Call Brunswick: The morning after the night before

An expert panel gathered at Brunswick this morning, 16th January 2019, little more than 12 hours after the Government's shattering 230-vote defeat over the Withdrawal Agreement and Political Declaration enabling Brexit.

The full transcript is below, with the key takeaways including:

- Consideration of the impact of the European Parliamentary elections and the new Parliament on any attempt to extend Article 50
- The options for amending the existing agreement into a form that is acceptable both to the House of Commons and to the EU27
- The material preparations that businesses can and should have in hand now in order to manage the no-deal risks
- The tensions within the Labour Party in the light of the Government's expected survival of the Opposition's no confidence motion debated today
- The role of the courts and the legal system in making changes to the expected timeline for Brexit

Speakers:

- Georgina Wright, Senior Researcher, Institute for Government
- Piers Coleman, Partner, Electoral Law and Global Government Solutions, K&L Gates LLP
- Mark Essex, Brexit Policy Director, KPMG
- Kate Fall, Partner, Brunswick Group LLP

Moderated by: Jon Mcleod, Partner and Head of UK Public Affairs, Brunswick Group

For further information about Brunswick's public affairs offer and about the other participants please contact us

JON MCLEOD: Good morning, everyone, and welcome to Call Brunswick and "After the vote: the morning after the night before". With a walloping defeat of 230 votes for the Prime Minister, I suppose it is the political equivalent of drinking an entire bottle of Jack Daniels!

In the room today we have a very exciting panel of experts, one of whom is in a remote location. I am just going to say briefly who we have here and then we will be hearing from them each in turn.

We are delighted to welcome from the Institute for Government Georgina Wright, who is a senior researcher in that estimable organisation. Georgina recently moved over from Chatham House, where she was a lead player in their Europe programme. The Institute for Government is not only looking at the mechanics of Brexit within the UK parliamentary situation, but also the interaction between Europe, the institutions and the UK Parliament and Government; so very much the focus of the next period. We also have with us Piers Coleman, who is a partner in the law firm K&L Gates. He is a partner in electoral law and global government solutions and is an extremely experienced commentator on matters relating to the collision of politics and the law. We are also very pleased to have with us Mark Essex. Mark is the director of public policy at KPMG in the UK and has been taking a very thoughtful deep dive into the implications of Brexit for over two years and, in particular, looking at how businesses and organisations need to frame themselves for the impact of whatever it is we have got coming down the track. Finally, last but no means least, Kate Fall, my colleague, who is a partner in Brunswick Group and also a Conservative Member in the House of Lords with great of experience of working within Downing Street for a decade under David Cameron. That is our line-up.

In terms of what we will try to cover today, I think we will start by kicking off with the politics because that is definitely what has got the commentariats' jaws wagging over the past 12 hours since we have had the vote. I will ask Kate to talk about that briefly. We will then turn to Mark to look at what the policy options are now going forward and also the reaction of business and trade in relation to those options, in particular, what is going to happen in relation to forming a new agreement which is not the same as the withdrawal agreement which has already been wholeheartedly rejected by the Government. Georgina Wright will then give some consideration to what is happening inside government at the moment. We heard that last night there was a conference call for business leaders with the Brexit Secretary Stephen Barclay and the Chancellor Philip Hammond, which by all accounts reflected some nuances of opinion within the Cabinet as to what next, so it will be good to

get some thoughts on that and also some of the signals we are getting from Europe at the moment from the institutions because they have already started to raise eyebrows in a variety of directions. Finally, Piers is going to give us some fresh thinking on the legal and constitutional implications and has a few novel thoughts on what might happen next in relation to Parliament's interaction with statute law and the courts and where we might go in each of those.

To begin, I am going to ask Kate Fall to give us her thoughts on the political situation and the frenzy that is going on in Parliament right now. Kate, it is pleasure to hand over to you.

KATE FALL: Yesterday on the *Today* programme Michael Gove doing an interview quoted his favourite character, well, not his favourite, but Jon Snow saying, "Winter is coming" and it does appear to be sort of coming today. This was a historic defeat, bigger than even the Blair Iraq war defeat, and a humiliating defeat for the Prime Minister and for Number 10. In a way, what has changed? Because we all knew that they were going to lose this vote and we were looking for numbers by way of pointing towards what would shift, what would change afterwards. To a certain extent we are where we thought we would be except for the defeat being bigger and it gives us a clearer idea of what, in a sense, is less achievable.

Starting with what we know is going to happen next, we know there is going to be a vote of no confidence tonight and we are almost certain that Prime Minister Theresa May will win that vote. She has the full support of the rebels who voted against her last night and the DUP have already indicated that they will support her. In a way, we are going through the motions with the vote of no confidence. Corbyn always said he would have one. He has had a lot of pressure building on him to call one. That will be drama tonight in the Commons again but it is pretty much in the bag.

