



Select Committee on the European Union

Home Affairs Sub-Committee

Corrected oral evidence: The EU Data Protection Package

Wednesday 26 April 2017

10.45 am

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Members present: Baroness Prashar (The Chairman); Lord Condon; Lord Cormack; Lord Jay of Ewelme; Lord O'Neill of Clackmannan; Lord Ribeiro; Lord Soley; Lord Watts.

Evidence Session No. 5

Heard in Public

Questions 54 - 68

Witnesses

I: Baroness Williams of Trafford, Minister of State, Home Office; Shona Riach, Director, Europe Directorate, Home Office; Lucy Bird, Director of Data and Identity, Home Office.

Examination of witnesses

Baroness Williams of Trafford, Lucy Bird and Shona Riach.

Q54 **The Chairman:** Good morning and welcome. Thank you for your time this morning. It would be helpful if you could introduce your colleagues, and anything you would like to say by way of introduction would be helpful. You are familiar with the rules of engagement and that this is a public session.

Baroness Williams of Trafford: I am familiar with the rules of engagement, although I have not been to a Select Committee before. This is my first one. Thank you for inviting me. This is Lucy Bird on my right, who is also from the Home Office, and Shona Riach on my left, who is also accompanying me today. Lucy, your specialism is—

Lucy Bird: I am the director of data and identity at the Home Office.

Shona Riach: I am the Europe director at the Home Office, and I split my time between Europe, ongoing business and Brexit preparations.

Q55 **The Chairman:** As you know, we are examining the four elements of the EU data protection package, which is the general data protection regulation, the law enforcement directive, the EU-US privacy shield and the EU-US umbrella agreement. It will be helpful if you can confirm whether the Government plan to implement the law enforcement directive of May 2018 and what changes to existing UK legislation may be required to achieve that.

Baroness Williams of Trafford: First, may I formally thank you for inviting me here to answer your questions today? Particularly as we are on the eve of Dissolution, it is impressive to see so many members of the Committee here, so thank you.

I will start with a short introduction to say that I place on record the importance the Government place on data protection and obviously our commitment to ensuring that robust safeguards are in place. You will know as a Committee that the UK was heavily involved in the negotiation on the new EU data protection package and supported the final version when it was approved by Council. One thing that is absolutely for certain is that the UK is leaving the EU, but as the Prime Minister has made absolutely clear, co-operation on law enforcement and security with our European and global allies remains a key priority for the Government. Clearly, we are in a world of increasing mobile threats, so data and data sharing is one of our first lines of defence. It is therefore absolutely vital that law enforcement agencies work together across borders to share information in order to protect the public and obviously that there are important safeguards in place to underpin the sharing of that data.

Looking beyond the general election and as we exit the EU, we need to negotiate the best deal that we can for Europe, including thinking about the tools and mechanisms for co-operation with EU member states that we have enjoyed for so long and that have helped to keep our people

safe. It is obviously very early to speculate at this stage on what future security co-operation arrangements might look like—I am sure you will be quite mindful of that. However, I stress at this point that the UK will be in a unique position at the point of exit of being a third country that has fully implemented the EU's provisions on data protection.

I thought that might be useful as a starting point, but on the question of implementing the law enforcement directive, we fully intend to have a regime in place by May 2018.

The Chairman: What changes may be required to achieve that?

Baroness Williams of Trafford: As I said right at the beginning, we are on the eve of the Dissolution of Parliament. At this point I can say that the full details of that will be forthcoming after the June election.

Q56 **Lord O'Neill of Clackmannan:** I understand why you cannot be too specific, although we regret that. What is new in the law enforcement directive and the umbrella agreement compared to the status quo?

Baroness Williams of Trafford: There will be a number of new administrative requirements, such as easier access to individuals' own data and clearer and more accessible information on how their data is processed. That is number one. Number two is the right to be forgotten or to erasure, when individuals no longer want their data to be processed. Provided that there is no legal reason why that should not happen, data should be deleted. The third is the right to know when a person's data has been hacked. That is what is new.

On the UK-US agreements, such as the MLA, which you have referred to, information exchanged under that agreement is not covered by the umbrella agreement; I make that clear. It is a bilateral agreement that provides a legal basis for data transfer requests independent of the EU. The umbrella agreement seeks to extend a high-level data protection framework for law enforcement co-operation between the EU and the US. It does not provide a legal basis for transfers. The UK's position is that under EU law—Article 6a of Protocol 21—the umbrella agreement applies only to UK law enforcement data transfers under EU JHA instruments in which the UK participates.

