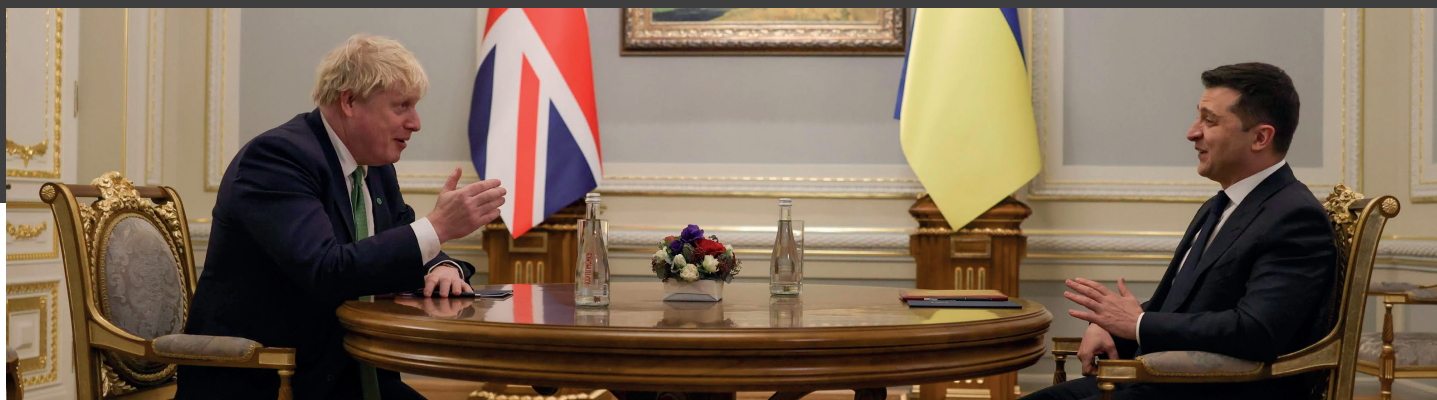


Constitution Unit

Monitor 80 / March 2022



Defending democracy

Monitor has in recent years catalogued a succession of astonishing events in British constitutional politics: the 2014 Scottish independence referendum; the 2016 Brexit referendum; the parliamentary battle that ensued under Theresa May's divided minority government post-2017; Boris Johnson's unlawful parliamentary prorogation of 2019; and the politics of COVID-19 lockdown post-2020.

The shock likely to dominate memories of 2022 – Russia's appalling invasion of Ukraine – is of a different order. The war is not only a terrible tragedy for all those directly affected, on the world stage it is Europe's darkest and potentially most dangerous moment at least since the Cold War standoff of the 1960s, and perhaps since 1945. In response, British constitutional politics has seen a suspension of normal working. Hostile exchanges at Prime Minister's Questions have been replaced by [pledges of unity](#). The House of Commons has given standing ovations to [Ukraine's ambassador in London](#), and then to its [President, Volodymyr Zelenskyy](#). A mutinous Conservative Party that had been gearing up, perhaps, to topple its leader now bides its time.

Image above: [Boris Johnson and the President of Ukraine, Volodymyr Zelenskyy](#) (CC BY-NC-ND 2.0) by UK Prime Minister.

How Putin's war might shift British politics beyond the short term remains to be seen. In this edition of *Monitor*, the developments discussed mostly predate the invasion. Some of these – notably, a raft of bills and consultations – have a momentum that will run on. As has been true for several years, these developments give some considerable cause for concern.

Recent constitutional controversies have been primarily of two now familiar kinds, relating to standards and government attitudes to scrutiny. The most high-profile of these reached the news day after day for weeks before and after Christmas, regarding [allegations of social gatherings](#) in 10 Downing Street which breached the COVID-19 regulations in place at the time (see page 9). Initially denied, these were then handed to Cabinet Secretary Simon Case to examine, before the investigation was subsequently [passed to another senior official](#), Sue Gray. The drip-drip of allegations fed [growing concern](#) on the Conservative backbenches, with some members calling for Prime Minister Boris Johnson's resignation or submitting letters to the chair of the backbench 1922 Committee demanding a no-confidence vote in his leadership of the party (see page 2). Matters seemed to be reaching a head until the Metropolitan Police [announced its own investigation](#), leading to a delay in the publication of Gray's final report. The repeated pleas by Johnson loyalists to 'wait for Sue Gray' before passing judgement now meant waiting somewhat longer.

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Alongside these developments, other concerns have included continued controversy about the oversight of government activity by both parliament and the courts. In November, two House of Lords committees published [strongly-worded reports](#) condemning ministers' overuse of delegated legislation, including during the pandemic (see page 3). Meanwhile, ministers announced a '[Brexit Freedoms Bill](#)', which would make it easier to amend retained EU law: this seems to augur further delegated law-making (see pages 5–6), and has led to a [degree of expert alarm](#). Parliamentary specialists at the Hansard Society are conducting their own [parallel review](#). Primary legislation, too, seems on occasion to be subject to only superficial scrutiny. The government's attempt to make significant late changes to the Police, Crime, Sentencing and Courts Bill led to [an unprecedented number](#) of Lords defeats on 17 January (see page 4). The Elections Bill sailed through the Commons, but key provisions were sharply criticised by [the relevant select committee](#), by [the Electoral Commission](#), and by [numerous peers](#) as it began scrutiny in the Lords (see pages 6–7). Simultaneously, ministers are pressing ahead with plans to rein in the courts, including through [reform](#) of the human rights framework (see page 11), where they seem determined (once again) to go further than the recommendations of their own [independent review](#).

All of these developments sit awkwardly with public opinion, as demonstrated through Constitution Unit research published in January. A major survey conducted last summer as part of the [Democracy in the UK after Brexit](#) project found that people in the UK wanted politicians who are honest, have integrity, and operate within the rules, and valued these characteristics far higher than 'delivery'. It also found public wariness about concentrated power in the hands of government ministers, with high levels of support for oversight by parliament, judges, civil servants, regulators, and the public themselves (see pages 17–18). These findings will be bolstered next month by publication of the results of the [Citizens' Assembly on Democracy in the UK](#), which ran in the autumn as part of the same project.

Meanwhile, the future of the Union remains contested. Northern Ireland's First Minister [resigned](#) over the Brexit Protocol, leaving its Executive barely able to function. Fresh elections take place for the Northern Ireland Assembly in May, but few are hopeful of a resumption of constructive politics thereafter (see page 14). Relations within the Conservative Party between London and Edinburgh [broke down](#) over 'partygate' (see page 15).

The [Independent Commission on the Constitutional Future of Wales](#) began its work (see page 16). Within England, the government [announced plans](#) for further devolution (see page 13).

In the face of war in Europe, these UK constitutional tussles may appear somewhat trivial. The horrors in Ukraine have galvanised much of the international community into a robust defence of democracy and the rule of law. Importantly, they have shaken some out of complacency about the need to protect and celebrate those values. In the immediate term, all eyes are on the conflict, and the absolute priority is to halt it and to support those whose lives have been shattered by it. Beyond that, it is incumbent on all leaders, and all of us who have the privilege to live in democratic societies, to nurture them and defend them from casual erosion.

Parliament



Downing Street's relationship with Conservative backbenchers

Recent months – at least until Russia's invasion of Ukraine – saw a substantial deterioration in the government's relationship with its backbenchers. This partly reflects longer-term tensions, such as [unease about COVID-19 restrictions](#), and the [growing number of MPs](#) who have been overlooked for ministerial promotion. But the short-term trigger for backbench unease was the government's mishandling of [the Owen Paterson scandal](#) (see below). This was then deepened further by revelations about [multiple alleged breaches of lockdown rules](#) in Downing Street (see page 9), and by ministerial [efforts](#) to defend or deny this behaviour. Senior civil servant Sue Gray produced an interim report on 'partygate' in January after being tasked with investigating the allegations but the final version will not become public for some time.

Conservative MPs have expressed serious concern about the conduct of the Prime Minister and those around him – [several of whom resigned](#) in February (see page 9) – and its impact on the party's public reputation. These concerns have been expressed in various ways, including [direct calls for Johnson's resignation](#), letters to the backbench 1922 Committee expressing a lack of confidence in his leadership, and [allegations](#)

that government whips have engaged in underhand tactics that were described by one MP as equivalent to ‘blackmail’. This crisis also helped trigger the [defection of Christian Wakeford](#), MP for Bury South since 2019, to the Labour Party. Beyond this, the government might also be concerned by the wider group of MPs who have simply expressed concerns about the personal conduct of the Prime Minister, given lukewarm support, or avoided public comment entirely.



[Boris Johnson leaves for PMQs \(CC BY-NC-ND 2.0\)](#) by [UK Prime Minister](#).

Number 10 has attempted to repair relations with its backbenchers, with [measures](#) ranging from one-on-one meetings with the Prime Minister to the re-establishment of backbench Conservative policy committees. Johnson has also moved the two senior ministers central to parliamentary relations – the Chief Whip and Leader of the House of Commons, although the former, Mark Spencer, has simply taken the job of the latter, Jacob Rees-Mogg (see page 9).