Then what comes next? Theresa May says she is going to open her doors to senior parliamentarians and talk to people about a new plan which she is due to present to the Commons in one form or another on Monday. She has talked about a negotiable new plan. She is giving the impression that she does not expect to change her deal hugely, we are still looking at quite entrenched positions here from Number 10. Wherever you look, you see quite a lot of entrenched positions. Europeans are saying lots of different things but mainly that the withdrawal agreement is not going to be opened up. There is probably a little bit of possible change on the political agreement, more indications maybe on the Irish backstop but, again, the main points remain in place. The withdrawal agreement is there and they do not want to open up negotiations.

So what are the conflicts at the heart of all of this? I think it is good to start with where everyone is right now. I think you see, basically, in Parliament there is no majority for any alternative except a majority for not this deal. You have a majority against things but as yet no majority for anything. That is, in a way, what we have to watch out for in the coming days and weeks ahead, which is the idea of whether it is through negotiations or indicative votes, an arrival at some sort of majority for something. That is the first thing.

The Government still remains quite clear about its red lines. At some point there needs to be some movement between Parliament and Europe and entrenched red lines, otherwise we are going to be here and just go for no deal, because that is the default position. You have a split parliamentary party in the Tories and Labour. You have hovering over all of this, the possibility of either a no deal or a decision to stop Brexit altogether, which of course is the threat that keeps the hardliners a bit at bay. You have a split Cabinet. Whereas you could see the Cabinet coming together and going, "Prime Minister, this is our view, we would like you to do this", the problem is the Cabinet is basically split between a pragmatic group which believes they should be sitting down and trying to find a majority in Parliament and a group of people which believes that the country will be very let down without seeing a more hardline-type Brexit and that no deal is a better option.

Against the background of all of this, do not forget that Europe is about to come to the end of its term. The Commission is about to dismantle. The European elections are about to happen. You have a Labour Party which is desperate to bring down the Government anyway and the backdrop of this is all a perfect storm.

What happens tangibly next? Look out for power shifting to Parliament because where you have no majority Parliament always has more power. There is a lot of talk - Oliver Letwin on the radio this morning talking about Nicholas Boles' Bill - about other forms of devices which, essentially, are there to look for that majority; whether it's Norway for now, a customs union, a second referendum, delay, that is what they are trying to flush out. I am sure someone will call today for some sort of "Government of National Unity", but even if that were not to happen, a sense that there needs to be a convening of political parties and the SNP, the Devolved Assemblies of saying: "This is a national crisis; what are we going to do about it?" At the end of the day this crisis is going to continue. I would not like to forecast anything - that is a mug's game - but I would say we are heading to delay. My other panelists sitting around this table will say later there is not even the time to get the required legislation through to make sure that, if there was a no deal, we would be in a fit state to

manage things. There has got to be, at some point, movement from entrenched positions. At some point, Theresa May needs to decide, frankly, between her party positions: is she going for a pragmatic outcome and finding a majority in Parliament or is she going to stick with a no deal? Currently she has not chosen between those two, but I think that she will need to at some point. Yes, the crisis continues, and we move on to the next stage.

JON MCLEOD: Thank you for that, Kate, and I might just ask you one naughty supplementary which could be quite determinative of Theresa May's future, which is about the Cabinet split.

KATE FALL: Yes.

JON MCLEOD: It is not a split in the conventional sense at the moment, but there are two factions, a business pragmatic faction around Hammond, Greg Clark, etc., versus the true believers: Gove, Fox, Leadsom and Hunt, (who has newly discovered himself as a hard Brexiteer or at least as a Brexiteer). Who has the upper hand between those two factions?

KATE FALL: I would add to that. I would put Michael in the pragmatic Brexiteers. Michael thinks a no deal would be a disaster. He feels very personally concerned about an outcome like that. He led the campaign so it is interesting he should feel like that. You have exactly as you say, the business, practical group, "Let's work for an outcome with Parliament". You have a group of people and, you are right, Jeremy is newly part of that group who believe the British people would feel most let down by not delivering a Brexit and that it would be incredibly damaging to the party to not deliver Brexit. They think that a managed - although, as I say, time is a bit out on the managed - no deal is a better option. I would put Michael Gove in a way in the middle of that: that of people who are firmly in the Brexit camp but are pragmatic about it and still believe that, essentially, Brexit is going to happen and that we should work out the detail and worry about the detail afterwards. I hesitated when I said that. because I would just say that the new looming issue in the background of this politics is of course it is easier than it used to be when we last had the call, to call a day on the procedure or re-set the button so that is an added complication.

