

Seven Brexit Endgame

scenarios

A guide to the parliamentary process of
withdrawal from the European Union





Introduction

This report is a guide to seven of the different possible parliamentary scenarios that might occur between now and exit day. The Brexit endgame has turned into a power battle between the government and the Commons. The Commons has been gradually taking more control of the process, and one of the key questions affecting each of the seven scenarios is how much further the Commons can go.

This report explains how each of these scenarios could play out, and highlights the problems each faces. These hurdles come both from within the UK and from the rules created by the EU. We explain how procedure will affect the politics, and where the constraints imposed by Article 50 and the rules of Parliament could determine the outcome.

A common theme of each scenario is the ticking clock. At the time of publication, there are just 74 days to 29 March 2019. Each scenario also brings with it its own headache for the prime minister. Regardless of the outcome, the meaningful vote on the government's deal will not be the end of the fractious politics of trying to withdraw from the EU.

What this report does not do is set out the probability of any particular outcome. But we hope that this guide might be helpful for those trying to understand what might happen next, and even for those trying to find a route through.

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1: DEAL PASSES FIRST TIME

Ever since the Brexit deal was published in November, the prevailing assumption has been that the government will not get a majority for it in the House of Commons at the first time of asking. In December, the government decided to delay the vote until January in order to seek further assurances from the EU on the so-called Irish backstop. Doing so reduced the time available for MPs to force any alternative solutions to approving the government's deal, such as a further referendum or general election.

If the deal were passed via the first meaningful vote, the main challenge for the government thereafter would be getting the EU (Withdrawal Agreement) Bill - the piece of legislation necessary to turn the Withdrawal Agreement into UK law - through Parliament before 29 March 2019. Both the meaningful vote and the Withdrawal Agreement Bill are required for the deal with the EU to be ratified and enter into force.

Core facts:

1) **MPs must approve the government's motion on the deal before the Withdrawal Agreement can be ratified**

Section 13 of the EU (Withdrawal) Act sets out the parliamentary procedure for the Brexit deal. It states that the Commons must agree a motion that approves both the Withdrawal Agreement and the Political Declaration on the future relationship.

2) **MPs would first have to reject any amendments that disapprove the deal**

On 15 January - the final day of the debate on the meaningful vote - the Speaker will select a number of amendments to be voted on and the order in which they will be considered by MPs. The Speaker's decision on selection will influence how the conclusion of the vote plays out. For example, Bercow has to decide whether to allow all of the amendments tabled to be voted upon, or whether to only select those that have a certain level of support in the Commons.

Some amendments are basically incompatible with the approval of the deal. For instance, Hilary Benn has tabled one that would reject the deal and rule out no deal. The Speaker has to decide if this one will be voted on first. If such amendments were approved, they could prevent the Withdrawal Agreement being ratified, unless the government were to hold the meaningful vote again.

The Speaker could decide to order the amendments so that the Commons would only decide on any amendments that are compatible with the deal if the incompatible amendments are rejected beforehand. If the Commons approves any amendment that is compatible with the deal being approved then this would not prevent the Withdrawal Agreement being ratified.

Only if all amendments are rejected will the Commons be able to approve the government's motion without conditions in the form it was tabled.

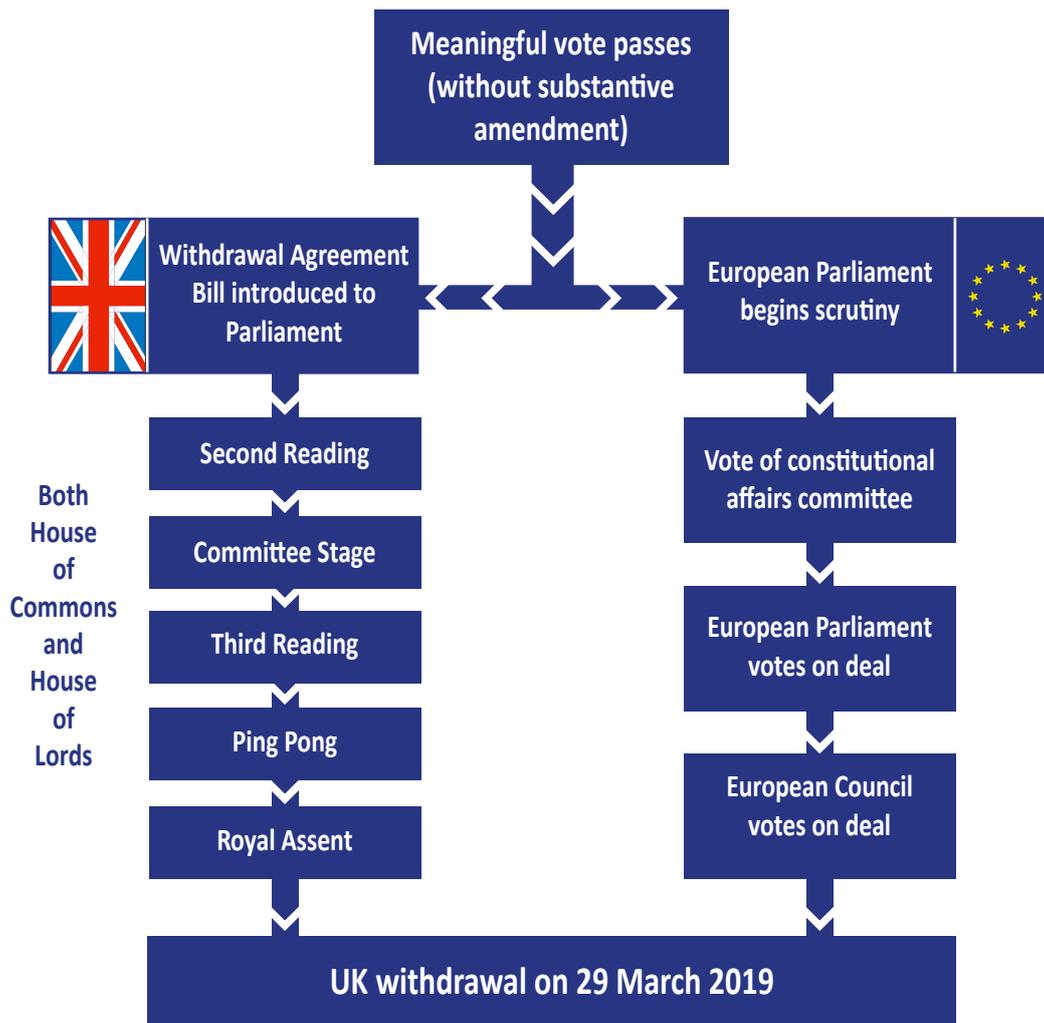
3) Parliament must enact the Withdrawal Agreement Bill by 29 March 2019 to avoid no deal

