

Why there should be a general election before Article 50 is triggered

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The Conservative Party is currently selecting a new leader who is expected to trigger Article 50 and begin the process of the UK leaving the European Union. [Kenneth Armstrong](#) writes that as the UK will need to set out what sort of new relationship it wants with the EU, there is a clear case for an early general election being held before Article 50 is triggered. This would allow the electorate to choose between alternative political visions of the UK's future trade and cooperation arrangements with the EU.



In the immediate aftermath of the referendum vote for the UK to leave the EU, [media speculation](#) focused on the Article 50 process for a Member State to withdraw from the EU. In [resigning](#), David Cameron made clear that it would be for his successor to start the withdrawal process and to begin negotiations. A process has begun for the Conservative Party to choose its new leader – and the UK's new Prime Minister – with the contest likely to be between candidates on either side of the Remain/Leave divide.

But a political contest under the rules of a single political party is no substitute for what is needed before Article 50 is triggered. What is required is a wide-ranging political conversation and a contest over the future of the UK's relationship with the EU. In the UK's constitutional system that can only be achieved through a general election.

The case for a general election

[Writing in The Guardian](#), the former Liberal Democrat leader, Nick Clegg, has also called for a general election before the Article 50 process is initiated. It would be easy to dismiss this as in the self-interest of a party that did particularly badly at the last general election. That would be to ignore the compelling case for a general election whatever your political persuasion.

As Prime Minister, David Cameron had a mandate for a referendum having won a general election in which the referendum was a manifesto promise. No politician has a mandate for negotiating what happens next, not even one that supported the campaign for the UK to leave the EU.

The decisions made by a new PM with his or her new Cabinet will set in place a UK-EU relationship that binds not just this government but future governments. It cannot be left to the political intrigue and in-fighting of the Conservative leadership election to define the country's future relationship with the EU.

The current parliament put in place the legislation that made provision for the referendum. Some [constitutional lawyers](#) are now demanding that this parliament takes back control and claim that only parliament has the authority to authorise Article 50 to be triggered. A [legal action](#) is being brought to require an Act of Parliament before notification of a withdrawal decision is made under Article 50. But what would it mean for this parliament to legislate on whether or not to authorise a decision to withdraw when it handed over the decision to the people in a referendum?

If parliament did not authorise such a decision it would frustrate the will of the electorate and so call into question parliament's own legitimacy. If it authorises, it does no more than add a veneer of formal authority to a decision which it essentially left to the government in light of the referendum.

It should be for a new parliament, and a new government formed from its members, to play their respective constitutional roles in the Article 50 negotiations but based on the fullest political contest over what those

negotiations should seek to achieve. The referendum began a process which only a general election can take forward.



UK general election day, 7 May 2015. Credits: gdsteam / (CC BY 2.0)

Of course, this could not be a single issue ‘general’ election. But with all the usual key concerns about taxation and spending being so clearly framed by, and dependent upon, what sort of future relationship the UK negotiates with the EU, the electorate would be able to express its preferences in this new economic and political context.

To be clear, this proposal is not for a proxy 2nd referendum via a general election in which candidates would stand on Remain or Leave tickets. Indeed, contrary to many of the post-referendum proposals, this one fully respects the outcome of the referendum but demands that its consequences be the subject of political competition by all the parties.

It is, therefore, of paramount importance that all political parties set out their ambitions for a new relationship with the EU. Once the leadership of the political parties is settled, a general election should be held. The result of that general election could well be that the Conservative Party remains the governing party under its new leader.

The important point would be that it would have a mandate from which to negotiate a future UK-EU relationship, thereby allowing it then to trigger Article 50 in accordance with the UK’s constitutional requirements and begin the withdrawal process. So the aim of the proposal is neither to frustrate the outcome of the referendum nor the ambitions of the Conservative Party and its leadership.

A general election, but no second referendum

There is, of course, a [petition for a second EU referendum](#) with over 4 million signatures in support. As we saw with the Scottish independence referendum, the deep divisions which referendums cause understandably produce attempts by those on the losing side to change the outcome. I believe it is important to respect the outcome of this referendum as a reflection of the will of the electorate. But I also believe that representative democracy needs to be restored to its central position in our constitutional system and only a general election can do that.

Amongst the political parties there may well be no appetite for a general election and it would hardly be a surprise to

learn that candidates for the leadership of the Conservative Party would not wish to go to the country so soon after attaining the premiership. The turmoil in the Labour Party may also not incline its leadership towards an early general election. Turkeys don't vote for Christmas. But turkeys, nonetheless, find themselves on the tables of households up and down the country on 25 December driven by public demand. This is a call for the public to demand a general election.

It ought to be recognised that an early general election might well be the result of failure in negotiations between the UK and the EU and so, it might be thought better to wait and see what happens. For two reasons I think that would be undesirable. First, the two-year period laid down in Article 50 for negotiations is tight, let alone with the interruption and uncertainty that a British election might cause during the negotiation process. Second, the rules for withdrawal are not entirely favourable to the withdrawing state. An election prior to initiating the Article 50 negotiation might go some way towards strengthening the bargaining position of a UK government in those negotiations.

There is no straightforward mechanism by which the proposal for an early general election might be realised. An unintended consequence of the [Fixed-term Parliaments Act 2011](#) is that there ought not to be a general election outside of the polling days prescribed in the legislation. There are mechanisms within the Act for holding early general elections outside of these fixed dates. Either, two-thirds of MPs support a motion for an early election, or a vote of no confidence in the Government is passed and after 14 days a vote of confidence in the Government fails. Parliament could, of course, simply repeal the 2011 Act. But a way should be found to make an early election happen by amending, repealing or applying the provisions of the Act.

This proposal anticipates that party leadership and general elections would need to be concluded by early November. This should give political parties the time to choose their leaders; to formulate possible positions on the UK's future relationship with the EU and to conduct a short general election campaign that engages with the public on its preferences for the future. It would then fall to a new parliament and government to play their respective roles in the Article 50 withdrawal process.

The aim should be to allow a British Prime Minister to attend a December meeting of the European Council and, in the absence of other considerations, to notify it of the UK's intention to withdraw from the European Union under Article 50.

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