

# Constitution Unit

## Monitor 66 / July 2017



## The most unexpected election

Current British politics is rarely dull. Added to the unexpected result in the 2016 Brexit referendum and the subsequent [Miller case](#) regarding parliament's role in the process (not to mention the Conservatives' unexpected outright majority in 2015), we now have our second hung parliament in seven years, a resurgent Corbyn-led Labour Party, and a previously popular Prime Minister who appears to be on the ropes. All this following a general election that few expected, and that some even thought pretty much impossible under the 2011 Fixed-term Parliaments Act.

Image above: Theresa May and Jeremy Corbyn process through Central Lobby to the House of Lords during the State Opening of Parliament, 21 June 2017. This image is subject to [parliamentary copyright](#). [www.parliament.uk](http://www.parliament.uk).

Following the successful passage of the [European Union \(Notification of Withdrawal\) Act](#), authorising the trigger of Article 50 (see page 4), Theresa May surprised almost everybody on 18 April by proposing a general election for 8 June. Having started with what looked like an unassailable lead in the polls, in an election where she sought to strengthen her hand in parliament during the Brexit negotiations, she managed instead to lose her slender Commons majority and was forced into a confidence and supply arrangement with Northern Ireland's Democratic Unionist Party (DUP) (see page 6). Her authority within her own government is much diminished, and ministers have [openly squabbled](#) with each other over Brexit priorities. Meanwhile, Labour's unexpected gains mean its previously fractious parliamentary party seems suddenly united behind Jeremy Corbyn.

The results were also a blow to Nicola Sturgeon, whose Scottish National Party (SNP) lost 12 seats to the Conservatives, six to Labour and three to the Liberal Democrats. Conservative leader Ruth Davidson (who spoke at a packed [Constitution Unit event](#) during the campaign) in contrast made a strong case for the Union and gained further stature and negotiating power. Scotland's First Minister [acknowledged](#) on 27 June that she would have to put the campaign for a second Scottish independence referendum on hold for the time being (see page 11).

### In this edition

<a href="#">Parliament</a>	<a href="#">2–6</a>
<a href="#">Executive</a>	<a href="#">6–7</a>
<a href="#">Elections and referendums</a>	<a href="#">7–10</a>
<a href="#">Parties and politicians</a>	<a href="#">10</a>
<a href="#">Devolution</a>	<a href="#">10–13</a>
<a href="#">Courts and the judiciary</a>	<a href="#">13</a>
<a href="#">Europe</a>	<a href="#">13–14</a>
<a href="#">International</a>	<a href="#">14–15</a>
<a href="#">People on the move</a>	<a href="#">15</a>
<a href="#">Constitution Unit news</a>	<a href="#">16–17</a>
<a href="#">News from Constitution Unit Fellows</a>	<a href="#">17–18</a>
<a href="#">Bulletin board</a>	<a href="#">18–19</a>



The campaign itself was unusually eventful and was marred by distressing terrorist attacks in Manchester and London (see page 7). The parties pulled together manifestos very quickly. As was analysed in a [piece on the Constitution Unit blog](#), they included many and varied constitutional reform proposals. The Conservatives promised significant electoral reforms (see page 8), and repeal of the Fixed-term Parliaments Act (see pages 3–4). But, of course, their biggest constitutional challenge is Brexit.

The slightly delayed [Queen's speech](#), on 21 June, set out plans for an opening two-year parliamentary session – the first such extended session since the beginning of the coalition period in 2010–12. The event saw [reduced ceremonial](#) (which allowed some mischievous commentators to claim that the Queen had replaced her crown with a 'giant EU hat'). Given the difficult parliamentary arithmetic (see below), it also saw some reduction in legislative ambition, with the speech being largely confined to Brexit-related matters and a few other fairly low-profile bills (see pages 4–5).

It remains to be seen just how difficult the [new government's relationship with parliament](#) will be. The result seems to have boosted those who favour a so-called 'soft' Brexit, and the new and returning Conservative MPs are less likely to be unquestioningly loyal to or trusting of their leader. The Northern Ireland border, if it wasn't already central enough to discussions over Brexit, has taken on added importance given the reliance on the DUP (see page 12). There has been some [nervousness in the Brexit-supporting newspapers](#) about the likely stance of the House of Lords, and even whether the [Salisbury-Addison convention](#) will apply in a minority government situation. This is something of a red herring, as the Lords rarely seeks to block the second reading of any government bill, whether manifesto-related or not, but almost always feels entitled to raise questions on the detail. In this respect, the position that Labour chooses to adopt on Brexit is key.

Various positives and potential negatives came out of the election campaign. The House of Commons is more representative than ever in gender and ethnic terms, though still far short of a mirror of the population (see page 10). New and more intense questions were raised about the regulation of online campaigning (see page 9).

The pollsters, few of whom predicted a hung parliament, were once again under scrutiny. Some of these key issues were explored in the Constitution Unit's well-attended post-election events, on [10 June](#) and [21 June](#).

The Unit will continue to explore other issues of intense interest in British constitutional politics. During the campaign we launched [a report](#) exploring the options for a constitutional convention of citizens, as proposed in several parties' manifestos (though not that of the Conservatives). In the autumn we will apply similar deliberative methods to run a citizens' assembly on the form that Brexit should take (see page 16), which we hope will inform parliamentary and government decision-making. We are also in the process of establishing an Independent Commission on Referendums to address big questions about how and when such direct democracy instruments can best be used, and how good quality debate can be encouraged.

## Parliament



### Parliamentary challenges for the new government

As already touched upon above, the new government seems set for a bumpy ride in parliament. An immediate analysis of some of the key obstacles was published by Constitution Unit Director Meg Russell [on our blog](#) the day after the election. The most obvious point is that, even with DUP support, the Conservative majority in the House of Commons is very fragile. Even more than previously, the whips will have to work hard to ensure that Conservative members are present and willing to vote in support of the government – which will require greater consultation with backbenchers, particularly over sensitive issues such as Brexit. There will be closer attention to illness and absences – including ministerial visits, and DUP trips to Northern Ireland. The majority could also easily be eroded through by-election losses or defections.

The voting numbers make a particular difference on legislation. With government and opposition so closely balanced, it is unclear whether the governing side will have a majority on Commons public bill committees (which [standing orders](#) require to reflect 'the composition

of the House’). This may become an early bone of contention. Without a committee majority, ministers become very vulnerable to defeat on legislative detail. Except on essential matters, such as the ‘Great Repeal Bill’ and other bills relating to Brexit (see page 4), this may consequently be a parliament that legislates relatively little. In Commons select committees, which usually proceed by cross-party consensus, numbers are less important. The standard size for such committees is 11, which may need to be amended to an even number in order to give equal representation to government and opposition sides.

In the Lords the Conservatives are outnumbered by Labour and Liberal Democrats combined (and the chamber also includes roughly 200 non-party peers). Anyone fearing that the government could be pulled to the right by the DUP should find comfort in the fact that key measures need approval in a chamber where the political majority is to the centre-left.

Altogether, it appears that the only means of successfully managing the new parliament will be for the government to become much more consultative and consensual in its approach – which may not come easily to the Prime Minister.

### Election of Speaker, deputy speakers and committee chairs

The 2017 parliament met for the first time on 13 June. In keeping with past practice, incumbent Speaker John Bercow was [re-elected unopposed](#) at the first sitting. In 2009, when he was first elected as Speaker, Bercow had pledged to serve for no more than nine years. However, during the general election campaign he indicated that he now [planned to continue in office](#) for the duration of the new parliament, potentially until 2022. This triggered renewed [discussion in the media](#) about the possibility that he might be challenged by Conservative MPs who were unhappy with his conduct in previous parliaments, but no such challenge materialised.

Two of the deputy speakers from the 2015 parliament, Lindsay Hoyle and Eleanor Laing, were also re-elected to their positions in late June. The [third deputy speaker](#) will be former Labour Chief Whip Dame Rosie Winterton. She replaces Natascha Engel, who lost her North East Derbyshire seat at the general election.