The Withdrawal Agreement Bill must be passed by Parliament in order that the Withdrawal Agreement be formally approved.

Even if the meaningful vote is passed, MPs opposed to parts of the deal will almost certainly attempt to change or alter their domestic implementation as the bill passes through Parliament. There is an obvious historical analogy. When the UK joined the European Economic Community in 1972, the vote on the principle of membership - equivalent to the meaningful vote - was won by a majority of 112. However, the European Communities Act 1972 – the legislation enacting the treaty, and equivalent to the EU (Withdrawal Agreement) Bill – was carried by a majority of just 8.

The government would have to ensure that the same MPs that approved the deal would get the Withdrawal Agreement Bill through its second reading in the Commons, which is the first point at which MPs would get to vote on the legislation.

PATH TO THE DEAL



4) The government will have to resist amendments to the Withdrawal Agreement Bill

In the Commons' committee and report stages, there could be amendments proposed that, if enacted, would potentially be incompatible with the Withdrawal Agreement itself. There are likely to be big arguments about whether particular amendments are compatible with Withdrawal Agreement. If incompatible amendments were to be passed, this would not necessarily stop the Withdrawal Agreement being ratified. That said enacting legislation that could result in the UK being in breach of the Withdrawal Agreement is likely cause a major political headache in terms of relations with the EU.

Even if the Withdrawal Agreement Bill gets through the Commons unscathed, the House of Lords could propose its own amendments in areas where the Commons has expressed concerns. If the Lords amended the bill, the Commons would get a chance to vote on the amendments in what is called ping-pong, the final parliamentary stage before a bill is completed and gets Royal Assent. This final stage might occur close to exit day.

5) The Withdrawal Agreement Bill could help the Government to get the deal through first time

Unlike the Withdrawal Agreement itself, MPs can amend the Withdrawal Agreement Bill. The government can use the Bill to offer concessions in the form of amendments to MPs in return for their support for the deal. In the run up the meaningful vote, the prime minister has repeatedly stated that the government was exploring ways in which the Commons could be empowered, to scrutinise the negotiations on the future relationship and decide what happens at the end of the transition period. When the Bill is introduced to the Commons, the government will have to use the Withdrawal Agreement Bill to deliver on any concessions, for example enabling MPs to have a say on the future relation or an extension of transition, offered ahead of the meaningful vote.



2: DEAL PASSES SUBSEQUENTLY BEFORE 29 MARCH 2019

If the Commons rejects the deal the first time, the government could decide to try again.

Core facts:

1) **There is no procedural or legal barrier to the government making a second attempt to pass the deal**

The parliamentary handbook, Erskine May, sets out a general rule that the House of Commons should not be asked to consider the same question twice in the same session. However, it also states that this is not an absolute rule and that the Speaker has discretion to enable the same question to be put again in the same session.

In oral evidence to the Commons Exiting the EU Committee, the Clerk of the House of Commons, Sir David Natzler, set out the situation: “If it was exactly the same document and they came back three months later for another bite, I do not think the procedures of the House are designed to obstruct the necessary business of Government in that way in such a crucial thing.”

2) **If the Commons rejects the deal the first time, the government is legally required to respond with a statement within 21 days.**

On 9 December, the Commons amended the Business of the House Motion – which are motions where MPs agree the ‘rules of the game’ for debates in the Commons – to shorten the timetable so that the Government respond to defeat within three sitting days by tabling a motion under section 13. This is likely to mean that the statement will be made within three days, rather than the 21 days required by law.

