



# Responding to shocks

## *10 lessons for government*

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### Summary

The past year has tested the UK government as rarely before, as it responded to the Covid-19 pandemic with a system already strained by Brexit. The country is now marking the anniversary of the first national lockdown and, thanks to the successful vaccine rollout, the mood is changing. Ministers and their advisers are beginning to think about life after the acute stage of the crisis.

The pandemic and, before that, Brexit have exposed strengths and weaknesses in the British state. Now is a good time to start to record insights from this recent history. This paper sets out 10 lessons distilled from interviews with politicians and public servants with recent first-hand experience of UK government.

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## Introduction

The people working in and around government over the course of the Covid-19 pandemic, and those who have experienced the inner workings of the UK's departure from the EU over the past five years, have seen the state tested as rarely before as it responded to these systemic shocks. They have gained insights into what works, what does not, and what needs to change to make government more effective in the future.

This paper begins to record their insights while they are fresh in their minds. It draws on interviews with politicians from different parties, civil servants and experts from central, devolved and local government.

The paper sets out 10 lessons identified from the interviews. We reflect on what can be learnt from successful aspects of the UK's response to the two system-wide shocks, as well as identifying new and pre-existing government weaknesses that have been exposed. We have grouped the lessons into three broad areas:

- 1. Anticipating shocks:** risk analysis and preparedness
- 2. The mechanics of government:** policy, operations and communication
- 3. Checks and balances:** accountability, propriety and effective scrutiny

This exercise in learning lessons is not comprehensive. Rather, it gives a snapshot of the strengths and weaknesses of government in the UK, especially when placed under strain.

## Anticipating shocks: risk analysis and preparedness

### Lesson 1: the UK has a fair understanding of many of the top risks it faces, but the government does not do enough to manage them

The UK's National Risk Register is an effective way of identifying some of the major risks facing the country and analysing the potential impact they could have if realised.<sup>1</sup> Of course, no list or ranking of risks will be able to foresee every eventuality. Many of the biggest crises of recent decades – for example the fall of the Soviet Union and the 9/11 attacks – came as a shock to liberal democracies such as the UK and required a scrambled and reactive response. That is not always unreasonable. The National Risk Register and contingency planning arrangements identify the 'known known' risks and analyse their potential impacts.

But the tool does not reach enough into the management of risk or sufficiently inform how departments plan for, or spend money on addressing, risks in specific areas of policy and operations. Each department needs to do more to build the management of potential risks into its services and policy decisions and, for the highest risks, to have tailored plans in place for how those services and policies will adjust if those risks materialise.

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Pandemics have long been near the top of the National Risk Register.<sup>2</sup> And for decades, concern over disease outbreaks, and repeated near misses, have influenced successive governments' contingency planning. Tony Blair has recounted a "panpanic" over influenza in 2005 but acknowledged that he tried to spend as little money and time on it as possible.<sup>3</sup> While noting the important differences between responding to influenza – the top disease risk – and responding to Covid-19, interviewees felt that the government's pandemic risk assessment had not consistently filtered out from the centre of government to properly influence policy decisions that line departments made.

In many areas, new policy approaches had to be developed in haste in response to the pandemic, such as how to handle the exam season when schools were closed and how to subsidise the wages of employees who could not work because of lockdown. The Department for Education (DfE) in particular was caught unawares and should have had better plans for responding to a pandemic that closed schools and in which teachers got sick. Response plans had not been made in anticipation of the risks that had been centrally identified.

The 2019 preparations for a potential no-deal Brexit showed the value of properly building risk analysis into policy co-ordination. The Cabinet Office co-ordinated departments across Whitehall to collaborate over and troubleshoot for the major risks that would arise from leaving the EU without a deal. This enabled departments to consider each of their major policy areas and agree mitigating actions and plans to respond to the potential risks.

