Brexit reading list: legal and constitutional issues

Contents:
1. The EU referendum
2. Article 50 TEU: role of UK Parliament
3. High Court Judgement on Miller v. Secretary of State for Exiting the European Union
4. Second referendum?
5. EU law in the UK
6. Exit negotiations
7. Impact of Brexit on the EU
8. UK’s future relations with the EU
9. Scotland
10. Wales
11. Northern Ireland
12. Library papers and parliamentary reports (various subjects)
Contents

Summary 3

1. The EU referendum 4
2. Article 50 TEU: role of UK Parliament 5
3. High Court Judgement on Miller v. Secretary of State for Exiting the European Union 8
4. Second referendum? 9
5. EU law in the UK 10
6. Exit negotiations 11
7. Impact of Brexit on the EU 13
8. UK’s future relations with the EU 14
9. Scotland 15
10. Wales 16
11. Northern Ireland 17
12. Library papers and parliamentary reports (various subjects) 18
   12.1 Library papers 18
   Commons & Lords Committee reports 19
Summary

In the referendum on 23 June 2016, a majority of the UK electorate voted to leave the EU. UK withdrawal from the EU – usually described as ‘Brexit’ – has been the subject of a great deal of comment in books, journal articles, press reports and blogs.

This paper provides information on and/or links to a selection of analysis and comment on:

- the EU referendum (for a pre-referendum reading list, see Commons Briefing Paper 7220, Reading list on UK-EU relations 2013-16: reform, renegotiation, withdrawal, 24 June 2016)
- constitutional and legal issues surrounding UK withdrawal
- the triggering of Article 50 of the Treaty on European Union (TEU), which will start the withdrawal process
- the role of the UK Parliament in triggering the process and in the negotiations
- the possibility of a second referendum on a withdrawal agreement
- how the UK Government and Parliament deal with EU legislation
- the impact of Brexit on the rest of the EU
- the UK’s future relations with the EU
- issues for Scotland, Wales and Northern Ireland.

There is also a list of Library briefing papers and parliamentary committee reports.

This paper will be updated periodically.
1. The EU referendum


Aftab Ali, *Remain and Leave students say universities failed to provide adequate information on impact of Brexit result*, Independent, 29 June 2016

Vernon Bogdanor, *The EU referendum shows how the sovereignty of Britain’s people can now trump its Parliament*, Telegraph, 26 June 2016


*Eight reasons Leave won the UK’s referendum on the EU*, BBC News, 24 June 2016

2. Article 50 TEU: role of UK Parliament


Five members of Brick Court instructed in landmark Article 50 case, Brick Court Chambers, 14 October 2016


Jean-Claude Piris, *Article 50 is not for ever and the UK could change its mind*, Financial Times, 1 September 2016 (Subscription required)


Guillaume Van der Loo and Steven Blockmans, *The Impact of Brexit on the EU’s International Agreements*, Centre for European Policy Studies, 15 July 2016

Pavlos Eleftheriadis, John Armour, Luca Enrique, Rebecca Mooney, Rebecca Williams, Alison Young, *Legal Aspects of Withdrawal from the EU: A Briefing Note*, Oxford University Legal Research Paper series, 14 July 2016

Sarah Abram, *Effect of EU referendum on cases involving EU courts*, Brexit.law, 7 July 2016
Gareth Davies, *Union Citizenship – still Europeans’ destiny after Brexit?* European Law blog, 7 July 2016

Donal Coffey, *Brexit and Art. 50: the Key lies in Luxembourg,* Verfassungsblog, 6 July 2016

Patrick Wintour, *Brexit can be started without parliament vote, government lawyers say,* Guardian, 5 July 2016

Pavlos Eleftheriadis, *A new referendum is a constitutional requirement,* Oxford Law, 4 July 2016

Owen Bowcott, *UK government faces pre-emptive legal action over Brexit decision,* Guardian, 4 July 2016

*Leaving the EU: Parliament’s Role in the Process,* Lords Library note, 4 July 2016

Andrew Duff, *Everything you need to know about Article 50 (but were afraid to ask),* Verfassungsblog, 4 Jul 2016

