

Weak government, strong parliament? A preview of Theresa May's legislative challenges



*Being the first without a majority in the Commons or the Lords for 40 years, how will May's minority government implement any part of their legislative agenda? How will committees function? Will the smaller parties in the Commons work together? **Marc Geddes**, **Alexandra***

***Meakin**, and **Louise Thompson** offer a preview of how the 2017 Parliament may function.*

With the general election result coming as something of a surprise, our expectations about the way that the 2017 Parliament would work have been thrown into doubt. Without the large government majority that most expected, Parliament has arguably been empowered. Theresa May's government must be far more receptive to the will of MPs and peers in order to ensure a majority vote on proposals. So: what lies ahead?

Legislation and procedure



The recent swearing in of MPs and Peers paves the way for the first, and crucial, item of business for the start of any parliamentary session – the Queen's Speech. Most obvious will be the impact of the election on the content of the speech. Brexit Minister David Davis has **already confirmed** that elements of the Conservative manifesto will have to be 'pruned'. This is partly the result of the Prime Minister's small parliamentary majority, but it is also the result of her reliance on the DUP from now on. The party's leader, Arlene Foster, has said it is '**right and proper**' that her MPs support the Queen's Speech, but all eyes will be on the speech itself – to see if any Northern Ireland issues are included – as well as on the vote – to see just how tight the numbers are.

The **2015 speech** passed by 326 votes to 279. The 2017 Queen's Speech will pass by a much narrower margin, though it is unlikely that it will not be passed. More challenging will be the passage of the full legislative programme over the rest of the parliamentary session (something which may have influenced the government's decision to cancel the 2018 Queen's Speech).

If, as forecast, the government operates on a "confidence and supply" basis with the DUP, rather than a full coalition agreement, we may see some difficulties with the behind-the-scenes procedure in the Commons. While the government retains control over the vast majority of time in the chamber, it still works within the "usual channels" – the network of the Government and Opposition Chief Whips, the Leader of the Commons, and the Private Secretary to the Government Chief Whip – to utilise this control. It is unclear whether the official opposition, having indicated a wish to use parliamentary procedure to attack the government, will continue to cooperate within the usual channels as before (for example, over decisions over the allocation of select committee chairs and scheduling of debates).

An added twist is the role of the DUP, who as the fifth largest party would not normally have any role in key decisions, but may now seek such participation. With DUP support only committed on votes of confidence and certain finance votes, opposition parties may also decide to suspend pairing: the informal arrangement where the whips manage absence from MPs by pairing MPs from opposite parties to ensure their absences cancel each other out. Even the most routine votes may become far more difficult for the government to win.

The status of the government means that opposition strategy will become even more important. The SNP made headlines in the last parliament for their highly cohesive and disciplined operation, often **turning up to Commons debates en masse**. Although they did work with Labour MPs, the two parties were often at odds with each other over their support for the government. Indeed, the SNP went so far as to claim that they were the **'real opposition'** in the chamber. But where they did work together, they demonstrated that they could stop the government in its tracks. Most notable here was the party's decision to flout the traditional EVEL policy and oppose the government's fox hunting legislation. As a result, the government **withdrew the measure** before the Commons could even consider it. The SNP may be a much reduced force in the coming Parliament, but will want to ensure that their cohesion can be used to maximum effect.



Committee scrutiny of bills

Party balance is not only of concern on legislation. Oral questions, committee appointments, management and governance committees, speaking rights in the chamber, all proceed on the basis of the party balance. As a result, the governing party would usually hold the majority of committee positions and more of its MPs would be called to speak in debates. But in a minority government situation, this will no longer be guaranteed. Meg Russell has already noted that bill committees could **become particularly contentious** over the next few months.

The committee stage of bills is generally considered by parliamentary observers to be **ritualistic and uneventful**; with a built in government majority, it only aids the speedy passage of legislation (the NHS reform bill was one brief exception, with a revised version being **sent back to committee**). Opposition amendments can – and do – pass, but usually only with the assent of the government minister. Government defeats are rare and usually opportunistic, with opposition MPs pushing amendments to a division if they realise that government MPs have stepped out of the room or failed to turn up in time. It is not yet clear what the party balance of MPs will be on committees, but if the government has a very slim – or indeed no – majority, this type of opportunism could become the norm. It is unlikely that we would see bills being defeated at committee stage, but it could mean that the government is forced to accept amendments or new clauses which it would otherwise have rejected.

There has also been much speculation about the future of the English Votes for English Laws procedures. As the **House of Commons library blog demonstrates**, the Conservatives still retain a

majority in each of the three EVEL constituencies. This means that it will be much harder for opposition parties to block measures in the Commons which proceed through the EVEL procedures – and this will also apply to committee stages. So we can expect to see smaller parties protesting about this. The SNP have **said before** that 'English only' issues affect Scotland, and that they are willing to vote on them.

