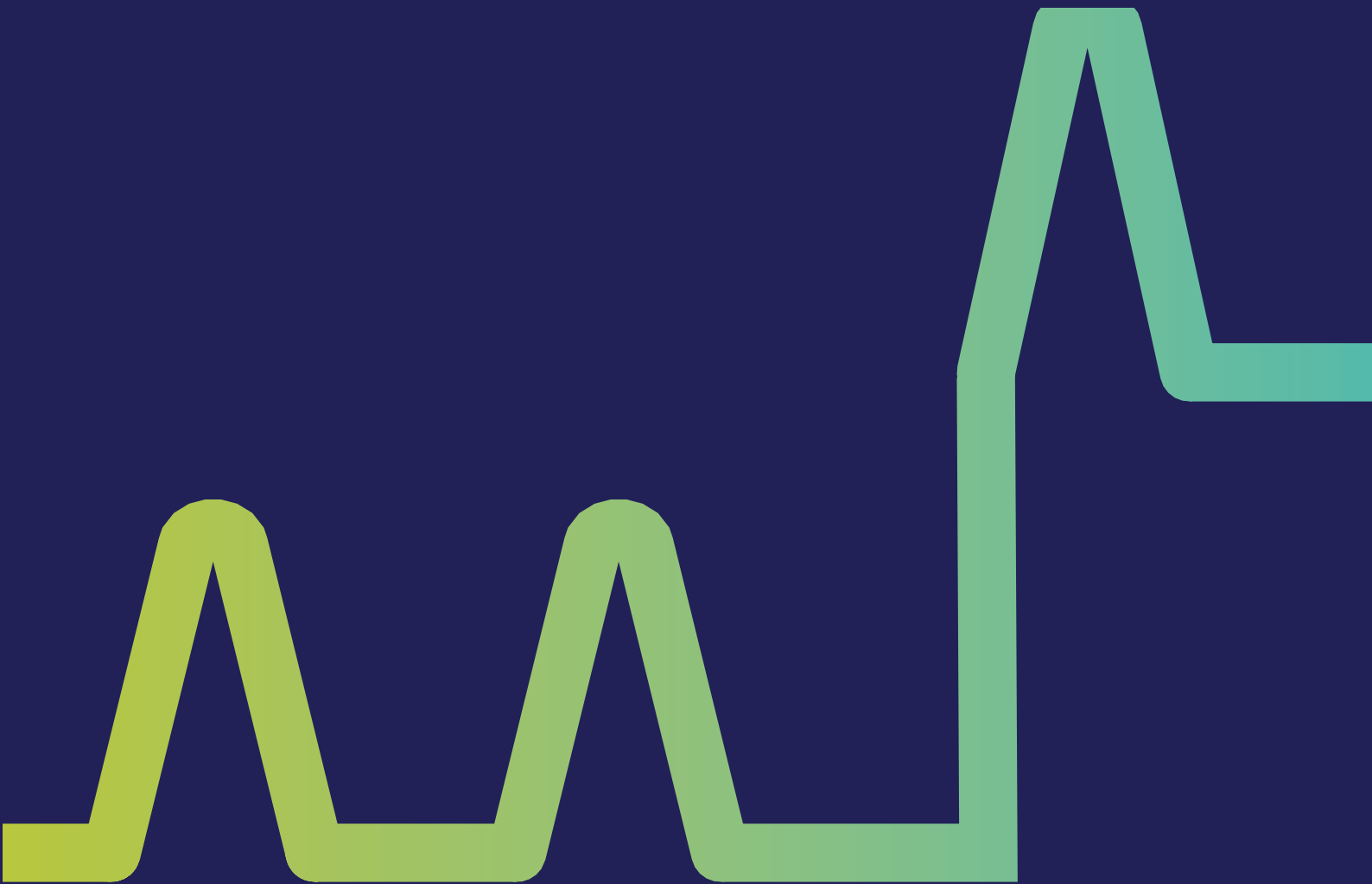


Parliamentary Monitor 2018



About this report

Parliamentary Monitor is a new Institute for Government project taking a data-driven look at the work of Parliament to improve effectiveness of government. It examines the resources involved in running the Houses of Parliament, how legislation is passed and how government is scrutinised.

[www.instituteforgovernment.org.uk/
parliamentary-monitor](http://www.instituteforgovernment.org.uk/parliamentary-monitor)

Contents

List of figures	2
Foreword	5
Summary	6
1. Cost	9
2. Time	18
3. Primary legislation	29
4. Secondary legislation	44
5. Select committees	58
6. Backbench activity	77
7. Conclusion	89
Afterword: Using parliamentary data	91
Appendix: Methodology	94
Abbreviations	99
References	101

List of figures

Figure 1.1 Expenditure (net) on both Houses of Parliament, and associated organisations, 2017/18	10
Figure 1.2 Total (gross) expenditure on Parliament, and government department administration budgets (outturn), 2017/18	12
Figure 1.3 Total (gross) expenditure on the House of Commons, by area, 2017/18	13
Table 1.1 Key MPs' expenses in 2017/18	14
Figure 1.4 Total (gross) expenditure on the House of Lords, by area, 2017/18	15
Figure 2.1 Sitting days in the Commons and Lords per session, 2010/12–2017/19, as at 21 June 2018	18
Figure 2.2 Use of weekdays by Parliament, 21 June 2017–21 June 2018	20
Table 2.1 Scheduled sitting hours in the Commons and Lords	22
Figure 2.3 Proportion of actual sitting time in the Commons and Lords chambers spent on divisions, 21 June 2017–21 June 2018	24
Figure 2.4 Estimated breakdown of Commons sitting time (hours), 21 June 2017–21 June 2018	26
Figure 3.1 Passage of a bill through the UK Parliament	30
Figure 3.2 Government bills announced in the 2017 Queen's Speech, by type	31
Figure 3.3 Non-Brexit Government bills introduced to Parliament, by legislative stage reached, 21 June 2017–21 June 2018	33

Figure 3.4 Parliamentary progress of Government Brexit bills, as at summer recess 2018	35
Figure 3.5 Hours spent considering the EU Withdrawal Bill on the floor of both Houses	37
Figure 3.6 Hours spent debating Government bills that received Royal Assent, 21 June 2017–21 June 2018	38
Figure 3.7 Changes made to the EU Withdrawal Bill at each stage of its passage	40
Figure 3.8 Government defeats in the Commons (circled) and Lords (grey dots), by size, May 2005 to 21 June 2018	42
Figure 4.1 UK Acts and Statutory Instruments, 1950–2016 (calendar years)	45
Figure 4.2 Number of pieces of secondary legislation tabled by government departments, 21 June 2017–21 June 2018	46
Figure 4.3 Negative SIs tabled, prayed against, and debated in the Commons, 21 June 2017–21 June 2018	47
Figure 4.4 Number of Delegated Legislation Committees, by duration, 21 June 2017–21 June 2018	49
Figure 4.5 Number of pieces of secondary legislation considered, and reported, by parliamentary scrutiny committees, 21 June 2017–21 June 2018	52
Figure 5.1 Types of select committees in the UK Parliament	60
Figure 5.2 Experience of Select Committee Chairs elected in July 2017	62
Figure 5.3 Gender balance of Commons departmental and cross-cutting committees, as at 21 June 2018	63

Figure 5.4 Average Commons committee attendance, 2016/17 and 2017/19, up to 21 June 2018	67
Figure 5.5 Brexit-related inquiries as a proportion of all inquiries launched by Commons departmental and cross-cutting committees, 21 June 2017–21 June 2018	69
Figure 5.6 Average number of oral witnesses and written submissions per report for Commons departmental and cross-cutting committees, up to 21 June 2018	71
Figure 5.7 Government response time (days) to reports by Commons departmental and cross-cutting committees, up to 21 June 2018	75
Figure 6.1 Number of written and oral questions tabled in the Commons, by answering government department, 21 June 2017–21 June 2018	78
Figure 6.2 Urgent questions granted per sitting day, per session since 2001/02, as at 21 June 2018	80
Figure 6.3: Emergency debates granted, per sitting day, 2001/05–2015/17 Parliaments; and 2017/19 session, as at 21 June 2018	81
Figure 6.4 Private Members' Bills introduced, by type, 21 June 2017–21 June 2018	84
Figure 6.5 Number of e-petitions in the 2017/19 session, by stage reached, as at 21 June 2018	87

Foreword

I am delighted to introduce our first *Parliamentary Monitor* report. In it we collect and analyse data to show how Parliament is fulfilling its role in scrutinising and passing legislation, in facilitating debate and in holding government to account.

We aim to let MPs, peers, the public and the Government understand better what works well and what could be improved.

Brexit has heightened this need. Parliament is playing an essential role in debating proposed legislation and different visions of the UK after leaving the European Union.

This report joins our stable of highly regarded data-focused publications, including *Whitehall Monitor* and *Performance Tracker*, which look at some of the most important aspects of the performance of government.

Bronwen Maddox

Director, Institute for Government

Summary

Our *Parliamentary Monitor* report, the first in an annual series, shows what the House of Commons and House of Lords have done in the 12 months since the June 2017 election.

The UK's decision to leave the European Union (EU) has focused public attention on the work of the country's elected – and unelected – representatives. Parliament must take the key decisions required to give effect to Brexit and 'take back control' of areas of government previously delegated to the EU. The Government's loss of its Commons majority in the 2017 election has increased the influence of backbenchers and excited the media's interest in Parliament's role.

Parliament has a many-sided role in the UK's system of democratic government. The main facets of this role include:

- representing constituents
- passing legislation
- agreeing government proposals for taxation and expenditure
- holding government to account
- facilitating national debate.

In this report we explore how Parliament has spent its time and taxpayers' money in the year from the June 2017 State Opening of Parliament. We explain the key activities undertaken by MPs and peers, what they are trying to achieve and what affects whether or not they are successful. These factors include broad historical and constitutional shifts in the relationship between government and Parliament, and the raw political calculations driven by each party's strength in the House of Commons.

There are limits to what data can tell us about Parliament. Many elements of its role – including its value as an institution of democracy – cannot be measured. It does not generally make sense to talk about Parliament as a whole 'succeeding' or 'failing'. Think of the prospect that Parliament might refuse to pass a Brexit deal reached between the Government and the EU; in some people's eyes, that would constitute success in its role of holding the Government to account, but in others', resounding failure in delivering the Government's policy programme.

All the same, it is possible to say how parliamentary processes – such as the scrutiny of secondary legislation, or the work of select committees – are working, and to judge whether they are fulfilling their purpose.

This report should help people understand how Parliament is working, help parliamentarians in proving their value to the public they represent, and show where reform is needed. We have found that:

The cost of running Parliament was £550.8m in 2017/18

- The total cost of running the UK Parliament – which scrutinises the whole of central and local government – is equivalent to administering a mid-sized government department (Chapter 1).

The June 2017 election created a six-month gap in Parliament's scrutiny

- Delays in the re-establishment of Commons committees following the election meant that the Government avoided routine scrutiny and having to respond to recommendations made by committees in the last Parliament (Chapter 5).

Lack of a Commons majority has heavily constrained the Government in making laws

- 19 government bills became law – broadly in line with previous sessions – but the policy objectives of those bills have been unusually limited for the first session of a new Parliament.
- In the calendar year from the State Opening of Parliament, the Government avoided all but one defeat in the Commons by not introducing any flagship non-Brexit legislation that might run into difficulties (Chapter 3).

Brexit has consumed Parliament's time

- One in eight select committee inquiries have focused on Brexit (Chapter 5).
- The EU Withdrawal Bill took nearly a year and more than 273 hours of debate to become law. Meanwhile, other Brexit-related legislation has been slowed down by political conflict over the form of Brexit (Chapter 3).
- The Government used the EU Withdrawal Act to give itself wide-ranging secondary legislation-making powers, including 'Henry VIII powers'. It has said it plans to use these to pass at least 800 pieces of secondary legislation before exit day. The breadth and scope of these powers caused significant debate in Parliament, and the shift in the balance of power from the legislature to the executive that they represent remains a source of concern (Chapter 4).

Concerns are rising about whether Parliament's procedures are working well enough

- Debate over the secondary legislation-making powers used by the Government has highlighted longstanding concerns about Parliament's processes for scrutinising secondary legislation. This led to the creation of another new scrutiny committee in the Commons – the European Statutory Instruments Committee (Chapter 4).
- Only a handful of the 236 backbench bills introduced in the year from State Opening will become law. The rejection of a Private Member's Bill on 'upskirting' brought criticism from MPs and media, as did the breaking of a 'pairing' arrangement for crucial votes on the Trade Bill by a Conservative MP. Such events raise questions about the need to reform parliamentary procedures that may be

misunderstood or seen as arcane by the public, or do not allow for meaningful scrutiny (Chapters 2 and 6).

Parliament has been very active

- MPs and peers in the UK Parliament have sat for more days than many other legislatures around the world (Chapter 2).
- In the wake of the election – as after previous elections – there has been a considerable increase in the number of parliamentary questions asked by MPs, with over 55,000 tabled (Chapter 6).
- Reforms to Parliament’s approach to petitions, urgent questions and emergency debates have increased the topicality of Parliament’s work (Chapter 6).
- Some select committees have had high-profile impact, such as the Home Affairs Committee’s work on the Windrush scandal (Chapter 5).

Conclusion

Our analysis raises wider questions about Parliament which we set out at the end of this report. Does it have the people and the money that it needs to do its job? Does it have the time it requires to undertake all its work? Are its formal powers sufficient (for example, those of select committees to call witnesses)? Are its procedures working as intended? Is it modernising rapidly enough and doing enough to ensure it is understood by the public it represents?

These questions need to be considered urgently by parliamentarians, by government and by all those with an interest in supporting Parliament as an institution. The answers will shape Parliament’s ability to fulfil its multi-faceted role.

1. Cost

In 2017/18, gross expenditure on both Houses of Parliament (Commons and Lords) totalled £550.8m – roughly equivalent to the administration budget of one mid-sized government department. Calls to reduce the cost of politics tend to focus on reducing numbers of Members of Parliament (MPs) and peers, but the salaries and expenses of parliamentarians make up less than half the total expenditure on both Houses of Parliament. But there are broader costs associated with the running of Westminster’s parliamentary democracy, including the organisations who supervise elections, standards and constituency boundaries. In total, and net of the income all these bodies generated (for example, through retail activities or rentals), the UK Parliament and supporting organisations cost a combined £552m in 2017/18.

It is important to understand what Parliament costs in assessing how it is doing its job. But doing this is not straightforward. The two Houses of Parliament are separately governed and publish separate accounts, although there are some areas of shared costs that are split between the two. For example, the cost of the Parliamentary Archives is split between the Lords and Commons in a 60:40 ratio. The two Houses also have different rules regarding the salaries, allowances and expenses that their members (MPs and peers) can claim. In the Commons, since the 2009 expenses scandal, MPs’ salaries and expenses have been independently administered, while the Lords administers its members’ expenses directly.

Of course, the cost of running Parliament is not the same thing as its value. There is much about Parliament’s role in democracy – representing citizens, enacting legislation, facilitating debate and scrutinising government – that cannot simply have a price tag attached to it. But understanding what it costs to run Parliament on a day-to-day basis, and where that money goes, is important in assessing how well it works and in building public trust.

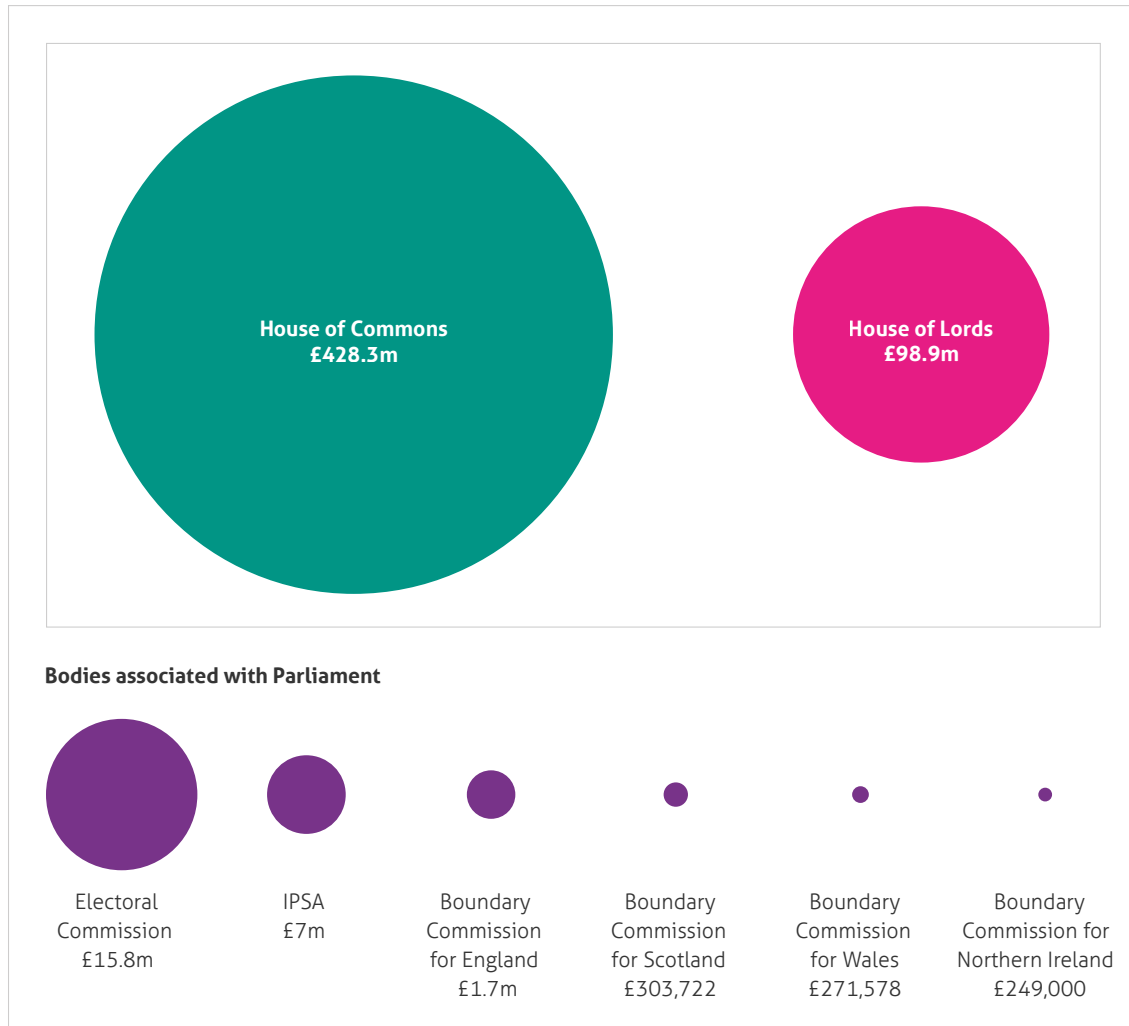
The UK Parliament and supporting organisations cost a combined £552m in 2017/18*

Much of the cost of running Westminster-based parliamentary democracy (the UK Parliament; not the devolved administrations for Scotland, Wales and Northern Ireland) is associated with the two Houses of Parliament, but there are several other public bodies – the Electoral Commission, the Independent Parliamentary Standards Authority (IPSA) and the Boundary Commissions of all four nations – whose work

* Unless otherwise stated, all data in this chapter is for the 2017/18 financial year and covers only resource spending. Numbers may not sum due to rounding.

enables the UK Parliament to function, and whose costs should be taken into account. Combined, all of these organisations cost £552.4m to run, net of the income they generated, in 2017/18.

Figure 1.1: Expenditure (net) on both Houses of Parliament, and associated organisations, 2017/18



Source: Institute for Government analysis of 2017/18 Annual Reports and Accounts from the House of Commons, House of Lords, Independent Parliamentary Standards Authority, Electoral Commission, and Boundary Commissions for England, Scotland, Wales, and Northern Ireland.

Funding for the House of Commons comes from three sources. In 2017/18, expenditure totalled £428.3m across these sources, net of the income the Commons received. Most funding comes from the annual Administration Estimate, which is produced and voted on by Parliament each year, with a supplementary estimate also considered if necessary. This estimate covers most of the general costs of administering the Commons in a year, including the cost of the 2,374 staff employed by the House, and a broad range of other expenditure, such as security, catering and information services. Expenditure from this source was £228.7m, net of the £17.5m in income the Commons generated, through activities such as tours, retail and catering.¹

The Commons is also funded through a separate Members' Estimate, which covers the cost of certain services provided to MPs, including funding to enable opposition parties to fulfil their parliamentary role (known as Short Money) and to pay for MPs with specific parliamentary responsibilities. It used to also cover the cost of MPs' information and communications technology (ICT), and stationery, but funding for this transferred to the Administration Estimate in 2017/18. Expenditure through the Members' Estimate came to just under £18m in 2017/18.

The Members' Estimate also used to include MPs' salaries and expenses, and the costs of employing MPs' staff. But following the expenses scandal in 2009, the regulation and administration of these costs was passed to IPSA, which is funded through a separate IPSA Estimate, also voted on by Parliament each year. Expenditure on MPs' salaries and expenses through the IPSA Estimate came to £181.6m, net of £115,000 of income IPSA received to run an internship scheme for MPs.²

Funding for the Lords is much simpler, and comes from just one source. The Lords Estimate covers all costs associated with the Lords, including peers' allowances and expenses, which are set at a flat rate and can only be claimed on days when peers attend the House. But the Lords Estimate also includes expenditure on a range of other items, including work on the parliamentary estate, security and the cost of employing 495 staff. In 2017/18, the cost of the Lords was £98.9m, net of income generated through retail and catering services.*

Combined, and net of the income each House generated, the cost of running both Houses of Parliament – including members' salaries, allowances and expenses – was £527.1m.

This figure tells us the total cost of operating Parliament on a day-to-day basis, but there are other public bodies whose work is of direct relevance to the UK Parliament, and whose costs are therefore part of what it costs to administer and run parliamentary democracy in the UK more broadly. These bodies are independent, but are accountable to committees chaired by the Speaker of the Commons.

- **The Electoral Commission** (£15.8m) is responsible for supporting the running of general elections and referendums in the UK (as well as local elections and elections to the devolved parliaments), and regulating the finances of political parties. Its spending was much higher in the 2016/17 financial year, when the Electoral Commission spent a net total of £143.8m, of which around £120m related to the cost of the referendum on Britain's membership of the European Union (EU), than in the 2017/18 financial year.³
- **IPSA** spent £7m on its running costs in 2017/18, separately from the funding for MPs salaries and expenses that it oversees.
- Each of the four nations of the UK has a Boundary Commission. The **Boundary Commissions for England, Scotland, Northern Ireland and Wales** (£2.5m) are included here as they review the geographical boundaries of UK parliamentary constituencies (as well as boundaries for elections to the devolved administrations in each nation).

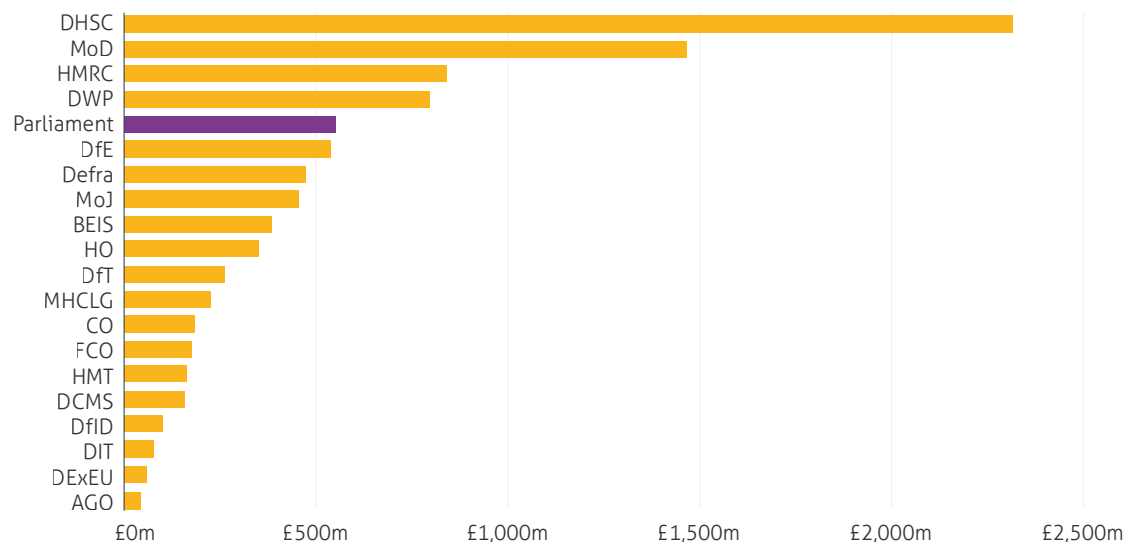
* This figure is also inclusive of a write-back of pension-related provision, totalling £861,000.

The total day-to-day cost of running Parliament (£550.8m) is roughly comparable to the cost of administering one mid-sized Whitehall department

The unique constitutional role of Parliament makes comparison with other organisations difficult, but comparison with government departments is useful to give a sense of scale. A government department's administration budget is just one small part (often less than 2%) of its entire expenditure,* and covers the cost of actually running the department – for example, the cost of staff, training and travel. It excludes expenditure on the public services and programmes for which a department is responsible.

This administration cost can broadly be compared to the total resource expenditure of both Houses of Parliament (including the costs of MPs' and peers' salaries and expenses). Combined, the total (gross) resource cost of Parliament in 2017/18 was £550.8m, which was smaller than the four costliest government departments: the Department for Health and Social Care, Ministry of Defence, HM Revenue and Customs, and Department for Work and Pensions.†

Figure 1.2: Total (gross) expenditure on Parliament, and government department administration budgets (outturn), 2017/18



Source: Institute for Government analysis of House of Commons, Annual Report and Resource Accounts 2017/18 and Members' Annual Report 2017/18; IPSA, Annual Report and Accounts 2017/18; House of Lords, Annual Report 2017/18; and HM Treasury, Public Expenditure Statistical Analysis 2018.

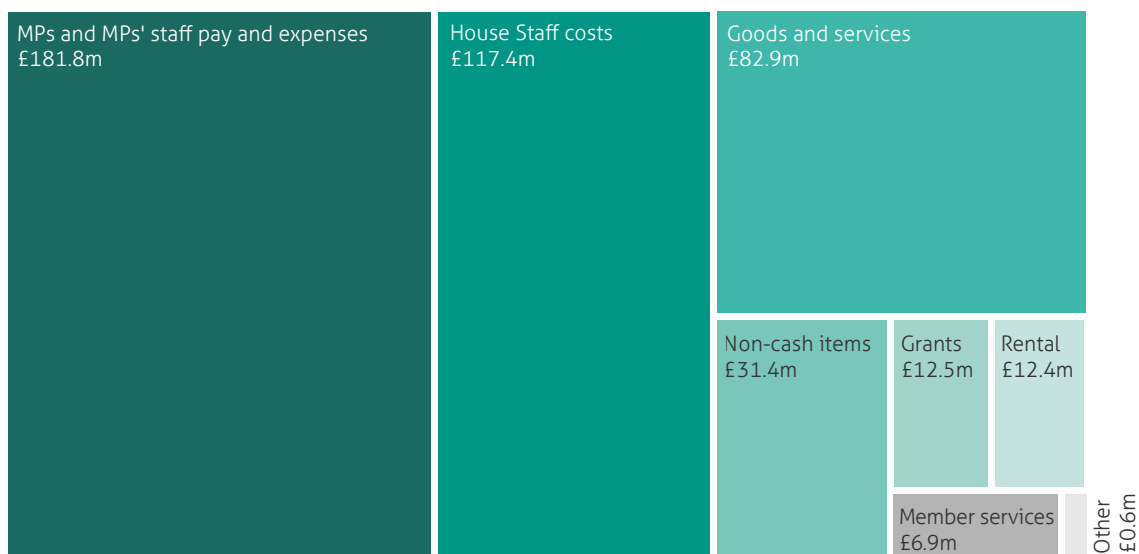
One of the key roles of Parliament is to scrutinise the work of all government departments; but it does so with a budget roughly equivalent to the administration costs of one mid-sized Whitehall department.

* Total managed expenditure (TME), which comprises a department's allocated budget (its Departmental Expenditure Limit), and the money a department spends that is not controlled as it depends on demand, such as debt interest payments (its Annual Managed Expenditure).

† This figure does not net off the pension write-back of £861,000 by the House of Lords.

MPs' salaries and expenses make up less than half of total spending on the House of Commons

Figure 1.3: Total (gross) expenditure on the House of Commons, by area, 2017/18



Source: IfG analysis of 2017/18 Annual Reports and Accounts from House of Commons (Administration, Members' Estimates), and Independent Parliamentary Standards Authority.

In 2017/18, gross expenditure on the House of Commons was £446m, made up of funding from the Administration Estimate, Members' Estimate, and MPs' salaries and expenses paid for through the IPSA Estimate. The total cost of MPs' salaries and expenses (including the cost of MPs' staff) was £181.8m – less than half of total expenditure on the House of Commons.

The annual basic salary for an MP in 2017/18 was £76,011.⁴ In total, MPs' salaries cost £50.1m.* MPs who do not take their seats in Parliament are not entitled to receive salaries, though they are eligible to claim expenses to enable them to undertake constituency duties.⁵

Some MPs receive additional salary for performing specific parliamentary roles. In 2017/18:

- Chairs of select committees, and members of the Panel of Chairs – MPs appointed by the Speaker to chair Public Bill Committees and other general committees – were entitled to receive an additional £15,235.
- The Speaker of the House of Commons received an additional £76,885; the main deputy Speaker (known as the Chairman of Ways and Means) £41,981; and the other Deputy Speakers £36,896.⁶

* National Insurance contributions cost a further £6.4m for MPs, and £6.9m for MPs' staff.

MPs who are ministers are also eligible to receive additional salary. This includes certain members of the Opposition, reflecting the official role the Opposition plays in Parliament. These salaries are paid by the Government, rather than Parliament, and so are not included in the figures above:

- The Prime Minister was eligible to receive an additional £77,896 in 2017/18; Cabinet ministers could receive an extra £69,844 and ministers of state £33,490.
- The Leader of the official Opposition was entitled to receive an extra £64,029.⁷

In addition to their salaries, MPs can claim expenses to cover the cost of running an office, employing staff in their constituency and Westminster offices, living in either London or their constituency, and travelling between the two.⁸ Eligibility and levels of expenses are determined annually by IPSA, and depend on whether an MP's constituency is inside the London area or not.

Table 1.1: Key MPs' expenses in 2017/18⁹

Budget	Area	Annual budget amount
Accommodation (for MPs claiming rental payments)	London area	£22,760
	Non-London areas	£15,850
Accommodation (for MPs who own their homes)	All	£8,850
Office costs	London area	£27,550
	Non-London areas	£24,850
Staffing	London area	£161,550
	Non-London areas	£150,900

In 2017/18, MPs' salaries and expenses totalled £181.8m, of which £50.1m went on MPs' salaries, and £72.2m on the salaries of MPs' staff.¹⁰ Spending by individual MPs varies significantly, often reflecting the location of their constituencies.

As an institution, the majority of the Commons' expenditure goes on:

- Staff costs (£117.4m) covering the 2,374 permanent staff employed by the House of Commons, ranging from clerks who support the work of MPs and committees, to estate management, financial support and communications staff.
- Goods and services (£82.9m) – including £29.2m on accommodation services, £18.6m on security, and £2.2m on information services.
- Member services (£6.9m) – which includes the costs of MPs who hold parliamentary positions, and Short Money paid to enable the Opposition to fulfil their parliamentary functions.
- Non-cash items (£31.4m) such as depreciation, which effectively reflect the annual resource costs of capital investment in the parliamentary estate.

In September 2018, the boundary commissions of the four nations are due to present their final recommendations following reviews of the current electoral boundaries. These reviews have worked on the assumption that the number of MPs will be cut from 650 to 600 – an 8% reduction. This was a commitment originally made by David Cameron,¹¹ partly as a means to “reduce the cost of politics.”¹² But given that the cost of MPs’ salaries and expenses make up less than half of total Commons expenditure, an 8% reduction in the number of MPs would only have a relatively limited impact on the cost of Parliament.

The cost of peers’ allowances and expenses represented less than one fifth of gross Lords expenditure

Figure 1.4: Total (gross) expenditure on the House of Lords, by area, 2017/18



Source: Institute for Government analysis of House of Lords, Annual Report and Resource Accounts 2017/18, July 2018.

The House of Lords is currently the second largest legislative chamber in the world, with over 800 peers. Following the abolition of hereditary peerages in 1999, the size of the House’s membership fell from over 1,000 members in 1998 to fewer than 700 the following year, but numbers have since crept back up.