Lord O'Neill of Clackmannan: What about mutual legal assistance?

Baroness Williams of Trafford: I think I said at the beginning, but it is not covered by the umbrella agreement—

Lord O'Neill of Clackmannan: This is that the UK-US arrangements are separate from the EU arrangements, so one would imagine that they would continue, regardless of what happens to the directive.

Baroness Williams of Trafford: It is outside the EU arrangements.

Q57 **Lord O'Neill of Clackmannan:** How do the directive and the umbrella agreement sit alongside the data protection provisions in, for example,

the Prüm decisions and the Europol regulation?

Baroness Williams of Trafford: If we see the data protection package as setting a baseline, individual instruments have to be compatible with that baseline. Some also build on it with regard to the data that is being shared under those measures. I give the example of a measure such as Europol, which sets out a significant set of provisions on data protection that align with the baseline, and a measure such as ECRIS refers directly to the underlying data protection rules and includes further rules on how criminal records data exchanged under ECRIS is to be handled.

Lord O'Neill of Clackmannan: One last point—

Baroness Williams of Trafford: I apologise for interrupting. I was just going to say one final thing. The Committee will obviously be aware that under Article 42 of the treaty on European Union makes clear that national security remains the sole responsibility of EU member states. That may have been what you were going to say.

Lord O'Neill of Clackmannan: Yes, that was what I was going to ask you. Thank you. That is helpful.

Q58 **Lord Condon:** We are trying to understand what the position on data exchanges will be the day after we leave the European Union. When Matt Hancock came before us, he spoke of the Government's ambition to have "unhindered" and "uninterrupted" exchanges of data. It would help us to understand what you think the legal basis will be for transfers the day after we leave the EU from, say, European law enforcement to us and our own law enforcement to them. What will be the fall-back legal position when we leave?

Baroness Williams of Trafford: Obviously our laws are compatible with those of the EU on the day we leave. The ability of law enforcement agencies to transfer within the EU and with third countries is crucial, and new EU rules on law enforcement data protection explicitly provide for both contexts. It is probably important to say at this point that co-operation on these matters has historically been extremely good and mutually beneficial. That is a very important point to make when you think about certain things that have happened recently. It has been very beneficial to have that co-operation both ways.

As part of the UK's exit from the EU, we are determining how best to maintain that ability to share the day after we leave the EU. I have said that a number of times in this House.

Q59 **Lord Condon:** Presumably we will be treated as a third country at that point, and presumably an adequacy decision will not have been completed in relation to us, so we will need some sort of legal basis in the interim before we hopefully get an adequacy decision. We are not sure what the legal basis will be when we have left. We will be treated as a third country, and we do not have an adequacy agreement, so if someone wants to challenge the legal basis of exchange the day after exit, what will our answer be that enables us legally to carry on?

Baroness Williams of Trafford: You are absolutely right that we will be a third country, but we will be in a unique position as a third country because we will be the only country to have left the EU that is also compatible with EU laws at the point of exit. We start from a very strong position of co-operation, as I said in reply to your previous question. I think it is in the interests of everyone, as Matt Hancock probably alluded to, that we maintain these uninterrupted data flows, and we will work with the EU to ensure that we do that. Internationally, there are obviously a number of options that you will know about, but I do not want to pre-empt the negotiations that will achieve that.

Q60 **Lord Condon:** We gave notice of three questions on this, but taken together the question is really: what is the legal basis, what will the policy options be, and what transition arrangements do you envisage? Can you give us anything more on what the transition arrangements might look like?

Baroness Williams of Trafford: I will not be able to give a full response on this. I am not being unhelpful; it is just that I cannot.

Lord Condon: Sure.

Baroness Williams of Trafford: We fully intend to have a smooth implementation. That is in our interests and in those of every member state in the EU. Not only have we enjoyed co-operation thus far, but we have been quite a leader in bringing forward and being part of some of the policy from this sphere. We fully intend to ensure that smooth implementation phase, but I literally am not in a position at this point to say what that might look like. Clearly we have a relationship with the EU. We also have a number of international arrangements, and of course there is also cross-over.

Lord Watts: Minister, you say that it will be easy for us, because we will be compatible with Europe when we leave Europe. Will we sign up to any amendments after that date, because although we are compliant now they may change the rules six months down and we become not compliant. Will we have to sign up to agreeing to anything that they add to the category?

