

# Constitution Unit

## Monitor 83 / March 2023



### Sunak's constitutional dilemmas

Successive issues of *Monitor* in recent years have told a story of constitutional unease. The premierships of Boris Johnson and Liz Truss saw checks and balances eroded and the rule of law questioned. The last issue – [published in November 2022](#) – reported Rishi Sunak's [promise](#) on entering Downing Street to restore 'integrity, professionalism and accountability'; but too little time had passed by then to assess his delivery. Four months on, the picture remains complex and mixed. Sunak clearly faces challenges on the constitutional front, particularly in keeping his restive party together.

On the positive side, the Prime Minister [appointed](#) a new Independent Adviser on Ministers' Interests in December – his predecessor having [denied that she needed one](#) – and in January acted swiftly on the new Adviser's [conclusion](#) that the actions of the Chairman of the Conservative Party, Nadhim Zahawi, 'constitute[d] a serious failure to meet the standards set out in the Ministerial Code' (see page 8). In February, the Deputy Prime Minister, Dominic Raab, whose conduct remains under investigation, [said](#) that he would resign if found guilty of bullying officials.

[Rishi Sunak meets European Commission President Ursula Von Der Leyen](#) (CC BY 2.0) by UK Prime Minister.

The government's approach to relations with the European Union also moved from confrontation to trust-building. This shift helped Sunak to unlock a significantly improved [deal on the Northern Ireland Protocol](#) in February (see page 13). In the wake of that agreement, the Johnson-era [Northern Ireland Protocol Bill](#) – through which the UK would have unilaterally arrogated to itself the right to deviate from the Protocol's terms, almost certainly in violation of international law – was withdrawn.

Yet at the same time, causes for concern remain. Contrary to recommendations from the Committee on Standards in Public Life and others, Sunak did not empower the new Independent Adviser to initiate their own investigations – a change that [new Constitution Unit research](#) (see page 18) suggested would have accorded with the instincts of most members of the public.

More broadly, the Prime Minister remains subject to significant pressures from some in his party, including his recent predecessors, leaving him seeking to appease those most concerned by the developments above. There is little sign of a revival in parliamentary scrutiny, as demonstrated particularly by the [Retained EU Law Bill](#), which would give ministers enormous new powers to sweep away regulations in areas such as environmental and employment rights (see page 4). The bill completed its passage through the House of Commons without trouble in January, but multiple Lords committees have rung alarm bells, and peers can be expected to seek significant changes.

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The Constitution Unit



Legislation was [introduced in March](#) to tackle the ‘small boats crisis’, which may please some backbenchers and aims to shore up electoral support. But the bill risks opening up new controversies about the government’s attitude to international law.

Meanwhile, ministers have pressed on with implementing voter ID requirements for English local elections in May, despite [advice from the Electoral Commission](#) and others that the timetable was dangerously tight (see page 6). And further constitutional challenges lie ahead for Sunak – not least Boris Johnson’s long-awaited resignation honours list, including proposed appointments to the House of Lords. The Prime Minister could block these – or at least significantly prune the list – but whether he has sufficient political capital to do so is unclear.

Labour’s leadership team increasingly views itself as a government in waiting. Yet one manifestation of that – the [decision to appoint Sue Gray as Keir Starmer’s Chief of Staff](#) – caused ructions. The move by such a senior and high-profile civil servant risks harming perceptions of civil service impartiality and propriety – boosted by distinctly [Trumpian claims](#) from the Johnson circle that it invalidated Gray’s report into Downing Street lockdown parties. Legitimate questions about whether all rules were followed will need to be answered.

Labour is developing its own programme of significant constitutional reforms, not least to the standards system and the territorial distribution of power. A commission chaired by former Prime Minister Gordon Brown [reported in December](#), setting out ambitious proposals to devolve power within England, strengthen the principles of the Union, protect core constitutional standards, and improve the system for upholding integrity. These proposals, and the report’s [plans for reform of the House of Lords](#), (see page 5) will however require significant further work on their detail before being ready for implementation.

Meanwhile, Scottish politics was plunged into uncertainty in February by Nicola Sturgeon’s [surprise announcement](#) that she was stepping down as First Minister. The ensuing contest to succeed her – which remained ongoing at the time of writing – exposed deep disagreements within the independence movement over how to advance its constitutional goals, as well as over matters of economic and social policy (see page 14). The Labour Party, and unionists in general, may hope this represents a turning point in the SNP’s fortunes, but it remains far too early for such predictions to be made with confidence.

The deal with the EU on the Protocol has increased the chances that devolved government may be restored in Northern Ireland (see page 13). At the time of writing, however, it remained unclear whether the Democratic Unionist Party (DUP) would endorse – or at least tolerate – its terms. Some suspect that the party [might prefer to wait](#) until after the local elections in May before taking a clear position, while the prospect of entering government with Sinn Féin may remain an obstacle. The 25<sup>th</sup> anniversary of the Belfast/Good Friday Agreement is just weeks away, and there is a widespread sense that some form of renewal is needed. In March, the Unit’s Alan Renwick and Alan Whysall [gave evidence](#) to the Commons Northern Ireland Affairs Committee, which is conducting [an inquiry](#) into the effectiveness of the Agreement institutions.

The Unit itself has been a busy place, with four reports published. Robert Hazell and Charlotte Sayers-Carter wrote [Reforming the Prerogative](#), published in December, which summarises parts of Robert’s recent book with Tim Foot on the prerogative (see page 19). Two reports were published jointly with the Institute for Government and Bennett Institute at the University of Cambridge: [by Robert Hazell on the monarchy](#) and [by Meg Russell on the House of Lords](#) (see page 18). And in March, the Unit’s *Democracy in the UK after Brexit* project produced its [third report](#), on the findings of a second major survey of UK public opinion. We now eagerly await the imminent publication of Meg Russell’s new book with Lisa James, [The Parliamentary Battle over Brexit](#) (see page 17); tickets for two launch events can be [booked online](#).

In summary, the constitutional picture remains mixed: there are green shoots of recovery from the troubles of the Johnson–Truss years; but there are also many causes of ongoing concern. Amidst all of this, an occasion of great constitutional symbolism – the coronation of a new monarch – will take place in May. This will seek to balance expressions of both continuity and change. Whether it will enable the monarchy to renew itself for a new era remains to be seen.

## Parliament



### Parliamentary scrutiny of government

A number of recent developments have raised familiar concerns about the government’s reluctance to submit to parliamentary scrutiny; these include the [Retained](#)

[EU Law \(Revocation and Reform\) Bill](#) (see below) and the government's [Strikes \(Minimum Service Levels\) Bill](#). The latter bill, despite being introduced to provide for minimum service levels in several key sectors during periods of widespread industrial action, does not itself actually specify the minimum service levels to be required, instead leaving these to be set by ministers in secondary legislation, meaning that they will be exposed to far less rigorous parliamentary scrutiny. It also does not make clear which specific groups of workers will even be covered by the legislation, as it simply lists broad categories such as 'education services'. In addition, the bill includes what [one commentator](#) has described as a 'supercharged [Henry VIII clause](#)', creating a very wide power for ministers to use regulations to amend, repeal, or revoke primary legislation (including bills that will be passed later in the current parliamentary session). During the bill's Commons [committee stage](#), the Henry VIII clause attracted [criticism](#) from Labour's deputy leader, Angela Rayner, and the former Conservative Business Secretary, Jacob Rees-Mogg.

The issue of excessive delegation of power to ministers was also raised in the Lords in January, during a [debate](#) on two reports, one by the [Delegated Powers and Regulatory Reform Committee](#) and the other from the [Secondary Legislation Scrutiny Committee](#). Both committees had expressed serious concerns about ministers' excessive use of delegated legislation,

and the impact of this on parliamentary scrutiny (see [Monitor 80](#), page 2). During the debate, peers criticised – among other things – the growing use of Henry VIII powers and [skeleton legislation](#) (which sets out the principles of a policy, but does not detail how it will be implemented), and the government's failure to provide impact assessments. As an example of the latter issue, on 21 February the independent Regulatory Policy Committee gave the government's impact assessment of the Minimum Service Bill a 'red rating', [deeming it 'not fit for purpose'](#).

January also saw [reports of a disagreement](#) about parliamentary scrutiny between the Commons Business, Energy and Industrial Strategy Select Committee, and the then Business Secretary, Grant Shapps. The dispute focused on the failure to agree a memorandum of understanding that would allow the new [Sub-Committee on National Security and Investment](#) to examine the work of the BEIS Investment Security Unit. It is unclear how or when this will be resolved, as the relevant department was broken up in February's Cabinet reshuffle (see page 9), and the government unit responsible for the screening regime [was relocated to the Cabinet Office](#). This highlights a wider point that, [as discussed by David Natzler on the Unit's blog](#), the changes to Whitehall structures will necessitate a corresponding reorganisation of the Commons' departmental select committees, in order to maintain adequate scrutiny.