Unlike the Commons, the size of the Lords membership is not fixed; it varies constantly as peers leave the House or die, and as new peers are appointed. Not all peers are actually ‘active’ in the House at any one time – some may be granted a leave of absence or occupy a role, for example in the judiciary, that makes them ineligible to take their seat. The number of active peers since June 2017 has hovered at around 800. But the number who are active and eligible to participate does not necessarily reflect the number who regularly attend the House. Data for the last parliamentary session (2016/17) shows that, on average, 484 peers attended the Lords each day.¹³

In 2017, a committee established by the Lord Speaker – who oversees proceedings in the Upper House and chairs the House of Lords Commission – recommended that membership of the House of Lords be reduced to 600 through a ‘two out, one in’ process.¹⁴ The Prime Minister, Theresa May, then made a “statement of intent” to

take a restrained approach to appointments to the Lords over the course of the 2017 Parliament, committing to working on the basis that “there is no automatic entitlement to a peerage for any holder of high office in public life.”¹⁵ However, in June 2018, 13 new appointments were made (by different parties) to the Lords. It is not currently clear that any comprehensive reform of the Upper Chamber is imminent.¹⁶

Peers do not receive salaries, other than for holding certain offices. These salaries are higher than those received by office holders in the Commons, reflecting the fact that – unlike MPs – peers do not ordinarily receive them:

- Lord Speaker (£102,530)
- Senior Deputy Speaker (£84,524)
- Chair of the EU Committee (previously known as the Principal Deputy Chairman of Committees) (£79,076).¹⁷

Peers may, in recognition of their work for the public benefit, claim an attendance allowance for each day that they attend sittings of the House or its committees.¹⁸ The allowance can be claimed at a flat rate of £300, or a reduced flat rate of £150 – it being up to peers to choose which. In some circumstances, they may also claim travel expenses. In 2017/18, peers’ allowances and expenses in the Lords totalled £18.1m – around one fifth of total expenditure on the House of Lords. Despite being a larger chamber in terms of membership, the cost of peers’ allowances was only around a tenth of the cost of MPs’ salaries and expenses; reflecting the fact that peers do not receive salaries and can claim for fewer expenses.

The largest area of spending in the Lords was on the cost of the House’s staff (£30.2m). Goods and services cost a combined £28m, covering expenditure on items such as security (£12.1m), broadcasting, outreach and visitor services (£2.9m), and IT costs (£6.6m). The Lords also spent £18m of its resource budget on estates and works services.

Restoration of the Palace of Westminster will be a major cost in the coming years

In 2016, a Joint Committee established to consider restoration and renewal of the Palace of Westminster argued that “complete and sudden failure of the mechanical and electrical services – the kind that would require the Palace to be abandoned immediately – was a real possibility.”¹⁹ Warning of the risk of both “catastrophic failure” and “smaller, incremental failures” that could prevent parliamentary business from going ahead, the Committee recommended that MPs and peers leave completely to allow repair work to be done as quickly as possible. In February 2018, Parliament finally agreed to a “full decant” to allow intensive repairs to be carried out.

Since then, a shadow sponsor board has been set up as part of the governance structure that will oversee the programme. Legislation will be required to fully establish this body and the Prime Minister has suggested a draft bill will be brought forward this year.²⁰ This will be a major area of expense in the coming years – but preparatory work is already costing Parliament a lot. Since 2014/15, both Houses have spent a combined £6.2m from their resource budgets on the work.²¹

The debates over, and delays to, the restoration and renewal of the Palace of Westminster highlight the concern of many parliamentarians about the public's reaction to spending on Parliament. Much of Parliament's value lies in 'public goods' that cannot easily be given a financial value, such as the representation of citizens, scrutiny of government, and promotion of debate. But it is important that people understand what is involved in the administration of democracy, and what it costs.

Looking forward

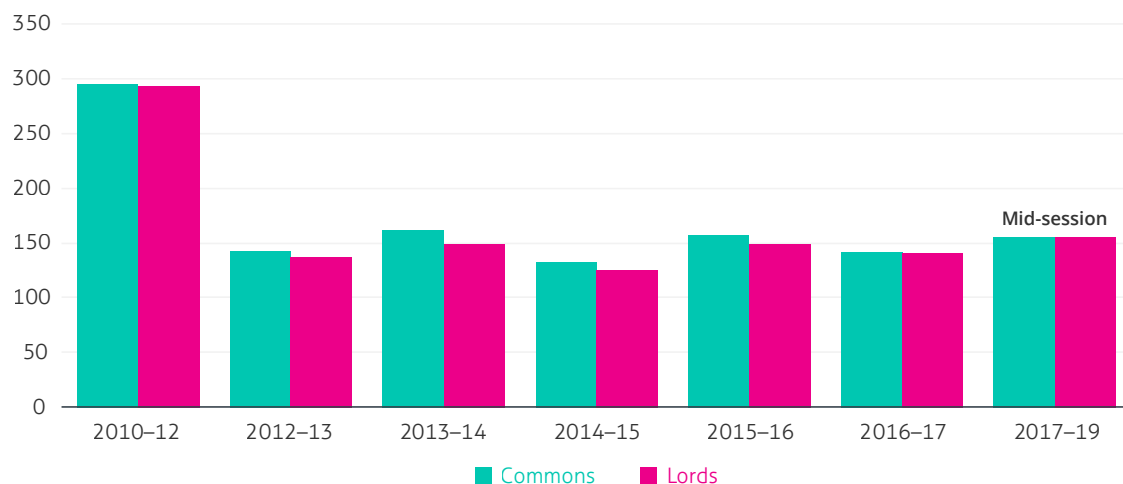
- Moves to reduce the number of MPs and reform the House of Lords will remain on the agenda. But while this would reduce expenditure, debate about the costs of running Parliament needs to consider the wider impacts and practical implications of a smaller membership in each House for Parliament's ways of working.
- Restoration and renewal of the Palace of Westminster will be a major area of capital expenditure for Parliament in the coming years. Further delays may push costs up. But the decision to decant Parliament offers a chance for its members to discuss with the public what it costs to run Parliament each year, and the spending needed to keep it operating in Westminster.

2. Time

The UK Parliament sits for more days than many other legislatures around the world. MPs face multiple and competing demands on their time; with more time spent in Westminster offering greater opportunity for parliamentary activity, but less time spent in constituencies. And spending more time in Parliament does not necessarily mean that the scrutiny and debate conducted are of a higher quality. MPs may undertake a range of activities during their time in Parliament, from sitting on select committees, to participating in debates in the Chamber and being required to vote in divisions (formal votes). Although parliamentary rules set out the amount of time available for different types of business, the right to determine the scheduling of business is a key source of control – and in the Commons in particular it is largely exercised by government.

The need to get Brexit legislation into law led the Government to schedule a rare two-year parliamentary session

Figure 2.1: Sitting days in the Commons and Lords per session, 2010/12–2017/19, as at 21 June 2018



Source: Institute for Government analysis of House of Commons, Sessional Returns, and House of Lords, Business Statistics, 2010/12 to 2016/17. Data for 2017/19 from UK Parliament, calendar.parliament.uk. 21 June 2017 to 21 June 2018 inclusive.

A parliamentary session – the period during which a government seeks to pass a programme of legislation – normally lasts around a year. Historically, the length of parliamentary sessions has varied slightly. The first session following an election has often been longer, while the last session of a Parliament, prior to an election,

has been shorter. The 2011 Fixed Term Parliaments Act set five years as the standard duration of a Parliament, and sought to equalise session lengths. At the same time, it shifted the parliamentary calendar, so that parliamentary sessions now usually run from spring to the following spring; rather than from autumn to autumn.¹ Under the terms of the Act, a Parliament may still be dissolved early if either two thirds of MPs agree (as was the case before the 2017 General Election) or if a government loses a vote of no confidence and no other government is formed and confirmed within 14 days. This change requires the more active involvement of the House of Commons in the early dissolution of Parliament, something which previously was largely the prerogative of the government of the day, subject to certain conventions.²

Early in a new session, a timetable is laid out for when Parliament will sit, and when 'periodic adjournments', commonly known as recesses, are expected to occur. Sometimes, this timetable may change. If an event of national significance occurs when the two Houses are in recess, the government may ask the Speaker of the Commons and the Lord Speaker to recall Parliament. It is up to the Speakers whether to grant the government's request. The last occasion on which Parliament was recalled was following the murder of Jo Cox MP in June 2016. A government may also try to make other changes to the parliamentary timetable, with the consent of Parliament, as the current Government considered doing in July 2018 – though the strength of parliamentary sentiment led it to abandon its plan for the Commons to rise for the summer recess five calendar, or two sitting days early.³

Following the 2017 General Election, the Government announced that the first session of this Parliament would last for two years to "give MPs enough time to fully consider the laws required to make Britain ready for Brexit."⁴ This is only the second time since 1945 that Parliament has been asked to sit for a two-year session. The other was in 2010/12, following the formation of the Conservative-Liberal Democrat coalition government. That was the longest session in UK parliamentary history, lasting 295 days – providing a rough indication of how many days Parliament is likely to have sat by the end of the current session.

On average, the UK Parliament sits for more days a year than many other parliaments

In the calendar year following the State Opening of Parliament on 21 June 2017, both Houses of Parliament sat for 155 days.

Different legislatures around the world have different length working days, compile their statistics in different ways, and sit in different patterns, as determined by their structure and style of government. But by comparison, in the 2018 calendar year:

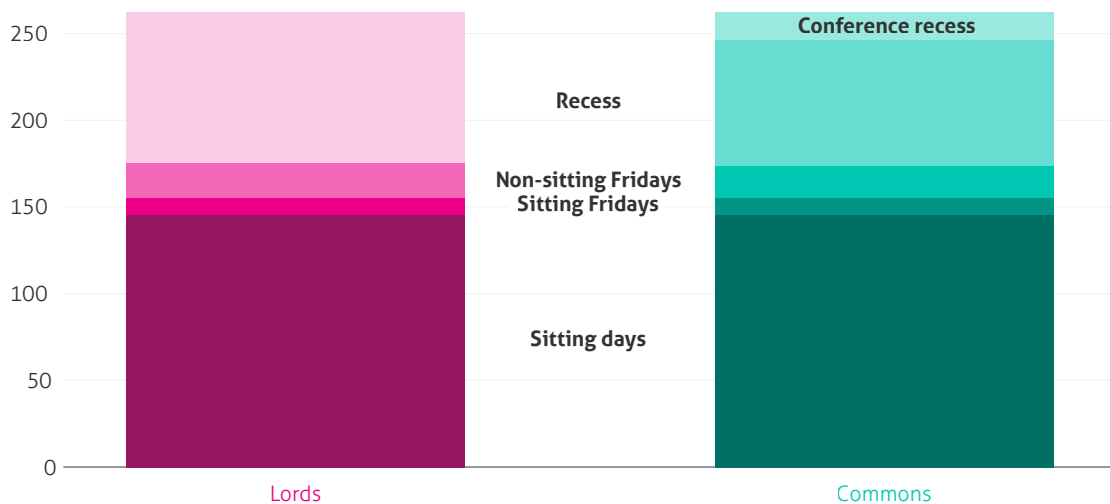
- the Canadian House of Commons is scheduled to sit for 127 days
- the German Bundestag is scheduled to sit for 104 days
- the US House of Representatives is scheduled to sit for 124 days
- based on precedent, the Japanese House of Representatives will meet for 150 days.

The number of sitting days determines how long Parliament has to get through its work – but for MPs, time spent in Westminster is time not spent in their constituencies.

Members face competing demands on their time, and are often working when Parliament is not sitting

Parliament only sits on weekdays, except in exceptional circumstances. The last weekend sitting was in 1982, following the invasion of the Falkland Islands. The sitting patterns of the Commons and the Lords are not identical. Neither house sits regularly on a Friday. This allows MPs more time in their constituencies. On the 'sitting Fridays' in a session when the Commons does sit to discuss Private Members' Bills (PMBs), attendance is normally low – limited to those members with a direct interest in the legislation under discussion. The Commons can also sit on additional Fridays to discuss government business if necessary; the last time this happened was in March 2015, for a third day of Budget debate as the end of the Parliament neared.

Figure 2.2: Use of weekdays by Parliament, 21 June 2017–21 June 2018



Source: Institute for Government analysis of House of Commons and House of Lords Hansard, 21 June 2017 to 21 June 2018.

When each House is not sitting, they adjourn periodically for recesses, which broadly align with school holidays in England and Wales. In the year following the State Opening of Parliament, the Commons spent 88 weekdays in recess, including 16 days in September for MPs to attend party conferences. The Lords spent 87 weekdays in recess. The current Speaker, John Bercow MP, has argued that while party conferences are valuable opportunities for discussion, they mean that parliamentarians leave Westminster just weeks after having returned following the summer recess. This can mean that Parliament sits for just two weeks between mid-July and mid-October – almost a quarter of a year. The Speaker has suggested that party conferences should be moved to weekends to increase the time available to Parliament.⁵

Parliamentary recesses are often portrayed by the media as a time when parliamentarians are on holiday. But sitting days are not the only days on which MPs and peers work.

During recesses, and on non-sitting Fridays, MPs tend to spend more time in their constituencies, holding surgeries where they meet constituents to discuss problems and offer advice, attending events, holding meetings and preparing for parliamentary business.⁶ The more than 100 MPs who are also ministers continue their government work year-round.

Although it is up to each MP to decide how best to fulfil their role, all must balance a number of responsibilities, which the House of Commons Committee on Standards has identified as including but not limited to:

- supporting their party in votes in Parliament
- representing and furthering the interests of their constituency
- representing individual constituents and taking up their problems and grievances
- scrutinising, holding to account, monitoring and challenging the Government
- initiating, reviewing and amending legislation
- contributing to the development of policy and promoting public understanding of party policies.⁷

These responsibilities continue regardless of whether or not Parliament is sitting. MPs can fulfil these duties in Westminster or in their constituency, or even when making visits and attending events. Sitting days are therefore useful only as a measure of time spent at Westminster, rather than an indication of how MPs spend their total working time.

Peers (who cannot claim allowances for days when the Lords is not sitting) do not have constituencies to return to during recess, but they may either continue to develop their parliamentary interests or focus on personal business.

Individual MPs will balance their parliamentary and constituency responsibilities differently. But their choices are likely to be shaped by a range of factors, including broader trends which affect their work and pull them in different directions:

- MPs with small majorities may feel the need to spend more time in their constituencies.
- Expectations of constituents are changing: MPs receive considerably more correspondence each week from their constituents than 50 years ago, and social media also makes them more accessible.⁸ Constituents increasingly expect MPs to conduct casework – helping individual constituents with specific issues, often on welfare and housing – rather than spending time representing them in Westminster.
- For MPs with constituencies in Scotland, Wales, and Northern Ireland, the establishment of the devolved assemblies and a new class of elected representatives – some of whom have constituency responsibilities – may mean a lighter casework load.

- The political make-up of Parliament can shift MPs' focus towards or away from Westminster. Where governments hold only narrow majorities, or govern as a minority, party whips may require MPs to remain in Westminster to be available for votes; whereas at times of large government majorities, MPs can enjoy greater flexibility.

While there is often pressure for parliamentarians to spend more time in Westminster, decisions about numbers of sitting days and the scheduling of recesses have implications for the amount of time MPs will have to spend in their constituencies.

On average, the Commons sat for eight hours per day in the year since the Queen's Speech, and the Lords sat for six hours and 22 minutes

Standing Orders – the body of rules by which the House of Commons governs its operation – set the parameters for the time that the Commons sits each day. The Commons is scheduled to sit for eight hours each day from Monday to Thursday, and for five and a half hours on the 13 sitting Fridays each session. The different start and finish times on different days reflect the need for MPs to be able to travel to and from their constituencies at the beginning and end of the week.

The sitting hours of the Lords are governed by convention. The Upper House does not have scheduled adjournment times each day – in practice, it usually sits for around six to seven hours each day, though on some occasions it may sit into the early hours of the morning.⁹

In recent decades, the average length of sitting days in the Commons and the number of late-night sittings have fallen. Reforms in 2005 and 2012 intended to make the Commons' sitting hours more 'family friendly' mean that business now starts in the morning on all days except Mondays, and therefore finishes in the early evening.¹⁰ But the sitting hours of Parliament do not affect all members equally: many MPs who represent the most distant constituencies would prefer to compress sitting hours into fewer, longer days, to extend the proportion of the week they can spend in their constituency, while MPs whose constituencies are closer to Westminster may prefer a greater number of shorter days.

Table 2.1: Scheduled sitting hours in the Commons and Lords

Commons	Lords
Mondays 2.30pm–10.30pm	Mondays and Tuesdays 2.30pm onwards
Tuesdays and Wednesdays 11.30am–7.30pm	Wednesdays 3pm onwards
Thursdays 9.30am–5.30pm	Thursdays 11am onwards
Sitting Fridays 9.30am–3pm	Some Fridays 10am onwards

Whether Parliament makes use of all the time available to it is one possible indication of whether it has enough time to get through its business. In the calendar year since the State Opening of Parliament in June 2017, the Commons sat on average for eight hours and one minute on each sitting day – a total of 1,242 hours and 43 minutes. This was slightly more than the scheduled time available (1,218 hours). The Lords sat for a total of 988 hours and 31 minutes – an average of six hours and 22 minutes a day.*

The Commons rose early (adjourned before its scheduled time) on 94 of the 155 days it sat, though on the majority of those occasions (60) it went up early by fewer than 10 minutes. On 13 occasions, the House rose early by more than an hour, including one day when it went up three hours before its scheduled adjournment time.†

The House sat late on around a third (54 of the 155) of the days it sat, by an average of an hour and five minutes. On six occasions, the Commons sat for more than three hours beyond its scheduled time – with several of these days occurring when the House was considering the EU Withdrawal Bill at its committee stage.

In the year since the State Opening of Parliament, the Commons has only sat past midnight on three occasions.¹¹ This is a marked difference to the 1980s and 1990s, when with most sittings starting later in the day, over a quarter of sittings finished after midnight.¹² The Lords sat beyond 11pm on 10 occasions in the year since the 2017 State Opening of Parliament, including one sitting ending at 1.17am, and another at 2.36am. On both these days, the House was considering the EU Withdrawal Bill.

The Commons has increased the debating time available to it by establishing Westminster Hall as an additional debating chamber in 1999, following a recommendation by the Modernisation Committee.¹³ Westminster Hall is an additional space (actually in the Grand Committee Room) where MPs can hold debates which occur at the same time as those in the main Chamber. Westminster Hall debates are usually held between Monday and Thursday, with subjects chosen in different ways:

- Monday: Three hours of debate on subjects raised in e-petitions, selected by the Petitions Committee.
- Tuesday and Wednesday: Five hours of debate on subjects chosen by ballot according to a rota or by the Backbench Business Committee.
- Thursday: Three hours of debate on subjects chosen by the Backbench Business Committee, based on bids from MPs, or on select committee reports chosen by the Liaison Committee.¹⁴

Debates may be briefly suspended if MPs need to go and vote in the Chamber – if so, the time for which Westminster Hall is suspended is added on at the end of the day, a form of 'injury time'.¹⁵

* The figures for the Lords sitting take into account brief suspensions of sittings during the day, for example, when the House may be waiting for something to move to it from the Commons.

† The lack of scheduled end times in the Lords means it is not possible to carry out the same analysis.

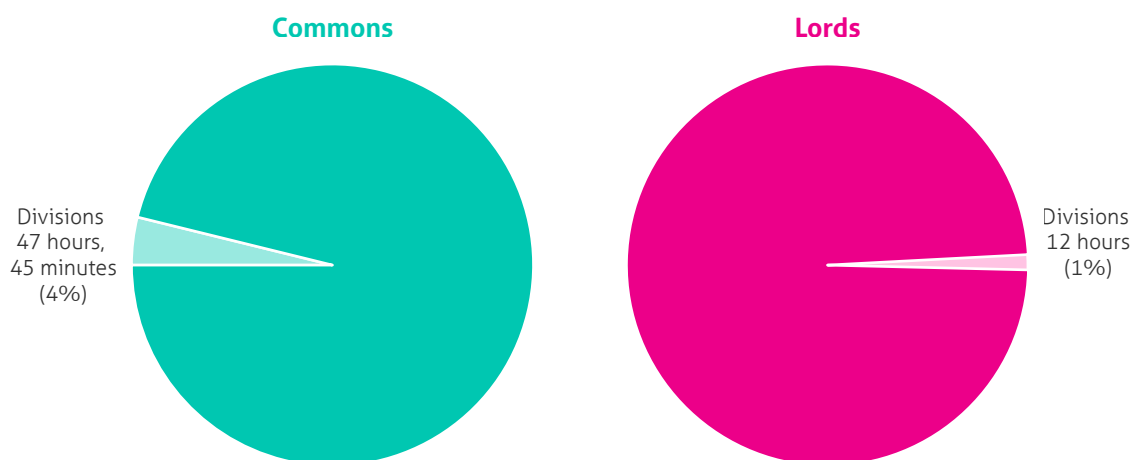
In the year following the Queen’s Speech, a maximum of 529 hours were available for Westminster Hall debates, in addition to the 1,218 available in the Chamber; effectively increasing the time available to the Commons by around 43%. However, time in Westminster Hall can only be used for certain purposes. Debates are generally on less controversial subjects than those in the main Chamber, in part as they are only held on neutral motions (that a matter has been considered) and because decisions must be unanimous.

There is also additional debate time available to the Lords through the use of the Grand Committee, which any peer can attend. Initially, the Grand Committee (introduced in 1995) was designed to be a place outside the main Chamber where bills could receive their committee stage. But over time, the Grand Committee has increasingly been used as a parallel chamber, which can sit at the same time as the main Chamber, and where a wide range of Lords business is taken. Unlike Westminster Hall, the days and sitting times of the Lords Grand Committee are not prescribed. In the year from the 2017 Queen’s Speech, the Grand Committee sat on 20 days for a total of nearly 69 hours; effectively increasing the time available to the Lords by around 7%. This has helped the Lords to absorb the effects of higher activity by peers without having to make major changes to the operation of the main Chamber.¹⁶

The system of in-person voting can limit time available for debate

The restrictions placed on sitting time in the Commons create trade-offs: if time is spent on one type of activity, it limits the time available for other things. Divisions – formal votes taken when it is clear that a decision on a question cannot be clearly decided ‘on the voices’ in the Chamber – can limit the time available for debate. When a division is called, MPs have eight minutes to reach the division lobbies. They must then pass through the lobby, have their vote recorded by parliamentary staff and be counted by the tellers. This process takes time. Divisions can vary in duration, but the process usually takes a minimum of 15 minutes.¹⁷

Figure 2.3: Proportion of actual sitting time in the Commons and Lords chambers spent on divisions, 21 June 2017–21 June 2018



Source: Institute for Government analysis of House of Commons and House of Lords, Hansard, 21 June 2017–21 June 2018 inclusive.

As there were 191 divisions in the year from the State Opening of Parliament, this means divisions in the Commons took up a minimum of almost 48 hours, or 4% of all actual sitting time in the House: the equivalent of six sitting days. This may be an understatement – some divisions can take more than 20 minutes. In the Lords, there were 48 divisions over the same period, totalling around 12 hours (assuming 15 minutes per division), or 1% of all the time for which the Lords sat.*

The division process can limit the time available for specific debates. This can happen when business is scheduled in such a way that votes can take place during the middle of debate time, rather than at the end of business (known as the ‘moment of interruption’). No provision is made for ‘injury time’ to extend debating time taken up by votes on earlier business. For example, in June 2018 during consideration in the Commons of Lords amendments to the EU Withdrawal Bill, the time available to debate some amendments, including a number relating to devolution, was reduced to just 15 minutes, after almost three hours of scheduled debate time was taken up with divisions on previously debated amendments. This led to protests by the Scottish National Party (SNP) the following day.¹⁸

The time taken up by divisions has prompted calls for the introduction of electronic voting, as used in numerous other legislatures, including the Scottish Parliament and Welsh Assembly, although some MPs argue that the process of going through the division lobbies provides them with important opportunities to meet and talk.

There are also questions around how voting in person affects MPs wishing to take baby leave, or who are unable to attend the House for reasons such as family emergencies or ill health.¹⁹ There is no formal process for enabling members to be absent from divisions. Currently, MPs wishing to be absent may request to be ‘paired’ with an MP on the opposing side who also cannot vote, in effect cancelling out each other’s absence. But this practical system is merely a convention: requests do not have to be granted, and there is no sanction if pairing arrangements are not honoured. The problem with this informal system was highlighted in July 2018, when a pairing arrangement for an MP on baby leave, Jo Swinson, was broken.²⁰

Prior to this incident, in February 2018, the Commons had resolved that it would be beneficial to introduce a voluntary system of proxy voting for MPs who had recently had or adopted a baby.²¹ In May 2018, the Procedure Committee set out three options for the introduction of a voluntary system,²² but a general debate on the principle of proxy voting scheduled for early July did not go ahead. The Government has announced that a debate on the issue will now be held in the second week of the September sitting.²³

* These figures are for the main Chambers of the Commons and Lords only.

The scheduling of business in the Commons is dominated by the Government

Figure 2.4: Estimated breakdown of Commons sitting time (hours), 21 June 2017–21 June 2018



Source: Institute for Government analysis of parliament.uk, and House of Commons, Hansard, 21 June 2017 to 21 June 2018. All timings are estimates and may not sum due to rounding.

Control of parliamentary time and the scheduling of business are key sources of influence and power in Parliament – though each House divides up its time and schedules its work differently, making direct comparison difficult.

In the Commons, where the use of time is more prescribed, the largest single block of time usually goes on government business – the consideration of government legislation and debates scheduled by government. This is the result of a historical trend beginning in the late nineteenth century. As governments were increasingly expected to bring forward their own legislation, greater amounts of Commons time were given over to them.²⁴ The House’s rulebook, the Standing Orders, states that ‘government business shall have precedence at every sitting’ except in specific circumstances.²⁵

This was the case in the year following the 2017 Queen’s Speech, where an estimated 470 hours of Commons time (or 38%) was spent on government business – the largest block of time spent in the Chamber.

The Standing Orders also set out certain amounts of time to be spent on other forms of business:

- **20 opposition days** (17 for the official Opposition and three for the second largest opposition party) on which opposition parties decide the subjects for debate.
- **35 backbench business days**, on which the Backbench Business Committee decides how time will be spent, which are split between the House and Westminster Hall (at least 27 being in the House).
- **13 Private Members’ Bill days** on which backbench legislation can be considered.

In the year since the opening of the 2017 Parliament, an estimated 107 hours were spent on opposition time; 114 hours on debates in the Chamber scheduled by the Backbench Business Committee; and 50 hours on backbench legislative time (or Private Members' Bill days).

But allocation of time, and how that time is scheduled, are two very different things. While only around 38% of time in the Commons was spent on the Government's business, the scheduling of much of time spent on other kinds of activity was still determined by government. Government chose when opposition days and backbench days took place. This is particularly significant given the double length of the current session. There is no established convention for how these allocations are affected by a two-year session. Although the Opposition has made it clear that it believes the usual 20 opposition days and 35 backbench business days ought to be doubled for the double session,²⁶ the Government has not yet given any public indication of whether this will happen.

Backbenchers can take control of some parliamentary time by asking urgent questions (UQs) of ministers, and requesting emergency debates. In recent years, under the current Speaker, the volume of this activity has increased – something discussed in greater detail in Chapter 6. In the year since the 2017 Queen's Speech, an estimated 114 hours were spent on UQs in the Chamber; around 9% of all sitting time in the House.

Other time was spent on regularly scheduled events, such as the daily half-hour adjournment debate which allows the House to debate an issue without having to decide a question. These took up an estimated 77.5 hours. Oral questions to ministers accounted for 145 hours of Commons time. Some time was used by the Government to make policy announcements or react to events: 126 hours were spent on ministerial statements, which give ministers the chance to discuss major events – for example, the Salisbury poisoning – in the House.²⁷

In November 2009, the Select Committee on Reform of the House of Commons (known as the Wright Committee) recommended that from the 2010 Parliament, backbench business should be organised by a Backbench Business Committee, responsible for all business which was not strictly ministerial. Representatives of the Government and the Opposition would then join with the Backbench Business Committee in a House Business Committee that would 'assemble a draft agenda to put to the House in a weekly motion'. This proposal drew on the practice in other legislatures where parliamentary time is agreed between the government and opposition parties. It was endorsed by the House in March 2010.

The coalition agreement reached following the 2010 General Election committed the Government to 'bring forward the proposals of the Wright Committee for reform to the House of Commons in full' and committed that 'a House Business Committee, to consider government business, will be established by the third year of the Parliament'.²⁸ Although the Backbench Business Committee was established, the Coalition Government's commitment to the idea of a House Business Committee waned and no subsequent government has seen fit to bring forward proposals.

Time is used flexibly in the Lords, with government legislation taking up the largest proportion of time

Sitting hours in the Lords Chamber, and in Grand Committee, are less prescribed than in the Commons. While some forms of business exist in both the Commons and Lords – for example, urgent questions and ministerial statements made in the Commons may be repeated in the Lords – the two Houses also engage in some kinds of activity that are different.

Unlike in the Commons, there is no assumption that government business takes precedence in the Lords. This means that the time allotted to different kinds of business, and its scheduling, is subject to agreement by the whips. While in the Commons, the government can 'programme' its legislation – draw up a timetable for its passage through the House – it cannot do the same when bills reach the Lords. This means that the government exerts less control over the progress of business in the Lords than in the Commons.

In terms of quantity of time, however, the passage of government legislation still dominates Lords business. In the year since the 2017 State Opening of Parliament – in both the Chamber and Grand Committee together – approximately 375 hours were spent debating government legislation.²⁹

Looking forward

- Parliament is a reactive institution – the extent of its workload is largely determined by the business government initiates. Whether government allows Parliament sufficient opportunity to perform its role of passing and scrutinising legislation will be a live question during the remainder of the Brexit process.
- Changing trends and expectations of what MPs individually, and Parliament as a whole, are expected to do will continue to affect how they work – and therefore determine the appropriate balance between sitting days spent in Westminster and recess days spent in constituencies.
- Parliament's use of time will continue to be a contentious issue. Subjects such as proxy voting for MPs unable to attend the House will inevitably play into broader debates about the modernisation of Parliament.

3. Primary legislation

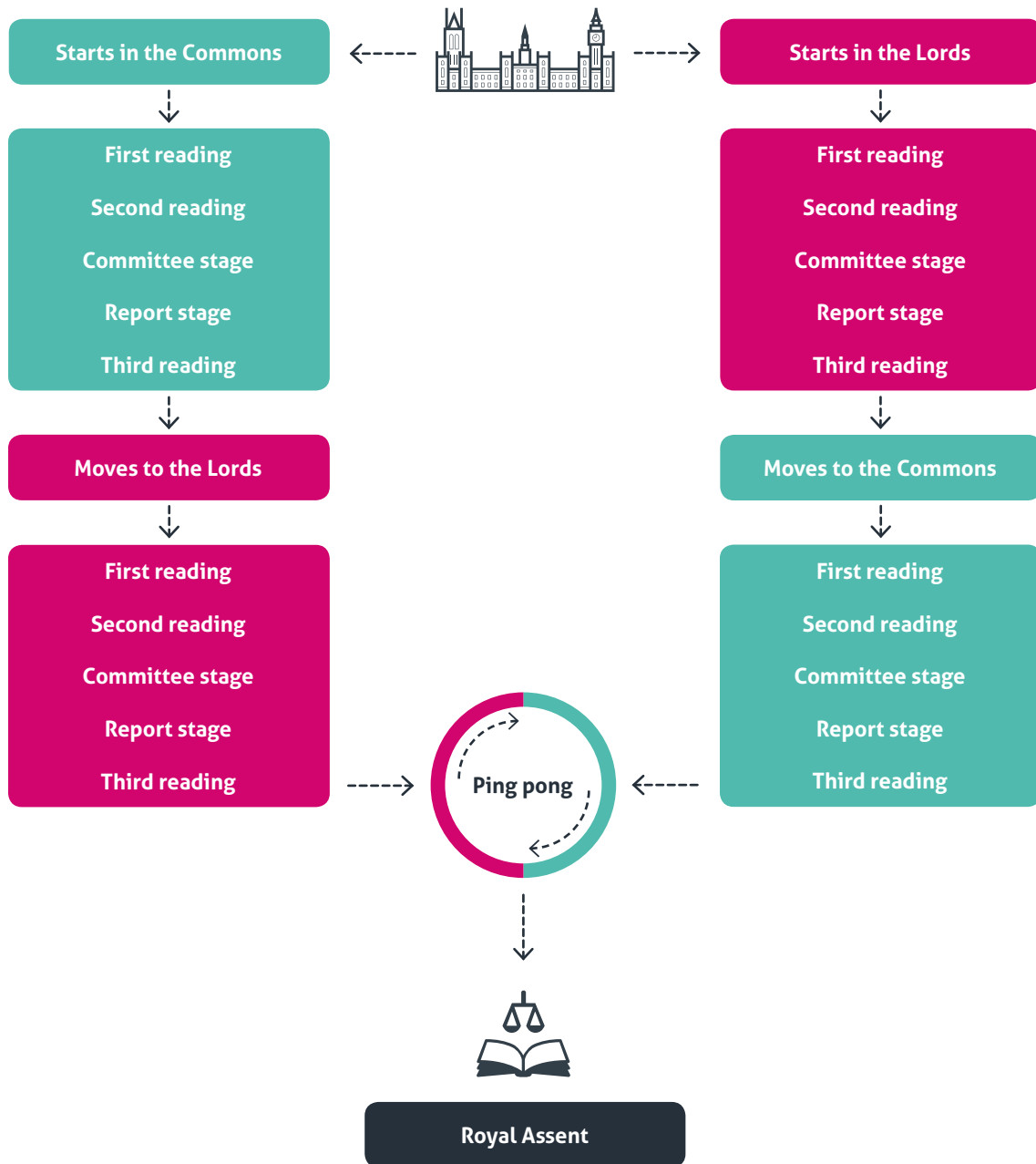
Parliament has two roles in law-making. The first is to pass the government's programme of legislation – to turn the bills that the government proposes into Acts of Parliament. The second is to scrutinise the government's bills, to prevent bad, excessive, or unnecessary law from being made. There is a tension between these roles, and this has been clear in the year since the 2017 Queen's Speech, as Parliament has sought to balance the need to pass key Brexit legislation in a timely manner with its duty to ensure it is adequately scrutinised.

