



Brexit: The uncertain road ahead

Exit day – when the UK is scheduled to leave the European Union – is now little more than four months away. Yet all bets are still off as to what form it will take, or indeed whether it will even happen. This is partly because the UK–EU negotiations on a Brexit deal remain ongoing, and partly because how parliament will react to the outcome of those talks is far from clear.

Just as the last *Monitor* went to press, and after months of delay, the government finally published a [white paper](#) in July, setting out its proposals for Brexit and the UK's future relationship with the EU – the so-called 'Chequers plan'. Even before publication, two key cabinet ministers – Brexit Secretary David Davis and Foreign Secretary Boris Johnson – had resigned, arguing that its proposals would bind the UK too closely to the EU yoke. Many Brexit supporters – both [MPs](#) and voters

– agreed: [polls](#) found the plan's opponents among the public outnumbered its backers by around three to one. European leaders were also critical, and finally killed off the plan at the disastrous [Salzburg summit](#) in September.

Since then, UK and EU negotiators have been working frantically to resolve the crucial blocking point, regarding the Irish border (see pages 2–3). Whether the mooted November summit to sign off a deal can be resurrected should be known by the time this edition of *Monitor* is published. If not, agreement could potentially still be reached in December or even January.

If a deal is done, its implementation will be subject to approval by the House of Commons and the passage of legislation bringing it into effect. A [UK in a Changing Europe report](#) published in September (and discussed at a Unit seminar – see page 17) explained that this process is unlikely to be straightforward; since then, there has been considerable controversy over the form that parliament's 'meaningful vote' might take (see pages 3–4). If no deal is done by late January, the government must set out its plans to parliament, which will (notwithstanding the legal niceties) in political reality need to determine the way ahead.

This leaves four basic scenarios: a deal may or may not be done; and parliament may or may not accept this outcome. If parliament accepts either outcome, Brexit will take place on 29 March 2019 (unless the UK government and EU leaders agree a delay). If parliament rejects either outcome, the possible future directions multiply.

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Ministers [still insist](#) that the alternative to acceptance of their deal would be a ‘no deal’ Brexit. Given the dangers the government itself has set out, and the balance of MPs’ views, it is difficult to imagine that parliament would let this happen. Labour [would push for a general election](#), in which it would presumably promise to negotiate a better deal. But it is difficult to see where the parliamentary votes needed to achieve this would come from. The government – perhaps following a change in Prime Minister – could seek to return to the negotiating table. But EU leaders could be reluctant to reciprocate, unless the UK signalled a substantial change of stance.

Another way out of the impasse would be a further referendum. Support for such a move has grown substantially over the summer. Conservative MPs such as [Justine Greening](#), [Dominic Grieve](#), and [Sarah Wollaston](#) have backed the idea. Labour, following strong grassroots pressure and tense negotiations [at its September conference](#), now officially remains open to such a vote. In October, the largest demonstration since 2003 saw (according to organisers) approaching 700,000 people [march through London](#) to demand one.

Reflecting this rising interest, the Constitution Unit published a [report](#) in October on the mechanics of a further Brexit referendum, written by Jess Sargeant, Alan Renwick, and Meg Russell. Without taking a view on whether a referendum would be desirable, the report examined how one could come about and what form it might take (see page 17). It emphasised that, while organising a referendum properly would require an extension to the Article 50 period, EU leaders would almost certainly grant this. A referendum in spring would be possible if MPs moved quickly. One crucial issue to resolve is what the question should be – a vote excluding the option to remain in the EU from the ballot paper seems inconceivable given its proponents, but this could be pitted against any deal that is done, or against leaving without a deal, or potentially against both. Alongside this, parliamentarians would need also to address some of the shortcomings in existing referendum legislation that were revealed by the 2016 vote: for example, around the regulation of digital campaigning.

UK politics has been shaken to the core by Brexit. Deep social divisions have been laid bare and deepened. The Union among the UK’s constituent nations has been tested to the limits (see pages 4–5). The capacities of Whitehall and Westminster have been stretched to breaking point. None of the paths that could be taken over the coming months will heal these divisions or

lessen these difficulties, at least in the short term. Meanwhile, other challenges – including those posed to democracy by the digital revolution (see pages 9–10) – demand urgent attention, but risk neglect. Politics and the constitution will change fundamentally in the coming months, but the character of these changes remains impossible to know.



EU-UK negotiations

With ‘exit day’ now fewer than 150 days away, both sides are openly talking about the prospect of the UK leaving the EU without a withdrawal agreement in place, and without a political declaration mapping out the post-Brexit UK–EU relationship. This ‘no deal’ scenario remains a possibility: in a [recent UK survey](#), 44% of respondents said it is how they expect the UK to leave the EU.

While a ramping up of pressure and rhetoric was always to be expected as exit day approached, serious preparations for a potentially acrimonious and disorderly split are underway. The Department for Exiting the European Union (DExEU) has published over 100 [technical advisory notices](#), whilst France and Germany are among those accelerating no deal [contingency planning](#).

‘No deal’ is by no means inevitable. Both sides have been careful to emphasise that an agreement remains possible and sufficient goodwill exists to achieve it. Michel Barnier, the EU’s chief Brexit negotiator, believes that [‘80 to 85% of the Withdrawal Agreement has now been agreed’](#) while Theresa May suggests it is [closer to 95%](#). While these numbers are intended to show that a deal is within touching distance, they cannot hide the reality that the principal remaining obstacle is the most contentious and difficult issue of all: the Northern Irish ‘backstop’.

More than any other question, the backstop epitomises Theresa May’s political difficulties. First, there is the fundamental contradiction between her promise to leave both the Single Market and the Customs Union and her promise to ensure no hard border on the island of Ireland after Brexit, thereby safeguarding the Good Friday Agreement. Second, her reliance on the DUP’s Westminster MPs since the 2017 general election highlights her profound political weakness.

Resolving the first challenge requires either that May compromise on her promise to leave the Single Market and Customs Union or that she permit Northern Ireland to potentially diverge from the rest of the UK and maintain regulatory alignment with the EU. The second challenge makes either choice politically impossible, even if she were willing to make it. While many MPs in her own party – and notably those of the European Research Group – would never accept the first option, the DUP is implacably opposed to the second, and has declared itself ready to do whatever is required to prevent it – [including bringing down the government](#).



Theresa May at the European Council meeting in Salzburg. (c) [Number 10](#).

The backstop forms an essential component of the [December 2017 Joint Report](#) that mapped out the basis for the withdrawal agreement. Since then, Theresa May has been trying to square this circle, rejecting the EU's draft language and offering her alternative '[Chequers plan](#)' over the summer. However, this was itself swiftly rejected by the EU, the DUP and many of her own backbenchers.

Several ministerial resignations and two failed EU summits later, it is clear that, even if the Prime Minister makes the compromises necessary to achieve an agreement, she may lack the domestic support to get it through parliament. EU leaders' refusal in October to agree to a special November European Council meeting to sign off on a final deal indicated how pessimistic the EU27 had become, partly due to their belief that the UK must [honour the commitments it made in the Joint Report](#). As things stand, domestically it is hard to see how the Prime Minister can do so whilst retaining the support of parliament. Then again, one of her few tactical advantages is that it seems unlikely anyone else could, either.

