



Brexit: there is no guarantee that Parliament can prevent no-deal, but the political will is there

This report examines what options are available for Parliament to prevent a no-deal Brexit and what the likelihood and possible outcomes for each scenario are.



Executive summary

British politics has been through turbulent times since the 2016 referendum: Brexit has turned UK parliamentary democracy on its head. Three years on from the result that gave the Leave campaign a narrow victory, MPs have been unable to break the deadlock that has plunged the Government into paralysis – resulting in two extensions to Article 50 and two Prime Ministerial resignations.

Both contenders to become the next Conservative Leader and Prime Minister have signalled they would be willing to put the option of ‘no-deal’ back on the negotiating table, and one is insisting he will take Britain out of the European Union on the 31st October exit date with or without a deal.

The way forward for MPs seeking to prevent no-deal is not straightforward. There is no guaranteed way MPs can seek to prevent this form of exit, or even bind the Prime Minister to request an Article 50 extension if a deal is not reached before exit day. It remains the legal default that the UK will leave the EU on the 31st October unless a Withdrawal Agreement is ratified, and the means pursued in the run up to the last Article 50 deadline are unlikely to be available under a new Prime Minister.

But Parliament is opposed to no-deal, with 312 voting against the Government in March to reject it under *any* circumstance. The new Prime Minister will lack a personal mandate for no-deal and will face a number of difficulties in the coming months creating significant political pressure to prevent the UK from crashing out.

Under existing orders and parliamentary process, there is no one clear or guaranteed route available to MPs seeking to block no-deal. Any opportunity is likely to come about by chance, not design, and at the last minute, with some MPs wishing to give the new Prime Minister a chance to break the deadlock and wishing to exhaust all other options before turning against the Government.

This report:

- takes an in-depth look at the ways in which Parliament could seek to prevent a no-deal exit;
- assesses the likelihood and possible outcomes of each scenario; and
- provides recommendations for stakeholders and industry.

Definitions

What 'no-deal' means in practice

The UK's new EU exit deadline under Article 50 of the Lisbon Treaty is 31st October 2019. If this deadline is reached and no formal agreement between the UK and EU has been ratified by Parliament, and no extension of Article 50 has been requested and agreed by the EU 27, then the UK will leave the European Union on a 'cliff edge' exit at midnight on 31st October.

It would mean an overnight change in the UK's relationship with the EU. The UK would immediately cease to be a member of the Customs Union and Single Market, losing access to a number of agreements and databases, and creating significant issues at the ports and borders.

The UK would fall back on World Trade Organisation trade rules which state that under the principle of non-discrimination no country can offer to trade with another on preferential terms, unless it is party to a free trade area of customs union or where there is special tariff treatment for developing countries. This means that the UK would be forced to trade with the EU and third countries with higher tariffs.

No GATT get-out clause

There was some suggestion that the UK could exit under a no-deal but avoid any tariffs due to Article 24 of the General Agreement on Tariffs and Trade (GATT 24). This clause means countries can sign up to "interim arrangements" whilst plans for a free trade agreement or customs union are being discussed. The interim period can last up to 10 years, as long as there is a schedule for an end agreement being drawn up.

These suggestions, however, were dismissed recently by the Governor of the Bank of England who was clear that GATT only applies to countries that are already working towards an agreement, so not in the event of a no-deal Brexit.

Importantly, GATT 24 doesn't apply to services either – which accounted for [40 percent of](#) the UK's exports to the EU in 2017.

Key political influencers in and on Parliament

The table below summarises the main influencers and groupings within Parliament:

Anti-no-deal	Pro-no-deal	Pro-no-deal in some circumstances
Backbench MPs	Backbench MPs	The DUP
The Speaker of the House of Commons	The Brexit Party	Jeremy Hunt
The Opposition	Boris Johnson	

Anti-no-deal parliamentarians

Anti-no-deal parliamentarians are united in the belief that a no-deal Brexit would be deeply damaging to the UK's economy and standing in the world and would plunge the UK into a recession and see a prolonged period of instability and uncertainty. Tariffs on imports, they argue, would be damaging for key sectors such as the motor industry, and British products would also no longer be authorised for sales in the EU.