Section 13 of the EU (Withdrawal) Act says the statement needs to set out how the government intends ‘to proceed in relation to negotiations for the United Kingdom’s withdrawal from the EU under Article 50(2) of the Treaty on European Union’. This suggests that it would cover whether the UK intended to engage in further negotiations or proceed with no deal. If the government planned to make a second attempt to pass the deal, it could use this statement to explain how it would do so. In particular, the government could respond to the substance of any amendments passed by the Commons or to any particularly influential concerns raised during the meaningful vote debate in an attempt to appease MPs in a second vote.

3) **The government is legally required to move a motion within seven sitting days of the statement being made to allow MPs to debate the government’s response**

Section 13 of the EU (Withdrawal) Act requires that the Commons must debate, through a motion, the approach set out in the government’s statement. The amendment made by the Commons to the post-rejection timetable on 9 January suggests that the relevant motion must be debated within three sitting days, rather than the seven prescribed by Section 13. The amendment’s effect in relation to the motion

is uncertain for two reasons: it says 'table' rather 'move', and it does specify which Section 13 motion must be tabled. Nevertheless, it appears that there is a political understanding that the statement must be made and the motion moved in the Commons within three sitting days.

The motion on the government's statement will be amendable. This gives MPs an opportunity to offer the government further direction after any vote. However, the precise terms of the Commons debate on this motion - for example how many amendments could be selected and the duration of the debate - are yet to be determined. Under parliamentary rules, the default format would be a 90-minute debate with a maximum of one amendment that could be selected by the Speaker. If the government wanted an alternative format, it would have to introduce a Business of the House Motion, which could be amended by MPs. The amendments passed by the Commons to the Business of the House Motion on 4 December and 9 January have shown the power this can give the Commons to shape the terms of the debate.

Even if the government does not bring forward a Business of the House Motion, it is possible that the default arrangements might not apply. The Speaker has shown a willingness to stretch the rules to enable MPs to have their say on Brexit, and as result he might enable the Commons to depart from the default format for the debate. For example, MPs could use their one amendment permitted under the rules to disapply the restriction on the number of amendments.

The debate on the government's statement could provide an opportunity for MPs to consider a range of alternative responses, perhaps through a series of indicative votes where MPs would express their collective view on a range of alternatives, to rejection of the deal. As the outcome of the debate would not be legally binding, it provides an obvious mechanism to build consensus around the next steps before any second attempt is made at passing the deal.

However, even if MPs decided to reject the response set out in the government's statement, it could simply ignore them as their verdict has no legal effect

4) To avoid no deal without an extension of Article 50, the Commons needs enough time to pass the Withdrawal Agreement Bill before 29 March 2019

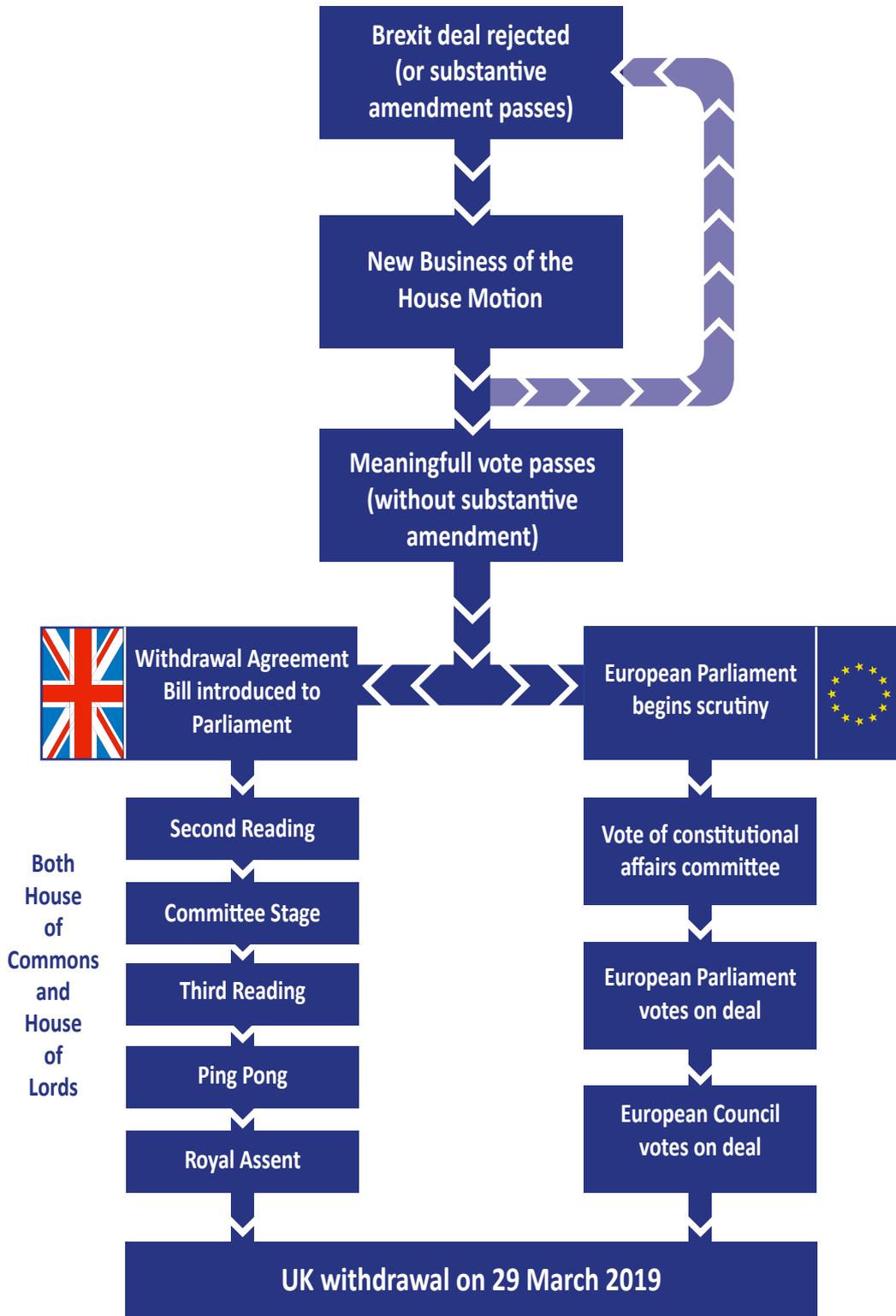
Section 13 of the EU (Withdrawal) Act states that the Withdrawal Agreement Bill must be enacted before the Withdrawal Agreement can be ratified. There is no prescribed minimum time required to enact a bill. In some cases, bills can be passed in a matter of days using a fast-track legislative procedure (often used for emergency legislation relating to Northern Ireland). If the Withdrawal Agreement is approved a matter of days before 29 March 2019, the government will need a political consensus to approve the Withdrawal Agreement Bill through a fast-track procedure.

