

Constitution Unit



seeking to trample upon the people's view as expressed in last June's referendum. Some, most notably former Conservative Attorney General Dominic Grieve, [urged](#) the Prime Minister and Lord Chancellor to speak up for

Restoration and renewal of the Palace of Westminster

Votes in both chambers are still awaited following the publication of the Joint Committee on Restoration and Renewal of the Palace of Westminster's [report](#) last September (see [Monitor 64](#), page 4), recommending a full decant of MPs and peers whilst the work takes place. Over the past few months resistance to the proposal for a full decant has become more vocal. In early January senior MPs from the Conservative and Labour parties [circulated a letter](#) calling for the Commons to sit in the Lords chamber and the Lords to move to the royal gallery during the building work. Some media reports have suggested that the Prime Minister is sympathetic to this suggestion. Meanwhile, the Treasury Select Committee has [launched a fresh inquiry](#) into restoration and renewal, with its chair, Andrew Tyrie, saying that existing reports had not provided 'enough of the evidence to come to even a preliminary decision'. The Public Accounts Committee has also announced an [inquiry of its own](#). On 25 January a [Westminster Hall debate](#) was held, led by Labour MP Chris Bryant, a member of the Joint Committee. In his speech he stressed that the committee had reached the conclusion that it was 'simply unfeasible, unworkable and impracticable for us to stay in' and called on the government to 'get on with it' and bring forward votes on the committee's recommendations without further delay.

English votes for English laws

The Commons procedures known as English votes for English laws (EVEL) continue to operate. As of the end of January 2017, the Commons Speaker has certified provisions of 15 bills, and around 50 statutory instruments, since the rules were introduced in October 2015. Under the procedures, MPs representing constituencies in England (or England and Wales) have the opportunity to veto certain legislative provisions that apply only in that part of the UK. But although there have been around 20 'double majority' votes held under the new rules, EVEL has not so far altered any legislative outcomes.

Following a year of operation of the new EVEL procedure, three major reports appeared evaluating it and its implications. In November 2016, the Constitution Committee in the House of Lords [published the conclusions of its inquiry](#). Later that month, an academic report by Daniel Gover and Michael Kenny of the Mile

End Institute, entitled [Finding the Good in EVEL](#), was published by the [Centre on Constitutional Change](#), in collaboration with the Constitution Unit (see pages 16–17). In December, the Commons Procedure Committee [published the conclusions of its technical evaluation](#) of the EVEL standing orders. The latter two reports, in particular, made detailed recommendations for reform of the existing system. The government is currently [reviewing the operation of EVEL](#), and is expected to publish its own conclusions later in the current parliamentary session.

Private members' bills to become backbench bills

As reported in [Monitor 64](#) (page 5), in October the House of Commons Procedure Committee published a [report](#) on private members' bills, reiterating [earlier proposals](#) for reform of the system that had been [rejected by the government](#) in June. The government [responded](#) in January. It again rejected the Procedure Committee's more substantive proposals – that the Backbench Business Committee should be allowed to select four priority bills for debate each session, that the House should approve the use of the chair's power to impose time limits on speeches on private members' bill days, and that members should be limited to presenting one bill per day. The government did, however, accept a recommendation to rename 'private members' bills' as 'backbench bills' on the grounds that the term 'backbencher' is better understood by the public than 'private member'.

House of Lords composition: a time for action?

[Monitor 64](#) (page 5) reported how post-referendum personnel changes brought potential for action on the House of Lords' growing size. Following the [public comments](#) by new Lord Speaker Lord (Norman) Fowler, the Commons Public Administration and Constitutional Affairs Committee (PACAC) formally announced that it would conduct an [inquiry](#) into Lords effectiveness, with a particular focus on size (as indicated on page 16, the committee subsequently appointed the Constitution Unit's Meg Russell as its specialist adviser). On 5 December the House of Lords then _____

