



Further Debate for the Purposes of Section 13 of the European Union (Withdrawal) Act 2018

Debate on 28 January 2019

Summary

On 15 January 2019, the House of Commons voted by a majority of 230 not to approve the withdrawal agreement and political declaration negotiated by the Government with the EU. Under section 13(1) of the European Union (Withdrawal) Act 2018 (the EUWA), approval from the Commons (the ‘meaningful vote’) is one of the steps required before the withdrawal agreement could be ratified as an international treaty. Sections 13(4)–(6) of the EUWA also set out what must happen next if the Government fails to win approval from the Commons for its Brexit deal. This includes a requirement to make a statement within 21 days of the ‘meaningful vote’ setting out how the Government intends to proceed, and arranging for debates to take place in both Houses within seven sitting days of the statement.

In line with these requirements, debates are scheduled to take place in the Lords on 28 January 2019 and the Commons on 29 January 2019. The exact wording of the debate motions will be tabled by the Government by the end of 24 January 2019, following a written statement it made earlier that day to avoid any legal uncertainty as to whether it has complied with all the provisions of section 13 of the EUWA. The Prime Minister set out her intended approach in written and oral statements on 21 January 2019. She said she would: be more open in engaging Parliament in the negotiations on the future relationship with the EU; embed the “strongest possible” protections on workers’ rights and the environment; and work to identify how to ensure commitments to no hard border between Ireland and Northern Ireland could be delivered in a way that commanded the support of both the Commons and the EU. The Prime Minister has rejected calls from the Labour Party and others to rule out the prospect of the UK leaving the EU with no deal on 29 March 2019, arguing that the only way to ensure this did not happen would be to agree a deal, or to revoke the UK’s article 50 notification, which she said would not deliver on the referendum result.

Under the terms of the EUWA, the forthcoming debates do not require Parliament to approve (or withhold approval from) a particular proposal being put forward by the Government. The debate in the Lords will take place on a non-amendable motion. In the Commons, MPs can table amendments, though it is up to the Speaker to select which are debated. Amendments tabled as of 23 January 2019 include proposals to: extend the article 50 negotiating period; hold indicative votes on a range of options; reject leaving with no deal; and put a time limit on the Northern Ireland backstop. Amendments to the debate motion cannot change the law or bind the Government or the EU.

Table of Contents

1. Government Defeat in the ‘Meaningful Vote’
2. Procedural Arrangements After the ‘Meaningful Vote’
3. Proposals for Next Steps

Table of Contents

1. Government Defeat in the ‘Meaningful Vote’	1
1.1 Requirements of Section 13(1) of the European Union Withdrawal Act 2018.....	1
1.2 Delay and Rescheduling of the ‘Meaningful Vote’ and Lords Debate.....	1
1.3 Assurances on the Northern Ireland Backstop	1
1.4 Commons Votes to Reject the Deal.....	3
1.5 Lords Debate on Withdrawal Agreement and Political Declaration	4
1.6 Defeat of Motion of No Confidence in the Government.....	4
1.7 Article 50 and the ‘Meaningful Vote’	5
2. Procedural Arrangements After the ‘Meaningful Vote’	6
2.1 Requirements of Sections 13(3) to 13(6) of the European Union Withdrawal Act 2018.....	6
2.2 Grieve Amendment.....	6
2.3 Dates Confirmed for Statement and Debates in Both Houses	7
2.4 Prime Minister’s Written Statements, 21 and 24 January 2019.....	7
2.5 Amendability of the Motions in Both Houses	9
3. Proposals for Next Steps	11
3.1 Cross-Party Talks.....	11
3.2 Prime Minister’s Oral Statement, 21 January 2019.....	13
3.3 Amendments Tabled for Commons Debate on 29 January 2019.....	18
3.4 Status of Resolutions of the House of Commons.....	21
3.5 House of Lords Response to Commons Votes.....	23

A full list of Lords Library briefings is available on the [research briefings page](#) on the internet. The Library publishes briefings for all major items of business debated in the House of Lords. The Library also publishes briefings on the House of Lords itself and other subjects that may be of interest to Members.

House of Lords Library briefings are compiled for the benefit of Members of the House of Lords and their personal staff, to provide impartial, authoritative, politically balanced briefing on subjects likely to be of interest to Members of the Lords. Authors are available to discuss the contents of the briefings with the Members and their staff but cannot advise members of the general public.

Any comments on Library briefings should be sent to the Head of Research Services, House of Lords Library, London SW1A 0PW or emailed to purvism@parliament.uk.

I. Government Defeat in the ‘Meaningful Vote’

I.1 Requirements of Section 13(1) of the European Union Withdrawal Act 2018

On 25 November 2018, the UK and the EU concluded a withdrawal agreement setting out the terms of the UK’s departure from the EU and a political declaration on the framework for their future relationship, as provided for under article 50(2) of the Treaty on European Union.¹ Section 13(1) of the European Union (Withdrawal) Act 2018 (the EUWA) sets out specific requirements that must be met before the UK is able to ratify a withdrawal agreement agreed with the EU, including approval by the House of Commons—what is popularly referred to as the ‘meaningful vote’—and a debate in the House of Lords.

I.2 Delay and Rescheduling of the ‘Meaningful Vote’ and Lords Debate

Both Houses began debates in December 2018 for the purposes of fulfilling the requirements of section 13(1). However, the day before the ‘meaningful vote’ was originally due to take place in the Commons, the Prime Minister announced that she was deferring the vote to seek further assurances from the EU about the Northern Ireland backstop arrangements in the withdrawal agreement, as she believed that the Commons would otherwise reject the deal.² In view of the postponement of the vote in the Commons, the Lords voted to adjourn its debate.³

Before Parliament rose for the Christmas recess, the Government announced that debate for the purposes of section 13(1) would continue in the Commons from 9 January 2019, with the vote taking place in the week of 14 January 2019.⁴ Further debate in the House of Lords was scheduled for 9, 10 and 14 January 2019.⁵

I.3 Assurances on the Northern Ireland Backstop

On 9 January 2019, the Government published a document entitled [UK Government Commitments to Northern Ireland and its Integral Place in the United Kingdom](#) which it said was intended to “[outline] a package of measures to give Northern Ireland a strong voice and role in the backstop process”, including a so-called ‘Stormont Lock’ to “give Northern Ireland the power to

¹ Department for Exiting the European Union, ‘[Withdrawal Agreement and Political Declaration](#)’, 25 November 2018.

² [HC Hansard, 10 December 2018, col 23](#). For a more detailed account of the postponement and rescheduling in both Houses, see: House of Lords Library, [Withdrawal Agreement: Section 13\(1\)\(c\) of the European Union \(Withdrawal\) Act 2018](#), 4 January 2019.

³ [HL Hansard, 10 December 2018, cols 1213–15](#).

⁴ [HC Hansard, 17 December 2018, col 528](#); and [HC Hansard, 20 December 2018, col 1005](#).