High-profile and controversial legislation has been passed by Parliament relatively quickly before. For example, the Anti-terrorism, Crime and Security Act 2001, which was the Labour government's response to the 9/11 attacks, was introduced to the Commons on 12 November 2001 and was enacted on 14 December 2001. However, it would be extremely unusual for such a significant constitutional bill as the Withdrawal Agreement Bill to be enacted in such a short timeframe.

5) The second meaningful vote would not have to use the same procedure as the first

The Business of the House Motion for a second vote would determine the procedure used, and the Commons could elect to use a different format to the first attempt. For example, MPs could opt to have fewer than five days of debate and to decide on any amendments selected only after the government's approval motion is voted upon (as the government originally proposed for the first meaningful vote).

DEAL PASSES ON SECOND ATTEMPT





3: NO DEAL

It has long been clear that the government intended to use the threat of no deal to increase pressure on MPs to approve the deal. However, a significant majority of MPs oppose a no deal exit. Therefore, if the government's deal is rejected, it has been claimed that MPs would take steps to prevent a no deal exit. The difficulty, though, is identifying what MPs could actually do to avoid such an outcome. No deal could come about in one of two ways:

- if the government adopts no deal as its preferred outcome
- if the Commons defeats multiple attempts to get the deal through and the government fails to take steps to avoid a no deal through either a request for extension or revocation, is the most likely no deal scenario.

Core facts

1) Without any further action, the UK will leave the EU without a deal on 29 March 2019

There are only three ways to stop this happening:

- ratify the Withdrawal Agreement, which requires MPs to approve the meaningful vote and Parliament to enact the European Union (Withdrawal Agreement) Bill, before 29 March 2019;
- seek and be granted an extension of Article 50. This could be done without primary legislation; however, it is likely to require secondary legislation, and therefore some form of parliamentary approval. However, this could occur after the extension had been sought and granted; and
- revoke Article 50, which would require Parliament to enact primary legislation before the Government sent the revocation notice.

2) Parliament has already enacted legislation to prepare for a no deal exit

The EU (Withdrawal) Act states that on 29 March 2019 the European Communities Act 1972 (which incorporates EU law into the UK's legal system) will be repealed. The EU (Withdrawal) Act 2018 also provides that on exit day almost all of the existing body of EU law will be copied into UK law.

If the Commons does approve the deal, the government will ask Parliament to amend elements of the EU (Withdrawal) Act 2018 through the Withdrawal Agreement Bill to enable transition to take effect on exit day.

If MPs do not approve the deal, and the government is able either to extend or revoke Article 50, the government will have to ensure that the European Communities Act remains in force and is not repealed on 29 March 2019. If the government decides to revoke Article 50, it is almost certain to require an act of Parliament before it seeks revocation. Conversely, if the government is granted an extension to Article 50, the effect of the European Communities Act could be saved by a minister under a delegated power in

section 20 of the EU (Withdrawal) Act 2018. The power effectively enables a minister to use secondary legislation, and therefore avert the need for primary legislation, to change the definition of exit day if the day in which the EU treaties cease to apply in the UK is a time and date other than 11pm on 29 March 2019. In legal terms, this could be done after the government had sought and received an extension to Article 50. However, in political reality the government is likely to seek the Commons' approval for an extension before requesting one. The important point is that this need not be done through legislation before the extension is sought, a motion would suffice.