Most primary legislation is brought forward by the government, meaning that Parliament can only amend, examine and pass those parts of the government's legislative programme which the government chooses to present to it.* Following the 2017 General Election, the realities of minority government and the need to ready the statute book for Brexit led the Government to curtail its legislative ambition. While the Government introduced and passed a volume of legislation broadly comparable to previous parliamentary sessions, the nature and content of that legislation was not what would usually be expected from a government at the start of a new Parliament. Outside of Brexit legislation, the Government focused on specific areas of policy rather than the kinds of broader reforms more typically attempted by a government in the aftermath of an election.

But on the Government's main legislative task – preparing for Brexit – progress was slow. Key Brexit bills were delayed by disagreement within the Government over what Brexit should look like, contributing to slow progress in negotiations with the EU. The Government also delayed some Brexit bills in order to stave off crunch votes in the Commons. It took just over a year to pass the centrepiece of Government's legislative agenda, the EU Withdrawal Act, and on that – and other bills – the Government had to accept amendments and make last-minute concessions to minimise the risk of parliamentary defeats. In this it was largely successful, suffering only one defeat in the Commons in the year since the 2017 State Opening of Parliament. But in the remainder of the session the Government's minority status means it is likely to face further knife-edge votes.

* Primary legislation introduced by backbenchers is discussed in Chapter 6. This chapter focuses on public bills – those which affect the whole population – rather than the five private bills and one hybrid bill introduced by the Government over the period.

Figure 3.1: Passage of a bill through the UK Parliament



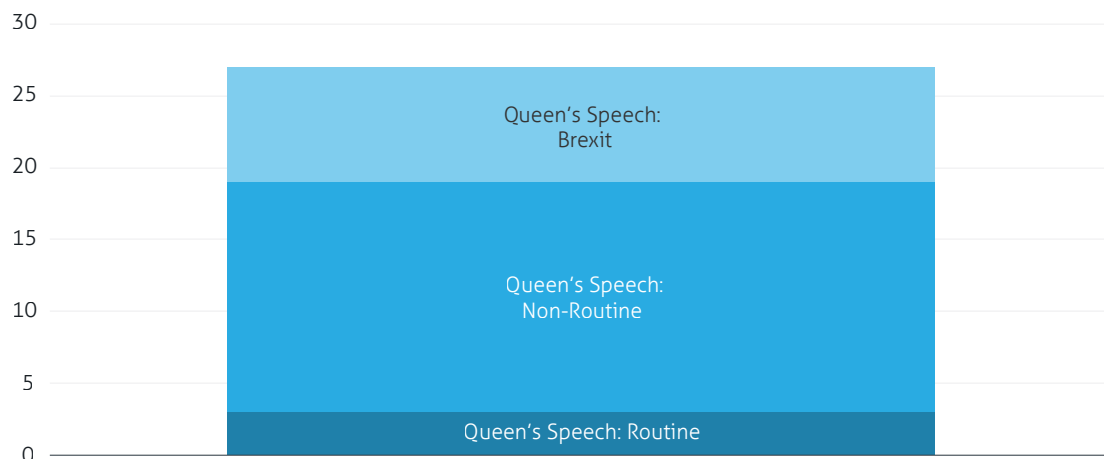
Source: Institute for Government analysis based on www.parliament.uk/about/how/laws/passage-bill.

Government can introduce primary legislation – bills which it wishes to become Acts of Parliament – into either the Commons or the Lords, but each bill must follow the same process to become law. Bills must pass consecutively through each House of Parliament, after which any points of disagreement between the two Houses are resolved via ‘ping pong’, when the Houses send a bill back and forth until they agree. Once the bill is agreed, it must go to the monarch to receive Royal Assent, at which point it becomes an Act.

The 2017 Queen’s Speech reflected the realities of minority government, and Brexit

In the Queen’s Speech at the beginning of each parliamentary session, government sets out its legislative agenda, although as the session progresses, it may announce additional bills in response to events.

Figure 3.2: Government bills announced in the 2017 Queen’s Speech, by type



Source: Institute for Government analysis of GOV.UK, Queen’s Speech 2017: background briefing notes, June 2017.

The 2017 Queen’s Speech reflected a government facing the dual realities of governing as a minority (albeit with a confidence and supply deal with the Democratic Unionist Party (DUP), who agreed to lend them support on certain key bills and motions); and needing to ready UK law for Britain’s exit from the EU. The Queen’s Speech contained plans for 27 government bills (including one ‘hybrid’ bill – a kind of bill that is of relevance to the nation as a whole, but which particularly affects specific people, in this case relating to high speed rail links). The quantity of legislation proposed was broadly comparable to the volume of bills introduced in the 2010 Queen’s Speech, at the beginning of the last two-year session.¹

But while the quantity of legislation announced by the new Government was similar to that of previous governments, its content was different. The bills announced by the Government fell into three main categories:

- Routine legislation (three bills): legislation that government must pass in each session, including three Finance bills (which give effect to Budgets).
- Brexit legislation (eight bills): laws which the Government identified as necessary to prepare the UK statute book for Britain’s exit from the EU. This included the Repeal Bill (subsequently named the EU Withdrawal Bill), as well as legislation on customs, trade and immigration.
- Non-routine legislation (16 bills): the legislation that the Government chose to bring forward that was not related to Brexit, consisting of bills relating to smart meters, and to data protection.

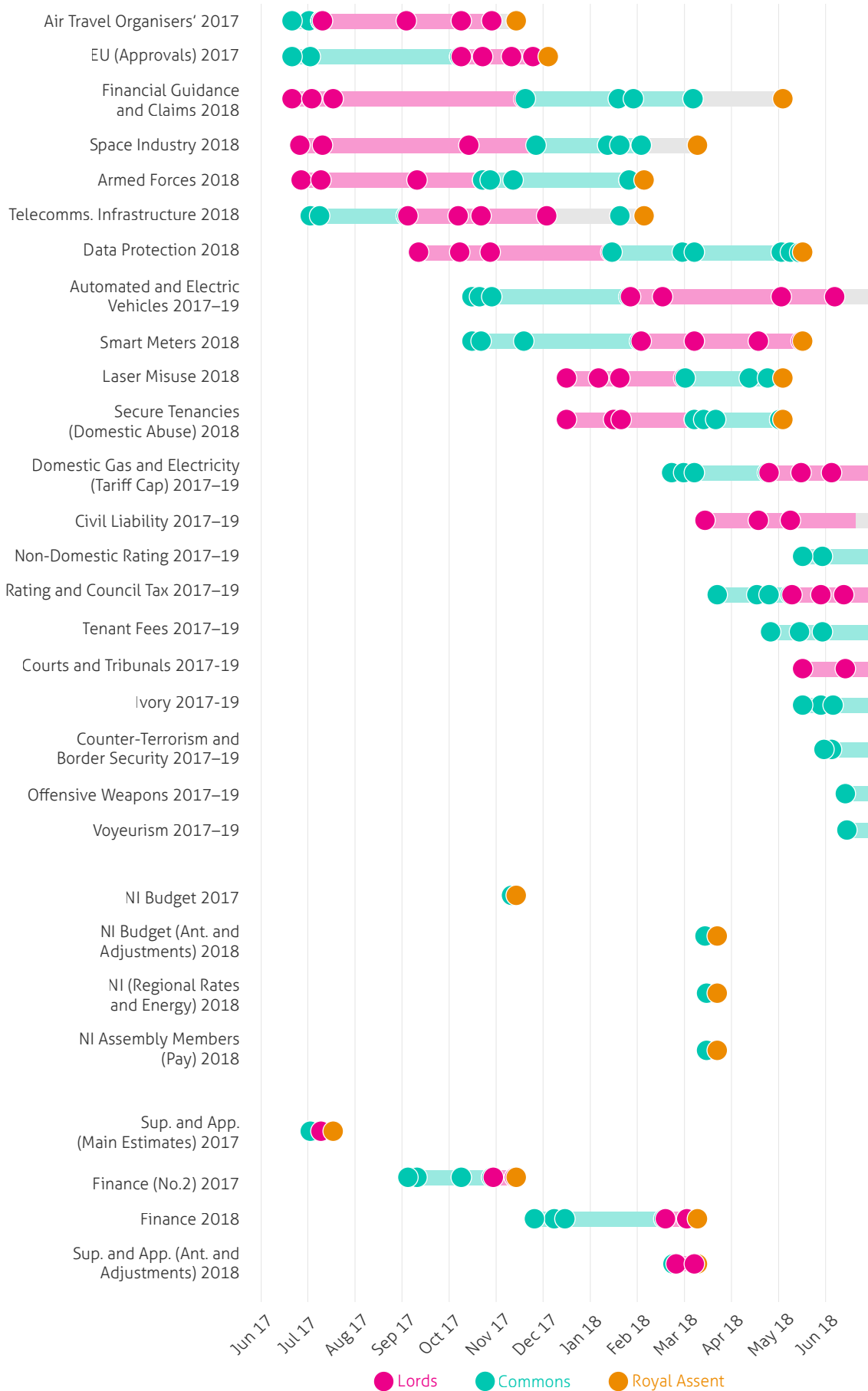
Notably absent from the third category were bills to enact some of the Government's key manifesto pledges, such as the expansion of grammar schools, or changes to the provision of social care. In response to its status as a minority government, operating with support from the DUP, the Government opted not to bring more contentious legislation before Parliament, and ministers have been encouraged to use non-legislative means to implement their policies wherever possible. The Government also decided to focus its legislative energies on key Brexit bills.

In the year following the Queen's Speech, the Government announced plans for four further Brexit bills – including the Withdrawal Agreement and Implementation Bill (now renamed the EU Withdrawal Agreement Bill) – which will put any exit deal reached with the EU into law and provide for a transition period. The Government also announced plans for, and introduced, other additional legislation, often in response to changing events and circumstances.

Government passed 18 of the 29 non-Brexit bills it introduced in the year from the 2017 Queen's Speech – including urgent legislation

In the 155 days that both Houses of Parliament sat in the calendar year following the 2017 Queen's Speech, the Government introduced a total of 35 bills. Six of these were Brexit bills, of which one received Royal Assent in the period. The remaining 29 were not Brexit-related; 18 of these were passed by the Government. In terms of quantity, this is similar to previous sessions: at the same point in the 2010/12 parliamentary session, the then-government had passed 17 bills.

Figure 3.3: Non-Brexit Government bills introduced to Parliament, by legislative stage reached, 21 June 2017–21 June 2018



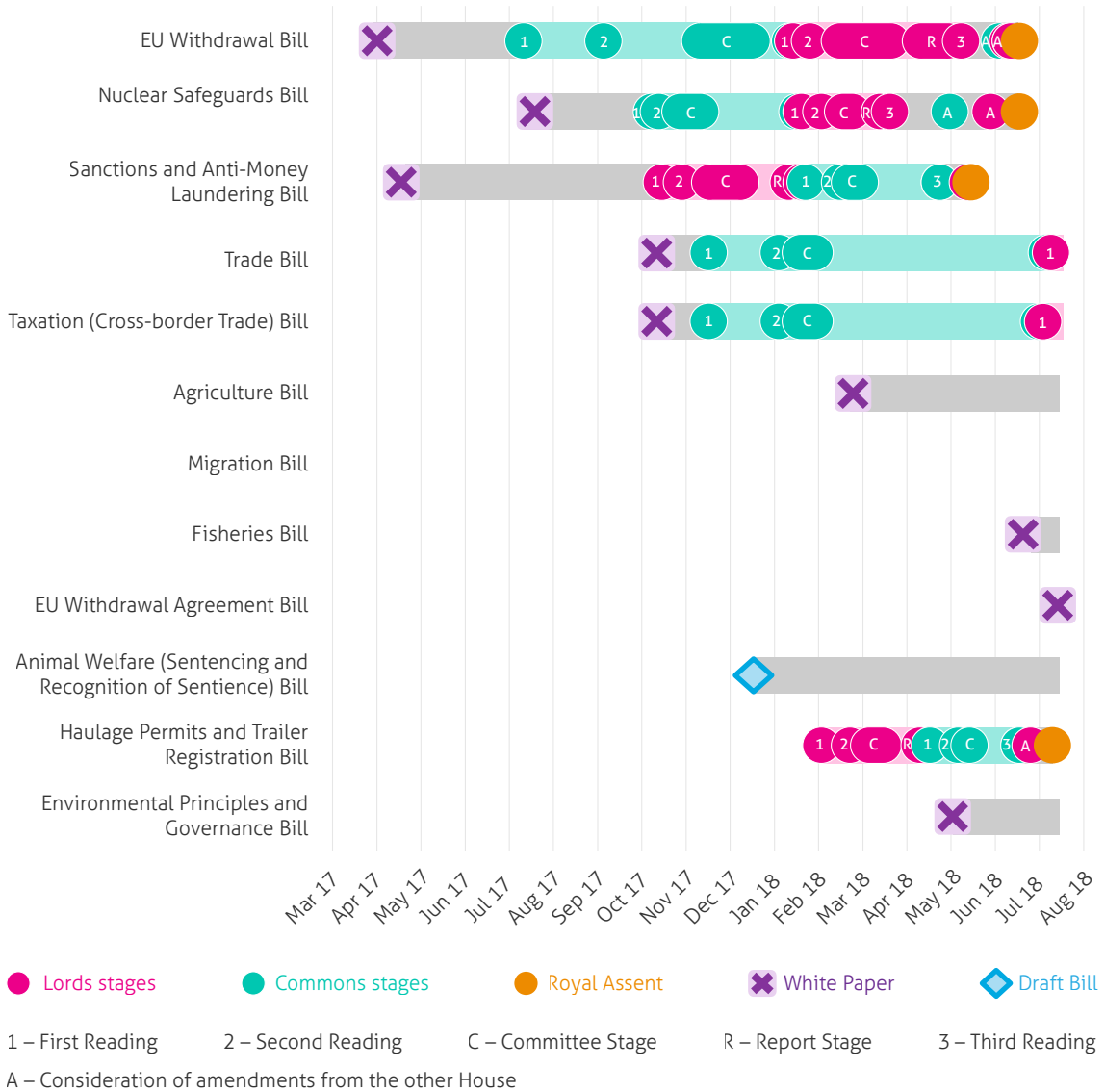
Source: Institute for Government analysis of <https://services.parliament.uk/Bills/2017-19.html#n>

But while the rate at which the Government has got legislation onto the statute books has been comparable to previous sessions, the content of the legislation has not been of the type usually expected from a new government. Typically, following an election, a new government might introduce several major bills. For example, at the beginning of the 2010 Parliament, the Coalition Government brought forward bills to enable more schools to become academies; and to establish the Office for Budget Responsibility (OBR). But of the 18 non-Brexit Government bills which received Royal Assent in the year following the 2017 Queen's Speech, four were routine bills that government had to pass – two Finance Acts and two Supply and Appropriation Acts. A further four were urgent pieces of legislation required in the absence of an Executive in Northern Ireland, all of which went through their legislative stages in just a few sitting days. The remaining 10 were more focused on specific policy areas than on major reforms:

- Air Travel Organisers' Licensing Act 2017
- Armed Forces (Flexible Working) Act 2018
- Data Protection Act 2018
- European Union (Approvals) Act 2017
- Financial Guidance and Claims Act 2018
- Laser Misuse (Vehicles) Act 2018
- Secure Tenancies (Victims of Domestic Abuse) Act 2018
- Smart Meters Act 2018
- Space Industry Act 2018
- Telecommunications Infrastructure (Relief from Non-Domestic Rates) Act 2018.

Progress on Brexit legislation has been slow

Figure 3.4: Parliamentary progress of Government Brexit bills, as at summer recess 2018



Source: Institute for Government analysis of parliament.uk.

When the Government triggered the Article 50 process in March 2017, the countdown to Britain's exit from the EU began. In the Queen's Speech, the Government detailed plans for eight Brexit bills; it has subsequently identified four additional Brexit bills it wishes to pass, though it has indicated that one of them, the Environmental Principles and Governance Bill, will be brought forward in the next parliamentary session. But progress on these bills has been slow.

Within the calendar year from the 2017 State Opening of Parliament, only one Brexit bill received Royal Assent (the Sanctions and Anti-Money Laundering Act, on 23 May 2018). Two others – the EU Withdrawal Act and the Nuclear Safeguards Act – received Royal Assent shortly after, on 26 June 2018, and the Haulage Permits and Trailers Registration Act made it into law shortly before summer recess. But by the time that Parliament rose for its summer break in July 2018, two of the remaining bills had only just progressed beyond the Commons; four had only reached white paper stage; and one had been published only in draft.

There are three reasons for the slow progress of Brexit legislation:

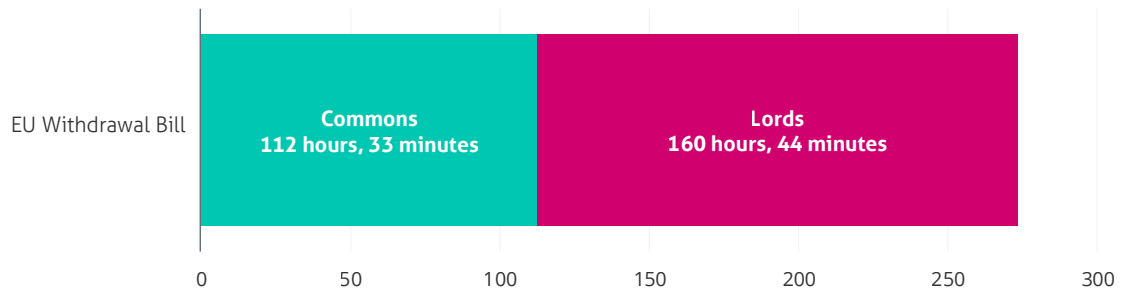
- Continued disagreement within the Cabinet over what Brexit should look like has made it difficult for the Government to frame and draft legislation.
- Where the Government has agreed its position, it still has to negotiate those points with the EU, meaning legislation cannot be finalised.
- Where legislation has been finalised and introduced, the Government's lack of a majority, combined with differences within both main parties in Parliament over Brexit, mean the Government has had to proceed carefully to avoid defeats. This led to delays in bills being introduced, and significant pauses in their passage (including the EU Withdrawal, Trade, and Customs Bills) while Government tried to shore up support.

The Government would like the vast majority of its Brexit legislation to make it onto the statute book by March 2019, in case the UK ends up leaving the EU with no deal. With only seven months to go, it will be a big ask for Parliament to pass that legislation, while fulfilling its duty of scrutiny. Government will have to prioritise its use of legislative time in order to have the right legislation in place for whatever outcome is reached in negotiations.

It is possible that the legislative timetable could be extended. This could happen in one of two ways. First, by the EU agreeing to a UK request to extend the Article 50 negotiating process. Second, by the UK securing an exit deal that includes provision for a 'standstill transition' (described by the Government as an 'implementation period') up to December 2020. Provision for a transition has been made in the current draft text being negotiated by the UK and the EU.² If a withdrawal agreement with a transition is secured and agreed by Parliament, this would extend the period available to pass primary and secondary Brexit legislation – apart from the Withdrawal Agreement Bill, which needs to put the withdrawal agreement into law before 'exit day' on 29 March 2019, when the UK is formally due to leave the EU.

Parliament spent over 273 hours debating the EU Withdrawal Bill – significantly more time than any other bill

Figure 3.5: Hours spent considering the EU Withdrawal Bill on the floor of both Houses



Source: Institute for Government analysis of data from Hansard and parliamentlive.tv. Where times differ, timings from Hansard are used.

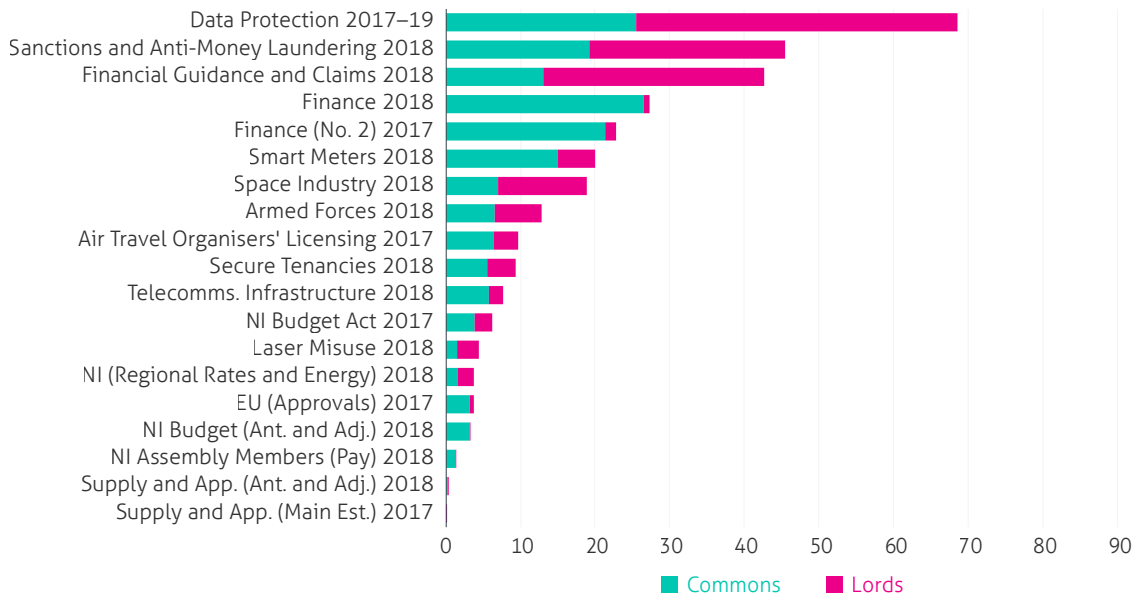
A bill's length is not the only factor determining the amount of scrutiny it receives – its constitutional importance and political salience are also important.

The EU Withdrawal Bill sought to repeal the 1972 European Communities Act, and convert all existing EU law into UK law. As the centerpiece of the Government's Brexit bills, it is unsurprising that it received a considerable amount of parliamentary attention, disproportionate to its length. The bill, as introduced, was just 66 pages long, but Parliament spent more than 273 hours debating it. By comparison, the Data Protection Bill, which was a much longer bill at 218 pages, received a total of 56 hours of debate in both Houses.

Reflecting the significance of the bill, as well as the fissures in Parliament over Brexit, the EU Withdrawal Bill was also responsible for a high proportion of the divisions held in both Chambers: of the 191 divisions held in the Commons in the year following the 2017 Queen's Speech, 80 (42%) were on the EU Withdrawal Bill. The EU Withdrawal Bill also accounted for 18 of the 48 divisions in the Lords (38%).

The time it took to pass the EU Withdrawal Bill has implications for the rest of Government's programme of Brexit legislation, not least because it has constrained the time available to consider the 800 pieces of secondary legislation that the Government has said will be required for Brexit – something discussed in Chapter 4. This reflects the tension at the heart of Parliament's role: to pass government's legislation, while also ensuring that it receives appropriate scrutiny, particularly where the legislation concerned is of considerable political and constitutional significance.

Figure 3.6: Hours spent debating Government bills that received Royal Assent, 21 June 2017–21 June 2018



Source: Institute for Government analysis of data from House of Commons and House of Lords, Hansard.

The EU Withdrawal Bill did not receive Royal Assent in the calendar year from the 2017 Queen’s Speech. But the 19 bills that did were debated for an average of 16 hours and 15 minutes – almost nine hours in the Commons, and seven and a half hours in the Lords. However, this average masks significant variation.

The Data Protection Act was debated for over 68 hours across both Houses- almost a quarter of the time that the EU Withdrawal Bill was debated for. The Sanctions and Anti-Money Laundering Act (a Brexit bill) was debated for almost 46 hours. Other bills received little debate and passed through their legislative stages quickly. This was particularly the case for the four bills relating to Northern Ireland, which were debated for under four hours on average. Because much of this legislation – such as a Budget for Northern Ireland – needed to be passed urgently due to the lack of an Executive in Stormont, these four bills took an average of six days between introduction and Royal Assent.

Parliament has extracted concessions from the Government on some legislation, including the Withdrawal Act

It is easy to measure whether a government is getting its legislation through Parliament. Assessing Parliament’s effectiveness in scrutinising legislation is harder. The time spent on a bill is one indication of the amount of scrutiny it has received; but not of the quality of that scrutiny. Parliament could linger on legislation which needs little work, while skimming over more problematic bills.

A better measure of the extent to which Parliament is scrutinising a bill is the degree to which it is amended during its passage, and by whom. The extent of amendments made may reflect the quality of a bill on its introduction, as well as the level of parliamentary concern about its implications. But this is also complicated: amendments

may be proposed for reasons other than to improve the quality of a bill, for example, to slow its passage or even to attempt to prevent it becoming law. Recent academic research has shown that tracing the source of an amendment is tricky: while an amendment may appear to have been tabled by the government, they may only have done so as a result of backbench pressure.³

Since the 2017 General Election, Parliament has made numerous amendments to the bills it has passed, in some cases extracting concessions from the Government. As the case study below shows, the Government's minority status and the significance of the EU Withdrawal Bill to its Brexit programme have meant it has had to listen intently to backbench concerns.

Box 3.1: Amending legislation – a case study of the EU Withdrawal Act 2018

Ruth Dixon and Matthew Williams, University of Oxford

The Withdrawal Bill was one of the most intensively debated pieces of legislation in the current parliamentary session. But how much was the text of the bill actually altered during the parliamentary process? And how did those amendments affect the bill's language? Drawing on automated and semi-automated textual analysis, this case study addresses these two questions.

How much was the Withdrawal Bill amended during the parliamentary process?

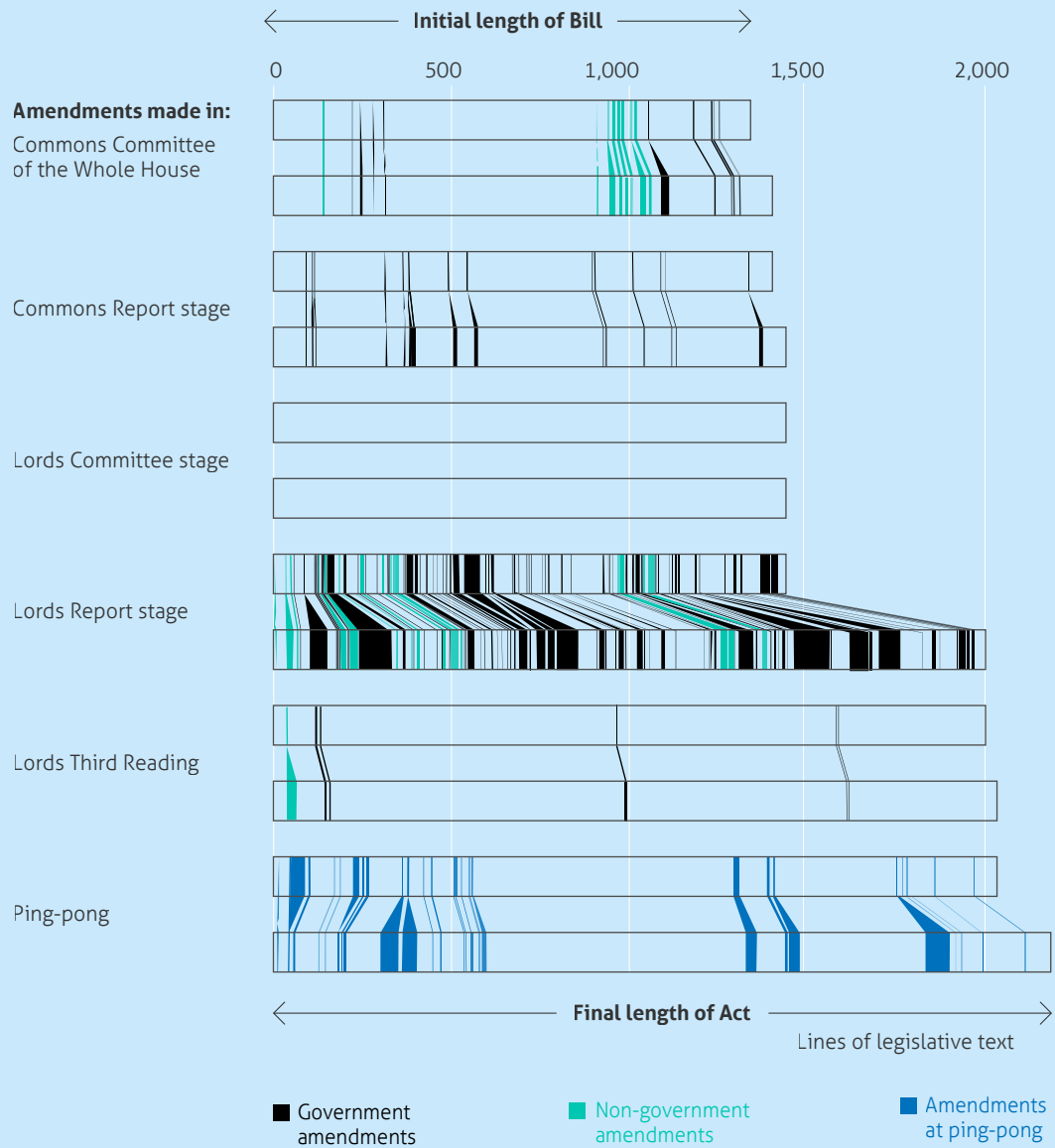
The Withdrawal Bill was amended considerably more than the average bill. Over 55% of the lines of text of the bill were altered, and the length of the legislation increased by 63% during the parliamentary process. By comparison, about a third of the lines of text of bills passed in the sessions between 2007 and 2015 were altered due to parliamentary amendments, and legislation typically grew in length by about 40%.⁴

A schematic representation of the amendments agreed at each amending stage is shown in Figure 3.7. This was produced by a semi-automated comparison of each successive pair of bill versions, hand-coded to distinguish 'government' and 'non-government' amendments. The amount of amendment is shown by the density of bars, which show that:

- Most amendments were made at report stage in the House of Lords. The majority of amendments were 'government' amendments made in the name of a minister (black).
- Some non-government amendments (green), particularly in the Commons Committee stage, were accepted by the Government and agreed without a vote. Others were opposed by the Government and only agreed after a government defeat.
- Amendments during ping pong reflected a combination of government and non-government influences (blue). Many non-government amendments were

reversed during ping pong, though in several cases government concessions resulted in further changes to the bill ('amendments in lieu').

Figure 3.7: Changes made to the EU Withdrawal Bill at each stage of its passage



How did amendments made to the Withdrawal Bill affect its language?

An important aspect of legislative language is its clarity, which can affect the flexibility with which it is implemented and the amount of discretion allowed to ministers and judges in interpreting the law. Natural language

processing (NLP) algorithms allow us to assess the clarity of the Withdrawal Bill. We can also assess how the language changed during its parliamentary journey, and compare the final act to all other acts of Parliament enacted since 2000.⁵

The bill as introduced to Parliament had considerably more flexible language than other legislation made over the past 15 years. For instance, over 8% of the bill's words were adjectives or adverbs, as compared with the less than 5% on average for all laws enacted since the millennium. An example is shown from Schedule 2, part 1, paragraph 1 (emphasis added):

'A Minister of the Crown acting *jointly* with a devolved authority may by regulations make such provision as they consider *appropriate* to prevent, remedy or mitigate – any failure of retained EU law to operate *effectively*.'

This flexibility of its language is unsurprising, given that the bill delegates significant policy-making discretion to government, and discretion is achieved by incomplete or flexible legal language. However, as Parliament forced concessions from government that limited its discretion, the language of the bill became less flexible during the parliamentary process. For example, the proportion of adjectives and adverbs fell from 8% in the initial bill to 7.5% in the Act. Determinate modal verbs such as 'must', 'shall' and 'will' rose six-fold to 0.3% (above average), and the number and proportion of indeterminate modal verbs such as 'may' and 'might' fell from 0.6% to 0.4%.