⁵ Government Whips’ Office, House of Lords, [Forthcoming Business](#), 20 December 2018.

reject new EU laws and regulation in the backstop”.⁶ Nigel Dodds, the Democratic Unionist Party’s (DUP) Westminster Leader, said that the paper was “designed to give reassurances in the context that Northern Ireland will be subject to the backstop being operational”, but the DUP maintained its position that it could not support a legally binding agreement that contained provisions on the backstop.⁷ He dismissed proposals for strengthening the role of the Northern Ireland Assembly as “cosmetic and meaningless”.

On 14 January 2019, a formal exchange of letters between Theresa May and the presidents of the European Commission and European Council, Jean-Claude Juncker and Donald Tusk, was published, setting out what the Government described as “assurances and clarifications with regard to the Northern Ireland backstop”.⁸ Since deferring the ‘meaningful vote’, the Prime Minister had been seeking ways to provide reassurances to critics of the deal that the Northern Ireland backstop would not become a permanent arrangement. The Government also published a letter from the Attorney General in which he set out his interpretation of the legal and political significance of the exchange of letters.⁹

In a statement to the House of Commons, Theresa May outlined what she described as the “further assurances and clarifications” received from the EU on the Northern Ireland protocol—a commitment to begin “exploratory talks on the future relationship” as soon as Parliament approved the withdrawal agreement (ie without having to wait for the UK’s departure from the EU); a “fast-track process to bring our future trade deal into force once it has been agreed”; “absolute clarity on the explicit linkage between the withdrawal agreement and political declaration”; a confirmation that the UK could unilaterally deliver the commitments made in its 9 January document on Northern Ireland; and an explicit statement from President Juncker that the backstop would be “suboptimal” for both sides.¹⁰

Mrs May said she recognised that “these new assurances still will not go as far as some would like”, but she said the “simple truth” was that the EU was not prepared to agree to an end date to the backstop or a unilateral exit mechanism, and “rejecting the backstop altogether means no deal”. She argued that “whatever version of the future relationship Members might want to see—from Norway to Canada, to any number of variations—all require a withdrawal agreement, and any withdrawal agreement would

⁶ Department for Exiting the European Union, ‘[UK Government Commitments to Northern Ireland and Its Integral Place in the United Kingdom](#)’, 9 January 2019.

⁷ Democratic Unionist Party, ‘[Proposal for Assembly Role ‘Cosmetic and Meaningless’: Dodds](#)’, 9 January 2019.

⁸ Department for Exiting the European Union, ‘[Exchange of Letters Between the UK and EU on the Northern Ireland Backstop](#)’, 14 January 2019. For a detailed analysis of the exchange of letters, see: House of Commons Library, [EU Assurances to the UK on Brexit](#), 16 January 2019.

⁹ Department for Exiting the European Union, ‘[Letter from the Attorney General to the Prime Minister on the Northern Ireland Protocol](#)’, 14 January 2019.

¹⁰ [HC Hansard, 14 January 2019, cols 825–7.](#)

contain the backstop”.¹¹

Jeremy Corbyn, Leader of the Labour Party, said that the letter from presidents Juncker and Tusk was “nothing more than a repetition of exactly the same position that was pulled more than one month ago” and “categorically does not give the legal assurances that this House was promised”.¹²

1.4 Commons Votes to Reject the Deal

The ‘meaningful vote’ took place in the House of Commons on 15 January 2019. The Commons voted not to approve the withdrawal agreement and political declaration by 432 votes to 202.¹³ The Government was defeated by a majority of 230, the largest defeat in a century.¹⁴ The party breakdown of the vote was as follows:¹⁵

	Ayes	Noes
<i>Conservative</i>	196	118
<i>Labour</i>	3	248
<i>Scottish National Party</i>		35
<i>Liberal Democrats</i>		11
<i>Democratic Unionist Party</i>		10
<i>Plaid Cymru</i>		4
<i>Green Party</i>		1
<i>Independent</i>	3	5
Total	202	432

Before the main vote, an amendment moved by John Baron (Conservative MP for Basildon and Billericay), which would have approved the deal subject to changes being made to the withdrawal agreement to give the UK the right to terminate the Northern Ireland backstop unilaterally, was defeated by 600 votes to 24.¹⁶

¹¹ [HC Hansard, 14 January 2019, cols 826–7.](#)

¹² *ibid*, col 828.

¹³ [HC Hansard, 15 January 2019, cols 1122–5.](#)

¹⁴ Philip Cowley, ‘[Could the Vote on May’s Deal End in an Historic Government Defeat?](#)’, *Prospect*, 11 January 2019.

¹⁵ Commons Votes App.

¹⁶ [HC Hansard, 15 January 2019, cols 1117–21.](#) For more information about the selection of amendments for the debate—including three other amendments that were selected by the Commons Speaker but not formally moved—see: House of Commons Library, ‘[A ‘Meaningful Vote’ Cast: What Happened and What Happens Next?](#)’, 16 January 2019.

1.5 Lords Debate on Withdrawal Agreement and Political Declaration

Section 13(1) of the EUWA does not give the House of Lords a ‘meaningful vote’ in the same sense as the House of Commons. Section 13(1)(b) requires the House of Commons to formally approve the withdrawal agreement and political declaration before ratification of a withdrawal agreement could proceed, whereas section 13(1)(c) requires a ‘take note’ motion on the withdrawal agreement and political declaration to be tabled in the Lords.¹⁷

The House of Lords concluded its debate on the withdrawal agreement and political declaration on 14 January 2019.¹⁸ The House agreed without division to the government motion that “this House takes note, for the purposes of section 13(1)(c) of the European Union (Withdrawal) Act 2018” of the withdrawal agreement and political declaration. The House then voted by 321 to 152—a majority of 169—in favour of a separate motion tabled by Baroness Smith of Basildon, Leader of the Opposition.¹⁹ Whilst noting that it was for the Commons to determine the matter, Baroness Smith’s motion rejected a no deal outcome and regretted that the terms of the withdrawal agreement and political declaration would “damage the future economic prosperity, internal security and global influence” of the UK.

1.6 Defeat of Motion of No Confidence in the Government

After losing the ‘meaningful vote’, the Prime Minister said it was necessary to “confirm whether the Government still enjoys the confidence of the House”.²⁰ She said that if Labour tabled a motion of no confidence in the Government, time would be made available to debate it the following day. Jeremy Corbyn stated his belief that “the Government have lost the confidence of this House and this country” and confirmed he had tabled a motion of no confidence in the Government.²¹ Under the Fixed-term Parliaments Act 2011, if the House of Commons agrees a motion “That this House has no confidence in Her Majesty’s Government”, there follows a 14-day period during which a government may be confirmed in office by a further resolution of the House “That this House has confidence in Her Majesty’s Government”. If no such resolution is agreed, then a general election must take place.

¹⁷ However, section 13(1)(d) does require an act of Parliament implementing a withdrawal agreement in domestic law to be passed before ratification could proceed. Acts of Parliament require the approval of both Houses to pass, unless section 2 of the Parliament Act 1911 was to be invoked.

¹⁸ [HL Hansard, 14 January 2019, cols 11–55](#) and [67–122](#).

¹⁹ *ibid*, cols 119–22.