Interviewees felt that the comprehensive approach to risk analysis and scenario planning demonstrated by the no-deal planning should be replicated elsewhere. The knowledge in government of potential risks and the impact they might have on the UK was good, but the implications of those risks for specific scenarios and services was lacking. The national security and resilience expert, Suzanne Raine, argued that the National Risk Register "needs to be anchored in an improved risk management system... to anticipate – and therefore reduce – shocks", and in so doing support departments to better manage their preparedness.<sup>4</sup> There should be more civil contingency exercises, including all parts of government, with the results being made public. Central risk analysis needs to be operationalised across departments and incorporated into every aspect of government policy.

## **Lesson 2: the government needs to protect its response capacity**

Choices about levels of investment in public services and the capacity of Whitehall departments have consequences for the government's ability to respond to shock events.

Between 2010 and 2016, the size of the civil service's workforce shrank by around 20%.<sup>5</sup> Soon after the 2016 EU referendum, the scale of the "complex challenge" to the civil service that Brexit represented became clear.<sup>6</sup> More civil servants were needed to support ministers in navigating the uncertain territory of leaving the EU,<sup>7</sup> and since

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2016 the civil service has consistently grown, reversing 45% of the earlier cuts.

Most public services entered the coronavirus pandemic with little spare capacity, which limited their ability to absorb the demand and workforce pressures of the pandemic. Sir Mark Sedwill, cabinet secretary from June 2018 to September 2020, told a joint inquiry of the Science and Technology and Health and Social Care Select Committees that “there is clearly an issue about capacity in our health system” because the UK is “in the bottom quartile per head for a whole range of capacity questions” such as the availability of critical care beds and demand for GPs’ services.<sup>8</sup> Meanwhile the spending power of local government reduced by approximately 40% between 2010 and 2016<sup>9</sup> and the absence of a long-term funding solution for social care meant that the care sector was “very fragile” going into the pandemic.<sup>10</sup>

However much capacity there was in the system, the pandemic was always going to put pressure on intensive care beds, on social care placements and on the wider system of public services, which were facing staff absences, demand pressures and backlogs. But our interviewees recognised that the lack of ‘give’ in the capacity of public services – a result of successive governments’ historic underinvestment in them – made these pressures more difficult.

The government cannot employ thousands of surplus civil and public servants, waiting to be deployed to the latest crisis. But it is important that the capacity to respond to shock events is considered and protected in the budget process and in ministers’ plans for their departments. Allowing government and public services to ‘run hot’ with minimal capacity might make for more efficiency in the short term, but creates systemic risk in the long run. It is also important that public sector organisations embed the capacity to change their design and operations rapidly in response to crises. The quick reconditioning of much of the NHS in response to the pandemic showed the benefits of clear decision-making and honesty about prioritisation.

### **Lesson 3: the government needs to be better equipped to make rapid, cross-departmental policy decisions in response to shocks**

The government has a strong approach to responding to emergencies that the UK already has experience of facing, such as floods and terrorist attacks. When these events happen, COBR is convened, supported by contingency planning experts in the Cabinet Office, and led by the prime minister or relevant secretary of state. This works well when faced with a crisis for which the government already has an established operational response based on tried and tested policy.

The UK’s response to the coronavirus pandemic was difficult in part because there was no established policy for dealing with it. The UK immediately faced huge and urgent policy decisions about whether and how to lock down, what to do at the border and how to financially support people and businesses. Major new policy responses were required of most if not all departments, and it quickly became clear that the crisis would

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last much longer than other national emergencies.

The government recognised that its emergency decision-making structure, co-ordinated through COBR and supported by civil contingency experts in the Cabinet Office, was not strong enough to broker a coherent, cross-government policy response over a sustained period. It therefore made changes to decision-making structures to try to build the pandemic response into wider planning in the centre of government. The structure went through various iterations over several months before landing on a formula that worked for the prime minister.<sup>11</sup>

The amount of change to decision-making structures shows the extent to which the government struggled to find a system to effectively manage its policy response to the pandemic. It also caused confusion across government, with civil servants unsure about where and how decisions were being made. The centre of government was also unable to ensure that policy from different departments was coherent. The debate over the Treasury's Eat Out to Help Out scheme was illustrative of a broader contradiction between the government's approach to stimulating and supporting the economy and its approach to containing transmission of coronavirus.