These strategies may only provide a brief respite. There are a series of flashpoints ahead, with an [ongoing police investigation](#) (see page 9) and Sue Gray’s final report on the alleged breaches, as well as potentially tricky local elections in May. Any of these could spark a further worsening of relations, and even the end of Johnson’s premiership.

Parliamentary committees in conflict with the executive

Several House of Lords committees have criticised the government’s approach to parliamentary scrutiny in recent months. In November, the [Secondary Legislation Scrutiny Committee](#) (SLSC) and [Delegated Powers](#)

[and Regulatory Reform Committee](#) (DPRRC) each published reports on this subject. Both expressed concerns about the government’s use of ‘[skeleton bills](#)’, which set out a broad policy, but leave it up to ministers to fill in the gaps through delegated legislation. The DPRRC emphasised the importance of timely debate on statutory instruments, while the SLSC also pressed the government on the sometimes blurred line between legislation and guidance, and the provision of information to support parliamentary scrutiny. As both committees pointed out, these concerns had become particularly pertinent during the COVID-19 pandemic, but also predated it. Responding to both [the SLSC](#) and the [DPRRC](#), the government promised some minor updates to drafting guidance for officials, but otherwise rejected their recommendations. The Hansard Society is currently conducting an independent review of processes around delegated legislation.

Separately, tensions have emerged between the International Agreements Committee and the government. In its response to the [committee’s report on scrutiny of trade agreements](#), the government appeared to row back on the so-called ‘[Grimstone Rule](#)’ – a commitment given [at the dispatch box](#) on 23 February 2021, during the ping pong stage of the Trade Act – which requires it to facilitate debates on negotiating objectives and treaties if asked to do so by the committee. Committee chair Baroness (Dianne) Hayter has [asked Foreign Secretary Liz Truss](#) to set out in writing the government’s commitments on trade agreement scrutiny.

Parliamentary standards

In the wake of the [Owen Paterson scandal](#), the practice of MPs having additional paid roles attracted a great deal of [criticism](#). Some senior figures, including former Attorney General Geoffrey Cox, came under [particular scrutiny](#), and a number of MPs [have since given up](#) some or all of their additional employment. A successful [government amendment](#) to an opposition day motion in November suggested that any new rules should be based on two principles: that MPs’ work outside parliament should be subject to ‘reasonable limits’; and that MPs should ‘not act as political or parliamentary consultants or advisers’. The Committee on Standards subsequently went further, [suggesting](#) that any employment should be subject to a contractual stipulation against either conducting, or advising on, lobbying.

The Committee on Standards' recommendation formed part of its much wider [review of the MPs' Code of Conduct](#). Initial recommendations were published for consultation on 29 November. In addition to the proposed strengthening of the lobbying ban, the committee recommended new rules aimed at guaranteeing civility in political debate, harmonising the rules for declaration of financial interests (which currently differ for MPs who also serve as ministers), and protecting complainant confidentiality in bullying cases. It also sought views on whether some stages of the process might be delegated to an independent lay panel similar to the Independent Expert Panel that oversees the [Independent Complaints and Grievance Scheme](#).

On 4 March the Committee published [a review of 'fairness and natural justice'](#) in the Commons' standards system, authored by Ernest Ryder, a former judge who once served as Senior President of Tribunals. The review was also prompted by the Paterson debates, and aimed to specifically address claims from backbenchers such as [Bill Cash](#) and [Christopher Chope](#) that the current standards procedure is inconsistent with the principles of natural justice. The review concluded that the system was fair, but also proposed numerous procedural changes. Several of these were called for during the Paterson debates, such as a proposed right of appeal, which was [endorsed by the government](#) in November.

The Committee on Standards will now consider the consultation responses, input from [oral evidence sessions](#) and the Ryder review before producing final proposals, including a revised *Code of Conduct* and *Guide to the Rules for Members*, which will need to be put to the Commons for approval.

Former Speaker found guilty of bullying

An independent panel has concluded that John Bercow was a 'serial bully' who was guilty of numerous acts of misconduct during his time as Speaker of the House of Commons. Complaints were made by several former parliamentary staff members, including [Lord Lisvane \(Robert Rogers\)](#), who served for almost three years as Bercow's most senior official, the Clerk of the Commons. The Parliamentary Commissioner for Standards, Kathryn Stone, upheld 21 separate allegations of bullying and harassment.

The Independent Complaints and Grievance Scheme (ICGS) under which allegations of bullying and harassment are decided affords respondents a right to

appeal to an Independent Expert Panel (IEP). Unlike the Committee on Standards that dealt with the Paterson case (see above) – the IEP does not have MPs among its membership. When Bercow appealed, he claimed the allegations were 'fabricated' and a result of 'collusion'. He also argued – unsuccessfully – that he was not subject to [the ICGS Bullying and Harassment Policy](#).

The IEP published its [report](#) on 9 March. It rejected Bercow's appeals and stated that it would have recommended Bercow's expulsion had he not already left parliament. Bercow [responded](#) that he did not accept the panel's findings, attacked the lack of 'independent' evidence for its decision and called the process 'a stitch up'.

Lords defeats and the constitution

On 17 January the House of Lords subjected the government to [14 defeats](#) on amendments to the [Police, Crime, Sentencing and Courts Bill](#). This was the largest number of Lords defeats in a day since the chamber's 1999 reform by the Blair government. The previous highest number had been 13, all but one relating to the [extraordinary ping pong](#) on the Prevention of Terrorism Bill in 2005, over 'control orders'. Beyond this, the largest number of defeats on any given day had been seven.

In normal circumstances cries of government outrage at such behaviour by peers might have been expected, but it was less the Lords that was breaking with convention here, and more the government. Ministers had sought, at the bill's report stage in the Lords, to introduce [a swathe of new provisions](#), including new criminal offences limiting public protest. Had its amendments been accepted, there would have been little opportunity for MPs to consider them, as the bill had already passed its Commons stages. Several of the defeats were to reject these amendments. Those speaking out against the government included former Conservative Cabinet minister [Lord Deben \(John Gummer\)](#). Ministers had no choice but to accept the defeats, as these had blocked new material being added to the bill, and it is procedurally impossible to add such new material during the ping pong process. Consequently they will hopefully have learnt their lesson.

Dissolution and Calling of Parliament Bill

The [Dissolution and Calling of Parliament Bill](#) has now completed its Lords stages. The bill, which is intended to repeal the [Fixed-term Parliaments Act 2011](#) (FIPA),

had its Lords [second reading](#) on 30 November, followed by detailed scrutiny at [committee](#) and [report](#) stages on 25 January and 9 February respectively. Peers were broadly supportive of the decision to repeal the FTPA, but expressed concerns about several aspects of the bill. Their criticisms particularly focused on the removal of parliament's role in approving early general elections, and on an [ouster clause](#) that sought to exclude judicial oversight of matters relating to dissolution.

The bill was amended just once. Crossbencher and former Lord Chief Justice Lord (Igor) Judge proposed a new clause that retains a (simplified) role for the Commons in approving early general elections. This [would require](#) that the Prime Minister could only request an early dissolution after the Commons had approved a motion that 'this present Parliament will be dissolved'. It was opposed by the government, but [passed by 200 votes to 160](#). Proposed amendments to tackle the ouster clause did not pass, despite former Supreme Court Deputy President Lord (David) Hope [calling the clause](#) 'draconian' and 'without precedent'. The ouster clause would in effect be nullified by Lord Judge's amendment.



Lord (Igor) Judge (CC BY-NC-ND 2.0) by [ukhouseoflords](#).

The bill returned to the Commons just after *Monitor* went to press; it had previously received very limited scrutiny there (see [Monitor 79](#), page 3). MPs will need to consider the merits of Lord Judge's amendment, [as discussed by Tom Fleming and Meg Russell](#) on our blog.

Restoration and Renewal

The House of Commons Commission has sought to reassert its control over the Restoration and Renewal (R&R) programme – the plan for major refurbishment of

the Palace of Westminster. The Commission – which is made up of senior MPs plus three lay representatives and is chaired by the Speaker – is responsible among other things for maintaining the parliamentary estate. It recently [signalled](#) its wish to abolish the previously-established [Parliamentary Works Sponsor Body](#) and move its functions to a 'new, separate department serving both Houses [of Parliament]'. While the [Delivery Authority](#) that the Sponsor Body oversees is expected to remain in place to carry out the refurbishment, the scope of this work seems set to be significantly reduced due to the direction from the Commission that the project should be planned to 'reduce the need for a complete or nearly-complete decant of the Palace'.

A full decant, with both Houses moving out of the Palace and into temporary accommodation, was approved by MPs and peers in 2018, but has been repeatedly questioned by the Commission. It was the Sponsor Body's continued insistence that a complete decant was necessary – most recently in a review discussed by the Commission in January – that appears to have been the spur for its abolition, with then Leader of the House, Jacob Rees-Mogg [claiming](#) that such a decant could take up to 20 years. The House of Lords Commission has also moved away from its previous commitment to a complete decant, [calling](#) for a wider range of delivery options to be considered, and accepting the recommendation to abolish the Sponsor Body. In the meantime, the state of the Palace continues to cause concern, with [reports](#) in February that dozens of parliamentary staff and contractors may have been exposed to asbestos, as part of the fire safety works carried out in the Speaker's Apartments.