3) If the Commons rejects the deal, the government might attempt to enact more legislation to prepare for no deal

There are a number of bills currently before Parliament that are designed to provide measures that could be used if the UK were to leave without a deal, these include:

- the Trade Bill
- the Agriculture Bill
- the Fisheries Bill
- the Healthcare Bill
- the Immigration Bill and
- the Financial Services Bill.

Some of these have already gone through most of their parliamentary stages, while others, such as the Immigration Bill, have yet to get through any.

The way in which these bills will be scrutinised and voted upon by the Commons could change significantly if MPs reject the Brexit deal and the government reacts by stepping up no deal preparations. MPs and peers could propose amendments to these bills designed to disrupt no deal preparations. The Commons could also opt to reject secondary legislation designed to prepare for no deal. However, neither amendments to primary legislation nor the rejection of statutory instruments could stop a no deal Brexit.

4) The government controls the parliamentary timetable in the Commons

The Standing Orders of the House of Commons ensure that the government of the day controls what is debated in the Commons. In either of the main no deal scenarios, if MPs wanted to take steps to prevent this outcome, they would be reliant on the government providing opportunities for them to take those steps.

For example, if they wanted to amend a bill to create a binding duty on the government to seek an extension of Article 50, this would rely on the government scheduling a committee or report stage of a bill where such an amendment could be tabled. Even if such an amendment were approved, in order for it to come into force the government would have to decide to proceed with any remaining stages so that the bill could receive Royal Assent and be enacted.

MPs could become more proactive in a no deal scenario if they found a means of taking control of the Commons' timetable. One way would be to amend any Business of the House motions brought forward by the government to set out the format on the debate on the section 13 (6) motion in such a way as to disapply standing orders (the rules that govern House of Commons procedure). This was done at the start of the original meaningful vote process.

How the UK Government can avoid a no deal

Possible actions	Temporary or permanent	Who needs to approve
Pass a Withdrawal Agreement & Withdrawal Agreement Bill	Permanent	
Revoke Article 50	Permanent	
Request Article 50 extension	Temporary	
Further referendum and request Article 50 extension	Temporary	
General election and request Article 50 extension	Temporary	



4: REFERENDUM

If Theresa May's deal is rejected and MPs wish to avoid no deal, they might seek a further referendum. However, this option is fraught with complications.

Core facts:

1) At least 22 weeks is required to enact a referendum

The Political Parties, Elections and Referendums Act 2000 (PPERA) created new rules on what needs to happen before a referendum can be held (Electoral Commission). An extension or revocation of Article 50 will be necessary for a referendum to take place: even in the unlikely event of legislation on a referendum being laid a week after the 15 January would imply a referendum date of 28 June.

Previous referendum processes tell us little about the time it would take. After all, these referendums were not undertaken with Article 50 in the background. However, they do give some indication of the complexity of the process. As the Constitution Unit at UCL have outlined, the Alternative Vote referendum had the shortest timeline - of nine months - whereas preparation for the EU referendum took a total 13 months.

2) A referendum would require legislation to be passed by the House of Commons

One of the biggest hurdles to a further referendum is the need for an act of Parliament to make it happen, which by extension requires a government to be in place that is willing to table such legislation. Importantly, simply amending the meaningful vote motion on the Brexit deal would not be sufficient to bring about another referendum.

If Theresa May's opposition to another vote continued, a new executive would be required, headed by a different prime minister. Perhaps an even bigger hurdle, though, is that a coalition of MPs would not only have to support a referendum in principle, but agree on the wording of the specific question that would be put to voters. This means that even if a referendum were supported as an amendment to a motion on the government's Brexit deal, a referendum could come up against the same problem as any deal: the difficulty of creating and holding on to a coalition in the Commons.

3) MPs could also amend the Withdrawal Agreement Bill to bring about another referendum

Amending the Withdrawal Agreement Bill could provide a statutory basis to force a referendum. It is conceivable that the government may be in the peculiar position of having to begin the process of legislating for the treaty on withdrawal before the Brexit vote has passed the meaningful vote.

Another route is that Theresa May's deal is approved by MPs first and the Withdrawal Agreement Bill is brought forward by the government thereafter. There would be a number of advantages to seeking

a referendum via this route: first, it would mean that the no deal uncertainty would be (temporarily) removed; second, given the legislation would have to pass through the House of Lords, a referendum amendment could be added in the Lords, and would then have to be voted on by the Commons during ping-pong. However, it would not negate the need for a separate piece of referendum legislation setting out the question.

4) Any extension of Article 50 to facilitate a referendum would need approval by all EU member states

Unlike revocation, which we discuss below, an extension is not solely within the UK's gift. Rather, the UK would have to request it and the European Council would have to agree unanimously. EU officials and member states have consistently said that any extension would have to serve a clear purpose in order to be granted. A referendum would presumably fulfil this criterion.

5) The UK would most likely participate in EU parliamentary elections in the middle of any referendum campaign

Given the need for an extension of Article 50 to allow time for a referendum to take place, if granted this would almost certainly mean the UK remaining an EU member during the European Parliament elections on 23-26 May. The upshot of this is that the UK would remain bound by its treaty obligations as a member state, including the right of its citizens to participate in European Parliament elections, and thus could be subject to a legal challenge if it did not hold such an election.