Politically, opponents to this version of Brexit argue that there is no mandate for it. People voted to leave the EU in the 2016 referendum, but they did not vote to exit on these 'cliff edge' terms and a fresh mandate would be needed for any Prime Minister seeking this option.

Backbench MPs

In normal times, backbench MPs only say over legislation and policy is their ability to cast a vote in favour or against Government proposals or occasionally introduce a Private Members Bill on the odd Friday. However, Brexit has transformed UK politics and backbench MPs have exerted significant influence over this process.

The anti-no deal cross party group of backbenchers, led by Yvette Cooper, Nick Boles and Sir Oliver Letwin, managed to wrangle control off the Government earlier this year and pass legislation that effectively created a legal mechanism whereby Parliament could instruct the Prime Minister to seek an extension of Article 50.

They also have their traditional power: votes. The failure to win over backbenchers was Theresa May's downfall as they consistently voted against her Withdrawal Agreement. They have also demonstrated the will of the House, or lack of, by voting over several Brexit options during indicative votes. The round of votes in March saw MPs reject a motion for No Deal by 160 to 400. Their opinions and actions will hold significant weight over coming months, with the new Prime Minister still operating on a wafer-thin majority.

Speaker of the House of Commons

The Speaker is the 'chief officer and highest authority' of the House of Commons, and its representative to the monarch. Traditionally, the Speaker is always rigidly impartial but the current speaker, John Bercow, has been heavily criticised by some Brexiteer MPs who claim he uses his position to push forward a 'Remain' agenda.

His influence over the Brexit process has proven to be immense. His rulings and interpretations of procedure can force the Government to alter their strategy, which we saw this year when he prevented Theresa May from bringing back her unchanged Withdrawal Agreement for further votes. It is also up to the Speaker which amendments are chosen, whether to grant emergency debates and he even has a deciding vote when votes are tied.

He also holds the deciding vote in the rare event that a vote is tied. In a Parliament where every vote matter, the importance of this cannot be overstated. The Speaker used this vote in April to break a tie and vote with the Government (as is expected) against [an amendment by Hilary Benn](#) which, if passed, would have seen the Opposition take control of the parliamentary timetable again.

Bercow has gone against previous commitments to stand down by stating that he will remain in post during the Brexit crisis in Parliament, which will be seen as unwelcome news by MPs seeking to leave without a deal.

The Opposition

The nature of being in opposition means that power over the course of the country is limited, but by no means inconsequential. The Leader of the Opposition poses a constant political threat to the Governing party: so long as they can demonstrate support in the polls or at the ballot box, they exert significant political influence over events.

A new Conservative Prime Minister is likely to be reluctant to engage with the official Leader of the Opposition to the extent that Theresa May did towards the end of her premiership, given the criticism she received for this.

The Opposition, however, is also instrumental in tabling leading amendments, deciding motions for Opposition Day debates and deciding how to whip its MPs on crucial votes.

Most significant, perhaps, is the likelihood of the Opposition seeking to bring down the Government through a no-confidence motion in the Commons. If one was called, and successfully passed, then the country could find itself heading back to the polls very soon indeed.

Smaller pro-remain opposition parties will also be essential in brokering any coalitions, or alternative Government's and under current polling their position could be strengthened in the event of an early General Election.

Pro-no-deal Parliamentarians

Those in favour of no-deal fall broadly speaking into two categories:

- those who would rather exit on managed terms but would accept no-deal over another extension to Article 50, and
- those who argue that no-deal is now the best way of leaving on 31st October.

Those in the latter category accept that Parliament cannot agree on the terms of withdrawal and acknowledge that the EU will not give sufficient concessions. They argue that a no-deal Brexit is the only way of delivering on the result of a referendum and gives the UK a 'clean break' rather than a fudged exit. Those who would rather exit with a deal but are committed to exiting on the 31st regardless state that the UK could make a success of no-deal and highlight the preparations that have gone in to mitigate the shift.

