

Public Accounts Committee

Oral evidence: [Exiting the EU: supplying the health and social care sectors](#), HC 2657

Wednesday 2 October 2019

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Members present: Meg Hillier (Chair); Sir Geoffrey Clifton-Brown; Chris Evans; Layla Moran; Gareth Snell.

Gareth Davies, Comptroller and Auditor General; Adrian Jenner, Director, Parliamentary Relations, National Audit Office; Peter Gray, Director of EU Exit, National Audit Office; and Marius Gallaher, Alternate Treasury Officer of Accounts, were in attendance.

Questions 1 – 150

Witnesses

I: Sir Chris Wormald, Permanent Secretary, Department of Health and Social Care; Steve Oldfield, Chief Commercial Officer, Department of Health and Social Care; Professor Keith Willett, EU Exit Strategic Commander and Medical Director for Acute Care and Emergency Preparedness, NHS England; Bernadette Kelly, Permanent Secretary, Department for Transport; Gareth Davies, Director General for International and Security Group, Department for Transport.

Report by the Comptroller and Auditor General
Exiting the EU: supplying the health and social care sectors
(2654)

Examination of witnesses

Witnesses: Sir Chris Wormald, Steve Oldfield, Professor Keith Willett, Bernadette Kelly and Gareth Davies.

Chair: Welcome to the Public Accounts Committee on Wednesday 2 October 2019. We are here today to look at the important issue of what will happen to the supply of medicines and other provisions to the health and social care sectors in the event that the UK leaves the European Union without a deal. These are preparations that have obviously been underway before, when the expected date to leave was 29 March. We are now 29 days from 31 October so it is a very pressing situation.

I would like to put on record my thanks to the officials who moved their diaries around in order to attend today, now that Parliament is not prorogued. I appreciate that you were prepared to come next week, which was already pulling it forward from when we had expected, so thank you very much for that. It is a very time-critical issue. The NAO report was only published on Friday, so I think this is a record in terms of looking at it, but it is very important that we do. Given that around 7,000 of 12,300 medicines licensed for use in the UK come from the EU, it is vital that these issues are resolved.

We want to look today at what happens to those medicines, how preparations are underway to deal with that, and to look at the social care sector and how that is being supported. As we have advised you, we have a few other questions for various officials. I will let you know in advance, so you can sit back, Sir Chris, for a moment, because we are going to focus on Ms Kelly, to talk to her about High Speed 2 and Thomas Cook first. Then we will move on to some NHS issues for you, Sir Chris, before we move into the main issue, particularly on the announcements made about funding for hospitals and some of the issues in today's news.

I will introduce the witnesses first. I think most are known, but we have Gareth Davies, who is here as director general for international and security group at the Department for Transport. Welcome to you. I think, Mr Davies, it is your first time in front of us.

Gareth Davies: It is.

Chair: Welcome. We are a very friendly bunch, as I am sure Ms Kelly has advised you. We have Bernadette Kelly, who is a regular attendee at our meetings, and she is the Permanent Secretary at the Department for Transport.

Then we have Sir Chris Wormald, who is the Permanent Secretary at the Department of Health and Social Care. We have Professor Keith Willett,



HOUSE OF COMMONS

who is the EU exit strategic commander—it makes you feel like you should be wearing a uniform—and medical director for acute care and emergency preparedness at NHS England, never an organisation known for its short titles. You can perhaps explain when you first speak exactly what that means. It sounds like you are running NATO or something, but maybe that would be simpler in the current climate.

Then we have Steve Oldfield, who is the chief commercial officer at the Department of Health and Social Care. We will have some questions very much directed to you, Mr Oldfield, on drug pricing.

- Q1 **Sir Geoffrey Clifton-Brown:** Ms Kelly, I am sorry about your voice. Take your time and we will listen quietly. I am going to ask you questions on HS2, but I appreciate you may not have been briefed on detailed questions on HS2. If you are not, I am happy that you should write to the Committee afterwards. Could you tell us how much money has been spent on HS2 to date?

Bernadette Kelly: Up until the end of the last financial year, March 2019, we had spent £7.4 billion on HS2 to date. Clearly, there will have been additional expenditure going on during the current financial year. I do not have a precise figure for that.

- Q2 **Sir Geoffrey Clifton-Brown:** No, I understand that. Do not read anything into this question. I have absolutely no prior knowledge. If you were to cancel it today or with reasonable notice, in three months' time, how much of that £7.4 billion is on property, so how much would you recover?

Bernadette Kelly: The property element of that I think is about £3.3 billion, or something of that order, so clearly we would expect to recover some of that cost. Again, I cannot give an exact number. I expect the property figure itself may be somewhat higher now as well.

- Q3 **Sir Geoffrey Clifton-Brown:** How robust is the estimated cost figure of £55.6 billion? What is your latest information on that figure?

Bernadette Kelly: Our latest information is the information contained in the stocktake that the Secretary of State published on 5 September, which was done by Allan Cook, the relatively new chair of High Speed 2. He has estimated a cost range for the project of between £72 billion and £78 billion.

- Q4 **Sir Geoffrey Clifton-Brown:** How reliable do you think that is?

Bernadette Kelly: Allan Cook's stocktake represents a serious and thorough piece of work. Doug Oakervee, as you know, is currently leading an independent review into whether and how to proceed with HS2. One of the things that review will need to do is test and assure those figures and determine what, in Doug Oakervee's view, is the best available figure now for the total cost of the project.

- Q5 **Sir Geoffrey Clifton-Brown:** How much will he be feeding into his



HOUSE OF COMMONS

review the lessons learnt from Crossrail? Crossrail for a long time was on time and on budget, and then suddenly now it seems to have gone off kilter on both.

Bernadette Kelly: We are all very concerned to be feeding in the lessons learned from Crossrail. Within the Department, we have been thinking very hard for some time now about how we do that most appropriately in the context of HS2. Allan Cook himself in his stocktake referenced the lessons learned report that we published in April. I think he would argue that the report he published, the stocktake, with ranges for both cost and schedule, was a reflection of those lessons learned. Doug Oakervee's terms of reference also include a requirement for him to consider lessons learned from other projects for HS2.

Q6 **Sir Geoffrey Clifton-Brown:** Are there any considerations going on as to any major changes to the original plans, for example starting at Old Oak Common rather than Euston?

Bernadette Kelly: Doug Oakervee's review is intended to be a fairly fundamental review of the project. It is whether and how to proceed, and therefore in the question of how he will also be looking at the scope of the project and whether changes are needed. We will have to wait and see what his review concludes. I think it likely that there will be more scope for changes to phase 2b than to phase 1, simply because of the stage of development that part of the project is in and the fact that it has not yet been subject to a hybrid Bill.

Q7 **Sir Geoffrey Clifton-Brown:** What is the timing on his report?

Bernadette Kelly: We have said that we expect him to conclude his review in the autumn.

Q8 **Chair:** We heard mid-October, which is quite a fraught month.

Bernadette Kelly: It will be quite a fraught month and that thought has not escaped my notice. Clearly, Doug Oakervee will need to present his findings to Ministers and Ministers will need to determine what they want to do on the basis of his review. I prefer not to get drawn on a very particular date.

Q9 **Chair:** The date is the date he will produce it, not the date the Ministers will decide on it.

Bernadette Kelly: We have said that the review is to conclude in the autumn. I am working towards Doug Oakervee's review presenting some recommendations during the autumn and the Government deciding exactly what they want to do in response to those as soon as possible thereafter. I do not want to be drawn on mid-October.

Q10 **Chair:** I think it was No. 10 that said mid-October.

Bernadette Kelly: He is keen to get the work done quickly, quite understandably, given the questions that are being raised, but he needs



HOUSE OF COMMONS

to do the work thoroughly and the Government need to be able to decide how they want to respond.

- Q11 **Sir Geoffrey Clifton-Brown:** Will it be put in the public domain the moment he has completed it, and then Ministers will take their time to decide? What is the mechanism going to be?

Bernadette Kelly: I do not think we have yet determined exactly what the mechanism will be in terms of how the decision will be taken. We genuinely have not determined exactly how to do that. I think it likely that Ministers would want at least to consider their response to his review and have something to say about that before it is published. Genuinely, we have not yet determined how that process will run.

- Q12 **Chair:** Of course, the National Audit Office is doing a review as well. Do you think they might coincide?

Bernadette Kelly: They are working to similar sorts of timeframes, but I know the NAO's work is ongoing, with an intention to publish later in November. They are certainly all in the same ballpark of timeframe. It is helpful if we can bring as much of this consideration to the decision that the Government will need to take. It is a very big and important decision and it is helpful for that to be informed by Doug Oakervee's review but also by the NAO's findings, which I am sure will carry some important lessons for how we decide whether and how to proceed.

- Q13 **Gareth Snell:** Ms Kelly, your comment about the difference between phase 1 and phase 2b is quite clear. Stoke-on-Trent is hugely affected by 2b. Bridges are coming out already. Infrastructure road works are being developed by the local authority to work with potentially what phase 2b might deliver. What, if anything, is being done to put some of that work on hold in case 2b is scrapped, so that we do not spend the money unnecessarily preparing for something that does not happen? In terms of the local infrastructure projects in places around the 2b route, what conversations has the Department had about what preparatory works it should be doing or not doing? Obviously, the decision the Government make will have a huge impact not just on the Department's transport policy but on the LEPs and the various other organisations working around it.

Bernadette Kelly: If you do not mind, I will answer the question at a slightly higher level of generality, rather than being able to give you a very specific response. In initiating the review, we have taken a conscious decision that the work will continue on phase 1a while the review is happening, in large part because the costs associated with stopping and starting projects, as I am sure the Committee understands, are enormous. That seemed, and indeed is, the sensible way to proceed.

There are more questions to be asked about how work on 2b continues. I would expect judgments to be made on a case-by-case basis about where it was appropriate to pause work at this stage. One of the specific issues, as you know, that HS2 has been asked to look at is the question of



HOUSE OF COMMONS

ancient woodlands and whether we should continue with some plans that would have impacted on ancient woodlands while the future of the project is not secure. Where it makes sense to pause things without undermining the decisions that Ministers will eventually have to take, that is a sensible step to take.

Q14 Gareth Snell: Who is taking those decisions and when are they being taken?

Bernadette Kelly: I do not know the specifics of the Stoke works that you are referring to. We would expect in the first instance to be asking the company to look at where it was sensible to pause work, if that can be done in a way that does not risk then imposing very large costs and schedule delay if the decision the Government eventually take is to proceed with the project.

Q15 Gareth Snell: We have a couple of questions about Thomas Cook. In many ways, the Department has demonstrated quite quick resolve in dealing with some of the issues that arose from Thomas Cook. In particular, I wanted to ask about the application of the lessons learnt from the Monarch insolvency issue. I know the chair of the Airline Insolvency Review said that, even if they had been implemented very quickly after Monarch, they may not have been in place to deal with Thomas Cook now. Obviously, they have not been implemented and Thomas Cook has happened. Does the Department have a timetable for when it would like to see the recommendations from the insolvency issues around Monarch and now Thomas Cook implemented? Is there a piece of work ongoing?

Bernadette Kelly: There is. I may ask Gareth to say a little more about this. As you know, the Airline Insolvency Review reported in May this year. It is quite a complex piece of work. The Department has been considering how to respond and take its recommendations forward, but we have not yet had an opportunity to do so. Implementing the recommendations would require legislation in some cases. I think the Secretary of State has now indicated that he is very keen that we determine quickly how best to take forward that review and what steps should be taken to ensure we have a more robust framework for airline insolvency in the future. Gareth, I do not know if you can add to that.

Gareth Davies: Echoing the points on the complexity of this, two critical issues came out of the Bucks review. The first is the cost of any repatriation, particularly for those who are not covered by the ATOL guarantees. It is not just about money. It is also about the ability to have access to the assets of the company once it has fallen into either administration or insolvency, and the constraints you have particularly in accessing fleet capacity. Both of those issues are super complex, in terms of the potential implications for the cost of capital for airlines if you start to change the insolvency regime, but also the potential perverse incentives a levy regime might have on companies, essentially companies



HOUSE OF COMMONS

with a very strong credit position subsidising those that have a very weak balance sheet.