²⁰ [HC Hansard, 15 January 2019, col 1126](#). For information about confidence motions and the significance of commanding the confidence of the House, see: House of Commons Library, [Confidence Motions](#), 16 January 2019.

²¹ [HC Hansard, 15 January 2019, col 1127](#).

The Commons voted on 16 January 2019 on a motion of no confidence in the Government, tabled by Labour and supported by the Scottish National Party (SNP), the Liberal Democrats, Plaid Cymru and the Green Party. The House voted against the motion by 325 votes to 306, a majority of 19.²²

1.7 Article 50 and the ‘Meaningful Vote’

The Government’s defeat on the motion to approve the withdrawal agreement and political declaration does not affect the continued operation of article 50 under EU law.

Article 50 of the Treaty on European Union provides for a mechanism by which a member state can withdraw from the EU.²³ Under article 50(2), the UK Government notified the European Council of the UK’s intention to withdraw from the EU. Under article 50(3) the EU treaties will cease to apply to the UK two years after this notification, which is 29 March 2019. Article 50(3) provides that this period can be extended with the agreement of the departing member state and the unanimous agreement of the European Council.

Article 50 says nothing explicitly on whether a member state can unilaterally withdraw its notification under article 50(2). However, on 10 December 2018, the Court of Justice of the European Union (CJEU) ruled that a member state was free to revoke its notification unilaterally and, that if it chose to do, so it would remain in the EU under terms that were unchanged.²⁴ The CJEU stated that the revocation must be in accordance with the withdrawing state’s constitutional requirements and that it must be unequivocal:

The revocation must be decided following a democratic process in accordance with national constitutional requirements. This unequivocal and unconditional decision must be communicated in writing to the European Council.²⁵

The question was referred to the CJEU by the Scottish Inner House of the Court of Session following a case brought to it by Scottish MSPs and MPs.²⁶

Without the UK Government revoking its notification under article 50(2)—and in the absence of a ratified withdrawal agreement between the UK and the EU—it is therefore a matter of international law that the UK will cease to be a member state of the EU on 29 March 2019. This would be the case

²² [HC Hansard, 16 January 2019, cols 1269–73.](#)

²³ [Consolidated Version of the Treaty on European Union](#), article 50.

²⁴ Court of Justice of the European Union, ‘[The United Kingdom is Free to Revoke Unilaterally the Notification of its Intention to Withdraw from the EU](#)’, 10 December 2018.

²⁵ *ibid*, p 2.

²⁶ House of Commons Library, [Brexit: Article 50 TEU at the CJEU](#), 10 December 2018.

unless there was unanimous agreement to extend the article 50 negotiating period.

2. Procedural Arrangements After the ‘Meaningful Vote’

2.1 Requirements of Sections 13(3) to 13(6) of the European Union Withdrawal Act 2018

Sections 13(3) to 13(6) of the EUWA set out statutory requirements for what must happen next if the House of Commons decides not to approve the withdrawal agreement and political declaration.

Section 13(4) provides that within 21 days of the Commons deciding not to grant approval, the Government must make a statement setting out how it proposes to proceed in relation to the withdrawal negotiations.

Section 13(5) specifies that this statement must “be in writing and be published in such manner as the Minister making it considers appropriate”.

Section 13(6)(a) requires the Government to make arrangements to move a motion in “neutral terms” to the effect that the Commons has considered the matter of the statement, to be moved within seven sitting days of the statement being made. Similarly, section 13(6)(b) requires the Government to make arrangements to move a motion in the Lords that the House has taken note of the statement, within seven sitting days of its being made.

This statutory timetable gave the Government 21 calendar days from losing the ‘meaningful vote’ to make a written statement about its proposed course of action, ie until 4 February 2019.

2.2 Grieve Amendment

However, an amendment moved by Dominic Grieve (Conservative MP for Beaconsfield) before the ‘meaningful vote’ took place sought to speed up the timetable for what would happen next if the Government lost the vote. The Speaker’s decision to allow Mr Grieve’s amendment to be considered was controversial.²⁷ The Commons voted in favour of Mr Grieve’s amendment by 308 to 297, a majority of 11.²⁸ The terms of the amendment state that if the Government failed to win approval for its deal in the ‘meaningful vote’, it “shall table within three sitting days a motion under section 13 [of the

²⁷ See for example: Jack Simson Caird, ‘[Brexit and the Speaker of the House of Commons: Do the Ends Justify the Means?](#)’, *Verfassungsblog*, 10 January 2019; David Howarth, ‘[Speaker John Bercow Shows the Government’s Control is on Even Shakier Ground than it Thought](#)’, *Times* (£), 10 January 2019; and Mark Darcy, ‘[Bercow’s Unprecedented Ruling Could Change the Course of Brexit](#)’, BBC News, 9 January 2019. The amendment was to a government motion that was to be put ‘forthwith’; such motions had been understood not to be subject to debate or amendment.

²⁸ [HC Hansard, 9 January 2019, cols 386–90.](#)

EUWA], considering the process of exiting the European Union under article 50”. Sarah Wollaston (Conservative MP for Totnes), a co-signatory to the amendment, explained that it was intended to prevent the Government “running down the clock” towards no deal.²⁹

This non-statutory timetable gave the Government three sitting days from losing the ‘meaningful vote’ to table a motion, ie until 21 January 2019.³⁰

2.3 Dates Confirmed for Statement and Debates in Both Houses

Speaking just after losing the ‘meaningful vote’, the Prime Minister said it was not her strategy “to run down the clock to 29 March”.³¹ She said that the Grieve amendment was “not legally binding”, but the Government would “respect the will of the House” and would therefore make a statement about the way forward and table an amendable motion by 21 January 2019.

Andrea Leadsom, Leader of the House of Commons, announced that a full day’s debate on a motion on the Government’s next steps under section 13 of the EUWA would take place on 29 January 2019, subject to the Commons approving a business motion.³²

In the House of Lords, it was announced that further debate for the purposes of section 13 of the EUWA would take place on 28 January 2019.³³

2.4 Prime Minister’s Written Statements, 21 and 24 January 2019

On 21 January 2019:

- The Prime Minister made an oral statement to the House of Commons; this was later repeated in the Lords.³⁴
- The Government made a written statement in both Houses, in accordance with section 13(4) of the EUWA.³⁵
- The Government tabled a motion for debate in the Commons on 29 January 2019 and one for debate in the Lords on 28 January 2019, in accordance with section 13(6) of the EUWA and the January Grieve amendment.

²⁹ Jessica Elgot and Peter Walker, ‘[MPs to Get to Vote on Three-Day Deadline for May to Present ‘Plan B’](#)’, *Guardian*, 9 January 2019.

³⁰ Assuming that the Grieve amendment means Commons sitting days. The Lords sat on Friday 18 January 2019, but the Commons did not.

³¹ [HC Hansard, 15 January 2019, col 1126](#).

³² [HC Hansard, 17 January 2019, cols 1319 and 1321–2](#).

³³ Government Whips’ Office, House of Lords, [Forthcoming Business](#), 17 January 2019.