Whitehall preparations for a no-deal Brexit in 2019 were a more effective – albeit untested – policy response to a potential shock. There was more time and the government had several opportunities to develop and rehearse its plans as deadlines came and went. We heard that the Cabinet Office co-ordinated detailed policy planning across departments in preparation for the major risks over the months leading up to the 31 October 2019 deadline. It is notable that the government's coronavirus pandemic decision-making structure stabilised once it adopted the same cabinet committee structure used to organise Brexit preparations since 2019 – dividing work between a strategy committee and an operations committee – but it took months to do so.

The government could have learnt more, and more quickly, from its policy co-ordination preparations for a no-deal Brexit and applied those lessons to the Covid-19 pandemic response. The creation and deployment of an authoritative policy brokering and co-ordination team in the Cabinet Office, to support dedicated cabinet committees and work across government, should be one of the first responses to future crises.

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## The mechanics of government: policy, operations and communication

### Lesson 4: the government has proved better at executing decisions than making them – suggesting that policy-making improvement is more urgent than operational reform

The failure to quickly find an effective decision-making structure at the centre of government for this pandemic was symptomatic of another insight that many of our interviewees shared: that the government has often – though not universally – been more effective at operationalising decisions than making them in the first place.

The UK's response to the pandemic included much successful operational delivery work, especially where government systems already existed and could be rapidly adapted. Between 12 March and 9 April 2020, 1.2 million people in Great Britain started a Universal Credit application, around a million more applications than would be expected in a normal month. The total number of people receiving Universal Credit increased from three million in March 2020 to more than five million in May 2020 and has continued to rise.<sup>12</sup> Despite this surge in demand, the government was able to report that 93% of new claimants who applied for Universal Credit during the week beginning 16 March 2020 would receive their first payment on time. This was an 8% *improvement* on the rate before the pandemic.<sup>13</sup> Amber Rudd has suggested that one reason the Department for Work and Pensions (DWP) was able to withstand the demand pressure on Universal Credit was because of the preparations made for mass unemployment in the event of a no-deal Brexit.<sup>14</sup> HM Revenue and Customs' (HMRC) effective rollout of the Coronavirus Job Retention Scheme (CJRS) tells a similar story of operational success, again using an existing government system. One reason for the success of the Covid-19 vaccine rollout, which as of 16 March 2021 had vaccinated more than 24 million people with at least one dose, has been effective co-ordination and delivery through existing primary care networks in the NHS.

The government's ability to make effective, coherent policy decisions to address the pandemic has been more problematic.<sup>15</sup> Most consequential were the delayed decisions to enter all three national lockdowns. For all the uncertainty at the time, the leaders of most other European countries moved faster into the first social distancing measures and then full national lockdowns in spring 2020, which saved lives.<sup>16</sup> Professor Neil Ferguson estimated that the death toll from the first wave could have been halved if the UK entered lockdown one week earlier.<sup>17</sup> Later in the pandemic, on 21 September 2020, the Scientific Advisory Group for Emergencies (SAGE) recommended that a "circuit breaker" lockdown should be considered to reverse the exponential rise in cases, yet Boris Johnson criticised the opposition for suggesting a lockdown would be necessary and waited 40 days until 31 October before announcing a U-turn and a four-week lockdown in England.<sup>18</sup> Covid-19 case levels and deaths rose throughout November, December and January in part because of these delays and weak decision-making.<sup>19</sup>

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Meanwhile there were errors in both decision-making and execution in designing the test and trace programme. The decision to try to develop the UK's own contact tracing app, rather than relying on existing software, wasted time and weakened the capability of test and trace. And the failure to provide more effective financial support for people told to isolate by the programme limits the scheme's effectiveness.<sup>20</sup> Other decisions failed to anticipate predictable problems, such as the DfE's initial approach to awarding grades at the end of 2020's exam period.