We have had interesting representations, as you would expect, from the airlines, particularly Airlines UK. We need to do some very detailed work on that. That has been ongoing. Even if there was a clear route through, you need parliamentary time, which there obviously was not. Two things now need to happen. One is for Ministers to come to a decision on the actual recommendations they want to implement and the second is a parliamentary slot.

- Q16 **Gareth Snell:** We are not exactly overwhelmed with work at the moment. We can put that down. In terms of the timetable the Department is working to, do you have an aspiration of when you would like to see some resolution and decisions being taken? Are you working internally to a particular timescale?

Gareth Davies: It is fair to say we have been working on this over the summer. The work on the actual operational side of Thomas Cook is resolved and we are moving our staff on to the operations role and the policy work. We are doing this in real time, but I want to emphasise the complexity. There is not a simple solution that would mean this problem will go away.

- Q17 **Chair:** I know the Secretary of State has said there is an attempt to get money back from individual passengers' and travellers' own insurance policies. What is the real likelihood of that being successful and what is the risk exposure to the Department and the taxpayer?

Gareth Davies: Back to the lessons learnt from Monarch, the costs of Monarch were around—and I am just using rough figures—£50 million. This is about twice as large, so that gives you a sense of the net cost to the taxpayer of the total exercise. I do not have the figures for what we were able to claw back last time round. It was in the low millions, from memory, but I would like to confirm that.

- Q18 **Chair:** That is partly why I am asking. I can imagine, once you have already got someone home, insurance companies may be a little reluctant to pay out.

Bernadette Kelly: So far, to be frank, the amount of money clawed back from insurance has been very modest.

- Q19 **Chair:** Is there an element for a possible change in the law there? In this case, the taxpayer has stepped up and committed to, I think, £40 million.

Bernadette Kelly: Encouraging more passengers to take out insurance would seem to be a sensible thing to try to do.

- Q20 **Chair:** Those figures suggest that the insurance companies are not actually then coughing up.



HOUSE OF COMMONS

Gareth Davies: There are two things here. We had to come to an agreement with companies, including the credit card companies and merchant acquirers, about what the notional cost of the Government support has been. You are right: there is something about encouraging people up front to have private insurance and comprehensive travel insurance. As well, we are in active conversations with both the big insurance bodies, including the ABI, and UK Finance about what their members will do to help us claw back some of the costs.

Q21 **Chair:** You are hoping there will be some industry-wide guidance about what to pay back the taxpayer.

Gareth Davies: We are in conversations at the moment on this.

Chair: We will be pursuing that figure, because it is quite an interesting point that Monarch was, as you say, in the low millions. The taxpayer should not have had to bail this out. I echo Mr Snell's point that the Department has done a good job in getting people back, but there is a lot more fallout from it that we will want to pursue in future.

Q22 **Sir Geoffrey Clifton-Brown:** Mr Davies, when will the last passenger who needs to be repatriated be repatriated?

Gareth Davies: We have announced that the repatriation exercise will be a two-week process, because the vast majority of Thomas Cook passengers were on one to two-week holidays, if you look at their portfolio of business. We have said it will run until this weekend; Sunday night will be the last night of flights. However, anyone who is on a package tour is supported by ATOL, and if it is three weeks, for example, they will then be flown back on other commercial flights, because there will be capacity in the market at that point.

Q23 **Chair:** We will move on to Sir Chris Wormald and the capital funding that has been announced for the 40 new hospitals. First, can you outline what in the announcement is new money and what is money the Department is allowing trusts to release from their own reserves?

Sir Chris Wormald: I will preface by saying I will have to write to you to confirm all this, because I did not bring everything with me. I think everything we have just announced is new money.

Q24 **Chair:** Okay, so the Treasury has handed it over, or is going to hand it over when the hospitals are ready to spend it.

Sir Chris Wormald: I will need to check the exact details of that for you, but these are new announcements that we have been making.

Q25 **Chair:** That is for all 40 between now and 2024.

Sir Chris Wormald: Yes. I will write to exactly confirm, because I know this is frequently a controversial issue.

Q26 **Chair:** It would be helpful if you could lay out the detail because we have been concerned, as you know, in this Committee about capital funding in



HOUSE OF COMMONS

the NHS, and then suddenly the magic money forest shakes down the money and the Treasury gives you the money.

Sir Chris Wormald: It is not quite like that. We have set out quite a lot of detail in our announcement on GOV.UK that backed the announcement. There is quite a lot there but I will write to you with the exact details of how this works.

Q27 **Chair:** It is definitely earmarked for the hospitals. How much local discretion will there be on how that is spent?

Sir Chris Wormald: The schemes themselves are schemes that were generated by the NHS previously. The way this works is that the NHS generates a set of schemes. That is then iterated between us and the NHS as to which ones would be funded. The things we have announced to be funded are things where there is already a set of plans.

Q28 **Chair:** You said all 40 are settled plans. We know the first five—

Sir Chris Wormald: For all the ones on which we have committed to building, so where the money is for the actual building, that will be for the existing plan, where there is a plan, to go ahead. Any reasonably designed hospital should already have had a lot of local consultation about the exact plan going forward. The second part of the announcement was on resources for people to work up plans. The working up of the plans ought to involve a lot of local consultation about exactly what type of buildings and services ought to be provided.

Q29 **Chair:** It might not necessarily be all acute services. It is a hospital but it could include community services.

Sir Chris Wormald: Yes. As you know, the whole system is blurring and positively seeking to blur the distinction between community and acute services, with more community services delivered in hospitals and more acute services delivered in the community.

Q30 **Chair:** There is no blueprint in the Department. You are saying it is very much grassroots up.

Sir Chris Wormald: Yes, exactly. These are all schemes that are generated by the NHS. That is how our new programme is meant to work in future. These are proposals from the NHS that we then choose to fund.

Q31 **Chair:** That brings me neatly to Mr Snell and Stoke.

Sir Chris Wormald: I have not brought any details of Stoke.

Chair: That was a big mistake, Sir Chris.

Sir Chris Wormald: There is no point in trying to have that level of detail.

Gareth Snell: There is always a Stoke question.

Sir Chris Wormald: I know there is.



HOUSE OF COMMONS

Q32 Gareth Snell: The Prime Minister has previously announced about £20 million for the Royal Stoke Hospital. We are part of the PFI from the early days of the last Labour Government. I am conscious of how the two are going to interact between where you have rebuilds and new builds, and additions to existing hospitals that are under a PFI contract. What is the Department going to do with the PFI contracts?

Sir Chris Wormald: There is no one answer to that. The very first thing to say is that I am not going to comment on Stoke's individual original contractual details, because I suspect you know them better than I, for a start.

Chair: You have admitted defeat, Sir Chris. That is very wise.

Sir Chris Wormald: Secondly, the issue is very high up our agenda. As you know, we are not doing any further PFI. We are aware that out in the system there are some quite successful PFI schemes and ones that are not. We have an advice centre within the Department that we established. Does it report to you, Steve?

Steve Oldfield: No.

Sir Chris Wormald: It is David, is it? It is an advice centre in the Department that is looking at existing PFI schemes and how we will work them in future.

Q33 Chair: That is a bit different to Mr Snell's question.

Sir Chris Wormald: That includes the issues of how you then go on investing in the estate. Because all the PFIs are different, there is not a stock answer as to how you make that work, but it is very high up our agenda that we have to find ways to make it suit local circumstances.

Q34 Gareth Snell: This is not specifically Stoke-related, but has the Department, where there are existing PFIs, looked at simply buying out the PFI contract?

Sir Chris Wormald: We have done that on occasion. It depends on the value for money of the buyout versus the maintaining it. You are well aware from previous hearings of many of the issues around all that. You have to look at it on a case-by-case basis.

Q35 Gareth Snell: Finally, the other area this touches on that this Committee has looked at is the strategic suppliers that the Government use. With the collapse of Carillion, the collapse of Pochin and a number of other organisations having questionable balance sheets, is the Department satisfied that there exists capacity within the market to build these in a safe way that is not simply putting a lot of money into a handful of companies that may already be struggling to deliver on their existing contracts?

Sir Chris Wormald: I will check what our current market assessment is. It is much less of an issue doing a conventional build than a PFI, because



HOUSE OF COMMONS

your exposure to the company is much more limited. I am not aware that that has been raised as a concern. There are not any issues that have been escalated to me about that. I will go back and check what our current market assessment is.

Q36 Layla Moran: Mr Oldfield, referring to the story in *The Times* today about a possible export ban on medicines, why do we need this?

Steve Oldfield: We have not commented publicly on this because it is a leak. It is a hypothetical story. That said, I think it is fair to comment that this is something we have been looking at in detail with industry for quite some time now. We share industry's view that, having already gone to these enormous efforts, as the NAO report outlines, to build stockpiles and put in place the rerouting plans, the last thing we would want in any circumstances, independently of the Brexit situation, is for product that is intended for UK patients to be needlessly shipped abroad in the name of arbitrage and profit making. For some time now, we have been working with industry on this as a business-as-usual measure to strengthen our hand in managing supply shortages. This is something we are imminently going to be announcing.

Sir Chris Wormald: It is not an export ban. We are talking about parallel exports. Where a British company is manufacturing stuff that it always intended to export, this has nothing to do with that. This is stuff that has been imported into the UK for the UK market where some movement in currencies might cause someone to want to then export it again.

Layla Moran: It is about wholesalers.

Steve Oldfield: This is an entirely legal activity under European law, whereby a product can be bought in one country at price X and sold in another country at price Y, where Y is greater than X, where, as Chris said, currency fluctuations play a very important part. It is not an illegal practice per se, but there are numerous examples now across Europe of countries taking the measure of putting in place temporary or indeed, in some cases, long-term restrictions on certain products that must not or should not be exported because they are experiencing a shortage for their national patients. That is the purpose of this particular piece of thinking. We feel it is very important. As I say, independent of Brexit we have been looking at this as a business-as-usual measure, as another tool in the basket, as it were, to manage shortages and shortage supply.

Q37 Layla Moran: I understand completely why you cannot say which the 30 critical medicines are. I completely understand that, but what kind of criteria are you using to decide what is critical and what is not?

Steve Oldfield: It is not about criticality. It is about availability and evidence of parallel exports. Where we have frank shortages or we know of significant risk of shortages and, in addition, we know there are actual exports taking place, or financially it looks like it is very viable for



HOUSE OF COMMONS

companies to do so, the combination of those two, on products we know to be needed for care in the UK, will mean they go on the list. The list will be updated as we get into announcing the programme. The idea is that the list would be updated on a weekly basis.

To pick up on Chris's point, to be clear, there is no suggestion here of banning legitimate export of products. The idea of parallel trade is entirely permissible under European law and no one wants to stop that. Where there is a shortage for UK patients, it is in our national interest to be able to control that.

- Q38 Layla Moran:** Zooming out to the reasons why this is happening, has a piece of work been done to assess what happens to the market in the worse-case scenario, the no-deal most likely scenario, in terms of pricing for generic medicines in particular? Has that work been done? Do you know what is going to happen to these prices.

Steve Oldfield: Is the scope of your question limited specifically to generic medicines?

- Q39 Layla Moran:** No, not necessarily. I am trying to get to how much more the NHS is going to need to pay to get the medicines it needs, given the volatility of the market after 31 October. That is the nub of what I want to know.

Steve Oldfield: I feared that was your broader question, because the answer is not, unfortunately, very brief or concise. The reason why it is not a concise answer is that different sectors of the market are governed by different types of pricing regime. I think we talked about this previously in a Public Accounts Committee.

Let us take a picture of £17 billion, in round numbers, of medicines spend. Approximately £12.5 billion to £13 billion of that is governed by what we call the voluntary pricing and access scheme on branded medicines. That, in itself, has two parts to it: the voluntary scheme and the statutory scheme. Prices are controlled under those schemes. They are subject to a whole series of controls. Prices are set at the point of launch and then subsequently cannot be altered, because they are subject to pharmacoeconomic evaluation and can only be used routinely in the NHS if they have overcome a number of very rigid pharmacoeconomic hurdles, which is governed by a body called NICE. The £12 billion or £13 billion is protected for the NHS.