'The Benefits of Brexit'

The government has furthered its plans to review retained EU law (see [Monitor 79](#), page 4) with the announcement of a major new '[Brexit Freedoms Bill](#)'. A subsequent policy paper on the '[Benefits of Brexit](#)' confirmed that the government intends to make changes to the process of amending retained EU law, by creating new ministerial powers to do so via statutory instrument. Jacob Rees-Mogg, reshuffled to a newly-created post of Minister for Brexit Opportunities (see page 9), [appealed](#) to the *Sun*'s readership for suggested changes shortly after his appointment in February.

Experts have [expressed concern](#) that the government seems likely to seek broad powers, which would

enable significant policy change with only minimal parliamentary scrutiny. As the Hansard Society and Bingham Centre for the Rule of Law have [pointed out](#), this reflects [long-standing problems](#) with the scrutiny process for delegated legislation.

The House of Commons European Scrutiny Committee is currently conducting an [inquiry](#) into the future of retained EU law, which its chair, Bill Cash, [has said](#) will address the potential mechanisms for its amendment. The inquiry has published a [call for evidence](#): submissions can be sent to the committee [online](#) and the deadline for doing so is 18 April.

UK-EU Parliamentary Partnership Assembly

In early December, parliament agreed to the UK's participation in the [UK-EU Parliamentary Partnership Assembly](#) (PPA) – an interparliamentary forum for the UK and European parliaments to discuss the implementation of the [Trade and Cooperation Agreement](#) (TCA) that sets out the UK-EU post-Brexit relationship. The PPA has no formal decision-making role, but can request information from – and make recommendations to – the [Partnership Council](#), a joint ministerial body that oversees the TCA's operation.

The PPA will consist of a 35-person delegation from each parliament, with parties proportionally represented and the UK delegation split 60/40 between MPs and peers. The composition of the UK delegation was [confirmed](#) in late January: former Justice minister Oliver Heald will serve as Chair, with House of Lords EU Committee chair the Earl of Kinnoull and former Exiting the European Union Committee chair Hilary Benn as its vice-chairs. The PPA is expected to meet twice a year.

Elections, referendums and democratic engagement



Legislation on elections

As reported in [Monitor 79](#) (pages 6–7), the government's [Elections Bill](#) seeks to change many aspects of electoral law throughout the UK. It passed its final stages in the House of Commons in January without substantive amendments, but looks set to receive more searching scrutiny in the Lords, which was part way through committee stage as *Monitor* went to press.

The bill easily progressed through the lower house despite a [highly critical report](#) by the Commons Public Administration and Constitutional Affairs Committee (PACAC). On the bill's provision to require voters at polling stations in Great Britain to show ID, the committee expressed its concern that the evidence justifying the change 'simply is not good enough'. It said that the proposal should not go further until additional research has been conducted into its potential impact on vulnerable groups. The committee also noted widespread concerns about the measures in the bill requiring the Electoral Commission to follow a 'strategy and policy statement' written by ministers. It found that 'the Government has not provided sufficient evidence to justify why the proposed measures are both necessary and proportionate'. It accordingly proposed that the measures be removed from the bill pending a formal public consultation and the conclusion of the committee's own forthcoming report on the Electoral Commission. In addition, the committee criticised how

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the government had introduced the bill. It said that the proposals should have been published in draft and subjected to pre-legislative scrutiny by a joint committee. It expressed particular concern that the government had introduced a major new dimension to the bill – the replacement of the current [Supplementary Vote](#) system for mayoral and police and crime commissioner elections with First Past the Post – after the bill’s second reading. It suggested that this ‘was unsatisfactory and disrespectful towards the House of Commons’.



[Kemi Badenoch, the minister responsible for the Elections Bill](#)
by Chris McAndrew (CC BY 3.0).

Despite all of this, an amendment to remove the voter ID provision from the bill at report stage [was backed](#) by only two Conservatives: PACAC Chair William Wragg; and former Cabinet minister David Davis. The provisions relating to Electoral Commission governance were not separately voted on.

Following the bill’s Commons passage, and before Lords scrutiny began, all but one of the Electoral Commissioners [wrote to ministers](#) urging them to think again on the matter of the Commission’s governance. They said the strategy and policy statement would be ‘inconsistent with the role that an independent electoral commission plays in a healthy democracy’, adding, ‘This independence is fundamental to maintaining confidence and legitimacy in our electoral system.’

The Commission’s Conservative-nominated member, Lord (Stephen) Gilbert, did not sign the letter, but that, the letter said, was ‘because the House of Lords where he sits is now considering this legislation’.

The bill’s [Lords second reading](#) took place on 23 February. Almost all of the speakers who referred to the provision on Electoral Commission independence opposed it. Crossbencher and former Lord Chief Justice Lord (Igor) Judge described it as ‘chilling’, and said, ‘surely we understand the constitutional necessity, in a democracy based on universal suffrage, that there should be an independent Electoral Commission’. Many members referred to the PACAC report and the Electoral Commissioners’ letter. Only two Conservative backbenchers – Lords (Patrick) Cormack and (Richard) Balfe – contributed on this point, but both said the provision needed to change. Cormack – a parliamentarian for over 50 years – commented that he had ‘never seen such chilling words in any Bill from any Government of any party’. Only one backbencher – the non-affiliated Baroness (Claire) Fox – spoke for the measure. Opposition and Crossbench peers also raised concerns about many other aspects of the bill, so a raft of amendments seem likely to follow.

Meanwhile, a bill to disqualify people convicted of sex offences from standing for election or holding office as local councillors or mayors in England completed its passage through the Commons and moved to the Lords. The [Local Government \(Disqualification\) Bill](#) is a private member’s bill, but has government support. It is therefore likely to reach the statute book.

Reports on the draft Online Safety Bill

Two parliamentary committees have produced weighty reports on the government’s draft Online Safety Bill: a joint committee established to provide pre-legislative scrutiny of the bill [reported](#) in December; and the departmental select committee with responsibility in the area – the Digital, Culture, Media, and Sport (DCMS) Committee – [reported](#) in January. The report of the Joint Committee on the Draft Online Safety Bill was summarised in a [post on the Unit’s blog](#) by its chair, Conservative MP Damian Collins. Both reports have also been reviewed on our blog ([here](#) and [here](#)), by Alex Walker.

Both committees expressed concern over the powers that the draft bill would confer on ministers. They said that proposed powers that could undermine the independence of the regulator, Ofcom, should be removed, that additional matters should be specified in the bill rather than left to secondary legislation, and that parliamentary scrutiny should be tightened.

They disagreed on some of the mechanisms for such scrutiny, however: the Joint Committee proposed a new, permanent Joint Committee on Digital Regulation; but the DCMS Committee opposed this as a duplication of its own 'constitutional role'.

Both committees also criticised the weakness of the draft bill's measures against disinformation and other related harms to democracy. The Joint Committee proposed a range of measures to tackle disinformation and misinformation. It added, 'Disinformation and misinformation surrounding elections are a risk to democracy. Disinformation which aims to disrupt elections must be addressed by legislation' – either the Online Safety Bill or the current Elections Bill. The DCMS Committee, meanwhile, said that the definition of harmful content should 'explicitly account for any intention of electoral interference and voter suppression'. Both committees urged better protections for legitimate speech in the democratic sphere.

The government had not yet responded formally to either report when *Monitor* went to press. But it has committed to strengthening the bill in several respects from the draft – including [tighter rules on illegal content](#). The timetable for bringing the final bill forward is not yet known.

Boundary reviews

The review of constituency boundaries for elections to the House of Commons has moved to its secondary consultation period. Responses to the four Boundary Commissions' initial proposals have been published. The secondary consultation period gives individuals and organisations an opportunity to comment on those responses – either in writing or at public hearings – before the Commissions decide whether to amend their proposals.

The number of responses during the primary consultation period varied widely across the four parts of the UK: 34,204 in England, 1105 in [Scotland](#), 1211 in [Wales](#), and just 31 in [Northern Ireland](#). The Boundary Commission for Wales [commented](#) that the number of submissions it had received was a record. The differences partly reflected the extent of the changes proposed in each area: those in Wales are particularly wide-ranging, with the number of seats there falling from 40 to 32. The reasons for the high response in England were less obvious.

The secondary consultations will close in late March and early April. The Boundary Commissions will then produce revised proposals later this year, and final proposals by 1 July 2023.

Developments in deliberative democracy

A significant innovation in deliberative democracy practice took place in February, when [Scotland's Climate Assembly](#) reconvened eight months after publishing its final report to review the Scottish government's response to its findings. Previous citizens' assemblies have generally disbanded after reporting, leading to an absence of any institutional impetus to encourage further discussion of the conclusions. Given that governments expend substantial resources in running these assemblies, and assembly members invest great time and effort, this is clearly unsatisfactory.

