



**BRIEFING PAPER**

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# The 2017-19 Government at Westminster: Governing as a minority

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**Contents:**

1. The 2017 general election
2. The negotiations
3. The confidence-and-supply agreement
4. The House of Commons



# Contents

<b>Summary</b>	<b>3</b>
<b>1. The 2017 general election</b>	<b>5</b>
1.1 The election result	5
1.2 What type of Government was possible?	5
1.3 Immediate reaction on 9 June 2017	6
<b>2. The negotiations</b>	<b>8</b>
2.1 Summary	8
2.2 Initial statements, 10 June 2017	8
2.3 The Queen's Speech debate	8
<b>3. The confidence-and-supply agreement</b>	<b>10</b>
3.1 Overview	10
3.2 DUP support for the Government	10
3.3 Policy agreements	11
3.4 Commitment to the Good Friday Agreement	11
3.5 Financial support	12
3.6 Reactions	13
Was all of the money spent?	15
Review of the confidence-and-supply agreement	15
<b>4. The House of Commons</b>	<b>16</b>
4.1 Nomination and membership of committees	16
Formation of The Independent Group (TIG)	17
4.2 The outcome of votes	17
Divisions	17
Opposition day debates, 13 September 2017	18
Significant Government defeats, 2017-19	18
Pairing and proxy voting	20

## Summary

Following the 2017 general election, on 8 June 2017, the Conservative Party was returned as the largest party with 317 seats, but did not have a working majority in the House of Commons.<sup>1</sup>

### Government formation

On 9 June 2017, the then Prime Minister Theresa May informed the Queen that she would seek to form a Government. At the time, Mrs May indicated that the Conservative Party “will continue to work with our friends and allies in the Democratic Unionist Party”.<sup>2</sup> On 9 June 2017, Arlene Foster, the leader of the DUP, announced that she would hold discussions with the Conservative Party.<sup>3</sup> A confidence-and-supply agreement between the parties with additional financial support from the UK Government for Northern Ireland was announced on 26 June 2017.<sup>4</sup> The House subsequently passed the Humble Address to the Queen’s Speech without amendment on 29 June.

### The agreement

There are two documents which made up the agreement. The first was the agreement itself, detailing in what votes in the House of Commons the DUP would support the Conservative Party and detailing policy agreements between them. It stated that the DUP would support the Government in:

- All motions on confidence;
- Votes on the Budget, finance bills, money bills, supply and appropriation legislation and Estimates (these all constitute “supply”);
- Votes on legislation pertaining to the UK’s exit from the European Union;
- Votes on legislation pertaining to national security;
- Other matters on a case-by-case basis.

The second document contained information about the financial support being granted to Northern Ireland as part of the arrangement. This financial support totaled around £1 billion over 5 years, primarily during the first two years of the arrangement.

### The House of Commons

The composition of select committees and public bill committees generally reflects the party balance of the House of Commons. The nomination of such committees has traditionally been a role for the [Committee of Selection](#). On 12 September 2017, the House agreed to establish a new Committee, the Selection Committee. The House instructed the Selection Committee to give the Government a majority on public bill and delegated legislation committees that have an odd number of members.

Initially, the Government did not lose any divisions in the House of Commons. On 13 September 2017, the House debated two Opposition Day motions tabled by the Labour Party on policy areas which were not covered by the agreement between the Conservative Party and the DUP. The Government did not object to the motions before the House and therefore the House did not divide.

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<sup>1</sup> This majority takes into account the non-voting Speaker and their deputies, and non-sitting Sinn Féin MPs.

<sup>2</sup> Prime Minister Theresa May, [“PM statement: General election 2017”](#), 9 June 2017.

<sup>3</sup> BBC News, [“May to form ‘government of certainty’ with DUP backing”](#), 9 June 2017.

<sup>4</sup> Prime Minister’s Office, [“Conservative and DUP Agreement and UK Government financial support for Northern Ireland”](#), 26 June 2017.

#### 4 The 2017-19 Government at Westminster: Governing as a minority

There were reports that the informal arrangement between parties known as “pairing”, which usually allows Members to be absent from votes by neutralising the effect of their absence, would not operate in what became the 2017-19 Parliament.

# 1. The 2017 general election

## 1.1 The election result

The 2017 general election resulted in the following parties holding seats in the House of Commons:

### Results of the 2017 General Election

Party	Seats
Conservative	317
Labour	262
Scottish National Party	35
Liberal Democrat	12
Democratic Unionist Party	10
Sinn Féin	7
Plaid Cymru	4
Independent	1
Green Party	1
Speaker	1
<b>Total</b>	<b>650</b>

Source: House of Commons Library

Due to a long-standing policy of abstaining from sitting in the UK Parliament, the seven Sinn Féin seats are discounted for the purposes of calculating the working Government majority. The Speaker does not take part in votes. The Speaker's deputies, one of whom is drawn from the Conservative Party and two of whom are drawn from the Labour Party, also do not vote.

The result of the election therefore was that there were 316 voting Conservative Members and 323 voting Members not in the Conservative Party.

The result of the 2017 election was, therefore, a hung parliament with the largest party, the Conservative Party, incapable of commanding an absolute majority in the House of Commons on the basis of only the seats that it held.