The elections for select committee chairs are likely to take place shortly before the summer recess, which starts on 21 July. As a consequence of the election result only a minority of committee chairs will be [allocated to the Conservatives](#), with the remainder split between opposition parties.



Re-elected Commons speaker John Bercow processes through Central Lobby, 21 June 2017. This image is subject to [parliamentary copyright](#). [www.parliament.uk](http://www.parliament.uk).

### The general election(s) and the Fixed-term Parliaments Act

Theresa May surprised most people with her [Downing Street statement](#) indicating that she wished to spark a general election. For months there had been speculation that she might seek to do this, but many had ruled out the possibility, thanks both to May’s repeated denials of any such intention, and to the 2011 [Fixed-term Parliaments Act \(FTPA\)](#).

The FTPA, dating to the Conservative/Liberal Democrat coalition, provides that general elections will normally be held every five years. But it allows a parliament to be ended early in two circumstances: if the Commons passes a vote of no confidence in the government and no new government secures the confidence of the House within 14 days, or if two thirds of its members vote for an early election. Theresa May used the second route to get agreement to her proposal, with the Commons voting in support [by 522 votes to 13](#) on 19 April. This was to some extent a gamble: Labour could have blocked the proposal by voting against (or even by abstaining, as the Act requires support from two thirds of all MPs, not just those voting), but Jeremy Corbyn had repeatedly stated that he would welcome an early contest, despite the party’s poor position in the polls at the time. The SNP abstained, while just nine Labour,



one SDLP and three independent MPs [voted against](#). The counterfactual of what might have happened had the Prime Minister's bid failed is interesting. She might, of course, have abandoned the plan (and, ironically, thus maintained her Commons majority). If undeterred, she could have engineered a no-confidence vote in her own government, which would have succeeded had Conservative MPs solidly backed it – but would have looked politically odd. Alternatively, parliament could have legislated for an early election. This would likewise have required only a simple majority in the Commons, but also the backing of the Lords.

These events raise some obvious questions about the utility of the FTPA, which the [Conservative manifesto](#) subsequently pledged to repeal. These were explored at a lively [Constitution Unit seminar](#) on 22 May, where Professor Gavin Phillipson argued that the FTPA was not necessarily a dead letter, as a future opposition might yet choose to block an early general election under the Act. The FTPA remains a potential barrier to the [much-mooted early next election](#). The minority government might fall as a result of a vote of no confidence, but if a new government could win a confidence vote within the 14 days stipulated in the Act an election would not be required. Meanwhile if the Conservatives regain a strong poll lead and want to test it, Labour might this time prefer to leave them to sweat – particularly as the public may hardly relish another contest. Despite the manifesto pledge to repeal the Act this was never likely to be easy (as our seminar discussed), and it looks far more difficult now.

## Brexit and Westminster

In the [Queen's speech](#) it was announced that during the [two-year parliamentary session](#) planned by the government [eight bills](#) relating to Britain's exit from the EU will be introduced. The government promises to bring forward its '[Great Repeal Bill](#)', which seeks to repeal the European Communities Act 1972, to transfer EU law into domestic law and to give ministers powers to amend the transferred provisions through secondary legislation. In addition, legislation will be proposed to provide a framework for the UK to reach new trade deals; to establish a new customs system; to manage migration, fisheries, agriculture and nuclear safety; and to ensure it has the legal capacity to implement international sanctions, reflecting the considerable legal and regulatory gap to be filled as a consequence of departure from the EU. This would be an ambitious

programme in any circumstances, and will place significant demands on parliament in terms of scrutiny. Given the new parliamentary arithmetic it is probable that several of the bills will face a testing passage, with opposition parties seeking opportunities to unite with Conservative rebels to force concessions from the government and potentially inflict Commons defeats. One likely area of contention is the delegated powers in the Repeal Bill. Amid concerns that the government might seek substantial 'Henry VIII' powers, the House of Lords Constitution Committee has [called for](#) these to be 'as limited as possible'. Prior to dissolution the House of Commons Procedure Committee [recommended](#) that its successor should examine the procedural implications of the bill's provisions 'as a matter of urgency'.

The first piece of Brexit-related legislation to be passed following last year's referendum, the [European Union \(Notification of Withdrawal\) Act](#), received royal assent on 16 March, allowing Prime Minister Theresa May to meet her self-imposed deadline of formally triggering the Brexit process by the end of that month. As reported in [Monitor 65](#) (page 3), the legislation completed its Commons stages without amendment in early February. Its passage through the House of Lords was less smooth. On 1 March the government suffered a [heavy defeat](#) on an amendment requiring it to produce proposals 'to ensure that the rights of residence of citizens of EU or EEA countries legally resident in the UK are maintained'. On 7 March a [further amendment](#) was inserted against the wishes of the government, requiring negotiated Brexit terms to be subject to the approval of both chambers of parliament before they are voted on in the European Parliament. 634 peers [participated in this division](#), the largest number ever to vote in a Lords division. However, these two defeats were [overturned in the Commons](#) on 13 March. When the bill returned to the Lords only the Liberal Democrats, some Crossbenchers, some Labour backbenchers and a few others voted to insist on the amendments. The Labour frontbench meanwhile chose to abstain, ensuring that these moves were [comfortably defeated](#) and no further 'ping-pong' was required.

Select committees generally continued to take a close interest in Brexit during the period up to the general election. By the end of the 2015–17 parliament as many as 39 reports on Brexit-related issues had been published across the Commons and Lords since the referendum result. This included [three reports](#) from the Select Committee on Exiting the European Union.

Members of the committee who had supported the Leave campaign during the referendum opted to [boycott](#) consideration of the last of these, on the government's negotiating objectives, on the grounds that the draft proposed by chair Hilary Benn was 'too gloomy'. As the Commons select committees were disbanded at the end of the 2015–17 parliament, and must be re-established (see page 3), further Commons scrutiny must now wait until the autumn.

## English votes for English laws

---

The 2015–17 parliament was the first in which new procedural rules known as 'English votes for English laws' (or EVEL) operated in the Commons. Over the course of the parliament, a total of 18 bills had at least some provision certified by the Speaker as relating only to England (or England and Wales, or England, Wales and Northern Ireland), while around 60 statutory instruments were certified. Although 22 Commons divisions were conducted under the EVEL procedures, in no case did EVEL change any legislative outcomes.

In March 2017 the government published the [results of its review of EVEL's operation](#), concluding that the procedures were 'working well'. This assessment has been challenged by others. On the Constitution Unit blog, Daniel Gover and Michael Kenny of the Mile End Institute at Queen Mary University of London [wrote](#) that the review was a 'missed opportunity' to improve the system. The Commons Procedure Committee [similarly](#) found the government response 'disappointing', arguing that it had 'failed to acknowledge ... widespread dissatisfaction'.

Despite the Conservative party's gains in Scotland at the general election, and the confidence and supply arrangement with Northern Ireland's DUP, the government [remains in a stronger position among English \(and English and Welsh\) MPs](#) than it does across the UK-wide House of Commons. The Mile End Institute (now working in collaboration with the University of Cambridge) will continue to monitor EVEL in the 2017 parliament. For further information, please contact Daniel Gover at [d.p.gover@qmul.ac.uk](mailto:d.p.gover@qmul.ac.uk).

## Lords reform prospects in the new parliament

---

The snap general election brought an abrupt halt to the two parliamentary inquiries into managing the size of the House of Lords (see [Monitor 65](#), pages 4–5). The Commons Public Administration and Constitutional Affairs Committee (PACAC) [inquiry](#) took evidence [on 14 March](#) from the three key non-government leaders in the Lords – Labour's Baroness Smith of Basildon, the Liberal Democrats' Lord Newby and Crossbench convener Lord Hope. Its work was subsequently suspended when parliament dissolved, though a section in the committee's '[legacy report](#)' provided some early reflections. This noted widespread support for a limit on the size of the House, for limits on the number of appointments, for an enhanced role for the House of Lords Appointments Commission, and for ending the by-elections for hereditary peers.

Unlike PACAC, the [Lord Speaker's Committee on the Size of the House](#), within the Lords itself, was not formally disbanded at dissolution. It therefore had greater potential to continue its work, and may still produce a report before the summer recess.