³⁴ [HC Hansard, 21 January 2019, cols 25–66](#); and [HL Hansard, 21 January 2019, cols 557–73](#).

³⁵ House of Commons, ‘[Written Statement: Statement under Section 13\(4\) of the European Union \(Withdrawal\) Act](#)’, 21 January 2019, HCWS1258; and House of Lords, ‘[Written Statement: Statement under Section 13\(4\) of the European Union \(Withdrawal\) Act](#)’, 21 January 2019, HLWS1225.

The Prime Minister’s oral statement covered matters of policy more than matters of procedure and is considered in further detail in section 3.2 of this briefing. The written statement repeated the text of the oral statement, but also set out some additional procedural steps the Government intended to take in relation to section 13(11) of the EUWA.

Section 13(10) of the EUWA states that section 13(11) applies if, at the end of 21 January 2019, there is no agreement in principle in the article 50 negotiations with the EU on the arrangements for the UK’s withdrawal and the framework for its future relations with the EU. In those circumstances, section 13(11) requires that within five days of 21 January 2019, the Government must:

- make a statement setting out how it proposes to proceed (section 13(12) specifies this must be a written statement); and
- make arrangements to move a motion in “neutral terms” in the House of Commons to the effect that the Commons has considered that statement within five Commons sitting days of 21 January 2019; and
- make arrangements to move a ‘take note’ motion in the House of Lords on that statement within five Lords sitting days of 21 January 2019.

There have been some questions raised by parliamentarians and commentators as to whether the 21 January 2019 deadline in sections 13(10) and 13(11) still had continued legal significance.³⁶ This uncertainty arose because on the one hand the Government made a written statement in November 2018 stating its view that an agreement in principle had been reached with the EU, but on the other Mrs May referred in December 2018 to being conscious of 21 January 2019 as a statutory deadline which placed a “requirement” on the Government.³⁷

The Prime Minister’s written statement of 21 January 2019 said that the Government would take the steps set out in section 13(11), making a further written statement and arranging for motions to be tabled in both Houses.³⁸ The motions required under section 13(11) would be combined with the motions the Government was already tabling for the purposes of section 13(6). In other words, the debates scheduled to take place in the Commons on 29 January 2019 and the Lords on 28 January 2019 would be

³⁶ For more detail on this point, see: House of Lords Library, [Withdrawal Agreement: Section 13\(1\)\(c\) of the European Union \(Withdrawal\) Act 2018](#), 4 January 2019; and [Adjournment of the House of Lords Debate on the Withdrawal Agreement and Political Declaration](#), 11 December 2018.

³⁷ House of Commons, [‘Written Statement: Exiting the European Union’](#), 26 November 2018, HCWS1110; and [HC Hansard, 10 December 2018, col 43](#).

³⁸ House of Commons, [‘Written Statement: Statement under Section 13\(4\) of the European Union \(Withdrawal\) Act’](#), 21 January 2019, HCWS1258.

on a joint motion, covering both:

- the statement made under section 13(4) (following the loss of the ‘meaningful vote’); and
- the statement made under section 13(11) (in response to 21 January 2019 being reached).

The Government pointed out that section 13(13) allows for motions to be combined in this way.³⁹ The written statement of 21 January 2019 explained that the debate motions being tabled that day took account only of the statement made under section 13(4). Once another written statement had been made under section 13(11)—which the Government indicated would happen on or before 24 January 2019—the motions for the debates in the Lords and Commons on 28 and 29 January 2019 respectively would be re-tabled so that they also referred to the statement made under section 13(11).

The 21 January 2019 written statement explained that the Government was taking this course of action “to avoid any legal uncertainty” as to whether it had complied fully with the EUWA, noting that “[w]hile the negotiations have yielded an agreement, that agreement has not been approved by Parliament”. However, the Government also emphasised that “making this statement does not prejudice any further actions the Government may choose to take under section 13(1) of the European Union (Withdrawal) Act 2018 at a later date”. (Section 13(1) is the part of the EUWA which sets out how the Government must receive parliamentary approval for a withdrawal agreement and political declaration before a withdrawal agreement could be ratified.)

The Prime Minister made a further written statement on 24 January 2019, this time under section 13(11)(a) of the EUWA, confirming that the Government proposed to proceed as outlined in the written statement of 21 January 2019.⁴⁰ It repeated that the Government would table joint motions covering both section 13(6) and 13(11) of the EUWA for the forthcoming debates, and that MPs would need to re-table any amendments to the original Commons motion. It re-stated that the Government was following this approach “to avoid any legal uncertainty”. The written statement of 24 January 2019 added no further details about how the Government intended to proceed in the Brexit negotiations.

2.5 Amendability of the Motions in Both Houses

Arrangements are thus in place for a debate in the Commons on

³⁹ House of Commons, ‘[Written Statement: Statement under Section 13\(4\) of the European Union \(Withdrawal\) Act](#)’, 21 January 2019, HCWS1258.

⁴⁰ House of Commons, ‘[Written Statement: Statement under Section 13\(11\)\(a\) of the European Union \(Withdrawal\) Act](#)’, 24 January 2019, HCWS1271.

29 January 2019 on a ‘neutral motion’ and in the Lords on 28 January 2019 on a ‘take note’ motion following the loss of the ‘meaningful vote’ and the Government’s statements about its intended next steps.

In the House of Commons, generally a motion expressed in neutral terms is not amendable. Commons standing order 24B provides that:

Where, in the opinion of the Speaker or the Chair, a motion, That this House, or as the case may be, the committee has considered the matter, is expressed in neutral terms, no amendments to it may be tabled.⁴¹

However, in December the Commons voted by 321 votes to 299 (a majority of 22) in favour of an amendment tabled by Dominic Grieve that means standing order 24B does not apply to government motions tabled under section 13 of the EUWA.⁴² This has the effect of making such motions amendable. As with the Grieve amendment agreed in January, the Speaker’s decision to allow this amendment to be considered by the House attracted some comment.⁴³ Jack Simson Caird, Senior Research Fellow at the Bingham Centre for the Rule of Law, has noted that:

The effect of this amendment was fairly remarkable in that it did two things that are constitutionally innovative: it used a business of the House motion for one debate to change the arrangements for a subsequent debate, and it sought to counteract the effect of a statute.⁴⁴

Announcing that a debate would take place in the Commons on 29 January 2019, Andrea Leadsom confirmed that both the business motion for that debate and the main motion itself would be amendable.⁴⁵

The selection of which amendments the Commons will debate and decide on is up to the Commons Speaker. In response to questions from MPs after the Government lost the ‘meaningful vote’ about how Parliament could influence what happened next, the Speaker stated that:

Of one thing I am sure: that which Members wish to debate and which they determine shall be subject to a vote will be debated on and voted upon [...] If MPs want to debate and vote on a matter, that opportunity will, I am sure, unfold in the period ahead.⁴⁶

⁴¹ House of Commons, ‘[Standing Orders 2018](#)’, 1 May 2018.

⁴² [HC Hansard, 4 December 2018, cols 741–5.](#)

⁴³ Jack Simson Caird, ‘[Brexit and the Speaker of the House of Commons: Do the Ends Justify the Means?](#)’, *Verfassungsblog*, 10 January 2019.

