

Constitution Unit

Monitor 76 / November 2020



Democratic lockdown?

England entered a new COVID-19 'lockdown' just before *Monitor* went to press. The pandemic continues to dominate politics in the UK and globally, with a return to politics-as-usual appearing distant. Both the handling of the crisis and the government's latest actions on Brexit have been key factors driving serious concerns about the maintenance of constitutional norms in the UK. But as this latest *Monitor* catalogues, the roots of those concerns – about declining respect for conventions and deliberate or accidental erosion of '[checks and balances](#)' – are now spread across many fields.

Image above: [Boris Johnson putting on a mask as he leaves Downing Street](#) (CC BY-NC-ND 2.0) by [UK Prime Minister](#)

In this edition

[Brexit 3–5](#)
[Parliament 5–8](#)
[Elections, referendums and democratic engagement 8–11](#)
[Executive 11–12](#)
[Courts and the judiciary 12–14](#)

[Parties and politicians 14–15](#)
[Nations and regions 15–18](#)
[International 18–19](#)
[People on the move 20](#)
[Constitution Unit news 21–22](#)
[Bulletin Board 23–25](#)



The Constitution Unit is 25 this year! Click [here](#) – to find out more about how we're celebrating on page 21.

There was tolerance in the early stages of the pandemic for quick decision-making, and partial bypassing of parliament. But that has increasingly grown thin. The UK is one of many countries where concerns have been expressed about [COVID facilitating an executive 'power grab'](#). Worldwide, experts have warned that '[democracy, human rights and the rule of law cannot be allowed to become the collateral damage of the pandemic](#)'. Most key decisions at UK level have come [via secondary legislation](#), often published at short notice with little or no opportunity for parliamentary scrutiny. Increasing protests from MPs, parliamentary committees and the Commons Speaker (see page 5) extracted concessions from ministers that parliamentary oversight would increase – hence the difficult vote on the new lockdown arrangements on 4 November. A total of [34 Conservative MPs](#) voted against the new regulations – which represents almost half of the government's working majority – and others abstained; though the measure passed comfortably with Labour support. A concerted cross-party approach from the start might have been sensible, but can be uncomfortable for ministers, particularly when accompanied by internal party dissent.

Even COVID controversies have been somewhat eclipsed in recent weeks among UK constitutional experts by concerns about the government's [UK Internal Market Bill](#), which expressly empowers ministers to breach international law and set aside domestic law, whilst attempting to limit judicial oversight.



As discussed throughout this issue, the bill has disquieted civil servants (prompting the [resignation](#) of the head of the Government Legal Department), [MPs](#), [former Conservative Party leaders](#), [senior lawyers](#), [senior religious figures](#), and many others. It destabilised the UK-EU trade negotiations for a time, and [threatened chances of a US trade deal](#). The offending clauses triggered the [largest defeat in the House of Lords for over 20 years](#), and the argument continues.

These high-profile clashes were not isolated events. Indeed, the extent to which recent months have seen the erosion of, or threats to erode, constitutional checks and balances is sobering. The new [Independent Review of Administrative Law](#) (see page 13) represents the first stage in ministers' ambitions (expressed on page 48 of the Conservative manifesto) to rein back judicial review. The Prime Minister [appointed 36 new peers](#), contrary to the constraints proposed by the Lord Speaker's Committee, and made veiled threats against the House of Lords Appointments Commission (see page 7). Threats [against the Electoral Commission](#) were more explicit (see page 9). Retribution was swift when parliament's Intelligence and Security Committee ignored Downing Street's favoured candidate and elected the 'wrong' chair (see page 6), while pleas from the Commons Procedure Committee, and senior MPs, to allow return to full participation via virtual Commons working have been ignored (see page 6). Relations with the devolved administrations (see page 15) and city region mayors (see page 16) have frequently been difficult, while there have been a string of senior departures from the civil service – up to and including the Cabinet Secretary himself (see page 11). The challenging of conventions by the Johnson administration is of course not new – previously including imposition of a chair of the Liaison Committee ([Monitor 75](#), page 6), an [end to the 'hybrid' House of Commons](#) and, most famously, an [attempted parliamentary prorogation](#). Further unrealised suggestions last year that ministers might advise the Queen to withhold royal assent from bills passed by parliament are [explored in the Unit's latest report](#), by former Commons clerk Paul Evans (see page 21).

In October, [over 800 legal figures](#) wrote to the Prime Minister and Home Secretary to demand an end to verbal assaults on human rights lawyers, implicated in actual, physical, attacks (see page 12). Many senior lawyers have expressed disquiet about the direction of travel (see page 12), sometimes in strong terms. Former President of the Supreme Court Lord Neuberger

[warned of a 'very slippery slope' towards 'tyranny'](#).

The most recent retiree from the court, Lord Kerr, warned of ['unbridled power'](#), while Lord Sumption (see page 5) suggested that the government's exclusion of parliament over COVID indicated a [drift towards authoritarianism](#). Another uncomfortable intervention came in October, when credit ratings agency Moody's [downgraded the UK](#), largely on economic grounds linked to Brexit and COVID, but also noting that the 'quality of the UK's legislative and executive institutions has diminished in recent years'.

Risks of ['democratic backsliding'](#) are heightened if the governing party itself is quiescent. But dissent on Johnson's backbenches is extremely high, challenging government stability to a degree few would have predicted after December's landslide victory. Many senior Conservatives in both chambers (and beyond) have decried the erosion of constitutional norms and parliamentary accountability. They include not only the chair of the backbench 1922 Committee, [Graham Brady](#), but also its two vice-chairs, [Cheryl Gillan](#) and [Charles Walker](#), and the (hand-picked) chair of the Liaison Committee, [Bernard Jenkin](#). The principles being challenged run deep in the Conservative Party: with COVID policy provoking libertarians who instinctively oppose the 'big state', and threats to the rule of law concerning both those on the party's left and [admirers of Margaret Thatcher](#).

The future of the constitutional reform programme set out on page 48 of the party's December manifesto, and particularly the Constitution, Democracy and Rights Commission promised 'in the first year' of Johnson's government, remains uncertain. Whether the Commission has been delayed, abandoned, or fragmented into smaller reviews, such as those on administrative law and human rights, remains unclear (as Unit Director Meg Russell [discussed in evidence](#) to the Commons Public Administration and Constitutional Affairs Committee in October – see page 21). Such an exercise could constructively review the balance of powers at the heart of our constitution, but there are also fears (as expressed by former Conservative Lord Chancellor David Gauke [at a Unit seminar](#) in early November), that the unifying objective behind these reforms is to reduce constraints on central executive power. Approaching 11 months into the present parliament, Johnson and his allies have experimented with this model over both Brexit and COVID, and it is not clear that members of his party like what they see.

Brexit



EU-UK negotiations

With less than two months to go before the end of the post-Brexit transition period, there was still no sign of a trade deal between the UK and the EU as *Monitor* went to press.

Progress over the summer was painfully slow, with the key stumbling blocks remaining the same as before: ‘level playing field’ conditions, notably around state aid; governance, including robust dispute resolution; and fishing, particularly post-transition access to UK waters. While the potential landing zones for a final agreement became clearer, both sides increasingly dug in behind their existing lines.

The UK government ratcheted up the pressure in early September. First, Boris Johnson [set 15 October](#) – the date of the European Council meeting – as the deadline for securing a deal, saying that, in the absence of agreement by then, both sides should ‘accept that and move on’. Then, in an extraordinary move that caused widespread consternation, the government published its [UK Internal Market Bill](#) (see page 4), including clauses that would enable ministers to unilaterally override key aspects of the [Withdrawal Agreement](#), especially the [Northern Ireland Protocol](#). Brandon Lewis, the Northern Ireland Secretary, [admitted in the Commons](#) that the government was willing to breach the terms of the agreement – and therefore break international law – albeit in a ‘specific and limited way’.

The Johnson government apparently intended to increase its bargaining leverage through this move. But threatening to unpick an international treaty on which the ink was barely dry only increased perceptions among the EU27 that the UK was untrustworthy. As [one EU diplomat put it](#), ‘we had invested a lot to try to work with the UK to get a solution that was agreeable to both sides. Now to have a gun put to your head doesn’t feel that great.’ As a result, the European Commission [launched legal action](#) and EU27 leaders adopted a much harder line on the need to ensure the UK lives up to all its future commitments.

The European Council meeting on 15 October did not go well for those wanting a deal, and London was dismayed by the summit [Conclusions](#). Particularly irksome was the

removal of a reference to ‘intensifying’ the talks: London had wanted the negotiations to enter the phase known as the ‘tunnel’ (intense, round-the-clock discussions with no external communication until agreement is reached). Instead, lead EU negotiator Michel Barnier was instructed only to ‘continue negotiations’ and the UK told to ‘make the necessary moves to make an agreement possible’. Boris Johnson [announced](#) the following day that trade negotiations were effectively over. While the UK said the door to an agreement remained ‘[ajar](#)’, an invitation to Barnier to come to London for discussions the following week was withdrawn. Without ‘fundamental change’ by the EU there was no basis for continued negotiations. Both sides were left once again staring down the barrel of a ‘no deal’ outcome.



[David Frost meets with Michel Barnier \(CC BY-NC-ND 2.0\) by UK Prime Minister](#)

A compromise was found over the following days that enabled the negotiations to recommence – and intensify – in the final week of October. The silence from both sides since then is taken as a positive sign. But finding an agreement remains a huge challenge, and looks very unlikely unless and until the offending clauses in the UK Internal Market Bill are withdrawn.

The Prime Minister regularly refers to the ‘[Australian model](#)’ as an adequate alternative endpoint, but the reality is that this is a ‘no deal’ outcome, [which would lead to massive economic disruption and dislocation](#). It would be difficult to present such an outcome as anything other than a major political failure, regardless of the huge amount of attention demanded by the pandemic.

We should know very soon whether a new EU–UK Free Trade Agreement is going to happen. In short, expect more political drama in the coming weeks.

Parliament considers the UK Internal Market Bill

The government's proposal to breach international law through the [UK Internal Market Bill](#), and the attitude towards the rule of law this seemed to represent, was [roundly criticised](#) by senior lawyers and provoked strong opposition in parliament. The bill, as published in early September, [threatened to undermine](#) the existing UK–EU Withdrawal Agreement along with [other international legal obligations](#), because it would reserve to ministers the power to unilaterally override parts of the Northern Ireland Protocol.

A brewing backbench rebellion among Conservative MPs, led by chair of the Justice Select Committee Bob Neill, caused the government to [amend the bill](#) to provide for a Commons vote on any proposed breaches of international law. But, as critics pointed out, the underlying problem of the bill's ability to empower ministers to break the law remained. Two Conservative MPs voted against the bill at second reading, although none did so at third reading. Theresa May was notable among a number of rebels in abstaining at both stages. Her opposition to the bill, which she labelled '[reckless and irresponsible](#)', meant that [all five](#) of Boris Johnson's predecessors as Prime Minister were on record against it.