Backbench MPs

The number of backbench MPs in favour of no-deal are significantly outnumbered by those opposed, but they have proven themselves to be a highly impactful group.

The European Research Group, thought to have been founded in 1993 during Maastricht, has undisclosed members and funding, operates its own whipping system, has a pooled staffing resource, and boasts distinctive members like Jacob Rees-Mogg. Its members often lead on no-deal amendments or motions but have never commanded much support in the House and so any future attempt to influence legislation in this way is likely to fail. Its impact, therefore, hinges on political influence – in this, ERG members have previously shown themselves capable of getting airtime and the ear of the Prime Minister.

The Brexit Party

The Brexit Party only formally launched earlier this year and has no representation in Parliament. Despite this, however, it will have a considerable influence in the coming months due to its popularity amongst the voting public: as shown in the European Parliamentary elections and national [voting intention polls](#).

There have even been calls for the leader, Nigel Farage, to form part of the new Brexit negotiating team, although this request is unlikely to be granted. Its position - exit on 31st October without a deal and then negotiate a free trade agreement - is being increasingly adopted by many Conservative members and MPs. This could see the next Conservative Prime Minister advocating Brexit Party policies in an attempt to save seats at the next General Election.

Boris Johnson

Former foreign secretary and current front runner in the Conservative leadership contest, Boris Johnson has been extremely vocal about the importance of the UK leaving the EU on 31st October.

Whilst he has spoken emphatically about his belief that a new deal will be reached, his language around no-deal has also hardened in recent weeks, with him recently committing to a “do or die” approach to leaving in October. He will come under immense pressure to exit in October, with his support base in the Conservative Party coming from the more ‘hard line’ Brexiteers. However, there still remains the possibility that any attempt to exit without a deal will be fudged when the consequences of no-deal become ever more apparent and focussed.

Open to no-deal in some circumstances

The DUP

The DUP played the role of kingmaker for Theresa May but were also central to her downfall as Prime Minister. Their rejection of her Withdrawal Agreement, due to concern regarding regulatory divergence between Northern Ireland and the rest of the U.K, was the beginning of the end for May. Many Conservatives will look to them for a signal on how to proceed with regards to supporting any renegotiated exit deal, and the Government relies on their votes to maintain the confidence of the House through the ‘supply and confident’ agreement agreed in 2017.

They have remained distinctly ambiguous over no-deal, and it is widely speculated that they would take a no-deal, even with a hard border, over an arrangement which divides the union. The new Prime Minister will need their backing in Parliament, and so their influence should not be under-emphasised.

Jeremy Hunt

Foreign Secretary and Conservative leadership contender Jeremy Hunt has been distinctly more relaxed about the possibility of another extension to Article 50 than his opponent. He has warned that the Conservative’s would be facing “political suicide” if they attempted to push through a no-deal but has stated that he would exit without a no-deal “with a heavy heart” if the alternative meant that Brexit wouldn’t be delivered.

He has stated confidently that he would be able to renegotiate a deal that could commend the support of the House but remained remarkably silent on his ‘Plan B’ if this proves impossible.

Scenario analysis

Dods sees seven scenarios which could play out as groups in Parliament attempt to prevent a no-deal exit:

- [A vote of no confidence, leading to formation of a new Government](#)
- [Legislation](#)
- [Ratification of the Withdrawal Agreement](#)
- [Queen's Speech](#)
- [Second referendum](#)
- [Prorogation of Parliament to facilitate no-deal](#)
- [Intervention by the Speaker.](#)

In these pages we describe each scenario and its possible outcomes.



1. Vote of no confidence, leading to formation of a new Government

The official [Cabinet Manual](#) states that a Government's ability to command the confidence of the House of Commons is central to its authority to govern. If this confidence diminishes, the House has the option to table the following motion: "That this House has no confidence in Her Majesty's Government."

About this scenario

Following a vote of no confidence passing, a 14-day period ensues (unless a motion "That this House has confidence in Her Majesty's Government" is passed in the interim period) in which an alternative Government can be formed, providing it wins support of the Commons. There are essentially three broad forms that an alternative Government could take: a single-party, minority Government that is supported by ad hoc agreements with other parties; a formal inter-party agreement; or a formal coalition Government.