JON MCLEOD: Thank you for that, Kate. That is very helpful indeed. Before I move on to Mark, as he is the only speaker not in the room, I am going to check he is with us on the line. Mark, are you there?

MARK ESSEX: Yes.

JON MCLEOD: I have never been so delighted to hear your dulcet tones. Mark Essex, by way of recap, is the director of public policy at KPMG in the UK, and he is going to give his take on the policy options and also some of the implications for business and trade, because I know that your clients have been getting briefed and up early on the practical impact for them. Mark, can I give you the floor?

MARK ESSEX: Thank you. The policy options are interesting. It is not just the numbers that we have been looking to see, but the nature of the coalition against the current deal, because that gives us some clues as to what it would take to gain support. Of course, as we know, it is not enough for there to be a majority against the deal; we need to find a single majority for something in the Commons. Theresa May is now going to try and find what this consensus might look like. She talks about "realistic" options - I think she is even now entertaining suggestions - by which she means not those things that have not yet been entertained by Europe and require completely throwing out the withdrawal agreement. I think she is looking for the art of the possible. What might they be? There are a number of factions. One is around a Norway plus (or as people are trying to rebrand it: Common Market 2.0) and the customs union. These are flavours, if you like, of a softer Brexit. What is interesting is we still have to sign a withdrawal agreement to be able to have those. What these factions are looking for is really to meet the trust thing. They are saying, "I will sign the withdrawal agreement but only if you, Prime Minister, restrict your options in the future so you don't do anything Singapore-style that we don't like. We will entertain the majority if you give us some comfort that we stay closer to Europe". I might call that softer versions of a deal.

Then there is no deal, so the Rees-Mogg "wind down the clock" or even commit to no deal or managed no deal, which potentially some would see as a unicorn. Interestingly, on that one, I understand there is an amendment being drafted to give Parliament the power to revoke article 50 in extremis and that might sharpen the minds of those seeking to run down the clock as a tactic. I think to get no deal there is an argument that says you have to move Parliament to support no deal rather than simply to run out of time. Of course, revoking article 50 without a referendum or an election or some sort of public mandate, even if it is legal, is politically fraught.

I think the focus on potential solutions though is larger than many think. Some people are saying all the PM could do is tweak. I hear suggestions from sources in Europe that if the

Prime Minister could demonstrate that she could command a majority for a deal, the EU may be surprisingly flexible. This is just once source amongst many. If the Prime Minister puts her motion on Monday and gets some clarity from the House of Commons, even though that motion is not legally binding, that is some ammunition to use in Brussels. I do not think "a deal" is off the table. I think it is possible still despite the scale of the loss.

On the issue of the loss: the majority was 232 so that means 117 MPs need to be persuaded. There are ten DUPs and 60 in the ERG. They move in large blocs. Just the numbers alone are not enough evidence that the deal is dead. People who write that off are being premature.

The other option that is out there is another vote, and it is interesting, I think the Government remains very opposed to that. People I talk to say, "Look, it took 13 months to get the original referendum through. You cannot rely on Parliament expediting that legislation, so it is difficult, and you might have another 13 months of prolonging uncertainty for business. It is not absolutely positive that you would get a different result. You could have a situation of a year of your uncertainty and we end up back where we started. That is not popular in government, but I understand has support in the House.

Lastly, before I get on to client effect, on extending article 50, there are different flavours of that extension. I think it is clear that it is going to be very difficult to get support for that among European leaders unless they know what it is for. You can rip the plaster off slowly which is to say, "We are extending it because we don't have a better idea". I think that has a low probability of success. Then, "Extend article 50 because we are committed to no deal but we need more time to plan". That has potential. There is, "Extend article 50 because we have got a deal but the paperwork will take a while". That I think would be very readily approved. Then, "Extend article 50 because we need to decide to decide", which means a referendum or an election. Again, I think that would be granted. The one that I think is less likely is ripping the plaster off slowly.

If we did have a deal the business of extending article 50 is less of an issue. If you have political agreement that looks watertight, it is almost dancing on a pin head whether you leave the EU and enter transition, a couple of months' difference, because you have the political agreement during the transition.

For clients I would just say: there is lots of uncertainty; nothing is off the table; no Brexit, no deal and a deal are still possibilities. For most businesses, the worst is no deal and, therefore,

my advice is while it is tempting to believe, and you will always find someone who can convince you that all the other alternatives are impossible and you chill out about your planning, I beg my clients to resist that temptation. It may all turn out to be okay, but you should plan for the worst. We are obviously advising people on core risks around regulation, the supply chain, staff, working capital. We also remind clients of those things they might not have thought about: spare parts' availability, machinery, agency staff and that sort of thing. We are now starting to hear clients getting quite exercised about the practicalities of 30 March and we are talking to people about setting up situation rooms and whether they have key staff and other people who know how their supply chain works on holiday, have they checked because it is near Easter. People are getting into those daily practicalities. I will pause there.