Theresa May's approach to Brexit as prime minister also exposed decision-making weaknesses. Previous Institute for Government research found that "the failure to make decisions held back practical preparations" for Brexit across Whitehall.<sup>21</sup> For too long, May prioritised attempts to find a 'middle way' of navigating the political divisions of her cabinet and parliament. This meant that the task of preparing to leave the EU was allowed to drift, as the policy decisions required were left unmade.

The reality is, of course, more complicated than a binary division between ineffective decision-making and effective delivery. One informs the other, and good policy-making in uncharted territory is hard. HMRC's effective rollout of the economic support package at the start of the first national lockdown depended on effective policy design, while waste and fraud stemmed from the decision not to target the schemes more directly during later stages of the pandemic.<sup>22</sup> Operational weaknesses have affected the test and trace programme, including poor contact rates in its early months. Note, however, that these often arose from poor policy decisions, such as the early judgement to operate a national-level contact tracing programme.

But a theme across the UK's response to the pandemic has been that operational delivery has withstood pressure and tended to prove effective, compared with key decision-making that has often been too slow and at times incoherent. The government needs to learn from its decision-making during the pandemic to better organise and approach decision-making in the future.

### **Lesson 5: broader participation makes for better government decisions, but success relies too much on individuals, rather than systems or institutions, to ensure real collaboration in decision-making**

The UK's management of Brexit and the Covid-19 pandemic has reinforced the need for good policy to have broad, meaningful input from people across central, devolved and local government, the wider public sector, civil society, academia and businesses.

The most effective aspects of the UK's policy response to the pandemic have incorporated this input. The early economic support packages were effective in large part because the Treasury worked closely with HMRC, businesses and unions from the start of the design process.<sup>23</sup> One reason for the success of the vaccine rollout is the integrated role the NHS and army played, alongside civil servants, in designing and co-ordinating the programme.<sup>24</sup>

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We similarly heard that Whitehall's preparations for a no-deal Brexit were effective – albeit partial and untested – because of the Cabinet Office's intensive co-ordination across all government departments. Those departments that got real input from businesses and other organisations were also better prepared than those that did not.

Government failures in response to the pandemic have often been a consequence of not incorporating others' expertise into the policy-making process, when decisions have been made among small groups of civil servants and special advisers around ministers. The DfE's failure to secure buy-in from, and the input of, its key interests (schools, teachers' unions, local authorities and parents) over its plans to reopen schools in June 2020 weakened those plans. A similar pattern of closed decision-making continued to damage the DfE when it came to the exams crisis. There were also repeated controversies over free school meals, in which the predictions of experts from the education profession went unheeded until potential problems became crises.

The Treasury's Eat Out to Help Out scheme was designed and adopted without the consultation of the government's leading epidemiologists or SAGE.<sup>25</sup> The epidemiological impact of the scheme is debated, but an October 2020 study found that it contributed to the rise in transmissions that amounted to the second wave of Covid-19 infections.<sup>26</sup> The scheme also undermined the government's public health messaging as infections rose.

At the height of the first wave, up to 25,000 patients were discharged from hospitals into care homes without first being tested for Covid-19.<sup>27</sup> Former health secretary, Jeremy Hunt, suggested that "no one appeared to consider the clinical risk to care homes", pointing to a lack of input from the social care sector into decision-making at the Department of Health and Social Care (DHSC) and SAGE discussions.<sup>28</sup> Another policy driven from the centre of DHSC was the creation of the Nightingale Hospitals – an attempt to ease pressure on the NHS's intensive care capacity. The failure to meaningfully incorporate clinical expertise from the NHS meant that concerns about how the new hospitals would be staffed without redeploying intensive care staff already working in other settings were not addressed.<sup>29</sup> This limited the usefulness of the Nightingale Hospitals from the start.