If no alternative Government can be formed within the 14-day period then a General Election will ensue, with Parliament dissolving [25 working days](#) before the set polling date. It will be up to the Prime Minister to recommend the date for a General Election and they are under no obligation to do this immediately.

A general election that has resulted from a no-confidence vote would therefore take over a month from the point the no confidence vote is held to the point the polls close. A no-confidence motion can only be tabled when Parliament is sitting, and the lengthy time frame stems from the fact that the 14-day period must pass before the 25-working day-dissolution period can begin.

Therefore, a vote of no confidence would need to be passed by the end of the first week back after summer recess in September for a poll to take place on or before 30 October. Conservative MPs are unlikely to vote to bring down their party unless there is an imminent threat of no-deal, and this might prove too late.

A Prime Minister could choose to slightly speed up this process by tabling a motion for an early General Election, like Theresa May did in 2017, a few days after the no confidence vote passes, but this seems unlikely and the time table remains tight regardless.

Even if a General Election is concluded before October 30th a new Prime Minister would still have to agree and legislate an extension to Article 50 – all before 31st October 2019.

If an alternative Government successfully formed within the 14-day period, united under a no-deal Brexit pledge, then it could seek an extension of Article 50 with the EU. Once agreed, it could bring the necessary legislation forward to either renegotiate a new deal or pursue a general election or second referendum. However, this requires the agreement of the EU 27 and without a clear purpose for one they are not guaranteed to grant one.

An alternative Government could also seek to take no-deal off the table completely, by revoking Article 50. In December 2018 the European Court of Justice ruled that the UK Government can unilaterally revoke, but this route is less likely to be pursued by any Government involving Labour whose MPs represent a high number of Leave backing areas.

Likelihood of this scenario coming to pass

Primarily, the biggest challenge regarding a no confidence vote is that, under the current Parliamentary arithmetic, MPs from the governing party would need to vote to bring their own party down for it to pass.

In January the Government won a no confidence vote by 19 votes. However, since then a handful of Conservative MPs have publicly stated they would vote to bring down the Government if it was a means of preventing no-deal, and there have been several party defections. There remains, however, a possibility that some Labour MPs may choose not to support a motion in the next few months, arguing that Brexit must be delivered before a General Election is called.

Chances of preventing no-deal

If a no confidence vote did pass, it would not in itself take no deal off the table. Aside from the problematic timing, there is also no guarantee that a party seeking to prevent no-deal would win a majority in an election or that a pro-Remain coalition could be formed.

2. Legislation

Faced with a Prime Minister intent on exiting the European Union on 31st October 2019 with or without a deal, MPs are highly likely to seek to legislate to regulate, outlaw, bind or restrict him from doing this without explicit parliamentary consent. However, they will face significant difficulties in doing so due to slim or non-existent opportunities to bring legislation forward, and votes being operated on razor thin margins.

About this scenario

MPs' most formidable attempt to legally curtail no-deal came earlier this year through the European Union (Withdrawal) (No. 5) Bill. This created a legal mechanism whereby Parliament could instruct the Prime Minister to seek an extension of Article 50, in the absence of Parliament ratifying an exit deal from the EU.

The Bill took a number of attempts to introduce but was eventually brought forward through a Business of the House motion in the name of Sir Oliver Letwin. It passed by one vote. But by the time the Bill had passed on 8th April, the Prime Minister was already openly seeking a further extension of Article 50 and so it was not necessary.



The Bill was introduced via an amendment to a Government motion. [Under the European Union \(Withdrawal Act\) 2018](#) the Prime Minister had a legal obligation to lay down 'next steps' motions every time the Government failed to pass a Meaningful Vote. These motions were designed to simply set out next steps, but they became amendable in December 2018 when Dominic Grieve MP passed a [Business of the House motion](#) to guarantee this.