JON MCLEOD: You make an important religious point about 2019, Mark, which is that Easter is very late this year, and that is certainly going to a good thing, because having people available around the cusp of the month will be critical for business planning and continuity and resilience. I suppose the points you raise at the end are ones which should be very firmly directed towards our business audiences, which is if you have not moved into resilience mode so far, now is the time to start doing that very seriously indeed. Even if everything works out for the best in the best of all worlds, the ability to ride that hump will be determinative of many businesses' reputations, let alone their profit and loss accounts. Can I just ask you one immediate supplementary, Mark, because you are slightly contrarian on the adaptability of the existing withdrawal agreement and political declaration. Clearly, we readily identify the backstop as something which needs to be detached and operated upon because that has been the focus of the debate, but are there other ways, for example by modifying the political declaration, that you can see this Theresa May initiative to bring the parties together around some sort of noodling of what is already on the table as a way that would work. Are there items in the core document that you would focus on if you were running that process to actually bring about consensus?

MARK ESSEX: The biggest faction in Parliament, the largest single tranche of votes are those who are allergic to the backstop. The next one is those who want confidence around a softer Brexit, a Norway plus. The first thing I would do is think if you could get sufficient confidence to persuade the backstop allergic to come with you that has got to be a place to start. What might be plausible? For example, the European Union has been for 42 years perfectly content with a two-year notice period. If you could say to Europe, for example, and this may be straying into unicorn territory, but let's see how flexible they are, that backstop has a two-year notice period, in effect, the European Union has no less confidence than it had in 2015 about the Irish border and they were perfectly happy to live with it. If

you were able to say to the EU something like, "If we were able to demonstrate with a pilot that that border with max fac and all the rest of it could be managed at least as well with external evidence as, say, the Serbia/Romania border, which you are currently satisfied you, you won't arbitrarily rule that out as an option". You are converting a political problem into a technical problem. I do not know if these are on the table, but it at least demonstrates that there are some plausible consistent ways through this. Then it comes down to whether people want to go down that road. That is what I might be testing with Europe.

JON MCLEOD: That is very helpful indeed. I hope you can stay on the line until about 9.15 when we are going to do questions and I will bring you in at that point. Thank you for that so far, Mark. Speaking of unicorn territory, I am going to hand over to Georgina Wright, who is probably the person best placed in the room to blunt the unicorn's horn and bring us back down to earth with a bump, not only in relation to what is going on inside the Government at the moment but, given your expertise and your background previously at Chatham House, what is really going on in Europe, what is the realpolitik within the institutional architecture of Europe and what are they going to be war-gaming and scheming at the moment to try and get some sense out of our slightly wild nation at the moment? How do you see that panning out in terms of the milestones within the UK Parliament into delivering the variety of options that we know are ahead of us? Georgina, the floor is yours.

GEORGINA WRIGHT: Thank you very much. Some of my points have already been raised, which is always a good sign. I think I would start off by giving four summary points, which is from the EU's perspective their first worry is compromise. Can Theresa May reach a compromise in the UK Parliament that will work in Brussels? It is not only about finding a solution here; it is about finding a solution that works for both sides. That is number one.

Number two, which has already been raised, is timing: do we have enough time available? The third is rising frustration. At the moment the EU have kept a pretty cool stance. They have had a consistent line, but you are starting to feel some frustration about, "How much more time and energy can we spend on this and how much more time and energy are we taking away from other more important issues?" You have got the European Parliament elections, the refugee crisis, Eurozone reform, general elections in different member states, Hungary and Poland and judicial reform. They have a lot on their plate.

The final thing is parallel negotiations. This negotiation is not happening in a vacuum. We are expecting some really crucial negotiations, for example on Iran, where the UK is likely

to side with France and much more closely with its European allies than it is with the US. How can you contain and keep that conversation and partnership going when you are going through a very difficult Brexit negotiation? That is the fourth point; it is not happening in a vacuum.

Taking a step back, first, from the Government's perspective, obviously the Government is really worried. We saw that yesterday when the Government reached out to business. What we do know is that Theresa May is going to try and strive for a cross-party consensus on how to move forward and, if she cannot reach a consensus, at least a cross-party dialogue. The Government's has attempted to reassure business. They obviously do not want no deal, they have made that very clear, but they have said, "We can't move forward unless we have a debate in Parliament". We know that some businesses are not reassured by that and they will start kicking in contingency planning. This will have a knock-on effect and the Government will be worried about it.