The amount and quality of consultation and the ability of government ministers and officials to bring outsiders into the decision-making process will always, to some extent, depend on the nature of the problem. But the wide variation of practice across different departments shows that there is no systematic approach by which the government can ensure the right expertise is being meaningfully incorporated into the policy-making process.



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The lack of a systematic approach to building meaningful collaboration into policy-making is clear in the relationship between the UK government and the devolved administrations.<sup>30</sup> Collaboration between the four nations of the UK is mostly dependent on the political will of ministers in the UK government, and their choice of whether to work with representatives of the devolved administrations on a given issue through mechanisms such as joint ministerial committees and, in the case of the Covid-19 pandemic, COBR and equivalent meetings. Interviewees' perception of this collaboration during the pandemic was that it started well, with close working between the four nations in response to the first wave of infections. But then it broke down once representatives of the devolved administrations stopped receiving invitations to joint meetings in the lead-up to the announcement of the UK government's lockdown easing strategy in May 2020.

'Consultation' culture creates a 'tick-box' pretence of involvement. More genuine and thoughtful incorporation relies on the willingness of key individuals to work with the right people at the right time. The Vaccine Taskforce is made up of a diverse range of experts from different organisations and sectors, in part because Patrick Vallance, chief scientific adviser to the government, knew who to bring to the table. Individuals in the Treasury actively chose to include business and unions in the design of the economic support package. Had the secretary of state for health and social care, Matt Hancock, incorporated outside expertise more substantially in designing the Nightingale Hospitals, the outcome might have been more effective. And if the secretary of state for education, Gavin Williamson, and his team had improved relationships between the DfE, unions and schools, then predictable errors might have been avoided.

Incorporating the right expertise into policy-making will always be easier if civil servants and politicians actively choose to do so. The over-reliance on individuals and the lack of a systematic approach is a weakness of policy-making in the UK. Ministers and senior officials need to recognise and address this gap, refusing to sign off policy proposals that have not been tested with those they affect, and insist on a process of more open decision-making.

## **Lesson 6: the government, civil service and wider public sector adapted well to new ways of working as the pandemic struck, showing an appetite for reform**

Government departments, devolved and local governments and the wider network of public services in the UK have all, to varying extents, embraced forms of technology and communication that made a rapid shift to working from home possible in March 2020.

Previous Institute for Government research found that government investment in its digital capability over the past decade – for example the creation of the Government Digital Service in 2011 – helped to catalyse digital transformation, leading to new tools and capabilities that departments were able to use to adapt services and ways

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of working in response to the pandemic.<sup>31</sup> By May 2020, more than 90% of DHSC staff were estimated to be working from home, as were 94% of Department for Transport staff and 98% of staff in the Department for International Development.<sup>32</sup> The Department for Digital, Culture, Media & Sport has said that its entire workforce was able to work remotely.<sup>33</sup> In local government, too, 82% of staff were working offsite during and after the first national lockdown.<sup>34</sup> Where people were unable to work from home, it was usually because of operational requirements to be in a particular place, such as when delivering frontline NHS services. There were areas where adaptation was less nimble though. The DWP reported in May 2020 that only 20% of its staff were able to work remotely because of the “need to access equipment, programmes and support to enable them to do their telephony and processing work”.<sup>35</sup>

Some of these measures will lead to permanent changes, while some will revert back when social distancing requirements ease. But the overall lesson is that government as a whole coped surprisingly well with the need to radically change working patterns in a very short period of time.<sup>36</sup> This capacity for government and public services to adjust to new ways of working should encourage ambition for what is possible for future government and civil service reforms.

## **Lesson 7: relationships between central and local government need to be repaired urgently**

It was notable how many of our interviewees felt that the pandemic response showed a fundamental breakdown of the working relationship between central government in Westminster and local government across England. Constructive partnerships exist, but in many areas, extremely poor relationships are leading to operational problems and missed opportunities.

