally to share them with us.

Lynne Owens: Yes.

Q214 **Chair:** What process is under way to do that assessment of which countries might need primary legislation and which countries might be able to act without it?

Lynne Owens: That work is being done from within the Home Office. We have a National Crime Agency officer seconded to that team, because we recognise the importance of it, but that is a Home Office role. Our role is to point out the operational consequences and to plan for operational outcomes.

Q215 **Stuart C. McDonald:** More generally, can you tell us what the state is of contingency planning in the police community for a no-deal Brexit? Do you regard police forces up and down the country as being on top of what exactly no deal would mean for them and how they would have to respond?

Lynne Owens: I will start to answer this and then hand over to Richard. We have a team in the National Crime Agency. We have built the two teams, which we shall both talk to you about. We have secured for the year 2018-19 £3.5 million-worth of funding from the Home Office. We are investing that in additional resource into the bureau functions so that they can service more bilateral, non-automated tools, and to provide a link to the policing system, which Richard will speak about.



We have also done a review of our international network and we will be looking to invest in more bilateral relationships. We already have a lot of very constructive, good bilateral relationships with a whole number of partners, including European partners, but that would need to be extended further. We are particularly concerned for our colleagues in the Police Service of Northern Ireland about the security risks that they face, particularly around some of the conversations that the Committee had earlier about the impacts of serious and organised crime in those areas.

Deputy Assistant Commissioner Richard Martin: There are not that many contingencies for each of the measures that we might lose. As you can imagine, we are planning for the worst-case scenario. That means, for example, that we would lose all the tools. For each one of those tools, what we have done is to map out what we currently do with the EU tool and then map out what the fall-back position is. If we lose the European arrest warrant, we know that we have to refer back to the 1957 convention on extradition. It is a lot slower and a lot more bureaucratic and not as effective, nimble or efficient as a European arrest warrant. We have mapped out the process, we have developed the training and we have developed the policies around that. We have just got the nod and the funding from the Home Office, which Lynne alluded to. We have the first tranche of officers coming into that team by the first week in December. We have a second tranche by the end of December, which will have regional single points of contact in each force. The idea is that we will be around those tasking meetings with forces. We will be in their training departments. We will be raising awareness about how exactly they have to fall back on one of those contingencies, should we have to do that.

Q216 **Stuart C. McDonald:** How much can you get done before the end of March? The time is now incredibly tight. If it is a no-deal Brexit, how far through all these preparations are you going to get? What are the biggest challenges for you?

Deputy Assistant Commissioner Richard Martin: If we crash out on 29 March, we will have the team up. We will have everything written. We will have the whole system and the network developed, and we will be there, sitting on the shoulders of forces across the country from a policing point of view to help them through what that looks like. We will be fully prepared. But what we have always said is that none of the contingencies are as effective or efficient as the ones we currently use.

Lynne Owens: It is probably worth reminding the Committee what this will mean for the frontline operational police officer or the frontline National Crime Agency officer. At the moment, if they stop somebody on the streets of the UK, they conduct a PNC check or indeed they sit from within National Crime Agency buildings and do the same. All these systems are automatically checked and they automatically get a response. One of the concerns that Richard and I have is how we help our frontline police officers and operational officers from the National Crime Agency understand that in a no-deal situation what they are used to getting back on one radio check or one mobile data check is not going to be what they get back in the future. Therefore, the best that we can come up with is a



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very manual system. It is that individual officer ringing into a point of contact in the National Crime Agency, who will then ring a third country. When policing is under pressure, that is quite a big ask of a frontline officer.

Deputy Assistant Commissioner Richard Martin: If you take SIS II, which you talked about earlier, it has about 75 million records on it of people, objects or things that we may be interested in, as Europe. We put 1.2 million pieces of information on it that we are interested in, whereas I think the figure you used earlier was that that system was checked 539 million times last year—as Lynne says, it is automated. One of the other things about that system is that it covers some of the most vulnerable people in society—for example missing people. We probably have over 200,000 people missing at some point during the year on average. An officer puts that missing person on to a police national computer here and it automatically goes on to SIS II, so even if that person goes abroad, at least there is a way for us to track, measure and do those things. If we do not have SIS II, we will have to develop some form of matrices that will allow us to decide who we should put on the system. How many of those 200,000-odd people are we going to put on each time in a very manual system? As I said before, it just slows everything down and makes it much clunkier, so there is a big impact on the frontline.