As the bill entered the Lords, the [EU Committee](#), [Constitution Committee](#) and a [group of senior Anglican leaders](#) expressed grave concerns about whether its negative impact on the rule of law was justified by the circumstances. At second reading, the bill was subject to the largest government defeat since the House was reformed in 1999. A non-fatal 'regret' motion – which allows the House to express its collective view, without actually blocking a bill's progress – was tabled by former Lord Chief Justice Lord (Igor) Judge. This regretted the bill's breach of international law, and was passed by a [margin of 226](#). There were 39 Conservative rebels, including former party leader Lord (Michael) Howard of Lympne, and Lord (Richard) Keen of Elie, who had by then [resigned as Advocate General for Scotland](#) over the bill. Even the proposal of such a motion at second reading, let alone its passage by such huge numbers, suggested that heavy amendments were likely during the bill's subsequent stages in November, and that the Lords may dig in its heels during any ping pong. However, the primary effect of defeats by the Lords may be to create sufficient uneasiness among Conservative MPs (many of whom are clearly already troubled) to encourage the government to back down – as Unit Director Meg Russell discussed [on our blog](#).

Brexit and devolution

The [UK Internal Market Bill](#) has prompted a great deal of media and parliamentary debate about its impact on the [Northern Ireland Protocol](#) (see page 3), but its effect on the UK's devolution arrangements is much broader than the focus of much of the commentary has suggested. The understandable consternation about parliament legislating to breach international law (see above) has also distracted from the main purpose and key provisions of the bill.

The bill introduces rules – known as Market Access Principles – of mutual recognition and non-discrimination in goods and services within the UK. These seek to ensure that compliance with regulatory standards in one part of the UK is sufficient to enter the market elsewhere, even where local regulations differ. An Office for the Internal Market is to be established to monitor the operation of the principles. Subsidy control (i.e. state aid) is explicitly reserved to the UK parliament. Finally, new powers are introduced for the UK government to spend money directly in devolved areas.

UK ministers have [suggested](#) that the Market Access Principles, and the reservation of subsidy control, are essential to preventing the emergence of barriers to internal trade following the end of the Brexit transition period in December, when constraints resulting from membership of the EU single market fall away. Although some [progress](#) has been made over the past few years on co-designing 'common frameworks' with the devolved administrations in specific policy areas previously subject to EU law, it has more recently been [argued](#) that these are insufficient to provide a 'comprehensive safety net'. The new spending powers have been [justified](#) as enabling central government to 'level up the entire country' and 'promote the UK's shared values'. Taking this power represents part of a [wider strategy](#) of promoting Whitehall activity in the devolved territories, which ministers hope will demonstrate the benefits of the Union to voters.

The Scottish and Welsh governments have both been highly critical of the bill, while the Northern Ireland Assembly [passed](#) a motion mandating the First Minister and deputy First Minister to oppose it. Devolved leaders see the proposals as representing a recentralisation of power within the UK, with the potential to undermine the ability of the devolved legislatures to make policy interventions in regulatory fields. In practice, the Market Access Principles seem likely to reduce the

effectiveness of regulations passed in the devolved areas, as Professor Nicola McEwen has [explained](#). During the [second reading debate](#) in the Commons, the bill was described by the SNP's Westminster leader, Ian Blackford, as 'the greatest threat to devolution that Scotland has faced since our Parliament was reconvened'. It was no surprise when the [Scottish](#) and [Welsh](#) governments each confirmed that they would not recommend their respective parliaments pass legislative consent motions for the bill.



[Boris Johnson with First Minister Arlene Foster and deputy First Minister Michelle O'Neill](#) (CC BY-NC-SA 2.0) by [UK Prime Minister](#)

Concerns about the legislation's impact on devolution have also been expressed by the House of Lords Constitution Committee, which [concluded](#) that the government had failed to explain why it was not securing an effective internal market through a combination of 'retained EU law, its existing powers to amend that law, and common frameworks', which in the committee's view would 'obviate the need for the bill'.

Parliament



Parliamentary scrutiny under COVID-19

As the long-term nature of the COVID-19 pandemic has become increasingly evident, there has been growing parliamentary frustration over the government's approach to scrutiny of its response. Whilst there have been various debates, including those held during opposition time in [September](#) and [October](#), the government has drawn fire for failing to engage with parliament in a more substantial way. This has included [angering the Commons Speaker](#) on [multiple occasions](#) by briefing major policy shifts to the press before announcing them in parliament. Meanwhile, the Commons Public Administration and Constitutional Affairs Committee published a [critical report](#), arguing amongst other things that a tendency to make 'urgent' regulations, which came into force before parliamentary scrutiny could take place, had resulted in sloppy policy and mistakes in legislation that might otherwise have been avoided. As the report noted, and as has been emphasised by the [Hansard Society](#) and the [Bingham Centre for the Rule of Law](#), these regulations were often announced or widely discussed in the media long before coming into force, suggesting that a parliamentary debate would have been perfectly feasible. Lord Sumption, a former Supreme Court Justice, claimed during [a lecture](#) in October that a desire to avoid scrutiny underlay the government's choice to enact regulations based on public health powers – which he considered it had in fact exceeded – rather than bespoke COVID powers, or the Civil Contingencies Act. He suggested that the government was guilty of 'bypassing' parliament. These sentiments echoed claims by recently retired Supreme

The Constitution Unit

The Constitution Unit is 25 this year!

To mark the Unit's 25th anniversary, we have launched a 25-years fundraising campaign, encouraging our supporters to make a one-off or regular donation incorporating the numbers 2 and 5. Donations provide a crucial source of funding for our outreach activities, such as [Monitor](#), our [blog](#), and our [seminar series](#).

Find out more about the 25 years fundraising campaign [here](#).

Find out more about our 25th anniversary [here](#).

Court President [Lady Hale](#) in September, that parliament had ‘surrendered’ its right to scrutiny.

Backbench anger came to a head in the lead-up to a 30 September debate on the renewal of the government’s regulation-making powers under the [Coronavirus Act 2020](#). Although most of the pandemic regulations have in fact been made under other legislation, particularly the [Public Health \(Control of Disease\) Act 1984](#), the debate provided an opportunity for backbenchers to express their more general concerns about the government’s handling of the crisis. Prior to the debate [more than 50 Conservative MPs signed an amendment](#) laid by 1922 Committee chair Graham Brady, which would have created a politically powerful obligation – albeit one that was legally non-binding – for the government to consult parliament on future all-UK or all-England regulations before they come into force. The government ultimately defused the rebellion through a [commitment](#) to do so wherever possible. The Brady amendment itself was not selected by the Speaker, for technical reasons, but he used the occasion to make an [unusually strong statement](#), accusing the government of showing ‘total disregard’ and ‘contempt’ for the House of Commons. When the government proposed regulations to enable an all-England lockdown in November, it kept its word: after [a debate](#), the Commons approved the new measures [516–38](#) before they came into force. Brady was joined by former ministers Iain Duncan Smith and John Redwood, as well as Public Administration and Constitutional Affairs Committee chair William Wragg, in the ‘no’ lobby.

There has also been a great deal of pandemic scrutiny in parliamentary committees and elsewhere. Two new specialist bodies include the [All-Party Parliamentary Group on Coronavirus](#), chaired by Layla Moran, which is currently calling for evidence from individuals and groups affected by the pandemic, and the [COVID-19 select committee](#) in the House of Lords, which is examining its likely long-term impacts.

Virtual parliamentary proceedings and proxy voting

The dispute over virtual participation in the Commons reignited amidst rising concerns about the possibility of a winter spike in COVID-19 infections. Speaker Lindsay Hoyle has declared his intention to take a [‘safety-first’](#) approach amidst anxiety about rising numbers of infections on the parliamentary estate, and on 16 October Liaison Committee chair Bernard Jenkin [wrote](#)

to Jacob Rees-Mogg, Leader of the House of Commons, to urge the government to reinstate full hybrid proceedings – including remote voting. The government has so far resisted calls from MPs to do so.

The Commons proxy voting scheme for MPs absent due to the pandemic – first introduced as a compromise arrangement after the government incurred MPs’ anger for letting the hybrid Commons lapse – continues to operate. Nonetheless, it has been [criticised](#) for vesting too much power in the hands of party whips. On 23 September the scheme was extended to early November, in a Commons vote that also established a [permanent system of proxy voting for parental leave](#), following a lengthy pilot period. The Procedure Committee had championed the latter change, but its chair Karen Bradley [used the debate to argue](#) in favour of a return to fully virtual voting, rather than proxies, during the pandemic. Jacob Rees-Mogg was, however, unresponsive. The government is under significant pressure on this issue, with [critical comments](#) also coming in October from 1922 Committee vice-chair Cheryl Gillan.

The House of Lords, meanwhile, has continued to operate a fully hybrid model successfully, although a technical fault on 30 September [briefly disrupted proceedings](#) and forced the deferral of some divisions

Julian Lewis elected to chair the Intelligence and Security Committee

In July, Julian Lewis was elected chair of the parliamentary Intelligence and Security Committee in a surprise defeat for the government’s preferred candidate, Chris Grayling.

The Intelligence and Security Committee is not a select committee, meaning that it does not follow typical parliamentary rules for committee chair and member selection. Members are instead appointed by the Prime Minister, and then elect the chair from among their number. Chris Grayling was known to be the government’s choice for the role, and was put onto the committee in the expectation that he would be named its chair. However, in a surprise move, fellow Conservative Julian Lewis – who had served on the committee in a previous parliament – stood against Grayling. After winning the votes of the committee’s Labour and SNP members, he was able to cast the deciding vote in his own favour.

Downing Street responded by immediately [stripping Lewis of the Conservative whip](#); Grayling, meanwhile,

[quit the committee](#) six weeks later. This episode came in the wake of [criticism of the seven-month delay](#) in re-establishing the committee following the general election and the consequent delayed publication of the Russia Report (see page 8). It also followed the similar controversy over the government's direct appointment of the Liaison Committee's chair (see [Monitor 75](#), page 6). The episode once again raises questions about the extent to which the government can or should seek to control parliamentary committees.

Appointments to the House of Lords

On 31 July, 36 new members of the House of Lords [were announced](#). Although the list included some very mainstream names, such as former Conservative Chancellors Ken Clarke and Philip Hammond, it attracted controversy for various reasons. As the Unit's Meg Russell [explained on our blog](#), both the size and the political balance of the list was problematic. In recent years, the priority has been to manage down the size of the Lords, with a formula set out by the [Burns committee](#). Theresa May largely abided by the need for restraint, and numbers in the chamber began to fall, but Boris Johnson's list wiped out at one swoop the progress that had been made. It included only five Labour names, and 19 Conservatives, further tilting the chamber in the government's favour. There were also an unusual number of 'non-affiliated' peers appointed, several of whom could be expected to support the government. [Amidst the general controversy](#), the name attracting most attention was that of [Claire Fox](#), a former Brexit Party MEP.