## 1.2 What type of Government was possible?

The [Cabinet Manual](#) describes three broad types of government that can be formed where no party has an overall majority 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

## 6 The 2017-19 Government at Westminster: Governing as a minority

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.<sup>5</sup>

The arrangement that the Conservative Party reached with the Democratic Unionist Party (DUP) in 2017 was the second type: a formal, inter-party agreement distinct from a coalition government.<sup>6</sup>

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. Vernon Bogdanor, formerly Professor of Government at Oxford University, provides the following definition of a confidence and supply agreement, in his book *The New British Constitution*:

A confidence and supply agreement is an arrangement whereby a party not in the government agrees to support the government on votes of confidence and votes on the budget, so that the government can ensure its financial arrangements. In return, the party outside government may receive certain policy concessions, but on all other issues it decides how it will vote on an issue-by-issue basis.<sup>7</sup>

The [document](#) detailing the agreement between the Conservative Party and the DUP described the arrangement as a “confidence and supply agreement”.<sup>8</sup>

More information on the options available to form a Government in the wake of a hung Parliament can be found in the Commons Library briefing paper [What happens after an indecisive election result?](#)

### 1.3 Immediate reaction on 9 June 2017

On the morning of 9 June 2017, the then Prime Minister, Theresa May, gave a speech outside 10 Downing Street in which she indicated having visited and informed the Queen she would seek to form a Government.

Mrs May cited the fact that the Conservative Party had received the largest number of votes and seats, which she added meant only they had the legitimacy to govern.<sup>9</sup> The speech did not explicitly say that a confidence-and-supply agreement would be sought with the DUP, but strongly suggested that an arrangement of some sort would be sought:

We will continue to work with our friends and allies in the Democratic Unionist Party in particular. Our two parties have enjoyed a strong relationship over many years, and this gives me the confidence to believe that we will be able to work together in the interests of the whole United Kingdom.<sup>10</sup>

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<sup>5</sup> Cabinet Office, *Cabinet Manual*, October 2011, p15.

<sup>6</sup> Prime Minister’s Office, [“Conservative and DUP Agreement and UK Government financial support for Northern Ireland”](#), 26 June 2017.

<sup>7</sup> Vernon Bogdanor, *The New British Constitution*, 2009, p127.

<sup>8</sup> Prime Minister’s Office, [“Confidence and Supply Agreement between the Conservative and Unionist Party and the Democratic Unionist Party”](#), 26 June 2017.

<sup>9</sup> The Conservative Party was referred to by Theresa May in its full, formal title of the “Conservative and Unionist Party”.

<sup>10</sup> Prime Minister Theresa May, [“PM statement: General election 2017”](#), 9 June 2017.

Following the Prime Minister's speech, the leader of the DUP, Arlene Foster, spoke at a press conference, and briefly touched upon the proposed arrangement:

[W]e now face uncertainty in Westminster.

The Prime Minister has spoken with me this morning and we will enter discussions with the Conservatives to explore how it may be possible to bring stability to our nation at this time of great challenge.<sup>11</sup>

Nigel Dodds MP, the then leader of the DUP in Westminster, spoke to the media on the same day regarding the status of Northern Ireland following the UK's exit from the European Union. This was reported in the *Guardian* and elsewhere as "the DUP's 'price' for propping up a new Tory government". Mr Dodds was reported as saying:

As regards demands for special status within the European Union, no. Because that would create tariffs and barriers between Northern Ireland and our single biggest market which is the rest of the United Kingdom.

While we will focus on the special circumstances, geography and certain industries of Northern Ireland, we will be pressing that home very strongly. Special status however within the European Union is a nonsense. Dublin doesn't support it.

Brussels doesn't support it. The member states of the EU would never dream of it because it would open the door to a Pandora's Box of independence movements of all sorts. The only people who mentioned this are Sinn Féin.<sup>12</sup>

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<sup>11</sup> Democratic Unionist Party, "[Statement from Rt Hon Arlene Foster MLA](#)", 9 June 2017.

<sup>12</sup> *Guardian*, "[DUP leader Arlene Foster vows to bring stability to UK with Conservatives](#)", 9 June 2017.

## 2. The negotiations

### 2.1 Summary

The first votes on the Humble Address in response to the Queen's speech at the start of a Session of Parliament are often seen as the first test of whether a Government can command a majority in the House of Commons.<sup>13</sup>

Following the general election on 8 June 2017, Parliament returned to elect a Speaker on 13 June. The Queen's Speech had been due to take place on 19 June. However, an announcement was made on 15 June by the then Leader of the House of Commons, Andrea Leadsom, that the State Opening would be delayed until 21 June 2017.<sup>14</sup>

The debates on the Humble Address in response to the Gracious Speech usually last six sitting days, so the first votes were to take place on 28 June. The agreement between the Conservative Party and the DUP was published on 26 June, more than two weeks after the election and two days before the first vote.

### 2.2 Initial statements, 10 June 2017

Statements made by Downing Street on 10 June indicated that a "confidence-and-supply deal" was being sought, not a coalition. Numerous media outlets reported on 10 June that a statement had been made by Downing Street that an "outline agreement" had been completed, and that the arrangement would be put to Cabinet on the following Monday (12 June). However, a second statement was released later that day confirming that no final agreement had been reached.<sup>15</sup> Neither statement was published on gov.uk (the UK Government's website) as a press release by the Prime Minister's office.

### 2.3 The Queen's Speech debate

The Queen's Speech was due to take place on 19 June 2017, but on 15 June an announcement was made by the Leader of the House of Commons, Andrea Leadsom, that State Opening would be delayed until 21 June.