Let's turn to the EU, the other big player in this negotiation. Up to now they have had a very much wait and see approach. Their message has been consistent: the best offer, although not ideal, is on the table already. The deal is the outcome of lengthy, complex and at times tedious negotiations. It is also a compromise. It is good for business and citizens. Finally, they feel that some of the frustrations, particularly around the Irish border, for example could we find a technical solution for the backstop, would be best resolved as part of the trade negotiations than the negotiations on the terms of the UK's exit. They are thinking to themselves, "What more can we do now because many of the solutions probably lie in the discussions about the future?" so about trade and foreign and security policy.

The Government's defeat yesterday obviously did not come as a surprise. We have heard lots of national parliamentarians in different member states and government Ministers coming out yesterday night this and this morning regretting the outcome of the vote, but also signalling that they would be open to some discussions, but not at any price, and we can come back to that. I think their main message is, "UK, what do you want? Can we find a compromise? Can you ensure that whatever compromise is reached can be backed by Parliament and finally, when do we start discussions?" Those are the four questions they will be asking repeatedly. Behind closed doors, obviously, because they are conscious the clock is ticking. They continue their planning for no deal. The Spanish Prime Minister this morning, or was it last night, came out saying, "We deeply regret the vote, but we are going to continue preparations for no deal", again, this line that they do not think that the deal could be improved massively, but they stand ready and they need to know what the UK

Government wants first.

Let us turn to this idea of extending the article 50 negotiations. There have been three time slots that have been suggested. One is April, so just delaying it by a couple of weeks. That would assume that there would be no negotiations. It would simply be to adopt the necessary domestic legislation here in the UK either to facilitate the no deal or to adopt the withdrawal agreement, so more for domestic procedure than anything else. Then we have heard hints about May to July. Guy Verhofstadt, the Brexit lead in the European Parliament, has said, "We don't want these negotiations to go beyond the European Parliament elections", but when you talk to official in Brussels they say that the new MEPs do not take up their seats until July so we might have more time for discussions. That presupposes that discussions will not be substantial. There will only be tweaks along the sides of reassurance.

Then there is a big question about substantial renegotiation and substantial revision to the withdrawal agreement, which would presuppose that the article 50 period would go beyond July. I do not think that is what the EU wants because I think, as I mentioned, there are limits to what they can do to help and also they feel that some of these questions would be best answered as part of the trade negotiations, but they would need a lot of convincing. I think the Government would have to a make very strong case about how an extended article 50 period can really make a difference to Parliament. At the moment it does not look like Government is able to provide those assurances.

Finally, really, touching on what the UK Government could learn from the EU throughout the negotiations or the negotiations so far, the first is this idea around unity. Obviously, the EU's position is the outcome of internal compromise, but what they have done really well is to present a united front. It strengthens their hand in negotiations, but also ensures that they speak with one voice. When you look at the UK, it just looks like a fractured actor. We have seen David Davis write a piece for the *Telegraph* saying this would strengthen the negotiating hand and it shows that the UK will not stand for anything. I would argue that it weakens because if you squander any lingering goodwill with your negotiating partner, it just makes the negotiation a lot more tricky. We have to play those cards carefully.

The second thing to remember, which the EU has consistently said, is this has been the easy part. Negotiations about trade and about our customs, all of that is going to be a lot more tricky than negotiations about the terms of the UK's exit, and we need to brace ourselves. This means the EU has already gone out and it is holding regular formal and informal discussions with business, with the different institutions within the Commission, with the

different directorate-generals, really trying to build common positions to understand where everyone stands. That is I think a lesson the UK Government needs to learn. If we get a withdrawal agreement in place, let's not rush into the other negotiations. We need to take some time out to think carefully about what we want, how it can be achieved and how far we are willing to compromise.

Perhaps the final point which I will end on is it is not that the EU do not compromise; it is that they know when to compromise. Revealing too early where you are likely to compromise will just weaken your negotiating position as well.

JON MCLEOD: Georgina, thank you for that. Can I ask you a very short supplementary, which is your team at the Institute for Government has looked very closely at parliamentary processing capacity to achieve certain things, including enacting statutory instruments and primary legislation and other measures needed to take steps through the Brexit mire. What is your assessment at the moment of the remaining processing capacity of Parliament, the House of Commons, between now and 29 March? For example, do we have time to legislate to outlaw very low-level letter boxes, which is the other item on the House of Commons agenda today, or do we enough time to legislate for the entire Brexit process? How much do have left in the tank?

GEORGINA WRIGHT: That is a really good question. I confess I am not a drilling down into the detail parliamentary expert, but what I know and what I hear from colleagues is that it could still be possible to pass parliamentary legislation, but we have to have these conversations on Monday. Further down the line becomes more tricky. Anything is possible. Brexit is uncharted territory politically and legally. The problem is it is almost the Government is not thinking about that or any other domestic legislation because there is no consensus. It is a political deadlock more than a technical and legal deadlock at this point.