Parliament's 'meaningful vote' on Brexit

With the crunch moment in the Brexit negotiations approaching, arguments have again broken out about the nature of parliament's role in final decision-making. In mid-October [widespread concern was expressed](#) about a letter from Brexit Secretary Dominic Raab to the Commons Procedure Committee suggesting that the chamber's vote on the withdrawal agreement 'must allow for an unequivocal decision' and facilitate 'a straightforward approval'. This looked like an attempt to revive the '[take it or leave it](#)' vote originally favoured by the government, which was rejected by amendments to the EU (Withdrawal) Bill, starting with [defeat on an amendment](#) by Conservative backbencher Dominic Grieve. A government memorandum to the committee acknowledged that the motion to approve any withdrawal agreement 'will be amendable', but floated the idea that, rather than following standard procedure for voting on government business, whereby amendments are considered before a vote on the main motion (as amended, if amendments pass), the motion might be voted on first, with amendments only considered if MPs reject it. The Procedure Committee invited further evidence (all submissions, including those of the government, can be found [on its website](#)), which has so far largely rejected the government's position. Shadow Brexit Secretary Keir Starmer indicated that Labour would vote against the 'Business of the House' motion needed to implement such a non-standard procedure. Dominic Grieve judged the proposal 'flawed' and contrary to the express undertakings that were given by ministers during debates on the EU (Withdrawal) Bill. Hilary Benn, chair of the Commons Committee on Exiting the European Union, which has previously considered these procedural aspects, commented that such a change would be 'the very opposite of what [his] Committee was advocating' (it then went on to take further [oral evidence on the matter](#)). With this degree of dissent, the proposed mechanism appeared doomed. At the time of writing, the Procedure Committee had not yet reported.

There has also been some focus on parliament's role in the event that the government and EU fail to reach a deal. Like the 'meaningful vote', a process for this is set out in section 13 of the EU (Withdrawal) Act – kicking in if there is no deal by 21 January 2019. However, the only guaranteed debate is in terms of a 'neutral terms'

motion, which would be unamendable. Advice from the House of Commons Library that a rejection of ‘no deal’ would lack legal force (though its political force would be substantial) [attracted media attention](#). If a deal is not agreed quickly, such attention will grow.

In either scenario, the role of the Commons Speaker in interpreting procedures, and/or selecting amendments for debate could be crucial. Hence calls for resignation of the Speaker – who is not only the backbenchers’ champion but also once [let slip publicly](#) that he was opposed to Brexit – following the Commons bullying report (see page 5) [cannot be separated from Brexit politics](#).

Brexit and devolved powers

Following the completion of the European Union Withdrawal Act’s fraught parliamentary passage (see [Monitor 69](#), page 4), the focus of Brexit-related engagement between UK, Scottish, and Welsh ministers has returned to more substantive policy issues. Since June the Joint Ministerial Committee (European Negotiations) has met four times, with the Article 50 negotiations and ‘no deal’ preparations high on the agenda. A new Ministerial Forum (EU Negotiations), involving more junior ministers from each government, has also met regularly.

The increased frequency of meetings does not appear to have done much to bridge the considerable distance between the UK and devolved governments. The [Scottish](#) and [Welsh](#) governments both continue to advocate full membership of the EU’s Single Market and Customs Union, and both favour a [more liberal post-Brexit immigration policy](#) than is envisioned by the UK government. At the SNP’s party conference, First Minister Nicola Sturgeon [confirmed](#) that her party’s 35 Westminster MPs would vote for a further EU referendum given the opportunity. In this context it has proved difficult for the governments to engage constructively. Following the October meeting of JMC (EN), Scottish minister Mike Russell [spoke of a ‘dialogue of the deaf’](#).

There have been notable developments regarding the future of agriculture policy – an area of devolved competence that is heavily Europeanised. In October the Department for Environment, Food and Rural Affairs (DEFRA) [launched a review](#) of how agricultural funding will be distributed between England, Scotland, Wales and Northern Ireland post-Brexit, following a commitment not to ‘simply apply’ the Barnett formula.

The UK government has also introduced an [Agriculture Bill](#) which gives ministers powers to introduce a new subsidy scheme based on payments for ‘public goods’. The bill includes powers for both Welsh and UK ministers, with the [agreement of the Welsh government](#), and some powers are also to be conferred on departments in Northern Ireland. However, the Scottish government’s Rural Economy Secretary [rejected](#) an offer to include similar provisions for Scotland, arguing this approach ‘rides roughshod over the devolution settlement’. It is expected that alternative legislation relating to agriculture will be introduced in the Scottish Parliament.



First Minister Nicola Sturgeon. (c) [Scottish Government](#).

The poor state of relations between the UK and Scottish governments was also evident in July, when the UK Supreme Court [heard arguments](#) about the legality of the Scottish [Continuity Bill](#), which sought to pre-empt the EU (Withdrawal) Bill by incorporating existing EU law into devolved law. The UK government’s Advocate General for Scotland argued that the bill falls outside devolved competence as it relates to international relations (a reserved matter) and affects the powers of the UK parliament. These arguments were rejected by the Scottish government’s Lord Advocate, whose position was supported in interventions from the Welsh and Northern Irish law officers. As explained by Akash Paun [on our blog](#), the case is complicated by the fact that the [EU \(Withdrawal\) Act](#) has become law since

the Continuity Bill completed its passage through the Scottish Parliament. A ruling is expected shortly.

Meanwhile, the House of Commons Public Administration and Constitutional Affairs Committee (PACAC) published a report in July on [Devolution and Exiting the EU: reconciling differences and building strong relationships](#) – see page 12 for details.



Bullying and harassment in the House of Commons

In October, Dame Laura Cox QC published a 155-page independent [report](#) into bullying and harassment in the House of Commons. The report is a serious piece of work and has been praised by MPs, [commentators](#) and the Speaker, John Bercow, [who has himself been accused of bullying](#). In a [Commons debate](#) on the report, Maria Miller, Chair of the Women and Equalities Committee, [called on Bercow to resign](#), although [numerous others](#) spoke in his defence. Despite her criticism, Miller did not join the three Conservative MPs who [resigned from the Commons Reference Group on Representation and Inclusion](#). Sir Kevin Barron had already resigned as Chair of the Standards and Privileges Committee in September, after accusing the House of ‘sacrificing transparency’ by prohibiting the identification of MPs under investigation.

More than 200 members of Commons staff were interviewed for the report, over 70% of whom were women. They described an institution in which bullying and sexual harassment were widespread, and a culture that discourages people from making complaints and deals poorly with those who do come forward. The report was also clear that recent efforts to improve matters have been ineffective, arguing that the relevant policies are simultaneously inadequate and overly complex.

Dame Laura made three primary recommendations, including the immediate abandonment of both the existing [Valuing Others Policy](#), for dealing with complaints between staff, and the [Respect Policy](#), governing relations between staff and MPs. She also suggested that people with historic allegations should be permitted to access the new [Independent Complaints and Grievance Scheme](#), and that complaints by staff

against MPs will be handled by an independent process ‘in which MPs will play no part’.

Dozens of current and former Commons staff later waived their anonymity to sign an open letter [calling for decisive action](#). On 24 October, the House of Commons Commission issued a [statement](#) accepting the report’s three main recommendations and committing to ‘swift and lasting change’. In the meeting that led to that statement, the Speaker yielded the chair to the Commission’s senior external member, Jane McCall. This gesture, combined with the near unequivocal acceptance of the report from all quarters, gives some cause for optimism.

House of Lords size, one year on from the Burns report

Late October marks one year since the [Lord Speaker’s Committee on the Size of the House](#), chaired by Lord (Terry) Burns, produced its far-reaching report (for a summary on our blog, [see here](#)). The anniversary saw the committee publish a [progress report](#). This took an optimistic tone, noting that the number of departures from the Lords in the year following the 2017 general election (at 36) exceeded the targets set by the Burns report. So did the number of new appointments (at 25), but the committee was prepared to accept Theresa May’s description of the 13 new peers created in May 2018 as a ‘legacy issue’ dating back to the general election. The committee concluded that progress was ‘encouraging’, but emphasised that progress must be maintained, and looked forward to the Prime Minister ‘formalising’ the more regulated system of appointments that it proposed.