tax credits. As reported in [Monitor 62](#) (pages 1–2) and [63](#) (page 3) respectively, Lord Strathclyde had set out three options for restricting the Lords’ power over secondary (i.e. delegated) legislation, which had met with universal criticism from parliamentary committees in both chambers. This made progress on reform look difficult at best. On 17 November Leader of the Lords Baroness Evans made a [statement](#) on the matter, which was [widely reported](#). In December the government published its formal [response to the Strathclyde Review and the committee reports](#), confirming its conclusion that there should not be legislation to limit the Lords’ power, as Strathclyde had suggested. Nonetheless it retained the option to change its mind ‘if it becomes necessary to intervene to maintain the primacy of the House of Commons... on secondary legislation’. This barely-veiled threat, through which the government clearly hoped to maintain the current uneasy truce, was poorly received by the Lords committee chairs. In a joint letter, they [expressed concern](#) about this and the ‘thinness’ of the government’s response.

As with so many things, there is also a Brexit dimension to these debates. Fears by some on the government side that the Lords will somehow intervene to block Brexit led to anonymous briefings in January that the Strathclyde proposals could be resurrected. Alongside this were wilder suggestions that the government might move to [abolish the House of Lords](#) or, contrary to other positive progress on size (repor

legislation will delegate considerable power to ministers. In September the Lords Constitution Committee announced that it would conduct such a wholesale review. As set out in the [inquiry's terms of reference](#) the committee intends this work to take a year, and be conducted in four phases. It began with phase one – 'preparing legislation for introduction to parliament' – and has subsequently moved on to phase three – 'the delegation of powers' (with a specific reference to the promised 'Great Repeal Bill' on Brexit). Written submissions on this were invited by 18 January. By that date the committee had already held eight oral evidence sessions, with more than 25 witnesses. Phase two, 'the passage of legislation through parliament' and phase four, 'the period after Royal Assent', are still awaited.

Public appointments

On 16 December 2016, the new [Governance Code for Public Appointments](#) was published, coming into force on 1 January 2017. It followed the [Grimstone review](#), the recommendations of which caused some controversy when they were published in March 2016 (see [Monitor 63](#), page 5). Reflected in the new Code are the five recommendations of the Grimstone review which were singled out for criticism by Sir David Normington, the outgoing Commissioner for Public Appointments at the time of the review's publication (see his [piece on the Unit blog](#)). However, the new Commissioner, Peter Riddell, is [optimistic about the concessions he has secured](#). First,

administration and complaints handling. These put into statute informal initiatives by recent Ombudsmen to address systemic issues of maladministration. Although there is no specific power to initiate investigations without a complaint, the new powers to expand investigations will assist considerably in major investigations such as treatment of compensation for Equitable Life in 2009. There are new powers to co-operate and share information with devolved ombudsmen. But recommendations by the new Ombudsman remain non-binding on public bodies.

The draft bill was [welcomed](#) by ombudsmen organisations, and is expected to be non-controversial. Scrutiny is likely to be carried out by the Commons Public Administration and Constitutional Affairs Committee.

Transfer of Privy Council powers in the Higher Education and Research Bill

The [Higher Education and Research Bill](#), which has passed through the House of Commons and is currently being considered by the House of Lords, establishes a new non-departmental public body termed the Office

will then publish revised proposals later in 2017. These will go through a further period of consultation before final recommendations are submitted to government by 1 October 2018. The recommendations will be implemented only if they are subsequently agreed by parliament.

In November a [private members' bill](#) introduced by Labour MP Pat Glass, seeking to change the rules for the reviews, so that there would be 650 MPs rather than the proposed 600 and allowing greater variation in the size of electorates, [received a second reading](#) in the House of Commons. If passed the bill would effectively force the review process to be restarted. It is highly unlikely to become law but the debate was interesting for revealing the strength of opposition to aspects of the boundary review process – _____

Turning to specific deal areas, the Sheffield City Region has run into trouble: a judicial review concluded on 21 December that its consultation over whether parts of Derbyshire and Nottinghamshire should be included in the region [was unlawful](#). As a result, the Sheffield mayoral election planned for May 2017 has been postponed. In the wake of this, talk of an alternative 'Greater Yorkshire deal', encompassing the whole of the county of Yorkshire, has resurfaced.