⁴⁴ *ibid.*

⁴⁵ [HC Hansard, 17 January 2019, cols 1319 and 1321–2.](#)

⁴⁶ [HC Hansard, 15 January 2019, col 1130.](#)

The House of Lords is due to debate a ‘take note’ motion. The House of Lords *Companion to the Standing Orders* states that “‘Take note’ motions are not amendable”.⁴⁷

The debate that took place in the Lords on the withdrawal agreement and political declaration under section 13(1)(c) of the EUWA was also on a ‘take note’ motion. In that instance, alongside the ‘take note’ motion, the House also considered, and voted on, a separate motion tabled by Baroness Smith of Basildon, Leader of the Opposition, expressed in the form: “to move that this House [...] considers”.⁴⁸ The House of Lords *Companion to the Standing Orders* explains that motions which are not ‘take note’ motions are resolutions.⁴⁹ It notes that:

Resolutions may be put down in cases where a member wishes the House to come to a definite decision on a subject, if necessary on a vote. A resolution, if passed, constitutes the formal opinion or decision of the House on the matter.⁵⁰

Commenting on arrangements for the forthcoming debates in both Houses, Lord Newby, Liberal Democrat Leader in the House of Lords, expressed the view that a debate on a ‘take note’ motion “hardly seems adequate”.⁵¹ He suggested that, as before, the Lords should consider a separate motion which “again firmly opposes no deal and possibly covers other issues”.

3. Proposals for Next Steps

3.1 Cross-Party Talks

After losing the ‘meaningful vote’ on 15 January 2019, Theresa May said that if the Commons confirmed its confidence in her Government, she would then proceed to hold meetings with “colleagues, our confidence and supply partner the Democratic Unionist Party, and senior parliamentarians from across the House” to identify “what would be required to secure the backing of the House”.⁵² She said the Government would approach the meetings “in a constructive spirit” but “given the urgent need to make progress we must focus on ideas that are genuinely negotiable and have sufficient support in this House”. She said that if these meetings yielded such ideas, the Government would then explore them with the European Union. Having defeated the no confidence motion on 16 January 2019, Mrs May said she would invite the leaders of parliamentary parties to meet her that

⁴⁷ House of Lords, [Companion to the Standing Orders and Guide to the Rules of Proceedings](#), 2017, p 87, para 6.60.

⁴⁸ House of Lords, [House of Lords Business](#), 14 January 2019.

⁴⁹ *ibid*, p 86, para 6.56.

⁵⁰ *ibid*, p 87, para 6.57.

⁵¹ [HL Hansard, 21 January 2019, col 565](#).

⁵² [HC Hansard, 15 January 2019, col 1126](#).

evening.⁵³ Later the same evening, speaking outside Downing Street, she said she had held meetings with the Liberal Democrats, and the Westminster leaders of the SNP and Plaid Cymru. She announced that further meetings would take place from the following day between senior government representatives, including herself, and groups of MPs representing “the widest possible range of views from across Parliament”.⁵⁴

Responding to the Prime Minister’s statement, the Leader of the Opposition, Jeremy Corbyn, stated that the Labour Party’s priorities included a requirement that “no deal must be taken off the table”.⁵⁵

Following the House of Commons’ vote against a motion of no confidence in the Government on 16 January 2019, Mr Corbyn stated that the Labour Party would not engage in talks with the Government until it “remove[d], clearly and once and for all, the prospect of the catastrophe of a no deal”.⁵⁶ In a letter to the Prime Minister on 17 January 2019, Jeremy Corbyn reiterated this position, describing no deal as a “reckless leap in the dark”.⁵⁷ He stated that Labour was open to “meaningful” discussions but following the rejection of the withdrawal agreement these could not be on the basis of the Prime Minister’s “existing red lines”.⁵⁸

Responding to Mr Corbyn’s letter, Mrs May argued that it was not within the Government’s power to rule out no deal whilst still ensuring the UK leaves the EU on 29 March 2019. She argued that there were two ways to avoid no deal:

Either to vote for a deal, in particular a withdrawal agreement, that has been agreed with the EU or to revoke article 50 and overturn the referendum result.⁵⁹

The Prime Minister stated she believed it would be wrong to “overturn the referendum result” and that the purpose of the discussions with party leaders and MPs was to understand the issues of disagreement that prevented a majority in the House of Commons from approving a negotiated withdrawal agreement with the EU. Mrs May argued that this would avoid a no deal scenario.

⁵³ [HC Hansard, 16 January 2019, col 1273.](#)

⁵⁴ Prime Minister’s Office, [‘PM’s Statement at Downing Street: 16 January 2019’](#), 16 January 2019.

⁵⁵ [HC Hansard, 15 January 2019, col 1127.](#)

⁵⁶ [HC Hansard, 16 January 2019, col 1273.](#)

⁵⁷ Jeremy Corbyn, [‘Letter to the Prime Minister’](#), 17 January 2019, p 1.

⁵⁸ *ibid*, p 2.

⁵⁹ [Guardian, ‘May Claims it is Impossible for Government to Rule Out No-deal Brexit in Reply to Corbyn: As it Happened’](#), 17 January 2019.

3.2 Prime Minister's Oral Statement, 21 January 2019

On 21 January 2019, the Prime Minister made an oral statement to the House of Commons outlining the Government's intended next steps. Mrs May said that following the Government securing the confidence of the House of Commons in a vote on 16 January 2019 she had "listened to colleagues across Parliament" and that six key issues had been at the centre of her conversations.

1. Ruling out no deal:

On the possibility of the UK leaving the EU without a negotiated withdrawal agreement, the Prime Minister restated the argument that she had advanced in her letter to the Leader of the Opposition on 17 January 2019.⁶⁰ Additionally, she argued that requesting an extension to the article 50 process would not be ruling out no deal, but would "simply [be] deferring the point of decision". In her view the EU would be unlikely to agree to an extension if the Government could not demonstrate how it would get the House of Commons to approve a withdrawal agreement.⁶¹

2. Second referendum:

The Prime Minister expressed a concern that a second referendum could have significant implications for how the UK handles referendums in the future, including an assertion that it could lead to the break-up of the UK.⁶² She also restated her belief a further referendum could damage social cohesion by "undermining faith" in democracy and argued that there "had not yet been enough recognition" of this.⁶³ Mrs May also said that an extension to article 50 would be required to allow enough time to hold a second referendum and that the UK would very likely have to take part in elections to the European Parliament in May 2019.

3. Northern Ireland backstop:

On the Northern Ireland backstop, the Prime Minister said she believed there were two core issues. Firstly, that the arrangement could be indefinite and secondly, the potential impact "on our union if Northern Ireland is treated differently from the rest of the UK".⁶⁴ Mrs May said that she would continue to talk to colleagues including the DUP in order to find a way to meet the UK's obligations under the Belfast Agreement, and that could also be supported by a majority in the House of Commons. She would then take the conclusion of these discussions back to the EU.