Alongside this, Lord (Paul) Bew has been appointed the new Chair of the House of Lords Appointments Commission (HOLAC). Bew is a well-regarded Crossbench peer and academic, who previously chaired the Committee on Standards in Public Life (CSPL), and has been [quite outspoken](#) about the need to better manage appointments to the Lords. At a [pre-appointment hearing](#) before the Public Administration and Constitutional Affairs Committee (PACAC) in September, he emphasised that HOLAC has a limited remit and budget, but also that greater diversity is needed in appointments, and that a situation where the Lords is larger than the Commons makes parliament ‘look faintly absurd’. He also noted that CSPL had previously recommended parties should be more open

about why specific candidates for peerages had been put forward. This all suggests that he might welcome an extension of HOLAC's remit to include further monitoring of party appointments, as proposed by the Burns committee. PACAC Chair Bernard Jenkin used the hearing to indicate that his committee plans to produce its own report on the size of the Lords, which could further increase pressure for change.

On 28 November the Constitution Unit [will hold a public seminar on this topic](#) with speakers including Lord Burns and Bernard Jenkin (see page 18).

PACAC report on pre-appointment scrutiny

PACAC published its [report](#) into pre-appointment scrutiny hearings in September. This followed growing concerns amongst select committee chairs that such hearings were a charade, especially when the government ignored committee recommendations, as happened with the [appointment of Baroness Stowell](#) as chair of the Charity Commission. PACAC [heard evidence](#) from the Unit's Professor Robert Hazell, who explained that pre-appointment hearings were more effective than was recognised, and suggested ways in which their impact might be increased. His [written evidence](#) identified nine hearings which had raised issues of concern. In four cases the candidate withdrew; in two others the appointee subsequently resigned. He argued that it is therefore wrong to see pre-appointment scrutiny as ineffective, as it has an important deterrent effect against excessive ministerial patronage.

In terms of making the process more effective, PACAC's report recommended as good practice that committees should ask candidates to fill out questionnaires in advance to help focus hearings. They should also take a more flexible and strategic approach to choosing which posts to hold hearings for, and not be bound by the Cabinet Office list of the top 50 public appointments.

PACAC also encouraged committees to be more active in scrutinising the government's commitment to increasing diversity in senior appointments, and in ensuring that the appointments process is properly resourced and prioritised. The committee followed up these points in its [report](#) on the appointment of Lord Evans of Weardale as chair of CSPL, criticising the Cabinet Office for repeated administrative failures; and for lack of diversity. All the Cabinet Office's preferred candidates since 2015 have been white males, and

Lord Evans is the seventh consecutive man appointed as the permanent chair of CSPL since its creation.



Robert Hazell, former Director of the Unit. Credit: Parliament TV.

PACAC inquiries on the parliament's role in the constitution

PACAC [has announced](#) that it plans to conduct a series of short, linked, inquiries on the theme of parliament's role in the UK constitution. In doing so it set out a very wide range of topics, including parliament's role in financial scrutiny, delegated legislation, oversight of treaties, and the deployment of troops, alongside the impact of select committees and the relationship between parliament and the courts. The committee's [terms of reference](#) pointed out that its list of topics was not exhaustive, and invited other proposals. The central thread connecting these various areas of interest is the balance of power between parliament and government, on which PACAC invites general evidence. This will be addressed from several angles, including the government's control of the legislative timetable and the relative size of the payroll vote.

The first short inquiry to be conducted under this umbrella will focus on [the status of resolutions of the House of Commons](#). This has been a matter of recent controversy, for example regarding motions [on opposition days](#) and in [backbench time](#), where the government has sought to dodge potentially unwelcome decisions in various ways. The committee also seeks

to explore which kinds of motions might be considered matters of confidence. Written evidence on these topics was invited by 15 October, and broader evidence on the overarching theme of parliament, government and the constitution will be accepted until 30 November.

Commons Procedure Committee report on time limits for speeches

In September the House of Commons Procedure Committee issued a short report entitled [Time Limits on Speeches in the Chamber](#). This focused in particular on the ‘injury time’ awarded to MPs during debates where speeches are time-limited in order to compensate for taking other MPs’ interventions. The committee proposed that the minimum time limit for backbench speeches should be five minutes, in which case no injury time would apply, and that where speeches are longer, injury time should apply only to the first two interventions. The committee also commented on the problems of overlong frontbench speeches, which reduce time available to backbenchers, and pledged to monitor this in the coming months with a view to proposing further possible changes.

Commons Administration Committee report on improving experience for new MPs

In August the House of Commons Administration Committee [published a research report](#) on the experiences of new MPs following the 2017 general election. Based on interviews with 30 newly elected MPs, this concluded that new Members can suffer from ‘information overload’ and find the experience overwhelming – one interviewee describing the feeling of being ‘like a rabbit in the headlights’. MPs wanted more support in areas such as IT and recruitment of staff, and found some matters such as the boundaries between the House authorities and the Independent Parliamentary Standards Authority (IPSA) confusing. They also suggested a need for clearer guides to matters such as parliamentary procedure, but made many positive comments about the support provided by the House authorities. The committee’s chair, Sir Paul Beresford, noted the ‘impressive degree to which the welcome and services offered to new MPs have improved from election to election – even between 2015 and 2017’, but that the report indicated useful areas for further improvement.

Elections, referendums and democratic engagement



Independent Commission on Referendums

The Independent Commission on Referendums – established by the Unit last year to examine and make recommendations on the role and conduct of referendums in the UK – [reported](#) in July (see [Monitor 69](#), pages 1–2). Its analysis and recommendations have since received widespread and favourable attention. Speaking in the Commons on 17 July, Minister for the Constitution Chloe Smith [said](#), ‘I have begun to read that report and I welcome its thoughtfulness about how referendums fit into the rest of our election landscape’. Two days later, during a [debate on referendums and parliamentary democracy](#) in the Lords, eight speakers referred to the report in their comments. Lord Norton of Louth said, ‘I hope that the Government will take the proposals seriously so that, in future, we can argue over the merits of a case and not muddy debate with arguments that cannot be resolved over process and motivation’. On 24 July, the Unit’s Meg Russell and Alan Renwick discussed the report in a [one-off evidence session](#) with the Commons Public Administration and Constitutional Affairs Committee (PACAC).



Unit Director Meg Russell and Deputy Director Alan Renwick give evidence to PACAC. Credit: Parliament TV.

The Commission’s work is also proving influential internationally. The [Political Affairs and Democracy Committee](#) of the Parliamentary Assembly of the Council of Europe continues its investigation into the rules of referendums, and its [preliminary draft report](#), published in October, draws frequently on the Commission’s

findings. The Committee hopes to conclude its investigation in the coming months.

Back in the UK, the work of the Commission helped inform the Unit's analysis of the appropriate rules for any further referendum on Brexit that may be called (see page 17). Further progress in reforming general referendum rules is unlikely until the Brexit process has concluded.

Boundary Commission reports

The four Boundary Commissions – for [England](#), [Scotland](#), [Wales](#), and [Northern Ireland](#) – published their final recommendations for new Westminster parliamentary constituencies in September. This was the culmination of a review process lasting over two years. The Commissions had produced their initial proposals in autumn 2016 and revised proposals a year later. While there were important differences between their first and second sets of recommendations, this final set added only minor changes.

As reported in [Monitor 69](#) (page 10), the review remains controversial. Because it seeks to implement the 2011 decision to cut the number of constituencies from 650 to 600 and limit the size of permissible deviations of constituency electorates from the nationwide average, it would, if implemented, entail substantial disruption to existing constituencies and cost some MPs their seats. Given [reports](#) that 'dozens' of Conservative MPs are willing to vote against the changes, there is little expectation that they will ever be implemented. Change requires the government to bring forward a draft order to implement the recommendations 'as soon as may be'. But Chloe Smith, Minister for the Constitution, [said in parliament](#) on 5 September that this order 'will take months to prepare, because it needs to transcribe the entirety of those four boundary commission reports'. The presumption is that the government intends to delay the vote until after Brexit.