Q217 **Stuart C. McDonald:** People use the word “sub-optimal” all the time, but what does that mean the consequences will be for the safety of British citizens of a no-deal?

Lynne Owens: We have agreed on behalf of policing that we will do regular threat assessments of the impact of EU exit for serious and organised crime in the UK. It is fair to say that at this moment in time, in terms of the actual nature of serious and organised crime itself, we do not think that we will see any change in the nature of crime, but we do know that serious and organised criminals are wily. Therefore, they will adapt their behaviour and working practices depending on the arrangements that are put in place. If there is less access to intelligence—SIS II is the best example—where SIS II meets European arrest warrants, it may well be that there are people in the UK wanted for serious offences whom we do not know are here, and therefore we are not in a position to extradite them. It is very much a two-way relationship, so the consequences could be significant.

Q218 **Chair:** Are you saying that therefore more people might come here, because they would know that it would not be possible to apply a European arrest warrant?

Lynne Owens: That is certainly one of the intelligence judgments that we will have to make.

Stuart C. McDonald: In August, the Association of Police and Crime Commissioners told the Home Secretary that in a no-deal scenario considerable additional resources would be required for policing to operate using non-EU tools, and that such tools would be sub-optimal, potentially



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putting operational efficiency and public safety at risk. Given what you have just said, you agree with that, but how many additional police officers and staff would be needed in the event of a no-deal scenario to try to reduce that risk?

Deputy Assistant Commissioner Richard Martin: We have got to be honest, if we have to go back to all the contingencies, we will not be in the same position that we are now using European tools. We have said that. Policing will always continue, we just want to make it as efficient as we possibly can. We have put figures into the Home Office and we have put bids into the Home Office. We would look, in a crash-out situation on 29 March, to maintain the team that we are currently building—we are 40 people strong. That allows us to operate at the very base, minimum level. We would need to grow that to at least 300 or 400 officers spread across the country—those are the estimates we have made. That is probably the lightest estimate we have made—about £22 million-worth of funding. That is to allow us to still have a central co-ordination approach, but, critically, to have people in each force who can actually deal with this. As you can imagine, there are a number of experts in the country who probably use European powers quite a lot, primarily in the NCA, and the serious and organised crime end of policing in forces. But a lot of forces will not have a great deal of experience, because of all that automation, so the idea is that we need that network of people to make it deliver.

Lynne Owens: From a National Crime Agency perspective, we have developed a bid of about 160 officers at the cost of about £18 million. We have not yet got clarity from the Home Office about whether it will be supporting that or not. That deals with how we would work with a different, less-automated system, more international liaison officers in different places, a different approach to uploading data through Interpol notices and a 24/7 helpline for frontline officers—those sorts of things. There is something it does not yet deal with, which we are working tightly on with Border Force. You just had a conversation with Jon Thompson and Paul Lincoln about what their arrangements might be. What the National Crime Agency response needs to be will depend on how many people they stop and how many goods they intercept. At the moment, where drugs, guns or people have been moved illegally and are identified at the border, the National Crime Agency has the responsibility for those investigations. It is hard to judge from where we currently are whether that number of referrals will go up or down because of the impact on flows. We need to get to the point of understanding that better than we currently do.

Stuart C. McDonald: One final question. You will be aware that there was a report that the National Police Coordination Centre had suggested that there might be the need for military assistance if concerns about medical supplies and the cost of goods going up ended in protests escalating into disorder. What are your thoughts on that type of report and the realistic risk that that presents?

Deputy Assistant Commissioner Richard Martin: I would probably have to defer to a more learned colleague. We have a national police



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chiefs lead for contingency planning: Chief Constable Charlie Hall from Hertfordshire. I am afraid I am focused very much on the EU tools as opposed to disorder and civil contingencies.