⁶⁰ [HC Hansard, 21 January 2019, col 25.](#)

⁶¹ *ibid.*

⁶² *ibid.*, cols 25–6.

⁶³ *ibid.*, col 26.

⁶⁴ *ibid.*

4. Input into negotiations between the UK Government and the EU on the future relationship:

The Prime Minister said that she had heard concerns expressed that the political declaration lacked the precision that some had desired. Given the breadth of the political declaration, Mrs May said that the Government would seek input from voices outside of the Government, and that Parliament would have “a proper say, and fuller involvement in these decisions”.⁶⁵ She said that whilst it was the Government’s responsibility to negotiate, it would consult the House of Commons on its negotiating mandate, including “harnessing the knowledge” of its select committees. Mrs May argued such consultation would strengthen the Government’s negotiating position by giving the EU confidence in the Government’s stance.⁶⁶ The Government would look to deliver confidential committee sessions to “ensure Parliament has the most up to date information while not undermining the negotiations”.⁶⁷ The Prime Minister said she was also committed to giving the devolved administrations an “enhanced role” in the next phase of negotiations.⁶⁸

5. Protection of environmental standards and of workers’ rights:

On the protection of workers’ rights and of the environment, the Prime Minister said that she would ensure that the Government would give Parliament a guarantee that it would not erode either.⁶⁹ To this end, Mrs May indicated that the Government supported John Mann’s (Labour MP for Bassetlaw) amendment to the ‘meaningful vote’ motion. This motion was not selected for consideration by the Speaker but Mr Mann’s motion would have amended the Government’s motion to approve the withdrawal agreement as follows:

At end, add “agrees with paragraph 79 of the political declaration that the future relationship must ensure open and fair competition and that provisions to ensure this should cover state aid, competition, social and employment standards, environmental standards, climate change, and relevant tax matters, building on the level playing field arrangements provided for in the withdrawal agreement and commensurate with the overall economic relationship; and determines not to allow the UK leaving the EU to result in any lowering after exit day of common EU UK standards provided for in the withdrawal agreement in relation to employment, environmental protection and

⁶⁵ [HC Hansard, 21 January 2019, col 26](#).

⁶⁶ *ibid.*

⁶⁷ *ibid*, col 27. In the repeat of the statement in the Lords, Baroness Evans of Bowes Park, Lord Privy Seal and Leader of the House of Lords, stated that the Government would seek to extend this confidential access to documents to Lords committees as well ([HL Hansard, 21 January 2019, col 566](#)).

⁶⁸ *ibid.*

⁶⁹ *ibid.*

health and safety which will continue to protect the wellbeing of every person in this country; and determines that the Government should invite the House to consider any measure approved by EU institutions after exit day which strengthens any of these protections.”⁷⁰

The Prime Minister said that Greg Clark, the Secretary of State for Business, Energy and Industrial Strategy, would work with MPs, businesses and trade unions to develop proposals which would give effect to the amendment. This included “looking at legislation” where appropriate.⁷¹

6. UK and EU citizens’ rights:

The Prime Minister said she had received “powerful representations” from MPs on the issue of UK and EU citizens’ rights. Mrs May reiterated the Government’s commitment to ensuring that EU citizens in the UK would be able to stay and continue to access in-country benefits and services on “broadly the same terms as now, in both a deal and a no deal scenario”.⁷² She also announced that when the UK’s EU settlement scheme⁷³ was rolled out in full on 30 March 2019, the Government would waive the application fee.⁷⁴ It would also refund the fees paid by those who had already paid during the scheme’s test phases.⁷⁵

The Prime Minister concluded her opening remarks by stating that she believed that three “key changes” were needed:⁷⁶

- The Government would be “more flexible, open and inclusive” in its engagement with Parliament regarding the negotiation of the UK’s future relationship with the EU.
- The Government would “embed the strongest possible protections on workers’ rights and the environment”.
- The Government would “work to identify how we can ensure that our commitment to no hard border in Northern Ireland and Ireland can be delivered in a way that commands the support of this House and the European Union”.

Party Responses

Responding to the oral statement, Jeremy Corbyn described the Government’s cross-party talks as a “PR sham”, asserting that “every

⁷⁰ House of Commons, [Order Paper Number 232](#), 15 January 2019, p 11.

⁷¹ [HC Hansard, 21 January 2019, col 27](#).

⁷² *ibid.*

⁷³ HM Government, [‘Settled and Pre-Settled Status for EU Citizens and Their Families’](#), accessed 22 January 2019.

⁷⁴ [HC Hansard, 21 January 2019, col 28](#).

⁷⁵ *ibid.*

⁷⁶ *ibid.*

opposition party politician came out of those meetings with the same response [...] there was no flexibility and there were no negotiations”.⁷⁷ However, he welcomed the Government’s commitment to waive the administration fee under the UK’s EU settlement scheme.⁷⁸

Jeremy Corbyn expressed concern about the Government’s plan to discuss the backstop further with the EU. He asked “what makes [the Prime Minister] think that what she tried to renegotiate in December will succeed in January?”.⁷⁹ Mr Corbyn linked the issue of the border in Ireland with a no deal scenario, asserting that no deal would necessitate a hard border in Northern Ireland, which he argued would be against the Government’s stated policy.⁸⁰ He reiterated his desire for the Prime Minister to rule out no deal and stated that Labour would back amendments which sought to rule out no deal.⁸¹ Mr Corbyn said Labour would also not rule out the option “of a public vote”.⁸² He reiterated that it was Labour’s policy to seek:

[A] new comprehensive customs union with the EU that would include a say and a strong single market deal that would deliver frictionless trade and ensure no race to the bottom on workers’ rights or any other of the important regulations and protections that we currently have.⁸³

Ian Blackford, the Scottish National Party’s (SNP) Westminster Leader, stated that the SNP had entered into talks with the Prime Minister and that it remained ready to engage in those talks “on the basis that we can discuss pausing article 50, taking no deal off the table and a people’s vote”.⁸⁴ He said that any preconditions on the part of the Government would need to be taken off of the table for the SNP to engage in meaningful dialogue. Mr Blackford accused the Prime Minister of “running down the clock” and said that he did not believe that Mrs May was interested in “meaningful talks or meaningful change”. However, he also welcomed the waiving of administration fees for the UK Government’s EU settlement scheme.

Nigel Dodds, the Democratic Unionist Party’s (DUP) Westminster Leader, thanked the Prime Minister for her meetings with the DUP, specifically what he described as her recognition that core issues with the withdrawal agreement needed to be addressed.⁸⁵ He also noted what he saw as Mrs May’s “willingness to try to reach a consensus, and the fact that she will

⁷⁷ [HC Hansard, 21 January 2019, col 29.](#)

⁷⁸ *ibid.*

⁷⁹ *ibid.*

⁸⁰ *ibid.*

⁸¹ *ibid.*, col 30.

⁸² *ibid.*

⁸³ *ibid.*

⁸⁴ *ibid.*, col 32.