This enabled a cross party group, led by Sir Oliver Letwin, to amend a future Government 'next steps' motion to suspend [Standing Order No.14](#) and give priority to a [backbench Business of the House motion](#) on a future sitting day. It led to a process that has come to be done as 'daisy chaining' whereby one motion is used to set aside another day for a motion, and so on. Letwin's Business of the House motions were used to hold two sets of indicative votes and set aside future days, until the [third Business motion](#) was used to give precedence to the consideration of [European Union \(Withdrawal\) \(No. 5\) Bill](#).

Likelihood of this scenario coming to pass

The above scenario is unlikely to happen again, for a number of reasons.

The [third Business motion](#) used to introduce the Bill did not contain provision to set aside another day. Another [amendment by Hilary Benn MP](#) instead sought to do this but was defeated after the Speaker broke a 310-310 tie to vote with the Government. Once the process of 'daisy-chaining' is broken then you have to start again.

A new Prime Minister is likely to be much more reluctant or cautious about holding a Meaningful Vote, unless they were confident it had the backing of a majority of MPs. There is, therefore, unlikely to be any 'next steps' motions and therefore nothing to 'tack' an amendment onto. There is no other mandatory Government business that can be amended either, and a new PM could oversee a 'zombie parliament' until 31st October deadline to prevent opposition MPs seizing control of the agenda.

Yet there are other avenues to introduce legislation. For example, opposition and cross-party MPs recently attempted to suspend Standing Order No.14 again, to introduce legislation that would have sought to restrict a Prime Minister seeking to prorogue Parliament or curtail no-deal. The motion seeking to seize control of the parliamentary timetable was defeated by 11 votes but was introduced via an Opposition Day debate.

But there is no guarantee MPs will get this chance again. Granting Opposition Days is in the gift of the Government, and the opposition's full allocation for this Parliamentary session has already been met.

There is a possibility that the Speaker might allow for a substantive motion to be brought forward through an emergency debate. Traditionally any motions brought forward through [Standing Order no.24](#) are neutral and simply state that the House has 'considered' a position. However, in March the Speaker indicated that there could be flexibility around these motions and that ["the opportunities are fuller than has traditionally been acknowledged or taken advantage of."](#) However, a motion to an emergency debate that sought to delay no-deal would require significant procedural flexibility and there is still no guarantee it would pass.

Chances of preventing no-deal

An extension to Article 50 requires unanimous agreement between all EU member states and must be ratified in EU law to take effect. So, even if the Government brought forward a Statutory Instrument to amend Section 20(1) of the European Union (Withdrawal) Act 2018, which defined 'exit day' as 31st October 2019, this would not prevent a no-deal on the 31st unless it had also been agreed and ratified by the EU 27. The exit day in EU law in this sense will always take precedence.

In the same vein, legislation that sought to restrict the length of a prorogued Parliament would not prevent no-deal – it would simply make it more difficult for the Prime Minister to avoid parliamentary scrutiny and force it through. Any legislation that sought to curtail the Government's ability to prorogue Parliament would also present significant constitutional issues if it was introduced against will of the Government.

The only definite piece of legislation that could take no-deal off the table under any circumstances would be a Bill that legally compelled the Prime Minister to unilaterally revoke Article 50. For instance, the opposition could attempt to bring forward and pass a Bill that specified that if the Prime Minister had not achieved X by date Y, then they must unilaterally revoke Article 50 to prevent no-deal.

However, this faces the same problem in that there is no guarantee MPs will have the opportunity to take control of parliamentary business to bring such a Bill forward. Total revocation is currently seen as a politically nuclear and divisive option that is unlikely to gain majority support in the Commons.

3. Ratification of the Withdrawal Agreement (WA)

"The only way to avoid no deal is to vote for the deal," Theresa May stressed to MPs. She was half-right: it would be one way to prevent a no-deal. But the prospect of MPs voting for the Withdrawal Agreement negotiated by May is highly unlikely given it has already suffered three catastrophic defeats on the floor of the House.

How this scenario could play out

The downfall of the current WA largely centres around the what has become known as the "Irish backstop", and changes would needed to be made to this if any deal were to pass before exit day. In January 2019, MPs [voted to back an amendment to the Withdrawal Agreement](#) that confirmed support for the Bill if there were "alternative arrangements" to the Irish backstop.