On 21 June, two days after it was originally planned, the Gracious Speech was read and the debate on the Humble Address in response began in the House of Commons. The debate in the Commons on the

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<sup>13</sup> The ability of a defeat on this vote to actually cause a Government to fall is a subject of debate in the light of the provisions of the [Fixed-term Parliaments Act 2011](#). This is discussed further in the library briefing paper [What happens after an indecisive election result?](#)

<sup>14</sup> The statement was widely reported by the media, but no announcement was published on gov.uk. Andrea Leadsom's official Twitter account also announced the statement; Andrea Leadsom (@CommonsLeader), "[Andrea Leadsom: 'The Government has agreed with Buckingham Palace that the State Opening of Parliament will take place on 21 June 2017.'](#)", 15 June 2017, 11:42, [www.twitter.com](#).

<sup>15</sup> [The Telegraph](#), "[Doubts over Theresa May's grip on power as DUP talks continue](#)", 11 June 2017.

Address usually lasts six sitting days, so the first of the votes was to come on 28 June 2017, the penultimate day of the debate.

The as-yet undecided arrangement between the Conservatives and the DUP was alluded to numerous times in the ensuing debate. The then Leader of the Opposition, Jeremy Corbyn, referred to the “overriding priority of the Good Friday agreement”,<sup>16</sup> while the SNP Westminster Leader Ian Blackford said that the Government will “have to rely on the DUP to get any of their legislation through”.<sup>17</sup>

Talks between the Conservative Party and the DUP appeared to falter at this stage. Numerous media outlets were briefed by a “DUP source” that negotiations had not gone as hoped. For example, on 21 June the *Guardian* reported that:

The Conservative leader will become the first prime minister in decades to lay out a legislative programme without a guaranteed House of Commons majority after DUP sources said the two-party negotiations “haven’t proceeded in the way we would have expected”.

The Northern Irish party accused Downing Street negotiators of being chaotic and said the “Conservative high command ought to stop their backbenchers whingeing about the DUP and show our party some respect”. The DUP added that the party “can’t be taken for granted”.<sup>18</sup>

On 26 June 2017, more than two weeks after the general election, and two days before the first vote on the Humble Address, both parties announced that an arrangement had been reached.

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<sup>16</sup> [HC Deb 21 June 2017 Vol 626 Col 45](#)

<sup>17</sup> [HC Deb 21 June 2017 Vol 626 Col 66](#)

<sup>18</sup> Anushka Asthana, “[Theresa May under pressure as DUP says: ‘Show some respect’](#)”, *Guardian*, 21 June 2017.

## 3. The confidence-and-supply agreement

### 3.1 Overview

The agreement was announced on 26 June, and two documents were published with details of the [confidence-and-supply agreement itself](#) and [agreed financial support to Northern Ireland](#).

The confidence-and-supply agreement remained in place for the duration of the 2017-19 Parliament, but after each Parliamentary session both parties were to “review the aims, principles and implementation of this agreement”. As the first session of the 2017 Parliament was to be a two-year session,<sup>19</sup> this meant the agreement was next due to be reviewed in 2019, after the planned EU “exit day” on 31 March.

The signatories of the agreement were the then Chief Whips of the Conservatives and DUP respectively, Gavin Williamson MP and Sir Jeffrey Donaldson MP.

The document stated that a co-ordination committee would be set up to secure agreement between the parties during the course of the agreement.

Arlene Foster stated that “we have reached an outcome that is good for the United Kingdom, good for Northern Ireland and allows our nation to move forward to tackle the challenges ahead”.<sup>20</sup> Theresa May said the “agreement makes clear that we remain steadfast to our commitments as set out in the Belfast Agreement and its successors, and in governing in the interests of all parts of the community in Northern Ireland”.<sup>21</sup>

### 3.2 DUP support for the Government

The agreement set out the votes in which the DUP had committed to supporting the Government. This included supporting the Government on confidence motions and financial legislation, as well as on certain other policies:

The DUP agrees to support the Government on all motions of confidence; and on the Queen’s Speech; the Budget; finance bills; money bills, supply and appropriation legislation and Estimates.

In line with the parties’ shared priorities for negotiating a successful exit from the European Union and protecting the country in light of recent terrorist attacks, the DUP also agrees to support the Government on legislation pertaining to the United

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<sup>19</sup> Prime Minister’s Office, “[Government to confirm two-year Parliament to deliver Brexit and beyond](#)”, 17 June 2017.

<sup>20</sup> Arlene Foster MLA, “[Westminster Agreement – Statement from DUP Leader Arlene Foster](#)”, 26 June 2017.

<sup>21</sup> Prime Minister’s Office, “[PM statement on Confidence and Supply Agreement with the DUP](#)”, 26 June 2017.

Kingdom's exit from the European Union; and legislation pertaining to national security.

Support on other matters will be agreed on a case by case basis.

### 3.3 Policy agreements

The confidence-and-supply agreement also listed a number of policy agreements, summarised here:

- That there be no change to the Pensions Triple Lock and the universal nature of the Winter Fuel Payment. Both policies had been proposed to be changed in the 2017 Conservative manifesto.<sup>22</sup>
- The Government agreed to spending at least 2% of GDP on the armed forces, and implementing the Armed Forces Covenant throughout the UK;
- The Government agreed to "consider options" to support the reserve forces in Northern Ireland;
- The agreement stated that both parties "recognise the importance of the agricultural sector to Northern Ireland" and that this will be a "critical policy area during the EU exit negotiations";
- The Government agreed to commit the same cash totals in funds for farm support until the end of the Parliament.<sup>23</sup>

### 3.4 Commitment to the Good Friday Agreement

The agreement affirmed both parties' commitment to the [Belfast Agreement](#) (also known as the Good Friday Agreement), an important document in the Northern Ireland peace process that agreed a devolved system of government, provided for a guaranteed human rights framework, and provided for both UK-Irish and north-south relations bodies. Specifically, the agreement stated that "the DUP will have no involvement in the UK Government's role in political talks in Northern Ireland".