**Available on 23 March: click the link below for information on how to get a 30% discount.**

[The Parliamentary Battle over Brexit](#)

**Professor Meg Russell FBA and Lisa James**

Charting the full story of the parliamentary battle over Brexit, Meg Russell and Lisa James show that it wasn't always what it seemed. Based on careful documentary research and extensive interviews with key protagonists, the book explores multiple nail-biting moments, procedural innovations, and political 'what ifs'. Drawing on insider accounts, alongside media and parliamentary debates, the book puts the events of Brexit into context and provides a clear and reliable document of record on a complex and disputed story. Ultimately, it argues that Brexit was largely a battle fought within the Conservative Party, for which parliament got the blame.



## The Retained EU Law Bill

The controversial [Retained EU Law \(Revocation and Reform\) Bill](#) continues its passage through parliament. The bill would automatically repeal most law brought onto the UK statute book because of Brexit (known as [retained EU law](#)) at the end of this year. It would also grant wide-ranging powers to the executive to decide whether retained EU law should be allowed to fall, be saved from repeal, or replaced (and if so, how) – all with little parliamentary scrutiny. Work to identify all of the legislation which would be affected by the bill is ongoing; over [3700 pieces of legislation](#) have now been identified (compared to [an estimate of around 2400](#) at the time the bill was introduced). The bill has been criticised by multiple [business and charitable groups](#) on the basis that it would lead to disruption, uncertainty and confusion.

The bill passed the House of Commons largely unchanged – with the only exceptions being technical amendments introduced by the government. Greater resistance seems likely in the House of Lords: at the bill's second reading on 6 February, [Labour](#) and [Liberal Democrat](#) frontbenchers argued that it risked generating legal uncertainty and undermining parliament's scrutiny role. At committee stage, former Cabinet Secretary Lord (Richard) Wilson of Dinton [called the bill 'improper' and 'shameful'](#). He urged the government to withdraw it entirely, return to the drawing board, and come back with concrete proposals on which EU laws it wishes to abolish.

Key Lords committees have also sharply criticised the bill. The [Delegated Powers and Regulatory Reform Committee](#) characterised it as 'hyper-skeletal' and 'a blank cheque placed in the hands of Ministers', recommending that five of its six main provisions should be removed; the [Secondary Legislation Scrutiny Committee](#) concluded that the bill 'would lead to a significant shift of power not to Parliament but to ministers'. The [Constitution Committee](#) recommended that peers should require an 'exceptional justification' for the breadth of the powers contained in the bill, and suggested several amendments – including the addition of a statutory requirement for UK ministers to consult the devolved administrations before making regulations affecting areas of devolved competence. The [Scottish](#) and [Welsh](#) governments advised their respective legislatures to deny legislative consent to the bill. The Scottish Parliament [followed that advice](#), but the Welsh Senedd had yet to vote on the issue when *Monitor* went to press.

## Parliamentary standards

The Commons [debated and approved](#) an updated version of the [Code of Conduct for MPs](#) in December, which came into effect on 1 March. These changes were built on [recommendations published by the Committee on Standards in July](#), though not all of its suggestions were taken up by ministers. The changes focus particularly on tightening Commons rules around lobbying, transparency, and conflicts of interest. They include a new ban on MPs working as paid parliamentary advisers, consultants, or strategists.

The Committee on Standards has also completed [a further brief inquiry](#) on the [House of Commons Commission's consultation](#) proposals for barring MPs from the parliamentary estate if they are charged with serious criminal offences. The committee's [report](#) concluded that some form of 'precautionary exclusion' measure should be available, though it suggested some modifications to the Commission's original proposal.

Parliamentary standards also featured in the [report](#) of Labour's Commission on the UK's Future, chaired by former Prime Minister Gordon Brown, which included various proposals for stronger enforcement of standards in public life. While it chiefly discussed ministerial conduct, the report did recommend a consultation on whether the existing bodies overseeing parliamentary ethics have sufficient resources and powers. More significantly, it called for the Code of Conduct to ban MPs from having second jobs (with some small exceptions).

Several prominent standards-related cases have continued to attract attention, including two that had previously seemed to have concluded. Former Conservative Cabinet minister Owen Paterson has [commenced a claim against the UK government](#), based on an assertion that the process which led to him [resigning as an MP](#) in 2021 – following a finding that he had acted contrary to the Code of Conduct – was a breach of the European Convention on Human Rights. Paterson's position is that he was subjected to an unfair process that caused severe damage to his reputation and was therefore contrary to [Article 8](#), which guarantees the right to a private and family life. A [similar claim](#) has been brought by Lord (Nazir) Ahmed, who resigned from the House of Lords in 2020 following allegations of sexual misconduct that would have likely led to his expulsion.

Meanwhile, the Commons Privileges Committee [has continued its investigation](#) into whether Boris Johnson



misled parliament during the ‘partygate’ scandal. The deadline for written evidence was 7 February. Boris Johnson is [scheduled to give oral evidence](#) on 20 March: in advance of his appearance, the committee [published a document](#) that summarised the issues it would like the former Prime Minister to address.

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## House of Lords reform proposals

The most high-profile element of the [report](#) from Labour’s Commission on the UK’s Future, chaired by Gordon Brown, was a plan to ‘abolish’ the House of Lords. This was trailed [in the autumn](#), as well as dominating the [news coverage](#) around the report’s December publication. The Brown proposal was not in fact to move to a unicameral (one-chamber) parliament, but to replace the House of Lords with an elected ‘Assembly of the Nations and Regions’. As discussed in greater detail [on our blog](#), in some regards the plans were quite vague: lacking for example definite proposals on the size of the chamber, the electoral system, electoral boundaries or timing of elections. In these ways they fell short of past packages, under the Liberal Democrat–Conservative coalition or earlier Labour governments – where such details often caused contention. Yet in other respects, the Brown proposals went further than previous plans, suggesting that the second chamber should underpin the devolution settlement, by debating legislation of particular relevance and gaining a veto on key constitutional statutes. The reception has been mixed, with doubts about the practicality of this proposed constitutional ‘[entrenchment](#)’ [mechanism](#), criticisms about the [lack of detail](#) and concerns about the need to [build broader agreement](#).



[A debate in the House of Lords](#) (CC BY-NC-ND 2.0) by [ukhouseoflords](#).

Meanwhile, attempts have continued in the Lords to secure support for smaller-scale reforms. A [bill](#) by Conservative peer Lord (Philip) Norton of Louth would put the House of Lords Appointments Commission on a statutory basis, limit the size of the chamber to no bigger than the Commons, and tighten up oversight of appointments. It passed its [second reading](#) on 18 November but, despite widespread support among peers, received a lukewarm response from the relevant minister. As a private member’s bill it may suffer the same fate as a [bill](#) by Labour’s Lord (Bruce) Grocott to abolish the hereditary peer by-elections – since without government support such bills are easily ‘talked out’. Grocott’s bill has not yet had a second reading this session, but has been blocked on [multiple previous occasions](#).

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## Restoration and Renewal

The Restoration and Renewal (R&R) of the Palace of Westminster is now officially under new governance, with the Parliamentary Works Sponsor Body replaced on 1 January by the R&R Client Board, which has been meeting since October 2022 (see [Monitor 82](#), page 6), and the R&R Programme Board, which was formally approved by the [Commons](#) and [Lords](#) in February. The Programme Board will be chaired by Commons Deputy Speaker Nigel Evans, and will include three other MPs, three peers, the top officials in both chambers (Clerk of the Commons and Clerk of the Parliaments), and three external members. Nine of the 12 are men, including all three external members.

The next stage of the R&R project will be the development of a strategic case, which [aims](#) to present MPs and peers with a single or small number of preferred options for the programme later this year. Despite being a parliamentary project, the nature of these options will have to be acceptable to the government, as confirmed by the Client Board’s Commons spokesperson Charles Walker, who [told MPs](#) in January that ‘ultimately any restoration of this place will have to be funded, and we do need to find a mechanism for funding that the Treasury feels comfortable signing off’.

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## Report on ‘smoothing the cliff edge’ for departing MPs

On 8 February, the Commons Administration Committee concluded its inquiry into supporting MPs when they leave office, to which Unit Director Meg Russell gave

[oral evidence](#). The committee's [report](#) concluded that leaving parliament can be 'emotional and traumatic'. It therefore recommended that the duty of care owed to MPs by the Commons and the Independent Parliamentary Standards Authority (IPSA) should continue after a member leaves office, and that former MPs should have access to the Commons wellbeing services for as long as they deem necessary.

In addition, the committee recommended the creation of a career transition programme to support outgoing MPs, after concluding that some of them face numerous challenges when seeking to return to the labour market. It also said that career coaching should be available to MPs from the day they enter parliament.

