



BRIEFING PAPER

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What happens after an indecisive election result?

By Lucinda Maer
Gail Bartlett

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Summary

Following the 2017 general election, held on 8 June 2017, the Conservative Party was returned as the largest party, but did not have an overall majority in the House of Commons. Prior to the election it had a working majority of 13.¹ The Queen's speech is due to take place on 19 June 2017.

Most UK governments are based on the MPs of the government's party filling a majority of the seats in the House of Commons, and forming a government is relatively straightforward. When no single party holds a majority of seats, this is a hung parliament. In such a parliament, the formation of a government may be delayed. The formation will follow certain conventions and rules, and there are restrictions on government activity until a new administration is set up.

A total of 326 MPs are required for an overall majority in the House of Commons of 650 MPs. Taking into account non-voting MPs (the Speaker and the Deputy Speakers, two of whom will be from the opposition side and one from the Conservative Party) and seven Sinn Fein members elected who do not take their seats, a maximum of 639 MPs could participate in a division. So 320 Conservative MPs would be required for a working majority of one in the House of Commons in the 2017 Parliament. The Conservative Party, while the largest party in the House of Commons following the 2017 election, holds 317 seats including one Deputy Speaker,² not enough for a working majority.

On 9 June 2017, the Prime Minister Theresa May visited the Queen to inform her that she would seek to form a Government. The Prime Minister has indicated that the Conservative Party "will continue to work with our friends and allies in the Democratic Unionist Party".³ On 9 June 2017, Arlene Foster, the leader of the DUP, announced that she would hold discussions with the Conservative Party.⁴

The conventions on government formation are set out in Chapter 2 of the *Cabinet Manual*. Where no party has a majority, and until a new Prime Minister is appointed by the Queen, the incumbent Prime Minister remains in office. The *Cabinet Manual* states that the incumbent should resign if and when it becomes clear that they cannot command a majority of the House of Commons and there is a clear alternative government. There is no legal requirement for government formation to take place within a set number of days.

The Manual has been subject to some criticism over a lack of clarity about the rules regarding caretaker governments (the period between a general election and the formation of a new administration). There has also been some discussion of whether the date that Parliament meets for the first time following an election should be put on a statutory basis, rather than continue as a prerogative power, and whether it should be brought forward or be pushed back in the event of a hung parliament.

Historical information about hung parliaments, coalition agreements, and confidence and supply arrangements is available in the Library Standard Note [Hung Parliaments](#). Details

¹ A majority that takes into account the non-voting Speaker and their deputies, and non-sitting Sinn Fein MPs

² The Speaker has been erroneously reported as a Conservative MP in several media reports.

³ Prime Minister Theresa May, [PM statement: General election 2017](#), 9 June 2017

⁴ BBC News, [May to form 'government of certainty' with DUP backing](#), 9 June 2017

about the operation of the 2010 Conservative - Liberal Democrat Coalition Government are set out in the Library briefing the [*2010 Coalition Government at Westminster*](#).

1. Forming a government after a hung parliament

Summary

The *Cabinet Manual* is a guide to the rules, conventions and laws on the operation of government. It explains that the key principle of government formation is that, "A government holds office by virtue of its ability to command the confidence of the House of Commons chosen by the electorate in a general election".⁵

When there is a hung parliament (no overall majority for one party) the incumbent Prime Minister remains in office until it is clear that someone else would be able to form a new administration, either in a coalition government or a minority government that would be capable of gaining the confidence of the House of Commons. However, the UK's unwritten constitution means that the conventions on government formation develop over time and how they are applied will depend on the particular circumstances following a general election.

1.1 What kind of government can form?

The *Cabinet Manual* provides three broad types of government that can form where there is no overall majority for a party in the House of Commons:

- single-party, minority government, where the party may (although not necessarily) be supported by a series of ad hoc agreements based on common interests;
- formal inter-party agreement, for example the Liberal-Labour pact from 1977 to 1978; or
- formal coalition government, which generally consists of ministers from more than one political party, and typically commands a majority in the House of Commons.