The agreement affirmed the Conservative Party's position that Northern Ireland should remain part of the United Kingdom.

The agreement also stated that both parties desired to re-establish devolved government in Northern Ireland. For the duration of the 2017-19 Parliament, there was no fully functioning Northern Ireland Assembly or Executive. Devolved institutions were restored a few weeks after the 2019 general election.<sup>24</sup>

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<sup>22</sup> Conservative and Unionist Party, [Manifesto 2017](#), pp64 & 66.

<sup>23</sup> Prime Minister's Office, [Agreement between the Conservative and Unionist Party and the Democratic Unionist Party on support for the Government in Parliament](#), 26 June 2017.

<sup>24</sup> See Commons Library Briefing Paper CBP-8439, [Devolution in Northern Ireland, 1998-2020](#), 3 February 2020.

### 3.5 Financial support

The financial support document accompanying the agreement detailed a number of measures, including the following material commitments which appeared to commit a total of £425 million per year for two years, plus £30 million per year for five years, a total of £1 billion agreed over 5 years (the majority of which was to be front-loaded into the first two years of the Parliament, and thus the period before which the agreement was to be reviewed):

1. £200m per year for two years to deliver the York Street Interchange Project and other priorities;
2. £75m per year for two years to help provide ultra-fast broadband to Northern Ireland;
3. To work towards the devolution of Corporation Tax rates;
4. To work towards a set of city deals;
5. To work towards a set of Enterprise Zones;
6. £20m per year for five years to target pockets of severe deprivation;
7. £50m per year for two years to enable the Executive to address immediate pressures in health and education;
8. £100m per year for two years to support the NI Executive's delivery of its priority of health service transformation;
9. £10m per year for five years to support mental health.<sup>25</sup>

These funds were to be paid to the Northern Ireland Executive, not to the DUP or any other political party.

The document regarding additional financial support to Northern Ireland stated the justification for the support without mentioning the confidence-and-supply agreement:

The UK Government [...] recognises the unique circumstances of Northern Ireland's history and the effect this has had on its economy and people from all parts of the community, while recognising too the need to be fair to all parts of the United Kingdom. Both parties re-affirm their commitment to the restoration of devolved government in Northern Ireland. Following discussions between them, and in order to support their shared objectives of strengthening the economy, the UK Government is prepared to make available additional financial support to the power-sharing Executive.<sup>26</sup>

The financial support document was published alongside the confidence-and-supply agreement.<sup>27</sup>

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<sup>25</sup> Prime Minister's Office, "[Conservative and DUP Agreement and UK Government financial support for Northern Ireland](#)", 26 June 2017.

<sup>26</sup> Prime Minister's Office, "[UK Government support for Northern Ireland](#)", 26 June 2017.

<sup>27</sup> Prime Minister's Office, "[Conservative and DUP Agreement and UK Government financial support for Northern Ireland](#)", 26 June 2017.

### **Box 1: Financial support to Northern Ireland: key questions**

#### ***Did the financial support require the Northern Ireland Executive to be formed?***

Between the resignation of Martin McGuinness as deputy First Minister in January 2017 and January 2020 there was not a functioning devolved power-sharing executive in Northern Ireland.

Sir Jeffrey Donaldson MP of the DUP appeared to suggest, when speaking to the BBC on 26 June 2017, that the extra funds were not dependent upon an Executive being formed, and that a period of Direct Rule could allow the additional funds to be allocated:

The pressures on our health service and education system are critical, and we believe that if an Executive is not formed in the summer the Secretary of State will need to act to allocate these monies [...] Let me be crystal clear. If there is no Executive the money will be delivered, and it will be delivered from Westminster.<sup>28</sup>

The then Secretary of State for Northern Ireland, James Brokenshire, made a Written Statement on Northern Ireland finances on 19 July 2017. Among other matters, the Statement suggested that the extra monies could only be allocated by a reformed Executive:

...a restored Executive will need to agree how it wishes to allocate these funds to projects within the priority areas.<sup>29</sup>

However, the statement went on to say that Westminster could take control, potentially to allocate the funds, in the event that resolution "continues to prove intractable" beyond the autumn of 2017:

At the same time we will not forget our ultimate responsibility as a Government to uphold political stability and good governance in Northern Ireland. Accordingly, I reaffirm that the UK Government remains prepared to take forward legislation at Westminster to give authority for the expenditure of Northern Ireland departments should an Executive not be restored in the autumn. If resolution continues to prove intractable beyond that point, we will take further steps to provide the necessary political decision-making in the best interests of everyone in Northern Ireland.<sup>30</sup>

#### ***Does Parliament vote on the financial support package?***

The House of Commons authorises spending subject to annual control (which includes the block grants for the devolved administrations) through the Estimates procedure. Estimates set out planned annual net expenditure for each department which can be varied through Supplementary Estimates published in February. Under the Estimates procedure, the House of Commons is only asked to consider the departmental total including the block grant to be paid into the Northern Ireland Consolidated Fund for subsequent allocation by the Northern Ireland Assembly. Separate legislation at Westminster is required if the Northern Ireland Assembly is unable to appropriate funds to Northern Ireland departments.