Lynne Owens: Charlie Hall is the lead. We are working very closely with him. We have representatives on his Operation Yellowhammer team. We will have our own command structure in place from 29 March onwards. We have some added complexities. We have the Border Force referral complexity, and we have our officers that are deployed overseas. We are working closely with the Foreign and Commonwealth Office to understand, for example, what healthcare our officers and their families will be able to access at the time of leaving. We are involved in our own contingency planning, including very live and ongoing intelligence collection about the behaviour of serious and organised criminals.

Q219 **Chair:** Just to clarify, in terms of the additional planning you described a 300 to 400 team that would include being spread around different forces. Was the 160 part of that or in addition to that?

Lynne Owens: On top.

Q220 **Chair:** In addition to that. We are talking about 500 plus across policing as a whole, and that is about £40 million in combination for the two. Let us suppose you get the go-ahead for all of that and you have all that capacity in place. Presumably, in the short term, in order to have it in place by the end of March you have to draw that from existing staffing and expertise, so you are not recruiting from scratch to these sorts of jobs.

Deputy Assistant Commissioner Richard Martin: No. It might be that, certainly with the new team, we may bring in some agency workers to fill a gap, but the majority will of course impact on those officers who are currently serving.

Lynne Owens: From a National Crime Agency perspective, one of the things that we are looking at now—we have already done some work on this—is what the automation of some of these processes might be. Some of the money that we bid for would not be for people; it would be for technology. We are testing that already from within the crime bureau.

The National Crime Agency is going through its own transformation programme. We already have an opportunity to recruit. We are out to the market, and we will be going out to market again imminently. As accounting officer for the organisation, it is a constant balance between trying to get ourselves up to the establishment and pitch for what we might need in the future in this sort of circumstance, and having to move resource off very important serious and organised crime work that we are already doing.

Q221 **Chair:** Again, just to clarify, let us suppose that you have those people in place. Your assessment is that that will still be less support, provision and access to security and policing information than you currently have?



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Deputy Assistant Commissioner Richard Martin: Yes. Quite considerably.

Q222 **Chair:** Quite considerably. Do you have an assessment of how much or what kind of thing it means in practice? I think you have previously talked about the length of time to check a suspect's criminal record, or things like that. I would be interested to know in practice what it would mean for a particular operation or investigation.

Deputy Assistant Commissioner Richard Martin: I think it has an impact across the piece. If you look at going back to extradition legislation and not EAWs, first, at the moment there is only one court in the country that does extraditions. The criminal justice services would have to think about that. I think you have impact and probably pressure on the criminal justice services. If you are doing an investigation and you need some evidence or assistance from colleagues overseas, if it is a longer process to get that it means that the length of investigations could stretch out quite considerably.

The fall-back contingency for SIS II is currently a system called I-24/7, which is the Interpol database, but it is a very different database from SIS II. The notices that you put on there for wanted people or people who you are interested in is very different from SIS II. At the moment, SIS II and European arrest warrants are very much hand in hand. If an officer stops somebody and says that they are wanted on a European arrest warrant, that European arrest warrant is at a certain level of evidential standard that means that the person can be arrested straightaway, so it is very instantaneous.

If you are falling back on the other two, which is I-24/7 and extradition, first of all it would be something called a red notice, which says, "This person is wanted for an offence." That offence is not necessarily case ready—in other words, ready to go to court. You cannot arrest the person in front of you if there isn't a red notice; you would have to go to the magistrates court and apply for a warrant in order to arrest that individual.

The other piece is that most of our European colleagues will put the people that they want on SIS II. Why wouldn't they? It is the European system. They won't always fall back. We will not have that many people circulated on I-24/7 compared to the amount that we have circulating on SIS II. Already, you can see these time delays and snags that build in, which is why from a practical point of view it does have a massive impact.

Lynne Owens: Of course, as Richard was saying, we don't know that our European partners will fully embrace our desire to use Interpol. Even if we do decide to put a smaller number of wanted people on to the system—some of our highest risk people—at the moment that information is flagged automatically to our European policing partners and they take action on it. The new system would require them to actively check the Interpol notices. Of course we would work our bilateral relationships really hard, to say that this person is very important to us and we want them



tracked down, but it is a much clunkier system than the one we currently operate in.