Both main parties made reference to the size of the chamber in their manifestos. The [Conservatives](#) repeated their sentiment from 2015 that 'comprehensive reform is not a priority', but pledged to 'ensure the work of the House of Lords remains relevant and effective by addressing issues such as its size'. [Labour](#), meanwhile, stated a long-term target of a 'democratically elected' second chamber, but proposed that in the 'interim' there was a need 'to end the hereditary principle and reduce the size of the current House of Lords'. Soon there may be at least one report against which the parties' commitment to these principles can be tested.

## Restoration and renewal of the Palace of Westminster

---

In [Monitor 65](#) (page 4) it was reported that two House of Commons committees had launched new inquiries into the proposed restoration and renewal of the Palace of Westminster, following the [recommendation of a joint committee](#) in 2016 that there should be a full decant of MPs and peers whilst the work is carried out. In their report, published in March, the Public Accounts Committee [called for](#) a decision-in-principle to pursue a full decant to be taken 'without hesitation'.

The Treasury Committee's parallel inquiry was not complete by dissolution, though a [preliminary report](#) stated that 'it would be imprudent for the House to commit to a specific option or timetable' until the committee had completed its work. At the time of writing it is not yet clear whether the committee, which will have a new chair following Andrew Tyrie's retirement from the Commons, will resume its inquiry in the new parliament.

A [report in \*The Times\*](#) following the election indicated that the government may not now hold a vote on the restoration and renewal proposals at all, despite previously having promised one. The report suggested that senior Conservatives 'do not want a fight on the issue with their own members'. One 'government figure' was quoted as saying that 'You would have to have boulders falling down from the turrets before we leave'. [Letters](#) to the same paper from former Lord Speaker Baroness D'Souza, former Clerk of the House of Commons Sir Malcolm Jack and Labour MP Chris Bryant criticised the possible delay.

## Executive



### Confidence and supply agreement between the Conservatives and the DUP

The [confidence and supply agreement](#) between the Conservatives and the DUP was signed by the parties' respective chief whips on 26 June. The agreement commits the DUP's 10 MPs to supporting the government on 'motions of confidence; and on the Queen's speech; the Budget; finance bills; money bills;



Prime Minister Theresa May meets DUP leader Arlene Foster.  
© [Tíocfaidh ár lá 1916](#).

supply and appropriation legislation and Estimates', as well as 'legislation pertaining to the United Kingdom's exit from the European Union; and legislation pertaining to national security'. On other matters support will be agreed 'on a case by case basis'. Among other things, the agreement also confirms that there will be no change to the triple lock on pensions or to winter fuel payments, despite reforms having been proposed in the Conservative manifesto. A considerable package of [financial support for Northern Ireland](#) is set out, including £200m for infrastructure development, £75m to help provide ultra-fast broadband, £100m for health service transformation and £50m to address pressures in health and education. A co-ordination committee, convened by the government, is to be established to 'ensure the necessary support can be established by both parties to fulfil these arrangements'. No details of this have yet been provided, except that the Northern Ireland Secretary will not be a member. The agreement is for the length of the parliament, but will be reviewed after each parliamentary session and at other times 'by the mutual consent of both parties'.

This deal is controversial for three reasons. First, although issues such as gay marriage and abortion do not feature in the confidence and supply agreement, concerns have been raised about the DUP's [socially conservative stances](#) on them. Secondly, critics of the agreement, [including Sir John Major](#) and [Lord \(Peter\) Hain](#), have suggested that by undermining the government's role as an 'honest broker' in Northern Ireland it could endanger the peace process. The agreement seeks to address this issue by stressing that the DUP 'will have no involvement in the UK government's role in political talks in Northern Ireland'. Finally, politicians from England, Scotland and Wales have been [critical](#) of the fact that, as a result of the agreement, Northern Ireland is to receive extra funding on top of that to which it is entitled through the Barnett Formula, which will not be matched elsewhere in the UK. Government ministers have [justified this](#) by suggesting that Northern Ireland has 'particular needs, because of its history and difficulties'.

The deal should ensure that the Conservatives can continue to govern for the time being, but it falls short of guaranteeing DUP support on every Commons vote. As discussed above (see pages 2–3) the government's parliamentary situation will be challenging, requiring a more consensual approach to be taken than in previous parliaments.



## The new government and Whitehall

The unexpected election outcome resulted in unusually high post-election continuity in government, at least in terms of ministerial posts (see page 15 for changes). The Cabinet Office had properly prepared for all contingencies, including a hung parliament, by convening a meeting of constitutional experts before the election to check that the procedures laid down in the [Cabinet Manual](#) were still correct. They will have been less well prepared for their Cabinet Office Minister Ben Gummer losing his seat, and being replaced by Damian Green, now also promoted to First Secretary of State. This, together with the [resignations](#) of the Prime Minister's chiefs of staff, Nick Timothy and Fiona Hill, created expectations of changes in the operation of the centre of government.



Damian Green, who was promoted to First Secretary of State and Minister for the Cabinet Office following the general election. © [Number 10](#).

In terms of election implications for the civil service, the [Conservative manifesto](#) was on the cautious side, dropping the reference in its [2015 predecessor](#) to civil service reform. However, it committed to moving significant numbers of civil servants out of London and the south east, starting with arm's length bodies and including operational headquarters as well as administrative functions. As yet no dates or numbers have been given. The manifesto undertook to 'look at' ways of making recruitment more diverse, including with regard to social class.

Beyond pledging an active government taking decisions on the basis of what works, manifesto references to the process of government fell under the title 'digital government and public services'. This pledged a 'new presumption' that government services will be digital by default, and that operational performance data for all public-facing services would be published 'as a matter of course'.

## Elections and referendums



### The general election campaign

The 2017 general election campaign will be remembered principally for two things. First, it was twice interrupted by deadly terrorist attacks. All parties suspended campaigning, though they were eager, particularly after the second attack, to assert the strength of democracy by keeping the interruption short. Second, the campaign saw exceptional [shifts in public opinion](#). In the days after Theresa May announced that she would seek an election, she and her party rode 20 or more points ahead of their rivals in many polls. By polling day, a Labour surge had bridged most of that gap, and the Prime Minister was becoming a liability rather than an asset for her party.

Several factors contributed to these shifts. Theresa May's weakness as a campaigner combined with the unpopular Conservative manifesto and subsequent [u-turn over social care](#) to destroy the core message of 'strong and stable leadership'. Jeremy Corbyn, meanwhile, transformed from a tetchy to a confident media performer, while his radicalism and seeming authenticity mobilised young voters to an exceptional degree. *Monitor* readers are likely to find more systemic factors of particular interest. Initial evidence suggests that the rise of social media may have allowed left-wing websites to challenge the traditional right-leaning press, particularly among the young. Highly targeted online advertising seems to have grown substantially. As discussed below, concerns that such advertising is both opaque and insufficiently regulated are growing, and pressure for reform is likely to rise.

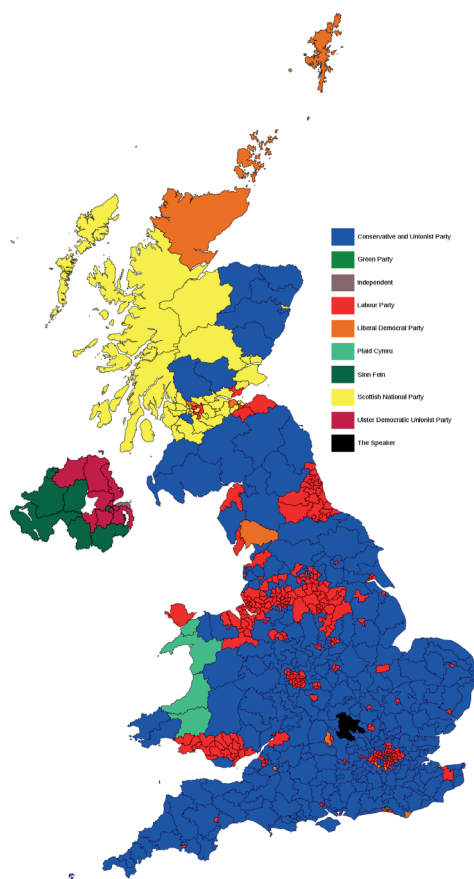


The Labour Party's campaign launch. © [Sophie Brown](#).