Baroness Williams of Trafford: Subsequent to leaving the EU? I literally do not know. That is to be determined.

Lord Soley: May I clarify something? You say that an adequacy agreement can be made and accepted. Is it not possible to have an adequacy agreement agreed at the point of leaving, so that there is a totally smooth transition?

Baroness Williams of Trafford: As I say, an adequacy agreement is certainly an option, but I cannot say, in the context of other options that might be available, what the end point will look like, so I cannot go further than I have gone so far.

Lord Soley: I understand that. I am asking whether there is any

practical reason why that should not be possible if it is one of the negotiating routes chosen by both the EU and the UK.

Baroness Williams of Trafford: All sorts of options are possible, including that one.

Lord Cormack: I know this is a very difficult for you and for all Ministers, because when the election comes, if the Government are returned to power, all officers are at the disposal of the Prime Minister. We all know that. However, as things stand at the moment, will you be part of the negotiating team, or will either of your companions here this morning be involved in the direct negotiations?

Baroness Williams of Trafford: I do not think I will be.

Shona Riach: We are at a stage at the moment where the discussions on how the negotiation will be handled are very live, not just on the UK side but on the Commission side. You will have seen discussion in the press about the negotiating guidelines that they are working on. David Davis and the team at the Department for Exiting the European Union are working very hard to set out how the negotiations will be handled and to make sure that in our discussions with the Commission the right experts are part of those discussions. But no final decisions have been taken yet on the process.

Lord Cormack: So the degree of ministerial involvement in the negotiations has not been decided yet. Clearly we all understand the involvement in the headline negotiations. I would hope that there would be a good deal of ministerial participation in these negotiations, but you cannot give me an assurance on that.

Baroness Williams of Trafford: I would tend to concur with you in that I would expect ministerial involvement. Who that will be I do not know; I have not had the call yet.

Lord Cormack: Let us hope you get it.

Q61 **Lord Jay of Ewelme:** I want to come back to the domestic legislation. You have already talked about the national security exemption that applies to us, and indeed to others, in the EU treaties. Could you say a bit about how the national security exemption currently works in relation to data protection, which of course we are governed by under EU legislation, and how that position might change after we leave the EU?

Baroness Williams of Trafford: Article 4(2) of the Treaty on European Union makes it absolutely clear that national security is the sole responsibility of member states, as I think I have said previously. The new GDPR and the law enforcement DPD state that they do not apply to matters that fall outside the scope of EU law, and we do not expect that to change as we leave the EU.

Lord Jay of Ewelme: How has that worked in practice? Has there been a problem in the interface between national security and data protection,

or has it been comparatively straightforward?

Baroness Williams of Trafford: Of course, national security sits outside EU law, and as you will know we do not define what national security matters are, so I cannot say that they have been problematic.

Lord Jay of Ewelme: So there has been no problem there.

Baroness Williams of Trafford: Not that I am aware.

Shona Riach: Our law enforcement and intelligence agencies work extremely closely with our European partners, and specifically some of the tragic events that we have seen in Europe in recent years have given them reason to work together more closely than ever. They feel that they can do that effectively and are not hindered in doing so.

Baroness Williams of Trafford: Taking the example that Shona gave of recent events, they have worked brilliantly together, and that co-operation has been appreciated so much by countries like France.

Q62 **Lord Jay of Ewelme:** Looking forward to after we have left, you have already talked about how important close security co-operation is and will continue to be between the UK and other member states. Do you have any concerns that our domestic legislation will affect our ability to share data with the EU after we leave? Are we going to find that there are restrictions on the way in which we can share data or in which they will accept the data? Will there be an air of friction afterwards, or do you see it being quite straightforward?

Baroness Williams of Trafford: The Government have been quite clear that while we remain a member of the EU we are subject to the rights and obligations that that brings. The point at which we leave the EU, our domestic legislation, as I said, will be compliant with EU law and should therefore not impede our ability to share data with the EU. Should the Government decide post exit to amend our domestic legislation, of course we will need to consider whether any of the proposed changes will impact on our relationship with the EU, including on issues such as data sharing.

Lord Jay of Ewelme: I suppose the question there is what we would do afterwards, although it is very hard to say now. Would the need to continue to share data be a factor in deciding on a way in which our legislation might develop after we have left?