- Q40 Layla Moran:** Over what time period is that, roughly?

Steve Oldfield: The scheme runs for five years and it has just been renegotiated, starting at the beginning of this year.

- Q41 Layla Moran:** What about the rest?

Steve Oldfield: The rest are largely generically available drugs. The key factor here is that, in theory, the market has free pricing. That means that, depending on demand and supply, the prices can go up and come



HOUSE OF COMMONS

down. I should say that the UK fortunately, because of the system we have, has historically had by far the lowest generic prices certainly in Western Europe and often in the western world, on the basis that we have that freedom for prices to go up and down, so competition plays out as it should do.

Where you have a particular molecule that is supplied by multiple suppliers, there is natural competition between the suppliers for volume. One of the key features of the generic drugs manufacturing industry is that volume is king. You can only accept the low prices you charge for those products on the basis that you can achieve the volumes. It is not just a UK question. These are largely multinational companies supplying to many markets across the world. In principle, we already have a very low-priced market. The competition is probably one of the major factors that play to our benefit in that sense.

That said, we have monthly monitoring of the prices in the market, because the way that we pay for those generic drugs is through reimbursement to pharmacists, who dispense the drugs to the patients. The NHS does not ever hold a stock of drugs, at least not in primary care. It is a separate discussion in secondary care. The supply chain companies own the drugs, and buy and sell the drugs between themselves. Eventually pharmacists dispense to patients and the NHS reimburses pharmacists for both the cost of the drug and a small amount for the service of dispensing to patients. We have very good monthly information about the price of those drugs, so we will immediately start to see if there is any unusual change in the price of drugs.

Q42 Layla Moran: Have you done the scenario planning for, let us say, a 10% drop in the value of the pound for that kind of transaction?

Steve Oldfield: Yes, but the 10% drop in the value of the pound plays to your earlier question about parallel exports. The drop in the value of the pound is more likely to be a trigger for companies arbitraging across countries from a low-priced country to a high-priced country. Per se, the drop in the value of the pound is not a critical factor in the supply of medicines in the UK.

Layla Moran: They will not start selling to another country instead of us.

Chair: As much as Mr Oldfield is very interesting and it is a fascinating subject, we are in danger of talking more about drug pricing than the ones we are going to get across the channel.

Q43 Layla Moran: I just want to check we will not see any stopping of supply from across the channel.

Sir Chris Wormald: This is exactly my point. The generics market is a pretty pure market. It is determined by supply and demand. If we are successful at maintaining supply in the way we set out in this report, you will not see wild price fluctuations.



Q44 **Layla Moran:** Will they be tempted to raise their prices? Will the generic companies producing those medicines be tempted to raise their prices as a result of the turmoil after a no-deal Brexit?

Sir Chris Wormald: This plays to Steve's point about a competitive market. Our defence in generics—and this is why it works in generics—is that you do have multiple manufacturers. If people are overpricing, other people come into the market. It is quite a flexible market. That is what has delivered us our low prices historically. As you will remember from previous hearings, we considerably enhanced our information powers in all this. Where we have seen spikes in prices for non-Brexit reasons, we have been reasonably successful at then intervening in the market.

Q45 **Layla Moran:** We are prepared for that volatility.

Steve Oldfield: We are and, importantly, we are prepared from an information point of view. The NHS is routinely collecting large amounts of information about how much it is spending on medicines and the Department is routinely collecting lots of information, because, ultimately, we reimburse the pharmacists.

Q46 **Chair:** The real time flow is coming with real-time information.

Steve Oldfield: Yes, but the final point that Chris made about the powers is not an insignificant one. You may remember that it is only since July last year that we now have powers to intervene in the market. Where we see what we might consider to be inappropriate increases in price, we now have new powers that allow us to intervene, investigate and hopefully resolve a situation where a company or the supply chain, any part of the supply chain, may be deemed to be profiteering, to use a common term.

Q47 **Chair:** We will leave that there for now. We now need to move on to the issue of freight. Ms Kelly, I am sure this is what you dream of doing.

Bernadette Kelly: Yes, of course, always.

Chair: We will remind you that you came in front of us on 5 June and gave us some assurances about when the contracts would be signed and so on. I am going to ask Mr Snell to pick up and ask you about ferries.

Q48 **Gareth Snell:** Ms Kelly, the total number of additional HGVs per week necessary is 2,546. How many of those do you expect to be active and available on 31 October in the event of a no-deal Brexit?

Bernadette Kelly: As the NAO's report sets out, we currently have underway two call-off competitions. For one of them, we received bids yesterday. The bidding deadline closed. For the bids we received yesterday, we are looking to secure capacity for 31 October. I cannot give a precise estimate as to the exact amount of capacity that those contracts or that bidding process will result in, but we are confident on the basis of the market engagement we have had to date and the bids we have received that we should get a significant proportion, at least half of



that capacity, in play by 31 October. I am reluctant to be drawn on very detailed numbers because we still need to go through a bid evaluation and contracting process.

Q49 Gareth Snell: We will not go for very detailed numbers, but perhaps we can go for a little detail. As I understand the split in the procurement process, the expectation was that the first tranche that ended yesterday would deliver 1,273 potential import and export spaces by 31 October. Without giving me a specific number, are you confident that, with the outcome of that bidding process yesterday, you will meet at least that target?

Bernadette Kelly: I absolutely recognise that number from the NAO report, which split the two competitions effectively in half, the first of which is looking at existing capacity. The second will look at new capacity.

Gareth Davies: You are exactly right: the two contracts are 50/50. The first one is existing capacity, which will be delivered for the 31st. The second contract is neutral. In other words, it could be either existing or additional capacity. That could still be delivered on 31 October, although the weightings are slightly different because we wanted to make sure we were able to access part of the market we were not necessarily able to mobilise by 31 October. It is at least half and we are confident that a portion of the second tranche will also be available on or near to 31 October.

Q50 Gareth Snell: The market testing suggested that it might not be possible to have all the freight by 31 October. Without asking you to give me specific numbers, and if we presume the end of November as the deadline discussed in the NAO report for the full array, are we looking at a date nearer 31 October or a date nearer the end of November for when you expect to have all that HGV capacity identified and in place?

Gareth Davies: I feel that is a somewhat invidious question, since we are still in the middle of the evaluation. It really depends on how the market has responded to it. I worry about giving you false assurance one way or the other on that. On the basis of the market engagement and the quality of the bids to the framework, we had a very good response to the framework call. If you look at the routes we are looking to procure, the volumes were in the order of 10 times what we need to have. We feel it is good. I just feel cautious about giving you false assurance. As I say, the bids only closed yesterday and we have only just started the evaluation process. It critically depends on what we have.

Q51 Gareth Snell: Given we are talking about no-deal Brexit preparations, whether it is false or not, any assurance would be welcome. Are you able to give an assurance that, at least by the end of November, you will have found capacity, whether new or existing, for 2,546 transits?

Gareth Davies: Based on what I have seen to date and recognising we are at the early state of the evaluation, I am confident of that.



HOUSE OF COMMONS

Q52 Gareth Snell: The bulk of the additional capacity that is needed is coming from Sir Chris's Department. We will get to that in a second. If you are unable to meet the full set of demands by 31 October, there will be certain expectations from Government Departments that cannot be met by the capacity that is available. What is the process the Department for Transport will apply to say, "Actually, yours is not a priority this week because we need to get this in"? How are you having that conversation across Government?

Gareth Davies: There are a couple of things to touch on. One is the overall governance process and then the criteria we will set. The governance process is a cross-Whitehall process for freight capacity, which includes demand Departments, like DHSC, Defra, BEIS and others, including the Cabinet Office and Treasury, and obviously us and the devolved Administrations. In terms of how category 1 goods are defined, it is a cross-Government process. We do not do prioritisation within category 1. The only way in which we then essentially ration capacity, should that be needed, is on what we call a first come, first served basis. Effectively, it will be the demands in from the relevant Departments because we do not prioritise between category 1 goods. There are then other options we can use. Colleagues will talk about the different lines of defence they have on medicines. Within the freight capacity we maintain a buffer stock, so we will be retaining 10% of the overall capacity to be allocated on a week-by-week basis, with the agreement across Whitehall.

Sir Chris Wormald: Most of these questions will come our way because 91% of the goods is ours, so we will come on to that.

Q53 Gareth Snell: Mr Davies, that is very helpful. This is what I was trying to understand: if you end up on 30 October and you have met the 50% capacity, and have demand that exceeds that, somebody is going to lose out. If you are not prioritising inside category 1, how do you determine who loses out? While you may be a category 1 good, I would presume—although I am happy to be told I am wrong—there is a hierarchy inside category 1 and this is more important than this, whether it is a Defra product or a health product.

Bernadette Kelly: I do not think there is, but there is a 91%, as Chris says. It is very much a challenge for DHSC.

Sir Chris Wormald: Yes, and we will do it not particularly on the basis of absolute priority, although there is an element of that, which I will come to. We will do it on the basis of what our alternative arrangements for those drugs are. I should have said at the beginning that we agreed the NAO report. We thought it was a seriously good piece of work and it was slightly unique, in that it was done in real time, so it was useful to our planning of these things, so I ought to give credit to my friends. As it sets out, we have a multi-layered approach to medicines. In the end, we go through, line by line, every single medicine and work out what the right solution for that one is. Where we have medicines that are stockpiled, which is the vast majority, we do not need flow day one, for example. We



HOUSE OF COMMONS

will not be ranking by need. We will be ranking by alternative arrangements for the drugs in question.

Q54 **Gareth Snell:** I am going to cut you off, because we are going to come to that particular aspect.

Sir Chris Wormald: Yes, but it is relevant to your question.

Q55 **Gareth Snell:** It is. Sir Chris has done his internal exercise that looks at what may or may not be. There may come forward something that he says is absolutely desperately in need to come as part of that additional freight capacity. You have a Defra official come and see you who has done the very same internal ranking exercise, albeit a tiny proportion. Who makes the decision about what gets on that lorry? Is it the product the Department of Health needs or the product Defra might need, because obviously you cannot take both?

Bernadette Kelly: That goes to the overseeing of the capacity allocation. As Gareth says, it is principally because, in truth, there will be limited capacity in real time to make very fine judgments of this sort. The principal mechanism will be first come, first served, on the basis that the vast majority of requests will be coming through from DHSC in any event. There is a small amount of buffer capacity. Ultimately, this is a cross-Government process. If there were very urgent requests, we would look to the cross-Government governance to determine where choices needed to be made. It is not a decision the DfT would feel it was capable of making, given that we do not understand the nature of these goods or the supply chains.

Sir Chris Wormald: I am sure we would use the Cabinet committee structure that is in place to manage a no-deal Brexit. Given the gearing of the numbers between me and everybody else, we would expect to be able to resolve that at official level, but if you actually had to take a strategic decision I think it would be the XO committee.

Q56 **Gareth Snell:** You are not going to be the referee in the middle. That is good.

Bernadette Kelly: No, I do not think we can take that on.

Q57 **Gareth Snell:** In the event of a no-deal Brexit, we actually do not know what the arrangements would be either at the island of Ireland border or potentially at the border between France and the UK. What is included in your contract for this additional capacity for freight? Is there any training or additional help and support that drivers might need so they know how to traverse those borders and deal with whatever the customs arrangements might be? We do not know what those are yet and this could be a contract coming online in, as the Chair pointed out, 29 days.

Bernadette Kelly: This goes principally to our work on haulier readiness. From the DfT's perspective, one of the areas of no-deal preparation we have been particularly focused on is ensuring that as many road hauliers



as possible understand the documentation that will be required if we leave on 31 October without a deal. We have underway an extensive communications campaign to ensure as many road hauliers as possible understand what will be needed.