JON MCLEOD: Got it. That legal cue was a perfect piece of segue way by Georgina for us to bring in Piers Coleman, who is a partner at law firm K&L Gates and a partner in electoral law and global government solutions. Piers is going to give us a refreshing dip into the legal and constitutional implications and also provoke us with a couple of the thoughts that probably have not crossed our dimming minds yet. Piers, over to you.

PIERS COLEMAN: Refreshing. What a wonderful expression. If only! I was really interested

to hear what Georgina said about having the easy bit now. Anybody who listened to John Walton on the *Today* programme this morning when he said, "But a trade agreement will be easy compared to what we have done. We can get that all sorted in a few months". What do you know! He said we would follow the Canada example and that only took a few months as well, didn't it.

I have a number of points I would quite like to make, all slightly disconnected, but here we go. When we last met, Jon, in your office, I made a big point about what I call the separation of powers, about how the Executive was seeking to dominate both Parliament and the judiciary, and I thought it was a very unhealthy sign and it is really, really extraordinary that in the weeks that have passed we have finally seen Parliament really assert itself. Some may say it is for the good and some may say it is for the bad, but the fact is Parliament has sought to assert itself, and more so than has ever happened. Some of the unprecedented actions that have occurred in recent days leading to Parliament, effectively saying, "We will be a substitute for the Government in deciding where we go" - which are slightly brave words, I feel, because I do not quite know where they are going to find the funding to do it all - but, nonetheless, the idea that Parliament has asserted itself is a really - to use your word - refreshing thing. It does not necessarily get us to a solution but I think it is healthy.

Lots of comment were made yesterday about the need for the Prime Minister to commit to there being no "no deal" situation, which I found strange comments, for various reasons. First, there was the mantra that no deal was better than a bad deal, which I think we have now forgotten. Also, it is completely impossible to ask the Government to commit to there being no no deal. How can they? They triggered article 50 in the first place, following, first, a referendum and, secondly, a decision - an overwhelming decision - made in Parliament, and that is virtually - we will come back to revocation in a moment - an irrevocable process. We cannot say to the Government you can pick and choose and you can only do it this way. We started the process and we agreed to it and no deal was always an option when we triggered article 50. I do not think we can turn around on that now.

The next point is the extension of Article 50 and there were some really interesting comments made there by Mark. I loved his expression about ripping the plaster off slowly, and Georgina, too, but the fundamental question here is that we need to decide when we can make our request because, as everybody has already identified, there has to be good reason for it, and we have to be clear in our own minds why we are asking for it. The one thing that is sure now is that we are not at all clear. To this extent, the Prime Minister must be right that we are not asking for an extension now. We have to be very clear in our own minds what we are going to do when we do ask for an extension. I suspect there is a way

to go before we get to that, not that we have that much time to make that request.

Why would we have an extension? One reason is that possibly is that we should have a second referendum. That is one of the things that is being debated at the moment. The question is how long will it take to legislate for a second referendum and how long would it take to hold a second referendum? This is a huge exercise. We can definitely agree that we follow all the rules from last time. We could do that and even that would take some time to be legislated, but who has thought about what the question would be, or the questions in the plural, because there has been a lot of debate as to whether in fact there needs to be two referendums. How can we get all that through in the space of a couple of months? It is, in fact, an impossible exercise.

That leads me to another point about extension which is the European elections. The European elections are due at the end of May. The UK is not intended to take part in those elections. Here is a question: what if we have extended article 50 and were are still in the EU, do we or do we not take part in those elections. The Liberal Democrats are in the process of selecting candidates for those elections. Whether or not that is a sensible thing to do is not for me to say, but they are. Also, about 40% of the UK's seats in the European Parliament have been allocated elsewhere to other Member States so that they will be already electing people to take their place. We have a complete muddle on our hands if we are still in the EU after the end of May. The position between May and July is a limbo situation, is it not, Georgina because they may have been elected but they may not sit, and it is a very unsatisfactory position to be in. Can we have a referendum by July? What are the consequences of the referendum anyway? We will probably have litigation again. I think timing here is really really difficult.

A last point for you is the revocation of article 50. It has always been my view that the notice was revocable. We have now had the decision of the European Court, which, to my mind, is helpful and it is unhelpful. It is helpful because it tells people we could revoke, but it says that we can only do it if we are unequivocal and unconditional in saying so. What does that mean? How can we show that it is unequivocal and unconditional because the debate in Parliament leading into a decision to vote will definitely be equivocal and almost certainly conditional. Ironically, the decision of the European Court could make it more difficult for us to revoke than it might previously. An ironic result. Those are my comments and over to you.