*Article 50 process on Brexit faces legal challenge to ensure parliamentary involvement,* Mishcon de Reya, 3 July 2016, and *Q&A: Article 50 Legal Challenge*

Jo Murkens, *Westminster must choose between leaving the EU and retaining the UK,* London School of Economics, 2 July 2016

Alison Young, *Brexit, Article 50 and the ‘joys’ of a flexible, evolving, uncodified constitution,* UK Constitutional Law Association, 1 July 2016

Mark Elliott, *On why, as a matter of law, triggering Article 50 does not require Parliament to legislate,* Public Law for Everyone, 30 June 2016 + comment from Paul Evans, 4 July 2016

Clive Coleman, *Can the law stop Brexit?*, BBC News, 30 June 2016

*Brexit: how does the Article 50 process work?* Commons Briefing Paper 7551, 30 June 2016

*Brexit: what happens next?* Commons Briefing Paper 7632, 30 June 2016


Jolyon Maugham, *The big green button Bill,* Musings on Tax blog, 28 June 2016

Nick Barber, Tom Hickman and Jeff King: Pulling the Article 50 ‘Trigger’: Parliament’s Indispensable Role, UK Constitutional Law Association, 27 June 2016

Jo Murkens, Brexit against the wishes of Scotland and Northern Ireland would violate the UK’s constitutional settlement, London School of Economics, 27 June 2016

Michael Keating, Brexit reflections – out means out, Centre on Constitutional Change, 27 June 2016


Sarah Gordon, Untangling Britain from Europe would cause constitutional ‘havoc’, Financial Times, 20 June 2016 (Subscription required)

Lawrence Freedman, Brexit and the law of unintended consequences, IISS Survival, Vol 40 No. 3, June-July 2016

Erik Jones, Brexit’s lessons for democracy, IISS Survival Vol 58 No. 3, June-July 2016


Catherine Barnard, The constitutional practicalities of leaving the EU, Economic and Social Research Council, 18 May 2016

3. High Court Judgement on Miller v. Secretary of State for Exiting the European Union

Permission to appeal – R (Miller & Dos Santos) v Secretary of State for Exiting the European Union, UK Supreme Court Blog, 9 November 2016

David Feldman, Brexit, the Royal Prerogative, and Parliamentary Sovereignty, UK Constitutional Law Association, 8 November 2016

Nick Barber and Jeff King, Responding to Miller, UK Constitutional Law Association, 8 November 2016

Mark Elliott and Hayley J. Hooper, Critical reflections on the High Court’s judgment in R (Miller) v Secretary of State for Exiting the European Union, UK Constitutional Law Association, 7 November 2016

Francesca Strumia, In-Between the Lines of the High Court Brexit Judgment: EU Transnational Rights and their Safeguards, EU Law Analysis

Richard Lang, The Article 50 Litigation and the Court of Justice: Why the Supreme Court must refer, Verfassungsblog, 6 November 2016

Adam Tomkins, Brexit, Democracy and the Rule of Law, Verfassungsblog, 6 November 2016

Carl Gardner, Why the High Court got the law wrong about Brexit, Head of Legal, 4 November 2016

Mark Elliot, The High Court’s judgment in Miller: A brief comment, Public Law for Everyone, 4 November 2016


Tobias Lock, The High Court’s Judgment in Miller and Others – four brief remarks, Verfassungsblog, 3 November 2016

Jack Simson Caird, Brexit, Parliament and the prerogative, House of Commons Library blog, 3 November 2016

R (Miller) -v- Secretary of State for Exiting the European Union, Courts and Tribunals Judiciary, 3 November 2016
4. Second referendum?

Oscar Williams-Grut, Legal experts: There should be a second Brexit referendum — but there probably won’t be, Business Insider, 10 July 2016

Brexit: Case for a Second Referendum, Lords debate, 7 July 2016

Oscar Williams-Grut, DEUTSCHE BANK: There will be a 2nd referendum — just not the one you expect, Business Insider, 6 July 2016

Pavlos Elephteriadis, Second referendum probably legally required, InFacts, 6 July 2016


Mark Elliott, Brexit: Should there, and does there have to, be a second referendum? Public Law for Everyone, 8 July 2016

There’s a democratic case for a second referendum - this is how it can be done, New Statesman, 6 July 2016