During its extra weekend, Scotland's Climate Assembly heard from Patrick Harvie, Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights, and Richard Lochhead, Minister for Just Transition, Employment and Fair Work. It deliberated, and produced a [Statement of Response](#). This said, 'we commend the Scottish Parliament for establishing the Assembly and the Scottish Government for providing a considered response'; but it added, 'Members of the Assembly overall are disappointed with the Government's response to many areas of our recommendations, as it does not appear to recognise the urgency behind the Assembly's recommendations for action.' It said, 'Government needs to think less about what they can't do and instead demonstrate a positive attitude, thinking hard about how they can make things happen'. The statement was [debated in the Scottish Parliament](#) on 1 March. All sides praised the work of the Assembly, and opposition MSPs pressed ministers to meet the scale of ambition that it had urged.

Meanwhile, work within the Scottish government on implementing its commitment to regularising the use of citizens' assemblies and other deliberative processes has continued. Beyond Scotland, the Unit's own [Citizens' Assembly on Democracy in the UK](#) concluded in December, with [partial results](#) published in January. Its full report is due out later in the spring (see pages 17–18).



‘Partygate’ prompts changes at Number 10 and Cabinet Office

On 30 November the *Daily Mirror* [reported](#) that there had been parties at Number 10 in the run up to Christmas 2020, a period when the rest of the country was in lockdown.

Downing Street initially denied that any party had taken place, but in the following weeks stories of similar events emerged: [in the Prime Minister’s flat](#), [in the Cabinet room](#) on the Prime Minister’s birthday, and [in the garden of Number 10](#). The Prime Minister’s official spokesperson Allegra Stratton [resigned](#) on 8 December after appearing to joke about the matter at a mock press conference.

Cabinet Secretary Simon Case was initially tasked with leading an investigation, but quickly [stepped aside](#) after it was reported that one of the events took place in his office. Sue Gray, second Permanent Secretary at the Department for Levelling Up and a former Director General of Propriety and Ethics in the Cabinet Office, took over the investigation. Days before she was due to report, the Metropolitan Police [announced](#) that it was launching its own inquiry. Gray therefore delayed publishing her findings in full, instead producing an [interim report](#) on 31 January. It stated that there had been 16 ‘gatherings’, of which 12 reached the threshold for criminal investigation. She criticised failures of leadership at Number 10 and the Cabinet Office. During a subsequent [statement](#) in the Commons, Boris Johnson announced his commitment to ‘learn lessons’ and revamp the machinery of central government by creating [a new Office of the Prime Minister](#). Not all Tory MPs were satisfied: former Prime Minister Theresa May [said](#) that, ‘Either the Prime Minister hadn’t read the rules, didn’t understand them or didn’t think they applied to him’, and others [openly withdrew their support](#).

On 3 February the Downing Street Chief of Staff, Principal Private Secretary, Director of Communications and Director of the Policy Unit [all resigned](#). Steve Barclay took over as Chief of Staff and will do the job in conjunction with his duties as Chancellor of the Duchy of Lancaster – [an unusual arrangement](#). On 9 February former NHS Chief Executive Samantha Jones was [appointed](#) Permanent Secretary and Chief Operating

Officer at Number 10, charged with establishing the new Office of the Prime Minister.



[New Number 10 Permanent Secretary and Chief Operating Officer Samantha Jones \(CC BY-NC-ND 2.0\) by UK Prime Minister.](#)

Barclay’s new role prompted a small [reshuffle](#), during which Chief Whip Mark Spencer was moved to become Leader of the House of Commons, and replaced by Chris Heaton-Harris, who moved to his third ministerial job in as many months. In the Cabinet Office, Michael Ellis – promoted to Minister of State level – and Heather Wheeler – who doubles as a whip – are expected to take on some of Barclay’s responsibilities. They will be joined by former Commons Leader Jacob Rees-Mogg, [appointed](#) to the new role of Minister for Brexit Opportunities and Government Efficiency. [Rees-Mogg](#) and [Barclay](#) have both spoken since the reshuffle of the need for measures to reduce the size of the state, including a smaller civil service and a reduction in the number of quangos.

Judicial review of COVID-19 contracts prompts resignation

In January the High Court [ruled](#) that the government’s use of a ‘VIP lane’ to award COVID-19 contracts for personal protective equipment (PPE) to two companies was unlawful. However, the judgment also said that being fast-tracked onto the high priority lane did not confer any advantage at the decision-making stage of the process: both of the companies’ offers justified priority treatment on their merits, and both firms were very likely to have been awarded contracts without it.

Two weeks later, Lord (Theodore) Agnew, Minister for Efficiency at the Cabinet Office, [resigned](#) while

answering a Private Notice Question (equivalent to a Commons Urgent Question) in the House of Lords. He said that he felt unable to defend the ‘desperately inadequate’ anti-fraud measures protecting the COVID-19 business loan schemes. The National Audit Office [estimated](#) that the schemes lost £4.9 billion as a consequence and Agnew told peers that the Treasury appeared ‘to have no knowledge of, or little interest in, the consequences of fraud to our economy or society’.

On 3 March, Agnew [gave evidence](#) to the Lords Fraud Act 2006 and Digital Fraud Committee. He said that he had spent a lot of time attempting to ‘generate more interest and concern’ within government, and partially attributed his lack of success to the ‘siloeing’ of departments and a lack of ‘join up’. He recommended that a ‘higher-profile’ minister should be responsible for counter-fraud and that a new government ‘unit’ should be created that can hold different parts of the government to account.

Electoral Commission report on Downing Street flat

On 9 December the Electoral Commission [published](#) the conclusion of its investigation into payments for the refurbishment of the Prime Minister’s Downing Street flat. It found that the Conservative Party had failed to accurately report a donation of £52,801.72 from a company of which party donor Lord (David) Brownlow is a director. The donation had been used to pay for some of the refurbishment. The Commission fined the party £17,800.

Lord (Christopher) Geidt, the Independent Adviser on Ministers’ Interests, had earlier conducted an inquiry into the refurbishment of the flat, and concluded that the Prime Minister had not broken the Ministerial Code, but [had acted ‘unwisely’](#) by not being more rigorous in finding out who funded the refurbishment work.

In January an [exchange of letters](#) was published in which Lord Geidt complained about not having been shown a series of WhatsApp messages between Johnson and Lord Brownlow, which had later emerged as part of the Electoral Commission’s investigation. Geidt said that the messages did not alter his fundamental conclusions, but added that it was ‘plainly unsatisfactory’ that he had not received all the relevant information. This will add to the pressure on the government to accept the [recommendations](#) of the Committee on Standards in Public Life to strengthen the position of the Independent Adviser, including giving his office a statutory foundation.

Ministerial Code judicial review

The decision of former Home Office Permanent Secretary Philip Rutnam to [settle his Employment Tribunal claim](#) in March 2021 (see [Monitor 77](#), page 13), after [resigning from the Civil Service](#) in February 2020 due to the alleged bullying of staff by Home Secretary Priti Patel (see [Monitor 74](#), page 12), did not end the legal wrangling over her behaviour. In February 2021, the FDA union, which represents civil servants, had [applied for judicial review](#) of the Prime Minister’s [finding](#) that Patel had not breached the Ministerial Code, despite [independent advice](#) that she had engaged in ‘behaviour that could be described as bullying’.

The High Court announced its [decision](#) on 6 December. Having found the question to be justiciable – despite the government’s arguments to the contrary – it dismissed the claim on the merits, essentially because it did not accept the FDA’s assertion that Johnson’s decision depended on his belief that Patel had intended no harm. The court found that the Prime Minister had taken into account the full context of her actions and his decision was based on multiple factors. But the judge also said that the Prime Minister’s status as ‘arbiter of the Code’ did not mean that he was permitted to ‘give any interpretation he chooses’ to its wording. Combined with the justiciability finding, this raises the prospect of similar legal challenges to future ministerial conduct findings.

New First Civil Service Commissioner

Baroness (Gisela) Stuart has been [appointed](#) to the role of First Civil Service Commissioner, following the retirement of Ian Watmore in September. A former Labour MP and chair of the Vote Leave campaign in the Brexit referendum, she now sits as a non-affiliated peer in the House of Lords. She is the first former politician to be appointed to head the Civil Service Commission, and at her [pre-appointment hearing](#) with the Commons Public Administration and Constitutional Affairs Committee on 3 February, she said that, while the First Civil Service Commissioner should be someone who understood the civil service, ‘it’s increasingly felt they probably shouldn’t be someone who comes from the civil service’. PACAC [endorsed](#) her appointment with reservations about ‘her suitability for the role and, in particular, her perceived impartiality’. Her appointment was confirmed on 3 March and she will take over from Rosie Glazebrook, a fellow Commissioner who had been carrying out the First Commissioner’s duties on an interim basis.

Monarchy, church and state



The Royal Family and the law

On 13 January, the anti-monarchy group Republic released [a letter](#) signed by more than 150 former members of the Armed Forces asking the Queen to strip Prince Andrew of his eight British military titles. The reason given was his conduct in relation to [the civil case](#) filed by Virginia Giuffre, who alleged she had been forced into sexual encounters with him. The same day, Buckingham Palace [announced](#) that ‘the Duke of York’s military affiliations and Royal patronages have been returned to the Queen’ and he will no longer use the title ‘His Royal Highness’.