The committee also found that MPs who left office after the 2019 election had experienced difficulties with IPSA, which some witnesses attributed to it being unprepared for a snap election. The committee welcomed what it deemed to be significant improvements in the current parliament, including the creation of a Member Services Team and a House-IPSA forum to improve communication between IPSA and the Commons authorities. The committee concluded that – to ensure the experience of 2019 is not repeated – it should receive quarterly updates on election planning from IPSA and the Commons authorities. It also recommended that IPSA should release loss of office payments more easily. In the committee's view, payments should not be dependent on MPs completing a winding up process, but should be paid out as quickly as possible, to provide a 'cushion' in the same manner as a redundancy payment.

Elections, referendums and  
democratic engagement



## Voter ID

The government is pressing on with implementing new requirements for voters to show ID at polling stations in time for the local elections in May. The provision, introduced by the [Elections Act 2022](#), will apply to [local elections in England](#) from May onwards, as well as to UK parliamentary by-elections anywhere in Great Britain from May and to any UK general election from October (voter ID has long been required for elections in Northern Ireland). The Electoral Commission and local authorities have launched information campaigns to raise awareness of the new requirements and encourage

anyone who lacks any of the permitted forms of ID to apply for a '[Voter Authority Certificate](#)'. In the first month that these certificates were available, [just over 19,000 people](#) applied for one – around 1% of those [estimated](#) to need one.

Ministers' insistence on rapid implementation has come despite widespread concerns. Fears among election administrators that systems will not be robustly in place in time – which were reported in [Monitor 82](#) (page 7) – [persist](#). There was also considerable opposition in both the [Commons](#) and the [Lords](#) in December when the regulations implementing the change were debated and voted on. The Lords [Secondary Legislation Scrutiny Committee](#) noted that 'there is considerable time pressure' if the May timetable is to be met. It also expressed concern that the 'early deadline' to apply for a Voter Authority Certificate – six working days before polling day – 'will mean that access to this important certificate will be reduced'. But ministers insisted that delay was unwarranted. Only one Conservative MP [voted against](#) the regulations in the Commons, while a fatal motion tabled by the Liberal Democrats in the Lords [fell well short](#) of passing.

## Ballot Secrecy Bill

New legislation looks set to outlaw so-called 'family voting' – a practice whereby someone, often a family member, accompanies a voter to the polling booth with the intention of influencing how they cast their ballot. The proposed legislation takes the form of the [Ballot Secrecy Bill](#), a private member's bill introduced in the House of Lords by the Conservative peer and elections expert Lord (Robert) Hayward. It received the support of the government and opposition parties in the Lords. Hayward [agreed a series of amendments](#) with ministers designed to clarify the bill's meaning, and it completed its passage through the Lords in November unopposed. The bill [completed committee stage](#) in the Commons without amendment on 8 March.

## Governance of the Electoral Commission

The [Elections Act 2022](#) empowered the government to prepare a 'strategy and policy statement' for the Electoral Commission, subject to parliamentary approval (see [Monitor 81](#), page 9). As reported in [Monitor 82](#) (page 7), ministers published a [draft](#) of such a statement in August. The Act requires ministers to consult on this draft with the Electoral Commission,

the Speaker's Committee on the Electoral Commission, and the Commons select committee that oversees elections policy – currently, the Levelling Up, Housing, and Communities (LUHC) Committee. The Electoral Commission responded in September. The two parliamentary committees followed suit in December.

Like the Commission, the committees were both highly critical of the government's draft. The [LUHC Committee](#) concluded, 'The overwhelming viewpoint from the evidence received was that no Statement is necessary at the current time: and no evidence has been provided justifying it. However, if there is to be a Statement, the current draft needs to be fundamentally rewritten.' It listed 11 things that a revised draft statement should *not* do, including that 'It should not state what the Commission's priorities should be' and 'should not suggest how the Commission should carry out its functions'. The committee proposed that a revised draft statement might simply 'assist the Commission in understanding the Government's priorities', with 'no implication that the Commission is obliged to adopt those priorities as its own priorities'.

The [Speaker's Committee](#), similarly, concluded, 'This draft Statement is not fit for purpose'. It said that the statement as drafted was 'incompatible with the Commission's operational independence', and that it would 'introduce uncertainty, confusion, and new legal risks, which are likely to reduce the Commission's efficiency, economy and effectiveness, in return for no material benefit to the democratic process'. It also added pointedly that ministers should 'be mindful not to set a precedent of disregarding concerns during consultations on draft Statements; doing so could, ultimately, be to the detriment of our electoral integrity and public confidence in the UK's democratic processes'.



[Lindsay Hoyle, Chair of the Speaker's Committee on the Electoral Commission \(CC BY-NC 2.0\) by UK Parliament.](#)

The government is yet to respond formally to these consultation findings. In its response to a separate report by the Public Administration and Constitutional Affairs Committee (see next story), however, it said, 'We will consider the Committee's comments about the Statement alongside the views of statutory consultees before laying the draft Statement before Parliament in early 2023'. It added, 'If approved by Parliament, the Statement will support the work of the Commission and contribute positively to public confidence in its work.'

## Government response to PACAC report on the Electoral Commission

The Commons Public Administration and Constitutional Affairs Committee (PACAC) concluded an investigation into [The Work of the Electoral Commission](#) in October (see [Monitor 82](#), page 8). The government [responded](#) in January. In relation to PACAC's core recommendation that ministers 'prioritise implementing the Law Commission's

## The Constitution Unit

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recommendations to rationalise electoral law', the government agreed 'that simplifying and consolidating electoral law would be desirable', but went on to state its 'immediate priority' as implementing the changes introduced by the Elections Act 2022.

PACAC had also recommended that time limits for parties and campaigners to report campaign spending should be shortened and that the Commission's fining powers should be increased. Ministers indicated that the former would require careful thought. They said that the present system of fines was 'suitable to ensure that the sanctioning regime is effective but does not cause a chilling effect on electoral participation and campaigning'. Nor did they signal any intention to adopt PACAC's recommendations for regulation of digital 'advert libraries' or for requiring digital campaigning to be listed separately on spending returns.

## Online Safety Bill

Following reviews initiated by both Liz Truss and Rishi Sunak on entering Downing Street (see [Monitor 82](#), page 8), parliamentary scrutiny of the [Online Safety Bill](#) resumed in December. On 29 November, the then Secretary of State for Digital, Culture, Media, and Sport, Michelle Donelan, [announced](#) that amendments would be proposed removing provisions concerning 'legal but harmful' content and placing greater emphasis on free speech among adults. In January, following significant pressure in the Commons, the minister [agreed](#) that an element of criminal liability for senior managers of tech companies would be introduced through amendments in the House of Lords. As reported in previous editions of *Monitor*, the bill's original goal of protecting democracy from disinformation has now gone.

## Executive



## Standards in government

On 2 December the Commons Public Administration and Constitutional Affairs Committee (PACAC) published a report entitled [Propriety of Governance in Light of Greensill](#). It recommended that the Advisory Committee on Business Appointments (ACOPA), the Commissioner for Public Appointments (OCPA), and the Independent Adviser on Ministers' Interests should all be placed on

a statutory basis. It also concluded that appointment of the Independent Adviser on Ministers' Interests should be subject to open competition and regulation by the Commissioner for Public Appointments. PACAC also recommended that appointments of all constitutional watchdogs should require select committee approval. In a nod to [Labour's proposal](#) for a single Ethics and Integrity Commission, the committee said – in line with [recommendations](#) from the Committee on Standards in Public Life – that watchdogs should not be merged into a single entity because of their different roles.

After six months without an Independent Adviser on Ministers' Interests, [Laurie Magnus](#) was appointed to the role in December. Magnus gave [oral evidence](#) about his approach to the role to PACAC in February.

Magnus did not have to wait long to decide his first case: in January, his [report](#) on the conduct of then Chairman of the Conservative Party, Nadhim Zahawi, resulted in the minister's dismissal. An investigation was conducted after it emerged that Zahawi had failed to declare that he was under investigation by HMRC when appointed by Boris Johnson as Chancellor of the Exchequer and then had not reported the multi-million pound settlement he had subsequently reached when reappointed as a minister by both Liz Truss and Rishi Sunak. Magnus concluded that these omissions constituted 'a serious failure to meet the standards set out in the Ministerial Code'.

An investigation into allegations of bullying against Deputy Prime Minister Dominic Raab has expanded to include further complaints. The investigation – which began before Magnus was appointed and is therefore being led by barrister [Adam Tolley KC](#) – was originally tasked with considering [two formal complaints](#); that number [has now risen to eight](#), spanning multiple Whitehall departments.

Controversy has arisen over the appointment of Richard Sharp as Chair of the BBC, after it emerged that, whilst a candidate for the role, he had [facilitated an introduction](#) between Cabinet Secretary Simon Case and Sam Blyth, a businessman and relative of Boris Johnson who wished to offer the then Prime Minister financial support. During an [appearance](#) before the Commons Digital, Culture, Media and Sport Select Committee in February, Sharp said that he had made Johnson aware of his discussions with Case and Blyth but had not provided financial advice. The committee [strongly criticised Sharp's failure](#) to disclose the potential conflict of interest during the appointment process; it also noted that his claims about financial advice seemed to conflict

with a note written by Case which advised Johnson that he should ‘no longer ask [Sharp’s] advice about your personal financial matters’.