Voter ID trials

After methods for requiring voters to show ID at polling stations were trialled in five areas in the local elections in May (see [Monitor 69](#), page 9), several reports seeking to draw lessons have been published. The Cabinet Office produced a [detailed assessment](#) of all the trials, while the Electoral Commission produced shorter reviews of the evidence in each of the areas: [Bromley](#), [Gosport](#),

[Swindon](#), [Watford](#) and [Woking](#). These drew very similar conclusions: there was no evidence that people had been put off voting; few voters arrived at polling stations without the required ID, and most who did so returned later and were able to vote; perceptions of the threat posed by electoral fraud either lessened or stayed the same; administrators found the new systems to be manageable. A Cabinet Office analysis estimated that it would cost between £4 million and £20 million to roll out voter ID requirements nationwide, depending on the model used and assumptions made.

The Electoral Reform Society also produced a report on the trials. Called [A Sledgehammer to Crack a Nut](#), this pointed out that there was just one conviction for 'personation' across the UK in 2017. It argued that problems of electoral fraud have been very limited and do not justify the creation of new barriers to participation in democratic processes. It said the government should focus on 'real problems' such as 'secret political donations and "dark ads"' instead.

Nevertheless, the government [announced](#) in July that it plans to pursue the policy further by holding additional pilots at the local elections in 2019.

First recall petition

One of the reforms introduced following the 2009 scandal over MPs' expenses was a [provision](#) allowing MPs to be recalled by their constituents under specified circumstances. One of these circumstances is the suspension of an MP for at least 10 sitting days by the Commons Standards Committee. Where this condition is met, a recall petition is opened; if at least 10% of the registered electors in the constituency sign the petition, the MP is removed from office; a by-election is held, in which the unseated MP can stand should they wish.

Ian Paisley, who represents North Antrim, became the first MP to be subject to this provision when, following a [Standards Committee recommendation](#), the House [agreed](#) in July to suspend him for 30 sitting days. He had lobbied UK ministers on behalf of the Sri Lankan government after receiving substantial undeclared hospitality. His suspension is the longest since [records](#) began in 1949.

The petition was open between 8 August and 19 September. There was [some criticism](#) that the Electoral Office for Northern Ireland made only three locations for

signing available – well below the maximum of 10 places allowed for in the legislation. In the end, [9.4% of electors](#) registered in the constituency signed the petition, and Paisley therefore retained his seat. One [commentator](#) subsequently asked, ‘If recall doesn’t work in the most polarised electorate in the UK after a huge controversy, can it ever?’

Developments in deliberative democracy

The government launched a [Civil Society Strategy](#) in August, which ‘sets out how government will work with and support civil society in the years to come, so that together we can build a country that works for everyone’. This touches on many matters, including philanthropy, opportunities for young people, and the social role of the private sector. Most notably for *Monitor* readers, it announces the creation of an Innovation in Democracy programme, which will pilot the use of face-to-face deliberative processes such as citizens’ juries, ‘complemented by online civic tech tools’, in local areas. Government will work with local authorities to deliver six pilots in the coming months. These will be selected with a view to unlocking progress on difficult local policy decisions.

Meanwhile, the [Citizens’ Assembly for Northern Ireland](#) met for the first time over the last weekend in October. It is due to gather for its second and final meeting in mid-November. It is examining options for the future of Northern Ireland’s social care system and is intended both to ‘break the deadlock’ on this issue and to pilot new mechanisms for democratic engagement. Though led by civil society organisations, it has been designed to maximise influence among Northern Ireland’s politicians too.

At UK level, the RSA (Royal Society for the encouragement of Arts, Manufactures and Commerce) has launched a [Campaign for Deliberative Democracy](#). Working with [Involve](#) – who partnered with the Unit in last year’s [Citizens’ Assembly on Brexit](#) and who organised both the Citizens’ Assembly for Northern Ireland and, earlier this year, the Citizens’ Assembly on Social Care (see [Monitor 69](#), page 11) – it is calling for ‘at least 3 national citizens’ assemblies each year on key issues of contemporary concern’ and ‘the development of a “what works centre” for deliberative democracy’. The campaign builds on a [lecture](#) given by RSA Chief Executive Matthew Taylor in July.

Intimidation in public life

Following on from the report on [Intimidation in Public Life](#) published last December by the Committee on Standards in Public Life, the government launched a consultation over the summer on ‘[Protecting the Debate: Intimidation, Influence, and Information](#)’. This focused mainly on whether a new offence should be introduced into electoral law of intimidating candidates or campaigners. Under the government’s proposals, such behaviour would be deemed a ‘corrupt practice’ and anyone found guilty of it ‘would be prohibited from standing as an MP or holding any elective office for a period of five years’. The consultation also included proposals to clarify and extend existing rules against intimidation of voters and proposals to require imprints on digital political advertisements (on the latter, see immediately below). At the time of writing, the government was analysing the consultation responses.



Chloe Smith, the minister responsible for government policy on elections and democracy. [Open Government Licence](#).

Digital campaigning

The question of how to ensure digital campaigning plays a positive democratic role continues to receive much attention. The government’s [consultation](#) in response to the CSPL Intimidation in Public Life report (see above) included a question on whether to extend requirements for imprints on campaign materials to online communications.

More broadly, the House of Commons Digital, Culture, Media and Sport Committee published a report in July on [Disinformation and 'Fake News'](#). Though officially only an interim report, this was a detailed work that set out extensive recommendations. It concluded that 'Electoral law in this country is not fit for purpose for the digital age, and needs to be amended to reflect new technologies', and called for 'a comprehensive review'. Besides agreeing that imprints should be required on digital campaign materials, it proposed that the powers and resources of the Information Commissioner's Office and the Electoral Commission should be increased, and that the liability of tech companies for what appears on their platforms be strengthened. It proposed that there should be 'a public register for political advertising' and 'a ban on micro-targeted political advertising', and that government should investigate ways of ensuring that online political advertising is transparent. It urged measures to tackle the threat of Russian political interference, including limits on donations to political campaigns. Finally, it called for measures to promote digital literacy, financed through a levy on social media companies.

Meanwhile, the Information Commissioner's Office (ICO) published a report in July called [Democracy Disrupted? Personal Influence and Political Influence](#). This recommended greater transparency in the use of personal data and data analytics in political campaigning, and urged that 'The Government should legislate at the earliest opportunity to introduce a statutory code of practice under the DPA2018 for the use of personal information in political campaigns.' As Monitor went to press, the ICO produced a [further report](#) on the same subject. This says that social media companies, campaigners, and others have shown 'a disturbing disregard for voters' personal privacy' and sets out enforcement actions taken by the ICO in relation to the 2016 referendum campaign (see immediately below). In the interim, Ofcom published a discussion paper on [Addressing Harmful Online Content](#), which addresses concerns about misleading political advertising and 'fake news', among other matters.

The tech companies also continue to take their own steps intended to address public concerns. In October, Facebook [announced](#) that anyone running political advertisements in the UK will now have to verify their identity and location and that such advertisements will carry a 'paid for by' disclosure and be included in a

searchable [repository](#). Recommendations to this effect had previously been made by the Unit's Independent Commission on Referendums (see [Monitor 69](#), pages 1–2).

2016 referendum: investigations into campaign spending and data usage

Over two years may have passed since the UK voted to leave the EU, but investigations into spending during the campaign that preceded the vote have continued. In July, the Electoral Commission [concluded](#) that Vote Leave had broken the law by exceeding its spending limit of £7 million and reporting some of its spending incorrectly. Crucially, the Commission found that Vote Leave had been campaigning jointly with another organisation, BeLeave, and that, consequently, a sum of over £675,000 that it had transferred to BeLeave should be counted in the calculation of its own spending. The Commission fined Vote Leave £61,000 and BeLeave founder Darren Grimes £20,000.

In September, the High Court [ruled](#) that the Electoral Commission had earlier misinterpreted the definition of 'referendum expenses'. This did not directly affect the Commission's decision against Vote Leave: the Court agreed that it had indeed violated the spending rules. But the judgment did point to the need for greater clarity in these rules – indeed, the Commission [has itself argued](#) that they need to be reviewed. The Commission [has indicated](#) that it will seek to appeal the ruling.