I can talk a little more, and I am sure Gareth can as well, about the nature of that. We have published a handbook in 11 or 12 languages because most hauliers working in the UK are not UK nationals; 85% of them are foreign nationals. We are currently setting up 100 pop-up sites around the UK, at truck stops, service stations and so forth, again with the intention of educating hauliers on what documentation may be required on 31 October if we leave without a deal. A lot of our work is very much focused on ensuring the road haulage industry is as prepared as it can be for the potential consequences of a no-deal Brexit on 31 October.

Sir Chris Wormald: I have one extra point as it is pertinent today. This is all about the UK-French border. This is all about bringing things through the short straits.

Bernadette Kelly: Yes, completely.

Sir Chris Wormald: It does not cover the Northern Irish land border. Very little medicine indeed goes across the Northern Irish land border, so that is not one of the things on our worry list.

Q58 **Gareth Snell:** No, but the UK is the provider of last resort for the Republic of Ireland for some of these things, so there would have to be some consideration.

Sir Chris Wormald: A percentage of the Republic of Ireland's drugs come across the short straits, across the UK, but they then go direct from the UK to Dublin mainly. They do not go to Northern Ireland and down. Likewise, Northern Ireland's drugs come direct from the UK. We do not have the Northern Irish land border question here. There are issues about how drugs get across the Irish Sea and all those things, but not across the border between the Republic and Northern Ireland. That is correct, is it not?

Steve Oldfield: That is correct. Northern Ireland officials estimate that only 2% of the drugs used in Northern Ireland come from the Republic.

Q59 **Sir Geoffrey Clifton-Brown:** I do not want to spread alarm, but it is well to ask the question, in the certainty that you have a good answer. If shortages occur, do you have a mechanism for how the medicine is going to be distributed around the country? What sort of notice do you think you could give to the GP or hospital, whatever it is, that they are going to face a shortage of X drug next week or whatever the case may be?

Sir Chris Wormald: Keith might like to explain this in more detail, but there is an existing system.



Sir Geoffrey Clifton-Brown: Yes, I guessed there would be.

Sir Chris Wormald: We use that when shortages occur for any reason, normally production reasons. There is a very tried and tested method of communicating with GPs and pharmacists. This would clearly have the potential to be bigger but, because of the multi-layered approach we have, we actually end up with quite a lot of warning. This is why we are taking action both to create a buffer stock and to fix the flow. The point of the buffer stock is to smooth any variabilities in flow that you get and ensure you have quite a lot of warning before you get to a shortage because you are running down your buffer stock at that time.

I could not give you a number of weeks. The system holds a number of weeks' supply in the supply chain in normal circumstances; I think you thought it was two to five.

Steve Oldfield: It is two to four weeks.

Chair: Then there is the six weeks.

Sir Chris Wormald: Then you have six weeks on top of that. We would be very closely monitoring the buffer stocks, so we ought to be able to see quite a long way in advance where we are running into problems. Then we ought to be able, therefore, to do something about it, including using our emergency channel, which I am sure we will come on to, for things that are not being supplied. Then we would have time to do what we normally do, in terms of activating protocols that we use with GPs and pharmacists when we are short of a particular drug. Do you want to describe what we do, Keith?

Professor Willett: When we are talking about shortages, the first thing is to recognise that the vast majority of shortages are managed upstream, in the Department. Of the, let us say, 100 medicines that might be short at any one time, literally less than a handful will reach the consciousness of either a GP or a patient. It may be worth it if Steve just explains what happens upstream, in terms of working with industry, and then I can pick up the number that filter down to require clinical input.

Steve Oldfield: The business-as-usual approach is that we become aware of a shortage or a risk of shortage from any of a number of sources. It might be a pharmacist. It might be a patient themselves who goes to collect their prescription, is told, "I do not have it" and contacts someone to make us aware of it. As soon as we are aware of the risk of a shortage, a whole series of investigations kicks off, usually starting with communication with the marketing authorisation holder to gather as much information as possible: how much is currently in the country, how much is available, if there are any underlying issues, the nature of the issues, the projected length of the potential disruption to supply, et cetera.

Based on that, a group of pharmacists look at the particular medicine, armed with that information, and start to work on any of a number of



potential mitigations. If it is a product where there are multiple suppliers of exactly the same product in the market, we look at the total amount of stock that is available from all the suppliers, not just the supplier that may have a problem. It may be—and this is a great example of what Keith just described—that a particular supplier that no stock whatsoever, but it only represents 10% of the total market for that product, in which case 90% of the market is still well. That supplier's shortage will never reach patients.

There is a series of escalating interventions that can then happen in order to avoid the situation where actual patients cannot get hold of their medicine. We call them the four tiers of escalation. By the end of tier 2, early tier 3, we are working very closely with the clinical response groups, the medicines clinical shortage groups, who are then evaluating whether further escalation may be necessary, involving at some point in the process even switching patients from one drug to another drug if there really is no supply available in the market. Maybe Keith can pick up that point.

Professor Willett: At that point, we put clinical advice into the system. The number that reach tier 3 is very small. The vast majority are met elsewhere. You made a comment about my title of strategic commander. That is because, for the purposes of dealing with a potential no-deal EU exit, we have enhanced the whole of that system and built it around the national incident response structure, which the NHS has used many times. It feeds into local authorities and, through local resilience fora, into the police and all the other emergency organisations. After 7/7, it was recognised that gold and silver were rather confusing terms. What was clearly needed was a strategic plan as well as a tactical delivery. I carry the strategic responsibility for doing that.

We have built the whole of the architecture of response, which means that if we get to the point where we need to inform general practitioners, or indeed the public or anybody else, with the organisation we have in emergency preparedness and national incident response, I am able to pull levers nationally that guarantee that information will go right down to doctors, hospital pharmacists, community pharmacists, wherever it needs to go. We have that system. As of this month, all GP practices are required to register with what we call the CAS alert system, which informs them if there are any medicine shortages.

We did not want to do anything different. This applies not just to the shortage of medicines. This applies to the whole of the NHS, whether we are talking about vaccines, workforce or anything in the NHS that may relate to EU exit. We have taken our normal architecture that deals with incidents and enhanced it alongside that process so we can respond to whatever we may have to.

Q60 Layla Moran: This is raising something that has come into my constituency surgery. Some patients contact me saying they cannot get



HOUSE OF COMMONS

hold of medicines now and they were told by their pharmacist, they say, that this was because certain suppliers are holding some stock back to meet the six-week demand. Have you heard of this?

Steve Oldfield: No. I have absolutely no evidence of any cases where a supplier is holding stock back in the context of the buffer stock build for Brexit, none whatsoever.

Layla Moran: If it is happening it is not reaching you.

Q61 **Chair:** The buffer stock is completely separate in your mind and in experience.

Steve Oldfield: Physically, it will not be held separately.

Q62 **Chair:** I mean the buffer stock is there regardless and the supply issue is a separate issue.

Steve Oldfield: I think Ms Moran is suggesting that some companies are meeting their buffer stock requirements by not selling their ordinary stock. I have not heard of any cases of that.

Professor Willett: I was just going to explain that shortages occur and occur regularly, and have done for many years. That is something we manage, but there are many reasons for shortages. At the moment, we do not recognise EU exit as a cause for any of the medicines that we are concerned about. It is much more likely to be raw materials, production line failures, quality batch issues or packaging failures.

Chair: We have looked at those in detail in this Committee before.

Layla Moran: To quickly follow up on that point, there is no evidence at all that shortages in general are increasing as a potential side effect of these preparations.

Chair: I think we have heard that loud and clear now.

Q63 **Gareth Snell:** Can I go back to you, Ms Kelly, on freight for a couple more moments? To pick up on your point about readiness of the road haulage industry and the work the Department has done there, can I draw your attention to paragraph 2.26 in the NAO's report at page 28? It says that the estimate in June was that between 50% and 85% of HGVs using the short channel crossing may not be ready for the new French customs procedures. That is quite a wide range. Are you able to give a narrowing of that range, or even a single figure?

Bernadette Kelly: Our range is actually still quite similar to that. We estimate readiness to be at 15% to 50%, which is another way of looking at that number. I am afraid I cannot give you a validated updated number for that.

Q64 **Gareth Snell:** Does it worry the Department that as many as 85% of the people going over that particular border may not be aware of the new customs arrangements?



Bernadette Kelly: Absolutely, it clearly does. It is why we are putting enormous focus into communication with the road haulage industry, both through trade associations and at an individual level, to give it every possible opportunity to understand what it needs to do to prepare. That activity has stepped up enormously in recent weeks. I have talked about the pop-ups. I think we now have more than 80 of those set up, as of this week, to provide advice and guidance to hauliers. I think we will be stepping those communications up further still in the weeks ahead if there is still a possibility of exit on 31 October.

Gareth Davies: In terms of the estimates, it is a large range. As you know, by the nature of the haulage industry, there are 40,000 hauliers, which are often one-man bands. Most of the effort in the Department now, where I am focusing my time, is on getting as many people ready, rather than trying to increase the accuracy of potential estimates. The effort is really focused on reaching out to the haulage industry, working with people like the haulage associations and trade associations. We have events this week, for example, at the RHA conference in Birmingham. We have the pop-up locations, as the Permanent Secretary set out. I think they are live now in over 40 locations, 80 by the end of this week, in places like Cobham. We have the hauliers' guidebook, which is in 11 languages.

Q65 **Chair:** On the pop-up support, you talked about truck stops. If you are driving down the M1 or the A1 and there is a truck stop, there might be one of your civil servants in a tent.

Bernadette Kelly: It might well be. This is a contracted service.

Q66 **Chair:** There might well be a pop-up site. Is it a little tent in a layby?

Bernadette Kelly: They are two-person pop-up sites, where advice and guidance is provided in a range of languages.

Sir Chris Wormald: That number is across the economy, so not necessarily people who would be using this service. We do a lot of bespoke stuff with the pharmaceutical industry, which Steve does, where we generally have much higher levels of awareness, as you would expect.

Q67 **Gareth Snell:** You have pre-empted my next question, which is on the hauliers you intend to engage for the purpose of this contract, and the suppliers of the freight capacity on the short straits, whether that be through the ferries or the tunnel. Are you working with them, so they can also work with the hauliers to help reduce any confusion at the ports and at the terminals with the customs arrangements?

Steve Oldfield: As you can imagine, this is a big task. We have little concern about the very large hauliers that represent the largest of firms, because we have engaged with them. We know they have invested a lot of time and effort in ensuring they know what it is going to take to get across the border. Our concern is that we reach the very, very smallest of hauliers representing the very smallest of companies.



If I can share a few figures from our ongoing survey—and I keep insisting that this is a live process; we gather information all the time—at the moment, about a fifth of companies we have engaged with are saying they do not yet have all the information they need in order to get themselves ready. About another 15% have all the information but they have not finalised their plans. Then the rest all have the information, and have either got themselves ready or have evidence that the third-party logistics company they are relying on has got itself ready. It is an emerging picture, but as you can see those numbers are rather higher than the broader picture that is being presented.

Q68 Gareth Snell: No, actually, they are not, Mr Oldfield. You are saying that 75% would not be relevant.

Steve Oldfield: I am saying about 35% will be at a lower level of preparedness. About 20%, a fifth, do not yet have all the information to feel confident that they can be ready, and 13%, to be precise, are suggesting they have all the information but their plans are still emerging.

Q69 Gareth Snell: I am not going to argue figures with you, but the global figure is that between 15% and 50% may be ready. You say that you have 35%. Last time I checked, 35% is somewhere between 15% and 50%.

Sir Chris Wormald: No, it is the other way round: 67% will be ready.

Steve Oldfield: That is probably understandable, given the huge amount of time and effort that, as a sector, we have invested in engaging with both suppliers and their representatives, involving them, frankly since last year, in workshops to figure out what it is going to take to be ready. We have run webinars. We ran a webinar recently and had in excess of 600 companies join a single webinar, on which we brought in experts from the Department for Transport and HMRC to provide advice. As we speak, at the moment we are in the process of standing up a dedicated trader readiness unit, a small unit within the Department that is going to be able to signpost companies to the parts of Government that they need to interact with in order to get the information they need.

Q70 Gareth Snell: The 35% that are not going to be ready—

Steve Oldfield: Sorry, I really must correct you. I am not suggesting they are not going to be ready.