## **3.6 Reactions**

Following a statement on the financial arrangement by the then First Secretary of State, Damian Green, in the House of Commons, the then shadow First Secretary, Emily Thornberry, called it a "shabby and reckless deal", claiming that the arrangement caused potential damage to the Belfast/Good Friday Agreement; that it was unfair to the rest of the country; and that it contradicted previous statements regarding the availability of public funds.<sup>31</sup>

Carwyn Jones, the then First Minister of Wales, called the agreement "a straight bung" and "outrageous".<sup>32</sup> In the Scottish Parliament, the First

<sup>28</sup> *Belfast Telegraph*, "[Direct rule looms as Tories confirm £1bn is not dependent on working Northern Ireland Executive](#)", 22 July 2017.

<sup>29</sup> [Northern Ireland Finances: Written statement – HCWS77](#)

<sup>30</sup> Ibid.

<sup>31</sup> [HC Deb 26 June 2017 vol 626 c331](#)

<sup>32</sup> BBC News online, "[Tory/DUP deal an outrageous straight bung, Carwyn Jones says](#)", 26 June 2017.

Minister of Scotland Nicola Sturgeon accused the UK Government of a “tawdry, shoddy deal”:

We should take no lectures right now from a Conservative Government that is reduced to bribing the DUP to keep its hands on power. That is what the Tories are reduced to, completely riding roughshod over the principles of the devolution settlement in order to cling on to power in a tawdry, shoddy deal with the DUP. That should shame the Conservatives.<sup>33</sup>

On 12 June 2017, the outgoing Taoiseach Enda Kenny spoke with Theresa May by telephone, and indicated concern that the agreement could threaten the Belfast/Good Friday Agreement. A press release from the Taoiseach’s office said:

They discussed the outcome of the UK general election and the Prime Minister outlined the proposed supply and confidence arrangement between her party and the DUP. The Taoiseach indicated his concern that nothing should happen to put the Good Friday Agreement at risk and the challenge that this agreement will bring.

He also noted the absence of any nationalist voice in Westminster following the election.<sup>34</sup>

Speaking at a press conference, the then Secretary of State for Northern Ireland said the negotiations between the Conservative Party and the DUP would not jeopardise the ongoing negotiations to restore devolved government in Northern Ireland, which he said were “entirely separate”.<sup>35</sup>

Speaking to the BBC on 13 June, former Prime Minister Sir John Major warned of the consequences that any arrangement between the two parties could have on the Belfast/Good Friday Agreement. He said he was “concerned”, “wary” and “dubious” about any arrangement, citing particular concerns regarding the impartiality of the UK Government.<sup>36</sup>

However, former Conservative Northern Ireland Secretary Owen Paterson said that the arrangement would “normalise” politics in Northern Ireland, and that Northern Ireland had “moved on” from the “very difficult time” that Sir John had been involved in as Prime Minister.<sup>37</sup>

On 19 June, speaking at a joint press conference with Theresa May, the new Irish Taoiseach Leo Varadkar said he was “very reassured” regarding any potential arrangement between the DUP and the Conservative Party.<sup>38</sup>

Sinn Féin President Gerry Adams said that “the allocation of additional funds could help to ease the enormous pressure on our public services”,

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<sup>33</sup> [SP OR 27 June 2017](#)

<sup>34</sup> Department of the Taoiseach, [“An Taoiseach Enda Kenny and Prime Minister Theresa May spoke by phone this morning”](#), 12 June 2017.

<sup>35</sup> *Irish Times*, [“James Brokenshire insists Tory/DUP pace will not affect power-sharing talks”](#), 13 June 2017.

<sup>36</sup> BBC News online, [“Sir John Major: ‘Wary’ about DUP deal”](#), 13 June 2017.

<sup>37</sup> *Daily Mail*, “Deal with DUP will end in bloodshed, Major warns”, 14 June 2017.

<sup>38</sup> BBC News online, [“Leo Varadkar ‘reassured’ about DUP-Tory deal”](#), 19 June 2017.

but that the agreement “provides a blank cheque for a Tory Brexit which threatens the Good Friday Agreement”.<sup>39</sup>

### Was all of the money spent?

In 2017-18, Parliament approved £20 million of the confidence-and-supply funds to [be added to the grant to the Northern Ireland Executive](#). The Head of the Northern Ireland Civil Service [told](#) the Northern Ireland Affairs Committee that these funds were spent on alleviating education and health pressures.

For 2018-19, Parliament approved a further £410m of the confidence-and-supply funds to be added to grant to the Northern Ireland Executive (£210m day-to-day spending and £200m investment). The [funding was provided](#) for the following areas:

- £80m for health and education (day-to-day spending);
- £30m to address mental health and severe deprivation (day-to-day spending);
- £100m health transformation (day-to-day spending);
- £200m infrastructure (investment spending)

As of 7 January 2020, the Northern Ireland Executive had allocated more than three-quarters of its funding (it had drawn down £763m of the £1 billion total).<sup>40</sup>

Although the Parliament in which the confidence-and-supply Agreement was made ended earlier than expected, the Government committed to release the remainder of the £1bn “following Parliament’s approval in the normal way through the Estimates process”.<sup>41</sup>

### Review of the confidence-and-supply agreement

The Cabinet Office website stated that the confidence-and-supply agreement would:

...remain in place for the length of the Parliament, and can be reviewed by the mutual consent of both parties. After each Parliamentary session both parties will review the aims, principles and implementation of this agreement.<sup>42</sup>

Shortly after Boris Johnson became Prime Minister in July 2019, the DUP leader Arlene Foster stated that the agreement “remains” but noted that it “included a review between each parliamentary session”. She continued: “This will take place over the coming weeks and will explore the policy priorities of both parties for the next parliamentary session.”<sup>43</sup>

However, no formal review appears to have taken place, either in July 2019 or after 8 October 2019, when the 2017-19 session ended.