On 1 November, the Electoral Commission [announced](#) that it had referred several groups and individuals to the National Crime Agency, which has launched a criminal investigation. The Commission said it has 'reasonable grounds to suspect' that loans and donations from Arron Banks to the Leave.EU campaign group may have come 'from impermissible sources'. This follows [reports](#) that Mr Banks's associates repeatedly met Russian embassy officials before the referendum. Mr Banks, who gave Leave.EU £8 million in total, [denied any wrongdoing](#).

Five days later, the Information Commissioner's Office (ICO) [announced](#) that it was fining Leave.EU and Mr Banks's insurance company £135,000 for 'serious breaches' in data privacy rules. It also said that it was continuing further investigations relating to both Leave and Remain campaigners. This followed a [£500,000 fine against Facebook](#) in October in relation to the activities of Cambridge Analytica.



Labour Party organisational reforms

Alongside Brexit, proposals for internal organisational change featured heavily among topics for debate at September's Labour Party conference. A serious tension over recent years has been the desire among some activists (particularly those associated with the Corbynite pressure group Momentum) for greater grassroots control over the reselection, and possible deselection, of Labour MPs. As discussed recently [on our blog](#) by Eric Shaw, this tension also ran high in the late 1970s and early 1980s, when rule changes allowing easier deselection resulted in some MPs on the right of the party being forced out by activists on the left – helping to drive the party split that resulted in the formation of the SDP.

This year's conference debates took place in an environment where several Labour MPs viewed as right-leaning, including [Joan Ryan](#) and [Chris Leslie](#), have been subjected to votes of no confidence by their local parties, and where, shortly after such a vote, Birkenhead MP [Frank Field](#) resigned the party whip. Momentum-backed motions had proposed totally open selections in all seats, with MPs potentially facing challengers, instead of the current 'trigger ballot' system. A compromise proposal from the party's National Executive Committee (NEC) stopped short of this, allowing for watering down of the current system, to reduce (from one half to one third) the number of local branches within the constituency needed to trigger an open selection. This was ultimately agreed, but sparked [angry protests](#) from some delegates.

There was also a surprise U-turn on the planned creation of a second Deputy Leader position, which would be reserved for women candidates. Initially backed by Momentum, the NEC supported it, but fears quickly grew that an election in the near future could become a faction-fight, perhaps challenging Corbyn's Brexit position, and the proposal was unexpectedly withdrawn. This [attracted anger](#) from many activists and feminist campaigners.

Vince Cable proposes Liberal Democrat leadership election reforms

Liberal Democrat leader Sir Vince Cable is seeking to leave his mark on the party via a series of internal reforms. Key to his proposals are changes to how leaders are elected. His [party conference speech](#) confirmed that he wants to launch a free 'registered supporter' scheme, and to allow such supporters to vote in future leadership elections – a similar move to that implemented by Labour which boosted Jeremy Corbyn's election prospects in 2015. He also proposed that the party abolish the requirement that its leader should be an MP.

Doubts about these proposals were raised within the party, and Sir Vince [attended a conference event to listen to members' concerns](#). Although he admitted that caution about the prospect of 'entryism' was worth listening to, a [consultation document](#) effectively dismissed this as something that cannot really happen to a centrist party.

These reforms are not without high profile supporters. But the timescale for debating and implementing them is uncertain, after proposals for a special event to discuss them were [withdrawn](#) (possibly before they could be voted down).



Sir Vince Cable, Leader of the Liberal Democrats. [\(c\) The Liberal Democrats.](#)

Courts and the judiciary



The Courts and Tribunals Bill

The [Courts and Tribunals \(Judiciary and Functions of Staff\) Bill](#) (see [Monitor 69](#), page 8) has completed its committee and report stages in the Lords. The government has said the bill will ‘shift justice from slow, paper-based systems to streamlined, efficient digital services’ and will enable judges to serve flexibly across jurisdictions, whilst some judicial functions will be delegated to ‘appropriately qualified and experienced’ court staff. Although many of the changes are sensible, increasing the powers of civil servants who lack the professional training and experience of judges has led to expressions of concern from the legal sector, [including the Bar Council](#).

Baroness Chakrabarti, the Shadow Attorney General, was responsible for the more noteworthy amendments, the most important of which related to plans to expand the functions that could be exercised by non-judicial staff in Her Majesty’s Courts and Tribunal Service. There is a legitimate concern here: a judge is an independent office-holder, whereas the non-judicial staff are employed by the government, raising questions about impartiality and the extent to which decisions could be influenced by government targets or policy aims. Concerns about lay staff were also reflected in an amendment providing for non-judicial decisions to be reviewed by a judge upon request, and another requiring that legal advisers to lay judges be legally qualified. Lord Neuberger, formerly President of the Supreme Court, and Lord Keen of Elie (speaking for the government) were two of several peers to express ‘sympathy’ for these amendments. This led to a government amendment at report stage to prevent non-judicial staff making decisions in areas of important civil liberties, such as the denial of a person’s freedom.

It remains to be seen to what extent opposition parties will continue to contest these issues at the Lords third reading on 13 November, before scrutiny of the bill shifts to a Commons preoccupied with Brexit.

Devolution



PACAC report on the future of devolution

In July the Public Administration and Constitutional Affairs Committee (PACAC) published [Devolution and Exiting the EU: reconciling differences and building strong relationships](#). This report focuses in particular on the roles of the UK’s central institutions in the devolution system and on intergovernmental relations (IGR) (see pages 4–5 for more detail on IGR in the context of Brexit).

The committee argued that the UK government should bring more clarity to its understanding of the subject by publishing a ‘Devolution Policy for the Union’ at the start of every parliament. It further recommended that there should be a ‘systematic review’ of how Whitehall is structured in relation to the devolved governments, including the roles of the territorial Secretaries of State. Following the recent controversy over the UK government’s decision to press ahead with the EU (Withdrawal) Act’s devolution provisions despite the Scottish Parliament withholding consent (see [Monitor 69](#), page 4), the report called for the [Sewel convention](#) to be recognised in parliamentary procedure.

The sections of the report covering IGR were notable for drawing attention to the UK government’s dual role as government of both the UK and England in forums such as the Joint Ministerial Committee (JMC). When taking evidence MPs heard concerns that, especially in the context of negotiations on post-Brexit policy frameworks, the UK government’s dual hat could lead to it favouring England, or could in fact have the opposite effect, leaving English interests without an effective advocate. The committee recommended that separate English representation in IGR should be introduced to address the problem. Jack Sheldon, of the [Between Two Unions](#) project, has [discussed on our blog](#) how this might be done.

Several of the themes of PACAC’s report were echoed in a [speech](#) given by outgoing Welsh First Minister Carwyn Jones at the Institute for Government in September. Jones remarked on how similar his conclusions were to those of PACAC, despite the big political differences between him and its chair, the Brexit-supporting Conservative Bernard Jenkin.

England

A group of 18 Yorkshire local authorities have resubmitted a summary of their proposals for a combined mayoral authority for Yorkshire, together with an [economic case for devolution](#) prepared by Steer, a global business consultancy. This plan is supported by Dan Jarvis, the metro-mayor of South Yorkshire, and by the West Yorkshire combined authority. Options include creating a metro-mayor for the rest of Yorkshire alongside South Yorkshire, or creating a single metro-mayor at the end of Jarvis's term in office.

Pan-northern joint working has increased in the latter part of 2018. A '[Convention for the North](#)', including metro-mayors, local authority leaders and stakeholders from across the region, was held in Newcastle in September. The government announced in July the formation of a '[Council for the North](#)', made up of 11 Local Enterprise Partnership (LEP) chairs. Leaders have lobbied for local control of the 'Shared Prosperity Fund' – the proposed post-Brexit replacement for EU structural funds – and also for funding to be maintained at current levels. The report of the Institute for Public Policy Research (IPPR) [Commission on Economic Justice](#), published in September, recommended devolution to four 'regional economic executives' of power over industrial strategies, infrastructure, rail, immigration, an 'inclusive growth fund' and regional investment banks.