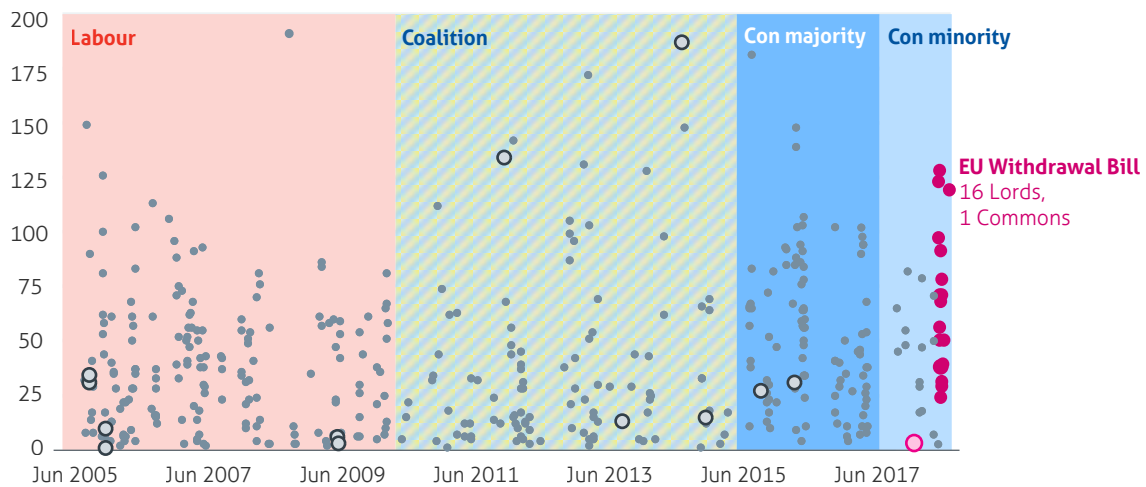
The majority of agreed amendments were in the name of a government minister, but a substantial number were non-government amendments. The text added by non-government amendments was more determinate than text added by government amendments. Nonetheless, both government and non-government amendments relied on less flexible language than the original bill text. This reflects the role of the amendment process in clarifying legislative language. Despite these changes, the final Act contained far more flexible language than average in terms of adjectives, adverbs, conditional conjunctions, and enabling verbs such as 'amend', 'make' and 'specify'.

The EU Withdrawal Act is a key legislative pillar for the UK's withdrawal from the EU, a process which has been framed as the UK Parliament 'taking back control' from the EU. In practice, however, the flexible language of the Act means that control, at least in the short term, will be concentrated in the hands of ministers and judges, rather than parliamentarians.

Amendments can lead to government defeats, but they can also avoid them

Minority governments are at greater risk of defeat in the Commons. To try and stave off defeats, government may choose to delay legislation – as the current Government has done on various Brexit bills – in order to work behind the scenes to build support. But government may also opt to either accept amendments from potential rebel backbenchers, or work with them to develop compromises, as was the case on the EU Withdrawal Bill. Amendments can therefore create the prospect of government defeats; but they can also be a means for government to avoid them.

Figure 3.8: Government defeats in the Commons (circled) and Lords (grey dots), by size, May 2005 to 21 June 2018



Note: Pink circles indicate defeats on the EU Withdrawal Bill

Source: Institute for Government analysis of sources including Butler and Butler, British Political Facts; parliament.uk; and Wikipedia.

Following the 2017 Queen’s Speech, the Government has accepted amendments to prevent Commons defeats, particularly on the EU Withdrawal Bill:

- The Government adopted amendments tabled by Charles Walker MP, Chair of the Procedure Committee in the Commons, which established a new Commons committee to scrutinise Government proposals for the parliamentary procedure to which certain secondary legislation under the bill should be subject (negative or affirmative procedure; the latter requiring the approval of both Houses of Parliament).
- Following concern from parliamentarians about how the Government would use secondary legislation-making powers in the Bill, it introduced an amendment that requires a minister to make a statement to the House of Commons before introducing a statutory instrument under the bill about why the instrument is appropriate and how it may have an impact on legislation for equalities.
- At report stage, the Government amended Clause 7. Clause 7 of the EU Withdrawal Bill gives ministers the power to use secondary legislation to amend primary and secondary legislation to ensure that UK law continues to operate effectively after exit day. The amendment circumscribes the Government’s use of that power by

setting out a complete list of the kinds of deficiencies that UK ministers would be able to correct.

- The Government amended the bill to introduce an exception to Schedule 1. Schedule 1 states that no legal challenges can be brought to domestic legislation on the basis of failure to comply with the general principles of EU law. Schedule 8 now allows legal challenges on this basis if they relate to anything that happened before exit day and begin within three years of exit day.

It was not just on the EU Withdrawal Bill that the Government accepted amendments. On several other pieces of legislation, the Government agreed to backbench-initiated amendments rather than risk defeat. For example:

- In the wake of the Windrush scandal, the Government accepted Conservative MP Dr Sarah Wollaston's amendment to the Data Protection Bill, reversing the requirement on NHS staff to share data with the Home Office.
- The Government accepted Conservative MP Andrew Mitchell and Labour MP Dame Margaret Hodge's amendments on the Sanctions and Anti-Money Laundering Bill.

In accepting these amendments, the Government ensured that, despite being a minority, it was defeated only once in the Commons in the year from the Queen's Speech. This defeat came on an amendment tabled by Dominic Grieve MP to the EU Withdrawal Bill on 13 December 2017. The Government was subsequently defeated on an amendment to its Trade Bill on 17 July 2018.

Defeats in the Lords tend to be more frequent than in the Commons, as governments do not have in-built majorities in the Upper House. In the year from the State Opening of Parliament, the Government was defeated 32 times in the House of Lords; 16 of these defeats were on the EU Withdrawal Bill. Most of these defeats, however, were reversed when they came back to the Commons: only one Lords amendment was accepted, six were rejected, and the Government offered amendments in lieu for eight. Three further defeats were on the Sanctions and Anti-Money Laundering Bill, two were on the Nuclear Safeguards Bill, and one was on the Haulage Permits Bill – all Brexit-related legislation.

Looking forward

- The Government still requires several pieces of Brexit legislation to make it onto the statute book in time for Brexit; Parliament will need to balance getting these bills through with ensuring that they receive appropriate scrutiny. Striking the right balance will be particularly important for the Withdrawal Agreement Bill, due to be introduced once Parliament agrees to any deal reached by the Government with the EU – provided that agreement is reached before 21 January 2019.
- Minority government is likely to mean that the Government will continue to face crunch votes, and may have to make further concessions to avoid defeats. Backbenchers have seen the opportunity to amend bills in this context, and will continue to attempt to do so.

4. Secondary legislation

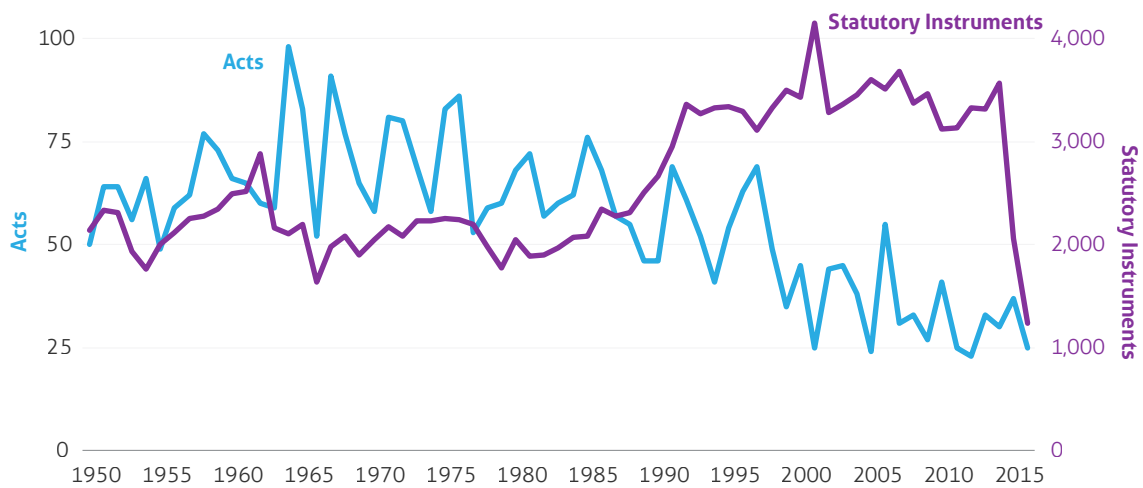
As government has grown more complex, it has made greater use of powers delegated to it by Parliament to use secondary legislation as a means of fleshing out the detail of primary acts. This has led to concerns that government relies too much on secondary legislation – which receives less scrutiny than primary legislation – pushing at the limits of executive power. At the same time, there are questions about the effectiveness of the processes through which Parliament scrutinises secondary legislation.

The Government's use of secondary legislation (also known as Statutory Instruments) to prepare the UK statute book for Brexit has brought these issues to the fore. Through the EU Withdrawal Act, the Government has given itself broad powers to make secondary legislation, and to use it to make changes to existing acts – so-called Henry VIII powers. But there is concern that Parliament may struggle to adequately scrutinise the 800 additional pieces of secondary legislation that the Government has identified as necessary for Brexit, particularly if it must do so by March 2019. This is despite the Government agreeing to establish an additional Commons committee to scrutinise Brexit-related secondary legislation.

Governments' use of secondary legislation has grown considerably over time

Secondary or 'delegated' legislation (most of which are Statutory Instruments, or SIs) is made by ministers – and occasionally public bodies – using powers delegated to them by acts of Parliament. It is often detailed and technical, and is used to flesh out the details of primary legislation. For example, where a primary act may establish a particular benefit, secondary legislation may be used to uprate the benefit each year. Given that secondary legislation deals with the detail of policies for which the principles have been approved in primary legislation, it is generally subject to less parliamentary scrutiny.

Figure 4.1: UK Acts and Statutory Instruments, 1950–2016 (calendar years)



Source: Institute for Government analysis of House of Commons Library, Acts and Statutory Instruments, April 2017.

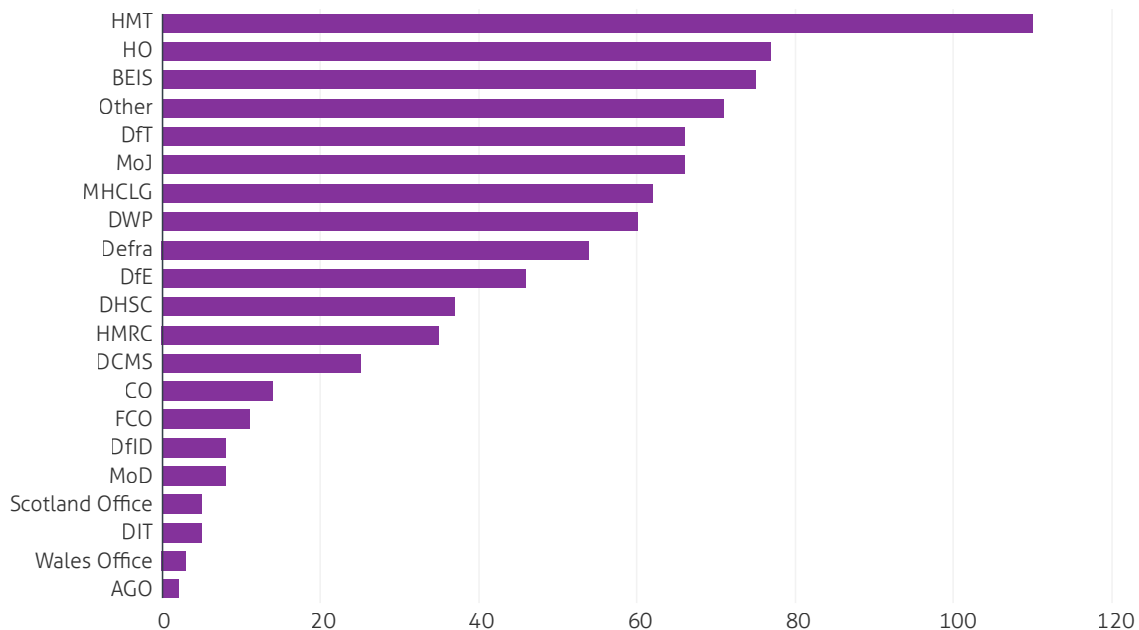
Over time, the use of secondary legislation by governments has grown considerably – though as the Hansard Society notes, data is often ‘patchy and inconsistent’, and must be pieced together from a range of sources which define and count secondary legislation differently.¹ An upward trend in the volume of secondary legislation began in the 1980s, in part reflecting the increased complexity of primary legislation, especially on issues such as benefits – meaning more pieces of secondary legislation were needed to fill out detail. The need to put EU law onto the UK statute book also drove an increase in the quantity of secondary legislation.² At the same time, the volume of primary legislation followed a broadly downward trend.

Measured on a calendar year basis, the number of pieces of secondary legislation rose to a high of 4,150 in 2001. Between 2010 and 2015 there were, on average, over 3,000 pieces of secondary legislation passed each year – far greater than the quantity of primary legislation. In 2015 and 2016, numbers fell significantly, reaching their lowest point since 1950 in 2016 – likely to be a result of the brevity of the 2015/16 parliamentary session.³ Data on the length of pieces of secondary legislation is only available up until 2009, but in that year almost 12,000 pages of secondary legislation were passed, compared with fewer than 4,000 pages of primary acts.⁴

Secondary legislation will be of particular importance in readying UK law for Brexit. The Government estimates that, to ensure the UK statute book will continue to work after Britain leaves the EU, around 800 pieces must be passed at Westminster (not including the separate legislation required to correct Scotland-only and Wales-only legislation) – raising longer-term questions about the appropriateness of government’s use of secondary legislation and the effectiveness of scrutiny procedures.⁵

The Treasury was responsible for one in eight pieces of secondary legislation

Figure 4.2: Number of pieces of secondary legislation tabled by government departments, 21 June 2017–21 June 2018



Source: Institute for Government analysis of data provided by the House of Commons. 21 June 2017 to 21 June 2018 inclusive.

There were 840 pieces of secondary legislation laid before Parliament in the year following the 2017 Queen’s Speech; an average of five per sitting day.* Of these, one in eight (110) came from the Treasury. This is unsurprising; the Treasury is the government department that is usually responsible for the greatest volume of primary legislation each session, in the form of Finance Acts and Supply and Appropriation Acts. These acts provide powers for the Treasury to make secondary legislation, particularly as much of what they contain is likely to need fleshing out with very technical detail. The other busiest departments in terms of laying secondary legislation were the Home Office (77) and the Department for Business, Energy and Industrial Strategy (BEIS) (75).

Brexit means that some departments whose work is currently framed by EU legislation will have to pass more secondary legislation, to ensure that law continues to work. According to research by the National Audit Office, BEIS will need to lay 150 pieces of secondary legislation in readiness for Brexit; while the Department for Environment, Food and Rural Affairs (Defra) will need to lay 95.⁶ The Department for Exiting the EU (DExEU) did not lay any pieces of secondary legislation in the year following the 2017 Queen’s Speech – as a new department its ministers had to wait for the enactment of the EU Withdrawal Act in late June 2018 to receive any secondary

* A small number of pieces of secondary legislation are laid by non-government organisations, including the General Synod of the Church of England; the Local Government Boundary Commission; the Privy Council Office; and the House of Commons itself. Together these organisations were responsible for just 71 pieces of secondary legislation between June 2017 and June 2018, reflecting the specific nature of the secondary legislation they pass. In Figure 4.2 these organisations are grouped as ‘Other’.

legislation-making powers. In early July, the then-DExEU minister Steve Baker MP signed off the first piece of secondary legislation made under the Withdrawal Act.⁷ The Department for International Trade (DIT), another key Brexit department, was able to pass a small number (five) pieces of secondary legislation over the period.

Most secondary legislation is subject to the less rigorous 'negative' scrutiny procedure

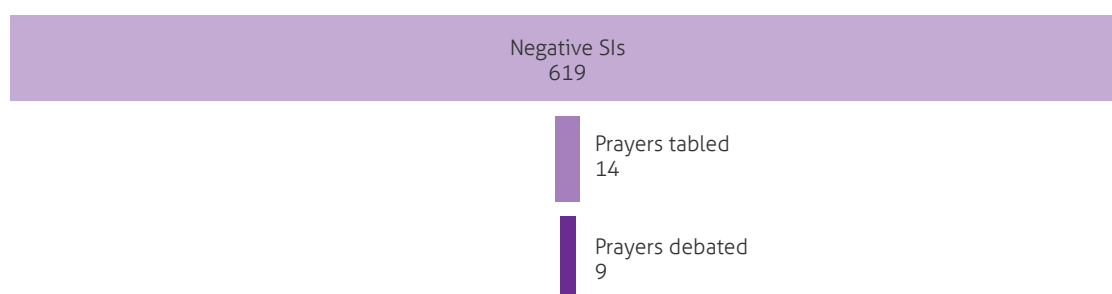
The authority for ministers to make secondary legislation is contained in 'parent' primary acts. The passage of those acts is the opportunity for Parliament to decide whether it is happy to grant government the powers it is seeking. Acts also set out the scrutiny procedure to which secondary legislation will be subject. Pieces of secondary legislation are drawn up and then (other than in some specific instances) laid before both Houses of Parliament. The two main scrutiny procedures to which it is subject are known as 'negative' and 'affirmative' – though the Lords Constitution Committee has identified 16 variations on these processes.⁸

Of the secondary legislation laid before Parliament, most is subject to the negative procedure. Under this, a piece of secondary legislation becomes law as long as neither House objects within a given time period. Usually, a piece of legislation subject to negative procedure is 'made' (signed off) by the relevant minister and then laid before Parliament. It then becomes law unless it is annulled within 40 days. In the Commons, this can happen by the House agreeing a motion to annul, referred to as a 'prayer', which is usually tabled in the form of an Early Day Motion. In the Lords, peers may also table a motion to annul a piece of secondary legislation.

Of the 840 pieces of secondary legislation laid by the Government in the year since the 2017 Queen's Speech, 619 (74%) followed the negative procedure. Just 14 pieces of secondary legislation were not subject to any procedure.*

In recent years concern has been expressed, including by the Hansard Society, about whether secondary legislation subject to the negative procedure is adequately scrutinised.⁹

Figure 4.3: Negative SIs tabled, prayed against, and debated in the Commons, 21 June 2017–21 June 2018



Source: Institute for Government analysis of data supplied by the House of Commons; and House of Commons, Hansard.

* The majority of which were laid by the Privy Council.

In the year since the State Opening of Parliament, MPs objected to just 2% (14) of the 619 pieces of secondary legislation subject to negative procedure laid before Parliament.

While any MP may table a prayer to annul a piece of secondary legislation, the Government is under no obligation to find time for the prayer to be debated in the House. Time is more likely to be found for debate if the prayer is tabled by the Official Opposition, though previous research has shown this is still no guarantee of debate.¹⁰ Of the 14 prayers tabled since the 2017 Queen's Speech, just over half (nine) were then debated on the floor of the House, meaning that only 1.5% of all pieces of secondary legislation subject to negative procedure laid in the year since the Queen's Speech were debated on the floor of the House. But all of these pieces of secondary legislation, and all others subject to negative procedure laid by the Government, became law. This is not unusual: in recent parliamentary sessions, a similarly low number of pieces of secondary legislation were debated.¹¹

Government control of parliamentary time can limit opportunities for scrutiny of secondary legislation. Of the nine pieces of secondary legislation debated, seven were given time by the Government and two were the subject of an Opposition Day debate in September 2017. The latter two pieces – both relating to higher education – were tabled on the day before Christmas recess in 2016. After the Opposition tabled a prayer to annul them, the Government agreed to find time for a debate. However, Parliament was dissolved for the 2017 General Election before the Government had found time for this to happen. But by that time, the statutory period within which the instruments could have been 'prayed' against effectively had expired. The Opposition was only able to table for debate a motion that the instruments be revoked, which if passed would not have had any statutory effect. Generally, government has been expected to make time available to debate prayers which are still 'in time'.¹²

In the Lords, where government has less control of parliamentary time, the situation is different. Prayers tabled against pieces of secondary legislation subject to negative procedure in the Lords are more likely to be debated, and peers are able to table a broader range of motions, including motions of regret, which are not fatal to a piece of secondary legislation, but allow peers to register their concerns with it. Peers normally table non-fatal motions.¹³

In the year from the 2017 Queen's Speech, 16 motions of regret were debated in the Lords Chamber. Most of these motions were withdrawn following a debate in which peers were able to express their views; but in five cases the motion was pressed to a division. The House agreed to three of these motions of regret – meaning three defeats for the Government. One motion to take note of a piece of secondary legislation was debated in Lords Grand Committee, which was also agreed. This debate picked up on a report on the Criminal Justice (European Investigation Order) Regulations 2017 by the Lords Secondary Legislation Scrutiny Committee, who

highlighted that the Home Office had failed to respond to a request from the Committee for more information after seven weeks.¹⁴ The peer who tabled the motion, Lord Rosser, stated at the end of the debate that he felt the House had “some duty” to ensure such reports are debated.

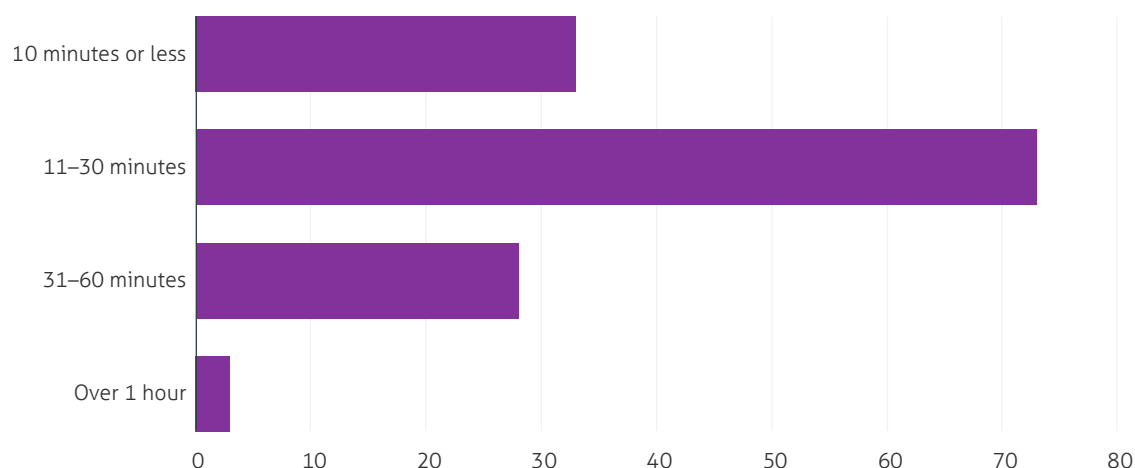
It is highly unusual for a piece of legislation subject to negative procedure to be annulled by either House. The Commons has not resolved to annul a piece of secondary legislation since October 1979; and the last time that the Lords opted to reject a piece of legislation subject to negative procedure was in February 2000.¹⁵ The rarity of annulments may reflect that most secondary legislation is necessary and of a high quality. But it could also suggest that Parliament is not bothering to make use of a procedure it knows to be ineffective. Detailed research analysing the outcome of secondary legislation, and parliamentarians’ attitudes towards it, would be necessary to determine why so few pieces of secondary legislation are annulled.

There are also concerns about the adequacy of existing scrutiny procedures for secondary legislation subject to affirmative procedure

A much smaller proportion of secondary legislation (206 pieces – around a quarter – in the year from the 2017 Queen’s Speech) is subject to the more thorough ‘affirmative’ scrutiny procedure.

Secondary legislation that is subject to the affirmative procedure must be actively approved by both Houses in order to become law, though pieces of secondary legislation on financial matters only need to be approved by the Commons, due to its privilege in financial matters. Active approval means being debated in a committee (in the Commons) or the whole House (in the Lords) on a motion that the legislation has been considered.

Figure 4.4: Number of Delegated Legislation Committees, by duration, 21 June 2017–21 June 2018



Source: Institute for Government analysis of House of Commons, Hansard, 21 June 2017 to 21 June 2018.

In the Commons, most pieces of secondary legislation subject to affirmative procedure are considered in Delegated Legislation Committees (DLCs). A total of 173 pieces of secondary legislation were considered in 137 such committees in the year following the 2017 Queen's Speech.

DLCs are usually composed of between 16 and 18 MPs, appointed ad hoc for each instrument or group of instruments, and chaired by a member of the Panel of Chairs. Debates in DLCs can last up to 90 minutes (or 150 minutes if the piece of secondary legislation relates only to Northern Ireland).¹⁶

However, committees typically spend considerably less time than this scrutinising secondary legislation. In the year since the State Opening of Parliament, the average duration of a DLC was just 23 minutes. Almost a quarter of committees (33) met for less than 10 minutes. On average, each piece of secondary legislation was considered for just 18 minutes. This is not unusual: research by the Hansard Society found that the average duration of a DLC in the 2015/16 parliamentary session was 26 minutes.¹⁷ This raises questions about the relative amount of time afforded to the scrutiny of affirmative and negative secondary legislation. As the Hansard Society has pointed out, much of the time allotted to DLCs goes unused, while time is rarely found to debate prayers tabled against secondary legislation subject to negative procedure.¹⁸

MPs have reported that serving on a DLC is considered to be a punishment – and some have even reported being encouraged by whips to remain quiet, and to use such meetings as an opportunity to get on with their correspondence.¹⁹ Participating MPs receive little briefing that might enable them to prepare for the debate, beyond the explanatory memorandum provided with the piece of secondary legislation.²⁰

Concerns about whether DLCs really conduct meaningful scrutiny are reinforced by the small proportion of committee debates that result in a division. Just seven of the 137 sittings of DLCs in the year following the Queen's Speech (5%) ended in a division.* The low number of divisions and brevity of DLC debates may be an indication that the secondary legislation laid by the Government was uncontroversial. But it also suggests that DLCs have become more of a formality than a serious source of parliamentary oversight of secondary legislation.

There are other questions about the effectiveness of the affirmative procedure. In DLCs, votes may only be held on the motion that the Committee has 'considered' the piece of secondary legislation. Once this has happened, the motion to approve a piece of secondary legislation is put 'forthwith' on the floor of the House – meaning that the motion is put on a different day to the DLC, and without debate. This means that the House votes following a DLC debate that most MPs have not been part of (and they are unlikely to have read the transcript of the debate).²¹ All the motions put to the whole House in the year following the Queen's Speech were agreed to.

* Some DLCs may have more than one division: for example, in a DLC on 25 January 2018, there were three divisions. Figures given here are for the number of committees in which there were divisions.

While secondary legislation subject to affirmative procedure in the Commons is usually automatically referred to a DLC, a small amount is instead debated on the floor of the House. Just three pieces of secondary legislation were dealt with in this way in the year following the 2017 Queen's Speech – and none of these debates ended in a division. Rejection of secondary legislation subject to affirmative procedure is even more rare: the last time it occurred in the Commons was in July 1978.

In the House of Lords, affirmative secondary legislation is either debated in the Chamber, or in Grand Committee. In the Chamber, the piece of legislation is debated on a motion to approve; if debated in Grand Committee, it is debated on a motion that the legislation has been considered. The formal motion to approve the legislation is then put forthwith in the Chamber on a later day. There were 107 debates on affirmative secondary legislation in the year since the 2017 Queen's Speech, of which slightly more than half (56) were in the Chamber. On average, debates on affirmative delegated legislation in the Lords lasted 26 minutes – just three minutes more than in Commons Delegated Legislation Committees. In all cases the legislation was agreed to. However, on a handful of occasions peers tabled amendments to motions to approve SIs, to regret some aspect of the legislation, and then withdrew their amendments following debate – again allowing them to use the debate to air their concerns.

The House of Lords has shown itself more willing to challenge affirmative secondary legislation. At the end of October 2015, the House of Lords withheld approval of an affirmative SI on tax credits (which had already been approved by the Commons). In response, the then Prime Minister asked Lord Strathclyde, a former Leader of the Lords, to carry out a review of the Lords' powers in relation to secondary legislation. The Strathclyde Review was published in December 2015. It offered three options for reform, including the option favoured by Lord Strathclyde – to create a new procedure watering down the influence of the Lords over secondary legislation. Set out in statute, this would stop the Lords being able to reject secondary legislation; instead allowing the Upper House only to invite the Commons 'to think again when a disagreement exists [about a piece of secondary legislation] and insist on its primacy'.

In the first half of 2016, the Secondary Legislation Scrutiny Committee (SLSC) published a response to the review which rejected all three options.²² The Government published its own response to the review, and to the committee's report in December 2016, saying that they would not legislate along the lines of Lord Strathclyde's favoured option in the 2016/17 Session, but would leave open the possibility of taking up that option at a later date.²³

When Parliament passes acts requiring ministers to subject secondary legislation to the affirmative procedure, it does so because it believes that the powers need more intensive scrutiny. But the small amount of time for which such legislation is debated in the Commons, and the rarity with which it is rejected in either House, mean it is not clear that this greater scrutiny is happening.

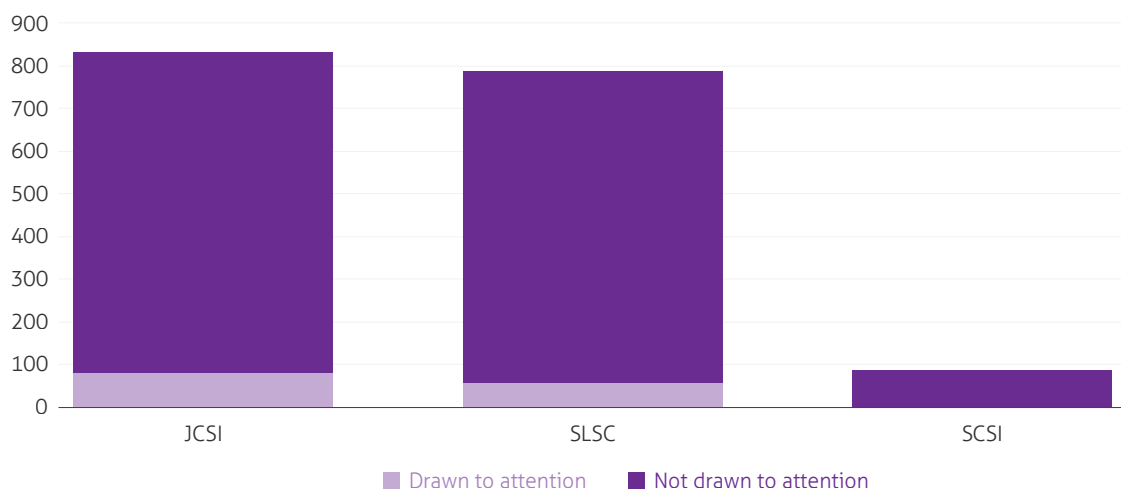
Scrutiny committees provide a check on the quality of secondary legislation brought forward by government

In both the Commons and Lords, committees exist specifically to scrutinise secondary legislation. Some committees focus on the technical quality of secondary legislation and whether its provisions are in line with the powers granted to government by the parent act; others are more concerned with the merits of secondary legislation, and how well it fulfils its policy aims:

- **The Joint Committee on Statutory Instruments (JCSI)** is composed of members from both the Commons and Lords. It meets weekly to consider all secondary legislation made through powers granted in primary legislation. Its main focus is on technical quality, including whether a piece of secondary legislation is well-drafted. Where the JCSI has concerns about a piece of secondary legislation, it may choose to bring it to the attention of both Houses.
- **The Select Committee on Statutory Instruments (SCSI)** plays the same role as the JCSI, but is comprised only of Commons members. It looks at the technical quality of secondary legislation which is not subject to Lords proceedings – mainly that relating to financial matters, where the Commons has privilege.
- **The Secondary Legislation Scrutiny Committee (SLSC)** is a Lords committee which examines all secondary legislation laid before the Lords, as well as Public Bodies Orders, a specific form of secondary legislation. The SLSC focuses on the policy merits of secondary legislation, and may choose to bring it to the attention of the House on several grounds (for example, that the explanatory material accompanying it isn't good enough, or that it 'imperfectly' achieves its objective).

In the year following the 2017 Queen's Speech, each scrutiny committee considered varying numbers of pieces of secondary legislation, reflecting their different remits.

Figure 4.5: Number of pieces of secondary legislation considered, and reported, by parliamentary scrutiny committees, 21 June 2017–21 June 2018



Source: Institute for Government analysis of reports from the Joint Committee on Statutory Instruments; Commons Committee on Statutory Instruments; and data from the Lords Secondary Legislation Scrutiny Committee, 21 June 2017 to 21 June 2018.

The JCSI considered 832 pieces of secondary legislation, of which 79 (9%) were drawn to the attention of both Houses of Parliament. Reasons for this reporting varied (note that some pieces of secondary legislation may be reported for multiple reasons), but included secondary legislation being defectively drafted, and failing 'to comply with normal legislative practice.' Reflecting its remit, the SCSJ examined only 84 pieces of secondary legislation, not drawing any to the attention of the Commons.