Q71 Gareth Snell: They are not ready now.

Steve Oldfield: On the basis of the information we have at the moment, they are at a lower level of readiness.

Q72 Gareth Snell: Let me finish my question. With the 35% that are not ready, what are you doing to make sure they will be ready by 30 October?



Steve Oldfield: It is all the things I have just mentioned, in particular the most recent efforts to establish a small group of people who can interact with companies on a bespoke basis.

Q73 **Gareth Snell:** Okay, but we are talking about having something that is ready in 29 days. What are you doing to monitor the progress of that on a daily, live basis? What progress are you seeing, within that subset that either do not have enough information and therefore are not ready, or do have the information but are not ready, to make sure that by 31 October you have as many people ready as possible to deal with the new customs arrangements at the port?

Steve Oldfield: That will be one of the great benefits of having a small group of people dedicated to doing this work. I must just say that the broader Government efforts on this have been radically stepped up over the last few weeks, as you will have seen on TV, in newspapers and so on. This information is being provided at a time when even the companies that previously had not really understood the scale of the task, or whatever, are now finding it more and more difficult to avoid being aware of the fact that they need to do something. We want to not just rely on the broader Government efforts, which are already quite substantial, as you have seen reported in the press, but create our own sell for our own sector. We feel that all sectors should be taking these kinds of steps, to ensure they are ready.

Q74 **Gareth Snell:** Ms Kelly, why is the Department for Transport not doing everything that Mr Oldfield is doing in the Department of Health?

Bernadette Kelly: We are doing very much the same activities.

Q75 **Gareth Snell:** Is there duplication?

Bernadette Kelly: No. There is a lot of communication going on. It is all complementary. It is important that we use all our communication channels at this point in time, when we are trying to ensure that preparedness is as good as it can be. We are working very closely, as Steve has indicated, in terms of his efforts to reach out to his sector. We, in DfT, are focusing on road hauliers in general, and ensuring that we are getting messages across to road hauliers economy-wide about what they need to do to prepare. All the communication and all the work is entirely complementary, and duplication is not the issue here.

Steve Oldfield: As I have indicated, for the webinar that we ran, we were the facilitators of the webinar. We have the contacts with the companies in our sector, but the providers of all the expertise and information were other Government Departments that hold that information.

Q76 **Gareth Snell:** I want to move on slightly. As has been established, every day is important in this process. Every day is a day closer to potentially leaving with no deal on 31 October. Could I ask you, Ms Kelly, why it was that the procurement process started 19 days later than was estimated?



HOUSE OF COMMONS

Was there something internally that prevented this going as quickly as possible?

Bernadette Kelly: The work on this procurement probably started back in June, in fact, about the same time as I appeared before this Committee to talk about what would happen in relation to potential procurement for freight capacity for 31 October. Around the end of June, the Government set out in a written ministerial statement the procurement process that they intended to adopt. This is the framework process that we have now been operating, followed by call-off competitions to contract for capacity.

As for the 19-day delay, it is probably fair to say that, through June and July, which was the time of the Conservative leadership election, there was rather more reluctance than might otherwise have been the case for Ministers to take firm decisions about no-deal planning when they were anticipating a new Government being appointed very soon. The consideration was that some decisions were more appropriately taken by new Ministers.

Q77 **Chair:** Was this a decision by Ministers or by civil servants?

Bernadette Kelly: This was a decision by Ministers.

Q78 **Chair:** They were not confident that they would be in position, for example, so they wanted to leave it.

Bernadette Kelly: As we got closer to the point of being in a new administration, understandably, the reluctance to commit to very firm decisions grew. I should say, from an official's perspective, we were always very conscious of the need to ensure that the procurement was proceeding at pace. That is why the very first piece of advice the new Secretary of State received in the Department for Transport was advice that we should proceed immediately to publish an invitation to tender, and he took that decision. It appeared on the OJEU immediately afterwards.

Q79 **Chair:** Did you at any point consider pushing through the decision before the new Secretary of State was appointed? Were you getting worried?

Bernadette Kelly: We are all conscious of the compression to the timeframe, and our recent experience would lead me to worry about compression to timeframes. Equally, we can advise Ministers, and Ministers take decisions about what they consider appropriate. We feel we have been able to reset this, through the two mini-competitions that we are now holding, and by putting some pressure on the mobilisation timeframe. We think we now have a process that will, as we discussed earlier, secure significant capacity by 31 October.

Q80 **Gareth Snell:** The mobilisation timeframe has been cut by two weeks, has it not? Is that correct?



HOUSE OF COMMONS

Bernadette Kelly: In a sense, that is where we have sought to make the time up. We are allowing less mobilisation time, and that is why the first competition is very much focused on existing capacity, where we would expect bidders to be able to mobilise quickly.

Q81 **Gareth Snell:** You are going to be announcing the results of that competition on 12 October.

Bernadette Kelly: As the NAO report indicates, the current plan is that we expect to contract on 12 October.

Q82 **Gareth Snell:** You are not expecting any delays to that date.

Bernadette Kelly: We are working towards that date at the moment, and nothing we have seen thus far leads us to think it should not be achievable.

Q83 **Gareth Snell:** That would give less than three weeks for successful bidders to properly be up and running on 31 October. I appreciate there is a reliance on existing capacity. Is the Department confident, without going into the details of the bids you have received, that three weeks is enough time, even if they are using existing capacity, to have all the ducks lined up facing the right way?

Bernadette Kelly: It is unquestionably tight; that is true. Equally, what we have had the benefit of in this procurement, and the way we have carried the procurement out, means that there has been very extensive market engagement throughout the process, and that gives us more confidence that bidders now, for this first competition, will be bidding on the expectation that they can meet the 31 October date.

Gareth Davies: I would make two points. First, the extent of market engagement and the feedback we got from that market engagement process give us confidence in the mobilisation window around existing capacity. Secondly, this is obviously the second time round. The market was aware of the type of capacity we were looking for. Even if they did not have the details of the particular contracts, they knew the sort of structures, processes and timelines we would be looking for, so the feedback we have had from that gives us confidence in terms of mobilisation.

Q84 **Gareth Snell:** Could I ask you both when you expect to be able to hand over to Sir Chris a list of new priority freight routes, new sailing timetables, the whole shebang that allows him to go and talk to the suppliers so that they can reorganise themselves?

Bernadette Kelly: The expectation is that, if we meet the 12 October deadline for contracting, which we would hope to, DHSC will be able to move very quickly into ticketing and making that capacity available to its supply chain. It is not quite handing over. The way this operation works in practice is that we will be running a prioritisation operation centre to



HOUSE OF COMMONS

ensure and oversee the overall contracts, and DHSC will be working with its supply chain to ensure its category 1 goods have access to capacity.

- Q85 Gareth Snell:** Sir Chris, the 12 October comes around and the DfT signs a series of contracts with a number of suppliers for new routes. How quickly can you get that information out to your suppliers to tell them the new sailing timetables and new freight routes, and how much time have they told you they need to reorganise their own internal supply mechanisms to be able to match up with the timetables?

Steve Oldfield: The answer to your first question is that it would go out instantly. We have well-documented contacts in all the suppliers, whether they be medical devices or medicines, so as soon as the information is available it will go instantly. As you can imagine, a lot of preparatory work is being done in parallel. We are working hand in hand with the Department for Transport on the setup of the operations centre, on the information that we believe suppliers are going to need in order to then act upon the route information. We believe that the combination of preparing the ground in parallel and instant information transfer, once we have that information about the routes, capacities and so on, will allow suppliers a good opportunity to get themselves ready.

Gareth Snell: A good opportunity—

Steve Oldfield: Everybody will be doing everything they need to do to be able to access the routes and take advantage of the routes.

Gareth Snell: Has the Department factored in any suppliers coming back and saying, “We can still supply you, but if you want a middle of the night pickup rather than the normal time of day there will be an additional cost for that”. Have you factored in contingencies for suppliers wanting compensation for reorganising their normal supply arrangements in order to meet the sailing timetables, freight routes and various other things that are being asked of them?

Steve Oldfield: To be clear, the middle of the night pickups would be from where?

- Q86 Gareth Snell:** If suppliers are having to reorganise their supply arrangements in order to meet the sailing timetables, and if we are talking about using existing capacity on ships that are maybe sailing later into the evening or earlier in the morning than the normal time, there is potentially an impact on when the HGV will pick up that series of goods. If your supplier has to change the way it is operating to better match up with the availability of HGVs and sailing times, it might come back to you and say, “We can still do this, but there is an additional cost burden on us, which we wish to pass on”.

Steve Oldfield: I refer back to the previous answer I gave to Ms Moran about the way that pricing and cost in the market functions. In the short term, the vast majority of the market is covered by either regulatory mechanisms on pricing or competition-based controls on pricing.



HOUSE OF COMMONS

Q87 **Chair:** Are you saying the companies will have to absorb these extra costs?

Steve Oldfield: In the short term, yes, the companies would have to absorb all that. I should also say that the vast majority of these companies are using large, well-recognised and very experienced third-party logistics and haulage companies, which are very, very used to moving things around from place to place at short notice and changing some of their plans.

Q88 **Gareth Snell:** Could I talk about the ports very briefly, Ms Kelly? On the infrastructure around the ports, I know some of my colleagues who represent seats with ports in them are very grateful for this extra investment and looking forward to seeing it come online. Given that the 31 October date for leaving the European Union was known very early on after the initial extension in March, why was it not until the end of August that the Department started releasing money for some of the port infrastructure improvements?

Bernadette Kelly: It was a decision of the new Administration that they wanted to offer further ports resilience funding as part of the overall package of measures being taken to support no-deal preparations. We were able to act quickly on the back of that to announce a £30 million fund, and now £10 million of that has been allocated to some of the key ports, as well as £5 million to some of the key local resilience fora. This was simply a judgment taken by the new Government, something that they wanted to do, funding that they wanted to make available, and we have moved as quickly as possible to ensure that money is being channelled to ports and resilience fora.

Q89 **Gareth Snell:** In terms of the difference between readiness for potentially leaving the EU back on 29 March, which feels like a lifetime ago now, and on 31 October, is it the case that those ports simply would not have been able to cope back in March; is this additional investment in October because new information has come to light about being properly prepared for no deal; or is this an opportunity to invest in some port areas under the guise of Brexit, regardless?

Bernadette Kelly: It is additional resilience funding. It does not follow that none of these ports would have been able to manage on 31 March, but the Government have decided to provide some additional funding to assist them and ensure they are doing everything they can to prepare their own capacity and resilience to deal with this. I do not know if there is more to say than that.

Q90 **Chair:** Can I ask whether that £30 million came directly from the Treasury, not from your reserves?

Bernadette Kelly: The £30 million has been part of Treasury funding. It is new money.

Q91 **Chair:** It is direct new money.



Bernadette Kelly: Yes. I should say we see value in this funding regardless of what happens on 31 October. One of the interesting side effects of Brexit is that it has shone a light on ports resilience more generally, and whether there is an argument for doing more to support the industry in ensuring that our ports are as well prepared for any eventuality as possible. From a Department for Transport perspective, we see some wider benefits from these investments.

Q92 **Chair:** It was very short-notice money arriving to be spent very quickly. Perhaps you can point us to where we can see the criteria, because I did not look it up before this hearing, for those ports to bid. Did you decide, or did they bid for it?

Gareth Davies: To confirm, this was new money. This was part of the £2.1 billion that was announced by the Treasury in July, so this is additional funding to the Department. In terms of the criteria, I do not have the full list in front of me, but some of the criteria included the readiness of the projects, in other words whether these projects could credibly be implemented in time for 31 October, including the impact that would have on flow rates and resilience. The individual ports would bid in, and then there was a normal procurement process with a criteria-based assessment. We can set out the full set of criteria in writing if that would be helpful.

Q93 **Chair:** So some ports failed in that.

Gareth Davies: Yes, exactly. To come back, Mr Snell, to your question about the ports being ready or not, the way we are looking at it in the Department is less about being ready or not, and more about how we can improve their flow rates. If you look at somewhere like Dover, the critical question is less whether they are ready; it is how we can maximise their flow rates. We look at it as a percentage of the flow rates you would have expected to have in November last year.