It would appear from the Prime Minister's statement following the 2017 general election that the government will be one of the first two types, with the Conservative Party being supported by the Democratic Unionist Party (DUP).⁶

Arrangements short of a formal coalition can be described as a "confidence and supply" agreement, in which smaller parties agree to support another, larger party in critical votes, such as in votes of confidence and of finance ("supply") votes. In the wake of the 2017 general election, the Institute for Government has written on confidence and supply arrangements, highlighting that they provide security for the

⁵ HM Government, *The Cabinet Manual*, First Edition, October 2011, p12

⁶ BBC News, "[May to forge 'government of certainty' with DUP backing](https://www.bbc.com/news/uk-politics-40811111)", www.bbc.co.uk, accessed 9th June 2017

larger partner but can cause problems in areas not covered by the agreement.⁷

1.2 Historical precedents

The library briefing paper [Hung parliaments](#) contains further details on elections that have resulted in hung parliaments.

There are a handful of examples of hung parliaments in the 20th and 21st century. After the December 1923 general election, when Stanley Baldwin's Conservative Party entered the election with a majority which was lost, the Conservatives remained the largest party in terms of seats. Baldwin subsequently attempted to govern as a minority government, but a hostile amendment was made on the King's speech in January 1924. The amendment asserted:

it is our duty respectfully to submit to your Majesty that Your Majesty's present advisers have not the confidence of this House.⁸

The Government resigned and a Labour Party minority government under Ramsey McDonald took over.

It is arguable that, following the passage of the *Fixed-term Parliaments Act 2011*, a hostile amendment being made to the Queen's speech would not demand that the government resign, as it does not activate the provisions of the Act. However, the Act does not preclude a government reacting in this way, as it only regulates when an early election may take place. A backbench amendment was made to the vote on the Queen's speech in 2016 without the result of the Government resigning, however this amendment was not written as a notice of no confidence in the manner of the 1924 amendment.⁹

The December 1910 general election also resulted in a hung parliament and Arthur Balfour's Conservatives forming a Government with the support of the Irish Nationalists. However, in that case the Balfour Government also entered the election without a majority.

The October 1974 general election resulted in a Labour majority of only 3, which eventually became a minority Government through attrition. This resulted in the Lib-Lab pact in 1977 and, ultimately, a vote of no confidence in Jim Callaghan's Government in 1979. However, this is not directly comparable to the situation in 2017 due to the Government having initially been formed as a majority administration after the October 1974 election. Similarly, while the Major Government was a minority government by the time of the 1997 general election, it had started the 1992-97 Parliament with a majority that was subsequently lost by attrition.

⁷ Institute for Government, "[How to make a minority government work](#)", 9 June 2017

⁸ HC Deb [21 January 1924 vol 169 c679](#)

⁹ HC Deb [26 May 2016 vol 611 cc800-803](#)

1.3 When should an incumbent Prime Minister resign?

When hung parliaments occur as the result of a general election, the incumbent prime minister initially remains in office. The *Cabinet Manual* states that he or she should resign if and when it becomes clear that they cannot command a majority of the House of Commons and it is clear that a government led by someone else might be able to do so. The Manual does not provide detailed guidance on how and when this might be determined. This would be likely to depend on the particular circumstances at the time. The Manual explains that clear advice would need to be given to the Sovereign on who should be asked to form a government, and that the Sovereign would not have any role in the government formation negotiations.

The *Cabinet Manual* explains that when a range of different administrations could potentially be formed, parties may wish to hold discussions to establish who is best able to command the confidence of the House of Commons. It states that:

An incumbent government is entitled to wait until the new Parliament has met to see if it can command the confidence of the House of Commons, but is expected to resign if it becomes clear that it is unlikely to be able to command that confidence and there is a clear alternative.¹⁰

The *Cabinet Manual* acknowledges that the application of the principles of government formation “depends on the specific circumstances”:

... it remains a matter for the Prime Minister, as the Sovereign’s principal adviser, to judge the appropriate time at which to resign, either from their individual position as Prime Minister or on behalf of the government.¹² Recent examples suggest that previous Prime Ministers have not offered their resignations until there was a situation in which clear advice could be given to the Sovereign on who should be asked to form a government. It remains to be seen whether or not these examples will be regarded in future as having established a constitutional convention.