The SLSC considered 786 pieces of secondary legislation; of which it chose to draw 8% (59) to the attention of the Lords. The Committee also regularly highlighted pieces of secondary legislation as being "of interest" to the House. This can be a means for the SLSC to flag problems with the way government is producing secondary legislation. For example, the committee highlighted one piece of secondary legislation from the Foreign and Commonwealth Office (FCO) on the basis that it was the department's fourth attempt to pass the same piece of secondary legislation, urging the FCO "to review their clearance processes to ensure that future instruments are more thoroughly checked before they are laid before Parliament".²⁴

Government has made efforts in recent years to improve the quality of secondary legislation, creating a secondary legislation hub in the Cabinet Office in 2014 to improve drafting, and since 2016 implementing a series of measures to improve the quality of explanatory material laid in support of secondary legislation. Proposals for affirmative instruments are also now required to be cleared by the Parliamentary Business and Legislation Cabinet Committee before being laid. This illustrates the impact that committees can have on government: the hub was created as a result of the SLSC identifying an increase in the number of 'correcting' instruments, and the measures to improve explanatory material were taken following an evidence session between the SLSC and three permanent secretaries.²⁵ As well as scrutinising individual instruments, committees can take a broader view of the quality of the secondary legislation that government is producing and make suggestions for improvement.

The small proportion of secondary legislation which scrutiny committees drew to the attention of Parliament may indicate that the Government is generally producing secondary legislation of a high quality, which is in line with the powers granted to them in parent acts, and which fulfil their policy aims in a reasonable way.

Brexit has renewed debates about government's use of secondary legislation

Since the 2017 Queen's Speech, as well as introducing primary legislation relating to Brexit, the Government has been laying the groundwork to use secondary legislation to prepare the UK statute book for the UK's exit. It has done this by passing primary legislation giving ministers extensive powers to change UK laws using secondary legislation. These have included so-called 'Henry VIII powers', which allow ministers to make changes to primary legislation using secondary legislation.

The Government has argued that these powers are necessary for two reasons: to deal with the uncertainty of the negotiation process; and to make the scale of the changes required to the statute book in time for EU exit in March 2019.

Originally, the Government argued that negotiations over the UK's withdrawal from the EU might be concluded only very shortly before the Article 50 two-year time limit expired. In these circumstances it would not be possible for Parliament to pass primary legislation to give effect to the legal changes required to give effect to the agreement, so the speed and flexibility of secondary legislation-making powers would be required. The Government's original estimate was that to provide for this scenario 800–1,000 pieces of secondary legislation would need to be passed before 29 March 2019. There was widespread alarm in Parliament at the scale and breadth of the powers that Government planned to take, which included a power to amend the EU Withdrawal Act itself using secondary legislation. One scrutiny committee noted that the Withdrawal Bill as introduced gave ministers 'wider Henry VIII powers than we have ever seen'.²⁶

Two things have since changed. First, the Government accepted that it would be inappropriate to give effect to the significant legal provisions likely to be included in any withdrawal agreement purely using secondary legislation. It committed to introducing a 'Withdrawal Agreement Bill' to give effect to any withdrawal agreement. This 'WAB' would reduce the amount of secondary legislation required, although it is not clear by how much.

Second, the draft Withdrawal Agreement currently being negotiated includes provision for a 'standstill' transition period until December 2020, during which the UK statute book would not need to change. This transition would extend the time available for Parliament to pass the secondary legislation required to prepare for the UK's life outside the EU. Again, it is unclear how much secondary legislation would still need to be in place before 29 March 2019.

However, because it is not guaranteed that the UK and the EU will agree a Withdrawal Agreement within the timeframe required by Article 50, the Government is continuing to plan for the possibility of a 'no deal' exit with no transition. In legislative terms this means that Whitehall departments are continuing to work on the basis that the UK's statute book needs to be prepared for exit on 29 March 2019 without any further primary legislation (the Withdrawal Agreement Bill) or transition period.

Parliament has expressed concern over the Government's use of secondary legislation for Brexit

The Government's approach to legislating for Brexit using secondary legislation has generated concern in three areas:

- The balance between what the Government has tried to do using primary legislation and secondary legislation.
- The shortcomings of parliamentary processes for scrutinising secondary legislation, and the relatively limited attention paid to it by many parliamentarians.
- The capacity of Parliament to pass the volume of secondary legislation required within the shrinking window of time available to do so.

The first concern – that the Government has tried to use secondary legislation to do things that would normally only be possible using primary legislation – links to a longstanding debate about where governments draw this line. Many of the peers who voted to reject the Government's tax credits SI in 2015, as discussed above, did so because they felt that the Government was going beyond what Parliament had intended when creating the power to adjust the level of tax credits using secondary legislation. Prior to the decision to leave the EU, the Lords Constitution Committee expressed concern about the use of 'skeleton' bills giving ministers 'broad and undefined delegated powers to achieve legislative objectives, but [which] contain few restrictions as to how secondary legislation should be framed to achieve those goals.'²⁷

Before the EU referendum, the Lords Constitution Committee had also objected to a growth in the use by successive governments of 'framework' bills – pieces of primary legislation that are 'light in content but heavy in delegated powers'²⁸ and give ministers powers to make further provisions through secondary legislation.²⁹ The Committee had also objected to the growing number of bills including Henry VIII powers – the most powerful secondary-legislation making powers. Having previously been unusual, these had become relatively common.*

In relation to the EU Withdrawal Bill, some parliamentarians were suspicious that, having taken sweeping powers, ministers might attempt to use secondary legislation to make significant policy changes relating to the UK's exit from the EU without the scrutiny that would normally have required the passage of primary legislation. The Lords Constitution Committee argued that the breadth of the powers the bill contained 'pushes at the boundaries of the constitutional principle that only Parliament may amend or repeal primary legislation'.³⁰

* There is no official count of Henry VIII powers, although some external organisations have attempted to assess the frequency of their use. In the 2015/16 parliamentary session, according to one estimate, 16 of the 23 government bills that made it onto the statute book contained Henry VIII powers (some 70%).

The second concern about the Government's approach to legislating for Brexit has been that Parliament's processes for scrutinising secondary legislation are not adequate. Again this reflects longstanding concerns about these processes. As discussed in this chapter, and elsewhere, the problems with Westminster's scrutiny of secondary legislation include:

- Secondary legislation cannot be amended, only rejected outright, and that hardly ever happens.
- Around three quarters of secondary legislation is subject to negative procedure and is therefore not actively scrutinised by Parliament unless someone objects. Even if someone does object, government or opposition has to find time for a debate to happen.
- Even secondary legislation subject to affirmative procedure may only be debated for a short time by a small group of parliamentarians who may have no interest or expertise in the subject matter.
- The scrutiny processes of the two Houses are entirely independent – they do not have to agree on secondary legislation between themselves in the same way they would through 'ping pong' on a bill.

The third concern about the Government's approach to using secondary legislation in the Brexit process relates to the capacity of Parliament within the time available to provide adequate scrutiny of the 800 to 1,000 pieces of secondary legislation the Government has said need to be in place before March 2019.

During the passage of the EU Withdrawal Bill, these three areas of concern were extensively debated and the bill was amended in the Commons to create a new SI scrutiny committee – the European Statutory Instruments Committee (ESIC). The amendments were tabled by the Chair of the Commons Procedure Committee at committee stage, reflecting a report produced by the Procedure Committee on the scrutiny of secondary legislation laid under the EU Withdrawal Bill.³¹ Though the Lords debated amendments that would have strengthened the committee, these were rejected.

ESIC has 16 members, and on 23 July 2018 chose Sir Patrick McLoughlin MP as its Chair.* Its role will be to examine and report on proposals for pieces of secondary legislation subject to negative procedure to be made under the EU Withdrawal Act – which ministers must lay before the House. The SLSC will perform the same sifting function for the House of Lords. The committees may recommend that a piece of secondary legislation the Government believes should be subject to the negative procedure should actually go through the affirmative procedure. Their recommendations will not be binding on the Government; though if the Government disagrees and chooses to disregard their recommendations, the relevant minister must make a written statement. Members will then be able to object to the negative SI in the usual way.

* The Chair will also be appointed to the Liaison Committee.

The fact that the recommendations of the ESIC and SLSC will not be binding raises questions about whether the Government will listen. The Commons Procedure Committee suggests that there will be 'strong political obligation' on ministers, and given the renewed interest in secondary legislation that Brexit has sparked, this may prove to be the case.³² But as the Hansard Society has pointed out, the broader debate over secondary legislation that has been sparked by Brexit and the EU Withdrawal Act has served to highlight longer-term flaws in the way that secondary legislation is scrutinised.³³

Looking forward

- Parliament faces the challenge of giving an estimated 800 pieces of Brexit-related secondary legislation appropriate levels of scrutiny, while ensuring they are passed in a timely manner. As the European Statutory Instruments Committee begins its work, it will become clear whether the Government is willing to listen to the recommendations of the committee.
- The focus that Brexit has put on secondary legislation should maintain pressure for Parliament to make scrutiny of secondary legislation more effective. Key to this will be engaging parliamentarians in the process.
- The precedent set by the Government's use of Henry VIII powers to deliver Brexit may have shifted the balance of power between government and Parliament in relation to the scrutiny of legislation.

5. Select committees

Select committees have been one of the best known aspects of Parliament's work since 1979 when the current Commons select committee system was established. Since 2010, when select committee chairs were first elected by the whole House, there has been even greater interest in the role and influence of these key parliamentary bodies. Following the 2017 General Election, committees' increasing significance was demonstrated by the decision of several MPs who were former ministers to stand for election as chairs. Their election has injected greater understanding of government into the Commons select committee system and has helped increase media attention to committees' work. Committees have been highly active in the session so far, with MPs' attendance at committees higher than in the 2016/17 session. Much of their work – more than one in eight inquiries – has concerned Brexit, though committees have also conducted high-profile inquiries on other subjects.

Select committees are cross-party groups of MPs or Lords (or both) charged by Parliament with a specific role or with investigating a specific issue. They are one of Parliament's main tools for holding government to account. One unique aspect of select committee scrutiny is the fact that governments are committed to reply to every select committee report, and to do so within 60 days of its publication, setting up the possibility of real dialogue between Parliament and government over the direction and implementation of policy.

Quantifying the impact that select committees have on government is difficult. They have influence through the reports they write, media attention they generate, or by encouraging ministers to brush up on their knowledge before giving evidence. Much of this is hard to measure or trace. Nonetheless, data gives some insight into committees' work, and whether MPs and peers are making the most of the opportunities Parliament affords them to hold government to account, as well as enhance their own understanding. And analysing the ways in which committees work – the kinds of inquiries they conduct, and how they gather evidence – can help to identify potential areas for improvements in their working practices.

The Commons and Lords committee systems are designed to complement each other

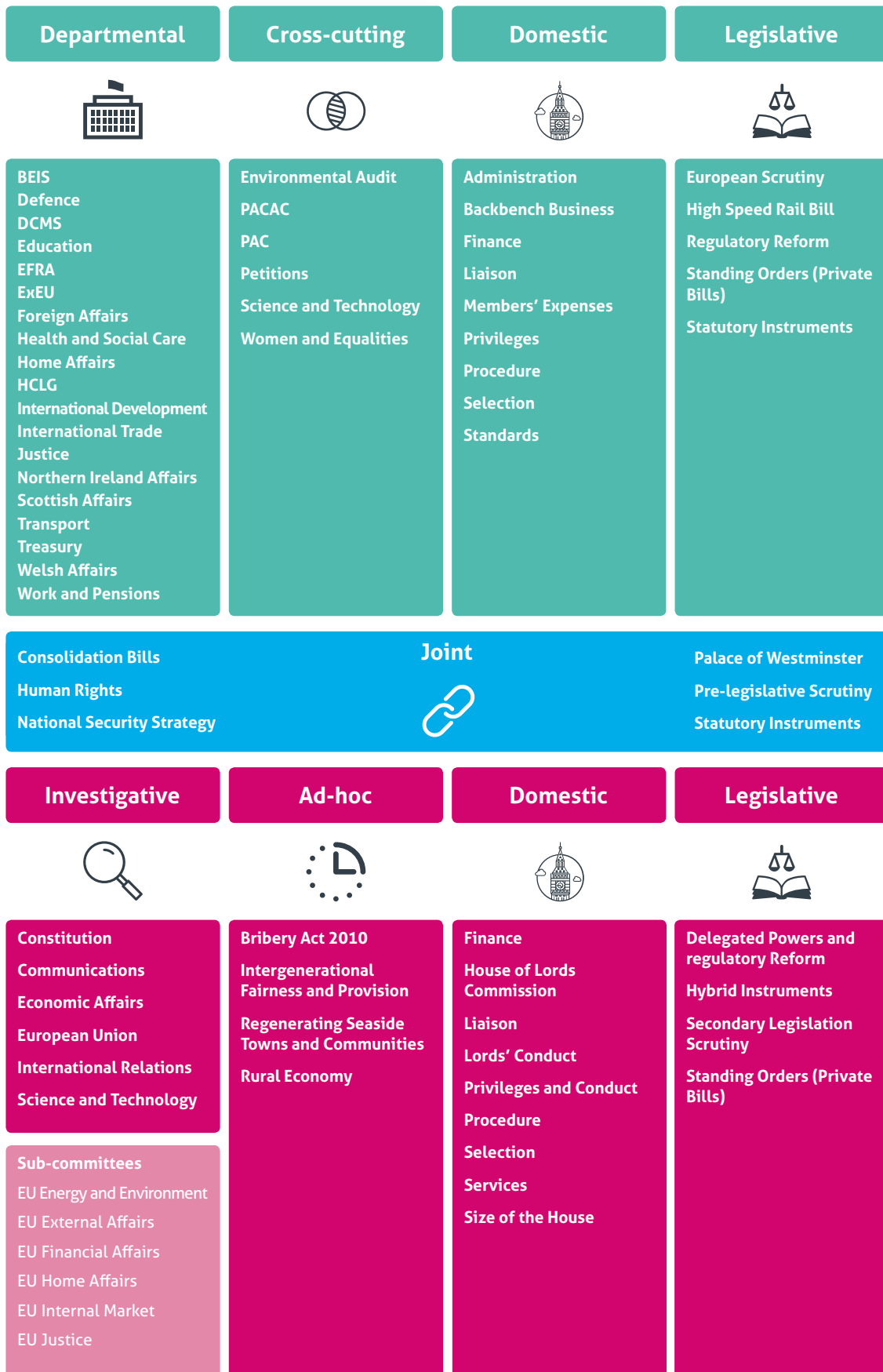
For centuries Parliament has delegated specific tasks to small groups of members, increasing its capacity and enabling certain members to scrutinise specific issues of public policy, or to examine scandals or disasters. In the past, these committees were normally ad hoc; the one exception being the Public Accounts Committee set up in 1861 to look at the expenditure of public money. Decades later, in 1912, an Estimates Committee was established to look at the detail of government activity, but its coverage, and that of its successor committee the Expenditure Committee, remained patchy.

Major change came in 1979, when the Commons set up the current system of committees focused on the policy, administration and spending of one specific government department, designed to systematise scrutiny of government. Shortly afterwards, the Lords established its own systematic structure, designed to avoid duplicating the departmentally focused work of the Commons.¹

Most select committees are established under the Standing Orders – the parliamentary rules – making them permanent entities that exist from one Parliament to the next, albeit with shifting membership. Other committees are appointed for a single session or to fulfil a specific purpose, and cease to exist once the parliamentary session is over or their inquiry is complete. Based on data from the 2016/17 session, a select committee incurs on average just over £26,000 of expenses per financial year. This includes the cost of special advisers, overseas visits and witnesses' expenses, though does not include staff costs.² The staffing costs of an 'average' Commons select committee are around half a million pounds annually.

The two Houses delegate a range of powers to their committees to enable them to fulfil their roles. Typically, these include the power to access papers and call witnesses, to produce reports and to appoint specialist advisers. These powers are more limited than those afforded to committees in other legislatures, including the United States Congress, which often have different responsibilities including the scrutiny of legislation, and decisions on budgetary matters. The division in Westminster between committees which consider policy and public spending, and those which examine legislation is one of its most distinctive features. In the Commons the committees which look at bills, secondary legislation and European legislation are ad hoc bodies set up for each piece of legislation. In the current parliamentary session we have seen reluctant witnesses contest the power of committees to compel them to give evidence.³

Figure 5.1: Types of select committees in the UK Parliament



Key: ■ House of Commons ■ House of Lords

Source: Institute for Government analysis of www.parliament.uk/business/committees/committees-a-z.

There is no single agreed way of classifying select committees. According to our classification (Figure 5.1) in the Commons:

- Almost half (19) of Commons committees are **departmental**, examining the expenditure, administration and policy of a specific department and its associated public bodies.
- **Cross-cutting committees** (6) look across Whitehall to examine government performance on a single issue.
- **Legislative committees** (5) undertake tasks in relation to the legislative process.
- **Domestic committees** (9) facilitate some aspect of parliamentary process, or administration of the House of Commons.

In the House of Lords:

- There are currently six **investigative committees** (sometimes known as sessional committees), which are renewed at the beginning of every session.
- **Ad hoc committees** (4) consider a specific issue for a single parliamentary session, or for around 12 months in a two-year session. Some ad hoc committees are tasked with conducting post-legislative scrutiny of a piece of legislation, such as the committee currently scrutinising the Bribery Act 2010. These committees are normally dissolved once they have reported.
- The four Lords **legislative committees** undertake tasks relating to the legislative process.
- **Domestic committees** (9) facilitate the processes and administration of the House.

Joint Committees draw their members from both Houses. Some are permanent (such as the Joint Committee on Human Rights); while others are temporary, established to consider a piece of legislation in draft form: for example the Joint Committee on the Draft Health Service Safety Investigations Bill.

Over the last 40 years the Commons committee system has adapted to mirror changes in the structure of government. Meanwhile committees have been added by both Houses to reflect the changing interests of politicians (for example Environmental Audit, and Women and Equalities in the Commons, and International Relations in the Lords).

The House of Lords Liaison Committee is currently undertaking the first wide-ranging review of its committee system in 25 years, considering whether its current structure is fit for purpose.⁴ Following the EU referendum, the review is also analysing the options for redeploying the large proportion of Lords resource currently devoted to scrutiny of EU legislation. If the Commons Liaison Committee were to initiate a complementary review of the Commons committee system, the two reviews could usefully interact to avoid overlaps and gaps in parliamentary scrutiny.

A high proportion of current Commons chairs are former ministers or shadow ministers

Figure 5.2: Experience of Select Committee Chairs elected in July 2017

Committee	Chair	Previous experience				
		Secretary of State	Minister of State	Shadow SoS	Shadow Minister	Other frontbench
Home Affairs	Cooper	✓	✓	✓	✓	✓
ExEU	Benn	✓	✓	✓		✓
Women and Equalities	Miller	✓	✓		✓	✓
Treasury	Morgan	✓	✓			✓
Int. Development	Twigg		✓	✓	✓	✓
Work and Pensions	Field		✓			✓
Science and Technology	Lamb		✓			✓
Education	Halfon		✓			
Transport	Greenwood			✓	✓	✓
Public Accounts	Hillier			✓	✓	✓
Environmental Audit	Creagh			✓	✓	✓
BEIS	Reeves			✓	✓	
PACAC	Jenkin			✓	✓	
NI Affairs	Murrison				✓	✓
Defence	Lewis				✓	✓
Justice	Neill				✓	✓
HCLG	Betts				✓	✓
Petitions	Jones					✓
Int. Trade	MacNeil					✓
Scottish Affairs	Wishart					✓
EFRA	Parish					
Foreign Affairs	Tugendhat					
DCMS	Collins					
Health	Wollaston					
Welsh Affairs	Davies					

Source: Institute for Government analysis of parliament.uk. Departmental and cross-cutting committees only.

The chair of a committee determines its impact more than any other factor.⁵

In the Lords, committee chairs are normally appointed by the House on the proposal of the Committee of Selection. In the Commons, committee chairs have been elected by the whole House since 2010. Following the 2017 General Election, 11 of the 28 elected chairs were contested, with significant competition for some positions. Former Secretary of State Nicky Morgan and high-profile Brexiteer Jacob Rees-Mogg, both Conservatives, competed for the chair of the Treasury Committee, while former minister Liam Byrne and former shadow minister Rachel Reeves, both Labour MPs, fought for the chair of the BEIS Committee. Of the chairs elected, four are former secretaries of state, eight are former ministers of state, and eight are former shadow secretaries of state. Several others are senior figures in their parties.

The election of these former ministers has injected greater understanding of government into the Commons select committee system. It has also helped increase media attention to committees' work, which in turn has enhanced their influence.

Some have argued that MPs should see select committees as an alternative career to seeking ministerial office. But in practice, it seems most MPs would immediately give up a committee position if offered a ministerial or shadow-ministerial position, in however junior a capacity. Recent examples include Rory Stewart MP, who in 2015 gave up the chair of the Defence Committee to become a junior minister at Defra, and Jesse Norman MP who in 2016 gave up the chair of the Culture, Media and Sport Committee to become a junior minister at BEIS. This is despite the fact, as noted by former MP Chris Mullin – who alternated being chair of the Home Affairs Committee with brief stints as a junior minister at Defra, DfID and the FCO – that in many ways committee chairs have more power over government than junior ministers.⁶

However, a variety of current factors, including internal divisions within the Conservative and Labour parties, may mean some backbenchers feel that opportunities on their party's frontbench are a distant prospect. Chairing a committee can provide them with an alternative parliamentary platform.

Only two Commons committees have more female than male members

Figure 5.3: Gender balance of Commons departmental and cross-cutting committees, as at 21 June 2018



Source: Institute for Government analysis of <https://www.parliament.uk/mps-lords-and-offices/mps/select-committee-membership/>. Chairs included.

Since the 2017 election, several of the most influential Commons committees have been chaired by women: Nicky Morgan chairs the Treasury committee; Yvette Cooper the Home Affairs committees; and Sarah Wollaston chairs both the Health and Social Care committee and the overarching Liaison Committee. Over one third – nine of the 25 departmental and cross-cutting committees – have female chairs, up from six in the last Parliament.

Women make up 32% of the membership of the House of Commons, and 32% of the membership of the Commons' departmental and cross-cutting committees. The Women and Equalities, and Education committees are the only two committees to have more female than male members. The least balanced committees are Transport and International Development, with just one woman on each – though Transport is chaired by a woman. Overall, these figures represent a significant improvement on previous years. Further progress rests in large part on more women being elected to the Commons.

In the Lords, where 25% of active peers are female, women are over-represented as committee members – making up 35% of investigative and ad hoc committee members. But they are underrepresented among chairs, holding just 19% of available positions.

Scrutiny was delayed after the election

Committee membership reflects the party balance in the Commons as a whole, as does the distribution of chairs between parties. The Speaker confirms each party's share of chairs in each Parliament and the Selection Committee agrees the party shares of other members. Following the 2017 General Election, a typical 11-member committee has five Conservative, five Labour and one Scottish National Party member, though there are several local variations and the total numbers allocated to each party are divided across all the committees. On some committees the Official Opposition or the Government will 'lend' a seat to a minor party (for example Labour have lent a seat on the Environmental Audit Committee to the Green MP Caroline Lucas and the Conservatives have ceded places on the Northern Ireland Affairs Committee to the DUP). Of the elected chairs, there are 13 Conservative, 12 Labour, two Scottish National Party and one Liberal Democrat.

Since 2010, the members of most Commons committees are required to be chosen by a system of internal party elections. Each party is free to choose its own method of election but the House requires that it must be "transparent and democratic". This process can begin only once ministerial and shadow ministerial appointments have been made. Once the Speaker has announced the party allocations, the whips negotiate over which party will chair which committee. Within three weeks of the Queen's Speech, the whole House then elects the chair of each committee via secret ballot. The parties propose the other committee members, following internal party elections. The Selection Committee then meets to agree the party nominations and puts a motion to the House for each committee, so that the whole House can vote to ratify the entire slate of names.

The lengthy process of establishing Commons committees following an election is a problem because it creates a gap in the scrutiny of government; a problem the Government has little incentive to fix. Having brought many inquiries to a premature end in late April 2017 before the June General Election, departmental and cross-cutting committees were not set up and able to launch inquiries until mid-September 2017.* Other committees were established even later – including the European Scrutiny Committee (ESC), which was not established until the end of October – a particularly unfortunate delay given the ESC’s expertise and interest in the issues surrounding Brexit.

A further notable gap occurred in the Liaison Committee’s evidence sessions with the Prime Minister. By convention, the Liaison Committee is the only committee that can take oral evidence from the Prime Minister, with thrice-yearly sessions that range widely across the Government’s responsibilities. The delays in appointing committees meant that the Liaison Committee – which had to wait to meet until all the chairs of committees were elected – could not even elect its own chair until mid-November; five months after the election. This meant there was a gap of a year between the last Liaison Committee evidence session with the Prime Minister in the 2015–17 Parliament, and the first in the 2017 Parliament. Under normal circumstances, the Prime Minister would have been subject to detailed questioning twice during the intervening period.

The Commons Procedure Committee has launched an inquiry into the process of establishing select committees at the start of new Parliament, which will address these issues.⁷

In the Lords there is no formal rule about the political balance of committee membership, and most committees do not have a fixed number of members. The Committee of Selection normally proposes the membership of select committees to the House, which then votes on the entire slate.

In order to secure a regular turnover of membership, a ‘rotation rule’ operates for most Lords committees. Under this rule, members who have been appointed for three successive sessions may not be reappointed in the following two sessions (based on a session lasting approximately 12 months).[†] Before the 2015 Parliament, the rule limited terms to four years, but the decision was taken to reduce this to three, to increase the opportunities available to peers to participate in committee work. The disadvantage of this change is that it has reduced the ability of committee members to make use of the institutional memory and expertise they build up during their tenure.

About two thirds of eligible MPs sit on at least one committee

Not all MPs can sit on select committees, though it is difficult to build up a clear and complete picture of who is ineligible. As a rule, government ministers and whips, as well as the frontbench and whips of the Official Opposition, are not allowed to sit on

* The earliest inquiry (into sport governance) was launched by the Digital, Culture, Media and Sport Committee on 11 September 2017.

† The three sessions may be extended to allow a member appointed as chair a three-session term as chair.

mainstream select committees, although ministers do sit by virtue of their office on the Public Accounts Committee and Environmental Audit Committee. All these rules are down to convention, which appears to have been kept vague in order to allow some flexibility: for example, when 56 MPs from the SNP were elected to Westminster in 2015, the distribution formula entitled them to a seat on each Commons committee. But to fulfil this, some of the party's spokespeople doubled up as committee members. Currently some of the leaders of other small parties in Westminster also sit on committees. The role of Parliamentary Private Secretaries has always been contentious – broadly it is applied so that they may not be a member of a committee scrutinising ministers with whom they are directly associated. Despite the need for flexibility in the system, a resolution establishing the conventions about those ineligible to sit on committees would be useful.

We estimate that of the 500 MPs theoretically able to sit on select committees, around two thirds – 323 – currently sit on at least one Commons committee.

Of these 323, the majority will sit on only one committee. All chairs of Commons committees also sit on the Liaison Committee, which is able to question the Prime Minister and is an important means through which committees can work together to scrutinise the Government. But aside from this, some other members sit on more than one committee. Committee membership is a significant time commitment for MPs, with one or two meetings per week, as well as preparation for oral evidence sessions (in the case of departmental and cross-cutting committees), visits, and informal meetings. Sitting on multiple committees – and particularly on more than one departmental committee – may therefore place a significant strain on MPs and their ability to contribute to each committee's work.

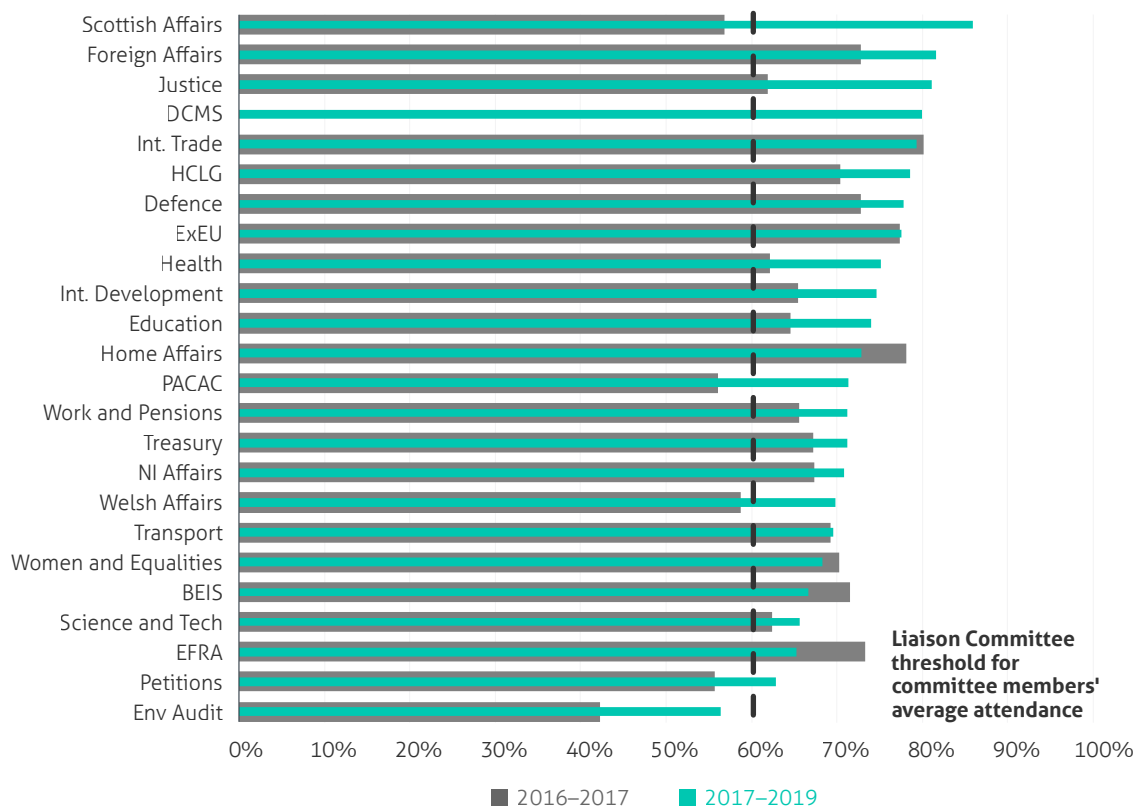
Recognising this, the Companion to the Lords' Standing Orders states that "It is desirable for a member to serve on only one sessional investigative select committee at any one time."⁸ The large membership of the Lords means demand for committee roles is high. It is uncommon for peers to sit on more than one committee – of 780 active Lords, 199 (25%) sit on a committee, and of those just 41, or 5%, sit on more than one.

Commons committee attendance averaged 72% in the year since the Queen's Speech

Committees meet with different frequency, depending on their remit and how they choose to conduct their work. Among the Commons departmental and cross-cutting committees in the year from the 2017 Queen's Speech, the Treasury Committee met most frequently (71 times), and the International Trade Committee the least frequently (26 times). The Treasury Committee's volume of meetings may reflect its role in scrutinising both the Treasury and HM Revenue and Customs, as well as overseeing appointments to other organisations such as the Bank of England's Monetary Policy Committee.

The Liaison Committee has a target for members to attend at least 60% of committee meetings, as a means of ensuring that MPs are engaged in their committee work.⁹

Figure 5.4: Average Commons committee attendance, 2016/17 and 2017/19, up to 21 June 2018



Source: Institute for Government analysis of committee webpages (2016-17 figures) and data provided by the Liaison Committee (2017-19 figures). 2016-17 data for the DCMS Committee is not currently available. Departmental and cross-cutting committees only. PAC not included.

Overall, the data for the year since the 2017 Queen’s Speech shows that most committee members are taking their commitment to committee work seriously. Across the 25 departmental and cross-cutting committees, MPs averaged 72% attendance in the year – well above the Liaison Committee target. By comparison, in the 2016/17 session average attendance was 66%, meaning the majority of committees have improved their attendance in comparison to the previous session.

The Scottish Affairs Committee had the highest attendance, at 87% – significantly above the previous session. The Environmental Audit Committee averaged 57% attendance, though this was higher than the previous year – and their figures may also be affected by the *ex officio* membership of a minister, who sits on the committee but does not participate.

As the Liaison Committee has noted, there can be good reason for lower attendance, such as personal or family illness, or regular diary clashes between a committee’s meetings and a member’s other parliamentary activities.¹⁰ But generally, MPs’ attendance is good: just 10% of all departmental and cross-cutting committee members attended fewer than half of their committee meetings.

However, while simple attendance may give a sense of members' engagement with committee work, it is no guarantee of effectiveness. The briefing MPs are given, the quality of the preparation they undertake and the skill with which they intervene in evidence sessions are crucial to committee effectiveness, though difficult to assess with quantitative data. Some chairs have encouraged their members to specialise in particular areas of their committee's remit or focus on particular angles of a specific inquiry in order to increase their expertise and the quality of their questioning.

In the Lords, data on peers' attendance at select committees is not routinely collected. It is therefore not possible to assess how assiduously Lords members are fulfilling their scrutiny responsibilities or to make a comparison with the House of Commons.

