



House of Commons
European Scrutiny Committee

Post-Brexit Scrutiny of EU Law and Policy

Fourth Report of Session 2019

*Report, together with formal minutes
relating to the report*

*Ordered by the House of Commons
to be printed 30 October 2019*

Notes

Numbering of documents

Three separate numbering systems are used in this Report for European Union documents:

Numbers in brackets are the Committee's own reference numbers.

Numbers in the form "5467/05" are Council of Ministers reference numbers. This system is also used by UK Government Departments, by the House of Commons Vote Office and for proceedings in the House.

Numbers preceded by the letters COM or SEC or JOIN are Commission reference numbers.

Where only a Committee number is given, this usually indicates that no official text is available and the Government has submitted an "unnumbered Explanatory Memorandum" discussing what is likely to be included in the document or covering an unofficial text.

Abbreviations used in the headnotes and footnotes

AFSJ	Area of Freedom Security and Justice
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
ECA	European Court of Auditors
ECB	European Central Bank
EEAS	European External Action Service
EM	Explanatory Memorandum (submitted by the Government to the Committee)*
EP	European Parliament
EU	European Union
JHA	Justice and Home Affairs
OJ	Official Journal of the European Communities
QMV	Qualified majority voting
SEM	Supplementary Explanatory Memorandum
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

Euros

Where figures in euros have been converted to pounds sterling, this is normally at the market rate for the last working day of the previous month.

Further information

Documents recommended by the Committee for debate, together with the times of forthcoming debates (where known), are listed in the European Union Documents list, which is published in the House of Commons Vote Bundle each Monday, and is also available on the parliamentary website. Documents awaiting consideration by the Committee are listed in "Remaining Business": www.parliament.uk/escom. The website also contains the Committee's Reports.

*Explanatory Memoranda (EMs) and letters issued by the Ministers can be downloaded from the Cabinet Office website: <http://europeanmemoranda.cabinetoffice.gov.uk/>.

The European Scrutiny Committee

The European Scrutiny Committee is appointed under Standing Order No. 143 to examine European Union documents.

Current membership

[Sir William Cash MP](#) (*Conservative, Stone*) (Chair)

[Geraint Davies MP](#) (*Labour/Cooperative, Swansea West*)

[Martyn Day MP](#) (*Scottish National Party, Linlithgow and East Falkirk*)

[Steve Double MP](#) (*Conservative, St Austell and Newquay*)

[Richard Drax MP](#) (*Conservative, South Dorset*)

[Mr Marcus Fysh MP](#) (*Conservative, Yeovil*)

[Kate Hoey MP](#) (*Labour, Vauxhall*)

[Kelvin Hopkins MP](#) (*Independent, Luton North*)

[Darren Jones MP](#) (*Labour, Bristol North West*)

[Mr David Jones MP](#) (*Conservative, Clwyd West*)

[Stephen Kinnock MP](#) (*Labour, Aberavon*)

[Andrew Lewer MP](#) (*Conservative, Northampton South*)

[Michael Tomlinson MP](#) (*Conservative, Mid Dorset and North Poole*)

[David Warburton MP](#) (*Conservative, Somerton and Frome*)

[Dr Philippa Whitford MP](#) (*Scottish National Party, Central Ayrshire*)

Powers

The Committee's powers are set out in House of Commons Standing Order No 143. The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House's Standing Orders, which are available at www.parliament.uk.

Publication

Committee reports are published on the Committee's website at www.parliament.uk/escom and in print by Order of the House.

Evidence relating to this report is published on the relevant [inquiry page](#) of the Committee's website.

Committee staff

The staff of the Committee are Ravi Abhavarante (Office Support Assistant), Joanne Dee (Deputy Counsel for European Legislation), Alistair Dillon and Leigh Gibson (Clerk Adviser), Nat Ireton and Apostolos Kostoulas (Committee Assistants), Luanne Middleton (Second Clerk), Daniel Moeller (Senior Committee Assistant), Jessica Mulley (Clerk), Foeke Noppert (Clerk Adviser), Indira Rao (Counsel for European Legislation), Paula Saunderson (Office Support Assistant), Sibel Taner (Second Clerk), Emily Unwin (Deputy Counsel for European Legislation) George Wilson (Clerk Adviser), Beatrice Woods (Committee Assistant)

Contacts

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Post-Brexit Scrutiny of EU Law and Policy

1. As the European Scrutiny Committee, we have long had a strong interest in the UK's relationship with the European Union, both as a Member State and, following the EU referendum in June 2016, in the means by which the UK leaves the EU. We have also been concerned with the extent to and means by which the House may wish to continue to scrutinise EU law and policy which after the UK's withdrawal from the EU.