JON MCLEOD: Thank you, Piers. That final point is really about the terms of possible

revocation having been set so narrowly and so precisely by the ECJ that any return has to be without contingency or other adornment.

PIERS COLEMAN: That is absolutely correct and it will have to be done in accordance with our constitutional requirements, which is a condition of article 50 for triggering, and for untriggering it will the same. Let's see how Parliament debates that and decides it, but I think it could end up by being quite tricky.

JON MCLEOD: Thank you for that. We have just under 15 minutes left so I am going to pick up on one or two of the points that came through in the remarks. I am going to start with Georgina and then I have a question for Mark and then Kate and Piers. Georgina, just going back to the point about extension, and in particular extension into this May/July interregnum and say everything pans out beautifully and there is a new agreement which we pass over to them in the context of this extension or a new proposed withdrawal agreement, are we assuming that it will be the new European Parliament that plays a role in approving that new agreement between the 27 and the UK? What is your anticipation about the political character of that new Parliament given the rise in populism across Europe and the expected slightly more cantankerous nature of that Parliament. How does that play? We are getting into the politics of the second half of 2019 at that point, are we not?

GEORGINA WRIGHT: There are several questions in your question. As I said, the April deadline would be more just for the domestic legislation, to support either a no deal or a withdrawal agreement, but this May to July period is this idea that the withdrawal agreement currently on the table is unsatisfactory, so it kind of opens up the possibility of revision, but, obviously, not substantial revision. And then, secondly, it would also allow for ratification, so we know that the UK Parliament would have to vote on it before the European Parliament does so. If it is May to July, it assumes that it will be the new European Parliament that votes on it. I have always said that I thought that if we had a greater populist majority in the Europe Parliament that might work in the UK's favour, because many of these parties support differentiated integration, they are not all for deeper integration in the EU, so some of them may be more open to a flexible arrangement with the UK. However, again, we have not started those discussions. Those are the discussions about trade and about foreign security policy. Now we are still talking about the exit. What do you think is in front of the European parliamentarians minds - citizens' rights, obviously financial liabilities, so I do not see how even if the new Parliament has a greater populist majority, they would somehow oppose the deal now on the table or a revised deal. I think the change would be on future discussions.

Finally, why July and why not longer, because if you think it is a new European Parliament ratifying it anyway? The reason is because this idea of whether the UK can remain a member state with no elected representatives in the European Parliament. That is number one. And number two is if the UK remains a member state for longer, so after new MEPs take up their seats, do you allow British citizens residing in member states to either stand or vote in European Parliament elections but you deny that right to British and EU citizens residing in the UK? It is not just about the UK being represented; it is also about denying certain rights. That is why we believe that July will be the last possible point because we cannot go on past July because then we have this whole issue about representation in election.

JON MCLEOD: It gets messier after that point. I have got that.

GEORGINA WRIGHT: Very quickly to say, the Institute for Government has updated its explainer on article 50 extension which goes into this in more depth and highlights all the options so if you are interested you can have a look at that.

JON MCLEOD: You heard it here first. Mark, just checking you are on the line.

MARK ESSEX: Yes, I am.

JON MCLEOD: Just going back to a point you made earlier about being ready for whatever happens, we did not hear much in yesterday's statement from the Prime Minister about business, but business is probably the audience which is most concerned at the moment. If you were the Prime Minister - a very delightful thought - what would you say on Monday to provide some kind of stabilisational reassurance to business that this negotiative path that Theresa May is taking is going to take into consideration their real needs and concerns about the need to prepare for the bumpy road ahead?

MARK ESSEX: I do not have to speculate. I have had conversations with members of the Cabinet and had their messages, which are they understand that this is frustrating. They would love to be able to take away the pain when it comes down to making a decision and spending money that may prove to be unnecessary. They are enormously sympathetic. However, no deal remains a possibility and civil servants have to be focused on preparation and therefore not taking decisions on other bits of government business that businesses would like them to get on. Equally, they need businesses to continue to make appropriate

preparations so that the food, drugs and other things that everybody relies on are available. It is difficult. All they can say is, "The path to a better place starts with a consensus in the Commons and continues with a discussion in Brussels and observe how much more quickly we are moving on that. The Prime Minister is coming back on Monday. The confidence vote will all be dealt with in 24 hours. We are doing our best". That is probably the message we will hear. I do not see what else they can do.