Deputy Assistant Commissioner Richard Martin: If you stretch to something like the ECRIS—the European Criminal Records Information System—that is automated. If someone is not wanted and has no convictions, they can pretty much get a hit back in seconds. There is a time target built into it, which is 10 days. We would expect to get a response about somebody's foreign national criminal history within 10 days. Rob Price, the chief executive, has been doing some work and obviously they are doing quite a lot of contingency planning. He is saying that he thinks that it will go from an average of 10 to an average of 66 days, if we come out of Europe.

Of course, if you link that back to some of the pressure on the courts system, you might find that a case goes to court faster than we get the information back. It may be that the judge is sitting and deciding on a sentencing decision, but may not have all the information in front of them. They may not have the record of foreign criminal convictions, which again could impact on whether that person is given their liberty or not. That would have an obvious impact on society and the communities that we police. For each one, it is much slower, much more bureaucratic and it is—I know we have used the term a lot—sub-optimal.

Q223 **Chair:** There is obviously the issue about how long it will then take officers to investigate and find out whether there is any information on SIS II, on ECRIS or not on ECRIS, and so on, but in addition, do you have an assessment of the number of interventions that are made each year? That could be an arrest, a safe-guarding decision, a decision to monitor or some sort of active decision that is taken as a result of SIS II information.

Deputy Assistant Commissioner Richard Martin: I could probably get you that, but I can give you a snapshot about European arrest warrants, which are on SIS II. Before EAW and SIS II we probably extradited about 60 people a year. We now average probably 1,400 or 1,500 a year, who we have information about on SIS II, around European warrants. That is just one element of it. The other element about SIS II is that there are markers on it that we do not get on I-24/7. They are discrete markers, where we might want to monitor somebody's movements. You can't do that on I-24/7. We could granulise that detail for you and give you more detail on it. As you can imagine, with the amount of information on it—75 million interest markers on SIS II as a whole across Europe, about people or property—then your hit rate is going to be fairly good.

Lynne Owens: I have a hit rate of 668 a day. I am presuming it is a Europe-wide hit rate, but we can get back to you specifically about that.

Q224 **Chair:** That is 668 actions, interventions or responses?

Lynne Owens: On average, more than 668 persons or objects are found each day via SIS and SIRENE bureau co-operation.



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Chair: What would be very useful to know, from the point of view of the British police, is how many interventions per day there are with goods, people and so on that are taken as a result of SIS II; roughly how many of those will still be possible under the contingency planned system; and how many of them won't be really helpful.

Q225 **Kate Green:** Can I ask about cases in course, where you are already sharing data, have already put data on to shared systems or you are accessing data that is available on those systems, or you are using processes and are in the process of applying for a European arrest warrant? If those activities in a particular case are in train on 29 March and we exit with no deal, what will happen? Will you have to disregard everything you have done up to that point?

Lynne Owens: That is a similar question to Mr Loughton's. Our desire is to be able to continue with those inquiries, but it depends on exactly what kind of hard line our European partners decide to take.

Q226 **Kate Green:** Deputy Assistant Commissioner Martin, in addition to the potential lack of shared information and the fact that, as you said, the evidential standard that is intrinsic to SIS II meeting EAW standards will be lost, how many countries are you aware of that for constitutional reasons will not be able to extradite their nationals to the UK if we are not part of the European arrest warrant?

Deputy Assistant Commissioner Richard Martin: The one that I know definitely has that in the constitution is Germany. The Home Office was working through the figures; I am told that there are something like 18 or 19 others that do not have it in their constitution but that tend not to extradite their own nationals.

Q227 **Kate Green:** I believe there was a case recently in which Ireland was reluctant. That was not because of the arrest procedures, but because of the possibility of a custodial sentence—the individual would not have continued to enjoy the protections of the charter of fundamental rights. Has that been something that has alarmed you or come across your desk?

Deputy Assistant Commissioner Richard Martin: I know of it. I do not know the full details, but I know that that was being worked on. That was around the European arrest warrant.

Q228 **Sir Christopher Chope:** Can I ask about the Irish dimension to all this? At the moment there is no hard border, yet we know that there is quite a lot of smuggling of fuel, tobacco, people, guns and all the rest of it. To what extent is that activity subject to the involvement of the National Crime Agency?