2. We formally began our inquiry into *Post-Brexit Scrutiny of EU Law and Policy*, in July 2019, with a call for evidence from stakeholders, experts and interested parties. Our starting point was the Government's commitment to "support and facilitate a strong parliamentary scrutiny process for as long as EU legislation will continue to affect the UK" and we have, with much-appreciated guidance and input from our witnesses, begun to consider how EU laws and policies might affect the UK during any transition period and beyond.

3. We had hoped to make a report to the House, and for wider consideration, on our findings. We held our most recent evidence session on 16th October 2019 but our plans to take this work forward subsequently have been truncated. On 29th October 2019, it was decided that there should be an early general election. As a result, Parliament is expected to be dissolved within a few days preventing us from taking further evidence, deliberating or reporting.

4. We have nonetheless gathered an invaluable body of evidence and opinion which deserves to serve as a foundation for future thinking on parliamentary scrutiny of EU law and policy and its potential effects on the UK. It has been published in its entirety on Parliament's website.¹

5. We are deeply indebted to those who have provided us with written evidence and especially to those whom we examined in person. We wish to assure them that, although we have not made a Report to the House, their contributions are important. They have influenced thinking on the development of democratic processes of scrutiny and will continue to do so.

6. We urge any successor Committee appointed by the House of Commons in the next Parliament to revisit the issues we have been concerned with in this inquiry and commend to that Committee the evidence we have gathered.

¹ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/european-scrutiny-committee/>

Formal minutes

Wednesday 30 October 2019

Members present:

Sir William Cash, in the Chair

Martyn Day

Kate Hoey

Richard Drax

Mr David Jones

Draft Report (*Post-Brexit Scrutiny of EU Law and Policy inquiry*), proposed by the Chair, brought up and read.

Ordered, that the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 6 read and agreed to.

Summary agreed to.

Resolved, that the Report be the Fourth Report of the Committee to the House.

Ordered, that the Chair make the Report to the House.

Ordered, that embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[The Committee adjourned

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 17 July 2019

Catherine Barnard, Professor of European Union and Labour Law, University of Cambridge, and **Steve Peers**, Professor of EU Law and Human Rights, University of Essex

[Q1–62](#)

Wednesday 4 September 2019

Kenneth Armstrong, Professor of European Law, University of Cambridge, **Jack Simson Caird**, Senior Research Fellow in Parliaments and the Rule of Law, Bingham Centre for the Rule of Law, and **Sir Stephen Laws**, Senior Research Fellow at Policy Exchange and former First Parliamentary Counsel

[Q63–85](#)

Wednesday 16 October 2019

Maddy Thimont Jack, Institute for Government, **Dr Brigid Fowler**, Senior Researcher, Hansard Society, and **Adam Cygan**, Professor of Law, University of Leicester

[Q86–128](#)

Sir Ivan Rogers, former UK Permanent Representative to the European Union 2013-17

[Q129–163](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

PBS numbers are generated by the evidence processing system and so may not be complete.

- 1 ABI ([PBS0003](#))
- 2 Bingham Centre For The Rule of Law ([PBS0015](#))
- 3 Centre for European Reform ([PBS0008](#))
- 4 Department for Exiting the European Union ([PBS0005](#))
- 5 International Department of the Storting ([PBS0012](#))
- 6 Jancic, Dr Davor ([PBS0006](#))
- 7 The Local Government Association ([PBS0002](#))
- 8 News Media Association ([PBS0007](#))
- 9 Parliament of Canada ([PBS0013](#))
- 10 University of Cambridge ([PBS0010](#))
- 11 University of Leicester ([PBS0011](#))
- 12 Warwick, Dr Ben ([PBS0004](#))
- 13 Which? ([PBS0009](#))