JON MCLEOD: Okay, thank you for that, Mark. Kate, I was going to ask a similar question. It felt last night a bit like the Prime Minister had written a statement expecting a defeat of 120 or 100 or 80, not a defeat of 230. Bearing that in mind, to what extent do you think it is likely she will evolve into a little more of an emollient and conciliatory stance by the time we get to Monday? What do you think Monday's message will look like, because that is the real moment when we discover whether or not plan B is just plan A or it is a genuine plan B?

KATE FALL: My reading of it is that the Prime Minister is still in Plan A.5 if that is possible, and she is still of the view exactly, as you say. She thought she was going to lose. Her original plan was that she thought she would get a little bit from Europe and the fear of a failed Brexit completely would focus the minds of the Brexiteers, although of course the hard core would not move, she would have a few soft Labour people and she would almost be there. I think the numbers have changed that. I am not sure she has quite changed to the circumstances in terms of her strategy. That is why I think you are going to this shifting quite considerably. I suspect her to come back on Monday with something which is not so different and, therefore, there will movements in Parliament to convince or otherwise that there are alternatives and that she should look at it, back to the finding of a majority for something positive rather than just being against something.

My main point is that, in the end, Theresa May is going to have to choose because if her plan cannot get through, the alternatives at the end she is going to have to go with one side or another of the party and that is what is painful politically as the Conservative Prime Minister. And back to numbers, this all started with an election when the Cameron majority was lost, because at the time why did she want to call the election: to have a majority so she could get a compromise through Parliament and that is why we are here.

JON MCLEOD: You are not optimistic about her moving her position? You are almost painting it ---

KATE FALL: For now ---

JON MCLEOD: For the moment, right.

KATE FALL: I would be surprised if she came on Monday having opted for something radically different. I think it is more likely she will move a bit, she will open the doors, there will be more gestures of sitting down to talk to people on both sides of party amongst the senior parliamentarian team of her party. I think you are going to see movement, if you do, from her later on. I would be surprised if it were by Monday.

JON MCLEOD: If I were a hard Brexiteer or a no dealer, a Priti Patel, if you like, would I not see keeping Theresa May in situ as my best and surest route to no deal because she will just hatch the egg of no deal.

KATE FALL: Absolutely. Talk of a leadership election - the country is in crisis. The debate is around Brexit. The leadership is a distraction. Yes, if there was an agreement in Cabinet around one person in or outside Cabinet (because some them are not in any more) let's all get together and choose this person and renew the leadership and let's see if that can help us form a group of people around an outcome, yes, but there is no agreement. I am afraid it is just too split to have a velvet revolution of that type.

PIERS COLEMAN: Kate, do you think that Theresa May is capable of making the changes that you have identified or is she stuck in this mode of sticking with her way or no way?

KATE FALL: I cannot answer for her, but what I would say is what we have seen so far is someone who has been very dug in on a plan. In some ways she has played it. She is the Prime Minister, she has sold it and tried to get it through, and we all owe her our respect, but at some point, if she still cannot get through a plan that is a little bit different from the one she has just lost on hugely overnight, she is either going to have to go with the pragmatists in the Cabinet who are working with the Commons to find a majority, or she will have to jump ship and go with a managed no deal, which, as we all know, is a problem because we have run out of time to manage a no deal. So that would be my guess.

JON MCLEOD: Talking of running out of time, our last act today before I thank you all is we are going to have our own indicative vote amongst the panel, which is extremely mean

of me. I will start with Mark to put him on notice that he will be the first to vote. It is not an indicative rote as to what you want; it is an indicative vote as to what you think will happen. It is utterly unfair and you can reproach me for it afterwards. I guess we would say a second referendum, Norway, something like Theresa's May deal, Common Market 2.0 or no deal. So, Mark, not what you want but what you expect; what do you expect Mark?

MARK ESSEX: I think we may yet see some movement from Europe on the backstop and we will get a fudged version of Theresa May's.

JON MCLEOD: A fudged version. Thank you for that. Very crisp. Piers?

PIERS COLEMAN: What I want is a second referendum. What I suspect we will get is a version of the deal.

JON MCLEOD: Interesting. Georgina?

GEORGINA WRIGHT: The same, a version of the deal.

KATE FALL: No, I disagree. I am afraid I think the numbers are too big and the backstop people will only move some of that huge group of people. I think we are heading for delay and a sort of compromise around more of a customs union.

JON MCLEOD: Something a little softer but harder to forge?

KATE FALL: That is where I think the majority might lie in the Commons.

JON MCLEOD: Fantastic. It is 9.29. I am going to thank Georgina Wright, senior researcher at the Institute for Government; Piers Coleman, partner in electoral law and global government solutions at the law firm K&L Gates; Mark Essex, the Brexit policy director at KPMG in the UK, and my colleague Kate Fall, partner in Brunswick Group. It is goodbye from me Jon McLeod until the next political crisis. Goodbye.