[The Lord Speaker, Lord Fowler](#) (CC BY-NC-ND 2.0) by [ukhouseoflords](#)

Probably more worrying than these appointments were media claims that Johnson intended [shortly to appoint a second round](#), including candidates who had been blocked on propriety grounds by the House of Lords Appointments Commission, and that he might [take retribution on the Commission](#). [Lord Speaker Norman Fowler](#) was among those criticising the Prime Minister, saying (with some understatement) that he and other peers were '[unimpressed](#)'.

Later, controversy emerged over the Prime Minister's failure to appoint the retiring Archbishop of York John Sentamu to the Lords – an honour that had been bestowed on his three immediate predecessors. The *Sunday Times* [described this](#) as 'an extraordinary snub to Britain's first black archbishop', but government sources – somewhat implausibly – initially claimed that it was due to a desire to limit the chamber's size. This was reversed in subsequent briefings, which suggested that Sentamu's appointment was '[imminent](#)'.

Meanwhile the Green Party (which was not awarded a seat) [has elected](#) former MEP Molly Scott Cato as its preferred next appointee.

Restoration and renewal (and proposed relocation to York)

The rumbling suggestions of the House of Lords moving to York (see [Monitor 74](#), page 7) have not entirely gone away. On 14 July former Conservative cabinet minister Lord (George) Young of Cookham asked a '[private notice question](#)' (equivalent to a Commons urgent question) about the government's plans. The minister responding, Lord (Nicholas) True, had to confirm that any decision would be one for parliament, but he avoided questions on what if any resources the government was devoting to developing such plans. Shortly afterwards, the York idea became tangled up with plans for Restoration and Renewal of the Palace of Westminster. That long-running saga is due to reach another critical point later this year when the review of the programme, launched in May by the Parliamentary Works Sponsor Body and Delivery Authority (as discussed in [Monitor 75](#), page 7), will be considered by the House of Commons and House of Lords Commissions. The review is examining whether the plan approved by parliament in 2018 to move out of the palace entirely during the major building works – referred to as a 'full decant' – still offers the 'best and most effective' way to carry out the necessary repairs. The review has not considered, however, the

option of decanting either chamber to York during the works, despite a [request](#) from the Prime Minister in July. The chief executives of the Sponsor Body and Delivery Authority declined to consider this idea, an evolution of an earlier suggestion to move the Lords to York, [noting](#) that ‘the option of locating Parliament outside London has constitutional implications, which makes this a matter for both Houses to determine rather than for our review’. London may therefore remain the physical home of parliament, but how far the review will take into account the potential for increased remote and digital participation by MPs and peers remains to be seen.

Committees report on the FTPA

Having concluded their inquiries into the operation of the [Fixed-term Parliaments Act 2011](#) (FTPA), the Lords Constitution Committee and the Commons Public Administration and Constitutional Affairs Committee (PACAC) published their reports, on [4 September](#) and [15 September](#) respectively. The Constitution Committee’s conclusions were summarised by its Chair, Baroness Taylor, [on the Unit’s blog](#), and representatives of both committees appeared at a Unit seminar on the future of the FTPA in October ([video available here](#)).

Both reports were wide-ranging, aiming to anticipate the various issues that the 2011 Act’s [statutory review](#) – which must by law be established by 30 November – will consider when recommending whether to repeal or amend the Act. Both agreed – without adjudicating on [whether the Act abolished the previous prerogative power of dissolution or merely suspended it](#) – that a simple repeal of the Act would not be sufficient to revive the executive’s power to dissolve parliament unilaterally. There was also consensus that restoring such a power would risk the undesirable consequence of involving the Queen in fundamentally political decision-making, as happened during the prorogation crisis of autumn 2019 (see [Monitor 73](#), page 4).

PACAC was readier than the Constitution Committee to make substantive recommendations about what should be done. Citing written evidence from the Unit’s Meg Russell and Robert Hazell, its [report suggested](#) that giving the power not only to call – but also to set the date of – an election to parliament ‘could provide one route to avoid unnecessary paralysis at times of deadlock’. Both committees also suggested that the statutory review should carefully consider the option of removing the government’s unilateral power of prorogation, instead requiring this to be approved by parliament.

Elections, referendums and democratic engagement



Russia report

In July, parliament’s [Intelligence and Security Committee](#) published its long-delayed [report](#) into the security threat posed by Russia. This focused notably on attempts by the Russian state to interfere in elections and referendums. It was completed last year, but Prime Minister Boris Johnson [refused to authorise its release before the 2019 general election](#).

The report found that the UK’s paper-based voting system is robust to external interference, and that much work had been done ‘to help ensure that the online voter registration system is safe’ (paragraph 30). But it concluded that campaigns of disinformation pose a considerable threat to the integrity of democracy. It also found that the response of the UK authorities to that threat had been inadequate: ‘the issue of defending the UK’s democratic processes and discourse has appeared to be something of a “hot potato”, with no one organisation recognising itself as having an overall lead’ (paragraph 32). It particularly noted a failure either to prepare for the possibility of attempts to interfere in the 2016 EU referendum or to conduct any retrospective assessment of such attempts.

The committee welcomed the aims of the government’s Defending Democracy programme in seeking to tackle these threats, but described what was proposed under that heading as ‘still rather fragmented’. It added that the initiative ‘seems to have been afforded a rather low priority’ (paragraph 37). It called in particular for better regulation of digital campaigning and enhanced powers for the Electoral Commission to stop illegal campaigning from those living outside the UK (paragraphs 122–3).

The government published its [response to the report](#) within days. This set out how the Defending Democracy programme had developed since the committee took evidence, and particularly highlighted the establishment of a [cross-Whitehall Counter-Disinformation Unit](#). It noted that ‘The government’s relationship with the social media companies continues to evolve’ and that the response to disinformation relating to COVID-19 had yielded ‘valuable lessons’. It said, ‘While the Government welcomes the actions taken by social media companies thus far, including the cooperation they have shown in

tackling these issues together, there [are] still issues to be addressed. DCMS will continue pushing platforms to take the actions necessary to improve and safeguard the information environment.’

Regulation of election campaigning

While the government may be taking steps to address malign external interference in the electoral process, homegrown misinformation and other pathologies of online campaigning remain concerning too. In September, the Electoral Reform Society published a [report](#) by election experts Katharine Dommett and Sam Power on the extent of online campaign spending during the 2019 general election. Meanwhile, in the context of the US presidential election campaign, social media companies showed an increasing willingness to intervene: Facebook and Twitter both [deleted posts](#) by Donald Trump and his campaign team that they deemed to contain harmful misinformation.

The UK government continued to make slow progress towards developing rules fit for the digital age. In August, it launched a [consultation](#) on proposals to require ‘digital imprints’ – statements on online political advertisements that indicate their source. Such imprints have long been advocated, and the government [committed last year](#) to bringing proposals forward. The consultation, which closed on 4 November, focused on the technical details. Writing in [Prospect](#) with Michela Palese, the Unit’s Alan Renwick welcomed the proposals, while emphasising that, on their own, they would not go far enough to address the underlying problems.

In September, the government published its [response](#) to the report of the House of Lords [Democracy and Digital Technologies Committee](#), which came out in June. That report had made 45 recommendations on ways to protect democracy from the harms of digital technologies and utilise those technologies for the good (see [Monitor 75](#), page 10). The response was mixed. The government noted that it will take action fitting some of the committee’s recommendations, relating, for example, to digital imprints and the improvement of training in online media literacy. It also indicated a willingness to consider other recommendations. Notably, it promised to consult with local returning officers on publishing machine-readable information about elections, which would facilitate provision of more accessible information on what elections are taking place, who the candidates are, and how people can vote (recommendation 26).

It also proposed to ‘consider’ whether rules on the information that campaigners must provide to the Electoral Commission could be amended to ensure transparency of digital spending (recommendation 34) and whether requirements for digital advertising repositories should be introduced (recommendation 39).

On the other hand, the government rejected any system for regulating the content of political advertising designed to tackle misinformation (recommendation 1). It did not endorse proposals for increasing the maximum fine that can be levied by the Electoral Committee beyond the current £20,000 (recommendation 35) or for giving the Electoral Commission oversight over local candidate spending as it already has over national party spending (recommendation 36).



[Lord Puttnam, Chair of the Democracy and Digital Technologies Committee](#) (CC BY-NC 2.0) by [Roo Reynolds](#)

On many points, the government indicated that it would say more in its full response to the consultation around the [Online Harms white paper](#). It indicated that the response would be published this year, though it had not appeared by the time *Monitor* went to press. Finally, on the committee’s proposal for a ‘democracy information hub’ (recommendation 29) – which built on recommendations in last year’s Unit report on [Doing Democracy Better](#) by Alan Renwick and Michela Palese – the government was non-committal. It noted that government already produces information in various forms, and that valuable materials are also provided by the Electoral Commission, fact-checkers, and others.

The future of the Electoral Commission

Two reviews are underway into the remit and functioning of the Electoral Commission. As noted in [Monitor 75](#) (pages 10–11), the Committee on Standards in Public Life launched an inquiry into electoral regulation in June;

in the late summer, it published the [written evidence](#) that it had received. In a review of this evidence published on [the Unit's blog](#), Alan Renwick and Charlotte Kincaid noted that there was wide support among impartial experts for maintaining and, indeed, strengthening the role of the Electoral Commission. This was in stark contrast to the submission of the Conservative Party, which floated the idea that the Commission might be abolished.

The House of Commons Public Administration and Constitutional Affairs Committee has, meanwhile, launched an [inquiry](#) focusing specifically on the work of the Electoral Commission. This 'will investigate the roles and functions of the Commission and how well it has discharged these responsibilities. It will also examine public and political confidence in the body and whether its powers should be changed.' The committee's call for evidence closes on 16 November.

Meanwhile, it has been reported that Sir John Holmes, the current chair of the Electoral Commission, has been told that he need not reapply after his initial term of office expires at the end of the year. There are concerns that this fits a wider pattern in the government's approach to public appointments, of showing insufficient respect for the value of independence (see page 12). The [Speaker's Committee on the Electoral Commission](#), which oversees the selection of Commissioners, currently has a single-party majority for the first time in its history, inevitably undermining confidence in what should be a cross-party process.