5: GENERAL ELECTION

Another option to break the Brexit impasse could be to hold a snap general election. This could lead to a change of government and at least would almost certainly mean a new prime minister. Although general election campaigns are inevitably far more wide-ranging than referendums, making them ill-suited to resolving individual policy questions, the fact that it would lead to a decisive change in political leadership could make it an appealing option, particularly for those opposed to Theresa May's deal, no deal or another referendum.

There have been a number of recent polls looking at the public's desire for a general election. The results are mixed. YouGov ran [two polls](#) in mid-December with a roughly 40:40 split in favour and against, with the remaining 20% unsure. However, support for a general election runs [significantly higher](#) than the share of voters who believe it would help to resolve the Brexit impasse. There were around 60% saying it would not help in a recent YouGov poll. Two polls by Lord Ashcroft suggest a [more sceptical](#) public attitude towards holding a general election, albeit with a [greater share](#) in favour if Theresa May is replaced as prime minister. As with all things Brexit, a general election doesn't offer a smooth path out of the mire, either procedurally or in terms of public support.

Core facts:

1) There are two routes to a general election using the Fixed-term Parliaments Act (FTPA)

The first is that a two-thirds majority of the Commons (not just those that show up to vote), or 464 MPs, needs to vote for an election. The second is that a simple majority (50% +1 of those present on the day of the vote) of MPs must pass a specifically worded no confidence motion in the government. This would then be followed by a two-week period when an alternative government could be formed. If such a government could not be formed, there would be a general election thereafter. A final (probably impracticable) option would be to overturn the FTPA itself. This is something that the Conservative manifesto of 2017 pledged to do and would involve the government winning a vote in Parliament.

2) Only the leader of the opposition is likely to get time for a confidence vote

There is a clear constitutional precedent that the leader of the opposition can call a vote of confidence in the government. There is no legal limit on the number of times this can happen, but there may be a political limit. Equally, as in 2017, if the prime minister wishes to try and call a general election by getting a two-thirds majority of MPs to vote for one, then she could do so. The government, given it controls time in parliament, could also call a confidence vote in itself – an idea touted prior to the 2017 vote within government circles.

3) The DUP abstaining could be sufficient to allow a confidence vote to pass

Seven MPs who are currently either Conservative or DUP MPs would have to vote against the government if it were to be defeated in a vote of confidence. Alternatively, if the Democratic Unionist Party's ten MPs were to abstain on a confidence motion, then the government's majority would be reduced to two MPs. Such an eventuality is more likely following a successful attempt to pass something like the government's Brexit deal through the meaningful vote: the DUP have promised that the government would lose its support in such a scenario, and the two Brexit wings of the Conservative Party – the core of the European Research Group and ardent People's Vote campaigners – would have few options left.

4) A general election would take approximately six weeks

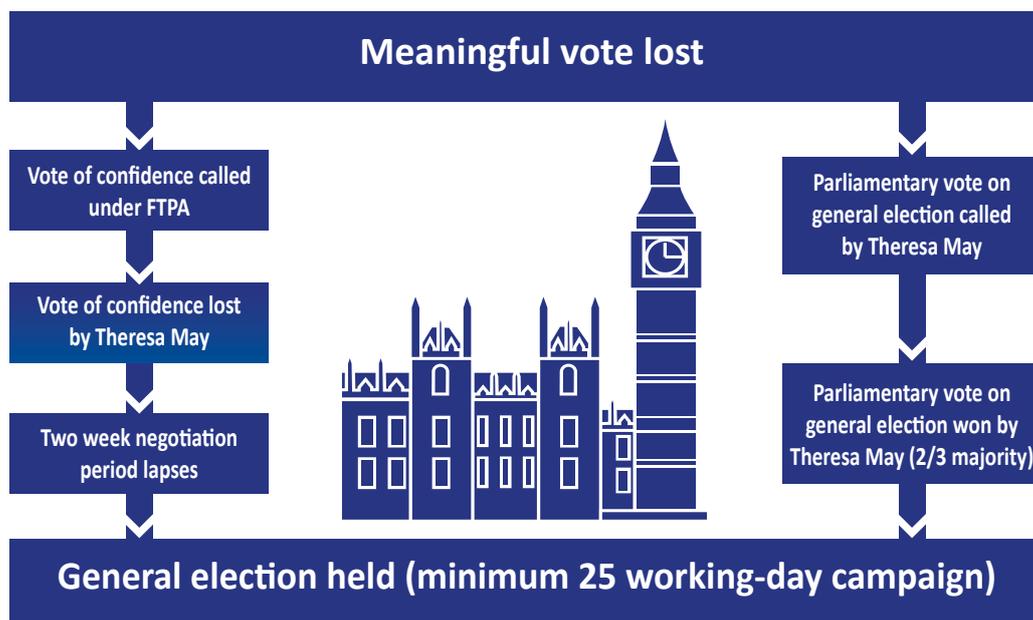
The Electoral Registration and Administration Act 2013 requires 25 working days for an election campaign. This is likely to mean that a general election would have to be forced before mid-February to take place at some point before the end of the Article 50 period.