Lynne Owens: We are an active partner of the Police Service of Northern Ireland; we are part of its paramilitary crime taskforce. We also have a branch office in Belfast, and I have a very good and close personal relationship with its chief constable. We are separately accountable to the Northern Ireland Policing Board when it is sitting.



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In preparation for this Committee evidence session, I had a conversation with George Hamilton, the chief constable. He is far better equipped than I am to talk about policing that very complex environment, but what I can tell you is that when the National Crime Agency deploys in Northern Ireland, we never do it alone. It is the only place in the UK where we do not deploy alone on occasion; we always deploy alongside the Police Service of Northern Ireland. I believe that it is the same for our Border Force and HMRC partners.

I understand from George that about 40% of paramilitary incidents occur in the border region. For that reason, he is particularly concerned about any suggestion of more checking and the support that he will need to put in place for it, whether that is from us, from Border Force or from HMRC.

There is a complexity that relates to the numbers that we gave you about planning. The PSNI and Police Scotland are very close partners and are actively involved in all the planning, but because of the devolved funding arrangements, they cannot currently access the Home Office moneys that are available. For example, I know that in its contingency planning for this year, the Police Service of Northern Ireland has been allocated £300,000. It is concerned about what that will mean for its planning for next year if it has to up its number of police officers. I understand that that is a very active and live conversation with the Northern Ireland Office.

Q229 Sir Christopher Chope: To what extent are the activities that you are carrying out with the PSNI inhibited by the fact that there is no hard border and that under the Good Friday agreement there is a limit on checks?

Lynne Owens: The honest answer is that it is what we are used to. I think there is a suggestion that a hard border, wherever it is in the UK, can cure all ills, but the reality of serious and organised crime such as cyber-crime or child abuse is that it often knows no boundary and no border. What makes SIS II such an important tool is that it is not available only at the border; it is available to every single patrolling officer, whether they are in the National Crime Agency or in the Police Service of Northern Ireland. If they want to check activity on their streets, it links straight back. I think that is the bigger inhibitor.

Q230 Sir Christopher Chope: So the lack of a hard border is not contributing at all to organised crime in Northern Ireland or the border area at the moment?

Lynne Owens: I would not go as far as to say that, but you cannot step away from the security implications of what a hard border would mean for Northern Ireland. As I say, it is not my area of expertise, but Mr Hamilton is very clear: it gets to the heart of the identity of Northern Ireland, and his view is that it would be exploited to a bigger degree by serious and organised criminals.

Q231 Sir Christopher Chope: I am not suggesting that there should be a hard border; I do not think anybody is suggesting that. There was a time—maybe it has changed—when the Irish Republic was not a member of the



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Schengen information system. Is that still the situation?

Lynne Owens: I would need to check. I think they are, but I would need to get back to you on that.

Q232 **Sir Christopher Chope:** Certainly, when we on the Exiting the European Union Committee visited the Irish Republic about six or nine months ago, they were not. They were thinking of joining, but they were not in it. If Ireland have not been in the Schengen information system, to what extent has that made it more difficult to police organised crime both north and south of the border?

Lynne Owens: As I say, I was not aware that they were not, and I have not had that raised with me as a specific issue, so I am not sure I can add anything, Mr Chope. Sorry.

Q233 **Sir Christopher Chope:** That's all right. We heard earlier about the tolerance of €20 that applies as far as the EU is concerned. You do not apply tolerances like that across the Irish border at the moment.

Lynne Owens: No, not at all. We would share any intelligence we have about serious and organised crime, no matter where it was in the UK, with our policing partners and agree joint action.

Q234 **Sir Christopher Chope:** So when we leave the EU, serious and organised crime will divert its attention to new opportunities. The criminals are not going to go away, but they may choose new and softer targets as a result of what happens.

Lynne Owens: Absolutely.

Q235 **Chair:** Just to carry on on the subject of Northern Ireland, as I understand it, Ireland has repealed the domestic legislation on the 1957 European Convention on Extradition. Is there any legal basis, therefore, under which you could extradite people from Dublin to Belfast if there is no deal?

Deputy Assistant Commissioner Richard Martin: I am not aware of any. Certainly, all the contingency planning in this part of the world has been around "If we do not have the European arrest warrant, there is only the 1957 convention to fall back on." I am not aware of any other legal basis.