Baroness Williams of Trafford: I think we are very clear that we need to share data to keep the public safe. That is a high priority, and the Prime Minister has articulated that as well on a number of occasions.

Q63 **Lord Soley:** Can I turn to the law enforcement directive and how much room for manoeuvre will be affected by member states implementing that directive? How will enforcement differ compared to the General Data Protection Regulation?

Baroness Williams of Trafford: The DPD will require transposition into UK law as opposed to the GDPR, which is obviously directly applicable.

That provides us with some flexibility in how we choose to transpose it. We are working through the implications of the directive and what it will mean for law enforcement agencies, so it is important to have that coherent framework for law enforcement to work within. We are confident that the final negotiated package will reflect UK interests. Obviously, we will announce plans to implement the directive in due course; that is, after the general election. Again, it is too early for me to comment at this stage.

- Q64 **Lord Soley:** To your knowledge, are there parts of the law enforcement directive that will not be able to be carried over into UK legislation, and if there are will they be covered in the great repeal Bill? In other words, how will you deal with any vacuum in that area?

Baroness Williams of Trafford: We need to ensure that domestic legislation on exit reflects any agreement that we reach with the EU around data handling. The great repeal Bill that you refer to is just one piece of legislation that could support achieving that outcome.

Lord Soley: So you envisage that mopping up any holes in the application of the—

Baroness Williams of Trafford: I am not saying that that would be tasked solely with mopping up, but that it is one of a number of pieces of legislation that could help us to achieve that.

- Q65 **Lord Watts:** Minister, do you think that we will need to negotiate a UK-EU umbrella agreement when we leave Europe, and you think that we will also need to have an umbrella agreement with the USA?

Baroness Williams of Trafford: On leaving the EU, we will fall out of any agreements that are exclusively concluded by the EU. Post Brexit, we will have to consider how best to maintain our ability to share, receive and protect data with other member states. We will be part of the exit negotiation, but, as I have said several times, we will be in the unique position of being a non-member state that has implemented the EU data protection package, and we will explore this as part of the negotiation.

Lord Watts: So is the answer yes, we will need to have that. Will we also have to have one with America?

Baroness Williams of Trafford: We have a bilateral arrangement with the US, and we will have to explore what we do going forward.

Lord Ribeiro: President Obama created waves here when he said that Britain would be at the back of the queue if we came out of the EU. One of the problems with this US-EU umbrella agreement is that it has clearly taken a long time to achieve. If we go to the back of the queue and have to renegotiate our own arrangements, would it be along the lines of countries like Norway, and would that be as effective a way of relating to the EU on these matters?

Baroness Williams of Trafford: On many occasions people have asked, certainly in your Lordships' House, whether it will look like Norway, Denmark or Iceland. We will negotiate our own bespoke arrangement that will be for the benefit of the UK.

Lord Ribeiro: I am mindful of the fact that the judiciary and policing issues will be a priority. Will that be a priority in our negotiation? In other words, will the David Davis team have security as the number one priority in the negotiation?

Baroness Williams of Trafford: Certainly co-operation on law enforcement is a top priority, and the Prime Minister has stated that.

Lord Cormack: Do I infer from much of what you have said that you are very content with the present situation? We have good relations with our European friends, neighbours and companions in the European Union. Again, I infer from the way that you have referred to this that the chemistry works quite well. What you are seeking to do really is to come as close as possible to replicating the present with whatever the new arrangements might be. You have referred several times to the unique position that we will be in on day one. But beyond day one, do you think that a satisfactory outcome will be a near-replication of the status quo?

Baroness Williams of Trafford: I do not know whether it will be a replication of the status quo, but I can say that relationships are good. The Home Secretary met Thomas de Maizière only last week, and we have a number of occasions in the Prime Minister in Europe talking to EU member states. Sometimes we see a bit of bluster in the papers about what is going on, but the reality on the ground is that we have had a constructive relationship with the EU member states, with Europe, and we intend to keep it that way.

Lord Cormack: Lord Bridges has made the point several times on the Floor of the House that Parliament will continue to be involved. We have had the mantra, which we understand, that we cannot have a running commentary on negotiations. But how do you envisage Lord Bridges' pledge, which has been made many times, being implemented in the involvement of Parliament? Do you think it will be mainly through Committees such as this one, or set-piece debates on the Floor of the House? How will this happen? If Parliament is to have an involvement, we need to have a reasonable idea of the nature of that involvement.