[FN 12: It has been suggested in evidence to select committees that the incumbent Prime Minister’s responsibility involves a duty to remain in office until it is clear who should be appointed in their place (Political and Constitutional Reform Committee (2011) *Lessons from the process of Government formation after the 2010 General Election* (HC528). London: The Stationery Office, paragraphs 16–22). Whether the responsibilities of the Prime Minister in these circumstances amount to a duty and how far they extend has been questioned, and the House of Lords Constitution Committee concluded that an

¹⁰ HM Government, [The Cabinet Manual](#), 2011, para 2.13

incumbent Prime Minister has no duty to remain in office following an inconclusive general election until it is clear what form any alternative government might take. (House of Lords Constitution Committee (2011) 12th Report: The Cabinet Manual (HL107). London: The Stationery Office, paragraph 61).]

Concerns were raised by the Political and Constitutional Reform Committee during the 2010 Parliament about the clarity of the guidance offered by the *Cabinet Manual* on the duty of the Prime Minister when it is not immediately clear who should form a government.¹¹ A Prime Minister might seek to resign before an alternative government has been able to muster enough support in the House of Commons to be confident that it could command a majority. Conversely, a Prime Minister might stay in post to test the view of the House of Commons on the vote on the Address after the Queen's Speech.

Neither scenario would be unprecedented. Following the 1923 election, Stanley Baldwin remained in office to see if he could obtain the confidence of the majority of the House of Commons which he did not. In fact all of the outgoing Prime Ministers in 1929, 1974 and 2010 resigned prior to the new Parliament first meeting.¹²

The Committee stated that:

We heard from many of our witnesses that it is important for the incumbent Prime Minister to remain in post whilst negotiations on who will be able to form the next Government are taking place. Dr Petra Schleiter and Valerie Belu stated, "To ensure effective governance in the transition period, it is essential that the Prime Minister and government do not resign until the next regular government has been formed".

The Cabinet Secretary recognised that there is some debate over whether there is a duty on the incumbent Prime Minister to remain in office after the General Election. He acknowledged that the Cabinet Manual currently recognised different views and that "the passage of time will determine whether or not what happened last time around will become a constitutional convention". He went on to praise Gordon Brown for staying in office in May 2010 until it was clear that someone else was in a better position to form an administration.¹³

The Political and Constitutional Reform Committee considered the right of the incumbent Prime Minister to remain in office and concluded that there was a duty on the incumbent Prime Minister to remain in office

¹¹ Political and Constitutional Reform Committee, [Government formation post-election](#), 26 March 2015, HC 1023 2014-15

¹² Bradley, Ewing and Knight, *Constitutional and Administrative Law*, 16th Ed. (2015), p 242

¹³ Political and Constitutional Reform Committee, [Government formation post-election](#), 26 March 2015, HC 1023 2014-15, paras 29-30

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until it was clear which Government would command the majority of the House of Commons:

Should the outcome of the 2015 election result in a House of Commons with no overall majority, the public and media should expect to see the incumbent Prime Minister remain as Prime Minister, in 10 Downing Street, even if there is little prospect that he will be able to form an administration. The incumbent Prime Minister should remain in office until it is clear that a new administration is in a position to form a Government which will command the confidence of the House of Commons. Indeed, we consider that there is a duty on him to stay in place until such time.¹⁴

1.4 How long does government formation take?

There is no legal requirement for government formation to take place within a set number of days.

In 2010, there were 5 days between the general election and the formation of the Conservative - Liberal Democrat coalition. The General Election had taken place on 6 May, and Gordon Brown resigned as Prime Minister on 11 May 2010. David Cameron was appointed as Prime Minister shortly after Gordon Brown's resignation. An initial coalition agreement was reached on 11 May 2010. A fuller agreement, *The Coalition: Our programme for Government*, was published on 20 May 2010. A Liberal Democrat Special Conference approved the Coalition Agreement at a meeting in Birmingham on 16 May 2010. The Queen's Speech took place on 25 May 2010.

Further detail on the example of the 2010 election is available in the Standard Note the [2010 Coalition Government at Westminster](#).