Q94 **Gareth Snell:** Given that the August to October window was quite small, and therefore you had to go for shovel-ready projects, was there any concern in the Department that you would be funding projects that, although they are shovel ready, are not necessarily best value for money in terms of meeting the flow improvements for HGVs in the event of a no-deal Brexit?

Bernadette Kelly: That is the purpose of the evaluation procedure. We would want to ensure that any money being invested was a good use of taxpayer's money, and we would set up the competition and the evaluation criteria to enable us to make a sensible set of judgments about whether the projects met those criteria. I should say that half of the £30 million ports resilience funding is being used to support longer-term projects. We are trying to strike a balance between the things that can be done immediately to support flow and the sorts of investments that might make more sense over a slightly longer timeframe.



HOUSE OF COMMONS

Q95 Gareth Snell: Do you happen to know the total value of all the bids received from the ports?

Bernadette Kelly: I do not.

Gareth Snell: Are we talking around £15 million or considerably larger multiples of that?

Bernadette Kelly: I do not think I have that number.

Gareth Davies: I do not have it to hand, but I do not think it was orders of magnitude different from what we were able to award. Because of the way in which we structured the criteria, there had to be the shovel-ready test.

Q96 Gareth Snell: If I were Dover Council and suddenly there was local resilience forum money, I would want every bit of road that I could possibly squeeze in, to get some money out of it, and I am sure that some clever councils were able to get some other projects done.

Can I turn to you, Sir Chris, and talk about your Department's process for the contingency arrangements for where individual suppliers' own arrangements fail? I understand that you have a separate piece of work that should come on-stream ready for 1 November that will allow suppliers whose own arrangements do not meet the requirement to tap into your system?

Sir Chris Wormald: That is one of the purposes. As set out in the National Audit Office report—and I will ask Steve to add some more detail—we basically have an emergency channel for goods that you need at very short notice anyway, or where we have an urgent operational need for something and the rest that our system has not delivered it. That is being contracted for separately, and that is a specific health system. It is basically a courier service.

Q97 Gareth Snell: You are going to have the contract signed on 8 October.

Sir Chris Wormald: They are on track for that.

Steve Oldfield: Yes, they are on track. We should be in a position to award the contract later this week or at the beginning of next week.

Q98 Gareth Snell: Paragraph 2.24 in the NAO report, on page 28, says that you ended the bid process for that on 21 August, and you were looking to sign the contract from 8 October. That is quite a long period of time for a courier service, when Ms Kelly's Department has been able to potentially find thousands of HGV slots from a bidding process that ended yesterday and will be signed off next week. What was the delay in signing off those contracts? Why was there such a long window?

Steve Oldfield: There was not a fixed window. The difference is to some extent the complexity rather than the size of the contracts. The type of service that was being contracted had very specific conditions around it. The procurement has been run under three separate lots, one for a cubic



HOUSE OF COMMONS

meterage of small parcels, one for a number of pallets that would take two to four days, and one for a broader catch-all called "specials", which could be anything from special conditions of carriage through to special handling, temperature control, et cetera. The complexity of the ability of the people bidding for those contracts to deliver each of those services was quite extensive, so it has taken some time to clarify the bids, confirm the bids and get to the point where we have almost been able to award them.

Q99 Gareth Snell: You are going to award those on 8 October. Paragraph 2.24 says the services are to be in place for testing by 24 October.

Steve Oldfield: Yes, the language is not quite right there. The intention is that they are ready to go live on 24 October, so the testing will happen between the award of the contracts and 24 October. Apologies, we did not pick up on that.

Q100 Gareth Snell: You have a few more extra days now, but presuming one of your tests comes back, and there is a problem or an issue, what resource is available in the Department to remedy that? You are talking about potentially quite complex logistical arrangements for which there presumably is not necessarily a quick fix available. If a test flags a problem, what is available in the Department to try to remedy that before 1 November?

Steve Oldfield: By their very nature, the channels that we are trying to put in place are infinitely flexible, especially lot 3, which we have termed the "specials" lot. It foresees a whole range of situations. The idea is that that lot in particular has the ability to pick something up at a point of departure and deliver it at a point of need, for example picking a parcel up in Gdansk and delivering it to a hospital in Bedford. By their nature, they are very flexible resources that we are procuring.

Sir Chris Wormald: We have tried to build the contingency into the whole contract, so you try to deliver things through lots 1 and 2, and then you effectively have a backstop.

Q101 Gareth Snell: Do you have an alternative arrangement to the backstop, just in case?

Sir Chris Wormald: You get half way through a word. You know what I mean. This is the approach we tried to take throughout what we have been doing. We built contingency into the individual elements of the plan, and then each element of the plan acts as a contingency to the other element of the plan. We have tended to put contingencies like that into the contract structure.

Q102 Gareth Snell: I suppose more for my own curiosity, a huge piece of work has been done by the DHSC for very specific arrangements, and a huge piece of work by the Department for Transport. Was there a reason why these two things were separated and there was not a particular transport and logistical element for all Departments done by the Department for



HOUSE OF COMMONS

Transport, as opposed to allowing individual Departments to look at their own internal arrangements?

Bernadette Kelly: Coming back to complementary activities, we determined back in June that, as for the previous procurement, the DfT would take on responsibility, for the whole of Government, for the procurement of freight capacity for category 1 goods across Government. That is obviously the particular piece of activity that has been led by my Department, but on behalf of the whole of Government. It just happens that DHSC is by far the biggest customer for that capacity.

Sir Chris Wormald: We also have the most specialised needs, for the reasons Steve gave: temperature controls and security. Entirely practically, because we are dealing with some of the most regulated things in any market, we know where they are made, who made them, how they get to their end user and who the end user is. Across most sectors of the economy, while you could at individual company level, at Government level you could not do the kind of analysis we can do on the drugs market, because all the data we use comes out of our regulatory system. There are some things you have to do for the whole of Government, and some things we can do for our very specialist requirements, because of the nature of the information we either hold or can reasonably easily acquire, particularly about the drugs and medicines element.

Q103 **Gareth Snell:** The last question from me relates to paragraph 2.19 of the report, on page 27, in particular where the Ministry of Defence may fit in. I appreciate there always has to be a contingency to the contingency, and in this case it is the MoD. I was wondering, realistically, how likely it is that the MoD may be needed. If it is needed, all I want to be clear about is the chain of command, almost, so you are not going to suddenly deploy military equipment through the Department for Transport. What are the triggers that allow you to activate it?

Chair: You are Rear Admiral Kelly from now.

Bernadette Kelly: You never know. It could be quite an attractive proposition.

Gareth Snell: We have a commander.

Bernadette Kelly: We are working closely with the MoD at the moment to see if one of its vessels can be secured as a further contingency to the contingency. That work is ongoing at the moment. We expect XO to take some decisions about how we progress with that, I believe, tomorrow. There is a realistic prospect that a vessel could be available from 31 October. There are some modifications needed, but not ones that would be impossible to do for that timeframe. I suspect the commercial arrangements we are making will be the more plausible route for securing the capacity we need, but we are continuing to take forward that MoD option as a further backup to our plans.



HOUSE OF COMMONS

Q104 **Gareth Snell:** This is genuinely the last question. When the MoD was drafted in to help the Home Office do border patrol, there was a very public disagreement between the then-Defence Secretary and the then-Home Secretary about who was going to pay for that. If you get to a point where you are drafting in an MoD vessel, presumably with service personnel crewing that vessel, has there been any discussion about who bears the liability for that cost or even just the holding costs?

Bernadette Kelly: The plan includes consideration of what the costs are. There would be costs associated with modifying the vessel. There would be backfilling type costs for the MoD, and then there would be a cost for actually operating it. We are working through all that at the moment. I would hope a sensible cross-Government agreement would be reached about how those costs were to be met, without the need for any public disagreement.

Gareth Snell: So would we, but you know.

Q105 **Chair:** So the roads programme will not be slashed to pay for the MoD vessel.

Bernadette Kelly: I would hope that the roads programme will not be the source of funding for a MoD vessel.

Q106 **Chair:** I think you are tempted by the rear admiral position. In this current climate, who can tell? A lot of money is going into all this, particularly the specialist courier freight for the NHS, some of which may not happen. We do not know what will happen between now and 31 October. We understand the Prime Minister has just announced new plans for a deal. We will see what that means when we leave this room. What if we do not leave with no deal on 31 October? Will any of the money that has been spent on this actually be useful for day-to-day business, particularly in the Department of Health and Social Care?

Steve Oldfield: I can talk to the dedicated health channel. For example, the way we have structured the bids and contracts this time around, as far as is possible within a commercial bidding environment, builds in some degree of protections for early termination, non-utilisation, et cetera. I suspect that the Department for Transport is very familiar with this kind of bidding process.

Q107 **Chair:** Bernadette Kelly, we had this last time. It will be Groundhog Day in the Department. If that is not used after 31 October, will you have to pay off the contracts again?

Bernadette Kelly: Again, we will be doing exactly the same as Steve, in that we will be looking at the bids and awarding contracts with a view to setting termination cost arrangements in place.

Q108 **Chair:** There will be a cost, but you are trying to cap it.

Bernadette Kelly: We are, absolutely. Much depends, as ever in these circumstances, on when decisions are then taken about whether that



HOUSE OF COMMONS

capacity is needed, but from a taxpayer's point of view we will try to get the best possible arrangements that ensure we can claw back money if contracts are terminated early.

Q109 Chair: We questioned you a lot on the legal risks last time. It cost a lot of money with Eurotunnel; another court action is still underway. Clearly there were lots of lessons learnt there, and I know it was at great pace last time, but it has been quite rapid this time. Are you confident that there will be no legal challenge to the decision-making process in the letting of contracts?

Bernadette Kelly: We have constructed a very different framework process. We are not relying on the procurement exceptional circumstances that we did last time. We are therefore much more confident that our process is legally robust, and clearly we have designed it and run it to ensure that it is as robust as possible. All procurements are legally sensitive, so I cannot tell you that no challenge will happen. That is always a risk with any commercial procurement but, as I say, we have learned lessons very thoroughly from last time and done everything we can to ensure our legal exposure is minimised.

Q110 Chair: You have the framework contract. Were there many more suppliers that bid to go on the framework contract for the ferries that did not get on to the framework?

Bernadette Kelly: We had eight on the framework. We had a significantly larger number that were initially interested in being part of the framework, so that was quite a substantially smaller number.

Q111 Chair: Of the eight companies, how many actually own ferries?

Bernadette Kelly: We have one that is an air charter services company, so I am guessing it does not. The others are established operators: Brittany Ferries, DFDS, Irish Ferries, P&O, Seatruck, Stena Line, and we have Channel Tunnel Group in there as well. These are established operators.

Q112 Chair: We noticed that Channel Tunnel Group was in the list. Given the whole point of this is to avoid the short straits, what does the Channel Tunnel Group offer in addition to what it already does?

Bernadette Kelly: The framework is a four-year framework contract, and the idea is that we could draw off capacity at any time in that timeframe to deal with a wide range of disruption. Remember, we have seen disruption across the short straits before, for reasons wholly unconnected with Brexit. This is a broader framework agreement on which we can draw down.

Q113 Chair: In a way, it is a hedging, an insurance, against a ferry problem.

Bernadette Kelly: Yes, indeed. It is a broader framework to deal with a broader range of resilience issues.



Q114 **Chair:** It is possible that that might not be drawn down.

Bernadette Kelly: In the course, we would exclude the ports that we think to be at the highest risk of disruption, because clearly there is not much point in procuring capacity in the areas where we think there is most likely to be disruption.

Q115 **Chair:** I want to move on to the social care sector, Sir Chris, because we are quite concerned about this. You have your own NHS supply chain, and Mr Oldfield has described that, around medicines in particular. You have your own NHS supply chain for clinical consumables, but the social care sector does not have that same supply chain. You have stockpiles in the NHS. There is not a similar approach to social care. Quite simply, why?