Select committee scrutiny

As with public bill committees, there are questions over the make-up of select committees. The allocation and election of chairs will be especially important to watch. Allocations are decided by the usual channels and there might be calls from Labour to gain an extra chair (in 2015-17, the Conservatives held 12 chairs and Labour 10). In general, we can also make some wider assumptions: Public Accounts, Standards and Backbench Business are traditionally held by the opposition; Treasury and Foreign Affairs by the government. The SNP held two committee chairships in the last parliament but the reduction of the party, there might be questions over whether the number of chairs is also reduced.

Beyond allocations, who will fill the roles? Policy scrutiny is hugely dependent on the relationships, reputations, and performance styles that chairs adopt. In the past, Andrew Tyrie was a big thorn in the government's side, but his retirement leaves the chairship of the Treasury Committee (and Liaison Committee) open (Jacob Rees-Mogg has already **announced his intention to stand**). Neil Carmichael lost his seat at this election, meaning there will be a new chair for the Education Committee. In general, we do not know who will stand or re-stand because nominations have not opened yet.

There are also questions about whether former Labour frontbenchers will return to the Shadow Cabinet at some point in the future (for example, although **there were early rumours** that Yvette Cooper could become Shadow Home Secretary, this has not happened). Will Hilary Benn seek election to chair the Brexit Committee? As a defining issue for British politics, and given the hung Parliament, this could be a pivotal brokering role despite the complications the committee has **faced in the past**. Can it build the much-desired cross-party consensus? Or could it be overshadowed by a **cross-party commission**?

As with the Brexit Committee, committee success is dependent on size and make-up. Interestingly, it is not clear yet if select committees will have a government majority. Membership is supposed to reflect the balance of the House, so what will this mean for the standard 11-member committee make-up? Six Conservatives, four Labour and one from a third party might be difficult for the opposition to accept, so could we see an even split between the main parties?

In any case, it is unlikely that committees will hit the ground running any time soon: elections for chairs are pencilled in for early- to mid-July, but membership is unknown and with parliamentary recess, we might not see any committee hearings until October. This could, of course, empower newly-elected chairs to set their agenda and build links to key stakeholders inside government and outside organisations.

This brings us to the final point: what exactly will be on the agenda for committees? The threat of another general election and eight-year term limits on chairs (many of whom were elected in 2010) could keep agendas tightly focused on short-term issues, with wider implications for scrutiny. Any suggestion of suspending pairing, as mentioned above, might make overseas trips difficult for committees.

Issues for the new Parliament

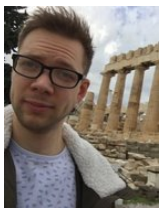
As might be clear by this point, there are huge questions over the government's ability to carry out an ambitious political programme. That said, there are huge issues that Parliament faces, including: security and terrorism; austerity and deepening social inequalities (as epitomised by the recent Grenfell disaster); power-sharing in Northern Ireland, especially as a result of ongoing talks between the Conservative Party and the DUP; and – a defining moment in British politics and history – continued negotiations over Brexit.

The legislative agenda means that these are likely to be challenging times for our Parliament. What does seem clear, however, is that Parliament itself is unlikely to undergo major reforms. Restoration and renewal of the Palace of Westminster, already far behind schedule, is likely to be kicked into the long grass; the 2010 constituency boundaries look remarkably resilient despite an ongoing boundary review; and House of Lords reform is unlikely. Indeed, the battles between the Lords and the Commons are likely to continue: the new government is likely to face similar battles as its predecessor (which was defeated 98 times by Peers in two years), due to its lack of a majority in the second chamber. And unlike its predecessor, the position of the new government may be impeded by its lack of a majority in the Commons, raising issues around whether the Salisbury Convention applies if a mandate has not been secured for specific manifesto commitments.

For years, Parliament was seen to be in decline: a trajectory that changed course in 2010 when a new House of Commons rebuilt its reputation after the expenses scandal. Over the last seven years, rejuvenated select committees and more topical debates in the chamber have reinstated Parliament at the heart of our representative democracy. Yet there is much we do not yet know about how MPs and Peers will view their roles; how committees will function; whether the smaller parties in the Commons will work together; and whether the Conservative-DUP arrangement can survive.

The last two years in Parliament demonstrate the difficulty of predicting the future, but as the first government without a majority in the Commons or Lords for 40 years sets out its legislative agenda, it is likely that Parliament's importance could increase even further. The question therefore becomes: will Parliament step up?

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