1.5 Internal party consultation

Following the 2010 general election, the Liberal Democrats were the only party amongst those involved in negotiations who had clear commitments and procedures in place to consult with their parliamentary party and with party members more widely. In 2010, the Liberal Democrat parliamentary party had convened in Westminster on the Saturday following the election and met regularly until the initial coalition agreement was approved by the Federal Executive on Tuesday 11 May. On Saturday 16 May, the party held a special conference in Birmingham at which the coalition agreement was approved.

The Political and Constitutional Reform Committee took evidence from party representatives as part of its inquiry into government formation

¹⁴ Political and Constitutional Reform Committee, [Government formation post-election](#), 26 March 2015, HC 1023 2014-15,, para 33

post-election. It noted that the Labour Party had updated its standing orders to require the party leader to consult with both the parliamentary party and the Party's National Executive Committee. The then Chair of the 1922 Committee, Graham Brady, told the Committee that arrangements had been made to communicate the views of Conservative backbench MPs to the leadership throughout the negotiations. Likewise, the Labour Parliamentary Committee could call a meeting at any time to make concerns known to their leadership. The Liberal Democrats have refined their own consultation mechanisms with party bodies nominating smaller groups to liaise with the negotiating team.

In the case of the 2017 general election, it is so far unclear what internal party consultation will need to take place between any parties forming a majority in the House of Commons.

1.6 Role of the House of Commons

The House of Commons administration plays no formal part in the process of government formation, other than being the chamber which, ultimately, the government must be able to command the confidence of.

Rooms are made available for parties to hold negotiations both with each other and internally. During the 2010 negotiations, meetings between the Labour and Liberal Democrat negotiating teams took place in Parliament.¹⁵

1.7 Effects of the *Fixed-term Parliaments Act 2011*

The 2017 general election is the first general election that has returned no single-party majority in the House of Commons following the *Fixed Term Parliaments Act 2011*. The provisions of the Act may have implications for whatever government is formed. Further detail on the Act are provided in the Library briefing [Fixed Term Parliaments Act](#).

There are only two circumstances in which an early general election can take place under the provisions of Section 2 of the Act:

- The House of Commons passes a motion "That there be an early parliamentary general election" either without a division or with a number of MPs equal or more than two thirds of seats in the House voting in favour. This was the means by which the 2017 general election occurred.

¹⁵ The meetings between the Labour and Liberal Democrat negotiating teams took place in a conference room in Portcullis House that was part of the Liberal Democrat allocation of office space. For a full account of these meetings see David Laws, *22 Days in May: The birth of the Lib Dem-Conservative Coalition*, 2010

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- The House of Commons passes a motion “That this House has no confidence in Her Majesty’s Government”, and that the House does not subsequently, within two weeks of passing the first motion, pass another motion “That this House has confidence in Her Majesty’s Government”. This provides a period of time for an alternative government to be formed, or for the government to regain the confidence of the House of Commons. These provisions have never been tested.

This represents a change from the situation before the 2011 Act, where a no-confidence vote alone would allow a Prime Minister to resign and an election to be called. In the case of the minority government under Jim Callaghan in 1979, the withdrawal of Liberal support and the resulting vote of no confidence in the government led to the Prime Minister’s resignation and a subsequent general election.¹⁶

In Theresa May’s statement following meeting with Her Majesty on 9 June 2017, she indicated that a Conservative government would be formed “for the next five years”.¹⁷

The Conservative Party 2017 manifesto contained a pledge to repeal the *Fixed-term Parliaments Act 2011*.¹⁸

¹⁶ HC Deb 28 March 1979 vol 965 cc461-590

¹⁷ BBC News, “[May to forge ‘government of certainty’ with DUP backing](#)”, www.bbc.co.uk, accessed 9th June 2017

¹⁸ The Conservative and Unionist Party, [The Conservative and Unionist Party Manifesto 2017](#), May 2017, p 43