The Irish backstop is essentially an insurance mechanism that aims to guarantee that neither the European Union or the UK will have to build infrastructure, or a 'hard border', on the land border in Ireland, regardless of what the final trade arrangements are.

The downfall of the current Irish backstop is twofold: that it would create regulatory divergence within the union, with Northern Ireland staying aligned to the rules of the Single Market and within a Customs Union; and that the UK could be ‘trapped’ in a customs union with the EU.

The EU and the UK both agree that there should not be a hard border between Northern Ireland and Ireland, and that the backstop is intended to be temporary if used. However, it is very unlikely that this insurance policy will be dropped by the very nature of it being an *insurance* policy, and all previous attempts to try and secure an expiry date or to reassure MPs that it would not be indefinite have failed.

The European Commission, European Council and EU 27 leaders are unanimous in their headline message on the Withdrawal Agreement: it is not open for renegotiations and the backstop is part of that agreement. All ‘tweaks’ that Prime Minister May attempted to seek were either rejected by the European Union or deemed not sufficient enough by Parliament.

Despite this, the next Conservative Prime Minister is likely to seek to reopen talks and renegotiate a better deal or obtain significant changes to the existing deal.

Likelihood of this scenario coming to pass

The new Prime Minister will be seeking to do something within three months that Theresa May and a number of Brexit secretaries couldn’t achieve in three years. There are a number of factors that make renegotiation a difficult task.

The last two agreed extensions came with the condition that they [“excludes any re-opening of the Withdrawal Agreement.”](#) This will be the first legal obstacle for a new Prime Minister to overcome.

If a new deal was agreed, then the Government would still be required to get this ratified through Parliament and there are limited sitting days following the summer recess.

There are also several events happening in the European Parliament that will narrow the window in which any discussions or renegotiations can take place. Elections for President of the European Commission will be taking place with a new President expected to be in place before the beginning of November. It is unlikely that current Commission President Jean- Claude Juncker would spend his remaining months in office taking a significant political decision to reopen negotiations that he might not oversee.

Both candidates for Conservative leadership are arguing they could persuade the EU to remove entirely, or give significant concessions, on the Irish backstop. That would allow a Withdrawal Agreement to pass Parliament, with alternative arrangements to the border issue to be explored during the implementation period.

However, the EU has dismissed all previous suggestions of this strategy, arguing that there is currently no technology-based solution available that would negate the use of a hard border. Whilst it is happy to explore alternative arrangements during the implementation period, it will not remove the backstop from the Withdrawal Agreement in case no such arrangement can be found by the end of this period.

The EU has previously indicated that it could open discussions on the Political Declaration to try and offer more reassurance that the backstop is unlikely to be used. But the backstop has become so toxic amongst MPs that anything other than its complete removal from the deal, or a guarantee it would never be used under any circumstances, is unlikely to quell opposition.

Chances of preventing no-deal

Ratification of the Withdrawal Agreement could prevent no-deal, assuming that there was sufficient Parliamentary time to do so before the exit deadline, but significant changes to the WA are unlikely.

4. Queen's Speech

This scenario is an alternative path to Scenarios 1 and 2 (*No confidence vote and Legislation*).

A parliamentary term usually runs for one year, before it is dissolved, and a new session is begun with the state opening of Parliament. In June 2017, however, Theresa May decided to double the time parliament would sit for in order to focus on Brexit, meaning the current term is due to come to an end this summer.

During the State Opening of Parliament the Queen delivers a speech in the House of Lords which is essentially the Government's 'mission statement' for the new session. Following the speech, the Prime Minister echoes its contents to MPs in the Commons and a debate, known as the "humble address", begins. The debate usually lasts around five days and a number of symbolic votes take place throughout.

The last time a vote on the Queen's Speech was lost was in 1924, when Stanley Baldwin lost his majority after calling a general election but stayed on until the King's Speech. He resigned, and a minority Labour Government took over.

