



BRIEFING PAPER

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What happens after an indecisive election result?

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Summary

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 known as 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.

There are a number of options for formation of Government following an indecisive election result. These could range from a full, formal coalition (as in 2010) to a confidence and supply arrangement (as in 2017) or a more informal arrangement.

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 briefing [Hung Parliaments](#). Details about the operation of the 2010 Conservative - Liberal Democrat Coalition Government are set out in the Library briefing the [2010 Coalition Government at Westminster](#). Details on the confidence and supply arrangement between the Conservative and Democratic Unionist parties can be found in the library briefing paper [The 2017 Government at Westminster: Governing as a minority](#).

1. Government formation 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".¹

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 be formed?

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:

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

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.

The agreement that the Conservative Party has reached with the Democratic Unionist Party (DUP) in the 2017 Parliament is the second type. It is a formal, inter-party agreement that is distinct from coalition government.² More details on this arrangement can be found in the library briefing paper [The 2017 Government at Westminster: Governing as a minority](#).

¹ HM Government, *The Cabinet Manual*, First Edition, October 2011, p12

² Prime Minister's Office, [Conservative and DUP Agreement and UK Government financial support for Northern Ireland](#), 26 June 2017

1.2 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.³

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 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).]

³ HM Government, [The Cabinet Manual](#), 2011, para 2.13

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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.⁴ 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.

The Political and Constitutional Reform 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.⁵

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 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.⁶

⁴ Political and Constitutional Reform Committee, [Government formation post-election](#), 26 March 2015, HC 1023 2014-15

⁵ Political and Constitutional Reform Committee, [Government formation post-election](#), 26 March 2015, HC 1023 2014-15, paras 29-30

⁶ Political and Constitutional Reform Committee, [Government formation post-election](#), 26 March 2015, HC 1023 2014-15,, para 33

1.3 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 information about the formation of the 2010 Government election is available in the Standard Note the [2010 Coalition Government at Westminster](#).

In 2017, the Prime Minister asked to form a Government on 9 June, the day after the General Election. Ministerial appointments took place 4 days after the election, on 12 June. It took 18 days for an arrangement to be agreed between the Conservative Party and the Democratic Unionist Party, where the DUP would support a minority Conservative government in a confidence and supply arrangement. The Queen's Speech took place on the 21 June, before the arrangement had been reached. The arrangement was agreed on 26 June, two days before the first votes on the Humble Address.

Further detail of the example following the 2017 election is available in the library briefing paper [The 2017 Government at Westminster: Governing as a minority](#).

1.4 How does the UK compare to other countries?

Academics Petra Schleiter and Valerie Belu, writing for Political Quarterly, note that on average, government formation in the UK took just four days in the period 1945 to 1994 compared to an average of 39 days for the rest of Western Europe.⁷

In Scotland and Wales, legislation requires a new first minister to be appointed within 28 days of the election to avoid a further election. The Institute for Government provides some comparative information on government formation.⁸ In Australia, the Abbot ministry did not formally take power for 10 days after the 2013 election. In Canada the last election which produced a change of Government was in 2006 and the then new Prime Minister, Stephen Harper, was sworn in 14 days

⁷ 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

⁸ Akash Paun, *Westminster in an age of minorities*, Institute for Government, 2015

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after the election. In Germany in 2013 government formation took more than two months.

1.5 Internal party consultation

In the case of the 2017 general election, it is not clear what internal party consultation, if any, took place prior to or following the confidence and supply agreement being signed.

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 after the 2010 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.

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.⁹

⁹ 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

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”.¹⁰

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.¹¹ 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 on government activity can either be lifted after such a test or “when a new Prime Minister is appointed”.¹²

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.¹³

The Manual then goes into further detail about the period between the start of an election period and polling day (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

¹⁰ HM Government, [The Cabinet Manual](#), 2011, para 2.16

¹¹ Subject to selection by the Speaker votes could take place before the final day of debate on the Address

¹² HM Government, [The Cabinet Manual](#), 2011, para 2.30

¹³ *Ibid*, para 2.27

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or wasteful of public money. If decisions cannot wait they may be handled by temporary arrangements or following relevant consultation with the Opposition.¹⁴

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”.¹⁵ 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.¹⁶

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”.¹⁷ The Institute for Government has commented 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)”.¹⁸

¹⁴ HM Government, [The Cabinet Manual](#), 2011, para 2.29

¹⁵ Akash Paun, [Westminster in an age of minorities](#), Institute for Government, 2015, p18-19

¹⁶ “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

¹⁷ HM Government, [The Cabinet Manual](#), 2011, para 2.30

¹⁸ Akash Paun with Charlie Mitchell, [Westminster in the age of minorities](#), 2015, p20

3. The meeting of a new Parliament

3.1 When does 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 returned to elect of a Speaker on 13 June 2017. The Queen's Speech was due to take place on 19 June, but an announcement was made by Andrea Leadsom that State Opening will be delayed until 21 June.¹⁹