2. “Caretaker” administrations

2.1 What is a “caretaker” administration?

If an election results in no single party having a majority in the House of Commons, the incumbent government remains in office until a new administration is formed. During this period the government is often referred to as a ‘caretaker’ administration. The *Cabinet Manual* does not use the word “caretaker” to describe this period, but states that, “As long as there is significant doubt following an election over the Government’s ability to command the confidence of the House of Commons, certain restrictions on government activity apply”.¹⁹

The 2017 Queen’s Speech is due to take place on 19 June 2019. The debate in the Commons on the Address usually lasts six sitting days. At the end of the debate, the Address can be subject to a vote on amendments to it.²⁰ This vote has historically been treated as an important symbolic test of the ability of a Government to command the confidence of the House. The *Cabinet Manual* implies that the restrictions can either be lifted after such a test or “when a new Prime Minister is appointed”.²¹

It had been widely reported that Article 50 negotiations with the EU were due to begin on 19 June 2017.²²

2.2 The nature of the restrictions on government action

The *Cabinet Manual* includes details of the restrictions on government activity. It states that during the period when Parliament is dissolved (both the pre-election and post-election periods), the Government should avoid making decisions that would bind any future government:

While the government retains its responsibility to govern and ministers remain in charge of their departments, governments are expected by convention to observe discretion in initiating any new action of a continuing or long-term character in the period immediately preceding an election, immediately afterwards if the result is unclear, and following the loss of a vote of confidence. In all three circumstances essential business must be allowed to continue.²³

¹⁹ HM Government, [The Cabinet Manual](#), 2011, para 2.16

²⁰ Subject to selection by the Speaker votes could take place before the final day of debate on the Address

²¹ HM Government, [The Cabinet Manual](#), 2011, para 2.30

²² Reuters, [EU eyes start of Brexit negotiations on June 19](#), 19 May 2017

²³ *Ibid*, para 2.27

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The Manual then goes into further detail about the period between the start of an election period and polling day (known as “purdah” and the pre-election period) before commenting that if there is a situation when there is “significant doubt over the Government’s ability to command the confidence of the House of Commons, many of the restrictions ... continue to apply”. The restrictions are described as follows:

...This means the deferral of activity such as: taking or announcing major policy decisions; entering into large/ contentious procurement contracts or significant long-term commitments; and making some senior public appointments and approving Senior Civil Service appointments, provided that such postponement would not be detrimental to the national interest or wasteful of public money. If decisions cannot wait they may be handled by temporary arrangements or following relevant consultation with the Opposition.²⁴

The Institute for Government has expressed concern about the guidance offered on the activities of caretaker administrations, arguing that ambiguity could lead to “confusion and controversy in the event of an incumbent government being called into action while government-formation negotiations continue”.²⁵ The Institute points to experience in New Zealand where in 1984 the outgoing Prime Minister was urged to devalue the NZ dollar in line with the incoming Government’s policies but he refused to do so. When he relented three days later, the cost of his reluctance was put at around 2% of the GDP of NZ at the time.

Shortly after the 2010 general election the Chancellor of the Exchequer, Alistair Darling, attended an urgent meeting of EU finance ministers to discuss the bailout for the euro, and committed the UK to the deal. Mr Darling consulted his Conservative and Liberal Democrat counterparts before the meeting. Petra Schleiter and Valerie Belu have commented that at the time there was no constitutional convention preventing him from making substantial commitments that would have bound the incoming government.²⁶

2.3 When do the restrictions end?

The *Cabinet Manual* states that when the caretaker period ends, “depends on circumstance, but may often be either when a new Prime Minister is appointed by the Sovereign or where a government’s ability to command the confidence of the Commons has been tested in the House of Commons”.²⁷ The Institute for Government has commented

²⁴ *Ibid*, para 2.29

²⁵ Akash Paun, [Westminster in an age of minorities](#), Institute for Government, 2015, p18-19

²⁶ “Avoiding Another “Squatter in Downing Street” Controversy: The need to improve the caretaker conventions before the 2015 general election”, by Petra Schleiter and Valerie Belu, *Political Quarterly*, Vo. 85, No. 4, October –December 2014, p454

²⁷ HM Government, [The Cabinet Manual](#), 2011, para 2.30

that although a degree of flexibility is appropriate, “in the event of a lengthy period of uncertainty after the election, the risk is that the current wording could create scope for confusion and ill-informed media coverage (as when Gordon Brown was accused of being a ‘squatter’ in Downing Street)”.²⁸