## Performance of the electoral system

As happens after every election, there has been [renewed talk](#) of electoral reform in the past few weeks. Reform of the first past the post (FPTP) system used for Commons elections is not high on the political agenda and is unlikely any time soon: even if the precarious parliamentary arithmetic at some point empowers supporters of change in the SNP, Liberal Democrats, and other smaller parties, they would be wary of pushing this cause given their crushing defeat in the referendum of 2011.

Still, a check on the performance of the current system is in order. The Unit's Deputy Director, Alan Renwick, provided a detailed assessment on our [blog](#). He found that the 2017 election did not strengthen the case against FPTP: disproportionality was lower than for decades; the Conservatives won greater shares of voters and of eligible electors than any other party this century; representativeness of society improved; regional disparities typically declined; fewer MPs now enjoy the comfort of safe seats. On the other hand, the election did weaken the case for FPTP, which is built in significant part on the system's ability to deliver single-party majorities. It failed for the second election out of three to produce that outcome.



2017 general election results map. © [Hogweard](#)

## Conservative manifesto commitments on the electoral system

The [Conservative manifesto](#) contained several proposals relating to elections that deserve attention. Reaffirmation of support for first past the post (FPTP) for parliamentary elections and opposition to lowering the voting age came as no surprise. But the party unexpectedly pledged to extend FPTP to mayoral and police and crime commissioner (PCC) elections. It also promised to 'legislate to ensure that a form of identification must be presented before voting'. And it committed to implementing the ongoing boundary review (see page 9), including the reduction in the number of Commons seats from 650 to 600.

FPTP for mayoral and PCC elections would replace the current supplementary vote (SV) system, which allows voters to express both first and second preferences. As a truncated form of the alternative vote (AV) system that voters decisively rejected in the referendum of 2011, SV might be criticised for lacking popular support. But the legislation for PCC elections was passed after that referendum and sponsored by Theresa May herself, as Home Secretary. Why SV was desirable then but is undesirable now is unclear. Proposals for voter ID, meanwhile, build on the recommendations of the [Pickles review](#) of electoral fraud published last December (see [Monitor 65](#), page 8).

These proposals have been discussed in further detail [on the Unit's blog](#). Of course, given the government's minority status and the need to focus on Brexit, it is far from certain that they will be implemented. No legislation in these areas was included in the [Queen's speech](#), which given the planned two-year session means none is likely until at least 2019.

## PACAC report on the EU referendum

The House of Commons Public Administration and Constitutional Affairs Committee (PACAC) [reported](#) in April on lessons to be learned from the EU referendum. Committee chair Bernard Jenkin [summarised](#) the findings on the Unit's blog. Most strikingly, the committee suggested that greater efforts should be made to ensure that both options in a referendum are clearly defined. It characterised the EU referendum as a 'bluff-call' referendum, through which the then Prime Minister sought to call out his opponents rather than advance a policy



change, and suggested this was undesirable. It urged an extension of the so-called ‘purdah’ period during which state resources cannot be used for campaigning and an update to the purdah rules to fit the digital age. It also called for reform of the voter registration system, a review of the system for designating campaign groups and greater attention to cyber security.

As Alan Renwick explored in a [review](#) on the Unit’s blog, the report raised important questions about information during campaigns: it said ‘there should be proper information about, and planning for, either outcome’. What such information might include and how it might be provided are complex issues. We are currently examining them through our [research](#) and the upcoming Independent Commission on Referendums (see page 16).

## Decisions on election expenses

---

As [Monitor 65](#) (page 8) reported, the Electoral Commission fined Labour and the Liberal Democrats £20,000 each towards the end of 2016 for inaccuracies in their expenses returns following the 2015 election. In March, the Electoral Commission [fined](#) the Conservatives a total of £70,000 for similar breaches at that election and three earlier by-elections. The Commission had already drawn the attention of the Crown Prosecution Service to the misreporting of constituency election expenses. At issue was the Conservatives’ failure to include ‘battle bus’ spending (and in some cases other items) within constituency returns. The CPS [announced](#) on 10 May that, in all but one case, it would not authorise criminal charges. Conviction would require not only that constituency agents had lodged inaccurate returns – this was acknowledged – but that they had done so knowingly. Given that they were following party guidance, this would have been very difficult to demonstrate. Nevertheless, the CPS announced on 2 June that it would authorise charges in the one remaining case, involving the Conservative MP for South Thanet, Craig Mackinlay, and two party workers.

Labour leader Jeremy Corbyn professed ‘[surprise](#)’ at the 10 May announcement. But a [detailed analysis](#) by the legal commentator David Allen Green in summer 2016 had pointed to the low likelihood of many prosecutions. Equally, as political scientist Alistair Clark [argued](#), Conservatives were wrong to suggest they had been vindicated. He also argued that the system of spending regulation needs reform.

## The regulation of online campaigning

---

Concerns have been widely expressed in recent months about the increasingly sophisticated use of online marketing techniques by political campaigners. Most prominent is the alleged use of [data analytics](#) to deliver targeted messages during the EU referendum campaign, but similar concerns arose during the recent election campaign as well. In March, the LSE’s Media Policy Project published a [report](#) that reviewed recent developments and concluded that ‘The UK urgently needs an independent review of campaign regulation’. These concerns are being taken seriously by the relevant regulators. In April, the Electoral Commission [began an investigation](#) into the Leave.EU campaign group’s spending return from the EU referendum, which [media reporting](#) linked to an alleged role for Cambridge Analytica.

Of potentially wider significance, in May the Information Commissioner, who is responsible for upholding rules on data protection, [launched](#) ‘a formal investigation into the use of data analytics for political purposes’. She said, ‘It is important that there is greater and genuine transparency about the use of such techniques to ensure that people have control over their own data and the law is upheld.’ It is not, however, the Information Commissioner’s role to consider what regulation might best promote effective democracy, so this investigation will not provide the comprehensive review that many think is needed.

## Boundary reviews continue

---

Recent issues of *Monitor* have reported on progress in the ongoing reviews of parliamentary constituency boundaries. Despite the early election, these reviews continue unchanged: as the Boundary Commission for England [put it](#), the process ‘is not affected directly by the holding of a General Election during a review’. The commissions have now held a second round of consultations, allowing people to comment on responses to their initial proposals. They are analysing the submissions and developing revised proposals for publication in the autumn.

While the early election has not formally changed the review process, it may have an impact in practice. The Conservatives’ narrow majority in the 2015 House of Commons had already raised doubts over whether the reviews’ final proposals would gain parliamentary approval:

some MPs, including some Conservatives, will inevitably lose out, especially given that the number of seats is being cut from 650 to 600. Despite a renewed affirmation in the [Conservative manifesto](#) of intent to implement the change, the election result adds further to these doubts. There is a danger of a lasting impasse, which could cause the current boundaries – based on 2005 electoral registers – to linger for longer than is healthy.

## Parties and politicians



### Composition and profile of the new parliament

Following the 2017 general election, the composition and socio-demographic profile of the new House of Commons has changed, with several new records on diversity. There are now [208 female MPs](#), 17 more than in 2015. Women now make up 32 per cent of MPs. But this still puts the UK in only 38th place overall in [world rankings](#) on gender parity, between El Salvador and Guyana.

The parties' efforts to recruit and select more women candidates resulted in a higher proportion of women standing in 2017, but the parties differ in approach. The Conservatives have sought to recruit and train women candidates via Women2Win, rejecting the kind of formal quotas adopted by Labour, and more recently the Lib Dems. Research conducted early on in the election campaign, when the Conservatives were still 15 points ahead in the polls, projected that the Conservatives would [have more women MPs than Labour in the new parliament](#). However, the narrowing of the polls and Labour's better-than-expected performance mean that Labour still leads on women MPs – and by a fair margin. Its parliamentary party in the Commons is now 45 per cent female, compared to 21 per cent for the Conservatives.