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<sup>39</sup> Sinn Féin, [“Outstanding issues must be agreed if institutions are to be restored – Adams”](#), 26 June 2017.

<sup>40</sup> [PQ HL39, 7 January 2020](#)

<sup>41</sup> [PO 478, 10 January 2020](#)

<sup>42</sup> Cabinet Office, [“Confidence and Supply Agreement between the Conservative and Unionist Party and the Democratic Unionist Party”](#), 23 January 2020.

<sup>43</sup> Rob Merrick, [“DUP to demand more cash for propping up Tories ‘in coming weeks’ in early warning to Boris Johnson”](#), *Independent*, 23 July 2019.

## 4. The House of Commons

### 4.1 Nomination and membership of committees

The composition of select committees and public bill committees generally reflects the party balance in the House of Commons. When there is a Government majority, the governing party has a majority on all such committees. The nomination to members of committees has traditionally been a role for the Committee of Selection. While nomination to Bill and delegated legislation committees has not been subject to approval from the House, nominations to select committees require the House's approval.

On 12 September 2017, the House agreed a number of motions in relation to the appointment of a new select committee for the duration of the 2017-19 Parliament. The Committee, to be called the Selection Committee, was to have many of the functions of the Committee of Selection.

Unlike the Committee of Selection, the Selection Committee was to interpret Standing Orders in relation to the nomination of members to general committees in such a way that where a committee had an odd number of members the Government was to have a majority, and where a committee had an even number of members the number of Government and Opposition members was to be equal.

#### **Box 2: What has happened in the past when no single party had a majority?**

There have been three occasions in the past 50 years when a Government did not have a majority.

##### **February 1974**

Following the general election of February 1974 the Labour Government did not have a majority in the House of Commons. However, the House appointed a "normal" Committee of Selection, with 11 members and a Government majority of one, and it appointed a Government Chair.

This Committee of Selection appointed standing committees with even numbers of members split equally between Government and Opposition. Since, in line with precedent, the Chair of these committees would cast his/her vote in favour of the status quo, in the event of a tied vote, this effectively meant amendments and new clauses could not succeed in committee against the Government's will.

##### **May 1976**

After the general election of October 1974 the Labour Government had a majority, but lost this in April 1976. Labour had been elected with a majority of three (and a lead over the Conservatives of 42). However, it lost a by-election, suffered two defections to the Scottish Labour Party, and then the repudiation of the Whip by John Stonehouse. This left it with no overall majority in the House.

The Government eventually conceded the principle that only a majority on the floor of the House should guarantee a majority in standing committee. On 7 May 1976 it brought forward a motion to this effect, to which the House agreed. This is often referred to as the "Harrison motion" after the Deputy Chief Whip who moved it:

Resolved, That this House recommends that in this Parliament the Committee of Selection should interpret Standing Order No. 62(2) so that only an overall majority in the composition of the House should guarantee a majority in each Standing Committee and that this should apply to all

Bills in relation to which the Committee stage has not been entered upon.—[Mr. Walter Harrison.]<sup>44</sup>

The motion was agreed to without debate or division, the matter having previously been debated on a motion for the adjournment.<sup>45</sup>

The issue arose after the nominations made by the Committee of Selection on 28 April 1976. In that Parliament the Committee had nine Members, with a Government majority and a Government Chair. Despite the Labour Party not having a majority in the House of Commons, the Committee of Selection gave it a majority on standing committees nominated that day, all of which had an odd number of members.<sup>46</sup>

This was raised at Prime Minister's Questions the following day by Margaret Thatcher, Leader of the Opposition, Jeremy Thorpe, leader of the Liberal Party, and William Whitelaw.<sup>47</sup>

At Business Questions that day, 29 April 1976, the Leader of the House announced that there would be a "Debate on appointments by the Committee of Selection" on the Adjournment. Again, both Mrs Thatcher and Mr Thorpe questioned the Government's approach.<sup>48</sup>

The Adjournment debate was held on Monday 3 May 1976.<sup>49</sup> The following day, the death of the Chair of the Committee of Selection, Hugh Delargy, was announced. This meant that the Government lost control of the Committee of Selection.

### January 1995

After the 1992 election the Conservatives had a majority in the House, but this was reduced during the course of the Parliament. Following the withdrawal of the Whip from nine "Maastricht rebels" who rebelled over the *European Communities (Finance) Bill 1994-95* in November 1994, the Government no longer had an absolute majority subject to the party whip.

On 11 January 1995, the House agreed the following motion:

Resolved, That, unless and until the party which achieved an overall majority of Members elected at the preceding general election loses that majority either as a result of by-elections or through the secession of Members to another party the Committee of Selection shall interpret paragraph (2) of Standing Order No. 86 (Nomination of standing committees) in such a way as to give that party a majority on any standing committee.<sup>50</sup>

## Formation of The Independent Group (TIG)

In February 2019, seven MPs resigned from the Labour Party to sit in the Commons as The Independent Group. They were soon joined by four more MPs, including three from the governing Conservative Party. All the "TIG" MPs disagreed with aspects of their respective parties' policy agenda. Nine TIG MPs had pre-existing places on select committees.

## 4.2 The outcome of votes

### Divisions

The confidence-and-supply agreement was designed to ensure that the Government did not lose key votes in the House of Commons. However, there were subjects which were not covered by the agreement where the Government might have been vulnerable to defeat.