²⁸ Akash Paun with Charlie Mitchell, [Westminster in the age of minorities](#), 2015, p20

3. The meeting of a new Parliament

3.1 When does a Parliament return?

Although the *Fixed-term Parliaments Act 2011* removed the prerogative power to dissolve Parliament it did not alter the prerogative power to summon Parliament. The date of the first meeting of a new Parliament is therefore still determined by a proclamation issued by the Sovereign, on the advice of the Prime Minister. The date of the Queen's Speech, which opens the Parliamentary session, has after recent elections been announced in a Press Notice the day after Parliament has been dissolved. Neither the old nor new Parliament has any formal say in the choice of the date.

In 2017 Parliament was prorogued on 27 April and dissolved on 3 May. Parliament is due to return for election of a Speaker on 13 June 2017, and the Queen's Speech is set for 19 June 2017.

In 2015, Parliament was prorogued on Thursday 26 March before dissolution took place just after midnight at the beginning of Monday 30 March. A [press notice](#) was issued that evening that announced that Parliament would meet again on 18 May 2015 and that the Queen's Speech would take place on 27 May.²⁹ In 2010 the meeting of Parliament took place 12 days after the General Election and the Queen's speech took place 7 days after that.

It used to be the case that Parliament returned just five or so days after a general election. In 2010, a decision was taken to extend this period in response to a recommendation of the House of Commons Modernisation Committee to allow for the induction of new Members at the start of a Parliament. However, the 2017 parliament is meeting only five days after the election, with the Queen's speech 6 days after that.

The Political and Constitutional Reform Committee argued that, as a matter of principle, the date of the meeting of Parliament should not be a matter for the incumbent Prime Minister at dissolution, but should be put in statute. This would perhaps give greater certainty, but this would possibly be at the expense of the flexibility offered by the current system. It would also remove the prerogative from this area of the constitution, passing control to Parliament.

The Political and Constitutional Reform Committee also argued that in the event of a hung parliament, Parliament should return as soon as possible to allow the House of Commons to debate issues surrounding

²⁹ [State Opening of Parliament to take place on 27 May](#), 26 March 2010

the formation of the Government. The Committee argued that induction of new Members could run alongside debates in the Chamber on government formation. It recommended that:

transparency is paramount, and a newly elected Parliament should be as informed and involved as possible in any negotiations surrounding the formation of the new government. It is important that the House of Commons should be able to publicly debate important issues surrounding the formation of government at the earliest opportunity.³⁰

³⁰ Political and Constitutional Reform Committee, [*Government formation post-election*](#), 26 March 2015, HC1023 2014-15, para 54

4. The Queen's Speech

4.1 When does the Queen's Speech take place?

The Government has announced that for the 2017 Parliament State Opening and the Queen's Speech will take place on 19 June 2017.

The *Cabinet Manual* states that "Normally the Queen's Speech outlining the Government's legislative programme will take place in the second week of Parliament's sitting and is followed by four or five days of debate. This is when the business of the new Parliament properly begins".³¹ It is possible to delay the timing of the Queen's Speech, subject to the Monarch's diary.

4.2 The debate on the Address

When the Queen's Speech has been read, an Address in answer to it is moved in both Houses. Erskine May explains that:

Two Members in each House are selected by the Government for moving and seconding the Address, which is moved in the form of a resolution expressing thanks to the Sovereign for the most gracious speech addressed to both Houses of Parliament, and amendments by way of additions to the resolution may be moved.³²

Standing Order No 33 provides for a maximum of four amendments to the Address to be selected by the Speaker for debate and vote. None can be moved before the penultimate day of debate on the Queen's Speech. An Opposition amendment is considered (and voted on) on the penultimate day of debate and on the final day of debate, another Opposition amendment is voted on and the Speaker also has the power to allow two further divisions on amendments.³³