How this scenario could play out

If the Government lost a vote on the Queen's Speech, the Prime Minister would be under extraordinary political pressure to resign or call an immediate general election, as arguably they would have no mandate for their agenda and would not be able to evidence that they had confidence of the House. The Opposition could also attempt to bring down the Government by calling an official no-confidence vote in the immediate aftermath of a defeat.

MPs could also seek to table amendments to the Queen Speech motions and frustrate no-deal through these.

Likelihood of this scenario coming to pass

An incoming Prime Minister would have no legal obligation to prorogue Parliament and therefore enter into a Queen's Speech: they are unlikely to do so if the parliamentary arithmetic remains the same.

Chances of preventing no-deal

This scenario would not in itself take no deal off the table, for the same reasons outlined in Scenarios 1 and 2.

5. A second referendum

How this scenario could play out

An Act of Parliament is required in order to hold a referendum. There would be the contentious issue of what options should be on the ballot paper, with some arguing that three options would split the 'Leave' vote and others arguing that Remain shouldn't be included.

Likelihood of this scenario coming to pass

It is highly unlikely that the new Conservative Prime Minister would seek to bring forward a Bill that would legislate for a referendum. MPs could seek to introduce their own Bill for one, but this would again require them seizing control over the parliamentary timetable, and even if they could it is not clear that a majority of MPs would back a Bill that introduced another referendum.

There is also an issue regarding timetabling. The 2015 Act that brought in the 2016 referendum took seven months to pass Parliament and the campaign span over a four-month period. Some supporters argue that the 2015 Act can be effectively 'mirrored' in order to speed the process up but the [Electoral Commission has recommended](#): "legislation for the regulation of referendum campaigners should be clear at least six months before the start of the regulated referendum period; and legislation relating to the conduct of a referendum poll should be clear at least six months before polling day."

The theory that one could be held and then have the result legislated on before the 31st October deadline is extremely ambitious. As in Scenario 2, securing a further extension to Article 50 would require unanimous agreement of all EU member states and ratification in EU law.

Chances of preventing no-deal

Assuming the issues around timing could be resolved, a 'second referendum' on Brexit could prevent no-deal if it resulted in a majority vote for remaining inside the European Union, or for exiting on the terms of a Withdrawal Agreement. In these circumstances the Government would be under an obligation to then legislate to enact the outcome through either revoking Article 50 or ratifying the Withdrawal Agreement.

Polls at the time of writing suggest that the public is on the whole against no-deal. However, the margins are not conclusive, and opinion has proven to be volatile. There remains the real possibility that another referendum could result in people voting for no-deal if this was given as an option on the ballot.

6. Proroguing Parliament to facilitate no-deal

Proroguing Parliament essentially means terminating the current session, so that neither the Lords or Commons sits until the State Opening of Parliament marks the beginning of a new session. It is usually just used to bring an end to one session and begin a new one, as a new session provides the opportunity for the Government to bring back legislation they may have lost a vote on during the last session.

How this scenario could play out

A number of MPs who are in favour of no-deal have recently touted the idea that the new Prime Minister could prorogue Parliament for a considerable length of time in an attempt to prevent MPs from restricting the Prime Minister's ability to pursue no-deal or call a no confidence motion in the Government.

During prorogation the Government can make delegated legislation but cannot pass primary legislation. In recent times, prorogation usually lasts around two weeks. Unless specific provision is made then no ongoing Bills or motions are carried over into the next session.

Her Majesty the Queen must formally prorogue Parliament on the advice of the Privy Council. The request is acquiesced to traditionally. The announcement is made to the House of Lords and MPs and the Commons speakers can all attend.

The announcement is then made by the Speaker of the Commons and following this both houses are officially prorogued until the State Opening of Parliament.

Likelihood of this scenario coming to pass

There are some significant hurdles if a Prime Minister was intent on pursuing this course of action.

Critics of the strategy have argued it would drag the Monarch into the heart of a fiercely divided and controversial political situation. Parliament could also seek to influence the Queen's decision by sending a Humble Address to Her Majesty asking her to reject prorogation or could also call a no confidence vote in the Government if the Monarch delays any decision to prorogue.