Q236 **Chair:** So that means you will not be able to extradite somebody from Dublin to Belfast.

Deputy Assistant Commissioner Richard Martin: As far as I am aware, the 1957 convention is the only thing you can fall back on. I am more than happy to go away and double check, but that is a very tricky position to be in.

Q237 **Chair:** On the wider issues about the reduction in intelligence, capacity and capabilities that you are likely to have, are you able to give us a typical frontline case, or the sort of thing that this might mean in practice?



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Lynne Owens: The case that springs immediately to my mind is Operation Pallial, which is the National Crime Agency investigation into child sexual offences in Wales. We arrested somebody by the name of Bryan Davies. He had to be bailed for inquiries to be carried out. He escaped to Malta, thinking that he was hidden. We got some very good intelligence that he was there, which was shared straight away. We were able to circulate it on SIS. We had a European arrest warrant, and he was extradited back to the UK, so that is great news for Malta, because they no longer have a child abuser there. It is great news for the UK—obviously not that there had been victims of crime, but he was given a 22-year sentence in prison. It was a completely seamless process.

Q238 **Chair:** What will happen to the European arrest warrants issued for the Russian citizens in the Skripal case, Alexander Petrov and Ruslan Boshirov?

Lynne Owens: That investigation was undertaken by counter-terrorism policing, so I am not aware of the circumstances. I know that the National Crime Agency has done some work on Interpol notices in that case, but I do not know the detail of what they circulated under the European arrest warrant. I would have to check with them and get back to you.

Q239 **Chair:** But if the European arrest warrant no longer applies, if there is no deal, what would the alternative provisions be?

Lynne Owens: The replacement is the Interpol notice.

Deputy Assistant Commissioner Richard Martin: It is the red notice I was speaking about earlier on. If there are two individuals we have wanted for a long time and who we currently have a European arrest warrant on, and if that European arrest warrant disappears and they travel to France, then the French stop them and check the I-24/7 system, which says there is a red notice, they cannot be arrested, because they have to go and get a magistrate's warrant. Or the same here if we are talking about it from here. It is not going to be a simple case of arrest that you would be able to do here.

Q240 **Chair:** So if they were to travel to any other European country and were stopped, the authorities in those other European countries would not be able to arrest them without going to a magistrates court, or the equivalent, first.

Deputy Assistant Commissioner Richard Martin: Their version of it, yes. The thing about the European arrest warrant is that the level and standard of the evidence means that it is ready, and you cannot put anything on to that system unless it is what we call case ready—ready to go to court. That is why you can arrest them straightaway and the process is much quicker, because we know that the quality of what they are being asked to be arrested for is something that would fit. Lynne's team do a triage system as well for those coming here about making sure they are offences that we would reflect on.

Q241 **Chair:** So no matter how much work we might have done on the Skripal case, those two suspects could not immediately be arrested in other



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European countries without them going to a magistrate's court first.

Lynne Owens: As I understand it, there are emergency and urgency criteria that I can only imagine would apply in those circumstances. We would receive the intelligence, we would immediately go to the court and then we would make progress. In those stand-out national security cases, the system would probably work, because it would be in the world's interest for that to be the case. We are more concerned about the volume of cases that are often very serious—rape cases, sexual offences cases, cyber-crime investigations—where you do not have the same level of international attention because of the volume.

Deputy Assistant Commissioner Richard Martin: The same here of course. If somebody from France wanted somebody who was one of the top five people who they had been after for a long time for very serious offences, yes, we would have to go to a magistrates court and hope that we would be able to find them while we were getting the warrant.

Q242 **Chair:** How long a delay does that tend to add?

Deputy Assistant Commissioner Richard Martin: It depends on the court time and when you can get in to see a magistrate, to be honest. It could be hours or it could be days. It is unlikely that you would find them again unless you were very lucky.

Q243 **John Woodcock:** Apologies for missing most of the session. Are you in a position to talk about how you think protection against cyber-crime that crosses the EU could be affected in a no-deal situation?