The referendum result is binding, Lawyers for Britain (Undated)

Adam Wagner, Would a second EU referendum be undemocratic? UK Human Rights blog, 28 June 2016
5. EU law in the UK


Sarah Gordon, *Untangling Britain from Europe would cause constitutional ‘havoc’*, Financial Times, 20 June 2016 (Subscription required)

Catherine Barnard, *The constitutional practicalities of leaving the EU*, Economic and Social Research Council, 18 May 2016


Brexit - the potential impact on the UK’s legal system, Taylor Wessing, 3 May 2016

Brexit - amending UK domestic law before withdrawal, Lawyers for Britain, (undated)
6. Exit negotiations

Legal Brexit, Slaughter and May, 1 November 2016

Brexit and Beyond: how the United Kingdom might leave the European Union, The UK in a Changing Europe, November 2016

Kenneth Armstrong, On your marks, get set LEAVE! The technical challenge of the Great Repeal Bill, LSE Blog, 7 October 2016

Andrew Tyrie, Giving meaning to Brexit, Open Europe, September 2016

A Brexit Act in 19¾ pages, Allen & Overy LLP, 30 August 2016


Robin Niblett, Preparing for the UK’s Brexit Negotiation, RIIA, 5 August 2016

Raoul Ruparel, What will actually be negotiated once Article 50 is triggered? Open Europe, 13 July 2016

Patrick Wintour, Brexit could take up to six years to complete, says Philip Hammond, Guardian, 12 July 2016

Tara Palmeri, Brexit roadmap: A guide to what happens next, Politico, 4 July 2016

Brexit: how does the Article 50 process work?, House of Commons Library, 30 June 2016

Alex Barker, What a British divorce from the EU would look like, Financial Times, 28 June 2016

Brexit: Germany rules out informal negotiations, BBC News, 27 June 2016

Akash Paun, Brexit consequentials: why the UK must involve the devolved governments in the process of leaving the EU, Institute for Government, 24 June 2016

The UK has voted to leave the EU: What now? Latham & Watkins, 24 June 2016

Jonathan Eyal, Negotiating Britain’s EU departure: from tears to hard-headed calculations, RUSI, 24 June 2016

Matt Ross, Brexit will be ‘largest legal, legislative and bureaucratic project in British history’, says former UK Treasury Solicitor, Global Government Forum, 24 June 2016
Raoul Ruparel, *Leaving the EU: what comes next for the UK?* Open Europe, June 2016


Jean-Claude Piris, *If the UK voted to leave: The seven alternatives to EU membership*, Centre for European Reform, January 2016
7. Impact of Brexit on the EU

Facing the unknown: building a progressive response to Brexit, Fabian Society, 16 September 2016

Brian Hayes MEP, Ireland’s contribution to EU budget will increase post Brexit by an extra €138 million, 2 October 2016

Merkel and Hollande urge “clear vision” for Europe’s future, as Tusk calls for “realistic diagnosis” of the causes of Brexit, Open Europe, 16 September 2016

EU Strives for Unity Minus U.K. With Leaders Focused on Security, Bloomberg, 16 September 2016

European Commission sets up Task Force led by Michel Barnier as Chief Negotiator for the Preparation and Conduct of the Negotiations with the United Kingdom, European Commission, 14 September 2016

Allan Matthews, Impact of Brexit on the EU budget, CAP reform.EU, 10 September 2016

Barbara Böttcher & Laura Rosenberger, EU budget: Who’s to pay for Brexit? Deutsche Bank research, 26 August 2016

EU leaders pledge Brexit will not weaken bloc. France, Germany and Italy declare their common commitment to European integration, Financial Times, 22 August 2016 (Subscription required)

Pénélope Debreu, Brexit: les opportunités d’une Europe sans Royaume-Uni, Terra Nova, 12 July 2016


Charles Grant, The impact of Brexit on the EU, Centre for European Reform, 24 June 2016

Global Counsel, Brexit: the impact on the UK and the EU, Global Counsel, June 2015

Oliver Patel & Christine Reh, Brexit: the consequences for the EU’s political system, UCL Constitution Unit, 2016

Reuters, From budget to banks: how Brexit could impact the EU economy, Reuters, 14 April 2016
8. UK’s future relations with the EU