There is also a debate around whether proroguing Parliament for this reason would be constitutional. MPs opposed to the strategy have argued it would bypass the authority of the elected House of Commons and force a no-deal on the country, for which there is arguably no clear mandate.

Legally, there is no obvious way a Prime Minister intent on prorogation could be stopped from pursuing this, but it remains a nuclear option and would envelop the Prime Minister in a huge constitutional controversy.

7. Intervention by the Speaker

Likelihood of this scenario coming to pass

Anti no-deal campaigners and MPs look to the Speaker with optimism that his intervention may steer the UK away from leaving on the 31st October without a deal in place. He has made robust comments regarding the importance of Parliament in this process and has often challenged the Government or frustrated their Brexit plans, for instance when he prevented May from bringing back her unchanged Withdrawal Agreement for further votes.

He has also positioned himself as a backbencher's champion and shown himself open to granting emergency debates, which he has indicated he could allow substantive motions for.

Chances of preventing no-deal

The Speaker is expected to do all he can to ensure that the Prime Minister doesn't force through a no-deal without the express consent of Parliament, but there are limitations to his influence and no guarantee he will be able to give MPs the opportunity to express their opposition or consent.



The Dods View: by chance and at the last minute

Under existing orders and parliamentary process, there is no one clear or guaranteed route available to MPs seeking to block no-deal. The process will be immensely more difficult than it was under Prime Minister Theresa May. Therefore, any opportunity is likely to come about by chance, rather than through design by the Government.

Any attempt to block no-deal is also likely to come at the last minute, with some MPs wishing to give the new Prime Minister a chance to break the deadlock and wishing to exhaust all other options before turning against or binding the Government. Whilst understandable in a party-political sense, there is the threat that this wouldn't leave the EU and UK enough time to negotiate and legislate an extension, and the UK could crash out on the 31st by default rather than design.

However, a Prime Minister without their own personal mandate and governing a minority Government will be hesitant about exiting the European Union on the 31st October without a deal unless they have a clear mandate from the public or Parliament for doing so.

The biggest tool that anti-no-deal MPs have over the next few months is their ability to apply political pressure to the Government: to demonstrate their overwhelming opposition for exiting in this way; to reiterate the lack of a personal mandate; to highlight the potential divisiveness of this course of action; and threaten to bring down any Prime Minister intent on pursuing it.

Recommendations to stakeholders

It is clear that all of the paths to prevent a no-deal Brexit are uncertain and fraught with difficulty. Therefore, all stakeholders should take steps to prepare their organisations for this eventuality. We recommend that you:

- Read up on the Government's sector [guidance](#) on preparing for a no-deal.
- Read up on the Government's [guidance](#) for business in the event of no-deal.
- Read up on the Government's [guidance](#) on what changes will occur in the event of an EU exit from the European Union.
- Use the Government's [online tool](#) to identify which changes will affect your industry and how to prepare.
- Read relevant [policy papers and sector impact](#) assessments.
- Read the relevant Department for Exiting the European Union Sectoral Analyses [publications](#).
- Contact your industry's association or institute on the work they are doing to prepare and help members.

For some stakeholders, the implications of a no-deal Brexit are significant enough that they may seek to influence the course of policy. As we have noted, the ability of Parliamentarians to bring political pressure to bear is crucial: these grant stakeholders a number of options should they choose to engage, including to:

- Seek meetings with relevant Ministers, Government Departments and civil servants to discuss concerns.
- Prepare submissions for any relevant Select Committee [inquiries](#) and monitor their sessions.
- Consider collective industry/sector lobbying on an official position or recommendation.
- Contact MPs with an interest in your sector or industry and ask them to raise awareness of concerns through Parliamentary Questions, Westminster Hall debates or Backbench Business Debates.



About the author

This report was authored by Laura Hutchinson, Dods Principal Political Consultant on Brexit. Laura joined Dods in December 2018 from Parliament where she worked for over three years focussing on domestic issues and Brexit.







Essential information and connections

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