No new deals were announced in the Chancellor's 2016 Autumn Statement and the [Norfolk/Suffolk](#) and [Greater Lincolnshire](#) deals collapsed in November 2016 after councils in those areas voted against them. At the time of writing six 'metro-mayors' will be elected in May 2017: Greater Manchester, Liverpool, Tees Valley, Cambridgeshire, West Midlands and West of England. Rumours continue regarding deals in Oxfordshire, the Solent/Hampshire; Suffolk/North Essex, Lancashire, Northumberland, Newcastle and North Tyneside, and Dorset: but no concrete outcomes are in evidence.

On 27 January the London Finance Commission (LFC), chaired by Professor Tony Travers, made several new proposals for fiscal devolution to the Greater London Authority: hypothecated income tax and VAT, property taxes, and smaller revenues such as Vehicle Excise Duty, Air Passenger Duty, and a tourism tax. The LFC's report, [Devolution: a capital idea](#), was presented as a potential model for other English city regions. The government has shown little appetite for fiscal devolution to date, beyond limited reforms to the allocation of business rate revenue between local authorities ('100 per cent business rate retention'). New arrangements

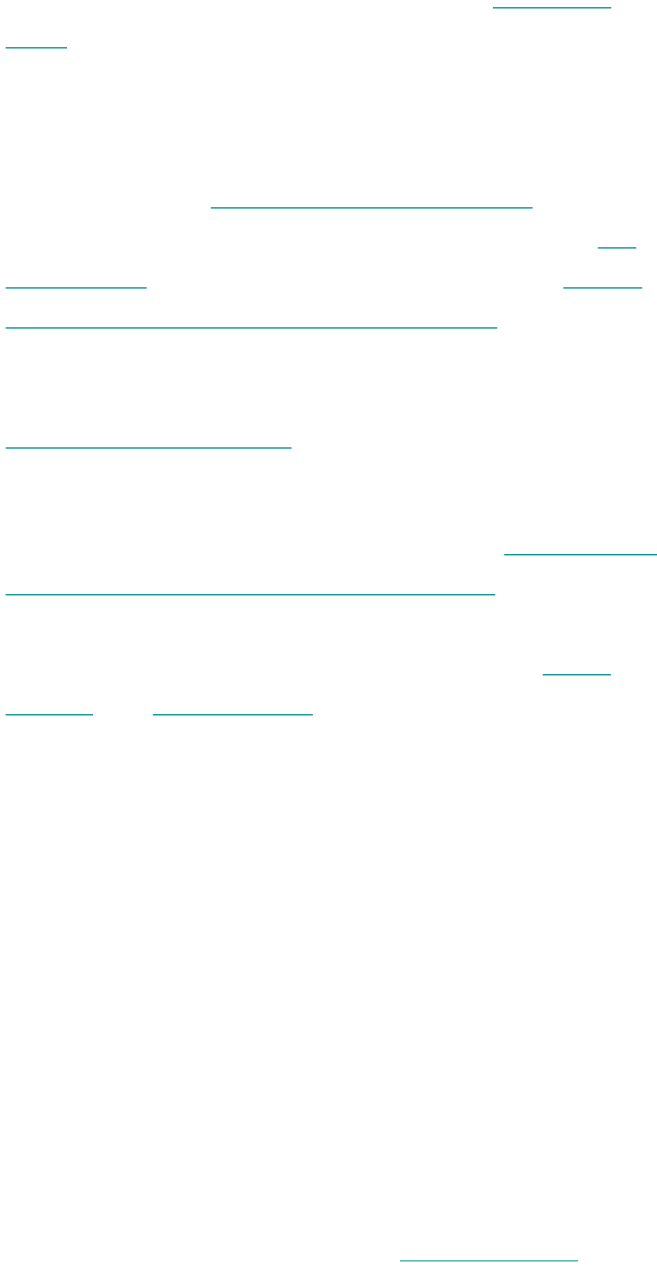
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The EU's response to Theresa May's speech

Just a few tumultuous weeks after the [resignation of Sir Ivan Rogers](#) as the UK's Permanent Representative (ambassador) to the EU, after he voiced his fears that government uncertainty risked a 'disorderly Brexit', Prime Minister Theresa May sought to steady the ship with her [much anticipated speech on Brexit on 17 January](#).