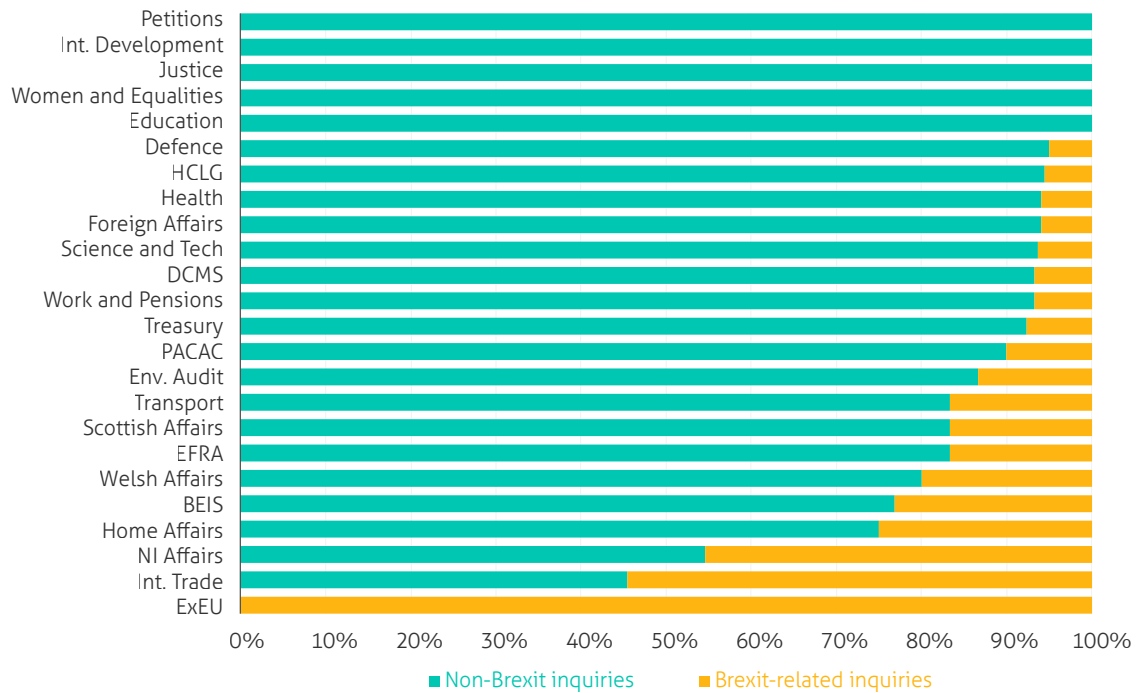
One in eight inquiries in the Commons concerned Brexit

Inquiries are a core part of the work of Commons departmental and cross-cutting select committees, though how they conduct inquiries varies: some committees undertake multiple shorter inquiries, while others launch fewer broader inquiries, undertaking a variety of work and sometimes publishing multiple reports under the aegis of a single inquiry.

In the year following the 2017 Queen's Speech, Commons committees opened a total of 409 inquiries.

As the Commons Liaison Committee has recognised, levels of activity by committees are not in themselves indicators of effectiveness.¹¹ In order to gain a more informed view, it is useful to move beyond measures of activity to explore the content and substance of committees' inquiries, to understand the particular issues with which committees are engaging.

Figure 5.5: Brexit-related inquiries as a proportion of all inquiries launched by Commons departmental and cross-cutting committees, 21 June 2017–21 June 2018



Source: Institute for Government analysis of select committee webpages. PAC not included.

Brexit has occupied a significant proportion of parliamentary scrutiny capacity since the General Election. Inquiries relating to Britain’s exit from the EU account for 13% of all Commons inquiries announced since the election, with four fifths of Commons departmental and cross-cutting committees conducting some kind of Brexit-related inquiry.* On average, each committee has launched 2.6 Brexit-related inquiries in the year since the election – and only five committees had no Brexit-related inquiries at all.

Unsurprisingly, among the committees scrutinising the departments most heavily affected by the UK’s exit from the EU, a significant proportion of inquiries were Brexit-related. All the inquiries launched by the Committee on Exiting the EU, and two thirds of those launched by the International Trade Committee related to Brexit. So too did nearly half launched by the Northern Ireland Affairs Committee and over a third launched by the Welsh Affairs, Scottish Affairs, Home Affairs, and Environment, Food and Rural Affairs (EFRA) Committees. Just under a third of those launched by the BEIS Committee related to EU exit.

But committees whose departments are not directly involved with the core impact of Brexit have nevertheless dedicated time to the issue: the Science and Technology, DCMS, Health and Social Care and HCLG committees all have specifically Brexit-related inquiries underway.

* We define a Brexit-related inquiry as any inquiry that would not have taken place if Brexit were not happening.

The numbers above probably understate the relative dominance of Brexit-related work by the committees. Many of the non-Brexit inquiries announced may have been short, single-evidence session affairs, while the majority of Brexit-related inquiries have been lengthy and complex. While Brexit touches on the work of many government departments, and relates to a broad range of issues, the volume of Brexit-related inquiries entails a risk of duplication of effort.¹² As each committee is responsible for determining its own programme of work, there is no central authority spotting gaps and overlaps in scrutiny. The Lords Liaison Committee has established an informal co-ordination group of Chairs to undertake this role in relation to Brexit. The Commons Liaison Committee could have done likewise.

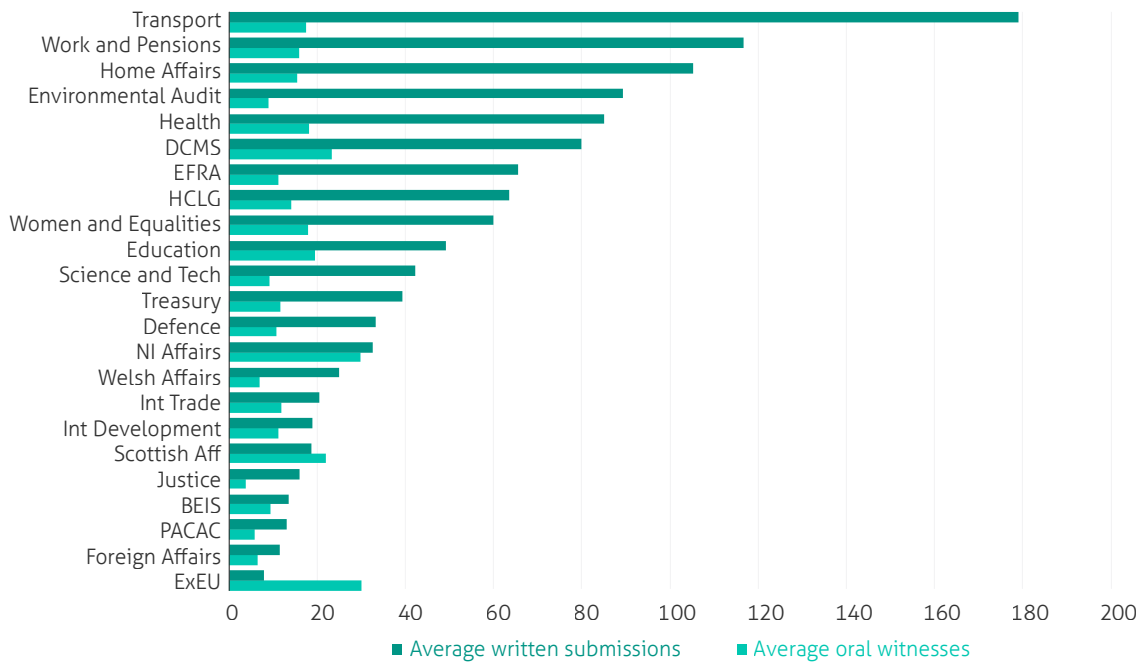
On average, each Commons committee report received 44 pieces of written evidence and drew on oral evidence from 12 oral witnesses

Gathering evidence is an important part of committee work. A robust evidence base helps committees to reach cross-party consensus – often cited as one of their greatest strengths. It is therefore important that committees reflect on the nature of the evidence they collect, how balanced and comprehensive it is, and whether it is likely to furnish them with evidence for their conclusions and recommendations.

Once it has decided to launch an inquiry, a committee will usually issue an invitation for written evidence. It will then normally hold oral evidence sessions, where relevant ministers, officials, organisations or members of the public are invited to speak to the committee in person. Some witnesses are invited to give oral evidence in response to their written submissions, and others are selected on the basis of their expertise or experience.

Volume of evidence is not in itself a measure of the quality of an inquiry. But a high volume of written evidence can reflect public interest in the subject of an inquiry. The volume of written evidence received by different committees varies enormously, and is often affected by the nature of the policy area the committee is examining.

Figure 5.6: Average number of oral witnesses and written submissions per report for Commons departmental and cross-cutting committees, up to 21 June 2018



Source: Institute for Government analysis of committee webpages. PAC and Petitions committees not included.

Of all committees, the Transport Committee received the most written evidence in the year since State Opening of Parliament – averaging 179 pieces per report. The Work and Pensions, Home Affairs, Environmental Audit, Health and Social Care, and DCMS Committees also received high numbers of written submissions. Committees like these tend to receive more written evidence because their subject matter is of more general interest. For example, while almost every UK citizen will have direct experience of the public services scrutinised by the Health and Social Care Committee, not all will have engaged with the UK’s foreign policy. There is also, for example, a more extensive and active body of civil society organisations working on issues relating to Home Affairs than there is on Defence. Committees with a smaller pool of citizens and organisations with relevant experience and interests, such as Justice, BEIS and Foreign Affairs, received smaller amounts of evidence. These committees saw lower numbers of oral witnesses.

The majority of evidence received by most committees is written – as the time available for oral evidence taking is limited. But while the Exiting the European Union (ExEU) Committee received the lowest amount of written evidence (eight pieces per report), it saw the highest number of oral witnesses (30 on average per report), meaning that almost 80% of its evidence came from oral witnesses. This could be because the committee has been trying to be as balanced as possible in its scrutiny of Brexit-related issues and has therefore invited witnesses of all opinions to be heard. The Northern Ireland Affairs Committee also questioned a large number of witnesses, and the Scottish Affairs Committee received 54% of its evidence from oral witnesses. In general the ‘territorial’ committees receive lower amounts of written evidence – possibly because many of those with an interest in their work are more focused on engaging with the committees of the devolved legislatures. The Transport, Work and Pensions, Home Affairs, and Health and Social Care Committees saw relatively

high numbers of oral witnesses in comparison to the committee average* – likely to be due to the higher number of interested parties in their policy areas.

The diversity of witnesses called to participate in oral evidence sessions does not reflect the diversity of the general public. A recent report by the Commons Liaison Committee estimated that, overall, only 33% of witnesses appearing before select committees since the start of this session were female.¹³ Thirteen of the 32 committees sampled saw fewer than one in three female witnesses. This marks a small improvement on previous sessions (29% in 2016/17, and 28% in 2015/16), but remains far from representative of the general population. That proportion of female witnesses reduces to 27% if those who are being scrutinised because of the position they hold, such as ministers or senior officials, are excluded. Parliament could do more to increase the diversity of witnesses called to give evidence to committees, and thought is being given to how to do this: the Liaison Committee has recommended that all panels of three or more witnesses should include at least one woman.¹⁴

Commons figures on the gender diversity of witnesses come from committee staff assuming the gender of their witnesses. The House of Lords administration has decided on a different approach, asking witnesses themselves to provide information about their gender. This initiative – part of wider efforts to increase witness diversity – is at an early stage, so data is not currently available, though the new system will mean this data is more accessible in the future.

Oral evidence sessions can be an important source of select committee influence

Oral evidence sessions with prominent figures on major issues can attract a lot of media attention. They are an important tool for select committees in influencing the government and others. In the year following the 2017 Queen's Speech, notable evidence sessions included:

- The DCMS Committee's evidence sessions as part of its Fake News inquiry. This has included questioning of: Cambridge Analytica whistleblower Christopher Wylie¹⁵ and its suspended CEO Alexander Nix;¹⁶ Leave.EU donor Arron Banks¹⁷ (who walked out of his evidence session); and current and former Facebook employees.^{18, 19}
- The Home Affairs Committee's questioning of Amber Rudd, then Home Secretary, over the Windrush scandal, which subsequently led to her resignation.
- David Davis, then the Secretary of State for DExEU, gave evidence to the Exiting the EU Committee in relation to the Government's sectoral assessments of the impact of Brexit, referring to 58 papers containing 'excruciating detail'. He subsequently claimed the impact assessments did not exist, prompting complaints to the Speaker²⁰ that he had misled the committee.

* 18 for Transport and 16 for Work and Pensions and Home Affairs Committees per report, compared to a committee average of 12.

Committees can exert pressure on people to attend oral evidence sessions

However, it is generally agreed that they no longer have any formal ability to compel witnesses to attend, beyond the 'smoke and mirrors' of a formal summons and the power of embarrassment. In the past, both Houses had the power to imprison, and, in the case of the Lords, to fine an individual who committed a 'contempt' such as refusing to appear before a committee or giving misleading evidence. However, the last occasion on which the Commons imprisoned anyone was in 1880.

Today, the consequences for committing a contempt are – in practice – limited to admonishment. Most recently on 27 October 2016, following a nine-year investigation by the Privileges Committee, the Commons resolved to admonish two employees of News International for deliberately misleading the Culture, Media and Sport Committee about their knowledge of phone hacking.²¹

In recent years, instances of non-government witnesses contemplating refusing to give evidence to Commons committees have become more frequent. Both Rupert and James Murdoch, then of News International and Mike Ashley of Sports Direct eventually gave into media pressure to attend, but Irene Rosenfeld of Kraft held out on her refusal. And in this parliamentary session, both Mark Zuckerberg, the CEO of Facebook, and Dominic Cummings, former director of Vote Leave, have chosen to challenge the authority of the DCMS committee to call them as witnesses, though only Mr Cummings is a UK citizen.^{22, 23}

In 2016, following the News International case, the House asked the Committee on Privileges to undertake an inquiry into the matter of "the exercise and enforcement of the powers of the House in relation to select committees and contempts".²⁴ That committee has revived its inquiry in this Parliament, looking at whether it would be desirable for Parliament to have clearer definitions and enforcement powers, which would probably involve some form of statute to enable the courts to act as the enforcer on Parliament's behalf. The alternative is to stick with the status quo where the powers remain theoretically boundless, but limited in practice.

Setting out Parliament's powers in law, however, may increase the likelihood of the courts infringing Article IX of the Bill of Rights 1689. Article IX guarantees the privilege of freedom of speech in Parliament, saying that 'freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament'.²⁵ But to decide if someone had committed an offence by refusing to give evidence to a committee, the courts might feel obliged to look into parliamentary proceedings. Nonetheless, the balance of opinion in the Commons seems to have shifted in the direction of creating some form of statutory offence of contempt of Parliament.

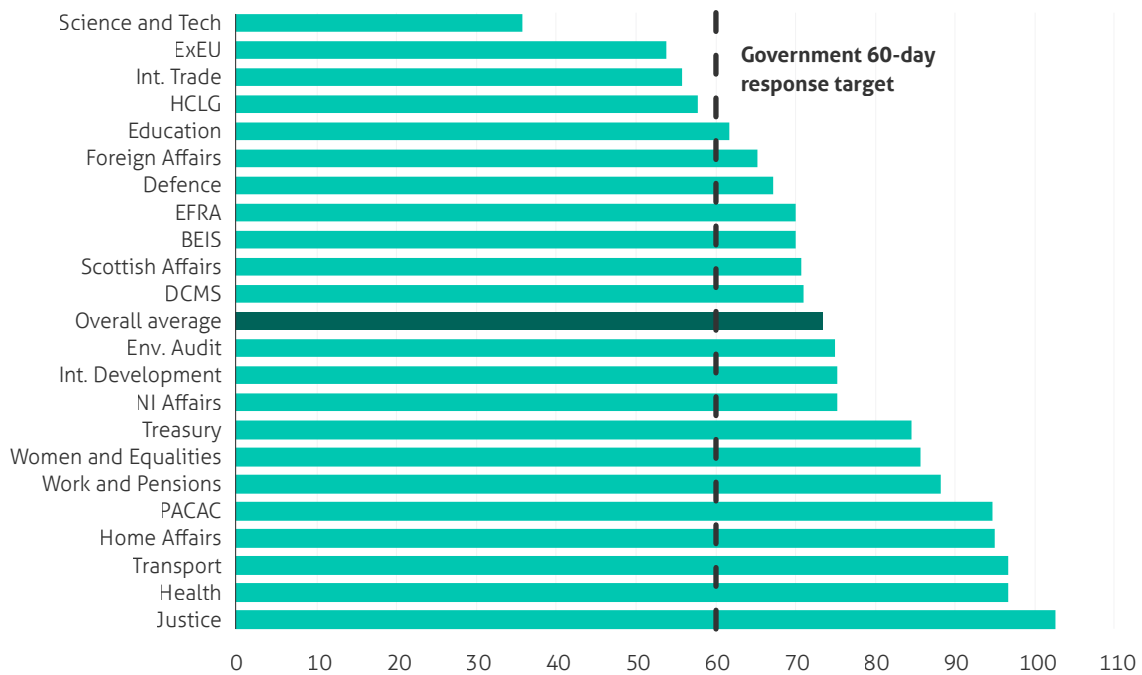
The timeliness of government responses to committee reports varies significantly between departments

Measuring the impact of select committees on government policy is difficult.²⁶ Counting the number of committee recommendations taken up by government is tempting but can be highly misleading.²⁷ If a committee recommends something that the government is minded to do anyway, its impact may actually be less than that of a committee that makes a challenging recommendation which is not taken up but which changes the balance of government thinking. Committees also often have invisible 'pre-emptive' impact simply through launching inquiries and taking evidence, long before they formulate any recommendations.

Nor is select committee impact limited to influence on government policy. Committee scrutiny can shape the way government works – for instance by prompting departments to change the way they collect data, and for ministers to brush up on neglected policy areas. Scrutiny can also improve the knowledge of committee members, which they can then use in other areas of their work. This has been a noticeable impact of the Brexit-related scrutiny in the current session: for example, MPs' contributions to a debate on 26 April on the UK's membership of a customs union were informed by the inquiries of several committees relating to this subject.²⁸ It is notable that this debate was the first instance of the Liaison Committee scheduling a debate on a substantive motion covering a series of committee reports in backbench time. On the recommendation of the Procedure Committee, the Backbench Business Committee has agreed to allow the Liaison Committee to recommend motions for debate in the 2017–19 session, in return for the Liaison Committee allowing the Backbench Business Committee to recommend the Estimates to be debated on Estimates days.²⁹

The ability of committees to demand a reply from government to the conclusions they reach and the recommendations they make enhances the impact of their scrutiny. It is therefore useful to consider how government departments are performing against their mutually agreed 60-day standard.

Figure 5.7: Government response time (days) to reports by Commons departmental and cross-cutting committees, up to 21 June 2018



Source: Institute for Government analysis of select committee webpages. PAC, Petitions and Welsh Affairs committees not included.

In the year since the 2017 Queen’s Speech, the Government took an average of 75 days to respond to Commons reports.

The Science and Technology Committee had the quickest government responses to their reports, taking just 36 days on average. The Exiting the EU Committee also received relatively speedy responses in an average of 54 days.

The Government responded most slowly to reports published by the Justice Committee – taking 103 days on average. The Health and Social Care and Transport departments were also particularly slow to respond to reports.

The Government responded to 62 committee reports in the year since State Opening 2017. Of these responses, 30% were received within the Government’s target timeframe of 60 days. The only committees which received a 100% response within 60 days from their departments were International Trade, and Science and Technology. At the opposite end of the spectrum, the Work and Pensions, Transport, Scottish Affairs and Health and Social Care Committees did not receive a response to any of their reports within the 60-day time limit, raising questions about the timeliness of government’s responses.

Snap elections, such as that called in 2017, are highly disruptive to the process of select committee scrutiny of government. Of the 300 Commons committee inquiries underway when the election was called, 100 had to be left unfinished. The remainder were curtailed prematurely, with committees rushing the publication of reports and

evidence before the House was dissolved and they ceased to exist. Government also avoided having to respond to some of the 122 inquiry reports that were awaiting a response when the election was called.

Looking forward

- Periodic review of the select committee system is an important way of ensuring that it remains well-fitted to the issues of the day. As the Lords is undertaking a review of its system, the Commons Liaison Committee may wish to undertake a complementary review.
- The time taken to establish committees means that elections create significant gaps in Commons committees' scrutiny of government. The Procedure Committee's inquiry will examine whether changes to the system need to be made.
- Whether select committees continue to provide an attractive option for experienced members will depend on the frequency with which they undertake high profile work or work which is seen to have real impact on government.
- The scrutiny conducted by select committees would be strengthened if their right to use their powers to sanction people for refusing to attend or providing misleading testimony was reaffirmed in statute.

6. Backbench activity

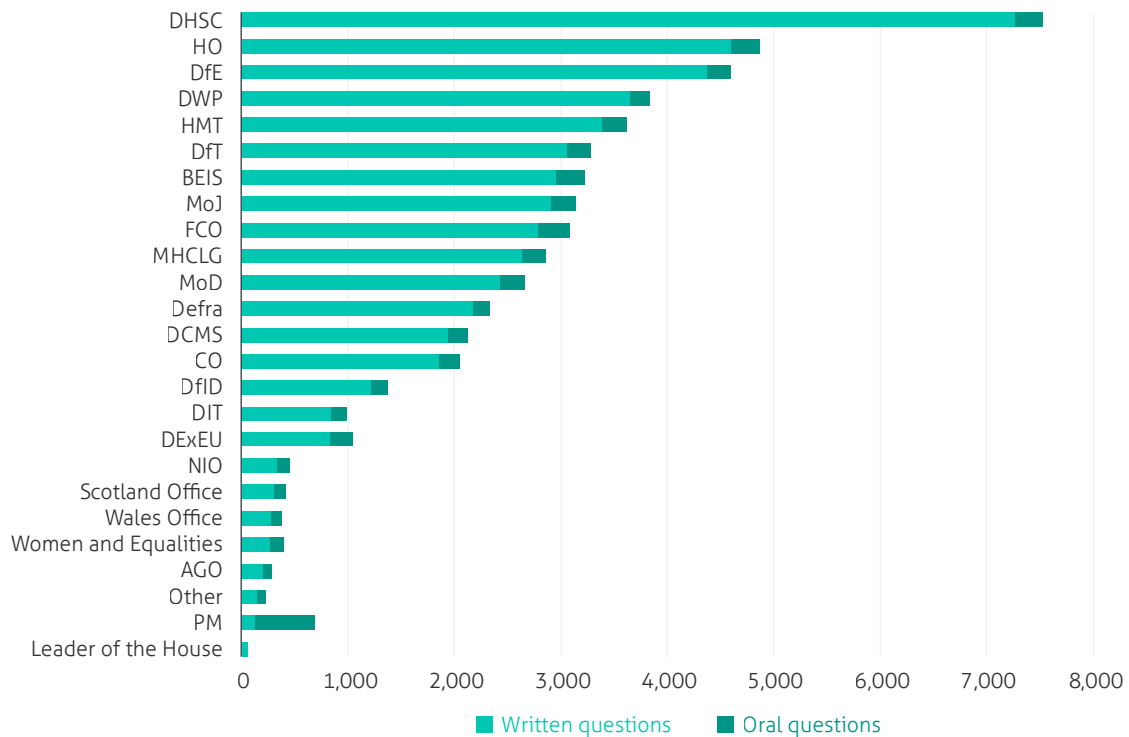
Government controls much parliamentary time and the scheduling of most business in the Commons, but there are formal ways in which backbenchers can influence proceedings. In this session backbenchers have been more assertive in their use of these procedures, asking more questions and requesting more emergency debates and urgent questions than in previous parliamentary sessions. The current Speaker's willingness to grant more of these requests than his predecessors has renewed many of these procedures. Reforms to other mechanisms, such as petitions, have also offered greater scope for backbench involvement. Many of these changes have made Parliament appear more accessible, and relevant, to the public.

In theory, backbenchers can use these tools – and others – to scrutinise government, air their concerns, and even legislate. But in practice, there is little evidence that procedures such as Early Day Motions and Private Members' Bills exert much influence on the government. And while some time is allotted to backbenchers through mechanisms such as the Backbench Business Committee, government retains control over when this time is scheduled. Events since the 2017 General Election have brought renewed concern about some of these procedures – in particular Private Members' Bills – but Government is yet to find time for Parliament to debate proposals for reform.*

* Some of the procedures discussed in this chapter, such as parliamentary questions and Private Members' Bills, exist in the Lords as well as the Commons. However, this chapter focuses its analysis on the Commons.

MPs are asking more questions of ministers

Figure 6.1: Number of written and oral questions tabled in the Commons, by answering government department, 21 June 2017–21 June 2018



Source: Institute for Government analysis of www.parliament.uk/business/publications/written-questions and www.data.parliament.uk, 21 June 2017–21 June 2018. Excludes questions withdrawn.

Parliamentary questions (PQs) are the primary mechanism for backbenchers to scrutinise the work of ministers. PQs take two main forms:

- **Written questions**, through which backbenchers can request information from government in writing. Backbenchers in the Commons can ask 'named day' questions, in which they specify the date on which they want an answer (though they must give at least two days' notice of such questions, and can only ask five named day questions per day). They can also ask ordinary day questions, which are dated two days after they are tabled, and by convention answered within seven days – though there is no requirement for the government to do so.
- **Oral questions** are asked during Question Time in the House. In the Commons, questions are asked for one hour each day (excluding sitting Fridays), with the answering department changing according to a rota. The Prime Minister also answers oral questions for 30 minutes every Wednesday. In the Commons, MPs must table their questions three days in advance, and these are then asked during the relevant Question Time, with the questioner allowed to follow up with one supplementary question.

MPs tabled a total of 55,524 PQs in the year since the 2017 Queen's Speech; the vast majority of which (50,714) were written questions. The departments receiving the highest volume of written PQs tended to be those responsible for running major public services, such as the Department of Health and Social Care (7,264 written questions); the Home Office (4,605 written questions); and the Department for Education (4,376 written questions).

These numbers represented an increase of 42% on the 39,133 PQs tabled by MPs in the 2016/17 session.¹ The increase may reflect the keenness of MPs to scrutinise government in the first session of a new Parliament.* It is also likely to have been driven by a tense political atmosphere, and Brexit – a topic affecting numerous areas of government's work, which members have been keen to explore.

Numbers of oral questions asked remain more constant between sessions, because of the finite time allotted to them. MPs apply to ask oral questions of a department on the day it is scheduled, by rota, to answer questions. Their applications are 'shuffled' through a ballot, with a number drawn according to a quota (usually 25 substantive questions and 10 topical questions). The number of oral questions therefore reflects the number asked, rather than the number of questions actually submitted by MPs. Between the State Opening of the 2017 Parliament and the beginning of the summer recess in July 2018, over 55,000 oral questions were submitted by MPs – of these, just 4,810 were actually asked.²

Answering PQs costs the government money – meaning that it costs the taxpayer. According to Parliament, based on a 2012 Treasury estimate, it costs an average of £164 to answer a written question, and £450 to answer an oral question.³ Where a department believes that answering a question will cost above a certain threshold, it may refuse to answer it. There is clearly value in MPs' ability to ask questions of ministers. But this must be weighed against the costs incurred by government in answering backbenchers' questions.

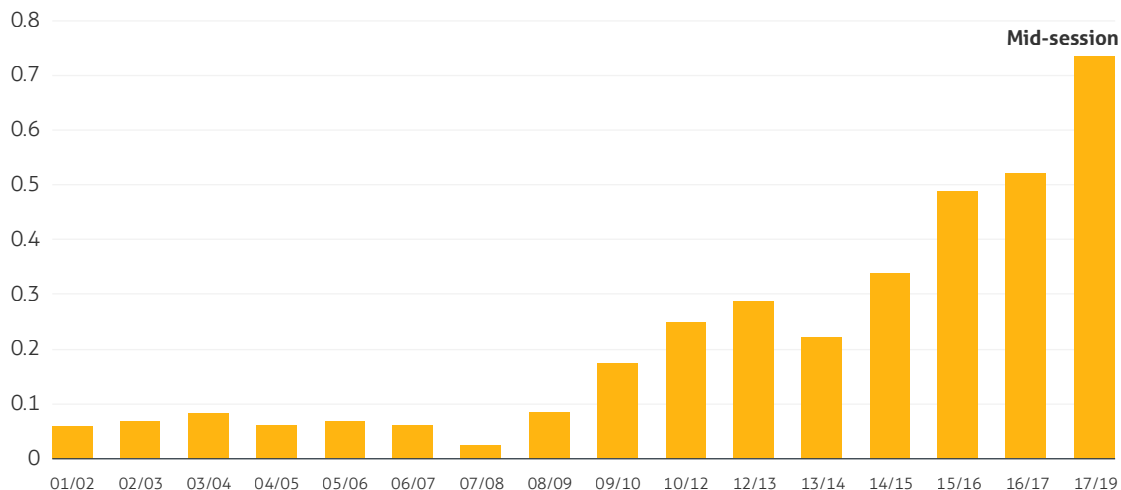
One measure of the PQ process is the timeliness with which government responds to written questions. Measuring this mid-session, however, is difficult. Data on government response times is published at the end of each parliamentary session, and monitored by the Commons Procedure Committee. Data is not available for the current session, but in 2016/17, the Committee found that overall, government had maintained its own standards for timeliness, despite an upward trend in the number of questions.⁴ Based on data for questions tabled in the year since the 2017 General Election, the upward trend in numbers of questions has continued. This may mean that departments find it difficult to sustain timeliness standards.

* Anecdotal evidence suggests that similar increases have also been seen in the first sessions of previous parliaments.

The current Speaker has encouraged the use of urgent questions

As well as tabling written and oral PQs, MPs can ask urgent questions (UQs) – known as Urgent Notice Questions until 2002 – where they believe an issue requires an immediate government response. MPs must apply to the Speaker each morning for leave to ask an UQ that day, and requests are granted at his or her discretion. If a UQ is granted, it is asked by the tabling MP in the Chamber immediately after Question Time. A response must be given in the House by the relevant minister, who will then face around an hour of questions from other MPs.

Figure 6.2: Urgent questions granted per sitting day, per session since 2001/02, as at 21 June 2018



Source: Institute for Government analysis of House of Commons, Hansard, and House of Commons Library, Number of UQs granted by the Speaker since 1997, June 2018.

In the year following the 2017 Queen's Speech, the Speaker granted 114 UQs. Topics covered a broad range of domestic and international issues, from the case of Nazanin Zaghari-Ratcliffe, a British-Iranian citizen jailed in Iran, to the publication of the Government's white paper on immigration, and the cost of policing the visit of US President Donald Trump in July 2018.

The number of UQs asked in a session will vary according to the number of sitting days – so to make comparisons, it is best to look at rates of UQs granted per sitting day. Over the period covered in this report, 0.7 UQs were asked per sitting day, equating to one UQ every 1.4 days that the Commons was in session. This marks a significant increase on all recent sessions. Since 2013/14, there has been a steady increase in the number of UQs each session, with the rate of UQs more than tripling. This has helped to make Parliament appear more responsive to events.

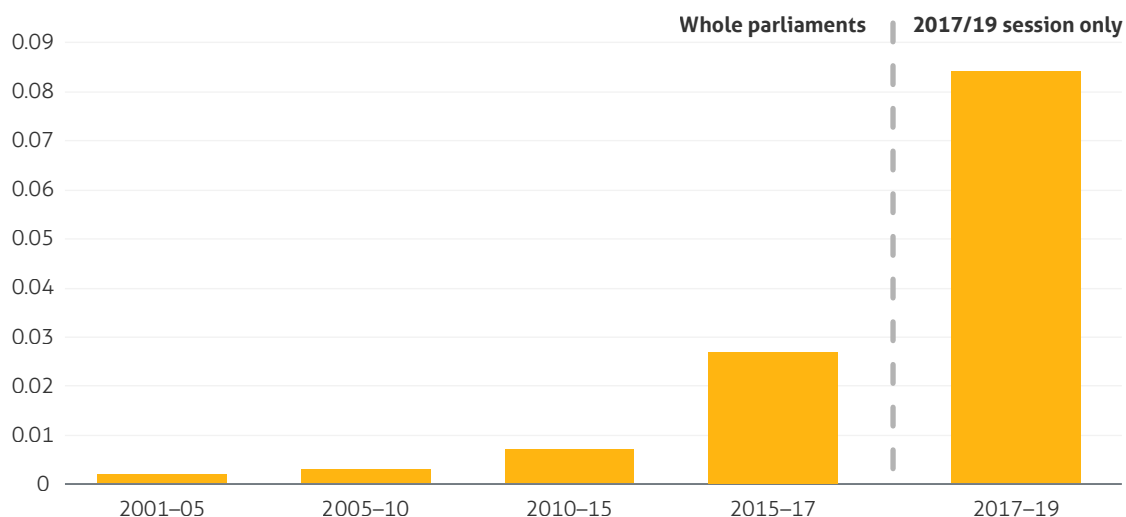
The increasing rate of UQs may be driven by various factors: it may be that there are more events that MPs feel require urgent government comment and that this has driven a higher volume of requests; or it may be that the Speaker is granting a higher proportion of requests. Because data on requests for UQs is not publicly available, the reasons for the increase are not clear. But the current Speaker, John Bercow MP, has been clear that he views UQs as an important means of encouraging ministers

to go to the House.⁵ Subsequent Speakers may find that backbenchers continue to expect rates of UQs granted to remain high.