A month later, Prince Andrew settled the claim against him [for an undisclosed sum](#). He made no admission of guilt, which is a standard condition of such settlements. It is [incredibly unlikely](#) that he will ever return as a working royal.

The Metropolitan Police has launched [an investigation](#) following allegations that the Prince’s Foundation, of which Prince Charles is president, offered help in securing a knighthood for one of its donors, Mahfouz bin Mahfouz. The charity’s Chief Executive, Michael Fawcett, [resigned](#) in November following an independent investigation by auditors Ernst and Young into its fundraising practices. The police investigation will focus on allegations of offences under the [Honours \(Prevention of Abuses\) Act 1925](#), which renders the sale of honours unlawful. Mahfouz was awarded an honorary CBE at a private investiture following donations to Dumfries House, which is part of the Prince’s Foundation. These events prompted the Charity Commission to [open a statutory inquiry](#) into the Burke’s Peerage Foundation, due to its links to the Mahfouz Foundation, which the Commission has been [investigating](#) since November. Children and the Arts, which has Prince Charles as a patron, [referred itself](#) to the same regulator back in September.

Prince Harry [applied for judicial review](#) of a Home Office decision to deny him police protection when he visits the UK, despite his commitment to pay for the costs of such a service himself. The Duke of Sussex says his private security team cannot replicate the work of the police, given the latter’s legal authority and access to local intelligence. He lost his taxpayer-funded police security after he [stepped back from royal duties](#) in 2020.

Courts and the judiciary



The Independent Human Rights Act Review

The [Independent Human Rights Act Review](#) (IHRAR), chaired by former Court of Appeal judge Peter Gross, was published by the government on 7 December. A week later, on 14 December, Lord Chancellor Dominic Raab confirmed during [a Commons debate on the report](#) that the government had commenced [a consultation](#) on a proposed package of ‘reforms’ to the human rights framework of the UK.



[Lord Chancellor Dominic Raab](#) (CC BY-NC-ND 2.0) by UK Government.

As happened with the Independent Review of Administrative Law (see [Monitor 79](#), page 12), the terms of the consultation led to [criticism](#) that the government had established a panel only to depart significantly from its recommendations in key areas. Some of the items in the consultation relate to areas not even considered by IHRAR because they were outside of the narrow terms of reference drafted by the government. Gross [told the Commons Justice Committee](#) on 1 February that he does not consider the consultation to be a response to his report.

A ‘Modern Bill of Rights’ is proposed, via which the government seeks to ‘restore a proper balance between the rights of individuals, personal responsibility and the wider public interest’. IHRAR did not recommend this, or anything on this scale. Its report proposed minor technical changes to [the Human Rights Act](#) – which incorporated the European Convention on Human Rights (ECHR) into UK law – and firmly rejected calls for its abolition, or the repeal of any of its key provisions.

It is envisaged that the new bill will include rights not explicitly protected by the ECHR, such as a right to trial by jury. The government has also said it wants to strengthen the existing right to freedom of expression, and create statutory guidance as to how it should be balanced against competing rights, such as the right to privacy.

The consultation was set to end as *Monitor* was going to press, but was extended until mid-April following [pressure from civil society groups](#), due to the late publication of accessible versions of the consultation documents.

The consultation may not be over, but the direction of travel seems clear: the government aspires to major changes to the UK's human rights framework.

Judicial Review and Courts Bill

The [Judicial Review and Courts Bill](#) has moved swiftly through parliament since the last issue of *Monitor*. Two particular areas of reform have proved controversial: the decision to abolish *Cart* judicial reviews and the extent to which the government has sought to remove or limit judicial discretion regarding quashing orders.

The abolition of *Cart* reviews would reverse [a 2011 Supreme Court decision](#) and prevent the High Court from exercising supervisory jurisdiction over the UK tribunal system. This raises questions about the government's commitment to the rule of law. A [quashing order](#) nullifies the decision of a public body where it has acted outside its legal powers or in breach of natural justice. The bill requires that such an order be suspended so that the relevant body has time to prepare for its impact, take the opportunity to modify its initial decision in a way that is compatible with the law, or so that the government can pass legislation to retrospectively legitimise the action the court wishes to quash. The latter option led to [expressions of concern](#) about the potential impact on the rule of law.

Both policies were criticised in a [report](#) by parliament's Joint Committee on Human Rights. It suggested that the bill's presumption in favour of suspended or prospective remedies would be inconsistent with the right to an effective remedy under [Article 13](#) of the European Convention on Human Rights and warned that the government's use of an ouster clause for *Cart* reviews – and its broader view that judicial oversight of government should be restricted – was a legitimate

cause of concern. [Lawyers](#), [academics](#) and [human rights groups](#) have expressed similar reservations.

The bill completed its Commons stages in January without any parliamentary turbulence. At [committee stage](#) in the Lords on 21 February, Crossbencher Lord (David) Pannick sought to amend the bill to prevent courts from overturning decisions retrospectively, and Labour's shadow minister Lord (Frederick) Ponsonby tabled an amendment to preserve *Cart* reviews. Both were withdrawn without a vote, but at the time of going to press the bill's report stage – where amendments are more often made – was still awaited.

Nations and regions



The Union and intergovernmental relations

The conclusions of a long-running review of intergovernmental relations (IGR), [initiated](#) in 2018 and conducted jointly by the UK and devolved governments, was [published](#) on 13 January. Its conclusions constitute a [substantial set of reforms](#). A large increase in the volume of meetings between ministers from the four administrations in the UK is envisaged. The previous Joint Ministerial Committee (JMC) would be replaced by a new system of 'Councils'. At the highest level will be the Prime Minister and the Heads of Government Council. Below that would be an 'Interministerial Standing Committee', to be attended by ministers with responsibility for IGR. At the bottom of the pyramid, numerous sectoral forums would regularise meetings of ministers from each administration with equivalent policy responsibilities.

The UK government's control of meetings and processes would be reduced – an important pre-condition for a system that will rely on buy-in from ministers in Belfast, Cardiff and Edinburgh. Whereas the JMC was [explicitly](#) 'not a decision-making body', intergovernmental decisions can in future be made by consensus. The report also signals that IGR processes will be used for substantive purposes, such as responding to major policy challenges like pandemic recovery, tackling the climate crisis and delivering sustainable growth. A more detailed [analysis of the conclusions](#), by Professor Michael Kenny – a Constitution Unit Fellow – and Jack Sheldon, can be found on the Unit's blog.

External commentary cautioned that, while the review provided for significantly improved arrangements on paper, the changes were necessary but insufficient for ensuring the effective and meaningful operation of IGR. In a [report](#) which strongly advocated ‘greater joint working’ between governments, the House of Lords Constitution Committee concluded that the review ‘appears to have addressed many of the defects in the previous structure’. However, it also argued that the success of the new arrangements would depend on whether the governments are ‘committed to using the new structures to cooperate on achieving shared objectives, rather than simply managing – or taking opportunities to accentuate – their differences’. Constitution Unit Fellow Professor Nicola McEwen similarly [stressed](#) that ‘the proof will be in the practice’.

One indication of continuing intergovernmental tension was the UK government’s announcement of legislation to revise the process for amending retained EU law (see pages 5–6), which was greeted by [familiar complaints](#) about a lack of consultation. The devolved administrations offered a more mixed response to November’s [Union Connectivity Review](#) of transport infrastructure. It was [criticised](#) by Scottish First Minister Nicola Sturgeon as ‘a power grab’, because transport in Scotland is a devolved policy area. The Welsh government was [positive, but cautious](#). Ministers from different parties in the Northern Ireland Executive [appeared split](#) on this latest display of ‘[muscular unionism](#)’.

More positively, there has been [progress](#) over recent months towards agreeing UK-wide ‘common frameworks’ in areas of devolved competence that were previously subject to EU regimes. Provisional agreement has now been reached on 29 [frameworks](#), covering subjects such as food labelling and public health protection. These are now undergoing parliamentary scrutiny. The frameworks that have been published show how – and in what areas – joint decisions could be taken, and present arrangements for amendment. Their significance will become clearer if and when policy changes are proposed in the areas they cover.

England

The [Levelling Up white paper](#) was published on 2 February. It contained substantial detail about the government’s plans for devolution in England, including a ‘devolution framework’ that was first mooted in 2017.

The devolution framework includes three ‘levels’ of devolved powers. Level 1 constitutes informal joint working between authorities; Level 2 is a single institution without an elected mayorality; and Level 3 is a single institution with a directly-elected mayor. Level 3 bodies would be able to access the broadest range of powers, including raising money from council tax and business rates, police and crime responsibilities, and public health duties.