Baroness Williams of Trafford: Perhaps the actual mechanism for that is best explained by Lord Bridges, but we can see that since the vote last June your Lordships' House has certainly taken an awful lot of interest in this subject. It has taken up a large part of our parliamentary time, and I hope noble Lords would feel that, although it is frustrating that we cannot talk about everything because negotiations will be in train following the general election, Parliament, certainly your Lordships' House, has been as informed as it could be to date. In fact, I have sometimes wondered how we manage to fit in any other business, given the amount of time we have spent on the EU.

Lord Cormack: And it is going to get worse, of course.

Baroness Williams of Trafford: Yes, the load will increase.

Lord Cormack: I am very concerned about what the involvement of Parliament will be, particularly through Committees such as this. While I cannot expect you to give a definitive answer this morning—that would be grossly unfair—nevertheless you could feed this into your colleagues. I believe that if there is a continuing purpose for Committees like this, they have to be able influence to some degree.

Baroness Williams of Trafford: Yes, and you of all people have stressed the need for parliamentary involvement. I will certainly take that back, and I hope that my noble friend Lord Bridges will be able to outline in more detail what that involvement will look like in the coming months and years.

Q66 **Lord O'Neill of Clackmannan:** Ms Riach may be better placed to answer this question. You have stressed that at the moment Britain has a very useful co-operative relationship with the EU in these areas. We know that this is not always the case between member states. Indeed, in recent weeks we have seen highlighted as a result of some of the tragic events in France the apparent difficulty that the French and Belgian security services have in communicating with each other in a satisfactory manner. In your experience, Ms Riach, of the interrelationships between the various member countries, where would you rate the UK on a scale of one to 10 if we were to say that the Franco-Belgian interrelationship was, let us say to be polite, at about four?

Shona Riach: You would have to ask our European partners how they rate the co-operation with the UK, but we can say that in this area, as the Minister has said, the UK has been very much at the forefront of the debate. Our European partners very much value the UK's contribution on data sharing, because our law enforcement agencies are well respected in Europe and because we play an active role for example in Europol. The director of Europol is Rob Wainwright, who is from the UK, and the UK office in Europol shares a huge amount of data and participates very actively in Europol's operations. We obviously have particularly strong relationships with the French because of their close proximity, but through these European mechanisms I think that people very much value the role that the UK plays.

Lord O'Neill of Clackmannan: So on a scale of one to 10?

Shona Riach: I am not going to put a number on it.

Baroness Williams of Trafford: I will answer it.

Lord O'Neill of Clackmannan: Right. Just one other thing. One of the gorillas in the garden is the ECJ. If its decisions change the circumstances of a post-Brexit relationship, and given the UK's antipathy at present to accommodating the ECJ, how do you see us accommodating it when there is something coming from on high outwith the normal negotiating

procedures? How do you anticipate handling that side of it?

Baroness Williams of Trafford: The judicial review proceedings concerning the Data Retention and Investigatory Powers Act 2014—aka DRIPA—have not yet concluded. We are currently waiting on the Court of Appeal’s response to the CJEU December 2016 judgment. However, in the light of the CJEU judgment, and in order to bring an end to the litigation, the Government have accepted to the Court of Appeal that the Act was inconsistent with EU law in two areas.

Lord Soley: I think it is generally agreed that Britain has been particularly influential on data protection and retention, and you have reiterated that this morning. But the view has also been expressed that without our influence—we will no longer be at the top table, which has to be put at the forefront of our minds on this question—there will be a tilt towards greater privacy in the legislation and in the European Union’s approach than successive British Governments would have liked. Do you share that fear?

Baroness Williams of Trafford: I totally see where you are coming from on the privacy aspect, but I maintain the positive outlook that we start from a strong position of co-operation with EU member states. If we are to protect all European citizens and respond to the evolving international threats, the consensus, the practical co-operation between operational partners, really should continue, because it has been so effective.

Lord Soley: But am I right in thinking that most of the other European Union countries, which I do not think we can list, have been keen, at least until the present time—this might change in view of some of the attacks in Europe—on people giving higher priority to privacy than we have been?