Parliamentary Constituencies Bill

The [Parliamentary Constituencies Bill](#), which proposes to fix the number of MPs at 650 and reform the procedures through which Westminster parliamentary constituencies are drawn, continues to make progress through parliament. The bill was introduced in May (see

[Monitor 75](#), page 9). It passed through the Commons with only limited amendments. But the government suffered [five defeats](#) at report stage consideration of the bill in the Lords in October. The changes would extend the time between constituency boundary reviews to 10 years (whereas the bill originally envisaged an extension from the current five years to eight years) and increase the leeway in constituency electorate sizes from 5% above or below the average to 7.5% above or below. Most notably, by 319 votes to 224, peers backed measures to protect the independence of the Boundary Commissions from any danger of interference by government. These latter changes, which included non-renewable terms for Commissioners and changes to the procedures by which they are appointed, closely mirrored [proposals made to the Commons public bill committee](#) by the Unit's Robert Hazell and Alan Renwick earlier in the summer.

Update on deliberative democracy

The introduction of lockdown measures forced a pause in the work of citizens' assemblies and other deliberative processes in the UK and around the world (see [Monitor 75](#), pages 11–12). But a switch to online operation has now been made. The [Citizens' Assembly of Scotland](#) held its first weekend of online deliberations in September and is due to meet for the final time in early December. Ireland's [Citizens' Assembly on Gender Equality](#) assembled online for the first time in October.

As reported in [Monitor 75](#), [Climate Assembly UK](#), convened by six House of Commons select committees, was able to make the move online in April and conclude its deliberations in May. It published its [final report](#) in September. At over 500 pages, and containing over 50 recommendations, this provided a uniquely detailed account of considered public opinion on the issues that the assembly was asked to examine. Speaking at the

Unit events have gone virtual – sign up now!

The COVID-19 pandemic prevents us from meeting you in person, but we are now running **free live virtual events**, with contributions from experts in politics, academia and law followed by what is usually a lively Q&A session. One benefit of these arrangements is that those located far from London can now easily attend. **If you do not already receive email notifications about our events, we encourage you to [sign up now](#).**

More information on upcoming events can be found [here](#), and videos of past events can be viewed on the Unit's [YouTube page](#).

[report launch](#), the cabinet minister with responsibility for tackling climate change, Alok Sharma, committed to studying the recommendations in detail and said that ‘this report will help to shape the work that we in government are doing over the next critical 14 months’ in the lead-up to the COP26 UN climate change conference in Glasgow. At the same event, all six chairs of the commissioning select committees confirmed that they would build the Assembly’s findings into their inquiries. [Presenting the report](#) later that day in the House of Commons, the chair of the Business, Energy, and Industrial Strategy Committee, Darren Jones, announced ‘a high-level inquiry into the findings of this groundbreaking report’, which, among other things, would ‘review, on a regular basis, the Government’s engagement and interaction with the findings of the assembly and progress in implementing its proposals’.

The first major citizens’ assembly in the UK to start its work since lockdown began looks set to be [Scotland’s Climate Assembly](#), which launched the process of recruiting 100 members in September. Meetings will initially take place online, and ‘in-person meeting will only be considered if it is safe’. This will therefore be an important experiment in conducting in-depth deliberation online. While the citizens’ assemblies mentioned above all moved online successfully, they did so after a period of face-to-face meetings when members were able to bond together and develop a sense of shared commitment. How the process will work without that initial step remains to be seen.

Executive



Departure of Cabinet Secretary and senior permanent secretaries

Boris Johnson’s short tenure as Prime Minister has seen the departure of six civil service permanent secretaries: [Philip Rutnam](#) from the Home Office, [Clare Moriarty](#) from DExEU (which was abolished in January), [Simon McDonald](#) from the Foreign Office, [Richard Heaton](#) from Justice, [Jonathan Slater](#) from Education, and the Cabinet Secretary [Mark Sedwill](#), who also left his role as National Security Adviser. Several of these departures were controversial. Rutnam, for example, said he resigned due to the conduct of the Home Secretary, Priti Patel, and has [numerous claims](#) awaiting determination

by an employment tribunal. The Cabinet Office report into allegations of bullying by Patel during her time as minister in three different departments [has yet to see the light of day](#).



[New Cabinet Secretary Simon Case at one of his first Cabinet meetings \(CC BY-NC-ND 2.0\) by UK Prime Minister](#)

Simon McDonald had been Boris Johnson’s permanent secretary during the latter’s tenure as Foreign Secretary. However he had opposed the swiftness of the merger of the Foreign Office and Department for International Development, which was announced as recently as June (see [Monitor 75](#), page 13) and completed in September. Richard Heaton had been asked to stay on by Lord Chancellor Robert Buckland at the end of his five-year term, but Number 10 apparently [refused an extension](#). Jonathan Slater received just five days’ notice of his dismissal, a consequence of the [exams crisis](#) in the summer. The reluctant resignation of Cabinet Secretary Mark Sedwill came after weeks of hostile press briefing from Number 10. His successor was [announced](#) on 1 September: Simon Case, a former Private Secretary to Prince William who had returned to government in May to strengthen the government’s handling of COVID-19 (see [Monitor 75](#), page 13). James Bowler is Case’s replacement, and is now in charge of COVID strategy.

Despite individual circumstances playing their part, there are [several factors](#) underlying this raft of departures. Senior civil servants were concerned about the government’s approach to Brexit and the post-Brexit negotiations: Ivan Rogers had already resigned for that reason in 2017 (see [Monitor 65](#), page 13). The PM’s Chief of Staff Dominic Cummings was keen to centralise decision making in Number 10, which was unpalatable to permanent secretaries on practical and constitutional grounds. Cabinet Office minister Michael Gove has [set out ambitious plans](#) for radical civil service

reform, and former minister Lord (Francis) Maude has [spoken critically](#) of the institution's recent performance, culture and processes. There were also huge tensions over the handling of the COVID-19 crisis, with Whitehall hampered by years of staff cuts, and the public sector generally lacking resilience and capacity after a decade of austerity.

Number 10, special advisers and public appointments

Amid further signs of the centralisation of power by Number 10, the FDA union [has said](#) that special advisers have been required to sign new contracts stating that responsibility for their conduct and discipline is jointly held between their appointing minister and the PM's Chief of Staff. This is out of line with the provisions of the [Ministerial Code](#), which states that advisers should be directly responsible to their ministers, who are in turn responsible to the Prime Minister for how those advisers conduct themselves.

In early October it [was reported](#) that Boris Johnson was looking for a new Chief of Staff, so that Dominic Cummings could become 'chief of stuff' and focus solely on policy rather than management issues. Lord (Andrew) Feldman and Culture Secretary Oliver Dowden, a former deputy chief of staff to David Cameron, were touted as two possible candidates. As part of a further makeover, former journalist Allegra Stratton has [been recruited](#) to handle daily televised press briefings, reporting to Lee Cain, Downing Street's Head of Communications.

In response to growing concerns about the centralisation of power, the Commons Public Administration and Constitutional Affairs Committee (PACAC) announced a [new inquiry](#) into the 'Role and Status of the Prime Minister's Office', in addition to its [ongoing inquiry](#) into the 'Work of the Cabinet Office'. In response to concerns about the politicisation of public appointments, PACAC held an [evidence session](#) with the Commissioner for Public Appointments, Peter Riddell. Riddell spoke about gaps in the regulatory system, with the appointment of government Non-Executive Directors and figures such as [Baroness \(Dido\) Harding](#) being outside his remit. He also stated the need for regulators to be appointed for single non-renewable terms, in order to buttress their independence. When asked about [stories](#) of favoured candidates being lined up to be chair of the BBC or Ofcom, Riddell said such briefings were unhelpful and liable to prejudice fair and open competition.

Courts and the judiciary



Growing tensions between government and the legal profession

The legal profession has never been an uncritical friend of the executive, but relations have worsened significantly since Boris Johnson became Prime Minister – a situation exacerbated by the government's response to the COVID-19 pandemic and its rhetoric on Brexit and immigration.

The profession has been sceptical of the Independent Review of Administrative Law and critical of the government's handling of the crisis in the courts (see below). The government has not held its fire either, with [Boris Johnson](#) and [Home Secretary Priti Patel](#) making derogatory comments about 'lefty', 'do-gooder' and 'activist' lawyers. These remarks were criticised by [Amanda Pinto QC, head of the Bar Council](#), and an unnamed London law firm attacked by a man with a knife has [directly attributed](#) the incident to the government's rhetoric. Concerns about further potential violence prompted 800 senior members of the legal profession, including three former Supreme Court Justices, to sign a [letter](#) urging the government to tone down its language. The Lord Chief Justice, Lord Burnett, [expressed concern](#) at what he deemed to be the inappropriate behaviour of a minority of lawyers in the immigration process, during a judgment in which he ruled the government's Judicial Reviews and Injunctions Policy to be unlawful.

The implications of the UK Internal Market Bill for the rule of law also prompted strong criticism, focusing on how it provides ministers with the tools to break international law and seeks to limit judicial review of the provisions that permit them to do so. Former Supreme Court President Lord Neuberger [warned](#) that this could put judges on a 'collision course' with the government. Lord Kerr, who retired from the Supreme Court last month and has a seat in the House of Lords, [echoed these sentiments](#).

There have been [repeated calls](#) from senior members of the legal profession for Attorney General Suella Braverman, Solicitor General Michael Ellis and Lord Chancellor Robert Buckland to resign in protest at the provisions of the bill, as Advocate General for Scotland [Lord Keen of Elie](#) and [Jonathan Jones](#), head of the Government Legal Department, have done.

During [an appearance before the Lords Constitution Committee](#), several members asked Buckland in what circumstances he might be forced to leave the government, with Lord (Peter) Hennessy asking if his conscience had been pricked by the fact that the government might be asking the Queen to assent to an unlawful bill. The Lord Chancellor's response was that the relevant part of the bill dealt with how the government would respond to an international dispute, but that if the government were to try to act in contravention of domestic law, or in a way that threatened judicial independence, he would 'lay down his wig'. Staying in post arguably put him in breach of his [statutory obligation](#) to uphold the rule of law within government. Similarly, it is hard to see how the Attorney General is in compliance with her duty to ensure that the government complies with the law, [which includes](#) international legal obligations contained in ratified treaties. Moreover, the [Ministerial Code](#), which binds all government ministers, [obliges compliance](#) with international (as well as domestic) law. But by that measure, every member of the government had grounds to resign. It is perhaps surprising that just one of them opted to do so.



Attorney General Suella Braverman and Prime Minister Boris Johnson (CC BY-NC-ND 2.0) by UK Prime Minister

The Independent Review of Administrative Law

On 31 July the Ministry of Justice [announced the formation of the Independent Review of Administrative Law](#) (IRAL), which will examine 'whether the right balance is being struck between the rights of citizens to challenge executive decisions and the need for effective and efficient government'. This followed promises regarding judicial review on page 48 of the [Conservative manifesto](#). Questions posed as part of the [call for evidence](#) included whether the 'non-justiciability' of

certain executive decisions and the so-called 'grounds' of judicial review [should be codified in statute](#). The deadline for submissions was 26 October.