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.²⁰

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 the 2010 election, a decision was taken to extend this period in response to a recommendation from the then-Clerk of Legislation that "a reasonable interval", defined as two weekends, be placed between polling day and the first meeting of the new Parliament, to allow for proper induction of new Members.²¹ There were 12 days between polling day and the first meeting in 2010, and 11 days in 2015, both including two weekends. However, the 2017 parliament met only 5 days after the election, with the Queen's speech 8 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

¹⁹ Leadsom, Andrea, "Andrea Leadsom: ["The Government has agreed with Buckingham Palace that the State Opening of Parliament will take place on 21 June 2017."](#), 12 June 2017, 11:42, [www.twitter.com](#)

²⁰ [State Opening of Parliament to take place on 27 May](#), 26 March 2010

²¹ House of Commons Library, [Suggestions for possible changes to the procedure and business of the House- a note by the Clerks](#), 18 June 2009

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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 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.²²

3.2 The Proclamation

The Proclamation to summon Parliament following the 2017 election was published in the London Gazette on 5 May 2017, having been formally read on the steps of the Royal Exchange and at Mercat Cross, Edinburgh on 4 May 2017. The Proclamation stated:

BY THE QUEEN A PROCLAMATION FOR DECLARING THE CALLING OF A NEW PARLIAMENT ELIZABETH R.

Whereas We, by and with the advice of Our Privy Council, being desirous and resolved, as soon as may be, to meet Our People, and to have their Advice in Parliament, do publish this, Our Royal Proclamation, and do hereby make known to all Our loving Subjects Our Royal Will and Pleasure to call a new Parliament to be holden at Westminster on Tuesday the thirteenth day of June next: And We do hereby also, by this Our Royal Proclamation under Our Great Seal of Our Realm, require Writs to be issued by Our Chancellor of Great Britain for causing the Lords Spiritual and Temporal who are to serve in the said Parliament to give their Attendance in Our said Parliament on the said date.

Given at Our Court at Buckingham Palace, this third day of May in the Year of our Lord two thousand and seventeen and in the sixty-sixth year of Our Reign.

GOD SAVE THE QUEEN

3.3 Postponing the meeting of Parliament

It is possible for the date of the meeting of Parliament to be postponed by a further proclamation.²³ The legislative provisions are contained in the *Prorogation Act 1867*:

1 Power to Her Majesty to issue proclamation for the prorogation of Parliament

²² Political and Constitutional Reform Committee, [Government formation post-election](#), 26 March 2015, HC1023 2014-15, para 54

²³ Taking together the provisions of the Meeting Of Parliaments Act 1797 (as amended by the Parliament (Elections and Meetings) Act 1943) and the Prorogation Act 1867, it would seem that the date of a meeting of Parliament after a dissolution can indeed be postponed but cannot be brought forward by proclamation.

Whenever (save as herein-after excepted) Her Majesty shall be pleased, by and with the advice of the Privy Council of Her Majesty, to issue her royal proclamation to prorogue Parliament from the day to which it shall then stand summoned or prorogued to any further day being not less than fourteen days from the date thereof, such proclamation shall, without any subsequent issue of a writ or writs patent or commission under the Great Seal of the United Kingdom, be a full and sufficient notice to all persons whatever of such the royal intention of Her Majesty, and the Parliament shall thereby stand prorogued to the day and place in such proclamation appointed, notwithstanding any former law, usage, or practice to the contrary

4. The Queen's Speech

4.1 When does the Queen's Speech take place?

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".²⁴ It is possible to delay the timing of the Queen's Speech, subject to the Monarch's diary.

The 2017 Parliament State Opening and the Queen's Speech took place on 21 June 2017, and the Humble Address was passed without amendments on 29 June. The Queen's Speech had been due to take place on 19 June. However, an announcement was made on 15 June by the Leader of the House of Commons, Andrea Leadsom, that the State Opening would be delayed until 21 June.²⁵

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.²⁶

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.²⁷

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".²⁸

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

²⁴ HM Government, *The Cabinet Manual*, Para 2.6

²⁵ See Commons Library Briefing Paper, [The 2017 Government at Westminster: Governing as a Minority](#) for more details

²⁶ Erskine May, Twenty-fourth edition, 2011, p160

²⁷ See [Standing Order No. 33](#) and Library Standard Note, [Standing Order No 33](#)

²⁸ Akash Paun with Charlie Mitchell, [Westminster in the age of minorities](#), 2015, p12

government 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.²⁹

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.³⁰ 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.³¹

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](#).

²⁹ [Fixed-term Parliaments Act 2011](#), s2

³⁰ [HC Deb 21 January 1924 vol 169 cc532-685](#)

³¹ 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.³² 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.³³

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".³⁴

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".³⁵ 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.

³² 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.

³³ Akash Paun with Charlie Mitchell, *Westminster in the age of minorities*, 2015, p2

³⁴ *Ibid*, p13

³⁵ Political and Constitutional Reform Committee, [Government formation post-election](#), 26 March 2015, HC1023 2014-15, para 61

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