The 8 June election also saw [52 black and minority ethnic \(BME\) MPs](#) elected (8 per cent of the total), an increase from the 41 in 2015. While there is less distance between the parties on BME representation, Labour has the highest number (32) and percentage (12 per cent) – compared to the Conservatives' 19 (6 per cent) and the Lib Dems' one (8 per cent).

The new parliament is also more diverse in terms of the number of out LGBTQ MPs. Andrew Reynolds' research shows [45 out LGBTQ MPs](#), 7 per cent of the new House of Commons. Finally, two new MPs who describe themselves as disabled were elected, Labour's Marsha de Cordova (Battersea) and Jared O'Mara (Sheffield Hallam).

## Devolution



### Brexit and devolution

In [Monitor 65](#) (page 10) it was reported that motions opposing the triggering of Article 50 had been carried in both the Scottish Parliament and National Assembly for Wales. Following the Supreme Court judgement in the *Miller* case that the consent requirement was political, not justiciable, these were entirely symbolic. But they highlighted the continuing distance between the UK and devolved governments on Brexit. The need for consent remains a constitutional convention, and a minority UK administration will need to [build as wide a consensus as it can](#). A test of the extent to which this has been achieved will come when the devolved legislatures consider [consent motions](#) for the government's Repeal Bill (see page 4).

For the Scottish and Welsh governments a major priority going forward is to ensure that powers currently in practice exercised at EU level – for example in areas such as agriculture, fisheries, environmental protection – should remain devolved after Brexit. The SNP called for these to be 'repatriated to Scotland' in their [election manifesto](#), whilst Welsh First Minister Carwyn Jones has [stated](#) that any move to reserve these powers to the UK parliament would be 'wholly unacceptable'. Ministers may be tempted to hold such powers at the centre, reasonably pointing to connections between domestic issues such as agriculture and UK trade responsibilities. But if they are to secure the consent of the devolved legislatures they must distinguish carefully between the government's 'federal' responsibilities and its policy responsibilities for England.

If, [as has been suggested](#), Brexit terms include a long transitional period during which the UK remains inside the customs union and even the single market, the devolution issues will be easier to work through'. An abrupt or chaotic departure is likely to create

unmanageable challenges for devolution and the UK's constitutional politics, as for so many other things.

In Northern Ireland there is the particular issue of the prospect of a return to a hard Irish border, following Theresa May's rejection of membership of the single market and the customs union for any part of the UK. There is, in fact, basic agreement among the UK and Irish governments and the Stormont parties over wishing to preserve the essence of the status quo of an open border, free trading and virtually interchangeable citizenship throughout the British Isles. The Irish government will argue for a long transition period for the UK as a whole, and for the North to remain closely aligned to the single market with some kind of bespoke customs arrangement. Hopes are high that the British-Irish relationship, albeit under minority governments, will survive and even strengthen on opposite sides of the Brexit negotiations. It remains the best guarantee of stability in Northern Ireland.

## Scotland

The general election campaign felt different in Scotland from elsewhere, dominated less by Brexit, and more by whether Brexit justified a further Scottish independence referendum. Brexit and devolution remains a significant unresolved question, and the election results in Scotland change the weather around it.

The SNP remains dominant in Scotland, still in (minority) devolved government and with a majority of Scottish MPs. The party's vote share, however, dropped from 50 per cent to 37 per cent, and it lost 21 of the 56 seats won in its 2015 landslide. The Scottish Conservatives re-established themselves, winning 13 seats, including the scalps of SNP Westminster Leader Angus Robertson and former First Minister Alex Salmond. Labour's vote share and number of MPs (now seven) also increased, contrary to expectation, and the Liberal Democrats gained three seats through local campaigning.

The election result was widely attributed to a public reaction against Nicola Sturgeon's [immediate demand](#) for a second independence referendum in response to Brexit, and [opinion polling](#) confirms little support for an early rerun of the 2014 vote. In a [statement](#) to the Scottish Parliament on 28 June, Sturgeon consequently announced that her plans for an early referendum would be 'reset'. Instead of pursuing her original timetable of

holding a referendum in late 2018 or early 2019, she now intends to set out a timescale when the Brexit negotiations have concluded. Until then her focus will be on 'seeking to influence the Brexit talks in a way that protects Scotland's interests'.

In other news the [Commission on Parliamentary Reform](#), set up by Presiding Officer Ken Mackintosh last autumn to review the operation of Holyrood, [reported](#) in late June. Among its key recommendations are that committee convenors (chairs) should be elected by the parliament as a whole, as has been the case in the House of Commons since 2010, and that the current three-stage legislative process should be replaced by a five-stage process, including pre- and post-legislative scrutiny. The Commission's Chairman, John McCormick, said that the work they done had convinced them of 'a need for reforms to be implemented speedily'.



First Minister Nicola Sturgeon speaks following the general election results.  
© [Scottish Government](#).

## Wales

Despite [polling](#) at the start of the campaign that suggested the Conservatives could gain as many as ten additional seats, the general election in Wales was ultimately characterised by the historic narrative that defines Welsh politics: Labour dominance and Conservative weakness. Labour, which has now won a majority of Welsh seats for 26 general elections in a row, won 28 of Wales's 40 seats, gaining three compared to 2015. The Conservatives' vote share did increase by 6.3 percentage points, but this was not enough to stop the loss of Cardiff North, Gower and Vale of Clwyd to Labour.

Plaid Cymru, despite a squeeze of its vote share by the two main UK-wide parties, increased its number



of seats from three to four, gaining the last remaining Liberal Democrat seat in Wales, Ceredigion. This Liberal Democrat loss marked the first time the party and its predecessors have failed to win a seat in Wales since the Liberal Party's founding in 1859.

Since the election there has been significant news for devolved politics in Wales: for the first time in 600 years Wales will have a Parliament. The Wales Act 2017 gave the National Assembly for Wales the power to rename itself, and on 13 June the Presiding Officer Elin Jones [announced plans](#) to change the name to 'Welsh Parliament'. Its members will be known as Welsh Parliament Members (WPMs).

Meanwhile, the Welsh government has published a policy paper on [Brexit and Devolution](#). This includes a proposal that the Joint Ministerial Committee be replaced by a UK Council of Ministers, which would 'negotiate common rules and frameworks where it is agreed that coherence across the UK is necessary and beneficial'.

## Northern Ireland

The snap general election, just three months after the snap Assembly election in March, was the fifth time in a little more than two years that Northern Ireland's voters had gone to the polls. The [result](#) showed further polarisation. Of 18 Westminster seats, 17 are now held by either the DUP or Sinn Féin, who won record hauls of 10 and seven seats respectively. The remaining seat was narrowly held by the independent unionist Sylvia Hermon, with the SDLP and UUP both wiped out. The SDLP's losses, combined with Sinn Féin's abstentionism, mean that Irish nationalism has no voice in the new House of Commons at a time when the DUP has gained considerable influence.

The [March Assembly election](#), which followed the [collapse of the power-sharing Executive](#) in January, saw a nationalist surge. The unionist bloc majority was eliminated and Sinn Féin came within two seats of becoming the largest party and being entitled to the position of First Minister. During fitful interparty talks to restore the Executive following the election, the British government has restricted its role mainly to setting an elastic deadline. The price of failure is either yet another election, [favoured by Sinn Féin](#), or, more likely, limited [direct rule](#) from Westminster. The latter is preferred by the DUP and the Northern Ireland Office, but disliked by

the Irish government as doubtfully compatible with the Good Friday Agreement.

Although Sinn Féin's demands during the negotiations have been focused on greater respect for republican traditions and Irish culture, as well as social reforms, unionists have dismissed the stand-off as a ploy to exploit the problems of Brexit to advance the cause of Irish unity. Prospects for the Executive's restoration appeared to improve when [regional rewards](#) from the DUP confidence and supply deal with the minority Conservative government created pressure on Sinn Féin to return to Stormont, in order to scrutinise the consequential and monitor the Brexit negotiations. At the time of writing, however, the outcome of the negotiations remained uncertain.