IRAL's chairman is Lord (Edward) Faulks, a former Conservative Justice minister, and the panel includes five other lawyers and legal academics, including constitutional and administrative law experts Professor Alan Page and Professor Carol Harlow. Lord Faulks' appointment [was controversial](#) in light of his public description of the UK Supreme Court's judgment in the 2019 prorogation case as 'an historic mistake'. He has also argued for legislation to 'limit the courts' incursion into political territory', both [before](#) and [after](#) his appointment, seemingly prejudging one of the key questions the panel will have to answer.

IRAL will be reporting jointly to Lord Chancellor Robert Buckland and Minister for the Cabinet Office Michael Gove '[later this year](#)'. Legal specialists have raised various [concerns about the review](#), including criticisms of its [tight timetable](#), and its [lack of transparency](#) – as submissions are not being published.

In October, the Lord Chancellor stated his intention to commission [an independent review of the Human Rights Act](#), but provided no details on its scope or process. How these two reviews will complement the planned Constitution, Democracy and Rights Commission – which the Conservative manifesto promised within a year of the 2019 election – remains unclear.

The courts and COVID-19

COVID-19 continues to restrict courts' capacity to hear and dispose of cases, as it has done since the national lockdown in March (see [Monitor 75](#), pages 14–15). The Commons Justice Committee has launched [an inquiry into court capacity](#), following news that the backlog of cases in the criminal justice system in England and Wales in October stood at over 550,000, which [could take up to a decade to clear](#). Crown court trials are being [postponed to as late as mid-2022](#), despite almost half of them [happening virtually](#). Perhaps because of the severity of the crisis, the government has [permitted courts to remain open](#) during the current four-week lockdown instituted on 5 November.

Lord Chancellor Robert Buckland, who has faced [heavy criticism from the legal profession](#) throughout the crisis, has introduced several temporary remedial measures in a bid to improve matters, and the

[contentious idea](#) of allowing judge-only criminal trials in certain circumstances [refuses to go away completely](#). According to the [published recovery plan](#) of Her Majesty's Courts and Tribunals Service (HMCTS), the first 14 emergency 'Blackstone courts' (the equivalent of 'Nightingale hospitals') are [up and running](#), which include a [repurposed press conference room](#) in the Ministry of Justice itself. Critics, however, [find some irony](#) in the government's expenditure of millions of pounds to set up ad hoc courts considering [the huge number of court closures over the last decade](#) and previous [underutilisation of the existing court estate](#). Human rights concerns have also been [expressed](#) over the decision to [extend custody time limits for criminal defendants](#) until the backlog has eased.

Attention has understandably focused on the criminal courts, but problems persist throughout the justice system. Employment tribunal litigants in particular are experiencing [even longer waits than normal](#), with some new cases already being listed for final hearings in 2022, and [non-employment judges drafted in to assist with reducing the backlog](#). Since social distancing is likely to remain the norm for the foreseeable future and virtual hearings will not always be possible, it is hard to see the situation in the court system improving significantly in the short term.



EHRC report into antisemitism within the Labour Party

The Equality and Human Rights Commission (EHRC) published its [report](#) on antisemitism in the Labour Party on 29 October. Working from a sample of 70 cases, it concluded the party was legally responsible for two cases of racial harassment.

The report also concluded that the party had operated its complaints procedure in a way that was [indirectly discriminatory](#), as it placed Jewish people at a 'particular disadvantage'. Although the Commission identified a host of problematic procedures, practices and criteria during the period under investigation, it specified two as unlawful: political interference in the complaints process by the office of Leader of the Opposition Jeremy Corbyn – including in relation to an allegation specifically about

him; and a lack of adequate training and resources for those involved in handling complaints.

The Commission also criticised the party's failure to implement several recommendations from its own internal reports – one produced by [Baroness \(Shami\) Chakrabarti](#) and another by [Baroness \(Jan\) Royall](#) – although it did note that some improvements had been made, particularly from 2019 onwards.

Corbyn's [response to the report](#) was critical, and heavily criticised, particularly because he – [not for the first time](#) – claimed that the scale of the problem had been exaggerated. As a consequence, he was [suspended from the party pending an investigation](#), prompting criticism from [former Shadow Chancellor John McDonnell](#) and praise from [former deputy leader Harriet Harman](#), who chairs parliament's Joint Committee on Human Rights. Corbyn [said](#) that he intended to challenge the suspension.

The [unlawful act notice](#) issued with the report means that Labour is legally required to draft an action plan to tackle the problems identified, which must be submitted to the EHRC for approval by 10 December.

A virtual conference season

The COVID-19 pandemic meant that party conference season looked very different in 2020, with bustling conference buildings replaced by a series of virtual events, with varying degrees of complexity and success. Both [Labour](#) and the [Liberal Democrats](#) opted to have relatively simple online events that mostly consisted of people speaking to camera from largely empty rooms. The Conservative Party was more ambitious, but also experienced more problems. The intention was to create an event with a computer-generated conference hall, foyer and meeting rooms, as well as virtual stalls for exhibitors. All did not go according to plan: a 'fireside chat' with Cabinet Office minister Michael Gove [experienced severe technical glitches](#) on the conference's first day, whilst a Q&A session with Boris Johnson had [similar problems](#), and Rishi Sunak's first conference address as Chancellor was [interrupted by a loss of signal](#).

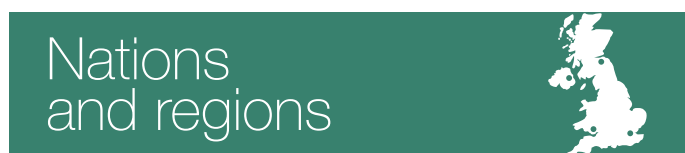
Most of the speeches by the party leaders understandably focused on the COVID-19 pandemic, with little time spent on constitutional issues. One topic that did crop up regularly was the potential break-up of the United Kingdom: [Boris Johnson](#), [Keir Starmer](#) and [Ed Davey](#)

all explicitly committed themselves to the future of the Union during their speeches.

New Lib Dem leadership team

The contest to succeed Jo Swinson as leader of the Liberal Democrats – triggered after [she lost her seat](#) at the general election – was [confirmed in January](#), called off in March [due to the pandemic](#), and then restarted in June following a [successful internal challenge](#) to the proposed one-year delay. The contest ended up being a two-horse race, with Ed Davey – a former Cabinet minister with a lengthy run as interim co-leader behind him – up against Layla Moran, who first entered the Commons in 2017. The contest was [good-natured](#) and largely without controversy. Davey was the [clear favourite](#) to win, and he secured victory [by a margin of two to one](#).

Davey's ascension to the leadership meant the post of deputy leader of the parliamentary party became vacant. Sitting MPs [unanimously elected Daisy Cooper](#) – who only became an MP at the 2019 general election – in September. Alistair Carmichael became spokesperson for political and constitutional reform.



Territorial governance and COVID-19

The COVID-19 pandemic has highlighted the devolved nature of health policy in the UK. The devolved administrations have made decisions on easing and then reintroducing lockdown measures on their [own timetables](#), reflecting the prevalence of cases within their areas and the judgements of their political leaders.

Differences between the restrictions in each part of the UK were initially relatively minor (see [Monitor 75](#), pages 16–17), but divergence has increased as time has gone on. For example, in September each part of the UK had different rules on mixing between households. Scottish First Minister Nicola Sturgeon [announced](#) plans on 7 October for new Scotland-wide restrictions, including a 6pm closure time for hospitality businesses. These were initially intended to last for 16 days, but were later [extended](#). On 14 October the Northern Ireland Executive, after some debate (see page 16), [announced](#) a four-week

closure of all hospitality sites except for deliveries and takeaways, as well a two-week closure of schools. Wales [initiated](#) a two-week 'short sharp firebreak' lockdown on 23 October, imposing similar restrictions to those of March and April, including the closure of all non-essential shops. The system of localised restrictions [announced](#) by Boris Johnson on 12 October applied only to England. It created a three-tiered system of measures. Tier 3 – requiring the closure of all pubs and bars and prohibiting non-essential travel – was implemented in several areas, including Liverpool and Manchester, with varying levels of support from local leaders (see below). However, within a month, the government had decided to implement a full England-wide lockdown, which came into effect on 5 November.

With each government largely pursuing its own course, intergovernmental coordination has been more limited than in the first phase of the pandemic. COBRA meetings attended by the leaders of the devolved administrations were held on [22 September](#) and [12 October](#) ahead of key UK government announcements, but did not lead to coordinated action. Tensions between governments have flared up on occasion, for instance over the Welsh government's [policy of restricting travel](#) from other parts of the UK, which Leader of the Commons Jacob Rees-Mogg labelled '[unconstitutional](#)'. First Minister Mark Drakeford implemented these restrictions using devolved powers after Boris Johnson [rejected his request](#) to introduce them using English regulations. The Secretary of State for Wales, Simon Hart, [wrote to Drakeford](#) to express his view that this approach risked 'stirring division and confusion'.

The pandemic continues to fuel demands for constitutional reform. In July, the finance ministers of Northern Ireland, Scotland and Wales issued a [joint call](#) for devolved governments to have greater fiscal flexibility. They demanded fewer restrictions on capital spending and borrowing powers in order to respond more effectively to the pandemic.

England

English metro-mayors continue to grow in profile, principally through their responses to the COVID crisis. This could be an important marker in the lead-up to several mayoral elections in May 2021. The government's belated conversion to involving local leaders, including metro-mayors, in decisions around local restrictions saw the Prime Minister name check Steve Rotherham, mayor

of Liverpool City Region, multiple times when discussing new restrictions in Liverpool at his [12 October press conference](#).

But whether this turn towards greater inclusion was genuine remained far from clear. The Labour mayor of Greater Manchester, Andy Burnham, found out [whilst holding a live press conference](#) that negotiations were over and the new measures were being imposed by central government without local consent. He was particularly angered by what he deemed to be insufficient financial support for councils and businesses affected by additional restrictions, and [called on parliament to intervene](#). When the England-wide lockdown was announced on 31 October, Burnham [repeated his accusation of geographical bias](#), tweeting that the government had chosen one level of payment for furloughed workers in the north of England affected by tight lockdown restrictions, but decided to increase that amount once stricter rules were applied across the board.



[Andy Burnham](#) (CC BY-NC 2.0) by [The BMA](#)

Greater London is also struggling with the financial impact of the pandemic: negotiations for a multi-billion pound bailout for Transport for London were so fraught that the government [threatened to take direct control](#) of the capital's transport services, although a bailout package was eventually [announced](#) on 1 November. The relationship between City Hall and Downing Street will likely be a campaign issue for Sadiq Khan and his political opponents ahead of the city's mayoral election in May 2021.