## Cabinet reshuffle

Following the dismissal of Nadhim Zahawi (see above), on 7 February Rishi Sunak [carried out a reshuffle](#) that resulted in the creation of three new government departments and a change in responsibilities for a fourth. The bulk of the Department for Business, Energy and Industrial Strategy (BEIS), headed by Grant Shapps, transferred to the new Department for Energy Security and Net Zero. The business parts of BEIS were moved to the former Department for International Trade to become a new Department for Business and Trade, with Kemi Badenoch as its Secretary of State. A new Department for Science, Innovation and Technology is headed by Michelle Donelan, who had previously been Culture Secretary. Lucy Frazer replaced her at the head of a slightly smaller Department for Culture, Media and Sport, now shorn of its digital brief. At the time of writing, it is not clear if this means it will continue to manage passage of the Online Safety Bill, which is at committee stage in the House of Lords (see page 8), or if Donelan will continue as the responsible Cabinet minister.



[Lucy Frazer \(left\) and Michelle Donelan](#) (CC BY-NC-ND 2.0) by [UK Prime Minister](#).

Greg Hands was appointed Minister without Portfolio in the Cabinet Office, and Chairman of the Conservative Party, in place of Zahawi. Oliver Dowden was promoted to Secretary of State in the Cabinet Office, while remaining Chancellor of the Duchy of Lancaster; he is in charge of all Cabinet Office policy, including propriety and ethics.

PCS, a union representing civil servants in an ongoing pay dispute with the government, [criticised the decision](#)

[to undergo a significant machinery of government restructure](#) as a distraction during a time of crisis.

Commentary in the Conservative-leaning press – such as the [Spectator](#) and [Conservativehome](#) – argued that the reshuffle was a missed opportunity to go even further and make changes to the responsibilities of the Home Office and Ministry of Justice, although the latter seems unlikely to happen until the conclusion of the investigation into Justice Secretary Dominic Raab (see above).

Whatever the pros and cons of the restructure, parliament will need to respond in terms of its committee structure and other aspects of how it scrutinises government, as discussed in detail on [the Unit’s blog](#) by former Clerk of the House of Commons David Natzler.

## The role of the Law Officers

On 18 January, the Lords Constitution Committee concluded its inquiry into the roles of the Lord Chancellor and the law officers by publishing a [report](#) setting out its findings and recommendations, which is discussed in detail on the Unit’s blog. The committee heard from a number of previous law officers and Lord Chancellors at [oral evidence sessions](#) and received written submissions from numerous sources, including the Unit’s [Robert Hazell](#), who was quoted in the final report.

The report discussed the importance of the rule of law and expressed ‘disquiet’ at the government’s recent decisions to legislate in violation of its international obligations. It also highlighted the ‘special role’ played in the government by the Lord Chancellor, who is responsible for ensuring that the law is upheld across government. But the committee deemed it ‘highly regrettable’ that there is no senior minister with express responsibility for the constitution.

The report contained numerous recommendations, but generally declined to suggest significant reform of the existing system, such as requiring routine publication of opinions of the Attorney General, placing the Ministerial Code on a statutory footing, or recruiting law officers from the civil service, rather than from parliament. It did recommend that the Prime Minister consider the appropriateness of the Lord Chancellor remaining in charge of prisons policy, and the benefits of a Lord Chancellor being in post for a long time when conducting reshuffles. It also recommended minor changes to the oaths taken by the Lord Chancellor and the law officers, partly due to a desire to make them more comprehensible to the public.

# Monarchy, church and state



## Planning the coronation

As *Monitor* went to press, there was still not a great deal of information in the public domain about the coming coronation of King Charles III, which is to be held on 6 May. In 1953 the Queen's coronation was planned by two committees of the Privy Council: the Coronation Committee chaired by Prince Philip, and a Coronation Executive Committee led by the Earl Marshal. Whitehall has not volunteered details of equivalent committees, or their membership; but they will include representatives from the church, the Palace and the government, who between them will determine – probably in consultation with the Commonwealth realms – the form of the King's coronation.

The coronation will certainly be shorter than in 1953; but until the order of service is published, we will not know which parts have been truncated or dropped. The Unit's 2022 report, [The Coronation of Charles III](#), suggested that the most likely element to be omitted is the homage, performed in 1953 by the hereditary peers, in order of precedence. The Unit's accompanying report, [Swearing in the New King](#), proposed that the [coronation oath](#) could be revised and updated to reflect the UK's more secular society.

The coronation will be much smaller than in 1953, when over 8000 guests attended, seated in stands erected in Westminster Abbey. Without stands there will be room only for 2000 guests, as at the Queen's funeral. There will also be [no naval review](#), partly on grounds of cost, but also because the navy is far smaller than it was 70 years ago.

## The Counsellors of State Act

Experts have long [pointed](#) to the need for additional [Counsellors of State](#), who are senior members of the royal family empowered to deputise when the monarch is unwell or absent abroad. The [Regency Act 1937](#) provides for a limited list of people to act as Counsellors, who are the monarch's spouse, and the next four adults in the line of succession (currently Queen Camilla, Prince William, Prince Harry, Prince Andrew and Princess Beatrice). If King Charles and his wife go abroad together on state visits, Prince William cannot act alone as Counsellor of State, because the [Regency Acts](#) require

two or more Counsellors to act jointly. But there are difficulties about his acting with Prince Harry (because of his absence abroad), Prince Andrew (who was forced to retire from public life) or Princess Beatrice, who is not a working royal.

In November, King Charles sent a [message to parliament](#) asking it to pass legislation to add Princess Anne and Prince Edward to the list of potential Counsellors of State. The government quickly drafted a bill to effect these changes. The [Counsellors of State Act 2022](#) was fast-tracked and passed by parliament over the course of two weeks, before receiving royal assent on 6 December.

The bill was a simple one designed to fix a specific problem, but as a [post on the Unit's blog](#) has pointed out, a new style of monarchy may at some point need updated legislative machinery to support it.

# Courts and the judiciary



## The Bill of Rights Bill

The [Bill of Rights Bill](#) remains in limbo, with no date set for its second reading more than eight months after it was introduced. The bill seeks to repeal and replace the [Human Rights Act 1998](#), which incorporates the [European Convention on Human Rights](#) (ECHR) into domestic law.

Parliament's Joint Committee on Human Rights published a [report](#) on 25 January that was highly critical of the bill, concluding that it would 'limit the effective enforcement of human rights in the UK'. It reported that the 'overwhelming majority' of respondents to the committee's call for evidence were also critical of the bill.

Part of the government's stated motivation for introducing the bill was [a desire to strengthen the right to free speech](#), but the committee was critical of both the bill's definition of speech and the concept of putting free speech on a 'pedestal' above other rights. Clause 9, which purports to protect the right to trial by jury, was deemed 'unnecessary' and of 'no obvious legal significance'. And Clause 8, which seeks to prevent courts from finding that deportation legislation is incompatible with the Article 8 right to a private and family life, was deemed out of step with the procedural requirements of the ECHR. It remains to be seen whether the committee will get its wish to have the bill either significantly amended or withdrawn altogether.





Lord Chancellor Dominic Raab (CC BY 2.0) by UK Government.

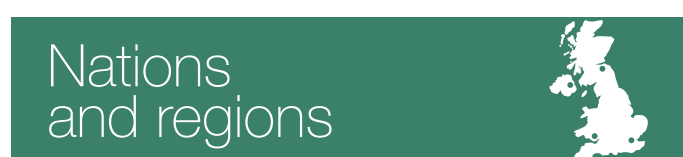
Of additional concern were comments from Lord Chancellor Dominic Raab, who [told the committee](#) in December that the government had not ruled out withdrawing from the ECHR entirely, although Attorney General Victoria Prentis [told the Commons Justice Committee](#) more recently that the government is 'committed' to remaining a Convention member.



## Keir Starmer appoints Sue Gray as Chief of Staff

On 2 March, the government [confirmed the resignation](#) of Sue Gray, a senior civil servant who most recently served as head of the Union and Constitution Directorate in the Department for Levelling Up, Housing and Communities, and who conducted the internal government investigation into 'partygate'. Gray stepped down to take over as Chief of Staff for Keir Starmer. This prompted some Conservative parliamentarians – including former Business Secretary [Jacob Rees-Mogg](#) and [Lord \(Stephen\) Greenhalgh](#) to question her impartiality during her time as a civil servant and – in the case of Rees-Mogg – label her partygate investigation as a 'stitch up'. Some [called for an investigation](#) into the appointment. However, other Conservatives have openly contradicted these slights against Gray. Notably, [Frances Maude](#), who worked closely with her as a Cabinet Office minister, wrote in *The Times* that he had no doubt about her 'integrity or political impartiality', that people should be 'relaxed about' the appointment, and that Starmer was 'fortunate' to appoint her.