Alongside this, the government's paper [Strengthened Local Enterprise Partnerships](#), published in July, required LEPs to propose new boundaries by September. Many LEP boundaries have overlapped since their setup in 2011, reflecting the fuzziness of local economic geographies. Reports have indicated that some, such as Greater Birmingham and Solihull, have pushed back against this requirement. These contrasting flows reflect the difficulty of identifying discrete local areas within England that could both serve for place-based policy and attract local legitimacy.

There seem unlikely to be many additional devolution deals in the near future. An order setting up the North of Tyne Combined Authority, and its metro-mayor, is currently before parliament. If approved, mayoral elections would take place in May 2019, with an appointed interim mayor to serve until then. In October, [reports indicated](#) that a devolution bid from Portsmouth, Southampton and the Isle of Wight (the 'Solent bid') had been rejected by ministers. This was stated in private

correspondence between the relevant minister, Jake Berry, and Portsmouth South MP Stephen Morgan, and was apparently not directly communicated to the councils involved.

Northern Ireland

Northern Ireland is again playing a prominent role at Westminster in the context of Brexit, the Irish backstop, and tensions between the government and its DUP partners, without whom it lacks a parliamentary majority. Northern Ireland itself is becoming increasingly polarised; it is becoming very clear that [the country's political situation has regressed](#) since the failure of power sharing talks in February (see [Monitor 68](#), page 12). There is still no agreement on the basis for a return to devolved government; indeed there have been no serious attempts at negotiation for several months. Having failed to convince its political base to come to terms with its opponents, the DUP appears focused on Westminster, whilst Sinn Féin seems to be considering the extent to which Brexit offers an opportunity to secure Irish reunification. The UK government, fixated on Brexit, has brought little energy to getting Northern Ireland politics on track, which is made even more difficult by the worsening of its relationship with Dublin.

Meanwhile, the [administration of government has been conducted by civil servants](#) operating in an incredibly limited manner, the legal foundation for which has been shaken following a [Court of Appeal judgment](#) in July. As a consequence, the UK government has passed [temporary legislation](#) to reinforce the powers of civil servants, subject to [guidance](#) from the Secretary of State for Northern Ireland. The short-term approach of the government leaves long-term issues unaddressed, and places civil servants in an exposed position. However in the absence of devolved government it may be the least bad option.

What trust the Northern Ireland public retained in devolved government has meanwhile been shaken by the [inquiry into the Renewable Heat Incentive \(RHI\)](#), which has exposed, in testimony over a period of months, a sorry tale of misjudgements by officials and ministers, power plays among special advisers, and allegations of corruption.

Some steps to ensure that devolved government becomes cleaner and smarter are probably now essential before Northern Ireland can return to self-

governance; this is very unlikely to happen before the RHI inquiry reports in the spring. In reality, it is likely to be much further away than that: a hard (or 'no deal') Brexit risks making politics even more volatile, and could further undermine the already damaged foundations of the Good Friday Agreement.

Scotland

The relationship between the governments in Edinburgh and Westminster is strained, with the latter referring the former to the Supreme Court over its Continuity Bill (see page 4–5), and the Scottish government regularly expressing disquiet over the progress of the Brexit talks. In this context, the House of Commons Scottish Affairs Committee has launched [an inquiry](#) into the relationship between the two governments. Still in its early stages, it is accepting written submissions until 23 November.

Within Scotland, a second independence referendum remains [firmly on the Scottish government's agenda](#), whilst, south of the border, Jeremy Corbyn angered some in his party by [refusing to rule out authorising such a vote](#) if he becomes Prime Minister. First Minister Nicola Sturgeon leads an SNP divided between gradualists and those for whom a referendum cannot come too soon. The latter, increasingly outside her control, may yet find a champion in the person of her predecessor, Alex Salmond, who has [warned](#) that the party is struggling to balance calls for it to block Brexit with demands for a second independence referendum. Having left the SNP, Salmond is currently at odds with the Sturgeon government, [and has made an application for judicial review](#) of its handling of allegations of sexual harassment against him. For a former First Minister to take legal action against his own government is unprecedented.

UK Chancellor Philip Hammond announced an additional £950 million in funding for the Scottish government in his [October budget statement](#), which the Scottish Finance Secretary, Derek Mackay quickly [declared](#) had 'short-changed Scotland'. Mackay will announce the Scottish government's own budget on 12 December. However, the Greens and the Liberal Democrats have already [said they will not vote for it](#), with the latter saying only a dropping of the SNP government's commitment to hold a second independence referendum would change their minds.

As for the prospects for an independent Scottish economy, the SNP commissioned a [Sustainable Growth Commission](#) to examine the issue, but have since

been [accused](#) of attempting to 'bury' its report, which was published in May (see [Monitor 69](#), page 13). The Commission's plan of borrowing to replace Barnett transfers implied another decade of austerity and high public borrowing: more realistic than the [2014 white paper](#), but unpopular with independence enthusiasts and Unionists alike. As a consequence, the SNP has [had to deny](#) claims that it is 'split' over the report's conclusions, which have not been adopted as party policy and now probably never will be.

Wales

Wales continues to undergo significant political and constitutional change, with reforms to the Assembly and electoral system well underway. Having convened an expert panel, whose [findings](#) were put to public consultation in spring 2018, the Assembly's Llywydd (Presiding Officer) Elin Jones [announced](#) that she would recommend the Assembly Commission proceed with the first part of the reform process. In October, [AMs voted to introduce](#) the Welsh Parliament and Elections (Wales) Bill. Expected in early 2019, the bill will seek to change the name of the Assembly to Senedd Cymru (Welsh Parliament) and lower the voting age to 16 in time for the next Assembly election in 2021. Discussions on the second part of the reform, which would increase the size of the Assembly and alter how AMs are elected, are continuing.

Elsewhere, the devolution of powers to vary income tax in Wales under the [2017 Act](#) is due to [take effect](#) from 6 April 2019, and the October draft budget announced that the new Welsh income tax rates will remain at the current level for the next financial year. The Welsh government is also set to announce its first proposals for [justice in Wales](#). While justice is largely reserved to Westminster, Welsh Cabinet Secretary Alun Davies is currently developing an alternative vision for penal policies for female and youth offenders in Wales in cooperation with the UK Ministry of Justice and the prison and probation services. More broadly on justice matters, the [Commission on Justice in Wales](#) continues to gather evidence, and is due to report its recommendations next year. Public consultation on the Codification Bill (see [Monitor 69](#), page 13) has now concluded and the government [has said](#) that detailed legislative proposals will be introduced later in the year. Counsel General Jeremy Miles claimed as recently as October that devolution of justice and a separate Welsh legal jurisdiction are '[inevitable](#)'.

Internal party elections dominated the summer political agenda, with the Conservatives, Plaid Cymru and UKIP all selecting new leaders and Labour resolving an internal debate about its own process for doing so. Adam Price, who is expected to take a stronger position on independence, defeated the incumbent, Leanne Wood, to become leader of Plaid Cymru. Paul Davies is the new leader of the Welsh Conservatives, whilst Gareth Bennett won the UKIP election on an [anti-devolution platform](#) that included abolition of the Welsh Assembly. Following a [special conference](#), Labour decided to use the one-member-one-vote system to select Carwyn Jones' successor: Mark Drakeford, Vaughan Gething and Eluned Morgan are on the ballot paper. Results are due on 6 December and Jones will resign as First Minister five days later, the day after completing his ninth year in the role.



Eluned Morgan, one of three candidates to succeed Carwyn Jones as First Minister. [Open Government Licence](#).