Shona Riach: We recognise the point that you make. The point here is that in all this debate there is always a balance to be struck between data protection and security, and the exact balancing point varies between member states and, honestly, between different institutions in different member states. The recent events in Europe have moved the debate forward. The Minister mentioned Thomas de Maizière, the Interior Minister from Germany, and his discussions with the Home Secretary. Mr de Maizière has been at the forefront of the debate in Germany. He has set out a 10-point plan for tackling security issues in Germany and is very keen to work with European partners. The approach that he is taking is very much in line with the priorities that the Government here would have.

Lord Soley: In a way, it is too early to say in either direction, but is it your feeling that there is a movement in Europe now, following the various attacks, to move towards the British Government’s position on this?

Shona Riach: There is certainly a movement in Europe, a recognition, that the security of citizens is of paramount importance, and finding ways to work together to keep citizens safe is absolutely a priority.

Q67 **Lord Soley:** In that respect, for a number of reasons, not just the privacy one, we will need some mechanism for the European Union and the UK to work together very closely on this. Do you have any structures in mind that you think we should be pushing forward, or is it just too early to say?

Baroness Williams of Trafford: As I said before, we will be compliant and compatible with EU law in this sphere at the point that we leave the EU. It will also be to our benefit that the co-operation between us and the EU has been so strong. As I think I said earlier, it is of mutual benefit for us to co-operate and to make this work, and us being at the forefront of this will be important to EU member states and to the EU as a whole as we leave the European Union.

Lord Soley: This whole area of data protection and data retention is not just about security, of course; it is also about trade. It is terribly important. It has been suggested—Matt Hancock also touched on this when he gave evidence—that there need to be global standards here as well as just EU or UK standards. Certainly it is my view that we should as far as possible set the gold standard on data protection and data retention so that we will be able to continue to operate, particularly on trade, on a worldwide basis, not just on an EU one. At the same time, the EU is our major market, so we have to match the EU standards, but we also want to try to direct the proposals on a world standard towards data protection and retention, which will happen sooner or later, I suspect. Would you agree with that?

Baroness Williams of Trafford: I am glad that you brought in the point about trade, because we have focused a lot on law enforcement, and rightly so. We are world leaders on international data protection standards and we will continue to work closely, both with the EU and our international partners, after we exit. The ability to collect, share and process data is crucial for any economy, as is our ability to co-operate across borders on both law enforcement and security, so it will be a very important factor.

Lord Soley: Of course, there is no simple dividing line between trade and security. A large amount of trade, particularly in financial operations, actually involves large-scale crime, so if there is an overlap here, is your department well aware of that and addressing it?

Lucy Bird: We are working closely with DCMS, which is leading on the data protection regulation, to ensure that we have identified where those cross-overs occur and that we are treating those proportionally.

Lord Soley: Again, this would mean that we would need to be sure that we are also matching the requirements of the United States, for similar reasons.

Lucy Bird: We will look into that. Our priority at the moment is to make sure that we implement the directive to meet our EU requirements.

Lord Soley: There is a great deal of work in this area, and if we do not get it right, we will be in trouble at the point of exit from the EU. Is that right?

Baroness Williams of Trafford: You are absolutely right to say that it is crucial to ensure that we get it right.

The Chairman: Can I make a distinction here? You have been talking about working in close collaboration, but how will you ensure that we can protect our ability to influence standards? In a way, once you are outside it you can work together on the flow, but how can we ensure that we will have the right kind of influence to protect the standards from outside the EU?

Baroness Williams of Trafford: We will do so as a third country. As I have said several times, we are clearly compatible with standards at the point—

The Chairman: —when we leave, but what happens afterwards?

Baroness Williams of Trafford: That is where the continued co-operation will be so important.

Lord Soley: Is that not the case for the gold standard approach by Britain? If we can be one of the best, if not the best, in a way that makes it easier. Whether we are talking about the US, the Far East or Europe, we are up front there and we have the right standards.

Baroness Williams of Trafford: I would say that we are the gold standard and are seen as the gold standard, which will be so important for our standing in negotiations as we proceed.

The Chairman: Can I push a little harder on this? When you collaborate, you work with people and you look at the flow of data. However, the point is that when you are there and you look at the directives coming out you can influence the process. What structures or institutional arrangements will you have to influence that? It is different in collaboration, but influencing is distinctive.

Baroness Williams of Trafford: You are absolutely right: what will it look like, even though we have been influential so far, when suddenly we are not part of the EU? Countries in the EU have in some ways relied on us to set some of the standards, which is why co-operation has been so good. Going back to the point about mutual benefit, it is in our interests and in those of the EU that that co-operation with a country that is seen as a gold standard continues.