There has been some debate about whether losing a vote on the Queen's Speech would require the resignation of the Government, with the Institute for Government stating that: "The Queen's Speech vote would not qualify as a no confidence motion under [*the Fixed-term Parliaments Act 2011*]. However, the weight of history and political pressure would nonetheless be likely to force the resignation of the government in the event of a defeat".³⁴

Under the [Fixed-term Parliaments Act 2011](#), if a motion of no confidence is passed, and within 14 days no motion of confidence in a government

³¹ HM Government, *The Cabinet Manual*, Para 2.6

³² Erskine May, Twenty-fourth edition, 2011, p160

³³ See [Standing Order No. 33](#) and Library Standard Note, [Standing Order No 33](#)

³⁴ Akash Paun with Charlie Mitchell, [Westminster in the age of minorities](#), 2015, p12

has been passed, a general election would occur. The [Fixed-term Parliaments Act 2011](#) specifies a form of words that a confidence motion must take. A motion under the Act must state:

That this House has no confidence in Her Majesty's Government.³⁵

In 1924 the Conservative Prime Minister, Stanley Baldwin, lost his majority in a general election. He continued in office after the election as the Conservatives remained the largest party in the Commons. He was forced to resign after the motion on the Address was amended to include the words, "But it is our duty respectfully to submit to your Majesty that Your Majesty's present advisers have not the confidence of this House". The amendment was carried, and the Address, as amended, was then agreed to.³⁶ There was no requirement for a further speech from the Throne as Parliament had already been opened by the King. In 1894, the Queen's speech was amended, but the Address, as amended, was negatived. Another Address was proposed by the Leader of the House and agreed to.³⁷

More information about the 2011 Act is available in the Library briefing [The Fixed-term Parliaments Act 2011](#). Further information about confidence motions is available in the Library briefing [Confidence Motions](#).

³⁵ [Fixed-term Parliaments Act 2011](#), s2

³⁶ [HC Deb 21 January 1924 vol 169 cc532-685](#)

³⁷ See Erskine May, 24th edition, p160, fn84 and [HC Deb 13 March 1894 c205](#) and the [Commons Journal](#), 1894

5. An investiture vote?

The mixture of prerogative power, constitutional convention and statutory provision surrounding the ending of one Parliament and Government and the beginning of the next has arguably become more complex since the *Fixed-term Parliaments Act 2011* was passed.³⁸ The conventions on who should be called to form a Government and what should happen in the event of a defeat on the Address following the Queen's speech have not been tested in recent times.

The Institute for Government published a report in March 2015 that called for an investiture vote to take place: a vote specifically on the question of who should become the Prime Minister. The Institute for Government commented that:

In the longer term, we favour a new system whereby the first business of the House of Commons is an explicit vote on who should become Prime Minister (as in Scotland). This would be more transparent and comprehensible, and would make clear that a government is formed on the basis of its support in the Commons, not at the discretion of the Queen.³⁹

The Institute went further, stating that "legislation could formally abolish the royal prerogative to appoint the Prime Minister and grant this power formally to the House of Commons". The main advantage, it argues, would be that the public would have a better understanding of who governs, and it would "help insulate the Queen from ill-informed speculation about monarchical influence on the government formation process".⁴⁰

The Political and Constitutional Reform Committee considered this proposal, concluding that an investiture vote "would give a clear signal that the person appointed as Prime Minister by the Queen would indeed have the confidence of the House and would be able to govern".⁴¹ It also argued that such a vote would give a clear and decisive indication that a caretaker period had ended. It recommended that steps should be taken to introduce such votes for incoming governments in future.

³⁸ Former Government lawyer Carl Gardner has argued that the *Fixed-term Parliaments Act 2011* has changed the way in which the principle of confidence is understood. He argues that votes that would, before 2011, be understood as matters of confidence, such as the vote on intervention in Syria in 2013, are now no longer regarded as such see: Kasim Khorasane, [Re-assessing the \(not so\) Fixed-term Parliaments Act](#), June 1 2017.

³⁹ Akash Paun with Charlie Mitchell, *Westminster in the age of minorities*, 2015, p2

⁴⁰ *Ibid*, p13

⁴¹ Political and Constitutional Reform Committee, [Government formation post-election](#), 26 March 2015, HC1023 2014-15, para 61

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