The government intends to negotiate ‘[county deals](#)’ – bespoke agreements with local authorities in ‘non-metropolitan’ areas – with the county and unitary authorities in nine areas, some of which could be finalised by the autumn of this year. Additionally, a mayoral deal will be negotiated with [York and North Yorkshire](#), an ‘expanded deal’ will be sought in [the North East](#), and new ‘trailblazer’ deals, to act as blueprints for elsewhere, will be negotiated with [Greater Manchester](#) and [the West Midlands](#).

Alongside the devolution deals, the white paper acknowledged previous problems for local government caused by centralisation, government departments being too insular, and the overheads involved in local government bidding for money from multiple sources. Despite this, it announced multiple new policies and funds. A strategy to streamline funding sources is to be produced later in 2022. A new independent body is to be established to publish comparable data across the whole of the UK, allowing the government, local authorities and the public to compare performance and indicators, and to facilitate evaluation.



[Secretary of State for Levelling Up Michael Gove and Mayor of Greater Manchester Andy Burnham \(CC BY-NC-ND 2.0\) by UK Government.](#)

Northern Ireland

On 3 February the Democratic Unionist Party (DUP) acted on its long-standing [threat to withdraw](#) from the Northern Ireland Executive in protest against the [Northern Ireland Protocol](#) (see opposite for more details).

The DUP First Minister, Paul Givan, stepped down, which by law also removed Michelle O'Neill of Sinn Féin as deputy First Minister. Other ministers – regardless of their party affiliation – remain in post. Without the First Minister and deputy, however, there can be no Executive meetings to approve contentious or crosscutting measures, leaving ministers with limited freedom of action. Finance Minister Conor Murphy [warned of money that cannot be spent](#) in the absence of an agreed budget, amid acute difficulties in the NHS and other public services. The DUP's [boycott](#) of the Belfast/Good Friday Agreement's North–South institutions, begun last year, will no doubt continue – despite the [High Court again ruling it illegal](#), but ultimately beyond legal remedy. The other main parties all criticised Givan's resignation, [including the Ulster Unionist Party](#), which feared it was ultimately contrary to unionist interests.

There is no doubt an element of election tactics in the DUP's actions and timing: [recent polling](#) shows it unlikely to be the largest party after the upcoming Assembly elections, losing a large proportion of its earlier vote, although that decline was less severe than in [other recent polls](#).

Assembly elections will proceed on 5 May as scheduled. Thereafter, under recent [Westminster legislation](#), negotiations to restore the Executive may go on for up to 24 weeks, after which further elections must be called. It may be particularly difficult to put together a functioning Executive. Differences over the Protocol are one factor; but another is that for the first time a unionist party is unlikely to be the largest in the Assembly, and will therefore lack the right to nominate the First Minister – instead appointing the deputy First Minister. The two posts' powers are entirely joint and equal, but the DUP has long played up the importance of a unionist First Minister: if it is the largest unionist party, retreat will be difficult.

A further complication is that, given their differences, especially over the Protocol (see below), the British and Irish governments may find it hard to continue to work together as honest brokers. Northern Ireland Secretary Brandon Lewis has [questioned](#) whether devolution can function post-election without a change in the DUP's

position on the Protocol. The answer may not be known until much later in the year, but there is a widespread sense that, if devolution cannot now be restored, getting it back at any time in the near future will be very hard. London's role [will be critical](#).

Northern Ireland Protocol

Since it was negotiated in 2019, the [Protocol on Ireland/Northern Ireland](#) that forms part of the [EU–UK Withdrawal Agreement](#) has been [vigorously opposed](#) by many unionists on the grounds that it undermines the Union. Along with the UK government, they have also said that it is unsustainable in its current form, given the barriers to trade that it has created in the Irish Sea. On this basis, the DUP has always opposed Boris Johnson's Brexit deal, but clearly he and his Conservative colleagues supported it. Since September 2021, the UK government has delayed the implementation of aspects of the Protocol [indefinitely](#).

No retaliatory steps have been taken by the EU. It has agreed to consider solutions: in recent months there have been a series of [proposals](#) from both sides which would significantly reduce the need for checks on many goods, including medicines. Formal negotiations began in October and have focused on the scope of the proposed changes and the role of the European Court of Justice (ECJ). Much [remains unresolved](#). In December, the UK chief negotiator Lord (David) Frost [resigned from the government](#) over issues largely unconnected with his role. Foreign Secretary Liz Truss now leads the UK delegation, with minister James Cleverly serving as her deputy.

The dispute has had a profound impact on Northern Ireland's internal politics (see opposite). The January decision of DUP Agriculture Minister Edwin Poots to order a suspension of Protocol checks at ports in Northern Ireland appears to have been ignored by officials on the grounds that he lacks the authority to override an international treaty. The UK government [pledged not to intervene](#), on the basis that it believes the matter to be for the Executive to decide. The order [has since been suspended](#) by the High Court, pending judicial review. As indicated above, the Protocol was the direct cause of the First Minister's resignation in February, and the political crisis over its operation is likely to dominate both the Assembly elections in May and the subsequent negotiations on forming an Executive.

The EU and the Irish government continue to express disappointment at the conduct of the UK government and have strongly implied that it negotiated the Protocol in bad faith. However, both sides have [indicated](#) that progress is being made and that an accommodation that protects the EU single market, while reducing barriers to trade between Northern Ireland and Great Britain, [is possible](#).

Scotland

Debates over Scotland's constitutional future have been somewhat sidelined since 2020 by the need for the Scottish and UK governments to respond to the COVID-19 pandemic. However, now that the Scottish government has announced that all legal restrictions [will end on 21 March](#), the constitutional questions are likely to return to the fore.

A referendum pledge was present in both the [SNP's 2021 Scottish Parliament manifesto](#) and its [programme for government](#). In November, First Minister Nicola Sturgeon [reassured her party](#) that a referendum would take place by the end of 2023, provided the COVID-19 situation allowed it. However, the UK government maintains its opposition to a referendum, and the way through this impasse is not yet clear. The Scottish Parliament may yet pass legislation enabling a referendum, inviting a legal challenge by London, although any resolution of the independence question is [likely to be political rather than legal](#). [Polling in recent months](#) indicates that Scotland remains divided on the independence question.



Presiding Officer Alison Johnstone ([Open Scottish Parliament Licence V.2](#)).

Meanwhile, Alison Johnstone, Holyrood's Presiding Officer, has launched an [audit](#) to examine the barriers women face when entering and engaging in electoral

politics. The 2021 election saw the return of the most diverse class of MSPs, but several women stood down as members ahead of the poll, [citing concerns](#) about balancing the demands of political life and caring responsibilities. The audit board will be made up of MSPs from several parties, who will serve alongside leading academics. The audit will examine both progress to date and next steps to improve the parliament's inclusivity, in terms of both its composition and its internal workings. Proxy voting is not currently possible in the Scottish Parliament, and it is not clear whether the provisions allowing for remote participation in proceedings, introduced in response to the pandemic, will be retained.

The relationship between the SNP and the Greens has come under strain after the Scottish and UK governments signed a deal to introduce two low-tax, low-regulation freeports in Scotland. The Greens have been [critical of freeports](#), arguing that they facilitate tax avoidance and fail to deliver a return on investment. Freeports were included in the issues explicitly excluded from the cooperation agreement signed by the two parties in the autumn (see [Monitor 79](#), page 15), suggesting conflict over the issue was foreseen.

There have also been cross-border tensions within the Conservative Party over the 'partygate' allegations (see page 9). Douglas Ross was [branded a 'lightweight'](#) by then Leader of the Commons Jacob Rees-Mogg, after the leader of the Scottish Conservatives [called on Boris Johnson to resign](#). Several senior MSPs, such as his predecessor Jackson Carlaw, [expressed support](#) for Ross, as did former leader [Baroness \(Ruth\) Davidson](#). Scotland Secretary Alister Jack did his best to smooth things over: he [called Ross 'a very serious politician'](#), before stating he was '110%' supportive of the Prime Minister. Ross later [withdrew](#) his letter of no confidence due to the international crisis provoked by the Russian invasion of Ukraine.

Wales

The Welsh Labour government and Plaid Cymru announced the full details of their [Co-operation Agreement](#) on 1 December. Under the terms of the deal, Plaid Cymru will remain outside government, but will work alongside the Welsh Labour government to deliver an agreed policy programme. This sets the tone for how Wales will be governed for the next three years.

Support by the two parties for Senedd reform is reaffirmed by the document. While a cross-party special

purpose committee had already been created, the deal states both parties' support for an enlarged Senedd of between 80 and 100 members (compared to 60 at present), a voting system that retains at least the current level of proportionality, and gender quotas set by law.

The agreement has created a [unique parliamentary dynamic](#) in the Senedd, the implications of which are currently being considered by the Llywydd/Presiding Officer, Elin Jones. Legally, Plaid Cymru retains its status as a party outside government, [termed 'co-opposition' by party leader Adam Price](#). Yet it, was allocated special advisers, and has 'quasi-ministers' called Designated Members who will collaborate with the government on delivering the agreement. The Llywydd has [said](#) that she is considering how Price and Plaid's Designated Members can be scrutinised by opposition members, raising the prospect of them facing Senedd questions from backbenchers.