Politicians and civil servants from both sides of the relationship felt that the handling of the pandemic exposed a basic lack of understanding of the makeup and functions of local government within Whitehall departments, even including senior ranks of the Ministry of Housing, Communities and Local Government (MHCLG).

A ‘tick-box’ culture of consultation, discussed above, further weakens the working relationship between the layers of government. The experience of local leaders is of Whitehall departments superficially consulting, but ultimately being unwilling to heed the advice offered or to adapt policy positions. The most public breakdown was in the summer of 2020 during the negotiations between Greater Manchester Combined Authority and the UK government over the level of financial support offered to areas put under local lockdown. But we heard many other examples, including limited consultation with local government over the UK’s preparations for a potential no-deal Brexit in 2019, and the initial design of the shielding programme by MHCLG and DHSC.

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Working relationships today are characterised by “bitterness” and “suspicion” on both sides. As one interviewee who worked in central government said: “There is a disgraceful, patronising view of local government – that they are less capable, less experienced, more incompetent, and more shambolic than people in central government. They are below the salt.”

This crisis in relations causes operational weaknesses and leads to wasted potential. The Public Accounts Committee found that DHSC’s unwillingness to provide timely data about new cases of coronavirus, including names and contact details at a local level, hindered local authorities from developing their outbreak plans at the end of the first Covid-19 wave.<sup>37,38</sup>

The breakdown in relations helps explain, and fuels, an instinct to centralise. There are several areas where the UK’s response to the pandemic could have been strengthened if local government had played a more significant role, sooner. Local public health teams have been operating different forms of test and trace schemes for more than 150 years and have direct access to and lines of communication with local populations. But the UK government decided to set up a centralised test and trace programme in late May 2020, relying on private consultants rather than local public health officers.<sup>39</sup> In mid-August, the government reversed its position and sought greater involvement of local government.<sup>40</sup> Dido Harding, head of the programme, told the Public Accounts Committee that working with local government was one factor that led to “substantially better” contact tracing, reaching up to 92% of people testing positive, compared with 70% of people without local contact tracing in June 2020.<sup>41,42</sup>

Another example is the NHS Volunteer Responders scheme, which saw more than 750,000 people sign up in the four days after its launch in April 2020. The Institute for Volunteering Research found that the decision to co-ordinate the programme at the national level through NHS England had “limited impact” and meant that work was “not aligned to locally organised and coordinated responses and overall made a limited positive difference”.<sup>43</sup> The House of Lords Public Services Committee took evidence that “the centralised structure of the NHS England’s Volunteer Responders Scheme meant that it took a significant length of time to respond to local volunteers, which diminished their enthusiasm to volunteer”.<sup>44</sup> It also prevented volunteers from helping local causes that could have benefited from the resource, such as social care providers, but which were not originally connected to the national scheme.

Each of these examples shows that the breakdown of relations between central and local government, and the perceptions of local government from Whitehall, lead to operational problems and missed opportunities for government to be more effective. These relationships urgently need to be repaired or, if that does not prove possible, fundamentally redrawn to work properly.

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## Lesson 8: the government's communications needed a clearer strategy and more coherent messaging

Government communication needed to adapt to the pressures and requirements of both Brexit and the pandemic. In the case of the pandemic in particular, the clarity, consistency and honesty of messaging became vital to ensuring public compliance with lockdown restrictions.

Good communication cannot disguise bad policy, and some of the government's messaging failures have been a consequence of incoherent policy or division within the cabinet. For example, conflicting messaging about returning to offices in the summer and autumn of 2020 and, more recently, contradictory advice about whether to book a summer holiday this year, relate to ministerial ill-discipline rather than poor communication.