A Cabinet Office spokesperson [confirmed](#) that the government intended to review the circumstances leading to her resignation. Gray's new role will need to be vetted by the Advisory Committee on Business Appointments (ACOPA), and the outcome will need to be signed off by the Prime Minister. Important questions have been raised – but, at the time of writing, not answered – as to whether rules on contacts between civil servants and the opposition were followed. ACOPA's recommendations are unenforceable, but Labour has [confirmed](#) that Starmer and Gray intend to abide by any decision made, which is likely to lead to a delay of [at least three months](#) in her taking up the new role.



## The Commission on the UK's Future

The Commission on the UK's Future, chaired for the Labour Party by former Prime Minister Gordon Brown, published its [report](#) on 5 December. Its proposals – discussed in detail at a [Unit event](#) in January – included the replacement of the House of Lords with an elected second chamber (see page 5) and the creation of a citizens' jury tasked with monitoring standards in government and parliament. It also proposed the creation of a set of prescribed social rights, including access to free healthcare and education, social welfare to avoid living in poverty, and adequate housing. And it made several recommendations designed to secure a level of constitutional entrenchment for key aspects of the UK's political constitution: the repeal or amendment of fundamental constitutional statutes would require consent from the proposed new second chamber as well as from the House of Commons. [Some experts](#) have described the proposed system of entrenchment as 'creative', while [others](#) have expressed significant doubts.

But most of the report's 40 recommendations focused on decentralisation and devolution, based on a principle that decisions should be taken as close as practically possible to the people affected by them.

The report called for the rebalancing of the UK economy and recommended measures aimed at spreading investment and economic success more evenly throughout the UK. The proposed new second chamber would take the form of an 'Assembly of the Nations and

Regions'. One constitutional principle recommended for entrenchment was the [Sewel convention](#), which the report said should be placed on a statutory footing. A 'solidarity clause', defined as 'a legal obligation of cooperation between the different levels of government and institutions across the UK', was also suggested.

The Brown report also recommended that the machinery of intergovernmental relations should be put on a statutory footing, in the form of a new Council of the Nations and Regions (not to be confused with the Assembly of the Nations and Regions above). This would have an independent secretariat, with the ability to call meetings and set agendas. The report called this an 'upgraded' version of the system of Joint Ministerial Committees. However, some of these changes had [already been undertaken](#) by the government, following [a review of intergovernmental relations](#) published in January 2022 (see [Monitor 80](#), page 12). Further aspects of the devolution proposals are set out in the stories below.

What the report did not discuss was also important. It did not attempt to define what being in a voluntary UK union should mean, including whether and how component parts should be able to leave the UK, and it said remarkably little about Northern Ireland. It also did not discuss process in any meaningful way: the next step is due to be consultation on the proposals by Labour, but there was no mention for example of citizens' assemblies to discuss the UK's territorial future if the party enters power. Consultation on the scale necessary seems unlikely to be possible by a poorly resourced opposition party.

The Brown report proposed a variety of interlocking and complex reforms but often without spelling out the detail or the process for achieving them. If pursuing these ideas, there will remain a great deal of work for Labour to do.

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## England

Further progress has been made in recent months on a new generation of devolution deals with county areas across England. County deals were agreed with [Norfolk](#), [Suffolk](#) and [Cornwall](#) in December. Each authority will introduce a directly-elected mayor in 2024 as a result of the deal. In the North-East, the seven authorities that negotiated a deal in 2015 [agreed a new deal](#) in December. This will see the current North of Tyne mayoralty [expanded](#) to include Gateshead, South Tyneside, Sunderland and Durham.

The deals agreed in 2022 feature commonalities that distinguish them from the previous 'generation' of deals. Employment support, spatial planning and apprenticeships do not feature in the most recent deals. Meanwhile, net zero, digital connectivity and brownfield housing feature in all six, having been peripheral or absent before.

Other localities referenced in the [Levelling Up the United Kingdom](#) white paper have yet to agree a deal, including Hull and the East Riding of Yorkshire, Devon, and Leicestershire. Meanwhile, progress continues on the 'trailblazer deals' with [Greater Manchester](#) and [the West Midlands](#). The [2022 Autumn Statement](#) raised the possibility of a 'single settlement' for both areas that would remove the ringfences between several of the grants that they currently receive, providing them with much greater funding flexibility. This idea brings together several of the threads in the white paper and indicates that the government remains engaged with progressing English devolution.

Devolving power also featured significantly in the [report](#) of Labour's Commission on the UK's Future, chaired by former Prime Minister Gordon Brown (see above). The report suggested that England is a 'hyper-centralised' nation and recommended that metro mayors and local government be granted additional powers over key public policy areas such as further education, transport and housing. To accomplish its aims, the report recommended the development of a new structure of local and regional partnerships, the formation of which would be 'encouraged' by a new Council of England, which the report said would 'bring together English local government and metro mayors with central government', and would be chaired by the Prime Minister. What the report did not suggest was a new, unified governance structure, meaning that even if its recommendations were accepted, devolution in England would remain uneven, with different arrangements throughout the country.

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## Northern Ireland

Northern Ireland continues to [be without ministers](#) – and to a large degree without government: civil servants run matters from day to day, but cannot initiate new policies. It remains to be seen if the new deal on the Northern Ireland Protocol (see below) will lead to the formation of an Executive.

Assembly elections were by law due, because of the deadlock, in the autumn. They were initially postponed

for three months. But ministers subsequently concluded that ‘an immediate election would not support the restoration of the devolved institutions’, so parliament has now passed [further emergency legislation](#) pushing the deadline back to early 2024. Another year in which, if there is no political progress, nothing new is done to tackle the serious economic, social and public service problems confronting Northern Ireland [would be a grave concern](#).

The Commons Northern Ireland Affairs Committee is conducting an [inquiry](#) into the effectiveness of the current devolved institutions, to which [Unit Deputy Director Alan Renwick](#) (with former Research Assistant Conor Kelly) and [Honorary Senior Research Associate Alan Whysall](#) provided separate written evidence, before giving [oral evidence](#) together on 1 March. The chair of the committee, Simon Hoare, has [suggested](#) that there is a ‘growing appetite’ to change the rules by which an Executive is formed, in order to prevent future boycotts – though there are also substantial dangers in doing so. If the DUP does not return to the institutions, this question may become pressing later in the year. Nonetheless, the [report](#) of Labour’s Commission on the UK’s Future, chaired by former Prime Minister Gordon Brown (see page 11), had surprisingly little to say about Northern Ireland – expressing support for devolution but making only one practical recommendation specific to it, related to the role of the British Regional Investment Bank.

The debate on Irish unity continues. Research by the [Analysing and Researching Ireland North and South](#) (ARINS) research project, in cooperation with the *Irish Times*, casts interesting new light on the subject. The project conducted [polling](#) which recorded rather low support for unity, compared to some earlier polls: just 27% were in favour, compared to 50% favouring the Union. Support was much higher – 66% – in the Republic of Ireland. But the [wider research](#) brought out the limited interaction and mutual comprehension between the two parts of the island, which might pose profound challenges to any early peaceful transition to unity.

## The Northern Ireland Protocol

The [Protocol on Ireland and Northern Ireland](#) negotiated and agreed under the premiership of Boris Johnson has dominated post-Brexit relations with the EU and directly contributed to the DUP’s collapse of Northern Ireland’s power-sharing arrangements in 2022. In early February, it was also the subject of a [UK Supreme Court judgment](#), in which the Justices rejected a challenge to

the lawfulness of the Protocol and the legislation that implemented it.

Since taking office, Rishi Sunak and Foreign Secretary James Cleverly have [sought engagement and agreement with the European Commission](#) on the Protocol dispute. They have built on the work of Northern Ireland Secretary Chris Heaton-Harris and his Minister of State, Steve Baker, who have noticeably [improved UK–Irish intergovernmental relations](#) in recent months. To facilitate talks, passage of the government’s highly contentious [Northern Ireland Protocol Bill](#) was paused. In mid-February 2023, it appeared that a draft deal was forthcoming, and [Sunak travelled to meet with the major Northern Ireland parties](#) in Belfast to begin securing support. On 27 February, European Commission President Ursula von der Leyen and Rishi Sunak announced a new ‘[Windsor Framework](#)’ agreement between the EU and UK on the application of the Protocol.



[Ursula Von Der Leyen and Rishi Sunak \(CC BY 2.0\)](#) by [UK Prime Minister](#).