Interestingly, the Co-operation Agreement also contains proposals on media reform. While broadcasting is a matter reserved to the UK parliament, the Welsh government has funded independent media outlets in Wales in both English and Welsh. The deal commits the government to exploring the creation of a Shadow Welsh Broadcasting Authority, which will coordinate and support a comprehensive Welsh media policy.

[The Independent Commission on the Constitutional Future of Wales](#) has begun its work, and is mentioned in the Co-operation Agreement. Labour and Plaid retain the right to make independent submissions to the Commission, but its interim and final reports will be presented jointly to the two parties, leaving open the prospect of some kind of combined push for UK reform. The Commission, which is co-chaired by Professor Laura McAllister and former Archbishop of Wales (and of Canterbury) Rowan Williams, has been quietly establishing its operating model, with [a lineup of nine commissioners](#) announced in November. The names have been well received in Welsh political circles, striking a clever balance between recent political heavyweights and respected behind-the-scenes names such as Philip Rycroft, former Permanent Secretary at the Department for Exiting the European Union.

As noted in [Monitor 79](#) (page 16), the Welsh Cabinet Sub-Committee on Justice has reconvened, and [newly published minutes](#) reveal the intention to publish a Welsh Justice Plan, 'outlining current and planned justice-related activity across the Welsh Government'.

The Senedd [debated](#) the Legislative Consent Motion on the UK's [Police, Crime, Sentencing and Courts Bill](#) on 18 January, rejecting aspects of the legislation on criminal damage arising from protests and trespassing. The debate allowed space for the range of positions on criminal justice that exist across the Senedd to be aired, perhaps as a precursor to a refocus on Welsh distinctiveness in this policy area during 2022.

People on the move

The 'partygate' revelations of the past few months (see page 9) have led to several changes at Number 10. **Dan Rosenfield** resigned as Chief of Staff. **Steve Barclay** is his replacement and will continue to also serve as Chancellor of the Duchy of Lancaster. Paymaster-General **Michael Ellis** has, however, taken on the additional role of Minister for the Cabinet Office, a title previously held by Barclay.

Peter Wilson was appointed as Principal Private Secretary to the Prime Minister as of 14 March. Predecessor **Martin Reynolds** has moved to a role at the Foreign, Commonwealth and Development Office.

Samantha Jones was appointed as interim Permanent Secretary and Chief Operating Officer at Number 10.

Munira Mirza resigned as Director of Policy; MP **Andrew Griffith** was made a minister at the Cabinet Office and will take over as head of the Policy Unit. **Guto Harri** replaced **Jack Doyle** as Director of Communications.

Lord (David) Frost resigned from the government in December. Foreign Secretary **Liz Truss** replaced him as the government's lead Brexit negotiator. **Chris Heaton-Harris** was appointed as Minister for Europe, and deputy to Liz Truss in terms of EU negotiations, only to be redeployed in February to the role of Chief Whip. His predecessor **Mark Spencer** is now Leader of the House of Commons, replacing **Jacob Rees-Mogg**, who was given a newly created role of Minister of State for Brexit Opportunities and Government Efficiency. **Lord (Theodore) Agnew** resigned from the Cabinet Office in January (see pages 9–10); his former duties have been divided between several ministers.

Lord (Jonathan) Caine was appointed as a Parliamentary Under-Secretary of State at the Northern Ireland Office in November. He also replaced **Viscount Younger of Leckie** as the government's Northern Ireland spokesperson in the Lords.

Keir Starmer reshuffled his Shadow Cabinet in December. **Lisa Nandy** now shadows the Department for Levelling Up, Housing and Communities, a role that had previously been split between **Lucy Powell** and **Steve Reed**. Powell is now shadowing the Department for Digital, Culture, Media and Sport, and her predecessor **Jo Stevens** replaced **Nia Griffith** as Shadow Wales Secretary. **Lucy Haigh** is Shadow Transport Secretary; **Peter Kyle** was promoted to the Shadow Cabinet to replace her as Shadow Northern Ireland Secretary.

Yvette Cooper returned to the frontbench as Shadow Home Secretary, creating a vacancy as chair of the Commons Home Affairs Committee. **Diana Johnson** was elected to that role. **Steve Reed** was promoted to Shadow Justice Secretary after **David Lammy** was named Lisa Nandy's successor as Shadow Foreign Secretary. **Emily Thornberry** took over from **Lord (Charlie) Falconer** as Shadow Attorney General.

Cat Smith resigned from the Shadow Cabinet during the reshuffle and her role of Shadow Secretary of State for Young People and Democracy lapsed with her departure.

Oliver Heald has been named chair of the UK Delegation to the UK-EU Parliamentary Partnership Assembly. **Hilary Benn** and the **Earl of Kinnoull** will serve as vice-chairs.

Baroness (Ann) Taylor of Bolton stepped down as Chair of the Constitution Committee in January. **Baroness (Jeannie) Drake** is her successor.

Lord (Patrick) McLoughlin took over from **Lord Blencathra (David Maclean)** as Chair of the Delegated Powers and Regulatory Reform Committee in January.

Lord (Jonathan) Mance announced his decision to take a leave of absence from the House of Lords in January. **Baroness (Eliza) Manningham-Buller** replaced him as Chair of the Lords Conduct Committee.

Baroness (Heather) Hallett has been appointed as chair of the public inquiry into the COVID-19 pandemic.

Paul Givan resigned as First Minister of Northern Ireland in February (see page 14). **Michelle O'Neill** consequently lost her position as deputy First Minister.

John-Paul (JP) Marks was appointed Permanent Secretary to the Scottish Government, succeeding **Leslie Evans** in January.

Beverley Smith succeeded **Debra Evans-Williams** as Chair of the Local Democracy and Boundary Commission for Wales in February.

Lord (David) Lloyd-Jones and **Lady (Mary) Arden** retired as Justices of the Supreme Court in January. Their replacements have yet to be announced.

Nick Goodwin is the new Chief Executive of HM Courts and Tribunals Service; interim Chief Executive **Kevin Sadler** will retire at the end of March after a handover period.

Baroness (Gisela) Stuart was appointed to the role of First Civil Service Commissioner on 3 March, following the retirement of **Ian Watmore** (see page 10).

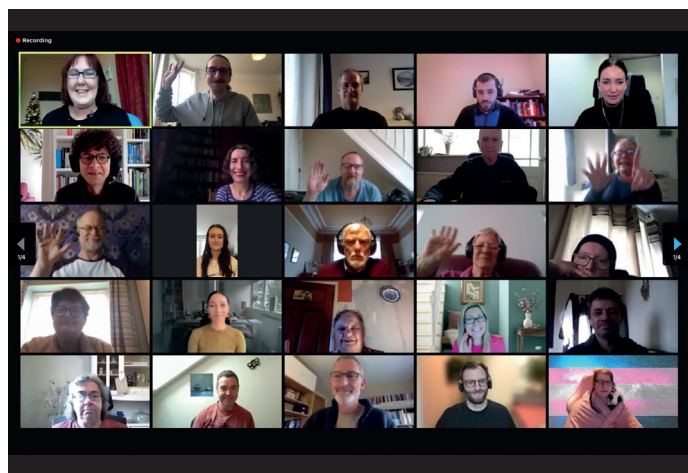
John Edwards took over from **Elizabeth Denham** as Information Commissioner in January.

Constitution Unit news

Research on attitudes to democracy in the UK

The Unit's current research project exploring public attitudes to democracy in the UK reached two milestones in the last four months. In December, its six-weekend Citizens' Assembly on Democracy in the UK concluded. The Assembly's 67 members, who were representative of the UK's voting-age population, agreed eight resolutions and 51 specific recommendations, on matters including the regulation of ethical standards

in public life, mechanisms for engaging people in representative democracy, and the roles of parliament, judges, referendums, petitions, and citizens' assemblies. The Assembly's full report will be published later in the spring, but the Unit released [selected conclusions](#) – those most salient to the immediate political agenda – in early January.



Members and staff at the final weekend of the Citizens' Assembly on Democracy in the UK.

In late January, meanwhile, the Unit released the project's [first report](#), setting out the findings of a survey of public opinion conducted last summer. The report had three principal findings. First, while most respondents expressed broad satisfaction with democracy, they had very little trust in politicians. Second, respondents wanted politicians who are honest, have integrity, and operate within the rules. The survey included several innovative questions showing that, even when asked to trade off aspects of integrity against various forms of policy delivery, most respondents opted for the former. Third, respondents generally preferred not to concentrate power in the hands of a few politicians, but to spread it to parliament, non-politicians, and the public. There was notably strong support for judges to have a powerful role in upholding human rights and settling disputes about the government's powers. The report also found that almost everyone thought people like themselves had too little influence over policymaking. But many were reluctant to get actively involved themselves. There was support for citizens' assemblies, but only limited appetite for extending the use of referendums.

The Unit will follow up these findings with a further survey in the coming months. The project – called [Democracy in the UK after Brexit](#) – is funded by the Economic and Social Research Council through its Governance after Brexit programme. It is led by

Professor Alan Renwick, working with Professors Meg Russell and Ben Lauderdale, and Research Assistant James Cleaver.