## English regional devolution

Six [elections for 'metro-mayors' took place](#) on 4 May. Former Labour MPs Steve Rotherham and Andy Burnham won the contests in the Liverpool City Region and Greater Manchester respectively. The other four – Cambridgeshire and Peterborough, Tees Valley, West Midlands and West of England – were won by Conservatives. In Tees Valley and the West Midlands the Conservative mayor will need to 'cohabit' with Labour majorities on their combined authorities. A further election, in Sheffield, has been [postponed](#) to May 2018. The mayors are now building relationships and exploring the reach of their powers. Andy Burnham was tested early by the Manchester bombing and its aftermath.

The 2017 Budget announced no new devolution deals, but it did launch a strategic approach to the 'Midlands Engine', a pan-regional economic strategy paralleling the 'Northern Powerhouse'. Some additional discussions with the Greater London Authority are ongoing, but have been delayed by the general election.



The new Mayor of Greater Manchester, Andy Burnham. © [The BMA](#).

Reference to local and regional government in the parties' election manifestos was light. The [Conservatives](#) stated that they would support the devolution of power, but not the creation of elected mayors in rural counties. Both [Labour](#) and the [Liberal Democrats](#) proposed greater powers and spending power for local authorities. Labour proposed to recreate regional government offices, to increase regional intelligence capacity, and to create a 'Minister for England' within the Department for Communities and Local Government.

The [Local Government Finance Bill 2016–17](#) fell as a result of the general election and was not included in the Queen's speech. This means that the metro-mayors will not have their expected powers to raise business rate supplements for the foreseeable future.

## Courts and the judiciary



### British bill of rights

The [Conservative manifesto](#) pledged that the UK would remain a party to the European Convention on Human Rights (ECHR) for the duration of the next parliament. The Human Rights Act (HRA) is slated for review 'when the process of leaving the EU concludes', but there is no mention of its replacement by a British bill of rights. This position represents a step back from previous undelivered Conservative manifesto commitments in [2015](#) and [2010](#) to repeal and replace the HRA. Following the London Bridge terrorist attack Theresa May did suggest that she would be [prepared to change human rights laws](#) if they prevented her from taking counter-terrorism measures, but there was no developed proposal for this.

Before the Brexit referendum, May had argued that the UK should withdraw from the ECHR [irrespective of whether it remained part of the EU](#). During her party leadership campaign in June 2016 she stood by this position, but said that she would [not pursue it](#) due to its divisiveness and the lack of a parliamentary majority behind the policy. Rather than a change of principle, the more likely explanation is that any attempt at such a reform would, even before the Conservatives lost their Commons majority, have become a [distraction from the Brexit negotiations](#).

## Europe



### Brexit: a low-key start to the negotiations

On 19 June the long-awaited [Brexit negotiations finally began](#). David Davis, the Brexit Secretary, led a delegation to Brussels to meet with Michel Barnier, the EU's chief Brexit negotiator, and his team. The two principals have known each other since the 1990s, when both were Ministers for Europe in their respective governments. However, other than a '[courtesy coffee](#)' in Brussels last autumn, this was their first formal meeting in their new positions, despite it being almost a year since the referendum and nearly three months since Theresa May triggered Article 50 in March.



European Council President Donald Tusk (right) receives the letter triggering Article 50 from the UK's Permanent Representative to the EU, Sir Tim Barrow.  
© [European Council President](#).

Following the Conservatives' worse than expected showing in the general election on 8 June, the circumstances for beginning the talks could hardly have been less auspicious. At the outset of the campaign the accepted wisdom was that the Conservatives would return to office with a significantly increased majority, enabling Theresa May to face her EU interlocutors with a clear mandate to negotiate a UK exit that would include leaving the single market and the customs union. Instead, she finds herself short of a majority and reliant on the votes of the ten DUP MPs to enable her to pass legislation.

However, apart from leaving the Prime Minister weakened, has the general election really changed that much? In many ways, no. If nothing else the government's legislative plans (see page 4) are perhaps realistic. Brexit will take up huge amounts of political, administrative and legislative bandwidth

and whichever party were in office would likely have had significant limitations on what else it could achieve. The government also faces the challenge of doing this against a tight deadline: unless there is an extension to the two-year time-frame for negotiations laid out in Article 50, the UK will cease to be an EU member on 29 March 2019. The necessary legal structures must therefore be in place by then to reflect the new domestic legal and regulatory reality.

There has also been little change in terms of the view from the EU side. The EU was in a position to begin negotiations with the UK [before the election](#), and claims that Theresa May would somehow have been empowered by a greatly increased majority were viewed with bemusement. The terms of the negotiation and the EU's priorities – the UK's financial obligations, citizens' rights and the border between Northern Ireland and the Republic – remain unchanged. Indeed, for Brussels the real concern now is that [far from being strong and stable](#), the UK government will be hostage to even a small rebellion and may not be in a position to deliver.

Is the pressure already telling? Having previously promised the '[row of the summer](#)' if the EU did not agree to negotiate the post-Brexit relationship concurrently with the terms of the withdrawal, at their first meeting [Davis quietly accepted the EU's timetable](#). Whilst Davis claimed this was not a concession, it indicates perhaps a recognition in London of the enormous challenge that the government now faces. Brexit has begun, but with less of a bang than a whimper.

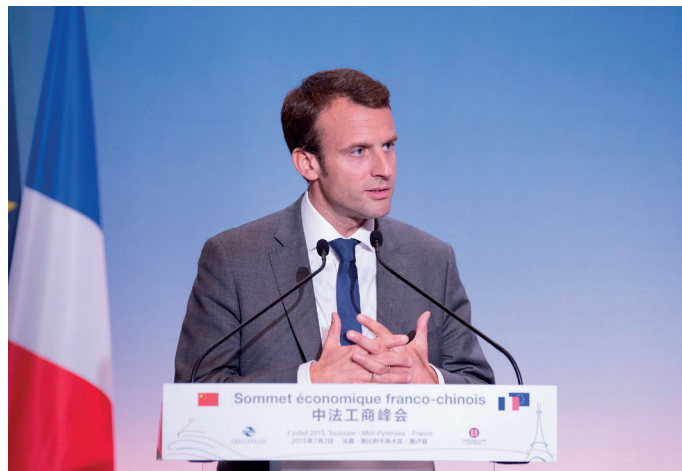
## International



### French elections

On 7 May, Emmanuel Macron was [elected as France's new President](#), defeating Marine Le Pen from the far-right Front National by 66 per cent to 34 per cent in the second round of the presidential election. The election was extraordinary for the fact that neither of the run-off candidates represented the traditional parties of the left and right. Macron's centrist 'En Marche!' movement had only existed for a year. Parliamentary elections followed in June, and initially it was [anticipated](#) that Macron would struggle to win a majority. In the event En Marche! and its ally MoDem [won 350 of the National Assembly's 577](#)

[seats](#), despite not previously having had any MPs. The centre-right Les Republicains party were reduced to 137 seats, and the previously governing Socialists to just 44. The result means Macron will be able to dominate the French political scene much as previous Presidents have done. It has also brought about a remarkable turnover in the membership of the French legislature – 429 members of the new National Assembly [were not incumbents](#), with many completely new to politics. The number of female and [BME](#) members has substantially increased.



The new French President, Emmanuel Macron. © [Pablo Tupin-Noriega](#).

### The firing of James Comey – a US constitutional crisis?

On 9 May, US President Donald Trump [fired](#) FBI Director James Comey. Trump initially claimed that he had done so to restore public confidence in the FBI after the Director's handling of the investigation into Hillary Clinton's use of a private e-mail server whilst Secretary of State. Following the firing, however, [multiple reports](#) emerged of Trump claiming the decision was a result of the investigation into Russian interference in the 2016 election. He appeared to [admit this publicly](#) in an interview with US news channel NBC. In a [letter to the Senate intelligence committee](#) Comey suggested that, prior to the firing, Trump had put pressure on him to close down the Russia investigation.