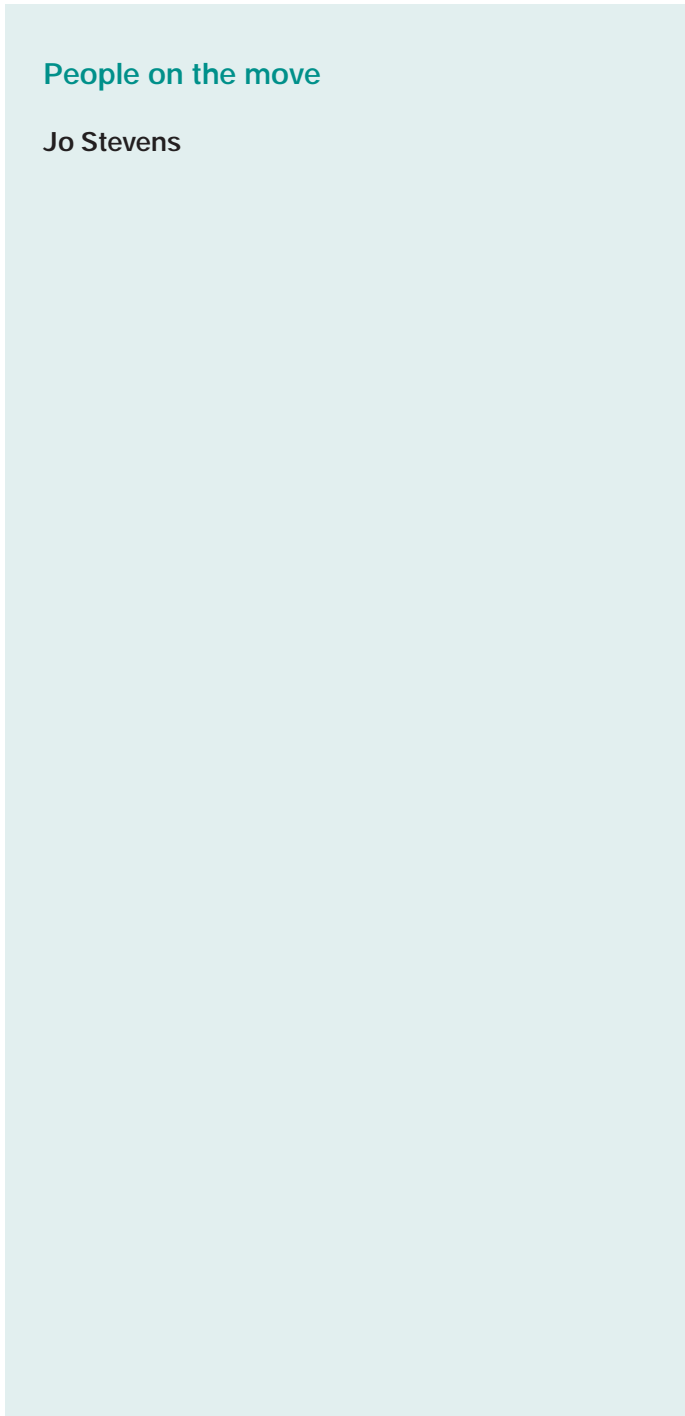
In mapping out her vision for a new, globally focused UK, Theresa May offered some much needed clarity as to what form of Brexit will be sought once Article 50 is triggered. Most eye-catching was her explicit statement that Britain would prioritise control of its borders and reject freedom of movement. She did not shy away from the ramifications of this, noting that it 'cannot mean membership of the single market'. In just a few short paragraphs she not only removed from the table one of the most contentious issues to emerge from the referendum campaign, but also set the UK on an unambiguous pathway to exit.