Lynne Owens: Cyber-crime is one of the areas where Europol has been very effective—it set up the cyber-crime centre. As you say, non-EU partners are part of it—sorry, I am forgetting that you were not here for that part.

Q244 **John Woodcock:** Oh dear, if it has already been asked—

Lynne Owens: Not on cyber-crime, but we were talking about Europol. Other than our "Five Eyes" partners, so other than the FBI in America in particular, the Netherlands and the Germans are our most important cyber-crime partners. We have very strong relationships bilaterally. I know both their operational leaders are concerned that a bilateral relationship, although hugely beneficial, does not actually get to the point of the level of sharing that we are currently enabled to do through Europol membership.

Q245 **John Woodcock:** Understood. Can you paint us a picture of what you are talking about—a greater delay or some information not getting through at all? What could be the effect if you are a citizen or a business?

Lynne Owens: It is definitely delay, and in a worst-case scenario, it is a failure to access information. To give you a live example, we currently have a live investigation that relies on us seizing digital data from the Netherlands. We know the Netherlands have the information—they have proactively told us. We will get a European investigation order and the material will be forthcoming. Under the contingency arrangements of a no



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deal, we would have to rely on the mutual legal assistance, which is a very slow and laborious process. I am sure that they would still give us the information, because they are active and keen partners and it is in the interest of both countries, but it would just be much slower.

Q246 John Woodcock: Thank you. I have a final question on this. I don't know to what extent you have been engaged in the Commission's proposals for enhanced cybersecurity and in the Act that is making its way through the different structures. In your view, will that be a substantive improvement to the tools that you have? Clearly, the UK would not automatically be party to that. Would that cause you concern?

Lynne Owens: I think there are a number of areas where Europe is looking to develop better tools, and cyber is one such area. The extension of SIS and improvements around biometric data is another. Of course, our lack of membership would inhibit our ability to be close to those developments.

Q247 John Woodcock: I realise that this crosses over into terror, so it's fine if you can't answer that. Obviously, we are interested in what the European Union is trying to do about putting restrictions on social media companies. Does that cross over into your world, or do we need to talk to others about it?

Lynne Owens: No, it is something we feel very strongly about, too. It does have implications for terrorism, as you rightly say. We believe it is equally important that social media companies should be doing much more when it comes to proactive child abuse or drill music videos and their implications for serious violence. To be a strong voice alongside Europe is important to us. Of course we can, and I know the Home Secretary intends to, work directly with tech companies ourselves. We have seen some small steps of progress on the CSE space but it is very small and there is a lot more that they need to do. We are a strong voice in that negotiation with Europe.

Q248 John Woodcock: So the worst-case scenario, which is possible in the event of a no-deal Brexit, is that you will see, for example, the EU moving forwards with the "take down in one hour" regime for transgressions, but that will not apply in the UK, which to an extent will become a soft touch?

Lynne Owens: That would absolutely be a worst-case scenario. We would hope that with the power of UK politics and a good operational case, the social media companies would be persuaded to take a different view, but that is of course a possibility.

Q249 Chair: Obviously, a series of decisions will be made over the next couple of months that will determine whether there is a deal or not. First, there will be decisions between the Government and the EU negotiators. Secondly, there will be decisions in Parliament and in the European Parliament as well. What would your message be to decision makers about the impact on public safety and criminal justice of having no deal?



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Lynne Owens: My message would simply be that I would be deeply concerned if that were to be the outcome. As the operational leader for serious and organised crime in the UK, it is my responsibility to say that if we cannot have access to these tools or an opportunity for a planning period that allows us to get to sensible negotiation with bilateral partners, there is a risk that this country will be less safe as a result.

Deputy Assistant Commissioner Richard Martin: In a similar vein, I think security is in everybody's interests—all member states' interests. The world is a much smaller place now. We have talked about cyber-crime, but there's also human trafficking, gun smuggling and serious and organised crime, which do not have borders. These entrepreneurs of crime, for want of a better word, will exploit any gap that they can find in the market. They will certainly exploit it across borders. My message is very similar to Lynne's: we should not play with security. We need to keep our communities safe across the whole of Europe; if we were not to get a deal, then we will not be as safe as we currently are.

Chair: Thank you very much for your evidence. We appreciate your time and any further evidence that you can send to us.