But government communication has also suffered from weakness in and of itself, not only in reflecting policy problems. The method and frequency of announcements have varied widely, swapping between pre-recorded statements, press conferences and statements to the House of Commons, and between regular daily briefings and more sporadic patterns. Detailed guidance has not always been released at the same time as the main public announcement, and in other cases has failed to clarify ambiguities or even contradicted statements from ministers. And important public health measures affecting the day-to-day lives of millions of people have been leaked to favoured journalists, hours or days before their formal announcement.

Mistakes and inconsistencies make it more difficult for people to understand the government's messages and undermine the public's trust in its competence and honesty.<sup>45</sup> A regular rhythm and model of communicating in a crisis helps to build trust and engagement. The perception of double standards for people working in the government (exemplified by Dominic Cummings' trip to Durham during the first national lockdown) and the prime minister's tendency to overpromise and underdeliver – such as in March 2020 when he claimed the UK could “send the coronavirus packing” and “turn the tide within the next 12 weeks” and boasted about “world-beating” performance on test and trace at a time when the evidence proved otherwise – have further weakened the public's trust in government.<sup>46</sup>

The same optimism bias has influenced the government's communication regarding Brexit, which also risks undermining public trust in the government. Ministers continue to avoid being clear and honest about the trade-offs and compromises entailed in the Brexit deal, such as for consumers and businesses, and the government has been consistently reluctant to publish internal research and analysis into the risks and impact of Brexit.

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The government is learning from its mistakes and its communication style is improving. Announcements are following a more consistent pattern and the prime minister seems to be making a conscious effort to avoid too much hype or 'boosterism'. But our interviewees felt that the pandemic exposed a lack of understanding of how government should communicate in a crisis. An agreed 'playbook' setting out the method of communication to be used in different circumstances, heeding the lessons the government has learnt from the past year, would be beneficial when responding to future shocks.

Such a resource would help any special adviser-led communications team at the centre of government. Inevitably, it is this press team that dominates the crafting and distribution of the government's messaging. These political appointees of the prime minister will often have experiences more suited to campaigning than governing. All prime ministers will want to work with colleagues with whom they have an existing relationship, but they also need to listen to those with experience of governing.

## **Checks and balances: accountability, propriety and effective scrutiny**

### **Lesson 9: gaps in accountability in government need to be addressed**

The strain that Brexit and the Covid-19 pandemic have imposed on the UK government has, at times, exposed the limits of accountability in government.

The confusion over who was responsible for testing early in the pandemic fuelled the misunderstanding that Public Health England was unaccountable to DHSC and the secretary of state for health, distracting from the organisation of the testing regime. And during the Brexit process, the position of the chief negotiator, David (now Lord) Frost, in the future relationship negotiations raised similar accountability problems, as he was "a political appointee working directly to the prime minister, able to air his views in public, directly managing civil servants with no other ministerial oversight and who neither parliamentary chamber" could question.<sup>47</sup>

The gaps can be seen each time the prime minister relies on his favoured approach of appointing 'tsars' to lead core parts of the pandemic response, including vaccines, test and trace, personal protective equipment (PPE) and – recently – education catch-up. This is a response to muddled lines of accountability. Tsars can be effective in certain circumstances, but they come with their own problems. While they solve some internally confused lines of authority, how the public and parliament scrutinise their work is unclear. There are no rules, procedures or codes to govern their appointment, role or payment.<sup>48</sup> Furthermore, tsars are usually symptomatic of a pre-existing flaw in the machine. If the purpose of tsars is to provide a recognisable face and name to an issue, galvanise Whitehall around that issue and inject a degree of energy and expertise, then,

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as one former minister put it, “that sounds like the job description of a minister”, and the use of tsars suggests an absence of existing resources or confusion over accountability.