Lord Cormack: Is not one of the answers, though, to ensure, if we are to influence, that we also have the very best possible bilateral relations with individual countries. Clearly I want us to have a close, cordial

relationship with the European Union as the European Union, but it is crucial that we also have the closest possible bilateral arrangements. Would you agree?

Baroness Williams of Trafford: I would agree. Relationships are vital in every walk of life, including politics. It is absolutely imperative that those bilateral relationships—which, as I say, have been so good—continue. I think people want them to continue.

Lord Cormack: I sincerely hope so.

Lord O'Neill of Clackmannan: I get a wee bit worried about this use of the expression “gold standard”. The carats can reduce with regard to the relationship; it will not necessarily always be of the same standard. Equally, we have seen in the last six months the possibility, and in some countries the reality, of quite dramatic political change, which means that sitting outside the room does not really give us any great chance of influencing what is going on inside. So an awful lot of the talk of mutual benefit, with respect, is just wishful thinking until we can see what is happening. We may be in a good position, but this is not gold where the number of carats will never change. This is a gold standard where you could go from 24 to 12 very quickly. We are deluding ourselves if we work on the assumption that it will always be the standard that we enjoy at present. I am not sure that you have been able to explain to us this morning how you sustain that relationship in good weather and in bad.

Baroness Williams of Trafford: I answered your previous question with regard to the standards that we have set for ourselves. However, I think you are saying that other countries’ standards may change. In the sphere of data protection there are standards across the whole European Union and the bar is very high, which I would expect to be maintained. If they are not, that is another story altogether. We, however, have set the gold standard for data protection, and we have been so influential in getting the DPD through.

Lord O'Neill of Clackmannan: We can but hope.

Q68 **Lord Watts:** You dwelled on the fact that we have a good relationship at present that we value. What happens if there is a dispute in the future between us and the rest of our European partners? How can that be resolved? We will not have a mechanism, because we will not be in the room. How else can that be brought about so that there is an ability to resolve any future problems?

Baroness Williams of Trafford: Our relationship with the EU and our future relationship will all be worked through in the negotiations. We have always had good working relationships with our partners in Europe, and we intend that to continue.

Lord Watts: In any relationship you can have a good relationship and then have a disagreement. I was wondering what mechanism you are considering putting in place to resolve that problem if it arises, or can you not speculate on that at the moment?

Baroness Williams of Trafford: We are talking about theoretical situations but also about negotiations on the deal in the next couple of years. I think you are talking about fall-out.

Lord Watts: I am labouring the point, because part of this drive is that we will be independent, set our own rules and not be bound by anyone else—a sovereignty issue. But in relationships like this one, there has to be a mechanism for resolving problems, which in some cases might mean sharing sovereignty. Is that something you and your team and your ministerial colleagues are contemplating so that they have a negotiating position ready for the negotiations?

Baroness Williams of Trafford: I have been involved in political situations, as you will know, where I was a minority for the entirety of my tenure. Quite often the fall-outs were not between me and my Labour colleagues but among my Labour colleagues. Quite often the fall-out is not from without but from within. But I do not want to speculate on what relationships would look like; they are currently very good.

Lord Soley: This whole area is very important, because at the moment we are not sufficiently addressing how the Government as a whole deal with these sorts of problems. It is obviously about being an influence within Europe, but there is also the fact that we have a very great influence within the European Union, and not just on safety and standards—look at aviation safety and security, where Britain set the standards. But those standards are also worldwide. Therefore we have this role, and I wonder how much thought the Government have given to how we maintain such a position at the forefront when we withdraw from the EU and therefore no longer have the influence within what is a massive world body, unless we find a way within the British Government to maintain all those standards. I used the term “gold standard”, but I do not care if you call it something else. The point is that it must be a standard that always matches the European ones and preferably feeds into the international ones too. Is that not right, and do the Government think about how they will manage their own affairs to maintain our position?

Baroness Williams of Trafford: I am sure that it is at the forefront of the Government’s mind that these relationships must be maintained and that the negotiations must run smoothly as we exit.

The Chairman: All those points have been emphatically made. Thank you very much indeed for your time, particularly, as you say, on the eve of Prorogation. We will see you when you return.

Baroness Williams of Trafford: You will probably see me at Questions in about three hours’ time.

The Chairman: Yes, absolutely.