⁸⁵ *ibid.*, col 36.

go back to Brussels and ask for the necessary changes to be made”.⁸⁶ Sammy Wilson, DUP Shadow Spokesperson on Brexit, expressed the view that if changes were not made to the backstop the DUP would support the UK leaving the EU with no negotiated withdrawal agreement on 29 March 2019.⁸⁷

Sir Vince Cable, Leader of the Liberal Democrats, stated that he also welcomed the fee waiver and the “Prime Minister’s willingness to engage in serious conversations, including about the merits and practicalities of a people’s vote”.⁸⁸

EU Responses to ‘Meaningful Vote’

Responding to the rejection of the withdrawal agreement by the House of Commons on 15 January 2019, Jean-Claude Juncker, President of the European Commission, said that he regretted the outcome but that on the EU side the process of ratification of the withdrawal agreement continued.⁸⁹ He described it as a “fair compromise and the best possible deal” and the only way to ensure an orderly withdrawal of the UK from the EU. He urged the UK to “clarify its intentions as soon as possible”.

Speaking to a plenary session of the European Parliament on 16 January 2019, Michel Barnier, the EU’s chief negotiator, stated that he wanted the EU’s relationship with the UK to be “as close and as ambitious as the UK red lines allow”.⁹⁰ However, he argued that the vote in the House of Commons on 15 January 2019 did not represent a clear majority for any alternatives to the withdrawal agreement. He said it was his view, that within this context, it was for the “British authorities” to consider the vote and for the UK Government to say how it intended to proceed towards an orderly withdrawal on 29 March 2019. Mr Barnier argued that the withdrawal agreement represented the best possible compromise. On the issue of the backstop, he stated that it “must remain a backstop and it must remain credible”.⁹¹

Speaking to the *Luxembourg Times*, Michel Barnier spoke about a hypothetical extension to article 50.⁹² He stated that it was his belief that EU leaders

⁸⁶ [HC Hansard, 21 January 2019, col 36.](#)

⁸⁷ *ibid*, col 43.

⁸⁸ *ibid*, col 34.

⁸⁹ European Commission, [‘Statement by President Juncker on the Outcome of the Meaningful Vote in the United Kingdom House of Commons’](#), 15 January 2019.

⁹⁰ European Commission, [‘Speeches by First Vice-President Frans Timmermans and Chief Negotiator Michel Barnier on Behalf of President Juncker at the Plenary Session of the European Parliament on the Occasion of the Debate on the UK’s Withdrawal from the EU’](#), 16 January 2019.

⁹¹ *ibid*.

⁹² Diego Velazquez, [‘Barnier: ‘Backstop is not the Central Issue’](#), *Luxembourg Times*, 23 January 2019.

would only agree to an extension if three questions were answered:

First and second, why and how long? And third, will not that be a problem for holding the EU elections in May? I have no clear legal answer to the third question yet. It is important that the EU's democratic processes are not disturbed by this, however.⁹³

Mr Barnier described the first two questions as complex and interconnected, saying “it needs a stable majority in London for all laws related to Brexit that need to be adopted. This will need time”.⁹⁴

3.3 Amendments Tabled for Commons Debate on 29 January 2019

Theresa May said in her oral statement on 21 January 2019 that the Commons debate on 29 January would not be “a re-run” of the ‘meaningful vote’, but “the fulfilment of the process following the House’s decision to reject that motion.”⁹⁵ Unlike the ‘meaningful vote’, the terms under which the debate is being held—sections 13(6)(a) and 13(11)(b)(i) of the EUWA—do not require the Commons to approve (or withhold approval from) a particular proposal being put forward by the Government. As explained in section 2.5 of this briefing, the Commons motion for the debate is amendable, and MPs have already begun tabling amendments to it as they seek to influence the next steps in the Brexit process.

Amendments published on the order paper as of 23 January 2019 include:⁹⁶

- A Labour amendment in the name of Jeremy Corbyn, which would require the Government to secure sufficient time for Parliament to consider and vote on options to prevent the UK leaving the EU with no deal. The options to be voted on would include: negotiating changes to the withdrawal agreement and political declaration to secure a permanent customs union with the EU and a “strong relationship” with the single market; and

⁹³ Diego Velazquez, [‘Barnier: ‘Backstop is not the Central Issue’](#), *Luxembourg Times*, 23 January 2019.

⁹⁴ *ibid.*

⁹⁵ [HC Hansard, 21 January 2019, col 28.](#)

⁹⁶ House of Commons, [Order Paper](#), 23 January 2019, pp 48–54. It is worth noting that the amendments tabled thus far are to the main motion for debate that the Government tabled on 21 January 2019. However, in her written statement of 21 January 2019, the Prime Minister said that “Members will be advised that amendments tabled to the original section 13(6) motion will need to be re-tabled when the second joint motion is tabled” (House of Commons, [‘Written Statement: Statement under Section 13\(4\) of the European Union \(Withdrawal\) Act’](#), 21 January 2019, HCWS1258). Therefore, the amendments that have been tabled to date will need to be re-tabled once the Government has tabled the final wording of the motion in the Commons for 29 January. This is expected following the written statement that will be made on or before 24 January regarding section 13(11) of the EUWA. If they are not re-tabled, the Speaker would not be able to consider them for selection for the debate on 29 January 2019.

legislating to hold a public vote on a deal or proposal that had commanded a majority in the Commons. The Liberal Democrats have put down an amendment to the Labour amendment, to include the option of remaining in the EU if a public vote were held.

- An amendment in the name of Stella Creasy (Labour MP for Walthamstow) requiring the Government to request an extension of the article 50 negotiating period to enable a citizens' assembly to make recommendations on the next steps.
- An amendment in the name of Hilary Benn (Labour MP for Leeds Central), chair of the House of Commons Exiting the European Union Committee, calling on the Government to hold a series of indicative votes on the options set out in a report his committee published after the Government lost the 'meaningful vote'. The committee recommended by a majority, but not unanimously, that the Commons should hold a series of indicative votes "as soon as possible" on the following options:⁹⁷

Option 1: To hold another vote in Parliament on the draft withdrawal agreement and framework for the future relationship.

Option 2: To leave the EU with no deal on 29 March 2019.

Option 3: To call on the Government to seek to renegotiate the deal to achieve a specific outcome. The committee suggested the main renegotiation possibilities would be: changes to the text in the withdrawal agreement on the backstop arrangements; seeking a Canada-style deal; seeking to join the European Economic Area through the European Free Trade Agreement pillar; and remaining in a customs union with the EU or a variation on this.

Option 4: To hold a second referendum to allow the British people to decide either which kind of Brexit deal they want or whether they wish to remain in the EU.