New project

In January the Unit began a new project on [Constitutional Principles and the Health of Democracy](#), which is funded by the Legal Education Foundation. The primary purpose of the project is to inform and engage policymakers and the wider public in the importance of protecting such principles, and particularly of avoiding the risks of '[democratic backsliding](#)' as witnessed in many countries around the world. The project is led by Unit Director Meg Russell, with input from Deputy Director Alan Renwick, and a staff team comprising Lisa James, Tom Fieldhouse and (see below) Sophie Andrews-McCarroll. The team will work closely with policymakers of all parties and none, and with other independent research organisations, to produce a range of written materials and events between now and the summer of 2024.

Staff news

We were sad to say goodbye in December to Charlotte Kincaid, our Impact Research Fellow, who departed after two years with the Unit to take up an exciting new post at Imperial College London. Charlotte was an excellent colleague, and we are very grateful for her many fantastic contributions to our work. She will be replaced in March by Sophie Andrews-McCarroll, who joins us from the Royal United Services Institute, where she was a Project Officer working in research and communications. Before that, Sophie was a Brexit researcher at the Institute of International and European Affairs in Dublin. She will support dissemination of all of the Unit's work through various communication channels, and engagement with policymakers. She will contribute particularly to our new project on Constitutional Principles and the Health of Democracy (see above).

Research volunteers

The Unit is, as always, grateful for the excellent work done by its research volunteers. A big thank you to former volunteers Alejandro Castillo-Powell, Laura Hurford and Will Knatchbull. Details of how to become a Unit volunteer are on our [website](#).

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Events recently made available online

Recordings of all of Unit events are available online, via the Unit's [podcast](#) and its [YouTube page](#). To sign up for future events, please visit the Unit's [events page](#). Webinars are free and open to all.

[Improving Standards of Conduct in Public Life](#)

Lord (Jonathan) Evans, Chair of the Committee on Standards in Public Life, in conversation with the Unit's Director, **Professor Meg Russell**.

Recorded on 12 November.

[Riding the Populist Wave: The UK Conservatives and the Constitution](#)

Tim Bale, Professor of Politics, Queen Mary University of London and **Lord (Daniel) Finkelstein**, *Times* columnist and Conservative peer.

Chair: **Meg Russell**, Director of the Constitution Unit.

Recorded on 1 December.

[What Can Be Done About the House of Lords?](#)

Baroness (Angela) Smith of Basildon, Shadow Leader of the House of Lords, **Lord (Michael) Jay of Ewelme**, former Chair of the House of Lords Appointments Commission, **Bernard Jenkin MP**, chair of the House of Commons Liaison Committee and former chair of the Public Administration and Constitutional Affairs Committee (PACAC).

Chair: **Meg Russell**, Director of the Constitution Unit.

Recorded on 13 January.

[What Kind of Democracy Do People Want?](#)

Alan Renwick, Deputy Director of the Constitution Unit, **Paula Surridge**, Deputy Director of the UK in a Changing Europe, **James Johnson**, former Strategy Adviser to Prime Minister Theresa May.

Chair: **Meg Russell**, Director of the Constitution Unit.

Recorded on 10 February.

Unit in the news

Comments by Lord (Jonathan) Evans at [a Unit event](#) on standards in public life were quoted in reports on the subject in the [National](#) and the [Independent](#) (both 12 November).

Meg Russell's book, [The Contemporary House of Lords](#), was referenced in a comment piece about reform of the House of Lords in the [New Statesman](#) (12 November).

The Unit's [FAQs page](#) on the accession and coronation of the next monarch was quoted in an article in the [Express](#) about the prospect of the Duke of Cambridge directly succeeding Queen Elizabeth II (14 November). The FAQs page was also referred to in an [Enstars](#) article about the prospect of Prince Charles taking the throne during the lifetime of his mother (14 November), and in a [List](#) article discussing the likely regnal name of the next monarch (15 November).

The change in status of several members of the royal family in the event of the death of the Queen was discussed by Bob Morris in the *Express* on two separate occasions ([12](#) and [26 January](#)). Bob Morris was quoted in a [Brinkwire](#) article about the future role of the Duke and Duchess of Sussex (16 November).

Bob Morris was quoted in [Brinkwire](#) and the *Express* on the future of Australia as a constitutional monarchy, following the news that Barbados had become a republic (both 28 November). He was quoted on the future of the other Commonwealth monarchies in [Brinkwire](#) (29 November).

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Bob Morris was quoted in an [Express](#) report on the news that the Duchess of Cornwall was to be inducted into the Order of the Garter (5 January).

The publication of partial results of the Citizens' Assembly on Democracy in the UK was reported on by [Mirage](#) (17 January), the [Justice Gap](#) (19 January) and [India Education Diary](#) (22 January).

The first report of the Democracy in the UK After Brexit project was covered in a news report on [Politics.co.uk](#) (25 January), mentioned in passing on [Left Foot Forward](#) (26 January), and discussed in detail by [Constitutional Law Matters](#) (28 January), the blog of the [Centre for the Study of Corruption](#) (31 January), the [Mark Pack blog](#) (4 February), and the [Express](#) (10 February).

Alan Renwick wrote an opinion piece on the project's findings for the [Conversation](#) (26 January). He was also quoted in a [politics.co.uk](#) piece on standards in public life (1 February).

Meg Russell discussed the findings of the project's survey and the Citizens' Assembly on Democracy in a letter published in [Prospect](#) (27 January). She also discussed the assembly during an appearance on the [Brexit and Beyond](#) podcast (28 January) and in interviews with *Tagesschau* (4 February) and Radio 4's *Yesterday in Parliament* (5 February).

Former Prime Minister John Major referred to the survey's findings relating to trust in politicians during [a speech to the Institute for Government](#) (10 February). His comments were reported in the [Times](#) (10 February).

Unit publications

Alan Renwick, Ben Lauderdale, Meg Russell and James Cleaver, [What Kind of Democracy Do People Want?](#) (Constitution Unit, January).

Alan Renwick, 'Results From a Survey on Democracy' in [British Politics After Brexit](#) (UK in a Changing Europe, February).

Lotte Hargrave and Jack Blumenau, '[No Longer Conforming to Stereotypes? Gender, Political Style and Parliamentary Debate in the UK](#)' (*British Journal of Political Science*, February).

Publications to note

Tom Caygill, [Post-legislative Scrutiny in the UK Parliament](#), (Westminster Foundation for Democracy, December).

United Kingdom Constitution Monitoring Group, [The Constitution in Review 2](#) (Constitution Society, February).

Institute for Government, [Whitehall Monitor 2022](#) (Institute for Government, January).

Contributors to Monitor 80

Coree Brown Swan, Dave Busfield-Birch, Tom Fleming, Robert Hazell, Lisa James, Conor J. Kelly, Alexandra Meakin, Luke Nicholas, Alan Renwick, Meg Russell, Mark Sandford, Charlotte Sayers-Carter, Jack Sheldon and Alan Whysall.

The issue was edited by Dave Busfield-Birch.

Unit events are currently virtual – sign up now!

We continue to run 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 more easily attend.

If you do not already receive email notifications about Unit events, [sign up now](#). Webinars are free and open to all.

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Upcoming events

[The Platinum Jubilee and Future of the Monarchy](#)

Bob Morris, Honorary Senior Research Associate at the Constitution Unit, **Carolyn Harris**, Instructor in History at the University of Toronto, **Craig Prescott**, Lecturer in Law at the University of Bangor.

Chair: **Robert Hazell**, former Director of the Constitution Unit.

17 March at 6pm.

[What Role Should Party Members Have in Leadership Elections?](#)

Paul Goodman, editor of ConservativeHome, **Tom Quinn**, Senior Lecturer at the University of Essex's Department for Government, **Cat Smith**, former Shadow Secretary of State for Young People and Democracy.

Chair: **Meg Russell**, Director of the Constitution Unit.

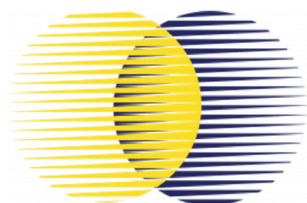
7 April at 1pm.



The Constitution Unit has a podcast!

The [Constitution Unit podcast](#) allows you to listen to audio recordings of our events, as well as topical episodes featuring analysis and commentary from our team of researchers.

You can find a full episode list [here](#), or subscribe via a range of podcast providers, including [Apple](#), [Google](#) and [Stitcher](#).



DEMOCRACY IN THE UK AFTER BREXIT

The UK's democratic arrangements were strained significantly during the Brexit process, with the proper roles of parliament, government, the courts, and the general public all strongly contested. Greater understanding of how people across the UK want the country's democracy to work is badly needed. This ESRC-funded research project is designed to provide that. We have so far published [one report](#), detailing the findings of our first survey.

We have also published [initial results](#) from the Citizens' Assembly on Democracy in the UK, which concluded in December 2021. The Assembly's report will be published in April. Summaries of the project's work can be found on [the Constitution Unit blog](#). Sign up to our [mailing list](#) to be notified when new reports and posts go live.'