EU Council, Letter from President Donald Tusk before the Bratislava summit, 13 September 2016


Quentin Peel, Britain’s new global role after Brexit, The World Today, RIIA, August/September 2016


Robyn Munro, Dr Hannah White, Brexit Brief: Options for the UK’s future trade relationship with the EU, Institute for Government, 4 August 2016

Thierry Chopin, Jean-François Jamet, After the UK’s EU referendum: redefining relations between the two Europees, Fondation Robert Schuman, European Issue No 399, 5 July 2016

Guillaume Van der Loo and Steven Blockmans, The Impact of Brexit on the EU’s International Agreements, Centre for European Policy Studies, 15 July 2016


Peter Ungphakorn, Nothing simple about UK regaining WTO status post-Brexit, International Centre for Trade and Sustainable Development, 27 June 2016
9. Scotland


Iain McIver, *The United Kingdom’s Departure from the EU: the latest developments*, Scottish Parliamentary Information Centre, 22 September 2016; *update*, 15 September


Michael Keating, *Brexit Reflections – how could Scotland remain in the EU?* Economic and Social Research Council, 8 July 2016

Eve Hepburn, *Brexit Reflections – “We won’t let you down!” Scotland’s approach to EU nationals*, Economic and Social Research Council, 6 July 2016

David Eiser, *Fiscal implications for the Scottish Government*, Fraser of Allander Institute, 6 July 2016

Eve Hepburn, *We want to stay in the EU – how can we do it?* The National, 29 June 2016


Craig McAngus, *What does Brexit mean for those campaigning for Scottish independence?* Centre on Constitutional Change, 28 June 2016

Mark Elliott, *Can Scotland block Brexit?* Public Law for Everyone, 26 June 2016


Craig McAngus, *Scottish independence back in pay after Brexit shock – with a note of caution*, Centre on Constitutional Change, 24 June 2016
10. Wales


Ian Jones, *What will Brexit mean for Wales?* Public Policy Institute for Wales, 28 July 2016


Gareth Evans, *Brexit in Wales: highlighting the failures of Welsh devolution?* Economic and Social Research Council, 27 June 2016

Victoria Winckler, *What’s next after the vote to leave the European Union?* Bevan Foundation, 27 June 2016

*Wales and the EU: What does the vote to leave the EU mean for Wales?* National Assembly for Wales Research Service, June 2016
11. Northern Ireland

Northern Ireland Assembly Research and Information Service, EU Referendum Update, NIAR 311-16, Research Paper 46/16 30 August 2016

Professor David Phinnemore & Dr. Lee McGowan, After the EU Referendum: Establishing the Best Outcome for Northern Ireland, August 2016

Brian Walker, Brexit and Northern Ireland: early indications are that post-Good Friday Agreement relationships will survive quite well, UCL Constitution Unit, 9 August 2016

Martin Craigs, A post Brexit Northern Ireland could follow the Hong Kong model, News Letter, 29 July 2016

Dick Roche, Brexit: The Northern Ireland conundrum, EurActiv.com, 28 July 2016

Kevin Meagher, Brexit is the beginning of the end for Northern Ireland, New Statesman, 27 July 2016

Christine Bell, England’s opportunity is (Northern) Ireland’s difficulty, Economic and Social Research Council, 24 June 2016
12. Library papers and parliamentary reports (various subjects)

12.1 Library papers

**Constitutional issues**
CBP 7761, *Brexit: some legal, constitutional and financial unknowns*, 9 November 2016
CBP 7214, *Brexit: some legal and constitutional issues and alternatives to EU membership*, 28 July 2016
CBP 7551, *Brexit: how does the Article 50 process work?* 30 June 2016

**Policy**
CBP 6455, *EU budget and the UK’s contribution*, 22 September 2016
CBP 7694, *Brexit: trade aspects* 8 September 2016
CBP 7628, *Brexit and financial services*, 1 August 2016
CBP 7633, *Brexit: how will it affect transport?* 25 July 2016
CBP 7664, *Brexit and local government*, 20 July 2016
CBP 7662, *The UK’s points-based system for immigration*, 18 July 2016
CBP 7661, *The Common Travel Area and the special status of Irish nationals in UK law*, 15 July 2016
CBP 7393, *Climate change: Ratifying the Paris Agreement*, 15 July 2016
CBP 7630, *UK tax after the EU referendum*, 14 July 2016
CBP 7638, *UK economy: information for debate on 29 June 2016*, 29 June 2016
CBP 7525, *Leaving the EU: How might people currently exercising free movement rights be affected?* 27 June 2016