The new framework, if implemented, would introduce a variety of [changes to the Protocol](#), including the creation of a ‘Green’ lane with reduced checks for goods transported from Great Britain that are not intended to leave Northern Ireland, and a ‘Red’ lane for other goods at risk of transfer to the Republic of Ireland, and therefore the EU. The framework noticeably does not remove the jurisdiction of the European Court of Justice (a [key demand](#) from Brexiteers and some unionists). However, it has introduced a new political mechanism, the so called ‘[Stormont Brake](#)’. This would allow a minority of 30 MLAs to formally object to a new EU law. The objection would then be considered by the UK government, which would decide whether to intervene and suspend the law pending discussions with the EU. The [indirect nature](#)



of the new power, and the ability for the EU to initiate 'remedial measures' if its legislation is not applied, has led to much discussion of how the power should and will likely work in practice. Crucially, it requires the Northern Ireland Assembly and Executive to be functioning in order to be effective.

The DUP has remained reluctant to endorse the deal. It has begun a process of consulting its members, which includes the [creation of an eight-person panel](#) to examine the agreement in detail. However, utterances from individual politicians have provided some insight into the [divisions which exist within the party](#) over whether to accept the framework and return to Stormont. Opposition from Brexiteers in Great Britain has been muted, though Boris Johnson has [said](#) he may not be able to support the deal, which is designed to address the [shortcomings](#) of the Protocol he negotiated.

Following the announcement of the Windsor framework, the government has undertaken to [bring forward amendments to the Northern Ireland Act 1998](#) to provide further assurances that Northern Ireland's place in the UK is secure. How far it can offer anything beyond the symbolic, without encroaching on the 1998 settlement, may be doubtful.

Labour leader Keir Starmer had [pledged](#) before the announcement of the draft that Labour would vote for any new deal in order to secure its passage through parliament. It remains unclear whether Sunak will be willing to rely on opposition support, whether the deal will require parliamentary approval in the first place, or whether the settlement can fulfil its primary objective of restoring the Northern Ireland power sharing institutions in time for the Belfast/Good Friday Agreement's 25<sup>th</sup> anniversary in April.

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## Scotland

Scottish politics has been turned upside down by Nicola Sturgeon's [resignation](#) as First Minister and leader of the SNP. Party members will elect her successor using the [Alternative Vote](#) system, with the ballot to close on 27 March. Three contenders [formally entered](#) the contest to succeed her: Health Minister Humza Yousaf, Finance Minister Kate Forbes, and Ash Regan, a former junior minister who [resigned](#) in October because of her refusal to support the [Gender Recognition Reform Bill](#).

The bill completed its parliamentary stages on 3 December but Sturgeon's commitment to its passage led to the largest [backbench rebellion](#) of her tenure. It also

provoked a reaction from Westminster. On 16 January, Scotland Secretary Alister Jack [announced](#) that he had made an order under [Section 35](#) of the Scotland Act, which allows the UK government to prevent Scottish legislation from receiving royal assent where it has 'reasonable grounds' to believe the legislation would 'have an adverse effect on the operation of the law as it applies to reserved matters'. The government's [statement of reasons](#) claimed that the bill would negatively impact several matters, most notably the operation of equality legislation, which – unlike gender recognition policy – is reserved to Westminster. The order, which is the first of its kind, was [described by Sturgeon](#) as 'a full frontal attack on [Scottish] democracy'.

Sturgeon committed her government to challenging the order in court. Yousaf has [said](#) that he would be in favour of litigation but Forbes and Regan are [on record](#) as being against such a course of action. The Scottish Greens [warned](#) that a change of policy could jeopardise the [Shared Policy Programme](#) agreed with the SNP in 2021, which means that two Green MSPs serve as ministers in the Scottish government. Lord (Charlie) Falconer of Thoroton, who once served as Lord Chancellor, has [said](#) that the UK government had provided insufficient justification for the 'nuclear option' of a section 35 order, but a former Deputy President of the Supreme Court, Lord (David) Hope of Craighead, [disagreed](#), telling the BBC that the prospects of success for a case contesting the order would be 'very low'.

Another policy with an uncertain future is that of treating the next Scottish Parliament elections as a 'de facto' referendum on independence, which is [not universally supported](#) within Sturgeon's party. Yousaf has [expressed concerns](#) about the policy. Regan, on the other hand, [has suggested](#) independence could go ahead without a referendum, if enough voters supported pro-independence parties at an election.

Separately, the [report](#) of Labour's Commission on the UK's Future, chaired by former Prime Minister Gordon Brown (see above), made specific recommendations about the future of Scotland within the Union. In addition to protecting devolved powers through codifying the Sewel convention in statute, the report also recommended allowing the Scottish government to be a party to international agreements that relate to devolved competences, and suggested that MSPs should have equivalent protection to the parliamentary privilege enjoyed by Westminster MPs. The report stated that consideration should be given to the introduction

of new forms of local and regional leadership, such as directly elected mayors. The SNP [dismissed the proposals](#) as ‘underwhelming’ and ‘vague’.

## Wales

The Independent Commission on the Constitutional Future of Wales published its [interim report](#) on 6 December. It concluded that there are ‘significant problems with the way Wales is currently governed within the union’, and identified three ‘feasible and alternative constitutional routes’: a strengthened and secure devolution settlement, a federal UK, and an independent Wales. These are the three options which will be assessed in the commission’s final report, which is due to be published in the latter part of 2023.

The Welsh independence movement continues to be active, with pro-independence think tank [Melin Draford](#) holding a conference in January that brought together various campaigning groups, as well as the Plaid Cymru leader, Adam Price. The conference was accompanied by a Melin Draford report, entitled [Achieving an Independent Wales](#).

The [report](#) of Labour’s Commission on the UK’s Future, chaired by former Prime Minister Gordon Brown, recommended the devolution of youth justice and the probation service to Wales, implying that policing and the rest of the system would remain reserved to Westminster, contrary to the current policy of the Welsh Labour government. Richard Wyn Jones, Director of the Wales Governance Centre, [criticised](#) this, on the basis that, while the report stated the commission was not opposed to devolving the whole of justice policy, it offered no explanation as to why its recommendations covered only youth justice and probation.

In February, it was [reported](#) that the Welsh government’s Senedd reform plans will include a ban on candidates living outside of Wales and a new rule to prevent members of the Senedd from switching parties, forcing them to sit as independents instead. The reform package is being worked on by the government and Plaid Cymru as part of their cooperation agreement, and a formal update is due in the spring.

The UK’s reformed structures for intergovernmental relations (IGR) are increasingly up and running, with the Welsh government making positive noises about the progress made in establishing new inter-ministerial groups. The new constitutional architecture was [described](#) by Mick Antoniw as a ‘significant

constitutional step forward’, that would provide substantial resources for lobbying for better coordination between the governments of the UK. The hope is that these structures will allow Wales to have a fair hearing on its priorities, the most pressing of which is the [Retained EU Law \(Revocation and Reform\) Bill](#) (see page 4), which has the potential to fundamentally reorder post-Brexit devolved competences. The Welsh government has [recommended](#) that the Senedd withhold legislative consent for the bill.

## Public attitudes to the constitution



### Recent surveys on constitutional matters

Public concern with the way politics is conducted remains at historically high levels. The December 2022 edition of the [Ipsos Issues Index](#), which tracks public perceptions of the most important issues presently facing the UK, saw a ‘lack of faith in politics/politicians/government’ rank fourth highest. While the proportion of respondents selecting this option had fallen from 26% in June 2022 to 18% by December, more people chose this option than named climate change, poverty, or housing.

Polling conducted by [Ipsos](#) in the aftermath of the resignation of Scotland’s First Minister Nicola Sturgeon indicated that most Scottish voters thought her resignation would negatively impact the case for Scottish independence, while 61% of respondents thought that it would damage the SNP.

Following [newspaper reports](#) that some Conservative MPs were seeking the UK’s exit from the European Convention on Human Rights (ECHR), [YouGov](#) asked the public in February what its preferred outcome was on this issue. A majority (55%) wanted the UK to remain a member of the ECHR, although a plurality of Conservative (44%) and Leave (45%) supporters backed withdrawal. The high proportion of those who were disinclined to give a view (23% answered ‘Not sure’) partly reflects low levels of public knowledge about the Convention and the European Court of Human Rights. [Detailed research](#) by the Unit’s [Democracy in the UK after Brexit](#) project (see page 18) has similarly found majority public support for judicial involvement – whether by courts in the UK or by the European Court of Human Rights – in rights-based cases.

# International



## New electoral law passed in Mexico

Andrés Manuel López Obrador, the President of Mexico, has successfully passed legislation that will reduce the funding of the country's independent electoral commission, the INE. Obrador initially proposed a package of [constitutional reforms](#) that sought to remove the INE's mandate to maintain the electoral register and alter the appointment process for its governing members. This risked removing safeguards that ensured the independence of key electoral functions from local and national government authorities.



[President Andrés Manuel López Obrador](#) (CC BY-NC-ND 2.0) by [UN Women Americas and the Caribbean](#).