Meanwhile, September saw [yet another delay](#) to the long-promised white paper on English devolution, which is now expected to appear 'in the spring'. The [sudden resignation](#) of Simon Clarke, the minister for local government, may have removed some of the impetus, but reports also indicate concern from Number 10 at

the degree to which local government restructuring had become intertwined with the wider devolution agenda. The financial pressure created by responses to COVID-19 was one factor inducing many county councils to submit proposals for restructuring during the summer of 2020. The government has [formally invited](#) three areas – North Yorkshire, Cumbria and Somerset – to do so, indicating that unitary councils may be in place there by May 2022.

Northern Ireland

After divisions within the Northern Ireland Executive at the start of the pandemic (see [Monitor 75](#), page 17), it managed the worst of lockdown well. Partnership suffered, however, when Sinn Féin leaders attended a large-scale [funeral](#) for a notable Republican, in violation of COVID guidance. First Minister Arlene Foster ceased to appear publicly with deputy First Minister Michelle O'Neill. When infections spiked in October, disagreements – [particularly within the DUP](#) – delayed imposition of additional COVID-19 restrictions. One DUP minister openly opposed the new measures, claiming the disease was worse in nationalist areas – [seen by some as sectarianising the outbreak](#).

Nor has the Executive necessarily learned lessons from the Renewable Heat Incentive affair about the importance of good government. Despite it [being announced last December](#) that David Sterling, the Head of the Northern Ireland Civil Service, was to retire, the post was not advertised until shortly before his departure in August, and ministers [failed to agree](#) on a successor in September. There has been little progress on commitments in the [New Decade New Approach](#) agreement, by which devolution restarted in January.

On 22 September, the Northern Ireland Assembly passed a motion instructing the First Minister and deputy First Minister to 'take a formal position opposing the UK Internal Market Bill', which expressed 'deep concerns' about the UK government's approach to negotiations, accused it of unilaterally undermining the authority of the devolved institutions, and affirmed the Assembly's commitment to upholding international law. London's argument that the bill would have the effect of 'protecting the [Belfast/Good Friday] Agreement and the peace process', was met with cynicism among [unionists](#), [nationalists](#), and [civic society groups](#). The Lord Chief Justice of Northern Ireland [expressed concerns](#) that the stated intention to break international law would damage

‘the confidence that the public may have in the legal system generally’. Taoiseach Micheál Martin [found the bill](#) ‘very, very regrettable’, and potentially divisive, whilst [John Major and Tony Blair](#) deplored the ‘extraordinary pretence’ that it was necessary to save the Good Friday Agreement, arguing it instead imperilled it. Democratic presidential candidate Joe Biden and other senior members of his party were [similarly critical](#).

Eagerness among some nationalists for a poll on Irish unity has increased. The new Irish government has set up a ‘Shared Island Unit’ to increase cross-border cooperation, but the Taoiseach has [stressed](#) that a border poll would be divisive. The Unit’s [Working Group](#) on these issues will report shortly.

Polarisation has increased, but last year’s elections brought out a public wish that politicians work together, and [polling](#) suggests the main parties would fare badly should Assembly elections take place in the immediate future. If the Executive collapsed, the 2017–20 arrangement, with civil servants unable to make policy changes in the absence of ministerial authority, would hardly be possible. Yet Westminster direct rule would be acutely unpopular with many; division and instability would increase dangerously.

Scotland

Scotland has broadly mirrored the UK government’s approach to the pandemic, though with slightly different policies and language. Relations with London have been far worse concerning the UK Internal Market Bill, which the Scottish government has [made clear](#) it does not support (see page 4).



[Scottish First Minister Nicola Sturgeon](#) (CC BY-NC 2.0) by [Scottish Government](#)

Meanwhile, conflict within the governing Scottish National Party (SNP) has deepened. First Minister Nicola Sturgeon has been [forced to deny](#) both colluding with Alex Salmond and acting against him, as the [parliamentary investigation](#) into the government’s handling of abuse allegations against her predecessor has continued. Officials have had to [correct their evidence](#) to the inquiry, Sturgeon’s own memory has [proved faulty](#) and the government has [refused to provide some of the requested documentation](#). Salmond has [written to the inquiry](#) urging that its remit be extended. The tensions within the party were further illustrated when the party’s Westminster spokesperson on justice and home affairs, MP Joanna Cherry – a Salmond ally well known to harbour future leadership ambitions – withdrew from the contest to be selected as the SNP candidate for the Holyrood seat of Edinburgh Central. She blamed [what she described as ‘an unprecedented change’](#) to the selection criteria, which would have required her to resign her Westminster seat if chosen.

Public support for Sturgeon remains high both generally and [in comparison to the perception of the UK government](#). This is reflected too in support for independence, which polls suggest is [now settled at over 50%](#), and in [glowing SNP prospects for the 2021 Holyrood elections](#).

Jackson Carlaw [resigned suddenly](#) as leader of the Scottish Conservatives in July, having been elected to the role only in February. He was replaced within a week, and without a contest, by [former junior Scotland Office minister Douglas Ross](#). Though formerly an MSP, Ross is currently an MP at Westminster. Carlaw’s predecessor Ruth Davidson is [temporarily leading the party at Holyrood](#), in expectation that Ross will secure a seat in next year’s elections. Davidson herself is not seeking re-election following her inclusion on Boris Johnson’s lengthy list of new appointments to the House of Lords (see page 7).

Despite reports that Scottish Labour has been [struggling to find candidates](#) for the 2021 elections, Richard Leonard has retained his position at the head of the party following a [failed attempt](#) to remove him.

Wales

Recent months have been marked by deteriorating relations between the Welsh and UK governments amid fundamental disagreements over their responses to the pandemic (see page 15) and the UK Internal Market Bill.

The Welsh government has been stark and unequivocal in its opposition to the bill. In intergovernmental terms, Counsel General Jeremy Miles – who is also the Minister for European Transition – [described](#) it as ‘a new low’. The Welsh government is also concerned that it is being used to undermine devolved spending decisions, particularly regarding the controversial M4 relief road. It has [laid](#) the necessary legislative consent memorandum before the Senedd but has recommended withholding consent.

Meanwhile, electoral reform remains a live issue. The Committee on Senedd Electoral Reform published its [report](#) in September, which recommended an increase in the size of the Senedd and the introduction of the Single Transferable Vote system for Senedd elections. It also advocated various measures to enhance diversity and inclusion among elected members. The report has the support of Labour and Plaid Cymru, but the Conservatives and Brexit Party oppose it. Given the need for a two-thirds parliamentary majority to implement its recommendations, it is difficult to see much progress being made in the immediate future, as noted by Michela Palese [on the Unit's blog](#).

Recent months have also seen further growth in support for Welsh independence, including among a [majority](#) of Labour supporters. A [commission](#) on independence established by Plaid Cymru has called for two referendums to be held in future: an advisory vote to establish support for different constitutional options, followed by a binding vote between the preferred option and the status quo. On the other side of the political spectrum, Paul Davies, leader of the Welsh Conservatives, [has called for a ‘devolution revolution’](#). Marking the first time that a mainstream political force in Wales has made moves to redefine the devolution settlement in a way that does not increase the range of devolved powers, he pledged to ‘conduct a root and branch examination of where Labour has been pretending it has devolved competence when it does not’ and ‘defund and end the pretence’. At UK level, the Conservative government has responded negatively to the recommendations of the Commission on Justice in Wales, led by former Lord Chief Justice Lord (John) Thomas of Cwmgiedd, which recommended the creation of a distinct Welsh legal system. Lord Chancellor Robert Buckland has [stated](#) that the government intends to maintain the current unified ‘England and Wales’ justice system, but Counsel General Jeremy Miles has reaffirmed Cardiff’s intention to pursue the policy. As parties begin to set their sights on May 2021’s Senedd elections, this marks a new constitutional polarisation in Welsh politics.

International



US election focuses debate on the constitution and American democracy

The US presidential election campaign prompted debate about numerous constitutional issues. President Donald Trump’s pre-election [statements](#) about his willingness to accept the outcome sparked a raft of debate about how he might be removed [if he refused to concede](#); on the [processes](#) and [possible abolition](#) of the electoral college; the role of [Congress](#) and the [Supreme Court](#) in deciding the election if the result was contested; and the measures future administrations could take [to reform democratic processes](#). Trump’s [COVID-19 diagnosis](#), and the advanced age of both candidates, led to much speculation about what would have happened if one of them had become incapacitated or died [before the election](#) took place (or [before inauguration day](#)), and the mechanisms for removing a president [should he become medically unfit for office](#). Furthermore, the pandemic affected the ability of candidates and their supporters [to canvass and campaign in the usual way](#).

The votes are now in, but the electoral process was perhaps more complicated than ever, with many more votes cast prior to election day than in 2016. There was a [significant increase](#) in early voting in person, but it was mail-in voting – what the UK would call postal voting – that prompted the most debate and controversy. Although mail-in ballots are nothing new in the US – [they are the primary method of voting in five states](#) – the pandemic left many electoral officials [struggling](#) to prepare, with requests and returns setting [records](#), nearly doubling in [Ohio](#) and quadrupling in [Wisconsin](#).

The biggest challenge regarding mail-in voting was ensuring that legitimate ballots were properly completed, sent and counted. Hand-marked mail-in ballots have [higher rates](#) of mismarks or illegibility, especially among first-time or infrequent voters, increasing chances of ballot rejection or disenfranchisement, compared to in-person voting, which is often done by machine. In this year’s primaries for example, [over 20%](#) of mailed ballots in Pennsylvania and New York were rejected because of voter error.

Procedural compliance and clear messaging were further complicated by the fact that each state’s electoral laws are different, and many were in flux at various points of the campaign, with almost [500 election law cases](#) in almost

every state arising out of pandemic-related concerns, as of 9 November. In early October, the Supreme Court [reinstated](#) a South Carolina law requiring absentee ballots to include the signature of a witness, despite the additional difficulty posed by COVID-19 restrictions. Other cases focused on how ballots are mailed. A federal appeals court [ruled](#) that the Texas governor's directive for limited drop box locations could continue, while [rulings](#) in Pennsylvania, Michigan, Wisconsin, and North Carolina extended the days after the election that ballots could be accepted, as long as they were postmarked by election day. Cases brought before election day are more likely to have impacted on the final results than the [numerous cases](#) brought by Republican lawyers after election day have managed so far.



[Supporters of Amy Coney Barrett outside her Supreme Court confirmation hearing \(CC BY-NC-ND 2.0\) by vpickering](#)

The decision of the president to nominate Amy Coney Barrett to replace Ruth Bader Ginsberg as a Justice of the Supreme Court – after voting had started and just before Trump became a ‘lame duck’ – also [proved controversial](#). Her confirmation means the body now has a 6–3 conservative majority, seemingly guaranteed for a long time through the recent appointment of three relatively young Justices to lifetime roles. The potential consequences for key civil and political rights led some Democratic legislators to [express support](#) for increasing the court's membership for the first time [since 1869](#). The party's nominee, former Vice-President Joe Biden, instead [proposed](#) an independent commission on judicial reform.