International



Irish referendums

Hot on the heels of a landmark referendum in May that removed restrictions on abortion from the Irish Constitution (see [Monitor 69](#), page 14), voters went to the polls again in October to vote on whether to remove the offence of blasphemy from the Constitution. On a relatively low turnout of 44%, 65% of those casting a ballot [backed the change](#).

The referendum is a holdover from the Irish [Convention on the Constitution](#), which met between 2012 and 2014. This comprised 100 individuals: 66 ordinary members of the public selected at random, 33 politicians nominated by the political parties, and an independent chair. It

examined eight issues fixed by the government and two others selected by its own members. The most high-profile subject on its agenda was same-sex marriage, which was put to voters in a [referendum](#) in 2015. The Convention preceded the Irish Citizens' Assembly, whose main topic was abortion.

The Convention examined the issue of blasphemy over a weekend in November 2013. As set out in a [report](#) published in January 2014, it voted in favour of removing the offence of blasphemy from the Constitution, recommending that it be replaced with 'a new general provision to include incitement to religious hatred'. The constitutional amendment adopted in October's referendum simply removes the offence. The topic of blasphemy arouses little public interest, and the difference received almost no attention.

The government initially suggested that the referendum would include a second question, to remove or amend a constitutional provision that assumes a woman's place is in the home. This too stems from a [report](#) of the Convention on the Constitution. While there is agreement on the need for change, however, widely differing views exist on how this should be done. A decision on how to proceed therefore [remains on hold](#). Taoiseach Leo Varadkar [has indicated](#), however, that further referendums – including a vote to allow diaspora voting in presidential elections – are 'pencilled in' for May 2019.

EU takes action against Poland and Hungary

The attempted implementation in Poland of legislation restructuring the Supreme Court [triggered public protests](#) in July. The new laws increased the Court's size and lowered its compulsory retirement age to 65, making 27 existing Justices too old to serve. Those affected – including the court's president Małgorzata Gersdorf – may continue in office only with permission from the President of Poland. Critics note that the combined effect of the reforms is that 60% of the Court will effectively be (re-)appointed by the sitting President Andrzej Duda, who is currently aligned with the governing Law and Justice party (PiS).

The reforms brought immediate dissension. The judiciary pointed out that they could not legally be removed from their posts and had a guaranteed six-year term; the government countered that the Constitution allows parliament to set judicial retirement ages. A confused situation ensued, with all sides agreeing that the senior Justice Józef Iwulski would temporarily head the Court,

but disagreeing as to whether Gersdorf had been removed from office, or was merely on leave.

On 2 August the Supreme Court [suspended the early retirement provisions](#) and referred them to the European Court of Justice (ECJ). On 24 September, the European Commission [commenced](#) the infringement procedure under [Article 7](#) for violating the principle of judicial independence. This did not deter President Duda from [appointing 27 new Justices](#) on 10 October. A week later, the ECJ responded to the Polish Supreme Court's request for a reference by [issuing an injunction](#) freezing the provisions.



Małgorzata Gersdorf. (c) Chancellery of the Senate of the Republic of Poland.

Hungary is also now subject to Article 7, after the European Parliament [voted](#) by 448 to 197 in favour of invoking it. Whereas the process against Poland is focused on a single issue, the [Sargentini report](#) that led to Hungary's censure raised multiple concerns, including threats to judicial independence and freedom of expression (including media and academic freedom), and anti-immigrant measures such as the so-called '[Stop Soros' law](#) and a [constitutional amendment](#) prohibiting mass immigration. The Hungarian government, led by the right-wing Fidesz party, was [re-elected in April](#) with a 'supermajority' that enables it to pass constitutional amendments without cross-party support, meaning there is little prospect of these concerns being resolved without external intervention.

The Hungary vote in the European Parliament was notable for the split within the European People's Party, broadly along East/West lines. British Conservative MEPs voted in Hungary's favour, leading to [criticism](#) in the UK.

People on the move

Sir Mark Sedwill, who was serving as Acting Cabinet Secretary, has been appointed to the position permanently. His predecessor, **Sir Jeremy Heywood**, sadly [died on 4 November](#), very shortly after retiring on medical grounds and taking the title Lord Heywood of Whitehall.

Elizabeth Peace CBE has been appointed as Chair of the Shadow Sponsor Board of the Restoration and Renewal of the Palace of Westminster.

Lord Bew has come to the end of his term as Chair of the Committee on Standards in Public Life (CSPL), and is now Chair of the House of Lords Appointments Commission (see pages 5–6). The new CSPL Chair is **Lord Evans of Weardale** (see page 6).

Claire Bassett will step down as Chief Executive of the Electoral Commission at the end of the year to take up the role of Chief Executive Designate of the new Trade Remedies Authority.

Kate Green MP has been elected unopposed to serve as Chair of the Standards Committee, following the resignation of **Sir Kevin Barron MP** (see page 5).

Former Conservative Chief Whip **Sir Patrick McLoughlin MP** has become Chair of the new House of Commons European Statutory Instruments Committee.

The Earl of Devon and **Lord Bethell** were elected to the House of Lords to replace **Earl Baldwin of Bewdley** and **Lord Glentoran** as Crossbench and Conservative hereditary peers respectively.

Paul Davies AM was elected leader of the Welsh Conservative Assembly group, while **Adam Price AM** defeated the incumbent **Leanne Wood** to become the leader of Plaid Cymru. As discussed above (see page 15), **Gareth Bennett** is the new leader of UKIP in Wales, replacing **Caroline Jones**.

Jack Simson Caird has departed the House of Commons Library, and joined the Bingham Centre on the Rule of Law as Senior Research Fellow in Parliaments and the Rule of Law. **Louise Thompson**, co-convenor of the PSA Specialist Group on Parliaments, has left the University of Surrey to take up a post as Senior Lecturer at the University of Manchester. **Graham Gee**, Professor of Public Law at the University of Sheffield, is now head of the School of Law.

Report on the mechanics of a further Brexit referendum

As indicated in the front page story, the difficulties in finding a deal on the terms of the UK's withdrawal from the EU that will satisfy both EU leaders and a majority in the UK parliament make a further referendum on Brexit far from impossible. In light of this, the Unit published a report in October examining the mechanics of such a vote. Key findings were summarised in a series of posts on the Constitution Unit blog. Building on a long tradition of neutrality in Unit work, the analysis took no position on whether a referendum should be held, but rather explored whether and how it could happen.

One key conclusion in [The Mechanics of a Further Referendum on Brexit](#) was that a minimum of 22 weeks would be required between the introduction of legislation to provide for a referendum and polling day. It would therefore need to take place after 29 March 2019, requiring an extension to the Article 50 period. EU leaders would probably agree to that, though it would create complications for the European Parliament elections scheduled for late May.

Taking account of the multistage process for parliamentary approval of any deal, there are five possible trigger points for a referendum. Depending on the trigger – and on whether there is a deal on the table – different possibilities for the referendum question exist. The report set out the implications of these, including how a three-way choice could be structured. The rules of the referendum would need to be updated to enable a fair campaign.

Putting all the parts together, the report concluded that the earliest a referendum could take place would be mid-May 2019 – though only if a deal were struck in November and a parliamentary decision to pursue a referendum followed rapidly. If a referendum is to happen, it is better that it should take place earlier rather than later.

The report has received wide attention in parliament, and in the media (see page 7). It was cited by six speakers in a [Lords debate](#) on a 'people's vote' on 25 October, serving as a key reference point for thinking about how any vote might proceed.