5) In practice, an extension of Article 50 is necessary to hold a general election

Although a general election could be called and held relatively quickly – perhaps within the space of six weeks – in all likelihood we would end up with a new prime minister who would almost certainly want to renegotiate at least some aspects of the Brexit deal. Theresa May has made a commitment not to lead the Conservatives into the scheduled 2022 general election, but in practice this probably also applies to any earlier election.

Even if the Conservatives won, they would be led by a new prime minister who would want to distance themselves from Theresa May's unpopular deal and pursue a different approach, which will require more time. If Labour were to win a general election the party would have fought it on the grounds it was seeking a new negotiated settlement with the European Union. It can only be speculated on whether a general election would be seen as grounds to extend the Article 50 process. A short extension in these circumstances would be more likely than not.

General election under Fixed-term Parliaments Act





6: REVOKE ARTICLE 50

One of the uncertainties hanging over the Brexit process until recently had been whether the UK could revoke its notice to leave the EU unilaterally without needing the approval of the EU member states and/or institutions. This issue has now been settled following a [judgment](#) by the European Court of Justice in the case of *Wightman vs Secretary of State for Exiting the European Union*. That ruling said that a member state could unilaterally revoke its Article 50 notice once submitted as long as any withdrawal agreement had not entered into force and the Article 50 period had not expired. This means that revocation remains a live option in legal terms, despite seeming politically implausible.

Core facts:

1) The UK can revoke its notice to leave without the need for approval by the EU

The uncertainty about whether or not this was possible prior to the *Wightman* case derived from the absence of any explanation about how this process would work in the text of Article 50 itself – therefore, the ECJ was asked to fill in the silence in the treaty.

2) It would require an act of Parliament in the UK

Although Article 50 can be revoked by virtue of an ‘unequivocal and unconditional’ letter to the European Council, following the *Miller* case that preceded the triggering of Article 50 the government is unlikely to be able to rely on the prerogative to revoke. Parliament has already enacted the EU (Withdrawal) Act 2018, express legal intent to leave the EU and it is likely that the Government would need to pass an act of Parliament in order to gain the authority to submit such a letter.

3) The UK can remain in the EU on broadly the same terms

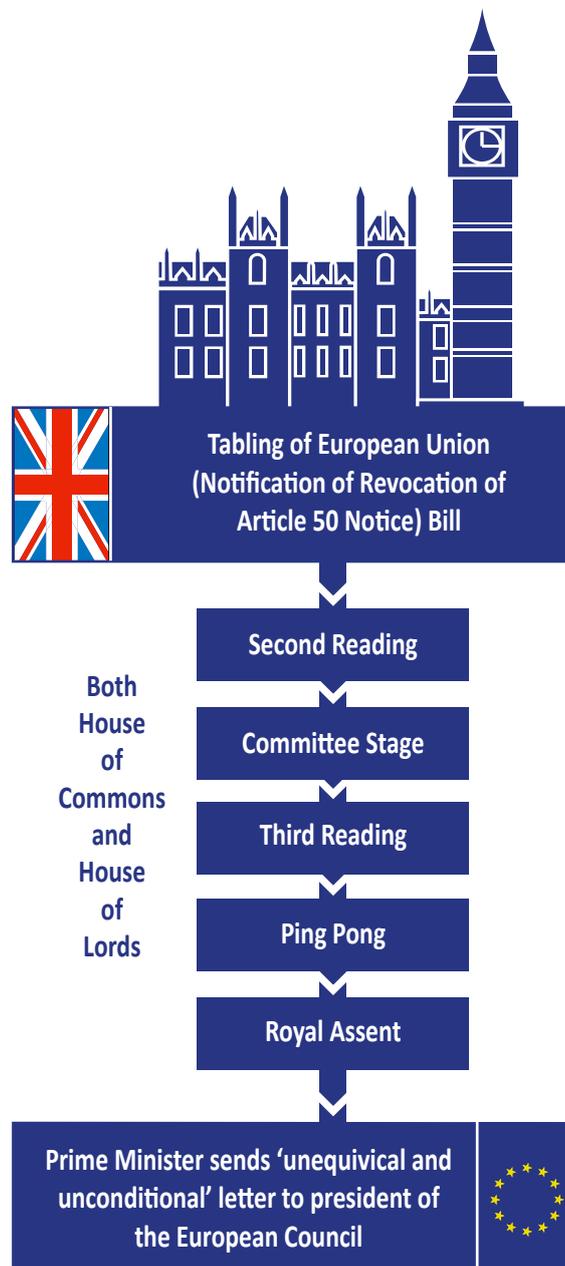
The *Wightman* case was also significant in that the ruling stated: “The purpose of ... revocation is to confirm the EU membership of the Member State concerned under terms that are unchanged.” This means that there is no ‘punishment’ for having triggered Article 50 and, except for any changes that might have taken place during the elapsed period under Article 50, member states can return to their previous terms of membership, including any carve-outs that member states might have had.