More emergency debates are being granted to MPs

As well as asking UQs, backbenchers can request emergency debates if they feel the Commons needs to 'debate a specific and important matter that should have urgent consideration'.⁶ On sitting days (except sitting Fridays) MPs may, at the beginning of the day's business in the Chamber, request an emergency debate – and they have three minutes following Question Time and any urgent statements, to make their case. If the Speaker agrees, the MP can then seek the agreement of the House. Debates are held on the motion that the Commons has considered the matter at hand, and the Speaker determines when the debate will take place and its duration – a maximum of three hours.

Figure 6.3: Emergency debates granted, per sitting day, 2001/05–2015/17 Parliaments; and 2017/19 session, as at 21 June 2018



Source: Institute for Government analysis of House of Commons Library, Emergency Debates in the House of Commons since 1979, June 2018, and House of Commons, Hansard.

Thirteen emergency debates were granted in the year following the 2017 Queen's Speech. Topics ranged from the roll out of Universal Credit, to the conflict in Yemen. Emergency debates can also stem from how other time is used in the House: for example, one debate granted to the SNP, on the Sewel Convention, resulted from the party's anger about the lack of time available to debate devolution-related provisions of the EU Withdrawal Bill, an issue discussed in Chapter 2.⁷

As with UQs, the number of sitting days in a session or Parliament can affect the number of emergency debates over the period, making it necessary to compare the number of emergency debates per sitting day. As emergency debates are generally rare, rates are low. There were 0.08 emergency debates per sitting day over the period, compared to 0.03 per sitting day in the previous Parliament.

In the year since the State Opening of Parliament in 2017, only four of 17 requests for emergency debates were rejected – giving an acceptance rate of over 75%. It is difficult to tell, however, whether the rate at which emergency debates are granted has changed over time, as rates are determined largely by the number of debates requested: in 2014/15, for example, there was a 100% acceptance rate, but there was only one debate requested. What is clear is that the number of emergency debates requested in the year since the 2017 State Opening of Parliament is higher than the number requested in the four previous Parliaments put together. This may be a sign of a more febrile politics, where there are more events which backbenchers wish to discuss quickly. But, especially when considered alongside the growth in UQs, it is also an indication of more assertive backbenchers, who are perhaps encouraged by the current Speaker, and his desire to ‘champion the right of backbenchers to question, to probe, to scrutinise and to hold to account the government of the day.’⁸

The Backbench Business Committee encourages cross-party working

As well as procedures that enable backbenchers to hold ministers to account, there are also mechanisms in the Commons which give MPs the opportunity to air their concerns and debate issues they are particularly interested in.

In 2010, the Backbench Business Committee was established. Stemming from a recommendation of the Wright Review into the workings of the House, the Committee’s role is to schedule non-ministerial business in the Commons on the equivalent of 35 sitting days over the course of a session. Of this time, the equivalent of 27 days must be held in the Commons Chamber, with the remainder held in Westminster Hall, an additional debating chamber.

Backbench MPs make applications to the committee for debates, addressing meetings of the committee in support of their application. They can suggest how much time their debate should take and whether it ought to occur in the Chamber, or in Westminster Hall. Backbenchers must collect support for their application, including the names of other MPs who may wish to speak in the debate.*

In the year since the General Election, 61 debates scheduled by the Committee were held in the Chamber, and over 40 further debates were held in Westminster Hall.

These debates offer members the opportunity to raise issues of concern, but they can also amplify issues raised through other parliamentary mechanisms. Select committees may request a debate on a report they have written; for example, in December 2017, a debate was held to consider two reports by the Justice Committee, and the Government’s response to them.⁹ In addition to the debates detailed above, the Liaison Committee selected a debate on customs and borders, which drew on work by seven different committees.¹⁰

* Ministers, parliamentary private secretaries and principal members of the opposition frontbench are not able to make applications to the committee.

Additionally, the committee may also choose to schedule debates on e-petitions or public petitions, such as a debate on pension equality for women held in December 2017, which drew on an e-petition.¹¹ And many of the MPs appearing before the committee to apply for debates draw on the support of the 683 All-Party Parliamentary Groups (APPGs); more than one APPG per MP.¹²

As well as helping to join up different sources of parliamentary scrutiny and debate, the Backbench Business Committee plays an important role in encouraging joint working across parties. The committee is keen for applications to demonstrate cross-party support, and for backbenchers to show that colleagues from across the House will participate in debates. At a time when there are divisions both within and between major political parties, the committee offers an important mechanism for encouraging cross-party activity, and for MPs to debate and discuss issues which matter to them.

But while debates granted and scheduled by the committee offer greater opportunity for backbenchers to raise issues, the amount of time available is still limited – and it is up to government when the committee’s time is actually scheduled. As yet, it is not clear whether, given the current two-year session, the committee will see a pro-rata increase in the time available to it.

MPs tabled over 1,400 Early Day Motions, but few are ever debated

Another means by which backbenchers may make their views known are Early Day Motions (EDMs). A total of 1,454 EDMs were tabled in the year since the Queen’s Speech in June 2017. EDMs are motions for debate in the Commons that are usually only tabled by backbenchers or, in some cases, opposition frontbenchers. By convention, ministers, whips, parliamentary private secretaries (PPSs), and Speakers and Deputy Speakers do not table or sign EDMs, making them a largely backbench enterprise.¹³

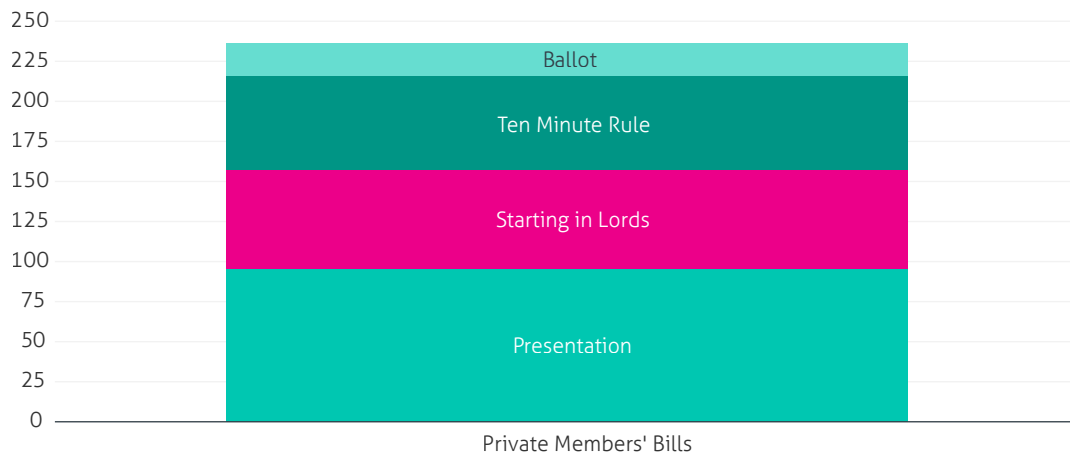
Tabling and signing EDMs allows backbenchers to make clear their views on a broad range of topics, allowing the government to get a sense of sentiment in the House. They also allow MPs to raise issues of direct concern to their constituents, for example, the closure of a local sports centre,¹⁴ or the anniversary of a community organisation.¹⁵ EDMs can also attract media attention and put the spotlight on an issue.

But the vast majority of EDMs are not brought forward for debate in the House – no specific parliamentary time is allotted to them, and there is no obligation on the government to find time for debate. In some circumstances, for example EDMs ‘praying’ against pieces of secondary legislation, the Government may be more likely to find time for debate, though it is not required to do so (as detailed in Chapter 4). Of the 14 EDMs praying against secondary legislation in the period, the Government only found time to debate half.

Only a handful of the 236 Private Members' Bills introduced are likely to become law

Most of the time spent by Parliament scrutinising primary legislation focuses on legislation initiated by government. But there are means through which backbench MPs and peers can also bring their own bills before Parliament and attempt to legislate. The main mechanism for this is a Private Members' Bill (PMB) – a bill introduced by a backbencher, which like other primary legislation, must pass through both Houses in order to become law.

Figure 6.4: Private Members' Bills introduced, by type, 21 June 2017–21 June 2018



Source: Institute for Government analysis of services.parliament.uk/bills, 21 June 2017–21 June 2018.

In the calendar year since the State Opening of Parliament, backbenchers introduced 236 PMBs. Just over a quarter of these (62) began in the Lords. These bills are introduced through a ballot that is held following the Queen's Speech at the beginning of a new session, and that determines the order in which peers' bills are introduced to the House. Usually, one Friday a month in the Lords is spent on PMBs.¹⁶ A Lords PMB may then move to the Commons if it passes all stages in the Lords, and progress through the Commons if there is an MP who will support it.

There are three main mechanisms for introducing PMBs in the Commons, and such bills are more numerous in the lower house:

- **Presentation bills.** Any MP may give notice of their intention to introduce a PMB, and then do so. They are able to read the title of the bill in the House, but may not speak in support of it. Not all backbenchers introduce presentation bills, but some MPs will introduce multiple bills.
- **Ten Minute Rule bills.** If allocated one of a limited number of slots by the whips an MP can introduce a PMB by making a speech no longer than 10 minutes. Another MP can, if they wish, make a short speech in opposition to the bill. Ten Minute Rule Bills represented a quarter of all PMBs in the year following State Opening.
- **Ballot bills.** This is the smallest category of PMBs, with just 20 allowed during each session. A ballot is held early on in a new session, determining which backbenchers

have the opportunity to introduce a bill and the order in which they can be introduced. Most backbench MPs – over 450 each session – enter the ballot.¹⁷ All ballot bills are first introduced to the House on the fifth sitting Wednesday of the session.

In the year following the Queen’s Speech, backbenchers in both Houses introduced almost seven times as many bills as the Government. But despite numbers of PMBs usually heavily outweighing government-introduced bills, they are far less likely to become law. In the 2016/17 session, just eight of 117 PMBs introduced (7%) became law, compared with 24 of 27 government bills (89%). According to one estimate, in the last 19 years, just 5% of PMBs have made it into law.¹⁸

In large part, this reflects the Government’s much greater control of parliamentary time. In the Lords, one sitting Friday each month is usually given over to PMBs, while in the Commons the Standing Orders require 13 sitting Fridays in a session to be given over to PMBs, with the first seven Fridays devoted to giving second reading to bills introduced through the ballot. Beyond this, any additional time is at the discretion of the business managers in both Houses. The lack of allocated time, and the high number of bills, means that few PMBs will be able to pass through all their stages. It also means that the first seven ballot bills are the PMBs with the greatest chance of becoming law.

As well as time, there are other practical and procedural issues that make PMBs less likely to reach the statute book. When MPs draft their bills, they are able to call upon far less support than the government, which has its own professional drafters – the Parliamentary Counsel. In addition, the government of the day is likely, in theory, to command a majority in the House, while an MP needs to secure the support (or, at least, no opposition) from colleagues across the House. In fact, some PMBs are actually ‘hand-out’ bills written by the government and given to backbench MPs.

But the numbers do not tell the full story. This is partly because, as hand-out bills show, the distinction between government and private members’ business can be blurry. But not all backbenchers who introduce PMBs want them to actually become law. For many, a PMB is instead a means to air an issue – often a social issue – and encourage debate. The number of PMBs reaching the statute books does not necessarily capture all of the impact that PMBs might have. Historically, many legal changes relating to major social issues, such as the abolition of capital punishment, have stemmed from PMBs, where individual backbenches have introduced and encouraged debate around issues before the government has done so.¹⁹

A recent controversy surrounding a PMB illustrates both the degree to which government can affect the PMB process, and the problems within the current PMB system. In June 2018, a PMB designed to criminalise ‘upskirting’ was blocked in the Commons by Sir Christopher Chope MP. The bill, which was introduced by a Liberal Democrat MP and for which the Government had indicated its support, was being given its second reading. The limited time available meant that only the title of the bill was read out, and it would have progressed as long as no MP shouted an objection. However, Sir Christopher Chope’s objection meant the bill was unable to proceed.

The resulting controversy led the Government to introduce its own legislation to outlaw upskirting, the Voyeurism (Offences) Bill.

Sir Christopher Chope claimed that his reason for objecting to the bill related to process rather than content. That once again raised the question of whether the current PMB process needs reform – something for which the Commons Procedure Committee has previously argued.²⁰

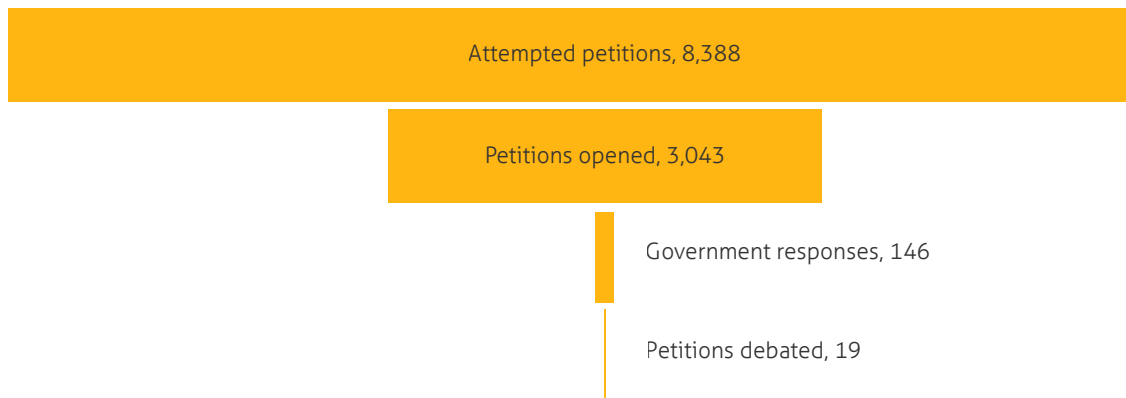
In 2016, the Procedure Committee argued that the current PMB process was ‘misleading and opaque’ to the public, who think that bills have a higher chance of becoming law than they do in reality.²¹ In October 2016, the Committee proposed a package of reforms to the system, which would see the Backbench Business Committee prioritising four PMBs per session on the basis of cross-party support, with other slots taken up by PMBs from the ballot. Under the Committee’s proposals, fewer PMBs would be debated on sitting Fridays: guaranteeing a vote at the end of a second reading debate for the bills chosen by the Backbench Business Committee would allow time limits to be imposed on speeches to prevent those bills being talked out.²² So far no government has found the time for the Commons to debate the changes to the Standing Orders which would put proposals for reform into effect.

E-petitions have increased Parliament’s engagement with the public

In recent years reforms have been made to parliamentary procedures – most visibly to the petitions system. At the beginning of the 2015 Parliament, a new online petitioning system was launched, jointly administered by government and Parliament. The system allows members of the public to launch e-petitions to Parliament, calling for action by the government on a specific matter. It is separate from the public petitions system, through which paper-based petitions are presented to Parliament via an MP or, more rarely, a peer.

Members of the public may start an e-petition, which must be supported by six other people before it can be published online. Petitions can then be accepted or rejected by the Petitions Committee, based on whether they meet the standards required – for example, that they relate to something for which the government or the Commons is responsible. Petitions may also be rejected if, for example, they are libellous, or refer to somebody being given (or losing) a job. Rejected petitions are generally published, with some exceptions.²³

Figure 6.5: Number of e-petitions in the 2017/19 session, by stage reached, as at 21 June 2018



Source: Institute for Government analysis of data provided by the House of Commons Petitions Committee.

From the beginning of the 2017 Parliament until 21 June 2018, 8,388 petitions were initiated, or attempted, on the system. Of these, 3,043 were opened, or published on the e-petitions website for others to sign. These petitions received almost 7.4 million signatures – significant public engagement for a system only established three years ago.*

The Petitions Committee can decide to ask a petitioner for more information, in writing or in person, and it can also ask the government or other relevant groups to submit evidence on the subject for its consideration – or call on the government to act. In addition, the Committee may recommend that another committee in Parliament look at the matter, or decide to schedule a debate on a petition. Once a petition receives 100,000 signatures it is usually debated – though some petitions with fewer signatures may also be debated. In the year following the State Opening of Parliament, a total of 19 petitions were debated in Westminster Hall, on issues ranging from banning the sale of animal fur to imposing sanctions on Myanmar, with a further debate on pension inequality held through the Backbench Business Committee.† On average, 12 MPs participated in these debates, which lasted a combined total of over 42 hours.

The Government responded to 146 of the opened (accepted for publication) e-petitions over the period, and is committed to responding to e-petitions that receive 10,000 or more signatures. There are some examples of e-petitions with clear impact on government policy. For example, a petition calling on the Government to boost public confidence in the Grenfell Tower inquiry by appointing additional panellists, signed by over 100,000 people, was followed by a response from the Government that the Petitions Committee deemed 'below the standards we expect'. In a letter to the minister, the Chair of the Committee called for clarification of the Government's position and noted that as the petition was started by survivors of the tragedy, 'appropriate sensitivity' was required.²⁴ A further government response indicated that it would make no further change to its position. The Petitions Committee scheduled a debate

* The number of signatures validated by email links being clicked.

† Not included in this figure are six petitions that were debated during the current session, but which stemmed from petitions in the previous Parliament.

in May 2018, which lasted three hours and saw some 23 MPs contribute. Shortly afterwards, the Prime Minister announced her intention to add new panellists to the inquiry.²⁵ However, not all e-petitions have such apparently clear impact.

While the impact of the e-petitions system is difficult to trace, it is clear that it is an innovation which engages the public: data from the Petitions Committee shows, on average, that in the Monday to Sunday following each debate, there were over 8,000 unique page views for the Hansard transcripts of petitions debates.²⁶

Looking forward

- The increased assertiveness of backbenchers – as shown through the increase in parliamentary questions, urgent questions and emergency debates – is likely to persist as the process of the UK leaving the EU continues.
- Parliament needs to take account of how processes such as Private Members' Bills and Early Day Motions are perceived and understood by the public; as well as how effectively they work for parliamentarians.
- Recent innovations, including reform to the petitions system, demonstrate that reforms to Parliament's procedures can make them more useful and engaging for both parliamentarians and the public.

7. Conclusion

The analysis in this report raises important questions for Parliament. Many of these have their roots in longstanding debates about Parliament's role, including its relationship with government. Others are prompted by changing circumstances including the move since 2010 away from governments with large Commons majorities, and the shifting expectations of voters. Key questions include:

1. Does Parliament have the people and the money that it needs?

Given that the cost of running Parliament is roughly equivalent to administering a mid-sized government department, the UK public is entitled to ask whether it is providing good value for money – but also whether it has enough money. While MPs and peers interpret their roles differently, there is a defined quantity of legislation to be scrutinised, committees to be sat upon and other parliamentary processes to be administered, and Parliament needs enough people and resources to do so.

2. Does Parliament have the time it needs to undertake all its work?

The UK Parliament already sits for longer than most other legislatures. But the complexity of primary legislation is growing and the amount of secondary legislation has increased. There is concern about whether Parliament has the time it needs properly to scrutinise the 800 pieces of secondary legislation Government says need to be made before the UK leaves the EU. Meanwhile, MPs have to balance their responsibilities in Westminster with pressures from their constituencies – and if they are ministers, with those portfolios too.

3. Are Parliament's formal powers sufficient?

The refusal of the co-founder and CEO of Facebook Mark Zuckerberg and former Special Adviser Dominic Cummings to give evidence to the DCMS committee flagged the practical limitations on select committee powers. The scrutiny conducted by select committees would be strengthened if their right to use their powers to sanction people for refusing to attend or providing misleading testimony was reaffirmed in statute.

4. Are parliamentary procedures working well enough?

Parliamentary procedure should be a simple and clear means of facilitating Parliament's work, easily understood by parliamentarians and the public. However, there are questions about the need to reform parliamentary procedures that may be misunderstood or seen as arcane by the public, or do not allow for meaningful scrutiny. MPs' use in this session of little-known procedural devices such as motions for a humble address and a vote 'to sit in private' do nothing to encourage public confidence in, and engagement with, Parliament.

5. Is the pace of parliamentary modernisation rapid enough?

The numerous brakes on change in Parliament are – to some extent – deliberate. It is important that our key democratic institution remains stable and predictable. But they can mean that achieving even widely agreed change can be torturous. For example, the Government has not yet found time for the Commons to debate and decide on proposals originally made by the Procedure Committee in 2013 to improve procedures on Private Members' Bills. These are intended to give a few well-prepared and widely supported bills the best chance of becoming law.

6. Is Parliament doing enough to ensure it is understood by the public?

Parliament is at the centre of Brexit – one of the most significant changes affecting the UK in a generation. Yet basic facts about Parliament's role – such as its separation from Government – are not well understood by the public. Even some parliamentarians have struggled with the complexity of the procedures that will be involved in Parliament giving effect to the UK's departure from the EU.

There will be many different views of the right answers to these questions. But the data we have brought together shows that MPs, peers and others with an interest in Parliament should consider what their answers would be. The questions are not going away.

Afterword: Using parliamentary data

There is much about Parliament's work and role that cannot be quantified – the quantity of parliamentary activity should not be confused with its quality.¹ As this report shows, context and nuance matter when it comes to Parliament. Nevertheless, parliamentary data is still useful. It can help those within Parliament to understand how they are working, and whether there are processes or procedures that might be improved. More than this, data can help Parliament to explain to the public what it does, and why it matters.

There is no lack of data on Parliament and its work: this report largely draws on publicly available information, brought together from a range of sources. But while there is a wealth of data available, using it is harder than it could or should be.

Parliamentary data is often fragmented, with multiple sources of data that don't quite match up – making it difficult to draw a clear and consistent picture. And the data itself is published in formats that make analysis harder. These issues are not peculiar to parliamentary data: the Institute has previously identified similar problems with government data.² But differences in the ways in which the two Houses and different parliamentary bodies and departments produce and use data seems to make these problems particularly acute. Addressing these issues will take time, but doing so will help Parliament to make better use of data to understand its own work and effectiveness – and to show the public what it does, and why it matters.

Data is fragmented – and doesn't always match up

A key challenge with parliamentary data is its fragmentation. Data can be drawn from a number of sources: from Hansard to publications by each House's libraries; from the data.parliament.uk website to the sessional returns and business statistics published by the Commons and Lords. Data may be contained in select committee webpages or in committees' reports. It can also be found through the search function on Parliament's website. These data sources may count or define the same thing differently, in ways that are not always obvious. All of this means that a vast array of data exists – but it is data that does not always match up.

Data on secondary legislation is a good example of this fragmentation, as the Hansard Society have previously found.³ Some data focuses on all secondary legislation, broadly defined, while other data is only concerned with secondary legislation subject to parliamentary procedure. Some data sources count pieces of secondary legislation on a calendar year basis, while others use parliamentary sessions as their time period. The range of different approaches to the data makes it difficult to piece together the progress through Parliament of a particular piece of secondary legislation.

There are some good reasons why the data on secondary legislation – and parliamentary data more broadly – is so patchy. Key to this is the structure of Parliament itself. There are two Houses, which fulfil different roles and have different rules and procedures. This means that each House publishes its own statistics on its business each session, and its own annual report and accounts – and these are not necessarily directly comparable. And even within each House, there are users and producers of data who may approach the same topic from different perspectives, due to their differing roles or interests. Without any central control, different sources of data have evolved over time.

The Parliamentary Digital Service, which works across the two Houses, can help play a positive role in providing more consistent data. Its development of the data.parliament.uk website is an important step towards bringing data together in one place, and its recent work on a new Statutory Instrument tracker will help bring some greater order to the data on secondary legislation.

Although it will take time and effort, there is potential for cross-parliamentary thinking about why and how data is produced and used, to bring currently fragmented data sources together into a more coherent whole.

The presentation of data can make it harder to analyse

A second challenge of using parliamentary data lies in the way it is published and presented.

Key data on the activity of both Houses is published at the end of each session, in sessional returns and business statistics. But this means that collecting and analysing data at other points – for example, in the middle of a two-year session – is difficult. Obtaining data on an ongoing basis, for example on the daily sitting times of each House – requires manual collation, which is laborious and increases the risk of error. The search functions of various data sources do not consistently return accurate results. While it is possible to request data from Parliament, doing so takes up the time of staff.

Publishing much data at the end of each session makes sense, and is a valuable service. But the difficulties of working with data on an ongoing basis make it harder for those outside Parliament to keep track of what it is doing. It also raises questions about the ability of those inside Parliament to analyse and assess their work as a session progresses. Focusing data collection and publication at the end of the session risks implying that data collection is an additional task to be completed, rather than something that is useful for Parliament in its day-to-day work. It would be helpful to consider whether there are ways in which some pieces of data could be regularly updated in easily accessible formats – for example, as with Parliamentary Information Lists compiled by the House of Commons Library, that include spreadsheets of data on proceedings such as emergency debates, which are updated on an ongoing basis.

The specific format in which parliamentary data is published can also make it harder to analyse. Much data, including sessional returns, is published in PDF format, rather than in spreadsheets that can be downloaded. This may seem a minor point, but putting data in these formats adds an extra, time-consuming hurdle to analysis. It can also increase the opportunity for error, as the data has to be transferred from one format into another. The data.parliament.uk site – which allows data to be downloaded into spreadsheet format – is a step in the right direction, as is the Commons Procedure Committee’s publication of spreadsheets of data on Parliamentary Questions, but more could be done in many other areas to publish data in more usable formats.

Parliamentary data can be further improved

The quality, consistency and usability of parliamentary data need to improve. But a change in attitude to data is also required across Parliament. The more that those responsible for producing data value it, and recognise its utility, the better the data is likely to be. There are many positive signs, from the ongoing work of the Parliamentary Digital Service, to the efforts of individual teams across Parliament to use data to improve their effectiveness. In subsequent editions of *Parliamentary Monitor*, we look forward to highlighting further improvements in the quality of parliamentary data.

Appendix: Methodology

Throughout this report, and unless otherwise stated, data covers the calendar year since the State Opening of Parliament on 21 June 2017. While Parliament sat for a handful of days before State Opening, in order to swear in new Members and elect the Speaker, we do not include these days in our analysis.

Chapter 1: Cost

Data in this chapter covers the 2017/18 financial year, and only includes resource, or day-to-day, spending.

In Figure 1.1, data given is for the expenditure of each organisation net of any income it received. Figures 1.2, 1.3 and 1.4 all use gross expenditure, not net of any income received.

In comparing the total cost of Parliament to the size of the administration budgets of central government departments, we have included the costs of MPs' and peers' allowances and expenses as costs vital to the day-to-day operation of Parliament.

In Figure 1.3, we have drawn on the categories of expenditure used in the House of Commons Annual Report and Accounts; Members' Annual Report; and IPSA Annual Report and Accounts, and developed our own categories of expenditure. According to our categories:

- House Staff costs include staff costs, and other staff costs, contained in the Commons Annual Report.
- Goods and services include accommodation services, security, information services, computer maintenance, finance and specialist services, catering and other supplies, communications, travel and subsistence, broadcasting, and office supplies, contained in the Commons Annual Report.
- Non-cash items include depreciation, amortisation, impairment, provisions, auditors' remuneration and expenses, profit gain/loss on the disposal of property, plant and equipment, and net gain/loss on the revaluation of property, plant and equipment, contained in the Commons Annual Report.
- Member services include Members' costs, and the exchequer contribution for Members' pensions. These are contained in the Members' Annual Report.
- MPs' and MPs' staff pay and expenses include MP and MP staff pay costs, and staff expenses, as well as other costs, from the Members' Annual Report.
- Grants include expenditure on grants contained in the Commons Annual Report and Members' Annual Report.

-
- Rental includes buildings rental and other rental, from the Commons Annual Report.
 - 'Other' includes interest on the finance lease, and the service charge element of the finance lease, from the Commons Annual Report.

In Figure 1.4, we have drawn on the categories of expenditure in the House of Lords' Annual Report, and developed our own categories, according to which:

- Peers' allowances and expenses cover Members' allowances and expenses.
- Goods and services include security, IT and telecommunications costs, printing and publications, broadcasting, outreach and visitor services, catering and retail costs (excluding direct staff costs) and other expenditure.
- Estates and works cover estates and works expenditure.
- Non-cash items include amortisation, impairment, auditors' remuneration, net gain/loss on the disposal of property, plant and equipment, net gain/loss on the revaluation of property, plant and equipment, finance lease asset depreciation, and other non-cash items.
- 'Other' includes rentals under operating leases, financial assistance for Opposition parties, interest on the finance lease and rentals under operating lease.
- House staff costs cover staff costs as detailed in the Lords Annual Report.
- Grants cover grants as detailed in the Lords Annual Report.

Chapter 2: Time

Data on sitting days, and time sat, only covers the period 21 June 2017 to 21 June 2018 inclusive, unless otherwise stated.

Scheduled sitting time for the Commons Chamber has been calculated based on scheduled sitting times for each day, multiplied by the number of days of that type during the period covered. This factors in the Tuesdays and Wednesdays after recess, where the House sits as though it is a Monday. It also assumes a scheduled time of 11.30am–10.30pm for the day of the Queen's Speech. Scheduled time for Westminster Hall was calculated based on scheduled sittings each day, multiplied by the number of those days.

Time in the Lords Chamber, or in Grand Committee, is not scheduled in the same way, so all figures for these are actual.

Figure 2.3 assumes an average of 15 minutes per division, in each House.

Figure 2.4 divides the actual time the Commons chamber sat for by the main types of parliamentary business, based on certain assumptions:

- One hour of oral questions per sitting day, Monday to Thursday.
- Urgent questions for one hour, multiplied by the number of urgent questions during the period.
- One hour per ministerial statement, multiplied by the number of ministerial statements during the period (excluding business statements).
- 6.5 hours per Opposition Day, multiplied by the number of allocated and unallocated Opposition Days over the period.
- Half an hour per adjournment debate, each sitting day (including sitting Fridays).
- A maximum of three hours per emergency debate, multiplied by the number of emergency debates in the time period.
- Backbench legislative time for five hours each sitting Friday during the period.
- Rough timings for the Backbench Business Committee debates held in the Chamber over the period, according to Hansard. This includes time for estimates debates and select committee statements allocated by the Committee.

Chapter 3: Primary legislation

Unless otherwise stated, data in this chapter is taken from Parliament's website and refers to one calendar year from State Opening 2017 (June 21 2017–June 21 2018). However, Figure 3.4 covers the period from the election until summer recess on 24 July 2018.

This chapter focuses on government public bills, rather than private or hybrid bills.

We classify routine legislation as that which governments have to pass each session, such as Finance Bills. Brexit legislation is based on the Government's indication of the bills it believes are necessary for Brexit. And non-routine bills cover bills which the Government has chosen to introduce, and which do not relate to Brexit.

The amount of time bills spent in the Commons and the Lords was calculated using timings recorded by Hansard. Any timings that were missing from Hansard were obtained using Parliamentlive.tv.

All work and data analysis contained in Box 3.1 was undertaken by Ruth Dixon and Matthew Williams of the University of Oxford.

Chapter 4: Secondary legislation

Most data in this chapter relates to Secondary Instruments, but in some places other forms of secondary legislation are mentioned.

Data on the volume of secondary legislation laid in Parliament during the period, the responsible departments, and the procedures it was subject to was provided by the House of Commons.

In Figure 4.2, we classify government departments according to the standard Institute for Government classification. 'Other' includes the Privy Council Office; Local Government Boundary Commission; House of Commons; and General Synod of the Church of England.

In Figure 4.3, the number of 'prayers' debated includes two prayers debated in Opposition, rather than Government, time.

Chapter 5: Select committees

Unless otherwise stated, data in this chapter is taken from committee webpages and refers to one calendar year from State Opening 2017 (21 June 2017–21 June 2018).

The average expenses incurred per financial year by a Commons committee was calculated by averaging total expenses for all committees included in the 2016/17 Sessional Return. This figure includes all visits, Special Advisers fees and expenses, work commissioned, specialist publications, interpretation, witnesses' expenses, entertainment and seminars.

Figure 5.1 draws on our own classification of Commons and Lords committees. The Lords' 'Investigative' and 'ad hoc' categories were selected by closest analogy to the Commons' departmental and cross-cutting committees.

We estimate that 500 MPs are eligible to sit on select committees. We arrived at this figure by excluding government ministers and members of the Opposition frontbench (including whips), the Speaker and Deputy Speakers, and MPs from Sinn Féin, who do not take their seats.

Data for Figure 5.4 was provided by the Liaison Committee (for 2017/19). 2016/17 data was taken from committee webpages.

In Figure 5.5, we define Brexit-related inquiries as any inquiry that would not have occurred if Britain had not voted to leave the EU. This definition excludes routine 'work of the department' inquiries, as well as any inquiries relating to EU issues that may now be couched in the context of Brexit, but which would have been conducted anyway had Britain not been leaving the EU.

Figure 5.6 calculates the number of oral witnesses, and written evidence, per committee report. It does not include one-off evidence sessions, or any inquiries not resulting in a published report.

The unique nature of the Public Accounts Committee, and the quantity of work it does, means that we have chosen to exclude it from our analysis of committees' volume of work, and government response times. It is therefore not included in Figures 5.4, 5.5, 5.6, and 5.7.

In Figure 5.7, government response time is calculated on the basis of 60 calendar days, unless otherwise stated. Committees that have not published reports requiring a government response have not been included.