Sir Chris Wormald: That is not quite right. We have applied exactly the same principles to both health and care, and indeed they draw on a number of the same arrangements. Our medicine stockpiles and arrangements, as you would expect, apply regardless of sector, and ditto medical consumables. We also deal with big suppliers across the health and care sector. We have 189 big strategic suppliers on our list.

Q116 **Chair:** What percentage do the 189 suppliers provide?

Steve Oldfield: The 189 key suppliers provide 80% of the total medical devices.

Chair: Yes, it is the report. Forgive me.

Sir Chris Wormald: Of those suppliers, 31% were suppliers suggested by the care sector. The issue is exactly as set out in the NAO report. We do not cover, for either health or care, locally supplied consumables of any type. The difference is that the care sector, because of the way it is structured, as set out in the report, has a lot more on the local supply side than the health service does, but if a hospital is sourcing something locally, or something outside our supply chain, we have said—Keith in particular—to hospitals, “That is your job to sort out, looking at your contract”. There is not a difference in principle about what we have done. What is different is how it plays out in the sector.

As you know, our links into the care sector are of a completely different type to health, and therefore we work much more through intermediary bodies, particularly local government and the CPA, the Care Provider Alliance. We work mainly through those groups, although we have given advice to everyone in the care sector on the steps they should take. Our way of monitoring and dealing with them is much more through our local government networks.

Q117 **Chair:** Yes, because it is quite a diffuse sector.

Sir Chris Wormald: It is very diffuse.

Q118 **Chair:** There are lots single operators.



HOUSE OF COMMONS

Sir Chris Wormald: Yes, lots of single operators, lots of SMEs and lots more people whose supply chain is much more local, where, with the best will in the world, we cannot track it. We do not have the information.

Q119 **Chair:** Practically, if you have a small care home run by one person, how can you persuade us that you understand its level of readiness? I suppose local government has a better chance of knowing its own area.

Sir Chris Wormald: I am not going to claim that the Department understands those things. As you say, local government has a much better chance, and is the contracting agent for the publicly funded element of this. We have regular contact with and surveys of Adass, the social care leadership, about its levels of confidence, which are quite high. That said, and this is key, across both the NHS and the care sector, contingency arrangements involve a chunk of "prevent", which is largely what we have discussed so far, and a chunk of "respond", which we might come on to, particularly some of the things that Keith and Steve do. Undoubtedly, dealing with the care sector, the balance will be a lot more on the "respond" part.

Q120 **Chair:** Let us say the local area runs out of continence pads, syringes, whatever it may be.

Sir Chris Wormald: Those will be covered. Those are covered by our general arrangement, because they are medical consumables.

Q121 **Chair:** They would come under the NHS supply. They count as medical.

Sir Chris Wormald: Yes, and those are the kinds of things we have covered in stockpiles. That will be the same for a care home as a hospital.

Q122 **Chair:** Okay, I was not quite getting that from reading the report. The care homes can tap into the NHS supply if the patient gets them through the NHS.

Sir Chris Wormald: Yes, and we have told people not to stockpile in exactly the same way as we have told everyone else not to stockpile, because we are covering that.

Chair: That covers everything from gloves and stuff for carers.

Sir Chris Wormald: The two burdens, which the NAO has correctly identified, are in the non-medical consumables that are still important to the running of the place. Mattress protectors would be an example. They are not as day-to-day urgent as running out of syringes, but they are still important. That is where we are building the system to respond. Where we see problems in those areas, the care sector needs to know where to go to get help. It would first be the suppliers themselves, then the local authority and the local resilience forums, and then the escalation up to the national level of our response system. Basically, we have advised people in these areas to build a longer lead time for when they are reordering stuff.



HOUSE OF COMMONS

Q123 **Chair:** Right, so you could be bringing those in on the extra freight capacity. You could use some of that capacity.

Sir Chris Wormald: Yes, we are able to do those sorts of things, but the National Audit Office has got this completely right. We cannot manage the care sector in the way that we manage the NHS, and therefore we have to be much more ready to respond to problems as they emerge.

Q124 **Chair:** Do care homes know, and are you confident that as many as possible out of the 24,000 know, what the NHS could supply them, what is a medical consumable and what is a non-medical consumable?

Sir Chris Wormald: Yes, we have communicated directly with all registered care providers. Their first port of call ought to be local authorities and local resilience forums, and then it comes up to us.

Q125 **Chair:** But they know that they can get certain things through the NHS.

Steve Oldfield: To add some precision, we are talking about the NHS as a kind of catch-all. The market for medical devices and clinical consumables is not only supplied by the NHS. There are intermediaries, wholesalers and private companies that supply directly to the care sector.

Q126 **Chair:** But, in crisis, if they run out, because there is probably a problem in the private supply chain, are they aware they can come to the NHS?

Steve Oldfield: Anyone can have an account with the NHS supply chain. If they have an account with the NHS supply chain, they can access product through the NHS supply chain, in the same way, however, that they can access product through any private provider or, indeed, through a wholesaler that consolidates products from a number of suppliers.

The point I wanted to make, to try to give some reassurance, is that, because of that proliferation of the sector, we have worked further back up the supply chain at the supplier level, for medicines, medical devices and clinical consumables. In a way, we have assured the market at the supplier level almost independently of the final destination of the product. We feel it is a more robust point to provide the assurance at the place where the products are manufactured and sold, rather than looking at it from an end-user perspective.

That said, the surveys we have done, both in trusts and in the social care sector, have allowed us to identify, from the bottom-up angle, the critical products that are used and the critical suppliers. That is where, as Chris has said, the 31 most important suppliers in the care sector are inherently part of our list of 189 core suppliers for medical devices in total.

Sir Chris Wormald: The thing that might go wrong will be the care home that is used to just going down to the local shop and buying its next product. They should be doing what they do when they normally have a problem: ring the local authority or the local resilience forum. It is



HOUSE OF COMMONS

that layer: they need to know where they then go to get help. That is our absolute key layer.

Q127 **Chair:** Do they?

Sir Chris Wormald: Yes. We are working very closely with Adass and others.

Chair: Because they are registered with CQC, which writes to them.

Sir Chris Wormald: Yes.

Chair: Hopefully they have read the letter.

Q128 **Gareth Snell:** That was partly my question. This has always been my problem with social care: you have the title but most of it is run through the Ministry of Housing, Communities and Local Government. Where a care home believes it is going to struggle to meet the care needs of an individual, regardless of whether they are a private, paying individual, on an NHS CHC plan or whatever, and it has to then escalate that up to its local authority, who is briefing the local authorities about what they can then access and what they can work through in that sector? Are you doing that or is the Ministry?

Sir Chris Wormald: Yes, we do that. That is us.

Q129 **Gareth Snell:** The Ministry of Housing, Communities and Local Government is playing no immediate role in briefing the local authorities about the care sector and what they can access.

Sir Chris Wormald: There are two things that go on here. There are the local resilience forums, which are now part of the MHCLG structure. In terms of our specific bit, we work through Adass, which is advising all directors of social care at local-authority level, so our information goes via that route. Our information back about the readiness of the sector basically comes that way as well.

Q130 **Gareth Snell:** How much intelligence does the Department hold about local authority areas where there may be concern about the ability to cope? I am thinking more about communities that have higher than average levels of social care residents, areas that either have bad CQC ratings or have been on the watch list with CQC because of bad conduct, or ones where some of this is dependent on a migrant workforce, because of the demographics of an area, which might be affected in terms of operating staff. Is there any early intervention work being done with the problem list, to say, "We think you might have a problem. Here is how we can help before you become a problem"?

Sir Chris Wormald: Yes. Where we have an area that is already on our worry list, which includes the ones you mentioned, we would normally have been in direct contact with the local authority to discuss that, as well as what we do through Adass. We do the general through Adass, but we do have those types of conversations with the authorities that are in those sorts of categories.



HOUSE OF COMMONS

Q131 **Gareth Snell:** That is all being done through DHSC.

Sir Chris Wormald: That is all being done through DHSC, although we work incredibly closely with our colleagues at MHCLG on this. As I say, the local resilience forums have a very important role to play as well.

Professor Willett: To add to that from an NHS perspective, the social care structure is very important to us. In the Department, there is a monthly survey done by the directors of adult social care for the Department, and there is a regular feed of information from across Government and from all the other areas you mentioned, with the criteria you mentioned about whether they are at risk with CQC. That is all going into a combined data information centre and the operational response centre in the Department, and our data goes in as well, so between the Department and the NHS we will have a very clear view of where the hotspots are and we will get the earliest possible shouts about any issues.

On the work we have been doing, we have been out around the country, meeting with all 400 NHS organisations; that is the trusts, the clinical commissioning groups, plus the directors of adult social care have been there, as have local authorities and heads of primary care. One of the messages we have been very strongly giving to them is that there needs to be a very highly detailed understanding of business continuity on both sides, because of the interdependence. We anticipate, from that combined dataset that will be collected by the Department, we will be able to help inform local resilience fora, in particular, and local authorities and the NHS locally, as to how they need to be helping each other to deal with any issues that arise.

Q132 **Chair:** Can you tell us today what the updated figure is for the percentage or proportion of medicine product lines that have a six-week supply in place?

Sir Chris Wormald: It is 78%.

Q133 **Chair:** On 20 September, there was a lower proportion of medicines stockpiled than there had been at the equivalent point before 29 March. Is that significant, Mr Oldfield?

Steve Oldfield: It potentially reflects the slightly more intelligent approach we have taken to the multi-layered preparedness programme this time around, in the sense that it was a bit of a blunt tool the first time around. We simply said, "Everybody has to have six weeks", and we just measured everybody against six weeks. As you can imagine, after 31 March and 12 April, we took a lot of time to work very closely, with industry in particular, and among ourselves, to try to do big "lessons learned" exercises. I should just say that the engagement and collaboration we have had from industry across the board on all this has been, quite frankly, exceptional. I just want to put that on the record, because without them we would not be in the situation that we are in.



HOUSE OF COMMONS

Q134 **Chair:** So they were feeding in granular information about you perhaps not needing six weeks.

Steve Oldfield: Yes. Bear in mind that in medicines there is no obligation on them to do so.

Q135 **Chair:** They were feeding back to you that sometimes five weeks was enough; is that what you are saying?

Steve Oldfield: They were feeding back to us that some degree of flexibility was required in the combination of approaches that people wanted to take to preparedness. I am going to paint a simple example: it is not beyond the bounds of possibility that a company may choose, of its own volition, to do a daily flight from its European distribution centre into the UK and bring in stocks of everything it needs on a daily basis. I think you would agree that it was probably disproportionate of us to then request that, on top, it also holds a six-week stockpile in the UK. Under the approach last time around, saying that everybody had to have six weeks of stock on top of what was normal, we would have counted them as a failure, in inverted commas, but in actual fact that is a very responsible approach. We should be prepared to accept that kind of approach. We have gone for a more balanced approach.

That said, I was looking at today's data, and 78% of companies have confirmed a six-week stockpile. In addition, we are aware of companies that we do not yet have that guarantee on but we know from their evidence last time around that they did build a six-week stockpile, and they are part of the very small number of companies that we do not yet have complete information on. In addition, on every other product that we do not yet have six weeks of stockpile on, we will have a complete plan in place by the end of October anyway. While it may not be 100% of companies that have a six-week stockpile, the whole point about the multi-layered approach is that the interactivity between the layers is important, not necessarily that every single product has every one of the layers at 100% all the time. The whole purpose of the multilayers is that they interact with each other.

Sir Chris Wormald: To be clear, by 31 October, we want confirmation that there is a six-week stockpile, that the kind of rerouting Steve has described has happened, or that we have a bespoke plan for that individual medicine because we have not had the reassurance we want. That might be Keith and his colleagues concluding that there is an alternative to that medicine so we do not need to worry about it, or it might be that we have to go out into the market ourselves or take some other action. By the 31st, it may not be 100% stockpiling, but we do want a 100% plan.

Chair: They are special plans, although maybe not bespoke.

