

# Can the new prime minister of Britain stop parliament blocking a no-deal Brexit?

Blog post by Senior Associate Joe Armitage, 30 May 2019

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The UK stepped back from the precipice of a no-deal Brexit in April by requesting and receiving an extension of the Article 50 period up to October 31st this year. This has provided short-term relief from the immediate risk of a no-deal for many businesses on the continent and in the UK. But political turmoil over how to handle Brexit has again engulfed the UK in the last few days. Britain will have a new prime minister by the summer. The person chosen for the job will be selected chiefly on their Brexit position. The front runners have put no deal on October 31st at the centre of their platform. Could parliament stop them?

It is probable that the new prime minister will be an ardent supporter of Brexit for two key reasons. First, there is a recognition within the party that it needs a leader to take on the new and insurgent Brexit Party that won last weekend's European parliamentary elections and left the Conservatives with just 9% of the vote. Second, the Conservative Party's 160,000 members - who will choose between two candidates put through to them by Conservative MPs - are mostly in favour of Brexit, and a majority apparently favour no deal.

Already, former Brexit secretary and leadership candidate, Dominic Raab, has ruled out extending the Article 50 period beyond October 31st and stated that it is "Difficult for parliament to stop the government from proceeding to a no-deal Brexit" and that he would be prepared to "Use executive levers available to him to achieve it." This indicates that he might be prepared to resort to measures that other leadership candidates wouldn't countenance when it comes to delivering Brexit. Other frontrunner leadership candidates - such as Boris Johnson - have also talked up their willingness to pursue no deal.

This raises the question of what might happen if the new prime minister goes down this path, perhaps after trying and failing to renegotiate aspects of the existing deal with the EU or - like May - they are unable to get a deal through parliament. We already know from previous votes on the matter that a majority of MPs in the House of Commons are against a no-deal Brexit. But if the new leader is hellbent on bringing it about, can MPs stop them?

In April, we already saw a majority of MPs amend motions in the Commons to allocate themselves time to introduce legislation on mandating the government to seek an extension to Article 50. Whilst the government had to introduce the initial amendable motion to start this process, it is difficult to imagine the new leader refusing to do the same. Even if they did, Speaker John Bercow has indicated that he would be prepared to grant MPs an amendable motion alongside an emergency debate under Standing Order No. 24. This would require a significant departure from precedent, but the last few months have shown us that Bercow has the stomach for this.

As a result, the only workable way for the new prime minister to pursue a no-deal Brexit against the wishes of a majority of MPs is to prorogue parliament, perhaps just as the UK is approaching the October 31st deadline. Prorogation ends the current parliamentary sitting and is a power that rests solely with the prime minister. All parliamentary business would immediately cease once the decision to prorogue had been made, and MPs would have no say over the matter.

Such a decision could have significant ramifications for the UK. Putting aside the fact that it would be reminiscent of the way in which King Charles I and Oliver Cromwell treated parliament, it would also result in the UK leaving the EU on an inadequate and compromising statutory footing.

Thus far, the government has been unable to pass 'Brexit-proofing' legislation on trade, agriculture, immigration, fisheries and a plethora of other critical policy areas. To leave the EU without doing so beforehand would open-up gaping holes in the UK's domestic legislative framework. Ultimately, a decision to railroad MPs to achieve a no-deal Brexit is unlikely to be conducive to getting this necessary legislation through, potentially bringing about a general election and with it an even bigger headache for the new prime minister.

In sum, the ability of a new prime minister to push no deal through this parliament looks highly problematic practically and politically - it could very well be the last act of a new premiership rather than one of its first. That raises the question of whether a new prime minister might instead end up seeking a new set of instructions directly from the electorate on no-deal. But that is a different question, and one that the leadership candidates in the race to replace Theresa May are desperate to avoid answering.