Strictly speaking, the President has the exclusive authority to remove the Director of the FBI, but this power had only been used once before, to remove a Director for ethical lapses. The FBI Director holds a ten-year term, in an attempt to create independence between the President and the lead federal investigative authority. That independence is crucial to ensure that the President cannot use his position to disrupt an



investigation into himself and his associates. Although it is legal for the President to remove the FBI Director, it therefore becomes an abuse of presidential power to do so if the purpose is to obstruct an investigation.

Notwithstanding the President's boasts and Comey's claims, that intention is difficult to demonstrate conclusively. Ultimately the President can only be held accountable for an abuse of power by Congress. Whether Congress will take action remains unclear, though [speculation](#) about the possibility of impeachment proceedings has grown recently.

## Electoral reform in Italy

The Italian search for a new electoral system continues. After a [Constitutional Court ruling in January](#) that modified the 2015 electoral law (known as the Italicum) for the Chamber of Deputies, the country was left with two similar, yet different, electoral systems for the two chambers of parliament. In light of the [failed December referendum](#) on Senate reform, which maintained a powerful, directly elected Senate whose confidence the government must retain, this is problematic. To maintain stability, there is a desire for a new electoral law that delivers congruent majorities in both chambers.

In May, it seemed that cross-party agreement was [converging on a mixed-member system](#) in which half the seats would have been elected by first past the post and half by proportional representation. In contrast to the mixed systems used, for example, in Scotland, Wales, and Germany, the list seats would have been allocated strictly proportionally to the vote, rather than serving to compensate for disproportionalities in the constituency results. Further, voters would have been able to cast only one ballot, for a constituency representative, which would almost certainly have boosted the larger parties.

Ultimately, the consensus on this proposal crumbled in a [vote in parliament](#), and the prospect of a September general election, which was looking increasingly likely, faded away again as a result.

## People on the move

In her post-election cabinet reshuffle Theresa May appointed **David Lidington** as Justice Secretary and Lord Chancellor, replacing **Liz Truss**. Lidington was succeeded as Leader of the House by **Andrea Leadsom**. **Damian Green** became Minister for the Cabinet Office, replacing **Ben Gummer**, who lost his seat at the election. There were two changes of junior ministers at the Department for Exiting the European Union – **Baroness Anelay of St Johns** and **Steve Baker** took over from **Lord Bridges of Headley** and **David Jones**.

Following the election **Andrew Gwynne** was made Shadow Secretary of State for Communities and Local Government in Jeremy Corbyn's shadow cabinet, whilst **Owen Smith** became Shadow Secretary of State for Northern Ireland and new MP **Lesley Laird** was immediately appointed as Shadow Secretary of State for Scotland. They replaced **Dave Anderson**, previously both Shadow Scottish Secretary and Shadow Northern Ireland Secretary before stepping down as an MP at the election, and **Teresa Pearce**, previously Shadow Communities Secretary.

**Ian Blackford** is the SNP's new Westminster Leader, succeeding **Angus Robertson**, who lost his seat at the general election.

**Tom Brake** was appointed as Lib Dem spokesperson on Exiting the European Union, following **Nick Clegg's** election defeat.

**Lucy Smith** has become Acting Director General of UK Governance at the Cabinet Office. **Philip Rycroft**, Head of UK Governance, became Second Permanent Secretary at the Department for Exiting the European Union, but also retains his Cabinet Office role.

**Rob Behrens** has been appointed as Parliamentary and Health Service Ombudsman, following the resignation of **Dame Julie Mellor** in 2016.

Constitution Unit Fellow **Michael Kenny**, previously Director of the Mile End Institute at Queen Mary University of London, has moved to the University of Cambridge where he is Professor of Public Policy. **Philip Cowley** is the new Director of the Mile End Institute.

# Constitution Unit news

## Citizens' Assembly on Brexit

---

The Constitution Unit is leading a team that will host a [Citizens' Assembly on Brexit](#) in September. The project is funded by a Brexit Priority Grant from the Economic and Social Research Council (ESRC) and is part of the highly respected [UK in a Changing Europe](#) initiative.

The Citizens' Assembly will allow citizens to engage in detailed, reflective and informed discussions about what the UK's post-Brexit relations with the European Union should be. Around 45 members of the public – who will be selected by a survey company to reflect the diversity of the UK's population – will meet over two weekends in September. They will learn about the options for Brexit, hear from a wide range of experts and campaigners, and deliberate on what they have heard. They will then agree recommendations that will be written up in a final report and presented to key decision makers.

The project is led by the Unit's Deputy Director, Dr Alan Renwick, working alongside Unit Director Professor Meg Russell, Professor Graham Smith (University of Westminster), Professor Will Jennings (University of Southampton) and the Electoral Reform Society. This team previously participated in the [Democracy Matters project](#), which ran two pilot citizens' assemblies on local devolution, in Sheffield and Southampton, in 2015.

## Independent Commission on Referendums

---

The Unit is establishing an Independent Commission on Referendums, which will be chaired by former senior civil servant Sir Joseph Pilling.

The Commission will examine and make recommendations on both the role and the conduct of referendums in the UK. It will consider what place referendums should have in the UK's system of representative democracy and examine such matters as the role of government during referendum campaigns, the designation of lead campaigners and ways of fostering the availability of quality information.

Preparatory work for the Commission – including the finalisation of its membership – was suspended during the election campaign but has begun again. Members will include leading figures in politics, public service,

the media, and academia. To enable the Commission to draw on the widest possible evidence based, its work will be supported by detailed comparative research led by the Unit's Alan Renwick and aided by our McDougall Fellow, Michela Palese, and new Research Assistant Jess Sargeant. Meg Russell will provide broader input into its running. The Commission will begin its work in the autumn and publish a report in summer 2018.

## Candidate survey

---

The Parliamentary Candidates UK project, led by Rosie Campbell (Birkbeck), Jennifer Hudson (UCL) and Wolfgang Rüdiger (Strathclyde) has won funding from the ESRC to run a survey of candidates standing in the 2017 general election.

The team was just finishing up final reports on the 2015 candidate study when Theresa May called the snap election for 8 June. The candidate survey is a long-running study of candidates' experiences of selection and campaigning as well as attitudes on a range of policies, this time including Brexit, the EU, Scottish independence, and devolution.

Building on the successful 2015 survey, which had a response rate over 50 per cent, this survey aims to understand how far candidates selected and elected in 2017 differ from the 2015 cohort. It also explores candidates' and MPs' campaign and governing experiences with regard to harassment and intimidation – an issue of growing importance following the murder of MP Jo Cox. You can follow the research and findings on the [project website](#).

## Meg Russell advising Lord Speaker's Committee on the Size of the House

---

Further to the announcement in [Monitor 65](#) (page 16) that Unit Director Meg Russell was to act as a specialist adviser to the House of Commons Public Administration and Constitutional Affairs Committee (PACAC) inquiry into Lords reform, she was also approached in March to fulfil a similar role for the Lord Speaker's Committee considering the size of the Lords, chaired by Lord Burns. For updates on both committees see page 5.

## Staff changes

---

With several new projects starting and some others ending, recent months have seen significant staffing changes at the Unit. We are joined by many new faces. We were sorry in early June to say farewell to Andrew Cook, formerly Research Associate on Alderney governance, and wish him all the best for the future. In early July Agnes Magyar, Research Assistant and previously research volunteer on the Parliamentary Candidates UK project, will also depart, as she starts her Master's degree at the University of Essex. Our new Office Manager, starting on 1 August, will be Rachel Cronkshaw, who joins us from the UCL Department of Electrical and Electronic Engineering. We will shortly therefore say goodbye to Bernadette Ross, who has ably covered this post for a year on a temporary basis – and to whom we are very grateful. In May we were delighted to welcome Michela Palese, who joined us as McDougall Fellow, working on improving discourse in election and referendum campaigns. Late June saw the arrival of Rebecca McKee, from the University of Manchester where she recently completed her PhD, as Research Associate on the ESRC-funded Citizens' Assembly on Brexit project; at the same time Edward Rowe started work as the Project Administrator. On 3 July we welcomed Jessica Sargeant, who joins us as Research Assistant supporting the Independent Commission on Referendums.