Chapter 6: Backbench activity

This chapter, unless otherwise stated, largely focuses on the House of Commons.

For Figure 6.1, data on written questions is drawn from the database on Parliament's website, and includes both answered and unanswered questions. Data on oral questions is taken from data.parliament.uk. Both sets of data exclude withdrawn questions. The 'other' category in Figure 6.1 includes the Church Commissioners, the House of Commons Commission, Public Accounts Commission, Chancellor of the Duchy of Lancaster, and the Speaker's Committee on the Electoral Commission.

Data on Early Day Motions is taken from the database on Parliament's website.

In Figure 6.5 and the text beneath, data was provided by the Commons Petitions Committee.

Abbreviations

Government departments and committees

AGO	Attorney General's Office
APPG	All-Party Parliamentary Group
BEIS	Department for Business, Energy and Industrial Strategy
CO	Cabinet Office
DCMS	Department for Digital, Culture, Media and Sport
Defra	Department for Environment, Food and Rural Affairs
DExEU	Department for Exiting the European Union
DfE	Department for Education
DfID	Department for International Development
DfT	Department for Transport
DHSC	Department of Health and Social Care
DIT	Department for International Trade
DLC	Delegated Legislation Committee
DWP	Department for Work and Pensions
ESC	European Scrutiny Committee
ESIC	European Statutory Instruments Committee
FCO	Foreign and Commonwealth Office
HMRC	HM Revenue and Customs
HMT	HM Treasury
HO	Home Office
IPSA	Independent Parliamentary Standards Authority
JCSI	Joint Committee on Statutory Instruments
MHCLG	Ministry of Housing, Communities and Local Government
MoD	Ministry of Defence
MoJ	Ministry of Justice
NAO	National Audit Office
OBR	Office for Budget Responsibility
PAC	Public Accounts Committee
PACAC	Public Administration and Constitutional Affairs Committee
SCSI	Select Committee on Statutory Instruments
SLSC	Secondary Legislation Scrutiny Committee

Other abbreviations and acronyms

DUP	Democratic Unionist Party
EDM	Early Day Motion
EU	European Union
[HL]	Starting in the House of Lords
HS2	High speed 2
m	million
PM	Prime minister
PMB	Private Member's Bill
PPS	Parliamentary private secretary
PQ	Parliamentary question
SI	Statutory instrument
SNP	Scottish National Party
SR	Sessional return
TME	Total managed expenditure
UQ	Urgent question

References

Chapter 1: Cost

- 1 House of Commons, *The House of Commons: Administration Annual Report and Accounts 2017/2018*, House of Commons, 23 July 2018, www.parliament.uk/documents/commons-expenditure/Admin%20Annual%20Accounts/Administration_Annual_Report_and_Accounts_2017-18.pdf, p. 84.
- 2 Independent Parliamentary Standards Authority, *Annual Report and Accounts 2017/18 (HC 1438)*, Independent Parliamentary Standards Authority, July 2018, www.theipsa.org.uk/media/184883/annual-report-and-accounts.pdf, p. 64.
- 3 The Electoral Commission, *Annual Report and Accounts 2017/18 (HC 1303)*, The Electoral Commission, July 2018, www.electoralcommission.org.uk/__data/assets/pdf_file/0011/245000/Annual-report-and-accounts-2017-18.pdf, p. 103.
- 4 Independent Parliamentary Standards Authority, 'MPs Pay and Pensions,' Independent Parliamentary Standards Authority (no date), retrieved 6 August 2018, www.theipsa.org.uk/mp-costs/mps-pay-and-pensions/
- 5 Independent Parliamentary Standards Authority, *Annual Report and Accounts 2017/18 (HC 1438)*, Independent Parliamentary Standards Authority, July 2018, www.theipsa.org.uk/media/184883/annual-report-and-accounts.pdf, p. 60.
- 6 Kelly R, *Members' Pay and Expenses and Ministerial Salaries 2017/18*, House of Commons Library, 29 March 2018, p. 54.
- 7 *Ibid.*
- 8 Independent Parliamentary Standards Authority, *The MPs' Scheme of Business Costs and Expenses 2017/18 (HC 1024)*, Independent Parliamentary Standards Authority, March 2017, www.theipsa.org.uk/media/1608/9-mps-scheme-of-business-costs-and-expenses-2017-18.pdf
- 9 *Ibid.*, p. 51.
- 10 Independent Parliamentary Standards Authority, *Annual Report and Accounts 2017/18 (HC 1438)*, Independent Parliamentary Standards Authority, July 2018, www.theipsa.org.uk/media/184883/annual-report-and-accounts.pdf, p. 60.
- 11 BBC News, 'Call to bring forward vote on cutting Commons to 600 MPs,' *BBC News*, 19 February 2018, retrieved 29 June 2018, www.bbc.co.uk/news/uk-politics-43111790
- 12 *Ibid.*
- 13 House of Lords, *Statistics on Business and Membership Session 2016/17*, House of Lords, www.parliament.uk/documents/publications-records/House-of-Lords-Publications/Records-activities-and-membership/Business-membership-statistics/HL-Sessional-Statistics-on-Business-and-Membership-2016-17.pdf, p. 1.
- 14 Lord Speaker, *Report of the Lords Speaker's Committee on the size of the House*, House of Lords, October 2017, www.parliament.uk/documents/lords-committees/size-of-house/size-of-house-report.pdf, p. 1.
- 15 UK Parliament, 'Lord Speaker welcomes Prime Minister's letter,' press release, 20 February 2018, www.parliament.uk/business/news/2018/february/lord-speaker-responds-to-pms-statement-on-size-of-the-house-of-lords/
- 16 Hughes L and Blitz J, 'May appoints new peers despite calls to trim the House of Lords,' *Financial Times*, 18 May 2018, www.ft.com/content/edfa0226-5ab4-11e8-bdb7-f6677d2e1ce8
- 17 Kelly R, *Members' Pay and Expenses and Ministerial Salaries 2017/18*, House of Commons Library, 29 March 2018, p. 61.
- 18 House of Lords, *Guide to Financial Support for Members*, House of Lords, September 2016, www.parliament.uk/documents/lords-finance-office/2016-17/Guide-2016-17.pdf, p. 9.
- 19 Joint Committee on Restoration and Renewal, *Restoration and Renewal of the Palace of Westminster: First report of session 2–16/17 (HC 659)*, The Stationery Office, September 2016, https://publications.parliament.uk/pa/jt201617/jtselect/jtpow/41/4103.htm#_idTextAnchor003
- 20 Meakin A, 'The Prime Minister and the Palace of Westminster,' blog, Political Studies Association, 20 July 2018, <https://restorationandrenewal.parliament.uk/ioa-report.html>

-
- 21 House of Commons, *The House of Commons: Administration Annual Report and Accounts 2017/2018*, House of Commons, 23 July 2018, www.parliament.uk/documents/commons-expenditure/Admin%20Annual%20Accounts/Administration_Annual_Report_and_Accounts_2017-18.pdf p. 83; House of Lords, *Annual Report and Resource Accounts 2017/18 (HL 175)*, July 2018, [www.parliament.uk/documents/lords-information-office/2017/2017-18%20Annual%20report%20and%20accounts%20-%20final%20\(cover\).pdf](http://www.parliament.uk/documents/lords-information-office/2017/2017-18%20Annual%20report%20and%20accounts%20-%20final%20(cover).pdf), p. 18.

Chapter 2: Time

- 1 Polittowski B, *House of Commons: Hours sat and late sittings*, House of Commons Library, 1 July 2015, p. 5.
- 2 Haddon C, 'Election 2017: Putting the Fixed Term Parliaments Act into Practice,' blog, Institute for Government, 21 April 2017, retrieved 7 August 2018, www.instituteforgovernment.org.uk/blog/election-2017-fixed-term-parliaments-act-in-practice
- 3 BBC News, 'MPs will not vote on early start to summer recess,' *BBC News*, 17 July 2018, retrieved 6 August 2018, www.bbc.co.uk/news/uk-politics-44853464
- 4 'Government to confirm two-year Parliament to deliver Brexit and beyond,' press release, GOV.UK, 17 June 2017, retrieved 30 June 2018, www.gov.uk/government/news/government-to-confirm-two-year-parliament-to-deliver-brexit-and-beyond
- 5 Berco J, 'John Berco: It's time to rethink the conference break,' *The House Magazine*, 26 October 2015, retrieved 5 August 2018, www.politicshome.com/news/uk/social-affairs/politics/house/60531/john-berco-its-time-rethink-conference-break
- 6 Committee on Standards in Public Life, *MPs' Outside Interests*, *Committee on Standards in Public Life*, July 2018, www.gov.uk/government/publications/mps-outside-interests, pp. 24–7.
- 7 House of Commons Committee on Standards, *The Standards System in the House of Commons: Sixth report of session 2014/15 (HC383)*, The Stationery Office, February 2015, <https://publications.parliament.uk/pa/cm201415/cmselect/cmstandards/383/383.pdf>
- 8 Committee on Standards in Public Life, *MPs' Outside Interests*, *Committee on Standards in Public Life*, July 2018, www.gov.uk/government/publications/mps-outside-interests, p. 20.
- 9 UK Parliament, 'Attendance for previous sessions,' no date, retrieved 30 June 2018, www.parliament.uk/about/faqs/house-of-lords-faqs/lords-sittings/
- 10 Polittowski B, *House of Commons: Hours sat and late sittings*, House of Commons Library, 1 July 2015, p. 7.
- 11 *Ibid.*
- 12 *Ibid.*
- 13 Modernisation of the House of Commons Committee, *Sittings of the House in Westminster Hall: Second report of session 1998/99*, March 1999, <https://publications.parliament.uk/pa/cm199899/cmselect/cmmodern/194/19402.htm>
- 14 Atkins M, *House of Commons Sittings in Westminster Hall*, *House of Commons Library*, 15 July 2016, p. 4.
- 15 *Ibid.*
- 16 Rogers R and Walters R, *How Parliament Works*, 7th edition, Routledge, 2015, pp. 384–5.
- 17 UK Parliament, 'Divisions,' no date, retrieved 6 August 2018, www.parliament.uk/about/how/business/divisions/
- 18 Merrick M, 'PMQs: SMP Westminster leader Ian Black expelled from Commons prompting mass walkout from party colleagues,' *The Independent*, 13 June 2018, retrieved 3 July 2018, www.independent.co.uk/news/uk/politics/pmqs-ian-blackford-expelled-snp-party-walkout-john-berco-brexit-latest-a8396756.html
- 19 Childs S, *The Good Parliament*, July 2016, www.bristol.ac.uk/media-library/sites/news/2016/july/20%20Jul%20Prof%20Sarah%20Childs%20The%20Good%20Parliament%20report.pdf
- 20 Crear P and Walker P, 'Commons leader says sorry to Jo Swinson for pairing pact 'error'', *The Guardian*, 18 July 2018, retrieved 7 August 2018, www.theguardian.com/politics/2018/jul/18/maternity-leave-error-scrutiny-commons-proxy-voting-jo-swinson
- 21 Kelly R, *Proxy Voting in Divisions in the House*, House of Commons Library, 2 July 2018, p. 4.
- 22 House of Commons Procedure Committee, *Proxy Voting and Parental Absence: Fifth report of session 2017/19*, May 2018, pp. 8–9.

-
- 23 House of Commons, *Hansard*, 'Business of the House,' 19 July 2018, col. 597.
 - 24 House of Commons Reform Committee, *Rebuilding the House: First report of session 2008/09*, November 2009, p. 38, <https://publications.parliament.uk/pa/cm200809/cmselect/cmrefhoc/1117/1117.pdf>
 - 25 House of Commons, *Standing Orders: Public Business 2018*, House of Commons, May 2018, https://publications.parliament.uk/pa/cm201719/cmstords/1020/so_1020_180501.pdf, p. 17.
 - 26 House of Commons, *Hansard*, 'Scheduling of parliamentary business,' 17 July 2017, col. 589.
 - 27 Home Office, 'Amesbury nerve agent incident,' GOV.UK, 5 July 2018, www.gov.uk/government/speeches/amesbury-nerve-agent-incident
 - 28 HM Government, *The Coalition: Our programme for government*, GOV.UK, May 2010, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/78978/coalition-agreement-may-2010_0.pdf
 - 29 Data provided by the Journal Office.

Chapter 3: Primary legislation

- 1 UK Government, *Queen's Speech 2010: Bills and topics mentioned*, GOV.UK, 25 May 2010, www.gov.uk/government/speeches/queens-speech-2010-bills-and-topics-mentioned
- 2 UK Government, *Draft Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, GOV.UK, 19 March 2018, www.gov.uk/government/publications/draft-withdrawal-agreement-19-march-2018
- 3 Russell M and Gover D, *Legislation at Westminster: Parliamentary actors and influence in the making of British Law*, Oxford University Press, 2017.
- 4 Dixon RM and Jones JA, 'Mapping Mutations in Legislation: A Bioinformatics Approach,' *Parliamentary Affairs*, 2018, In press.
- 5 Williams M, *How Language Works in Politics: The impact of vague legislation on policy*, Bristol University Press, 2018.

Chapter 4: Secondary legislation

- 1 Hansard Society, *Westminster Lens: Parliament and delegated legislation in the 2015/16 session*, Hansard Society, 2017, www.hansardsociety.org.uk/publications/westminster-lens-parliament-and-delegated-legislation-in-the-2015-16, p. 7.
- 2 *Ibid*, p. 11.
- 3 House of Commons Library, *Acts and Statutory Instruments: The volume of UK legislation 1950 to 2016*, April 2017, <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7438>
- 4 *Ibid*, p. 9.
- 5 House of Commons Procedure Committee, *Scrutiny of Delegated Legislation under the European Union (Withdrawal) Act 2018: Sixth report of session 2017/19*, House of Commons, July 2018, <https://publications.parliament.uk/pa/cm201719/cmselect/cmproced/1395/139502.htm>
- 6 National Audit Office, *Implementing the UK's Exit from the European Union: The Department for Business, Energy and Industrial Strategy*, (HC 608), National Audit Office, November 2017, www.nao.org.uk/report/implementing-the-uks-exit-from-the-european-union-the-department-for-business-energy-industrial-strategy/, p. 4; National Audit Office, *Implementing the UK's Exit from the European Union: The Department for Environment, Food, and Rural Affairs*, National Audit Office, December 2017, www.nao.org.uk/report/implementing-the-uks-exit-from-the-european-union-the-department-for-environment-food-rural-affairs/, p. 4.
- 7 Baker S, Tweet, 3 July 2018, <https://twitter.com/stevebakerhw/status/1014157223465975810>
- 8 House of Lords Constitution Committee, *Delegated Legislation and Parliament: A response to the Strathclyde Review: Ninth report of session 2015/16*, March 2016, https://publications.parliament.uk/pa/ld201516/ldselect/ldconst/116/11605.htm#_idTextAnchor009
- 9 Hansard Society, *Westminster Lens: Parliament and delegated legislation in the 2015/16 session*, Hansard Society, 2017, www.hansardsociety.org.uk/publications/westminster-lens-parliament-and-delegated-legislation-in-the-2015-16

-
- 10 Hansard Society, *Taking Back Control for Brexit and Beyond: Delegated legislation, parliamentary scrutiny and the European Union (Withdrawal) Bill*, Hansard Society, September 2017, www.hansardsociety.org.uk/publications/taking-back-control-for-brexit-and-beyond-delegated-legislation, p. 30.
 - 11 Hansard Society, *Westminster Lens: Parliament and delegated legislation in the 2015/16 session*, Hansard Society, 2017, www.hansardsociety.org.uk/publications/westminster-lens-parliament-and-delegated-legislation-in-the-2015-16
 - 12 House of Commons, *Hansard, 'Higher Education (England) Regulations'*, 13 September 2017, col. 905.
 - 13 Hansard Society, *Westminster Lens: Parliament and delegated legislation in the 2015/16 session*, Hansard Society, 2017, www.hansardsociety.org.uk/publications/westminster-lens-parliament-and-delegated-legislation-in-the-2015-16, p. 19–21.
 - 14 House of Lords Secondary Legislation Scrutiny Committee, *Criminal Justice (European Investigation Order Regulations 2017): Fourth report of session 2017/19*, 7 September 2017.
 - 15 Kelly R, *Statutory Instruments, House of Commons Library*, 15 December 2016, <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06509>, p. 9.
 - 16 *Ibid*, p. 15.
 - 17 Hansard Society, *Taking Back Control for Brexit and Beyond: Delegated legislation, parliamentary scrutiny and the European Union (Withdrawal) Bill*, Hansard Society, September 2017, www.hansardsociety.org.uk/publications/taking-back-control-for-brexit-and-beyond-delegated-legislation, p. 34.
 - 18 Hansard Society, *Westminster Lens: Parliament and delegated legislation in the 2015/16 session*, Hansard Society, 2017, www.hansardsociety.org.uk/publications/westminster-lens-parliament-and-delegated-legislation-in-the-2015-16
 - 19 *Ibid*, p. 32.
 - 20 *Ibid*.
 - 21 *Ibid*, p. 34.
 - 22 House of Lords Secondary Legislation Scrutiny Committee, *Response to the Strathclyde Review: Effective parliamentary scrutiny of secondary legislation: Thirty-second report of session 2015/16*, 14 April 2016, <https://publications.parliament.uk/pa/ld201516/ldselect/ldsecleg/128/12802.htm>
 - 23 House of Commons Secondary Legislation Scrutiny Committee, *Joint Response to the Government Response to the Strathclyde Review: Nineteenth report of session 2016/17*, 21 December 2016, <https://publications.parliament.uk/pa/ld201617/ldselect/ldsecleg/90/9002.htm>
 - 24 House of Lords Secondary Legislation Scrutiny Committee, *Draft Dorset (Structural Changes) Regulations 2018; Draft Somerset West and Taunton (Local Government Changes) Order 2018; Interim report on the work of the Committee in Session 2017–19; Correspondence: Education (Student Support) Regulation | PDF version 26th Report – Draft Dorset (Structural Changes) Regulations 2018; Draft Somerset West and Taunton (Local Government Changes) Order 2018; Interim report on the work of the Committee in Session 2017–19; Correspondence: Education (Student Support) Regulation: Twenty-sixth report of session 2017/19*, 26 April 2018, <https://publications.parliament.uk/pa/ld201719/ldselect/ldsecleg/125/12505.htm>
 - 25 Hansard Society, *Westminster Lens: Parliament and delegated legislation in the 2015/16 session*, Hansard Society, 2017, www.hansardsociety.org.uk/publications/westminster-lens-parliament-and-delegated-legislation-in-the-2015-16
 - 26 Lords Delegated Powers and Regulatory Reform Committee, *European Union (Withdrawal) Bill: Third report of session 2017/19*, 28 September 2017, <https://publications.parliament.uk/pa/ld201719/ldselect/lddelreg/22/2202.htm>, p. 5.
 - 27 Lords Constitution Committee, *Sessional Report 2015/16: First report of session 2016/17*, 13 June 2016, <https://publications.parliament.uk/pa/ld201617/ldselect/ldconst/9/902.htm>, p. 4.
 - 28 Tierney S, 'The Legislative Supremacy of Government,' blog, UK Constitutional Law, 3 July 2018, <https://ukconstitutionalaw.org/2018/07/03/stephen-tierney-the-legislative-supremacy-of-government/>
 - 29 Lords Constitution Committee, *Sessional Report 2015/16: First report of session 2016/17*, 13 June 2016, <https://publications.parliament.uk/pa/ld201617/ldselect/ldconst/9/902.htm>
 - 30 Lords Constitution Committee, *Public Bodies Bill [HL], Sixth report of session 2010/12*, 3 November 2010, <https://publications.parliament.uk/pa/ld201011/ldselect/ldconst/51/5102.htm><https://publications.parliament.uk/pa/ld201011/ldselect/ldconst/51/5102.htm>
 - 31 House of Commons Procedure Committee, *Scrutiny of Delegated Legislation under the European Withdrawal Bill: interim report: first report of session 2017/19*, 6 November 2017.

-
- 32 House of Commons Procedure Committee, *Scrutiny of Delegated Legislation under the European Union (Withdrawal) Act 2018: Sixth report of session 2017/19*, House of Commons, July 2018, <https://publications.parliament.uk/pa/cm201719/cmselect/cmproced/1395/139502.htm>
 - 33 Blackwell J, 'EU (Withdrawal) Act SIs: will sifting make a difference,' blog, Hansard Society, no date, retrieved 6 August 2018, www.hansardsociety.org.uk/blog/eu-withdrawal-act-sis-will-sifting-make-a-difference

Chapter 5: Select committees

- 1 Rogers R and Walters R, *How Parliaments Works*, 7th edition, Routledge, 2015.
- 2 House of Commons, *Sessional Returns 2016–17 (HC 1)*, 13 July 2017, retrieved 1 July 2018, <https://publications.parliament.uk/pa/cm201719/csession/1/1.pdf>
- 3 Griffin N, 'UK Parliament will issue Mark Zuckerberg with formal summons if he continues to refuse to speak to MPs', *The Independent*, 1 May 2018, retrieved 5 August 2018, www.independent.co.uk/life-style/gadgets-and-tech/news/facebook-mark-zuckerberg-formal-summons-select-committee-damian-collins-a8331001.html
- 4 Liaison committee, 'Select committee review in the House of Lords launched', press release, 18 January 2018, retrieved 5 August 2018, www.parliament.uk/business/committees/committees-a-z/lords-select/liaison-committee/news-parliament-2017/lords-committee-review/
- 5 White H, *Select Committees Under Scrutiny*, Institute for Government, 2015.
- 6 Mullin C, *View From the Foothills*, Profile Books, 2010.
- 7 House of Commons Procedure Committee, 'Establishing select committees in a new Parliament inquiry launched', press release, 24 May 2018, retrieved 5 August 2018, www.parliament.uk/business/committees/committees-a-z/commons-select/procedure-committee/news-parliament-2017/establishing-select-committees-launch-17-19/
- 8 *House of Lords, Companion to the Standing Orders and Guide to the Proceedings of the House of Lords*, House of Lords, April 2017, www.parliament.uk/documents/publications-records/House-of-Lords-Publications/Rules-guides-for-business/Companion-to-standing-orders/Companion-to-Standing-Orders-2017.pdf, retrieved 23 August 2018.
- 9 House of Commons Liaison Committee, *Select Committee effectiveness, resources, and powers: Second report of session 2012/13 (HC697)*, 8 November 2012, p. 14.
- 10 *Ibid.*
- 11 *Ibid.*, p. 12.
- 12 White H, *Scrutinising Brexit: Parliament faces its biggest challenge*, Institute for Government, October 2016, www.instituteforgovernment.org.uk/publications/scrutinising-brexit
- 13 House of Commons Liaison Committee, *Witness Gender Diversity: Second report of session 2017–19 (HC 1033)*, The Stationery Office, 2018.
- 14 *Ibid.*
- 15 House of Commons Digital, Culture, Media and Sport Committee, Oral evidence: Fake News (HC 363), 27 March 2018, retrieved 7 August 2018, <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/digital-culture-media-and-sport-committee/fake-news/oral/81022.pdf>
- 16 House of Commons Digital, Culture, Media and Sport Committee, Oral evidence: Fake News (HC 363), 27 February 2018, retrieved 7 August 2018, <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/digital-culture-media-and-sport-committee/fake-news/oral/79388.pdf>
- 17 House of Commons Digital, Culture, Media and Sport Committee, Oral evidence: Fake News (HC 363), 12 June 2018, retrieved 7 August 2018, <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/digital-culture-media-and-sport-committee/fake-news/oral/85344.pdf>
- 18 House of Commons Digital, Culture, Media and Sport Committee, Oral evidence: Fake News (HC 363), 21 March 2018, retrieved 7 August 2018, <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/digital-culture-media-and-sport-committee/fake-news/oral/80809.pdf>
- 19 House of Commons Digital, Culture, Media and Sport Committee, Oral evidence: Fake News (HC 363), 26 April 2018, retrieved 7 August 2018, <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/digital-culture-media-and-sport-committee/fake-news/oral/82114.pdf>
- 20 Walker P, 'Davis rebuked over Brexit impact papers but not held in contempt', *The Guardian*, 14 December 2017, retrieved 5 August 2018, www.theguardian.com/politics/2017/dec/14/david-davis-rebuked-brexit-impact-papers-contempt-parliament-speaker

-
- 21 James A, Partridge A and Cowling P, 'MPs admonish News of the World employees', *BBC News*, 27 October 2017, retrieved 5 August 2018, www.bbc.co.uk/news/live/uk-politics-parliaments-37781884
 - 22 'Data row: Facebook's Zuckerberg will not appear before MPs', *BBC News*, 28 March 2018, retrieved 5 August 2018, www.bbc.co.uk/news/uk-43554135
 - 23 Waterson J, 'Vote Leave strategist refuses to appear before MPs in fake news inquiry', *The Guardian*, 17 May 2018, retrieved 5 August 2018, www.theguardian.com/politics/2018/may/17/vote-leave-strategist-dominic-cummings-refuses-to-appear-before-mps
 - 24 House of Commons Privileges Committee, 'The powers of select committees and contempt examined', press release, 7 March 2017, retrieved 1 August 2018, www.parliament.uk/business/committees/committees-a-z/commons-select/privileges/news/select-committee-powers-inquiry-launch-16-17/
 - 25 Bill of Rights 1689: An Act declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown, 16 December 1689.
 - 26 White H, *Select Committees Under Scrutiny*, Institute for Government, 2015.
 - 27 Russel M and Benton M, *Selective Influence*, The Constitution Unit UCL, 2011, retrieved 7 August 2018, www.ucl.ac.uk/constitution-unit/publications/tabs/unit-publications/153.pdf
 - 28 House of Commons, *Hansard*, 'Customs and Borders', 26 April 2018, vol 639, <https://hansard.parliament.uk/Commons/2018-04-26/debates/090B0080-E56F-40F3-867A-41D46C14C7AF/CustomsAndBorders>
 - 29 House of Commons Procedure Committee, *Debates on Estimates Days: piloting new arrangements: Third report of session 2017-19 (HC 739)*, House of Commons, 2018.

Chapter 6: Backbench activity

- 1 House of Commons, *Sessional Return 2016/17*, House of Commons, July 2017, <https://publications.parliament.uk/pa/cm201719/csession/1/1.pdf>
- 2 Data provided by the Table Office.
- 3 UK Parliament, 'Frequently Asked Questions: Business,' no date, retrieved 7 August 2018, www.parliament.uk/about/faqs/house-of-commons-faqs/business-faq-page/
- 4 House of Commons Procedure Committee, *Written Parliamentary Questions: Monitoring Report for Session 2016/17, Monitoring in the 2017 Parliament, and Electronic Tabling: Second report of session 2017/19*, 15 December 2017, <https://publications.parliament.uk/pa/cm201719/cmselect/cmproced/661/66104.htm>
- 5 Orchard R, 'Whose House is it Anyway?', blog, Hansard Society, 12 October 2017, retrieved 6 August 2018, www.hansardsociety.org.uk/blog/whose-house-is-it-anyway-speaker-of-the-house-of-commons-speech
- 6 House of Commons, *Standing Orders of the House of Commons – Public Business 2018*, House of Commons, retrieved 6 August 2018, https://publications.parliament.uk/pa/cm201719/cmstords/1020/body.html#_idTextAnchor143
- 7 House of Commons, *Hansard*, 'Sewel Convention,' 18 June 2018, col. 79,
- 8 House of Commons, *Hansard*, 'Election of the Speaker,' 13 June 2017, col. 2.
- 9 House of Commons, *Hansard*, 'Prison Reform and Safety,' 7 December 2017, col. 1249.
- 10 House of Commons, *Hansard*, 'Customs and Borders,' 26 April 2018, col. 1054.
- 11 House of Commons, *Hansard*, 'Pension Equality for Women,' 14 December 2017, co. 636.
- 12 UK Parliament, *Register of All-Party Parliamentary Groups*, 6 June 2018, <https://publications.parliament.uk/pa/cm/smallparty/180606/contents.htm>
- 13 UK Parliament, 'What are Early Day Motions?' no date, retrieved 5 August 2018, www.parliament.uk/about/how/business/edms/
- 14 House of Commons, *Early Day Motion 31*, 21 June 2017, www.parliament.uk/edm/2017-19/31
- 15 House of Commons, *Early Day Motion 178*, 12 July 2017, www.parliament.uk/edm/2017-19/178
- 16 UK Parliament, 'Private Members' Bills,' no date, retrieved 5 August 2018, www.parliament.uk/about/how/laws/bills/private-members/
- 17 Hazell R and Rein F, 'Private Members' Bills', in C. Leston-Bandeira and L. Thompson, eds, *Exploring Parliament*, Oxford University Press, 2018, p. 122.
- 18 *Ibid*, p. 126.

-
- 19 *Ibid*, p. 127.
 - 20 Walker P, 'Tory MP who blocked upskirting bill says he was scapegoated,' *The Guardian*, 17 June 2018, retrieved 6 August 2018, www.theguardian.com/politics/2018/jun/17/theresa-may-declines-to-condemn-mp-for-blocking-upskirting-bill
 - 21 House of Commons Procedure Committee, *Private Members Bills: Third report of session 2015/16*, 18 April 2016, https://publications.parliament.uk/pa/cm201516/cmselect/cmproced/684/68406.htm#_idTextAnchor012
 - 22 House of Commons Procedure Committee, *Private Members' Bills: Observations on the Government's Response: Second report of session 2016/17*, 18 October 2016, <https://publications.parliament.uk/pa/cm201617/cmselect/cmproced/701/70102.htm>
 - 23 UK Parliament, 'How Petitions Work,' no date, retrieved 30 July 2018, <https://petition.parliament.uk/help>
 - 24 House of Commons Petitions Committee, *Letter from the Chair to the Minister for Cabinet Office and the reply, 8 February 2018*, www.parliament.uk/documents/commons-committees/petitions/Letter-Cabinet-Office-Grenfell-Tower.pdf
 - 25 Shephard M, 'We must allow the Grenfell Inquiry to take its time,' blog, Institute for Government, 21 May 2018, www.instituteforgovernment.org.uk/blog/we-must-allow-grenfell-inquiry-take-its-time
 - 26 Data supplied by the House of Commons Petitions Committee

Appendix 1: Using Parliamentary data

- 1 Norton L, 'The Value of Parliamentarians,' blog, <https://nortonview.wordpress.com/2018/08/10/the-value-of-parliamentarians/>, 10 August 2018, retrieved 20 August 2018
- 2 Freeguard G, Campbell C, Cheung A, Lilly A, and Baker C., *Whitehall Monitor 2018: The General Election, Brexit and beyond*, Institute for Government, 25 January 2018, www.instituteforgovernment.org.uk/publications/whitehall-monitor-2018.
- 3 Blackwell J and Fox R, *Westminster Lens: Parliament and Delegated Legislation in the 2015-16 session*, Hansard Society, 2017, www.hansardsociety.org.uk/publications/westminster-lens-parliament-and-delegated-legislation-in-the-2015-16

About the authors

Dr Alice Lilly is a Senior Researcher who leads the Parliamentary Monitor project. She has also worked on the Institute's other data-focused projects, Whitehall Monitor and Performance Tracker. She holds a PhD in American Studies from the University of Nottingham.

Dr Hannah White is Director of Research at the Institute for Government. She oversees the Institute's programme of work on government, Parliament and the civil service. Hannah has more than a decade's experience in Parliament and the civil service, most recently in running the Committee on Standards on Public Life in the Cabinet Office, and the Political and Constitutional Reform Committee in the House of Commons. Previously, she was Private Secretary to the Clerk of the House of Commons.

Jenny Haigh is an intern at the Institute for Government. Prior to joining the Institute, she worked in the charity sector co-ordinating community response to high-risk domestic abuse, and previously studied social anthropology at Cambridge.

Acknowledgements

This report would not have been possible without the support of many people both inside and outside the Institute for Government.

In particular, we are enormously grateful to Emily Commander for her work in helping to develop this project, and for her helpful thoughts and comments throughout. Within the Institute, thanks are particularly due to Bronwen Maddox, Catherine Haddon and Akash Paun for their input and encouragement, as well as to Gavin Freeguard and the whole data and transparency team; to Nicole Valentinuzzi, Matthew Batchelor and Melissa Ittoo for their support with press and publications; and to Candice McKenzie for her work on the launch event. We would also like to thank our copy-editor and designer.

We are particularly grateful to the staff across both Houses of Parliament who graciously answered our questions and pointed us in the direction of useful data, and contributed useful thoughts on this project. Special thanks are due to the parliamentary staff, academics, and other researchers interested in Parliament and parliamentary data who have taken the time to meet with us, including those who attended a roundtable at the Institute for Government in February 2018. We would also like to express our particular gratitude to Dr Ruth Dixon and Dr Matthew Williams of the University of Oxford for generously sharing their work on the EU Withdrawal Bill with us.

As ever, all views expressed, and responsibility for any errors or omissions, are those of the authors.

The Institute for Government is the leading think tank working to make government more effective.

We provide rigorous research and analysis, topical commentary and public events to explore the key challenges facing government.

We offer a space for discussion and fresh thinking, to help senior politicians and civil servants think differently and bring about change.