Seminars: Brexit and citizens' assemblies

On 27 September, the Unit held a lively seminar where Jack Simson Caird of the Bingham Centre on the Rule of Law and Matt Bevington of the UK in Changing Europe summarised the contents of their fascinating new report [The Brexit Endgame](#). Topics for discussion included the nature of the parliamentary 'meaningful vote', the consequences of parliamentary amendment or rejection of the government's motion on a Brexit deal, plus what information government is likely to make available to MPs and when. The parliamentary consequences of failing to reach a deal were also discussed – noting that, while a deal will be followed by an EU (Withdrawal Agreement) Bill, legislation will also be urgently required in the event of no deal. In addition, the speakers carefully set out the process for agreement of any Brexit deal in the EU, including approval by the Council and European Parliament.

On 15 October, two of Ireland's leading experts on deliberative democracy – Professor David Farrell of University College Dublin and Dr Jane Suiter of Dublin City University – spoke at a Unit seminar on citizens' assemblies. They presented evidence from the Irish Citizens' Assembly of 2016–18 (which paved the way for the abortion referendum in May), highlighting both the quality of the Assembly's work in itself and the degree to which that work influenced subsequent debates in the Irish parliament and media. They suggested that, while the use of citizens' assemblies in Ireland was initially a political reaction to crisis that depended on the will of then Taoiseach Enda Kenny, it has now become embedded in Irish democracy, to the extent that further such bodies are likely in the future. The Unit has published [a blogpost](#) discussing the five key points made during the event.

Meg Russell's 20 years at the Unit

Meg Russell marked the twentieth anniversary of her arrival at the Unit in August. She was joined for celebratory tea and cakes (a well-established Unit tradition!) by many Unit friends past and present. She and Robert Hazell reflected on her path over the two decades from being appointed Senior Research Fellow, initially on a one-year contract, to Director. Departing Research Assistant Jess Sargeant thanked Meg for her ongoing commitment to nurturing the next generation. Meg received a congratulatory card and messages of praise and gratitude from numerous MPs, peers, and

others who had been touched by her work. During her time at UCL, she has written or co-written four books (plus one edited), 28 Unit reports and 35 academic journal articles.



Alan Renwick, Meg Russell, and Robert Hazell at Meg's 20th anniversary celebration.

Comings and goings

On 30 September we were very sorry to say goodbye to Jess Sargeant, following her fantastic work supporting the Independent Commission on Referendums, and subsequently as lead author of our [report and blog series](#) on a possible further Brexit referendum (see page 17). Jess joins the House of Lords Library as a researcher, where we are sure she will thrive.

We are delighted to welcome back Rebecca McKee, who previously worked on the Citizens' Assembly on Brexit, and has won a prestigious British Academy postdoctoral fellowship to conduct research with us for three years on ethnic minority representation in the UK parliament. We also welcome Mercy Muroki as a part-time researcher supporting Meg Russell's work. Former Unit volunteer and UCL Masters student Lotte Hargrave has returned to complete a funded PhD on women's representation in the UK parliament, supervised by Meg Russell and Jennifer Hudson.

In further happy news, Unit Office Manager Rachel Cronkshaw welcomed baby Freya on 11 August. As reported in the previous *Monitor*, Edd Rowe is providing her maternity cover.

Research volunteers

The Unit is, as always, grateful for the excellent work done by its research volunteers. A big thank you to departed volunteers Mercy Muroki, Will Parsons, Leise Sandeman and Basma Yaghi.

Bulletin Board

Events

To sign up for our events, please visit the Constitution Unit [events page](#). Seminars are free and open to all.

The Burns report on Shrinking the Lords: Where are we, one year on?

Lord Burns, Chair of the Lord Speaker's Committee on the Size of the House of Lords; **Baroness Taylor**, Chair of the Lords Constitution Committee; **Sir Bernard Jenkin MP**, Chair of the Commons Public Administration and Constitutional Affairs Committee; Chair: **Professor Meg Russell**, Director of the Constitution Unit.

28 November at 5.30pm

Digital democracy: bubble and hype?

Areeq Chowdhury, Chief Executive of WebRoots Democracy; **Joe Mitchell**, Coordinator of Democracy Club; **Mevan Babakar**, Head of Automated Factchecking at Fullfact; Chair: **Dr Alan Renwick**, Deputy Director of the Constitution Unit.

3 December at 6.15pm.

Responsible Parties: Saving democracy from itself

Ian Shapiro, Sterling Professor of Political Science at Yale University; **Dr Sherrill Stroschein**, Reader in Politics at UCL. Chair: **Professor Meg Russell**, Director of the Constitution Unit.

12 December at 6pm.

Unit in the news

The Independent Commission on Referendums was discussed in articles in the *Guardian* ([19 July](#) and [15 August](#)), *Daily Telegraph* (21 July), *Sun* ([10](#) and [22 July](#)), *Spectator* (10 July), *Press and Journal* (10 July), *Civil Service World* (10 July), and *Metro* (18 July). It was also mentioned in a blogpost about the mechanics of a second referendum on Brexit by the [RSA](#) (18 July).

Bulletin Board

Meg Russell wrote an article about the Independent Commission on Referendums in the [Financial Times](#) (10 July). Dominic Grieve and Gisela Stuart wrote on the same subject in [The Times](#) (10 July), as did Alan Renwick in [Prospect](#) (17 July), and Cheryl Gillan and Seema Malhotra in [PoliticsHome](#) (19 July).

Alan Renwick, Gisela Stuart and Jenny Watson were interviewed for a podcast on the Independent Commission on Referendums ([Talking Politics](#), 12 July). Meg Russell was interviewed by BBC Radio 4 about the Commission's work ([The Week in Westminster](#), 21 July).

The Unit's report on the mechanics of a further referendum on Brexit was summarised in articles in the [Sun](#), [WalesOnline](#), [inews](#), [Holyrood](#), [PoliticsHome](#), the [Daily Telegraph](#), and [Politico](#) (all 9 October), the [Daily Express](#) (13 October) and the [Guardian](#) (18 October). Meg Russell was quoted in a brief segment on the report ([Bloomberg](#), 9 October). Earlier, a [blogpost](#) by Jess Sargeant, Alan Renwick and Meg Russell on the timing of such a referendum was discussed in comment pieces in the [Guardian](#) (20 September) and the [Scotsman](#) (21 September).

Meg Russell and Alan Renwick wrote pieces for [The Times](#) (24 September) and [Huffington Post](#) (9 October) discussing the mechanics of a further referendum. Meg Russell had a letter published in [The Times](#) (15 October).

Alan Renwick was interviewed by BBC Radio 4 on the same subject ([Westminster Hour](#), 5 August; [The Briefing Room](#), 20 September). Meg Russell also appeared on BBC Parliament to discuss the report ([The Week in Parliament](#), 12 October).

Select Committee appearances

Meg Russell and Alan Renwick [gave evidence](#) on 24 July to the Public Administration and Constitutional Affairs Committee (PACAC) on behalf of the Independent Commission on Referendums in a one-off evidence session on the Commission's final report.

Unit publications

Jess Sargeant, Alan Renwick and Meg Russell, [The Mechanics of a Further Referendum on Brexit](#) (October).

Alan Renwick, Michela Palese and Jess Sargeant, [‘Discussing Brexit: Could We Do Better?’](#) (Political Quarterly, October).

Meg Russell, [‘Attempts to change the British House of Lords into a second chamber of the nations and regions: explaining a history of failed reforms’](#) (Perspectives on Federalism, August).

Stephen D. Fisher and Alan Renwick, [‘The UK’s referendum on EU membership of June 2016: how expectations of Brexit’s impact affected the outcome’](#) (Acta Politica, August).

Publications to note

Matthew Bevington, Jack Simson Caird and Alan Wager, [The Brexit Endgame: A Short Guide](#) (The UK in a Changing Europe, September).

Albert Weale, [The Will of the People: A Modern Myth](#) (Polity Press, September).

Martin Moore, [Democracy Hacked: Political Turmoil and Information Warfare in the Digital Age](#) (Oneworld Publications, September).

Vito Breda, [Constitutional Law and Regionalism: A Comparative Analysis of Regionalist Negotiations](#) (Edward Elgar Publishing, September).

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Contributors to Monitor 70

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