<sup>44</sup> [HC Deb 07 May 1976 c1738](#)

<sup>45</sup> [HC Deb 3 May 1976 cc983-1025](#)

<sup>46</sup> The issue was raised at Prime Minister's Questions and at Business Questions on 29 April, see [HC Deb 29 April 1976 cc551-53](#) and [HC Deb 29 April 1976 cc557-59](#), respectively.

<sup>47</sup> [HC Deb 29 April 1976 cc551-53](#)

<sup>48</sup> [HC Deb 29 April 1976 cc557-59](#)

<sup>49</sup> [HC Deb 3 May 1976 cc983-1025](#)

<sup>50</sup> [HC Deb 11 January 1995 cc157-201](#)

## Opposition day debates, 13 September 2017

On 13 September 2017 the House of Commons debated two Opposition Day motions, on NHS pay and on tuition fees. These two issues were not covered by the agreement with the DUP. The Government did not object to the motions which were therefore passed without division.

A point of order was made following the debate on NHS Pay by the Labour MP Jonathan Ashworth, who asked: "Is it not also clear that the reason the Government did not divide on this motion is that they knew they would lose?" The journalist Paul Waugh reported in HuffPo that:

Democratic Unionist Party (DUP) MPs signalled to ministers that they were going to back a Labour motion on Wednesday, which urges Theresa May to "end the public sector pay cap in the NHS" [...] Labour deliberately worded its resolution to match exactly an Early Day Motion from earlier this year which had been supported by the DUP's Shannon and Jeffrey Donaldson.<sup>51</sup>

Paul Waugh also reported that:

In a major shift, Tory sources told HuffPost UK that the party's MPs would not oppose any future non-binding Opposition Day motions for the rest of the Parliament.

With May's focus on delivering Brexit, Conservative MPs will not be whipped on anything other than Government legislation.<sup>52</sup>

## Significant Government defeats, 2017-19

The Government later suffered more significant defeats, often on its own legislation:

- **13 December 2017:** Conservative MP Dominic Grieve's amendment to the EU Withdrawal Bill, which required a "meaningful vote" on the final Brexit deal, was agreed by 309 votes to 305;<sup>53</sup>
- **17 July 2018:** A new clause (new clause 17) was added to the *Trade Bill*. This aimed to protect the links between the UK and the European Medicines Agency and was agreed by 305 votes to 301;<sup>54</sup>
- **4 December 2018:** An amendment to the programme motion on the Withdrawal Agreement debate was passed 321–293;<sup>55</sup>
- **11 December 2018:** An emergency motion that "the House has considered" the decision by the then Prime Minister Theresa May to postpone the meaningful vote, which was scheduled for that day, was rejected 0–299;

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<sup>51</sup> Paul Waugh, "[May Scraps Public Sector Pay Cap After Warnings From DUP MPs To Back Hard-Pressed Staff](#)", Huffington Post, 12 September 2017.

<sup>52</sup> Paul Waugh, "[MPs Agree To Give All NHS Staff 'A Fair Pay Rise' After Tory-DUP Alliance Falters](#)", Huffington Post, 13 September 2017.

<sup>53</sup> [HC Deb 13 December 2017 cc404-525](#)

<sup>54</sup> [HC Deb 17 July 2018 cc325-350](#)

<sup>55</sup> Also on 4 December 2018, an Opposition motion finding Ministers in contempt of Parliament for not complying with a 13 November 2018 humble address was passed by 311–293. This is the first time an entire Government, as opposed to an individual Minister, had been held in contempt of Parliament. A Government amendment to instead refer the case to the Privileges Committee was defeated by 307–311.

- **8 January 2019:** An amendment to the Finance Bill limiting the Government's powers in the event of a no-deal scenario was passed 303–296;
- **9 January 2019:** An amendment by Dominic Grieve to the programme motion for a debate on the EU Withdrawal Agreement, compelling the Prime Minister to respond within three days with an alternative plan if the Commons did not accept the Withdrawal Agreement, was passed by 308–297;
- **15 January 2019:** The motion under section 13(1)(b) of the [\*European Union \(Withdrawal\) Act 2018\*](#) to approve the Withdrawal Agreement – otherwise known as the “meaningful vote” – was rejected 202–432;
- **14 February 2019:** The Government's “next steps” motion, seeking continued support for its approach to leaving the European Union, was defeated 258–303;
- **12 March 2019:** A second “meaningful vote” on the Withdrawal Agreement was defeated, with a reduced majority of 242–391;
- **26 March 2019:** An amendment passed by 329–302 to allow MPs to take control of Parliamentary business and stage a series of “indicative votes” on Brexit. The motion itself as amended, and thus opposed by the Government, passed by 327–300;
- **27 March 2019:** a Business of the House motion to enable MPs to take control of the day's business and hold “indicative votes” on preferred Brexit options passed by 331–287;
- **29 March 2019:** a third “meaningful vote” on the Withdrawal Agreement was defeated with a reduced majority of 286–344;
- **1 April 2019:** A Business of the House Motion, again enabling MPs to control the day's business for the purpose of a second round of indicative votes, was passed by 322–277;
- **3 April 2019:** The Government was defeated multiple times on the *European Union (Withdrawal) (No. 5) Bill*, also known as the “Cooper–Letwin Bill”, including on its second and third readings;
- **19 June 2019:** The Government was defeated twice on the *Parliamentary Buildings (Restoration and Renewal) Bill*;
- **9 July 2019:** An amendment to the *Northern Ireland (Executive Formation) Bill* tabled by Conservative MP Dominic Grieve requiring the Government to make fortnightly statements on its efforts to restore devolution in Northern Ireland was passed by 294–293;
- **18 July 2019:** The Government was again defeated twice on the *Northern Ireland (Executive Formation) Bill*;
- **3 September 2019:** A Standing Order No 24 application for debating the “Benn-Burt Bill” was passed by 328–201 (against the Government's wishes);
- **4 September 2019:** The second and third readings of the EU Withdrawal (No. 6) Bill (Benn-Burt) were carried against the Government's wishes, while a Government motion for an early

general election fails to gain majority required under the *Fixed-term Parliaments Act 2011*;