## Room moves

---

With all of these changes, the Unit has rather outgrown its space in the basement of 29–30 Tavistock Square, where it has been based for around 17 years. Over the summer we will be moving to bright new offices on the second and third floors of the department's adjoining building at 31 Tavistock Square. Visitors take note – but also note that entry will still be through the same front door.

## Research volunteers

---

The Unit is grateful for the hard work and diligence of our research volunteers in winter and spring 2017: Chris Caden, Oliver Chan, Evangelina Moisi, Ascher Nathan, Fionnuala Ní Mhuilleoir, Kasim Khorasanee, David Owen, Thomas Romano, Seema Syeda and Heather Wilson.

# News from Constitution Unit Fellows

## New project on the House of Commons' digital public engagement activity

---

Professor Cristina Leston-Bandeira and Dr Viktoria Spaiser (University of Leeds) are about to start a new research project about the effectiveness of the House of Commons' digital public engagement activity. This research will be done within the context of a PhD funded by the White Rose Doctoral Training Partnership, in collaboration with the House of Commons.

Discussions of contemporary politics have focussed on the so-called 'crisis of disengagement', bemoaning the increasing disconnection between the public and holders of political authority. Simultaneously, political debate takes place increasingly on the internet and often within disconnected and polarised 'bubbles', which escalate disagreements and do little to promote constructive discussion and compromise. Both phenomena can challenge traditional representative democracy practices if the public does not feel sufficiently represented by policy makers and if compromises become harder to reach.

In response to this, officials have sought new ways to engage with citizens, increasingly making use of digital technologies. Digital debates involving MPs and citizens prior to parliamentary debates are one example of such attempts developed recently by the UK parliament. However, how effective are these methods of online public engagement? Do these initiatives bring together citizens from different backgrounds who would otherwise not communicate with each other? How can the citizen input be utilised in a meaningful way to inform policy making? The project will address these questions, under one main research question: What makes for effective and meaningful parliamentary online public engagement? The team will work collaboratively with the House of Commons, to utilise 'big data' methodological approaches to understanding current parliamentary online public engagement practice. This should aid the development of effective online public engagement practices and analytical tools that could help the House of Commons to process and explore citizen input in an effective and meaningful way.



## The repatriation of EU competences: implications for devolution

Professor Nicola McEwen (University of Edinburgh), together with colleagues at the [Centre on Constitutional Change](#), Professor Michael Keating (Aberdeen) and Professor Stephen Tierney (Edinburgh), will be exploring how the Brexit process affects devolution across the UK. Like the Unit's Citizens' Assembly on Brexit (see page 16) this project is funded by a Brexit Priority Grant from the ESRC and is part of the [UK in a Changing Europe](#) initiative

The existing devolution settlements have been embedded in UK membership of the European Union. In policy areas such as agriculture, the environment, fisheries, regional development and justice and home affairs, which are both devolved and Europeanised, the EU has provided common frameworks that have limited internal UK policy differences. Whatever the final deal, the UK's withdrawal from the EU will affect the powers of the devolved nations in complex ways (see pages 10-11).

This research project will examine the scope for, and implications of, three possible devolution effects of the repatriation of EU competences: (i) further decentralisation of power to the devolved institutions; (ii) recentralised of powers within UK-wide institutions and/or UK law; and (iii) mutually agreed common frameworks underpinned and managed by new forums and processes of cooperation between the UK government and the devolved governments. The project focuses on three particular areas of devolved/EU policy – agriculture, energy and climate policy, and justice and home affairs – to investigate the particular consequences in these areas of bringing powers back from the EU to the UK after Brexit. The project will carry out a study of these developments as the Brexit negotiations proceed, and it will consider how the outcomes will shape devolution and relations between the UK's four governments.

# Bulletin Board

## Unit in the news

Alan Renwick discussed what might happen if parliament refused to agree to proposed Brexit terms ([Bloomberg](#), 9 Feb).

Meg Russell was quoted in an article on the House of Lords' approach to the Article 50 legislation ([Financial Times](#), 10 Feb).

Alan Renwick was a guest on the Politics Weekly podcast ([The Guardian](#), 16 Feb).

Meg Russell appeared in an educational video produced by the Open University in collaboration with the BBC's three-part flagship programme Meet the Lords ([BBC/Open University](#), Feb).

Meg Russell wrote about options for House of Lords reform, following responses to the BBC programme and the chamber's amendments to the Article 50 bill ([The Guardian](#), 23 Feb).

Meg Russell was interviewed about the government's parliamentary challenges (BBC *Newsnight*, 7 Mar).

Meg Russell was a guest on *The Week in Parliament* discussing the Lords and the Article 50 Bill (BBC Parliament, 10 Mar).

Robert Hazell defended the role of the House of Lords, following media criticism ([Daily Express](#), 20 Mar).

Robert Hazell was interviewed about a possible second referendum on Scottish independence (BBC R4 *The World Tonight*, 28 Mar).

Alan Renwick was interviewed about the Fixed-term Parliaments Act and the constituency boundary review, in light of the parliamentary vote to trigger the general election (BBC R4 [The World Tonight](#) [10:00], 19 Apr).

Jennifer Hudson discussed the declining fortunes of the UK's smaller parties (*Channel 5 News*, 1 May).

Meg Russell wrote about how, were Theresa May to win a large majority at the general election, she might still not be able to push whatever she pleases through parliament ([Prospect](#), 12 May).

# Bulletin Board

Jennifer Hudson was interviewed about what next after the general election (BBC Radio 5live, 1 June).

Alan Renwick was quoted in a feature on the general election in Theresa May's constituency of Maidenhead ([BBC News](#), 2 June).

Alan Renwick provided all-night election commentary (BBC Radio Berkshire, 8–9 June).

In the aftermath of the election result, Meg Russell discussed the challenges facing the Conservative minority government (Sky News, German public service television and LBC, 9 June).

Meg Russell wrote a letter to *The Times* about the difficulties facing the new government ([The Times](#), 10 June).

Alan Renwick was interviewed about EVEL and the Salisbury convention, in light of the election result *BBC Daily Politics*, 13 June).

## Select committee appearances

---

Meg Russell gave evidence via video link, for a second time, to the Canadian Senate Committee on Senate Modernization (see [news story](#), 5 April).

## Unit publications

---

Alan Renwick, 'Referendums', in Kai Arzheimer, Jocelyn Evans, and Michael Lewis-Beck (eds), [The Sage Handbook of Electoral Behaviour](#) (Sage), pp. 433–58.

Brenton Prosser, Alan Renwick, Arianna Giovannini, Mark Sandford, Matthew Flinders, Will Jennings, Graham Smith, Paolo Spada, Gerry Stoker, and Katie Ghose, '[Citizen Participation and Changing Governance: Cases of Devolution in England](#)', *Policy & Politics* 45:2 (April), pp. 251–269.

Alan Renwick and Robert Hazell, [Blueprint for a UK Constitutional Convention](#) (Constitution Unit report, June).

Alan Renwick, '[The performance of the electoral system](#)', in Einer Thorsen, Daniel Jackson and Darren Lilleker (eds), *UK Election Analysis 2017: Media, Voters and the Campaign* (Bournemouth University/ Political Studies Association, June).

Alan Renwick, '[Public debate](#)', in The UK in a Changing Europe/ Political Studies Association, *EU Referendum: One Year On* (UK in a Changing Europe/ Political Studies Association, June).

## Publications received

---

Ben Worthy, [The politics of freedom of information: how and why governments pass laws that threaten their powers](#) (Manchester University Press, Feb).

## Contributors to Monitor 66

---

Andrew Cook, Roberta Damiani, Jim Gallagher, Daniel Gover, Jennifer Hudson, Michael Kenny, Kasim Khorasane, Jac Larner, Cristina Leston-Bandeira, Nicola McEwen, David Owen, Alan Renwick, Meg Russell, Mark Sandford, Brian Walker and Nick Wright

The issue was edited by Jack Sheldon.