Of course, this does not rule out any political realignment that might have taken place in the meantime. This is most evident in the strengthening of the Hanseatic League of small northern, Scandinavian and Baltic member states since the UK triggered Article 50, who may then see the UK as an unreliable partner, especially if it planned to re-trigger Article 50 at a later date.

4) The government could revoke Article 50 and re-trigger it later, restarting the two-year negotiation period

Because the Wightman ruling made clear that ‘revocation brings the withdrawal procedure to an end’, any future letter re-triggering Article 50 would mean the start of an entirely new withdrawal period, lasting a further two years. There is nothing in the ruling that prevents a member state from triggering Article 50 multiple times or that sets conditions on doing so. In the event of revoking Article 50 the UK would remain an EU member state with the full rights and obligations that entails, including the right set out in Article 50 to withdraw from the Union. There is the possibility, however, that multiple Article 50 notifications would contravene the requirement for sincere co-operation among member states and could trigger a case at the ECJ against the UK.

Revoking Article 50





7: NATIONAL UNITY GOVERNMENT

This is clearly not a policy option in itself, but it is a significant and live development that could be an important part of advancing the Brexit endgame. Brexit divisions have already created new and – as yet – informal political alliances within Parliament. In light of the myriad complications these Brexit scenarios create, it is conceivable that a coalition of mostly backbench MPs from the opposition parties and the Conservatives could create a formal alliance in extremis as the Brexit endgame comes to a head. Although this is the least likely of the scenarios outlined here, it is plausible enough to warrant serious consideration.

Core facts:

1) A no confidence motion in the government would have to be passed by MPs first

The most likely context in which a ‘national unity government’ could be formed is in the two-week period following a no confidence vote in the government. In a scenario in which the government pursued a no deal exit, backbench MPs from across the House of Commons could club together to prevent this from happening by first declaring no confidence in the government and then entering negotiations to form an interim cross-party administration.

2) A ‘national unity government’ would then need to win a confidence motion in the House of Commons

Once a no confidence vote in the government has been passed, there is a two-week period in which another administration has to gain the confidence of the House of Commons through a further motion. If such a motion isn’t passed, a general election is automatically triggered. Therefore, a ‘national unity government’ would need either cross-party support – or a commitment from a large number of MPs to abstain – to gain the confidence of the House.

3) An official confidence motion would not have to be tabled by Jeremy Corbyn

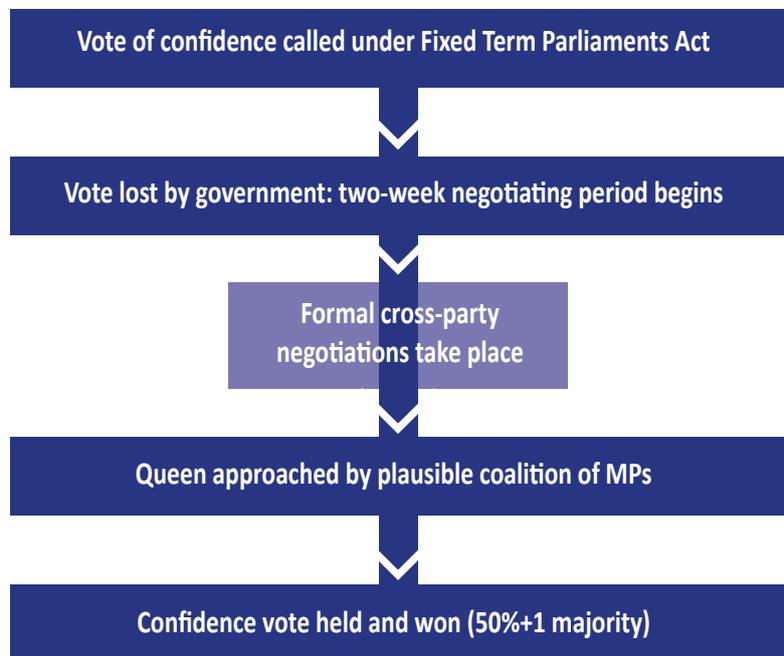
Unlike a no confidence motion, there is no stipulation that the leader of the opposition would have sole discretion to attempt to form a government. There would potentially be some pressure to let Labour try to form an administration with the confidence of Parliament. This would be up to the Monarch and would be the most obviously apolitical decision. However, were Jeremy Corbyn to fail, backbenchers would not be reliant on the leader of the opposition to table any further motion on their behalf, so an alternative prime minister and cross-party executive could emerge.

4) The EU would be unlikely to renegotiate with an unstable 'national unity government'

If it wanted to renegotiate the Brexit deal, any 'national unity government' would have to be able to demonstrate that it was stable enough to last for a period of months, and probably years, to be considered a reliable negotiating partner by the EU27. This would mean building a cross-party coalition not just to deal with the Brexit negotiations but also other domestic legislation that might arise or be necessary in the intervening period.

More likely, such a government would have a single purpose in mind, such as revoking Article 50 or calling a further referendum, and once this had been achieved would dissolve itself.

Path to 'national unity government'





The UK in a Changing Europe promotes rigorous, high-quality and independent research into the complex and ever changing relationship between the UK and the EU. It is funded by the Economic and Social Research Council and based at King's College London.

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