**Referendum**
CBP 7678, *Referendum campaign literature*, 31 August 2016
CBP 5923, *Overseas voters*, 4 July 2016
CBP 7639, *Analysis of the EU Referendum results 2016*, 29 June 2016
CBP 7486, *The EU referendum campaign*, 27 January 2016
CBP 7220, Reading list on UK-EU relations 2013-16: reform, renegotiation, withdrawal, 24 June 2016

## Commons & Lords Committee reports

<table>
<thead>
<tr>
<th>Committees in the House of Commons</th>
<th>Brexit inquiry</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Business, Innovation and Skills</strong></td>
<td><em>Brexit: Committee responds and invites Minister to give evidence</em> Note SoS oral ev postponed till Oct</td>
</tr>
<tr>
<td><strong>Committes on Arms Export Controls (CAEC)</strong></td>
<td><em>Steel: Preserving sustainable jobs and growth in Europe inquiry</em> Oral evidence 6 July</td>
</tr>
<tr>
<td><strong>Energy and Climate Change</strong></td>
<td><em>Arms Trade Treaty: Implementation, enforcement and effect examined</em> Oral evidence 20 July</td>
</tr>
<tr>
<td><strong>Environmental Audit</strong></td>
<td><em>Leaving the EU: implications for UK climate policy inquiry</em> Evidence deadline 22 Aug</td>
</tr>
<tr>
<td><strong>Energy and Climate Change</strong></td>
<td><em>Leaving the EU: implications for UK energy policy inquiry</em> Evidence deadline 14 Sept</td>
</tr>
<tr>
<td><strong>Environmental Audit</strong></td>
<td><em>Future of the natural environment in the light of the EU referendum</em> Evidence deadline 9 Sept</td>
</tr>
<tr>
<td><strong>Foreign Affairs</strong></td>
<td><em>Implications of leaving the EU for the UK’s role in the world inquiry</em> Oral evidence 28 June and 5 July</td>
</tr>
<tr>
<td><strong>Home Affairs</strong></td>
<td><em>SoS Davis oral evidence 13 Sept</em></td>
</tr>
<tr>
<td><strong>International Development</strong></td>
<td><em>SoS Patel on priorities 14 Sept</em></td>
</tr>
<tr>
<td><strong>Northern Ireland</strong></td>
<td><em>SoS Brokenshire on priorities 14 Sept</em></td>
</tr>
<tr>
<td><strong>Public Administration &amp; Constitutional Affairs</strong></td>
<td><em>Lessons Learned from the EU Referendum</em> Call for evidence deadline 5 Sept</td>
</tr>
<tr>
<td><strong>Science and Technology</strong></td>
<td><em>Implications of leaving the EU for the UK’s role in the world inquiry</em> Evidence deadline 22 Aug</td>
</tr>
<tr>
<td><strong>Scottish Affairs</strong></td>
<td><em>Scotland’s place in Europe inquiry</em> preference for evidence by 31 Aug. Oral evidence 7 Sept</td>
</tr>
<tr>
<td><strong>Treasury</strong></td>
<td><em>UK’s future economic relationship with the EU inquiry</em> Oral evidence 28 June 5 July and 13 July</td>
</tr>
<tr>
<td><strong>Welsh Affairs</strong></td>
<td><em>Implications for Wales of the EU referendum result</em> SoS Cairns on responsibilities 19 July</td>
</tr>
<tr>
<td><strong>Business, Innovation and Skills</strong></td>
<td><em>Brexit inquiry</em> Note SoS oral ev postponed till Oct</td>
</tr>
<tr>
<td>Committees on Arms Export Controls (CAEC)</td>
<td><strong>Steel: Preserving sustainable jobs and growth in Europe inquiry</strong> Oral evidence 6 July</td>
</tr>
<tr>
<td>Energy and Climate Change</td>
<td><strong>Arms Trade Treaty: Implementation, enforcement and effect examined</strong> Oral evidence 20 July</td>
</tr>
<tr>
<td>Energy and Climate Change</td>
<td><strong>Leaving the EU: implications for UK climate policy inquiry</strong> Evidence deadline 22 Aug <strong>Leaving the EU: implications for UK energy policy inquiry</strong> Evidence deadline 14 Sept</td>
</tr>
<tr>
<td>Environmental Audit</td>
<td><strong>Future of the natural environment in the light of the EU referendum</strong> Evidence deadline 9 Sept Minister Oral ev on environmental policy after EU exit 7 Sept</td>
</tr>
<tr>
<td>Foreign Affairs</td>
<td><strong>Implications of leaving the EU for the UK’s role in the world inquiry</strong> Oral evidence 28 June and 5 July SoS Davis oral evidence 13 Sept</td>
</tr>
<tr>
<td>Home Affairs</td>
<td>Immigration Minister oral evidence 12 July <strong>Implications of the UK’s exit from the EU</strong> Permanent Secretary (+ Romanian Ambo) 20 July</td>
</tr>
<tr>
<td>International Development</td>
<td>SoS Patel on priorities 14 Sept</td>
</tr>
<tr>
<td>Northern Ireland</td>
<td>SoS Brokenshire on priorities 14 Sept</td>
</tr>
<tr>
<td>Public Administration &amp; Constitutional Affairs</td>
<td><strong>Lessons Learned from the EU Referendum</strong> Call for evidence deadline 5 Sept Jeremy Heywood oral ev on Chilcot &amp; EU Ref 14 Sept</td>
</tr>
<tr>
<td>Science and Technology</td>
<td><strong>Leaving the EU: implications and opportunities for science and research inquiry</strong> Oral evidence 5 July &amp; 13 July Further call for evidence deadline 22 Aug Note the S&amp;T inquiry has received 280 submissions</td>
</tr>
<tr>
<td>Scottish Affairs</td>
<td><strong>Scotland’s place in Europe inquiry</strong> preference for evidence by 31 Aug Oral evidence 7 Sept</td>
</tr>
<tr>
<td>Treasury</td>
<td><strong>UK’s future economic relationship with the EU inquiry</strong> Oral evidence 28 June 5 July and 13 July</td>
</tr>
<tr>
<td>Welsh Affairs</td>
<td><strong>Implications for Wales of the EU referendum result</strong> Sos Cairns on responsibilities 19 July</td>
</tr>
</tbody>
</table>