- **9 September 2019:** Humble Addresses against prorogation and in favour of the disclosure of certain documents were passed, against the Government's wishes, by 311-302; a Government motion in favour of an early general election fails to gain majority required under the *Fixed-term Parliaments Act 2011*;
- **26 September 2019:** A Government motion for a conference recess was defeated by 289-306;
- **17 October 2019:** An amendment to the Government motion to sit on Saturday 19 October passed by 287-275;
- **19 October 2019:** An amendment to the Government's motion under the EUWA and EUWA (No. 2) passed by 322-306;
- **22 October 2019:** A Government programme motion on the European Union (Withdrawal Agreement) Bill defeated 308-322;
- **28 October 2019:** A Government motion for an early general election failed to gain the two-thirds majority required under the *Fixed-term Parliaments Act 2011*;
- **29 October 2019:** An amendment to the Government's Allocation of Time motion in relation to the *Early Parliamentary General Election Bill 2019* passed by 312-295.

In spite of the confidence-and-supply arrangement agreed in June 2017, DUP MPs did not vote with the Government on the first, second or third meaningful votes. Although the confidence-and-supply agreement had technically been broken, it remained in place and subject, as agreed, to review at some point in 2019.

## Pairing and proxy voting

It was reported in the press that arrangements between the Conservative Party and Labour Party which allowed Members to miss parliamentary votes did not operate during the 2017-19 Parliament.<sup>56</sup>

*Erskine May* says the system known as "pairing" enables:

...a Member to be absent, and to agree with another Member to be absent at the same time. By this mutual agreement, a vote is neutralised on each side of a question, and the actual size of the majority is not affected. The practice of pairing is not officially recognised in the procedures of the House; it is therefore conducted privately by individual Members, or arranged by the Whips of the respective parties. The Speaker has ruled that agreements to pair are private arrangements between Members and in no sense matters in which either the Chair or the House can intervene.<sup>57</sup>

Pairing is often used to ensure overseas visits connected with Parliamentary business, for example Select Committee visits, do not produce an imbalance in voting outcomes.

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<sup>56</sup> See, for example, "['Trench warfare' set to disrupt autumn parliament](#)", *Financial Times*, 3 August 2017.

<sup>57</sup> *Erskine May*, "[Pairing and proxy voting](#)", Part 3, Chapter 20, 25<sup>th</sup> edition, 2019.

On 20 June 2018, the Labour MP Naz Shah told the Guardian she had discharged herself from hospital to take part in a Brexit vote after whips refused her request to be paired with a Conservative MP.<sup>58</sup>

On 17 July 2018, the Conservative MP Brandon Lewis voted in two divisions at the Report Stage of the Trade Bill 2017-19 despite having a pairing arrangement with the Liberal Democrat MP Jo Swinson, who was pregnant. Several MPs raised concerns and Mr Lewis apologised. A Conservative spokesman said the pairing arrangement had been “broken in error”.

On 18 and 23 July 2018 respectively, Alistair Carmichael, the Liberal Democrat Chief Whip, successfully applied for Urgent Questions on proxy voting and on pairing. On 18 July, he argued that it was not right to rely on pairing to provide maternity, paternity and adoption leave for Members and asked the then Leader of the House to reconvene talks between the parties “with a view to devising a sensible and workable solution to this problem”.<sup>59</sup>

In her initial response, Andrea Leadsom confirmed that the “Government Whips Office has undertaken always to pair Opposition MPs on maternity leave from the start to the end of their leave, without applying any conditions”.<sup>60</sup>

On 23 July, David Lidington, the then Minister for the Cabinet Office, replied to Mr Carmichael’s Urgent Question requesting “a statement in relation to Government policy and practice with regard to pairing arrangements, especially as they relate to Members on maternity, paternity or adoption leave”.<sup>61</sup>

Mr Lidington reiterated the apology made to Jo Swinson and said that “The Government’s policy on pairing remains that these are long-standing informal arrangements between business managers in different political parties in this House, co-ordinated through the usual channels”. He also confirmed that “this Government have no plans to change those underlying arrangements”.<sup>62</sup>

On 28 January 2019, the House agreed a Temporary Standing Order in order to pilot the use of proxy voting in divisions of the House for parental absence (baby leave). The pilot scheme was originally scheduled to operate for a year but was extended to 18 months, in January 2020.<sup>63</sup>

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<sup>58</sup> Helen Pidd, [“Ailing MP wheeled into Commons in pyjamas criticises Tory whips”](#), *Guardian*, 20 June 2018.

<sup>59</sup> [HC Deb 18 July 2018 c428](#)

<sup>60</sup> [HC Deb 18 July 2018 c427](#)

<sup>61</sup> [HC Deb 23 July 2018 c738](#)

<sup>62</sup> [HC Deb 23 July 2018 c738](#)

<sup>63</sup> See Commons Library Briefing Paper CBP-8359, [Proxy voting in divisions in the House](#), 6 March 2020.

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