Although none of the states had officially certified their results before *Monitor* went to press, by 7 November [Biden was widely acknowledged to be the winner](#). Trump [declared victory](#) on election night, [alleging](#) widespread electoral fraud. Little or no evidence has been provided

to support this, and some of the claims have been comprehensively [debunked](#). Most legal experts [believe the majority of those cases will come to nothing](#), and that even if they succeed, they will affect too few ballots to stop Biden becoming the country's 46th president, and Kamala Harris from taking office as the first female vice-president.

Italian referendum provides mandate for a smaller parliament

In September Italian voters participated in a referendum where they were asked to approve proposals to reduce the number of parliamentarians from 630 deputies and 315 senators to 400 and 200 members respectively. This amounts to one Deputy for every 151,000 inhabitants and one Senator for every 302,000 inhabitants, a significant reduction.

MPs [voted in favour](#) of the changes in October 2019. Proposed constitutional amendments that have been passed by parliament must be put to a popular vote if this is requested by two fifths of the members of either chamber. This happened in December, when senators from Forza Italia – led by Silvio Berlusconi – joined with smaller parties and a few rebel senators from the governing parties. The referendum should have taken place in March, [but was delayed](#) due to the COVID-19 pandemic.

The ‘Yes’ campaign offered two main arguments. The first was that a smaller parliament would save as much as €80 million per year. The second was that fewer parliamentarians would mean less bureaucracy, thereby improving parliamentary efficiency. ‘No’ campaigners claimed that the money saved would be negligible – a few euros a year per person – and that reducing the number of parliamentarians without reforming the legislative process would not automatically lead to greater efficiency. Concern was also expressed that a smaller parliament would be less representative.

More than 50% of the electorate took part in the referendum – which coincided with regional elections – and [69.96% of voters backed the reforms](#). The reforms cannot affect the current parliament, and complicated questions of implementation remain: a reduction in parliamentarians cannot take place in isolation, but will require changes to electoral law and constituency boundaries, among other things. Although reductions in parliamentary size are [relatively rare](#), politicians in France are now [considering similar proposals](#).

People on the move

Mark Sedwill retired from the Civil Service in September (see page 11). **Simon Case** is the new Cabinet Secretary and head of the civil service. **James Bowler** is the new second permanent secretary at the Cabinet Office.

Luke Hall was named Minister of State for Regional Growth and Local Government following the resignation of **Simon Clarke**.

Mike Driver is the interim permanent secretary at the Ministry of Justice following the retirement of **Richard Heaton**.

Lord (John) Nash is the new lead non-executive director at the Cabinet Office. He replaces **Ian Cheshire**.

Julian Lewis is the new Chair of the Intelligence and Security Committee (see page 6). He succeeds **Dominic Grieve**, who lost his seat in the 2019 general election.

Edward Ollard has announced his retirement as Clerk of the Parliaments. His successor has yet to be selected.

Ed Davey was elected Leader of the Liberal Democrats. **Daisy Cooper** is the new Deputy Leader (see page 15).

Jackson Carlaw stepped down as Scottish Conservative leader in July. **Douglas Ross** was elected unopposed to replace him. As Ross is not an MSP, **Ruth Davidson** will lead the party in Holyrood until the next Scottish elections, when she will take a seat in the House of Lords.

Kirsten Oswald has replaced **Kirsty Blackman** as deputy leader of the SNP at Westminster.

Keith Stewart has been appointed Advocate General for Scotland following the resignation of **Lord (Richard) Keen of Elie** (see page 12).

David Sterling has stepped down as Head of the Northern Ireland Civil Service. A permanent replacement has yet to be announced (see page 16).

Brenda King is the new Attorney General for Northern Ireland following the departure of **John Larkin**.

Lord Kerr has retired as a Justice of the Supreme Court. **Lord Stephens** is his replacement. **Lady Black** has since announced her own retirement.

Vicky Fox is the new Chief Executive of the Supreme Court and the Judicial Committee of the Privy Council following the retirement of **Mark Ormerod**.

Susan Acland-Hood has left her role as Chief Executive of Her Majesty's Courts and Tribunals Service to take over as acting permanent secretary at the Department for Education. **Kevin Sadler** is her interim replacement.

Alexandra Meakin is the new convenor of the Political Studies Association (PSA) Parliaments Group. She replaces **Louise Thompson**.

Karlo Basta has been announced as the new Co-Director of the Centre on Constitutional Change, following the retirement of **Michael Keating**. **Coree Brown-Swann** is the Centre's new Deputy Director.

The Constitution Unit

Stay in touch

If you are not already signed up to the Constitution Unit's mailing lists, please subscribe now to keep in touch with our activities and outputs:

[Click here](#) to receive notification of each new issue of *Monitor*, and/or for regular updates on our events and publications.

[Click here](#) to receive regular updates from the Constitution Unit blog (enter your address in the box in the left hand sidebar of this link, then click 'follow').

Support us

The Constitution Unit is a non-profit research centre, which relies on external funding to conduct its work. Our projects are often funded by research bodies and charitable trusts, but key projects such as the *Independent Commission on Referendums* have been wholly supported by individual donors. Donations from our supporters also help fund our policy impact work, our seminar series and blog, as well as this newsletter.

[Click here](#) to make a one-off donation, become a regular subscriber, or simply to find out more about giving to the Constitution Unit.

Constitution Unit news

Meg Russell elected to the British Academy

In July [it was announced](#) that Unit Director Professor Meg Russell had been elected a [Fellow of the British Academy](#) (FBA). British Academy Fellowship is awarded to 'outstanding UK-based scholars who have achieved distinction in any branch of the humanities and social sciences'. There are rigorous processes for election of new Fellows each year, and only a very small number in each field are chosen. Meg will become a member of the Academy's Political Studies section.

Role of monarchy in modern democracy

September saw the publication of Robert Hazell's latest book, [The Role of Monarchy in Modern Democracy: European Monarchies Compared](#), which he co-edited with the Unit's Honorary Senior Research Associate Bob Morris. The book is written by experts from Belgium, Denmark, Luxembourg, the Netherlands, Norway, Spain, Sweden and the UK. It considers the constitutional and political role of monarchy, its powers and functions, how it is defined and regulated, the laws of succession, royal finances, relations with the media and the popularity of the monarchy.

A launch event was chaired by Jonathan Dimbleby, with participants including a former Private Secretary to the Queen, Lord (Robin) Janvrin, Professors Rudy Andeweg and Jean Seaton, and royal correspondents Jonny Dymond (BBC) and Valentine Low (the *Times*). The launch event is available to view [here](#), and summaries of the book's findings were published in the [Political Quarterly](#), and on the [Constitution Unit blog](#).

New report: Braking the Law

In September the Unit also published [a new report](#) on the place of the executive veto in the UK constitution, written by Honorary Senior Research Associate, and former senior Commons clerk, Paul Evans. The report takes as its starting point the controversies of 2019, when it was suggested that the government might ask the Queen to refuse royal assent to the 'Cooper-Letwin' and 'Benn-Burt' bills, both designed to force the government to request a Brexit extension.

Drawing on analysis of Westminster procedure and international comparisons, the report assesses the various veto powers theoretically available to the executive. It finds that many of these have effectively fallen into disuse, but that they are still too much governed by conventions and customs. It therefore argues that greater clarification and codification is highly desirable to avoid future controversies. A post summarising its conclusions is available [on the Unit's blog](#).



Meg Russell gives evidence to the Procedure Committee's inquiry into Commons procedure during the pandemic

Meg Russell [gave evidence to the Procedure Committee](#) on 8 July about House of Commons procedure during the COVID-19 pandemic, alongside Dr Hannah White of the Institute for Government and Dr Ruth Fox of the Hansard Society. She told the committee that the Commons had been a world leader in its early response to the pandemic, but expressed regret that decision making later became steadily less consensual and more government-dominated. She also noted that parliament had missed opportunities to pursue procedural innovation that would have allowed it to hold the government more effectively to account, an argument she had previously made [on the Unit's blog](#).

Alberta legislators hear evidence from Alan Renwick on citizen-initiated referendums

Alan Renwick [appeared](#) before the Select Special Democratic Accountability Committee of the Legislative Assembly of Alberta, Canada on 23 September to give evidence on citizen-initiated referendums. Drawing on findings of the Unit's [Independent Commission on](#)

[Referendums](#) and his own international research, he discussed several ways – such as the use of citizens’ assemblies – in which public deliberation can be inserted back into the process of citizen-initiated referendums, which often fail to encourage or facilitate meaningful debate.

Meg Russell discusses the Constitution, Democracy and Rights Commission in evidence to PACAC

On 6 October, Meg Russell [gave evidence](#) to the Commons Public Administration and Constitutional Affairs Committee on the government’s proposed Constitution, Democracy and Rights Commission, alongside former Supreme Court Justice Lord Sumption and Lord Lisvane, a former Clerk of the House of Commons.

The witnesses discussed the Commission’s desired priorities, how it should function, and what form it should take. Meg argued that its success depended on it being both transparent and inclusive; a cross-party approach over a period of time long enough to allow for meaningful public involvement was key, whereas the Commission would fail if it was seen as having a predetermined outcome.

UCL launches new ‘Uncovering Politics’ podcast

The School of Public Policy/Department of Political Science at UCL has launched a new podcast, ‘UCL Uncovering Politics’, which seeks to explore key themes of contemporary politics and discuss recent research. The podcast is hosted by the Unit’s Alan Renwick, and two of the early episodes featured Unit staff.

On [8 October](#), Meg Russell appeared alongside UCL Professors Richard Bellamy and Jeff King to discuss the importance of checks and balances in democracy, reflecting on contemporary threats to this principle in the UK and around the world.

Robert Hazell discussed his new book on European monarchies (see above) during an appearance on the podcast on [22 October](#). New episodes are released each Thursday during term-time. They can be streamed or downloaded [here](#), and listeners can subscribe through any major podcast provider.

Congratulations to Dr Roberta Damiani

In late July, Unit PhD student Roberta Damiani successfully defended her thesis in an online viva. Roberta was supervised by Meg Russell and Alan Renwick, and her examiners were Louise Thompson (University of Manchester) and Edoardo Bressanelli (King’s College, London). Roberta’s research focused on the dynamics of the bicameral legislative process in Italy. We offer her our warmest congratulations, and good luck with her new career in the civil service.

And congratulations to Sam Anderson

Unit Research Assistant Sam Anderson, who has for the past year supported Meg Russell on her work on Brexit and parliament, has won ‘1+3’ funding from the Economic and Social Research Council (ESRC) for studies towards a Master’s degree and PhD. Sam began his studies in the UCL Department of Political Science in October, where he will pursue an MSc in Democracy and Comparative Politics, before beginning his PhD research with Meg Russell and Alan Renwick in autumn 2021. Sam will continue to support our parliamentary research on a part-time basis during his studies.