Obrador proved unable to secure the two-thirds majority needed to alter the constitution. He then introduced a bill that contained changes which did not require constitutional amendment, and therefore needed a simple majority to pass. This 'Plan B' legislation was [approved](#) by the country's Chamber of Deputies mere hours after it had been introduced, before many legislators had even had a chance to read it. Ricardo Monreal, who leads Obrador's Morena party in the Senate, voted against the bill, but the chamber [passed the legislation](#) in February without his support.

These reforms – which provoked [large public protests](#) – drastically reduce the INE's funding, compromising its ability to carry out many of its core functions, including maintaining an electoral register. The result is a weakened INE and concern among international

observers such as [Human Rights Watch](#) that the 2024 presidential and congressional elections will be less trustworthy, more chaotic, and suffer from a lack of political legitimacy as a result. The INE's governing body has [voted](#) to commence legal action to challenge the constitutionality of the proposals.

## Constitutional reform in Chile

Chile is once again undergoing a process to draft a new constitution following the [rejection](#) of a previous package of reforms at a referendum in September. After three months of negotiations, the country's main political parties signed the '[Agreement for Chile](#)', which sets out how fresh proposals will be developed. This includes 12 principles that will form the conceptual basis for the new constitution and establishes the timetable for the process.

Three bodies will be responsible for creating the new draft constitution. A 24-person committee of experts has been appointed by the country's parliament, which will put together a preliminary set of proposals. These will be reviewed by a 'Constitutional Council', whose 50 members will be elected by the public in May. The work of the expert committee and the Constitutional Council will be overseen by a technical committee – appointed by parliament – that will have the task of ensuring that the resulting text is consistent with the 12 principles of the Agreement. The draft constitutional document that results from this process will then be put to a referendum in November.

## Ireland's 'rotating Taoiseach'

In Ireland, the planned switch of the Taoiseach (Prime Minister) and Tánaiste (Deputy Prime Minister) positions took place on 17 December. The so called '[rotating Taoiseach](#)' arrangement was included in the 2020 [Programme for Government](#) of the governing coalition, which consists of Fianna Fáil, Fine Gael, and the Green Party. Micheál Martin, the leader of Fianna Fáil who had been Taoiseach since that coalition took office, has now become Tánaiste. Meanwhile, Fine Gael leader Leo Varadkar [has become Taoiseach](#), a post he previously held between 2017 and 2020.

There was a slight postponement of the original handover date in order to [allow Martin to attend a final meeting of the European Council](#). Martin formally resigned as Taoiseach on 17 December, giving a [resignation statement](#) to the Dáil, which then [voted](#) to approve Varadkar's appointment.



This change in leadership prompted a minor reshuffle, as Varadkar had been responsible for the Department of Enterprise, Trade and Employment during his time as Tánaiste. Simon Coveney was moved to take over that department, allowing Martin to take on Coveney's former roles of Minister for Foreign Affairs and Minister for Defence.

The rotating Taoiseach agreement is a first for Irish politics, and a result of the growing partnership between the two parties that have been dominant since independence. The splintering of the party landscape in recent elections means that this type of arrangement could become a regular feature of coalition building in the future.

### People on the move

Rishi Sunak conducted a Cabinet reshuffle in February (see page 9) following the sacking of **Nadhim Zahawi** as Chairman of the Conservative Party in January (see page 8). Long-serving junior minister **Greg Hands** took over Zahawi's role. **Michelle Donelan** moved to head a newly created Department for Science, Innovation and Technology. **Lucy Frazer** left her Minister of State role at the Department for Levelling Up, Housing and Communities to take over from Donelan as Secretary of State for Culture, Media and Sport. **Oliver Dowden** was given a new title of Secretary of State in the Cabinet Office in addition to his existing position of Chancellor of the Duchy of Lancaster.

At junior ministerial level, **Nus Ghani** was appointed to a Minister of State role that will see her divide her time between the Cabinet Office and the Department for Business and Trade.

**Sarah Healey** was named Permanent Secretary at the Department for Levelling Up, Housing and Communities after her predecessor **Jeremy Pocklington** was appointed to the same position at the new Department for Energy Security and Net Zero.

**Polly Payne** and **Ruth Hannant** were appointed to share the role of Permanent Secretary at the Department for Culture, Media and Sport on an interim basis.

**Sue Gray** resigned as head of the Union and Constitution Directorate in the Department for Levelling Up, Housing and Communities to take on the role of Labour leader Keir Starmer's Chief of Staff.

**Ian Blackford** stepped down as leader of the SNP at Westminster in December. **Stephen Flynn** was elected to replace him. **Mhairi Black** was then confirmed as deputy leader in place of **Kirsten Oswald**.

**Daniel Greenberg** replaced **Kathryn Stone** as Parliamentary Standards Commissioner after her term of office came to an end in January.

**Jake Vaughan** was appointed Clerk of Committees in the House of Lords on 31 January. His former position of Clerk of the Journals is now held by **Christopher Johnson**.

**Helen Pitcher** took over from **Lord (Ajay) Kakkar** as Chair of the Judicial Appointments Commission in January.

**Shameem Ahmad** was appointed CEO of the Public Law Project in January, following the resignation of **Jo Hickman**.

## Constitution Unit news

### New book: *The Parliamentary Battle over Brexit*

On 23 March the book [\*The Parliamentary Battle over Brexit\*](#), by Unit Director Meg Russell and Research Fellow Lisa James, will be published by Oxford University Press. It is one of the primary outputs from Meg Russell's Senior Fellowship with the UK in a Changing Europe on [\*Brexit, Parliament and the Constitution\*](#). The book tells the story of how Brexit unfolded in parliament, beginning with backbench pressures for a referendum pre-2015, and ending with the UK's departure from the EU in January 2020.

The book charts a tempestuous period in UK politics, during which many of the tensions played out in parliament itself and over parliament's role – including

the two *Miller* cases in the Supreme Court, the triggering of Article 50, the repeated defeats of Theresa May's deal, backbenchers 'seizing' the agenda of the House of Commons, and the unlawful prorogation of autumn 2019. The book ends with reflections on what went wrong, what (if anything) might need to be fixed, and what lasting effects the Brexit arguments may have on British politics.

Linking back to earlier Unit work on the [Independent Commission on Referendums](#), a major initial problem was the lack of clarity in the referendum about what Brexit should mean. This left very difficult problems for parliament to deal with. Although both main parties were divided by the referendum, the book concludes that Brexit was first and foremost an argument inside the Conservative Party, but that when it came to the fallout, parliament got much of the blame.

*The Parliamentary Battle over Brexit* retails for £25, but is available with a 30% discount via the [Constitution Unit website](#).

In the coming weeks there will be various events and media appearances around the book.



## New report on public attitudes to democracy

The [third report](#) from the Unit's project on [Democracy in the UK after Brexit](#) was published on 7 March. Co-authored by Alan Renwick, Ben Lauderdale, Meg Russell, and James Cleaver, this sets out the findings of a survey of the UK population conducted in August and September 2022. It follows up on the [first report](#), published last January, which presented the results of a 2021 survey, and the [second report](#), published last April, on the recommendations of the Citizens' Assembly on Democracy in the UK.

The report examines public attitudes on many topics, including the role of parliament, the future of the House of Lords, voting reform, and the role of the judiciary in politics. It reveals three overarching patterns. First, public trust in politicians and confidence in their ethical standards is low. Most people think that the system for protecting standards needs to be strengthened. Second, most people want those in power to be held accountable through a system of strong checks and balances, provided through parliament, the courts, and other institutions. Third, while the cost of living and the NHS are most people's top priorities, people care about the health of democracy in the UK as well. Above all, they want the discourse of politics to be more honest.

The project is funded by the Economic and Social Research Council (ESRC) as part of its Governance after Brexit programme.

## New report on House of Lords reform

On 3 March the Unit jointly published a report by Director Meg Russell on [options for House of Lords reform](#).

This is part of the [Review of the UK Constitution](#), jointly organised by the Institute for Government and the Bennett Institute, for which Robert Hazell has previously provided a [report on the monarchy](#). Meg's report reflects on the current work of the House of Lords, international lessons for second chamber reform, the history of reform in the UK, and public attitudes towards it, before reviewing options currently on the table. This includes detailed consideration of the proposals from the recent [report](#) of Labour's Commission on the UK's Future – chaired by former Prime Minister Gordon Brown – as well as smaller-scale proposals such as capping the size of the chamber, more closely regulating prime ministerial appointments, strengthening the House of Lords Appointments Commission and removing the remaining hereditary peers.

The report concludes that large-scale reform ideas such as the Brown Commission's Assembly of the Nations and Regions will be challenging to achieve, with a lot of detail yet to think through. Meanwhile, smaller-scale changes are urgently needed, and have significant public support. If such reforms are not adopted by Rishi Sunak, Labour should therefore consider a two-stage approach to Lords reform (as applied in 1997) if it enters power. Two pieces on our blog summarise these conclusions, on the [Brown proposals](#), and the [alternative options for Labour](#).