While her remarks certainly caused dismay amongst some still hoping that Brexit might not quite mean Brexit, among her fellow EU leaders there will be used dismay among
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People on the move

Jo Stevens



promoted. Transcripts of all parts of the event are available on [CSPL's website](#).

Lessons from the seminar, and a [separate seminar](#) hosted by the Unit on 25 October, will feed into research into discourse during election and referendum campaigns (see above) and other ongoing work on the role and conduct of referendums.

Lord Bew opens the Constitution Unit/Committee on Standards in Public Life seminar on the role of referendums in the UK, 22 November 2016

Meg Russell advising PACAC

As reported on pages 4-5, PACAC is conducting an inquiry into the effectiveness of the House of Lords – and particularly what can be done about its size. Constitution Unit Director Meg Russell, well known for her work on the Lords, and author of two reports ([here](#) and [here](#)) suggesting greater regulation of appointments to the chamber, has been made a specialist adviser to the

In November 2016, they published a major report based on their research, entitled [Finding the Good in EVEL](#). This analysed and evaluated EVEL's first year of operation in the Commons, and was launched in parliament at [an event](#) hosted by the Constitution Unit. One of the report's key findings was that, despite being justified as a mechanism to enhance England's voice at Westminster, EVEL has so far failed to achieve this goal. The authors suggested that alternative mechanisms – such as the creation of an English Affairs Select Committee – might now be considered. The report also argued that the 'double veto' at the heart of the system should be applied more consistently, the new procedures should be rendered less complex, and steps should be taken to enhance its political legitimacy.

The report received wide coverage in the media (including in the [Telegraph](#), [Times](#), [Guardian](#), [Express](#), [Herald](#), [Scotsman](#), [WalesOnline](#) and on BBC Radio 4's Today in Parliament programme). Its findings were also raised by MPs on the floor of the Commons ([28 Nov 2016](#) and [1 Dec 2016](#)). On the latter of these occasions, the Leader of the House, David Lidington, confirmed that his department would take the report's recommendations into consideration as part of its own review of EVEL, which is expected to conclude in early 2017. Some of the report's conclusions were also echoed in a subsequent report by the Commons [Procedure Committee](#). Kenny and Gover are now working on academic publications from their research.

Report from study of the public reading stage of the Children and Families Bill

Professor Cristina Leston-Bandeira (University of Leeds) and her colleague Dr Louise Thompson (University of Surrey) have recently finished their study of the pilot 'public reading stage' that was held during House of Commons consideration of the Children and Families Bill (2013–14 session). This study was funded by a Leverhulme Trust/British Academy grant.

They are now working on two journal articles from this project, but have already published a [final project report](#). This provides a summary of their findings in relation to the experiences of members of the public who submitted comments on the bill and the impact of these comments through the legislative process. The report makes six recommendations for any future attempts to involve the public in the scrutiny of legislation:

1. Explicit guidance specifically developed for the general public to ensure that there is simple information available about the key issues within the bill.
2. Formal integration of the public reading stage into the parliamentary scrutiny of the bill. This may include positioning the public reading stage as a form of pre-legislative scrutiny or dedicating time on the floor of either House to discuss the public's views of the bill.
3. Clarification about who the public reading stage is aimed at, to establish whether mechanisms should be designed for members of the public or for interest groups.
4. Greater resources in terms of specialised staff to help manage the submission of comments from the public and ensure that information about the public reading

Bulletin Board

Events

To sign up to our events, visit the Constitution Unit [events page](#). Seminars are free and open to all.

Brexit, federalism and Scottish independence

Kenny Farquharson, Senior writer, *The Times Scotland* (Chair); **Kezia Dugdale**, Leader of the Scottish Labour Party; **Jim Gallagher**, Visiting Professor, Nuffield College, Oxford; **Kenny MacAskill**, former SNP MSP and Cabinet Secretary for Justice; **Baroness (Jenny) Randerson**, former Liberal Democrat minister, Wales Office.

13 February 2017, 6pm
Ambrose Fleming Lecture Theatre, Roberts Building, Malet Place, UCL, London, WC1E 6BT

[Register](#)

Brexit at Westminster