- An amendment in the name of Rachel Reeves (Labour MP for Leeds West) requiring the Prime Minister to seek an extension to the article 50 negotiating period if the Commons has not approved a deal by 26 February 2019.
- An amendment in the name of Yvette Cooper (Labour MP for Normanton, Pontefract and Castleford) to ensure parliamentary

⁹⁷ House of Commons Exiting the European Union Committee, [Response to the Vote on the Withdrawal Agreement and Political Declaration: Options for Parliament](#), 16 January 2019, HC 1902 of session 2017–19.

time on 5 February 2019 for her private member's bill, the European Union (Withdrawal) (No. 3) Bill, to be debated if a business motion was tabled by at least ten MPs representing at least four different political parties. Under Ms Cooper's bill, if the Commons did not approve a deal by 26 February 2019, it would have to decide no later than 26 February 2019 whether to direct the Prime Minister to seek an extension of the article 50 negotiating period until 31 December 2019. If the Commons decided in favour of extending article 50, the bill would oblige the Prime Minister to make the request to the EU. Ms Cooper has described her bill as follows:

The bill doesn't stop Brexit or decide what kind of Brexit we should have or what kind of deal would work. Nor does it affect the result of the referendum. It doesn't revoke article 50, it just avoids us crashing out with no deal in place at the end of March. The Government and Parliament still need to resolve the best way forward, but the bill means if needed there can be a bit more time. This plan doesn't subvert parliamentary processes either. It just means using the provisions of the EU withdrawal act to make sure there is time to debate and pass one bill.⁹⁸

If Ms Cooper's amendment were successful, her bill would still need to go through its parliamentary stages, including being passed by the House of Lords.

- An amendment in the name of Dominic Grieve (Conservative MP for Beaconsfield), which he described as having the following effect:

What my amendment does is to identify a number of Tuesdays [12 and 26 February, and 5, 12, 19 and 26 March] between now and the date of Brexit in which the business will be controlled by the House itself and not by the Government.

⁹⁸ Yvette Cooper, '[Our Cross-Party Bill Doesn't Threaten Brexit—It Just Gives Us More Time](#)', *Guardian*, 21 January 2019. The House of Commons Library has produced a briefing on the bill which also covers Ms Cooper's amendment: [European Union \(Withdrawal\) \(No. 3\) Bill 2017–19](#), 23 January 2019. Prior to Ms Cooper's bill, Nick Boles (Conservative MP for Grantham and Stamford) presented a similar bill, the European Union (Withdrawal) (No. 2) Bill, which included provisions for the House of Commons Liaison Committee to publish a plan of action by 5 March 2019 if the Commons had not approved a deal by 11 February 2019. Following comments from Sarah Wollaston, the chair of the Liaison Committee, that she did not support this extension of the Liaison Committee's remit, Mr Boles indicated that, with the support of the same cross-party group of MPs, Yvette Cooper would introduce a bill to replace his, this time without the Liaison Committee provisions (Nick Boles, '[Personal Twitter Account](#)', 17 January 2019).

There will be a motion in neutral terms to start the day which is about looking at Brexit and what is going on, then members of parliament can table amendments for consideration which can be turned into resolutions of the House.⁹⁹

- An amendment in the name of Frank Field (Independent MP for Birkenhead) calling for the Commons to hold indicative votes on a range of options including: a reformed Northern Ireland backstop; leaving the EU with no deal; extending article 50; a Canada-style agreement with the EU; a Norway-style agreement with the EU; holding another referendum; and being in a customs union with the EU.
- An amendment in the name of Dame Caroline Spelman (Conservative MP for Meriden), rejecting the UK leaving the EU with no deal.
- An amendment in the name of Andrew Murrison (Conservative MP for South West Wiltshire), insisting that the withdrawal agreement be amended so that the Northern Ireland backstop would expire on 31 December 2021.

It is not yet known how many, or which, amendments the Speaker may select for debate in the Commons, and any votes on these amendments would not take place until 29 January 2019, the day after the Lords debate.

3.4 Status of Resolutions of the House of Commons

With regard to the legal force of the amendments if the Commons were to agree to them, it is necessary to consider the status of resolutions of the House. Once a motion is agreed to, it becomes a ‘resolution’ or an ‘order’ of the House of Commons.¹⁰⁰ Robert Rogers (Lord Lisvane) et al explain in *How Parliament Works*:

The distinction is that a resolution expresses an opinion (for example, ‘that this House calls on the Government to pause the roll-out of Universal Credit full service’); an order is something on which the House can exercise power directly (‘that a select committee be appointed to examine...’)¹⁰¹

⁹⁹ [‘Grieve Explains How His Amendment Would Work’](#) [entry at 12:37] in Andrew Sparrow, [‘May Set to Reject Calls for Free Vote on Amendment Designed to Block No-Deal Brexit—As It Happened’](#), *Guardian*, 22 January 2019.

¹⁰⁰ Robert Rogers et al, *How Parliament Works*, 2018, 8th edition, p 271.

¹⁰¹ *ibid.*

The House of Commons Public Administration and Constitutional Affairs Committee recently published a report on the status of resolutions of the House of Commons. The report set out evidence from the Clerk of the House of Commons and the Speaker of the House of Commons that resolutions alone could not change the law or bind the Government, but were nonetheless politically significant:

The Clerk of the House told us that “a mere resolution cannot change the law. The only way we can change the law is by law.” He explained that Parliament does not have the power to “bind the Executive by mere resolution” nor can it “instruct Ministers”. This doctrine was also expressed by the Speaker on 18 October 2017 when he stated that, while a resolution is an “expression of the view of the nation’s elected representatives in the House of Commons,” it cannot direct Ministers and “it is for Ministers in the Government to decide how to respond to the clearly expressed view of the House”.

Commenting on the constitutional force and the status of resolutions of the House, the Clerk of the House said:

I hope there is a shared understanding that they should be treated for what they are, which means treated with respect as the expression of the will of the elected representatives of the United Kingdom, and that even if what the resolutions call for does not always happen, it is a matter of real significance that Members of the House of Commons have come to this conclusion.¹⁰²

The committee concluded that:

Resolutions of the House of Commons are the expression of the will of the elected representatives of the United Kingdom. Resolutions by themselves may not have legal effect, but they can have political effect. As such, resolutions should be treated seriously by the Government acknowledging that the Government must retain the confidence of the House of Commons to remain in office.¹⁰³

A resolution of the House of Commons would not bind the EU to a particular course of action, such as agreeing to extend the article 50 negotiating period or to amending the withdrawal agreement. Nor could a resolution of the House of Commons prevent the EU treaties ceasing to apply to the UK on 29 March 2019, which is what happens by default under article 50 unless the two-year negotiating period is unanimously extended, or the UK revokes its withdrawal notification.

¹⁰² House of Commons Public Administration and Constitutional Affairs Committee, [Status of Resolutions of the House of Commons](#), 7 January 2019, HC 1587 of session 2017–19, p 9.

¹⁰³ *ibid*, p 12.

3.5 House of Lords Response to Commons Votes

Baroness Smith of Basildon, Leader of the Opposition in the House of Lords, sought assurances from Baroness of Evans of Bowes Park, Leader of the House of Lords, that the Lords would have the opportunity to consider the outcome of any votes that might take place in the Commons on 29 January 2019 and any comments made by the Prime Minister in response.¹⁰⁴

Baroness Evans said that “as always”, the Lords would “respond to any decisions made in the other place”, and the Government would work with the usual channels to ensure that there were “timely opportunities” to do so. She expected discussions on this would begin once it was clear what had happened in the Commons on 29 January 2019.

¹⁰⁴ [HL Hansard, 21 January 2019, col 564.](#)