Longstanding ambiguities about the ways senior civil servants should be accountable to ministers and to parliament have also been exposed. For example, it is often unclear who should get the blame when things go wrong. This was true in August 2020 when Jonathan Slater, permanent secretary at the DfE, was asked to resign after the exams crisis that summer, while Gavin Williamson stayed in post.<sup>49</sup> We still do not know whether that was a fair outcome or not, and senior civil servants as well as ministers should be held accountable for their work, including to parliament. But by not clarifying lines of accountability between civil servants and ministers, the UK government is left vulnerable to accusations of scapegoating and allowing a system to develop where it suits both ministers and senior civil servants to keep accountability hazy.

### **Lesson 10: accountability needs to be strengthened to respond to a government willing to override norms and break conventions**

The current government’s approach has exposed the extent to which an executive, with the support of a parliamentary majority, can override mechanisms of accountability, when ministers are willing to disregard norms, codes and conventions about the rule of law.

Norms that had prevented previous governments from breaking international law proved flimsy for as long as the Johnson administration maintained the support of its parliamentary majority for the UK Internal Markets Act. The Supreme Court cannot strike down laws passed by parliament and nor can the Queen as head of state veto legislation.

Accusations of cronyism in the government’s procurement of PPE during the pandemic, and of ‘chumocracy’ in appointments to public positions, have shown the weakness of some of the existing rules on financial and procedural propriety. A National Audit Office report found that PPE leads coming from ministers’ offices, MPs and members of the House of Lords, via a “high-priority lane” in the procurement system, were up to 10 times more likely to win government contracts than other suppliers.<sup>50</sup> It was defensible to suspend some normal procedures in response to the pandemic, but ongoing investigations have shown how limited the scope is for parliament to hold the government accountable in response. The former prime ministerial adviser on ministers’ interests, Sir Philip Mawer, told the Committee on Standards in Public Life that “crises are no excuse for poor behaviour”.<sup>51</sup>

The limits of existing norms were also shown in the case of Sir Alex Allan’s investigation into Priti Patel’s alleged bullying of Home Office staff. Despite Allan’s finding of a breach of the Ministerial Code, the prime minister was able to override that conclusion with no further evidence or process. Allan’s subsequent resignation illustrated the limits of his influence over a prime minister determined to defend his home secretary, and the standards set out in the code were undermined.<sup>52</sup>

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The government has been able to use its majority to minimise parliamentary oversight.<sup>53</sup> Rushing legislation through parliament with little time for debate or scrutiny is sometimes necessary, as with the passage of the Coronavirus Act through parliament in one day in March 2020. But the government has actively sought to undermine parliament’s ability to scrutinise its work. Amendments to the Covid-19 regulations later in 2020 could have benefited from a longer time for debate in parliament. The government initially planned to allow only three days for the passage of the Withdrawal Agreement Bill. Even though the government ultimately allowed more time, the Bill was still passed in under a month. And only one day was made available for the passage of the European Union (Future Relationship) Act in December 2020.

The 2017-19 parliament, when the government lacked a stable majority, was a strong constraint on government action. Far from being a weak parliament, it was an exceptionally strong – if not always effective – one. The Supreme Court’s decision that the government’s attempt to prorogue parliament in September 2019 was “unlawful” showed the willingness of the judiciary to properly exercise its powers.<sup>54</sup> The National Audit Office has consistently worked to maintain scrutiny of the government during the pandemic, such as in its investigation of procurement practices.<sup>55</sup>

But Johnson’s time in office so far shows that Lord Hailsham’s “elective dictatorship” jibe still has force – the government, with the support of a parliamentary majority, is capable of overriding many of the UK’s mechanisms of accountability and scrutiny.<sup>56</sup>

## Conclusion

This paper sets out 10 lessons for government from the UK’s recent history. It describes ways to better anticipate and prepare for shock events in the future, records insights into the strengths and weaknesses of the mechanisms of government and notes the flimsiness of the checks and balances that hold the government to account.

More evidence will continue to emerge as the coronavirus pandemic unfolds and the UK’s new relationship with the EU becomes more established, but it is not too soon for the government to learn important lessons from these two systemic shocks.

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