## Reforming the Prerogative

On 7 December, the Unit published a report, [Reforming the Prerogative](#), written by Robert Hazell and Charlotte Sayers-Carter. The report is concise, summarising the introduction and conclusion of Robert's book with Timothy Foot, [Executive Power: the Prerogative Past, Present and Future](#), together with summaries of five chapters on individual prerogative powers: dissolving and proroguing parliament, the war-making power, agreeing treaties, making public appointments, and issuing passports. The report calls for further codification of the prerogative. For example, it argues that parliament should be given a greater role in the negotiation and ratification of treaties, and that constitutional watchdogs such as the Commissioner for Public Appointments would benefit from being placed on a statutory footing.

The report and book were both launched at a Unit event on 8 December. The event was recorded and is available in both [video](#) and [podcast](#) formats.

## Staff news

In recent months we have been sorry to say goodbye to two valued members of staff. James Cleaver worked as a Research Assistant on the [Democracy in the UK after Brexit](#) project, providing invaluable support on our two surveys and citizens' assembly. He has departed for a post at the Electoral Commission. Rebecca McKee first joined the Unit way back in 2017, working on our Citizens' Assembly on Brexit. She later returned as a British Academy Postdoctoral Research Fellow, studying parliament and representation. Rebecca now has a new post as Senior Researcher with our friends at the Institute for Government. We look forward to continued joint working, including publishing her keenly awaited Unit report on [MPs' staff](#) in the coming months. Both Rebecca and James will be sorely missed, and we wish them all the best for the future.

Meanwhile, we are pleased to welcome two new staff members. Alice Hart joined the Unit to take over the position of Research Assistant on Democracy in the UK after Brexit. Max Emmett, a PhD student in the UCL Department of Political Science, will provide part-time support to our work on the House of Lords.

## Research volunteers

The Unit is, as always, grateful for the excellent work done by its research volunteers. A big thank you to former volunteers Jiacheng Gong, Alice Hart and Hashmath Hassan.



### Listen to our 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](#).

### Sign up to attend free Unit events

We continue to run free events, with contributions from experts in politics, academia and law, followed by what is usually a lively Q&A session.

If you do not already receive email notifications about Unit events, [sign up now](#). Seminars are free and open to all. You can attend online, with in-person attendance possible for selected events.



# Bulletin Board

## Events recently made available online

Recordings of all of Unit events are available online, via the Unit's [podcast](#) and [YouTube](#) pages.

### [The Brown Commission: What Next?](#)

**Aileen McHarg**, Professor of Public Law and Human Rights at Durham University, **Akash Paun**, Senior Fellow at the Institute for Government, **Professor Meg Russell**, Director of the Constitution Unit.

Chair: **Professor Alan Renwick**, Deputy Director of the Constitution Unit.

*Recorded on 20 January.*

### [What Does the New Prime Minister Mean for the Constitution?](#)

**Dr Ruth Fox**, Director of the Hansard Society, **Colm O'Cinneide**, Professor of Constitutional and Human Rights Law, University College London, **Jill Rutter**, Senior Fellow at the Institute for Government.

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

*Recorded on 23 November.*

## Upcoming Events

### [The Parliamentary Battle over Brexit and the Constitution](#)

**Professor Meg Russell**, Director of the Constitution Unit, **Lisa James**, Research Fellow at the Constitution Unit, **David Gauke**, former Lord Chancellor in the May government, **Joanna Cherry**, SNP MP and lead litigant in *Cherry v Advocate General for Scotland*, **Dr Robert Saunders**, Reader in Modern History at Queen Mary University of London.

Chair: **Professor Alan Renwick**, Deputy Director of the Constitution Unit.

23 March, 1pm.

### [The Parliamentary Battle for Brexit and the Conservative Party](#)

**Professor Meg Russell**, Director of the Constitution Unit, **Lisa James**, Research Fellow at the Constitution Unit, **Graham Brady**, Chair of the 1922 Committee of Conservative backbenchers, **Lord (Gavin) Barwell**, former Downing Street Chief of Staff, **Isabel Hardman**, assistant editor of the *Spectator*.

Chair: **Anand Menon**, Director of UK in a Changing Europe.  
29 March, 6:30pm.

## Unit in the news

Meg Russell appeared on LBC's *Lewis Goodall* programme to discuss appointments to the House of Lords (11 November). She also discussed the wider topic of Lords reform on LBC (20 November), on Radio 4's *The World Tonight* (6 December) and on Radio 4's *The Briefing Room* (8 December). She was quoted in articles on the same subject in the *Week* (14 November) and the *Spectator* (10 December).

The Unit's [British monarchy FAQs page](#) was referred to on *Last Week Tonight with John Oliver* (14 November).

Bob Morris was quoted in an *Express* article about the Counsellors of State Act 2022 (15 November).

The Unit's [explainer on constitutional conventions](#) was referred to in an article on the potential resignation of the President of Malta in the *Malta Independent* (4 December).

Robert Hazell appeared on two episodes of Netflix's *Harry & Meghan* documentary (8 December). He was quoted in articles about the Duke and Duchess of Sussex in the *Express and Star*, *Tatler*, *Hello* (all 8 December), the *Telegraph* (17 December), the *Times* (19 December), *Varsity* (11 January), on *Londynek.net* (15 January), and in an article on Prince Harry's autobiography on *Globe World News Echo* (10 January). Robert and Bob Morris were both quoted in an article about the couple on the *Overtimer* (27 December).

Meg Russell wrote an article for *Prospect* on the need to reform, rather than abolish, the House of Lords (24 November).

# Bulletin Board

Meg Russell had a letter in the [Times](#) on ethics and integrity in government (3 December).

The work of the Democracy in the UK after Brexit project was featured in an article about integrity in politics on [PoliticsHome](#) (12 December). The project's work on public attitudes to the judiciary was discussed on [A Lawyer Writes](#), a Substack newsletter authored by Joshua Rozenberg.

The Citizens' Assembly on Brexit was mentioned in an article about reform of the House of Lords on [Perspective](#) (12 December).

Robert Hazell was quoted in an article on [Euronews](#) about the continuing existence of monarchies in western Europe (25 December).

Bob Morris and Robert Hazell were both quoted in articles about the King's coronation in the [Telegraph](#) (12 December) and the [Times](#) (16 December). Bob was quoted on the same subject in the [Guardian](#) (25 December and 1 January), [Country Living](#) (11 January), CBC's [Royal Fascinator](#) newsletter (13 January) and the [Sun](#) (23 January).

Meg Russell was quoted in articles in the [National](#) (26 December) and [Nation Cymru](#) (27 December) about whether it is appropriate for peers to run as candidates in elections to devolved institutions.

Robert Hazell's recent book on the royal prerogative was discussed in [A Lawyer Writes](#) (6 January).

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## Committee appearances

Alan Renwick and Alan Whysall gave evidence to the Commons Northern Ireland Affairs Committee on the effectiveness of the institutions of the Belfast/Good Friday Agreement ([1 March](#)).

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## Unit publications

Meg Russell and Lisa James, [The Parliamentary Battle over Brexit](#) (Oxford University Press, March).

Alan Renwick, Ben Lauderdale, Meg Russell and James Cleaver, [Public Preferences for Integrity and Accountability in Politics](#) (Unit report, March).

Meg Russell, [House of Lords Reform: Navigating the Obstacles](#) (Unit report, co-published with the Institute for Government and Bennett Institute for Public Policy, March).

Robert Hazell, [Harry and Meghan Shine a Light on Monarchy, and its Demands](#) (*Political Quarterly*, January).

Robert Hazell and Charlotte Sayers-Carter, [Reforming the Prerogative](#) (Unit report, December).

Robert Hazell, [Future Challenges for the Monarchy](#) (Unit report, co-published with the Institute for Government and Bennett Institute for Public Policy, December).

Alan Renwick, Nadia Dobrianska, Conor J Kelly and Charlotte Kincaid, [Public Attitudes to Referendums on Irish Unification in Northern Ireland: Evidence from an Online Consultation](#) (*Irish Political Studies*, December).

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## Publications to note

The Hansard Society, [Proposals for a New System for Delegated Legislation: a Working Paper](#) (Hansard Society, February).

Murray Hunt, Alan Miller, Catherine O'Regan and Emma Rowland, [The Making of Bills of Rights: Relevant International Human Rights Law Obligations](#) (Bonavero Institute of Human Rights, January).

Adam Lazowski, Ivan Franko and Adam Cygan (editors), [Research Handbook on Legal Aspects of Brexit](#) (Edward Elgar, December).

Ronan Cormacain, [The Form of Legislation and the Rule of Law](#) (Hart, December).

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## Contributors to Monitor 83

Sophie Andrews-McCarroll, Dave Busfield-Birch, James Cleaver, Tom Fleming, Robert Hazell, Lisa James, Conor J. Kelly, Alexandra Meakin, Luke Nicholas, Alan Renwick, Meg Russell, Mark Sandford and Alan Whysall.

The issue was edited by Dave Busfield-Birch.

[Read previous issues of Monitor](#)