### Committees in the House of Lords

| **EU External Affairs and** | Brexit: future trade between the UK and the EU Oral ev 15 Sept |
| EU Internal Market | EU Financial Affairs | Brexit: financial services  
Oral ev 14 Sept |
|-------------------|----------------------|--------------------------|
| EU Home Affairs Sub-Committee | Brexit: future EU-UK security and police co-operation  
Oral ev 14 Sept |
| EU Justice Sub-Committee | Brexit: acquired rights  
Oral ev 13 Sept |
| Lords Science and Technology | EU membership and UK science follow-up evidence session  
Oral ev 19 July and 19 July and 13 Sept |
About the Library

The House of Commons Library research service provides MPs and their staff with the impartial briefing and evidence base they need to do their work in scrutinising Government, proposing legislation, and supporting constituents.

As well as providing MPs with a confidential service we publish open briefing papers, which are available on the Parliament website.

Every effort is made to ensure that the information contained in these publicly available research briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

If you have any comments on our briefings please email papers@parliament.uk. Authors are available to discuss the content of this briefing only with Members and their staff.

If you have any general questions about the work of the House of Commons you can email hcenquiries@parliament.uk.

Disclaimer

This information is provided to Members of Parliament in support of their parliamentary duties. It is a general briefing only and should not be relied on as a substitute for specific advice. The House of Commons or the author(s) shall not be liable for any errors or omissions, or for any loss or damage of any kind arising from its use, and may remove, vary or amend any information at any time without prior notice.

The House of Commons accepts no responsibility for any references or links to, or the content of, information maintained by third parties. This information is provided subject to the conditions of the Open Parliament Licence.