Q136 **Layla Moran:** On things that cannot be stockpiled, in particular radioisotopes, referring to paragraph 2.8, the last bullet on page 24, it helpfully says that the largest suppliers, responsible for at least 80% of



HOUSE OF COMMONS

doses, have plans to air-freight the stock in after 31 October. Are they expecting any reduction in the number of doses at all? I do not know who I need to direct this to. Who is dealing with radioisotopes?

Steve Oldfield: I am really sorry. I missed the core of your question on the numbers.

Layla Moran: So 80% of the suppliers have said they are now going to air-freight, to avoid any delay. Are we expecting, for those 80% of largest suppliers, that there is not going to be any reduction in doses at all, or are we expecting an immediate reduction in doses, with the aim of building up over time later?

Steve Oldfield: Can I just be clear? When you say “dose”, do you mean the effective dose that is available from the product once it reaches its final destination, or are you talking about volumes?

Q137 **Layla Moran:** From my understanding of the way we deal with this, because there are half-lives, et cetera, it is about how many doses can be delivered on a daily basis to patients. If it means we buy more and they are sitting there for longer, it almost does not matter so long as the patients, in the end, get the same number of doses. Let us talk about that, because that is what patients care about.

Steve Oldfield: Absolutely, I will answer your question. I can assure you that, if anything, a disproportionate amount of time and effort is spent on this very particular category of drugs and products, because of the criticality of them, both in a diagnostic sense and in a treatment sense.

Yes, one of the things that we have been discussing with the manufacturers is not just the freight arrangements—whether that be air-freight or other alternatives—but the on-ground services that need to go around the airline. It is no good having a plane come in if the plane then sits on the tarmac unable to discharge for two or three hours, because then you get the loss of potency and loss of quantity. Some of the manufacturers are, for example, bringing forward their production schedules by a day, so that there is no loss of capacity for the patients that need them on the day.

One manufacturer in particular is looking at the possibility of increasing the dose that comes out of the factory in the first place; “factory” is a loose term, but I mean the machine. In other words, when the product leaves the manufacturing facility, it has a higher dose of radioactivity in it to start with, to account for the fact that, if there are any delays in the transport system, the effective number of doses available at the point of delivery is not reduced.

Q138 **Layla Moran:** That is the biggest suppliers. What are the other 20%, the smaller suppliers, doing?

Steve Oldfield: We are taking exactly the same approach that we have with medicines, in that we are in contact with each and every supplier.



HOUSE OF COMMONS

There are, in reality, 16 suppliers of actual radioactive isotopes. There are a larger number of suppliers that supply many of the consumables used in the utilisation and delivery of medical radioisotopes, but many of those are not time-critical; they do not have short shelf lives because they are consumable kits. The focus is on the 16 suppliers that provide the 100% of radioisotopes. It is also fair to say that a number of the 16 consolidate, so there is quite a high degree of integration in this market. In reality, we are talking about a very small number of companies that, between them, can provide us with very high levels of assurance.

Q139 Layla Moran: That is the word I am looking for. Can we guarantee that we will get the same number of doses on the ground on 1 November?

Steve Oldfield: As you will have heard many times, given many of the uncertainties that we are coping with here—the NAO report does a very good job of highlighting those—no one can give guarantees of anything in this field. I can say to you that all the efforts that have been put in place are addressing all the points you mention in your question, not just whether we have an aeroplane to bring it in, but how what is in that aeroplane gets to the patients.

Q140 Layla Moran: If it cannot get to the patient, what are the clinical implications of that? Perhaps I can direct that to Professor Willett.

Professor Willett: In terms of the process we have in place if there are issues in that area, we have shortage response groups already established. We have clinical experts. It was built around the model that we have had for many years, which sits behind the medicine shortages, which includes specialised medicines such as radioisotopes. That shortage response group is available to give advice on the mitigation, such as alternatives and whether there are different ways of arranging the treatment, in terms of the time of the day and the way clinics are established. We would turn to that expert group to give us advice, to get us through any period until business as usual was restored. We have that set up across not just the medicines and specialised medicines work stream, but all the work streams in the NHS, whether you are talking about blood transplants, organs, medical devices, hip replacements or heart valves. Those response groups are established already, with a rapid turnaround on information and advice if we need it.

Q141 Chair: Presumably this has happened before. I am thinking of the ash cloud, when flights could not arrive. Did that impact on isotope delivery? Have you had a dummy run, effectively, at this?

Professor Willett: Do you know what? I do not know the answer to that. We will have to go back.

Chair: It is the last time there was a very major disruption.

Professor Willett: I think at that point they were all coming in by road.

Layla Moran: They do not normally come in by flight.



HOUSE OF COMMONS

Professor Willett: They came across the channel. This has been a change.

Chair: Fine. Let us not go down that rabbit hole.

Steve Oldfield: One reassuring thing is that one of the biggest suppliers has already moved on a business-as-usual basis to an air-freight system. We know that that can work. We also know that any minor adjustments to clinic start times, booking of procedures and so on is manageable by the trusts, because one major supplier has already moved to that modality.

Q142 **Layla Moran:** On the trusts, which need to respond to all this, are we sure that all trusts are ready?

Professor Willett: We have done an extensive amount of communication. I have been out on the road, and have literally gone, as I said, to all 400 organisations. We have gone through every single element of the potential impact of no deal, whether we are talking about vaccines, workforce or whatever, and indicated to all organisations exactly what the impact will be, and therefore what they are tasked to go away and prepare in their organisations. It may be about receiving medicines at different times of the day; whereas normally they would have reception available for certain hours of the day, we may need to extend that into weekends and evenings because of distribution changes. All those instructions have gone out to the system.

Alongside that make-ready process, because this is the second time we have done it in a serious manner, we also have an assurance process, so that every organisation has had a supported assurance, like a temperature check, where we have helped it get to a good position, right up to board sign-off that we achieved at the end of March. At that point we had all organisations across the NHS either reporting with board approval to be green, i.e. they were ready in all the numerous aspects we had asked them to be, or they were reporting amber but they had a plan in place to get themselves to green. We do not anticipate any less preparation this time; in fact, we would anticipate that organisations would be more prepared, first because we have had more time, because it was a short run-in last time, and secondly because this time we know so much more about the continuity of supply and how the NHS runs. Undoubtedly, from the work that has been done, there will be a lot of long-term silver linings in terms of how we understand the systems work.

Steve Oldfield: It is also worth commenting that we are working very closely with both the Royal College of Radiologists and the association of radiopharmacists. They have been extremely helpful in making sure that we have asked all the right questions.

The final point that is different from last time around is in terms of the express freight solution, which we have talked extensively about already. Lot 3, which I mentioned earlier, also foresees the capability of



HOUSE OF COMMONS

transporting medical radioisotopes in an emergency, should all the other contingencies fail.

- Q143 **Chair:** I have one very particular question on that. I am perhaps springing it on you a bit, Sir Chris, but I have a document in front of me that came from an FOI request by a private individual, passed on to our sister committee, the Brexit Select Committee. It has no date on it, but it is titled "North-South Cooperation on Healthcare: Draft UK Non-Paper to Support Scoping Work", and it is about the arrangements between the Republic of Ireland and Northern Ireland. You will probably need to write to me about this. The bit that is redacted in this document, which was an FOI release, is section M on page 19. I am sure someone behind you is scribbling this down. It is about blood, and there are three lines blacked out. We are fascinated to know what is so critical about blood supplies north and south of the border. We know that the UK, as the report says, is the supplier of last resort to Ireland if there is a problem with blood supplies there. You may not be able to shed light on it now, I suspect.

Sir Chris Wormald: I certainly cannot.

- Q144 **Chair:** It is on the ExEU Committee website, so you can have a look.

Sir Chris Wormald: Was it an FOI from DHSC or from the health service in Northern Ireland?

- Q145 **Chair:** I cannot tell you that right now. The copy of the document is on the ExEU Committee website. It would be very helpful to know if there are any particular concerns about blood supply, because the report does not indicate a particular worry there. From what we have heard, that is all in hand, because most of it is domestic blood, but we are fascinated to know what might be the issue.

Sir Chris Wormald: I do not think the report actually covered Northern Ireland at all.

- Q146 **Chair:** No, it did not, but it covered blood. We know blood is not a problem in the UK, so we just thought we would ask that.

Ms Kelly and Sir Chris, we have talked about what you can control. There are obviously lots of bits across Government. You talked a lot, Ms Kelly, about the whole-of-Government response. You have to lead on that in some areas, and Sir Chris does in others. What are the key things that you are dependent on others in Government for, and are you still waiting for anything? You can always put a pitch for money here, but I was not particularly asking about money and funding.

Bernadette Kelly: It is always money. From my Department's perspective, because we are very much about looking at the flow of traffic and haulage across borders and in particular the short straits, a lot depends upon what our colleagues in HMRC and Border Force are able to do, but of course that is all being co-ordinated by the Border Delivery Group, which we have been playing a critical part in. I would say our



HOUSE OF COMMONS

most important dependencies are with those Departments, because flow is a function of several Departments' responsibilities.

Gareth Davies: I might add as well the local resilience forums, because obviously local traffic is a local issue and there is the critical question of how traffic will flow in Kent, so we are working closely with the LRFs in those areas.

Sir Chris Wormald: It is very similar. Nationally, it would be HMRC, the Department for Transport and the Border Delivery Group. Locally, it is the local resilience forums and individual local authorities, which of course involves our colleagues in MHCLG. Those would be our critical dependencies.

Q147 **Chair:** Local government is going to be critical, among others.

Sir Chris Wormald: Yes. As I hope we have illustrated, and as Steve said about the pharmaceutical industry, we have had equal co-operation from our colleagues in local government around all these issues, and it has been one of the themes of Brexit preparation that a lot of the cross-Government and local-national working, and working with the private sector, has been a lot better than it is in some other cases.

Q148 **Chair:** This is my final question to you. We have had an Act of Parliament that says we will not leave with no deal. The 31 October date is still the Article 50 date. Have you, as Permanent Secretaries, had a need to issue, or even considered issuing, any ministerial direction or anything on the preparations, which are intense, expensive and time-consuming, for a 31 October no-deal exit, when there is the law that says we cannot leave without a deal? You may want to share the answer.

Sir Chris Wormald: I will go first and you can see whether you agree with me. Basically, no. As I have said to this Committee before, our issue is border friction, not particularly deal versus no deal. You can have border friction in various scenarios.

Q149 **Chair:** Basically you are saying that all these preparations will be good whatever happens.

Sir Chris Wormald: Yes, and also, as has been made repeatedly clear, an extension is a two-way game. The European Union has not, to my knowledge, offered one. Could we say none of these things would be necessary? There is no way we could say that.

Q150 **Chair:** It is just that, as a Committee, we have been watching you prepare on three fronts for a very long time, and it is very costly to the taxpayer.

Sir Chris Wormald: As the report correctly points out, and indeed C&AG personally points out, the uncertainty is the most difficult thing for us. As you will have gathered, we can plan for quite a lot if we know what it is; it is the uncertainty that makes this extremely difficult. That said, for the health and social care system, as Keith's answers have illustrated, we do



HOUSE OF COMMONS

contingency planning on things that we hope will never happen, and indeed may never happen, all the time, as does every health system. For us, conceptually this is not that different. It is obviously very big, but every hospital in the country has a contingency plan it hopes never to use, and has put resources into it and is prepared to write those resources off. That is in the nature of running a system part of which is an emergency service.

Bernadette Kelly: I very much agree with what Sir Chris says. From my Department's perspective, what we are involved in is responsible contingency planning. It would be irresponsible not to prepare for some of these scenarios. That is why we can reasonably continue to proceed with this work without concern that this is not consistent with managing public money.

Chair: Thank you very much indeed for your time. Our Hansard colleagues were not expecting to be here this week, so whoever is transcribing the material will have the transcript up on the website; I do not know how it will be worked out, but it will be up on the website. It may take a little longer than usual; no disrespect to the company doing it but it is hard to beat the Rolls-Royce service of Hansard. Please do look at that and check it through. Can I thank you all very much for your time and wish you all the very best in the next 29 days? Maybe it will be longer than that; maybe it will be decided by then. We do not know. Best of luck, because it is a very big task that must be absorbing your Departments' and your own time and effort. Thank you very much indeed.