Staff changes

The Unit was delighted to welcome back Edd Rowe in October. He has – for the second time – temporarily taken over the role of Office Manager from Rachel Cronkshaw, while she is seconded as Departmental Manager at the UCL Institute of the Americas. We hope to welcome her back to the Unit in spring 2021, and want to express our gratitude to all of those in both the Unit and the wider Department of Political Science, who ably filled in for Rachel until Edd came back on board.

Research volunteers

The Unit is, as always, grateful for the excellent work done by its research volunteers, especially given the difficulties posed by the COVID-19 pandemic. A big thank you to former volunteers Sydney Alexander, Joe Cardwell, Flora Curtis, James Fowler, Oli Maddison, Allison O’Malley-Graham, Isabel Scavetta, Daniel Skeffington and Jessamy Taylor.

Bulletin Board

Events recently made available to view:

[Constitutional Reform, Then and Now](#)

David Gauke, former Conservative Lord Chancellor, **Francesca Klug**, Visiting Professor at LSE Human Rights, **Jack Straw**, former Labour Lord Chancellor.

Chair: **Meg Russell**.

Recorded on 3 November.

[Repealing the Fixed-term Parliaments Act](#)

Baroness (Ann) Taylor of Bolton, chair of the Lords Constitution Committee, **Lloyd Russell-Moyle MP**, member of the Commons Public Administration and Constitutional Affairs Committee, and **Petra Schleiter**, Professor of Comparative Politics at St Hilda's College, Oxford.

Chair: **Meg Russell**.

Recorded on 5 October.

[The Role of Modern Monarchy: European Monarchies Compared](#)

Rudy Andeweg, Professor Emeritus of Empirical Political Science at the University of Leiden, **Jonny Dymond**, BBC royal correspondent, **Lord (Robert) Janvrin**, former Private Secretary to the Queen, **Valentine Low**, royal correspondent at the *Times*, and **Jean Seaton**, Professor of Media History at the University of Westminster.

Chair: **Jonathan Dimbleby**.

Recorded on 30 September.

You can view other previous events on the Unit's [YouTube page](#). For news about our future events, please [sign up](#) to our mailing list. Webinars are free and open to all.

Unit in the news

An article in the [Express](#) discussing the likelihood of particular Commonwealth states becoming republics quoted the Unit (4 July). The Unit was also quoted in an article in the [Express](#) on Scotland's place in the Commonwealth should it become independent (26 August).

Articles in the *Express* ([2 July](#), [7 July](#), [21 July](#), [18 August](#) and [10 September](#)) about the process that will follow the death of the Queen quoted the Unit. [Enstarz](#) (14 July) quoted Robert Hazell and the [Express](#) quoted the Unit in articles explaining how the line of succession operates (4 September).

The Unit was quoted in articles in the *Express* ([7 July](#), [29 July](#), [11 August](#), [28 August](#)) and [Entertainment OverDose](#) (10 August) exploring the possible regnal title that Prince Charles might adopt should he become king. [Entertainment OverDose](#) (5 September), the [Express](#) (7 September) and [Geo News](#) (8 September) quoted the Unit's research in articles which explained why the Duchess of Cornwall may not assume the title of Queen following her husband's accession. The Unit was quoted in articles concerning Prince William's title when Prince Charles becomes king in the [Express](#) (10 September) and [Woman and Home](#) (25 September).

Alan Renwick discussed the public consultation for the Unification Referendums on the Island of Ireland project during appearances on [BBC Radio Ulster](#) and [Kildare FM](#). He was quoted in articles in the [Irish Times](#) and [Irish News](#) on the same topic (all 22 July). A [blogpost](#) about the consultation authored by Alan Renwick, Conor Kelly and Charlotte Kincaid was posted on [Sluggie O'Toole](#) (22 July) and the Unit blog post on this matter was reposted on [QPol](#) (22 July) and [Northern Slant](#) (28 July). The project was also quoted in articles in [Spiked](#) ([28 July](#) and [4 August](#)), [Briefings for Britain](#) (13 August) and [Conservative Woman](#) (19 August).

The [FT](#) (1 August), [New York Times](#) (4 August) and [New Statesman](#) (12 August) quoted Meg Russell in articles discussing the latest round of Lords appointments.

Bulletin Board

The Unit was quoted in an article on [Yahoo Finance UK](#) discussing whether Meghan Markle's royal status was an impediment to a potential run for the US presidency (28 August).

The Unit was mentioned in a piece in [Marie Claire](#) covering the likelihood of the Queen's abdication (7 September).

Alan Renwick was mentioned in an [Economist](#) article (19 September) which explored the increasing popularity of citizens' assemblies and their purpose. Alan Renwick's oral evidence to a committee of the Legislative Assembly of Alberta, Canada, on proposals for citizen-initiated referendums, was mentioned on [CBC](#) (23 September).

Articles concerning the cost of monarchies to the taxpayer in the [Mail](#) and [Times](#) (both 26 September) and [GeoNews](#) (4 October) referenced one of the main findings from Robert Hazell's and Bob Morris's new book, [The Role of Monarchy in Modern Democracy: European Monarchies Compared](#) (see page 21). Another lesson from the book, that limiting the size of royal families can increase the likelihood of their survival, was mentioned in articles by [Entertainment Overdose](#) (26 September) and the [Express](#) (27 September). The book was also quoted in [Vanity Fair](#) (8 October).

Alan Renwick appeared on [BBC Radio Guernsey](#) to discuss the flaws in the island's new electoral system (28 September).

A [Unit blogpost](#) authored by Meg Russell and Lisa James concerning the sidelining of parliament by the government during the COVID-19 pandemic was quoted in the [Guardian](#), [Telegraph](#), [Express and Star](#), [Ardrossan and Saltcoats Herald](#), [Yahoo Finance UK](#) (all 28 September), and [London Economic](#) (29 September). The [Guardian](#) quoted a post by the same authors on the same subject for the UK in a Changing Europe (29 September).

The [Independent](#) quoted Meg Russell's discussion of the issue of trust in public institutions during an evidence session with PACAC on the government's proposed Constitution, Democracy and Rights Commission (7 October).

Meg Russell appeared on UCL's [Uncovering Politics](#) podcast to discuss the role of checks and balances in democracies (8 October). Robert Hazell discussed his new book on European monarchies during an appearance on the same podcast ([22 October](#)).

Meg Russell discussed the relationship between Conservative leaders and their backbenchers during an appearance on BBC Radio 4's [Analysis](#) (12 October).

The Unit's research on an English parliament was referenced in a [Times](#) comment piece regarding regional coronavirus restrictions (16 October).

Select Committee appearances

Meg Russell gave evidence to the Commons Procedure Committee as part of its inquiry into 'procedure under coronavirus restrictions' ([8 July](#)).

Alan Renwick appeared before a committee of the Legislative Assembly of Alberta, Canada to give evidence on citizen-initiated referendums ([23 September](#)).

Meg Russell gave evidence to the Commons Public Administration and Constitutional Affairs Committee on the government's proposed Constitution, Democracy and Rights Commission ([6 October](#)).

Unit publications

Meg Russell and Ruxandra Serban, '[The Muddle of the Westminster Model: A Concept Stretched Beyond Repair](#)' (*Government and Opposition*, August).

Robert Hazell and Bob Morris (editors), [The Role of Monarchy in Modern Democracy: European Monarchies Compared](#) (Hart, September).

Robert Hazell and Bob Morris, '[European Monarchies: Guardians of Democracy?](#)' (*Political Quarterly*, October).

Paul Evans, [Braking the Law: is there, and should there be, an executive veto over legislation in the UK constitution?](#) (Constitution Unit report, October).

Bulletin Board

Publications to note

Mark Elliott and Robert Thomas, *Public Law (4th edition)* (Oxford University Press, July).

Emma Peplow and Priscila Pivatto, *The Political Lives of Postwar British MPs: An Oral History of Parliament* (Bloomsbury, August).

Philip Norton, *Governing Britain: Parliament, Ministers and our Ambiguous Constitution* (Manchester University Press, September).

Louise Thompson, *The End of the Small Party? Change UK and the Challenges of Parliamentary Politics* (Manchester University Press, September).

Contributors to Monitor 76

Dave Busfield-Birch, Greg Davies, Elisabetta De Giorgi, Jim Gallagher, Robert Hazell, Lisa James, Charlotte Kincaid, Alexandra Meakin, Julie Norman, Hedydd Phylip, Zachariah Puller, Alan Renwick, Meg Russell, Mark Sandford, Jack Sheldon, Alan Whysall and Nick Wright.

The issue was edited by Dave Busfield-Birch.

The Constitution Unit

The Constitution Unit is 25!

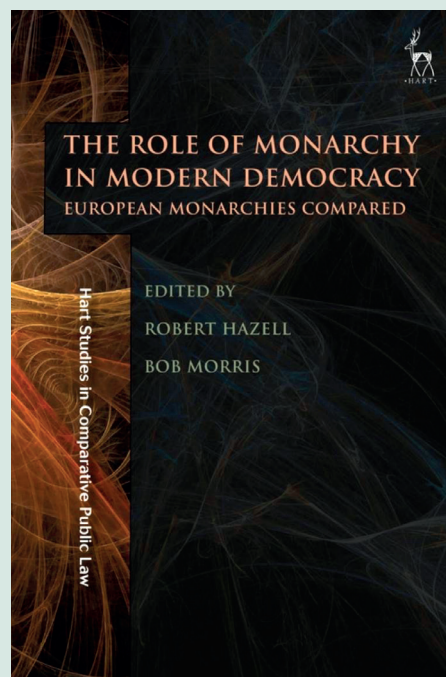
To mark the Unit's 25th anniversary, we have launched a 25-years fundraising campaign, encouraging our supporters to make a one-off or regular donation incorporating the numbers 2 and 5. Donations provide a crucial source of funding for our outreach activities, such as [Monitor](#), our [blog](#), and our [seminar series](#).

Find out more about the 25 years fundraising campaign [here](#).

Find out more about our 25th anniversary [here](#).



The Role of Monarchy in Modern Democracy: European Monarchies Compared



The secrets of successful monarchies in democratic countries are revealed in a new book edited by Constitution Unit founder Professor Robert Hazell and Honorary Senior Research Associate Dr Bob Morris.

The Role of Monarchy in Modern Democracy: European Monarchies Compared includes contributions from 20 academic experts from Belgium, Denmark, Luxembourg, the Netherlands, Norway, Spain, Sweden and the UK, providing the first comparative study of modern monarchies in Western Europe.

The book is published by Hart Publishing and is available at a 10% discount [on the publisher's website](#).

Watch the book's launch event, chaired by Jonathan Dimbleby, [on our YouTube channel](#).

Read a summary of the book's arguments, written by the editors, [on our blog](#).