

Parliamentary Influence on Brexit Legislation, 2017–2019

Thomas G. Fleming  * and Lisa James

Constitution Unit, Department of Political Science, University College London, London, UK

*Correspondence: tom.fleming@ucl.ac.uk

The UK parliament's role in the Brexit process has been closely scrutinised and fiercely contested. Despite this, we still have relatively little systematic evidence about parliament's role in shaping Brexit *legislation*. This article therefore analyses the extent and nature of parliamentary influence on Brexit-related legislation between 2017 and 2019. Using new data on the legislative passage of 13 different bills, including over 3000 proposed amendments, we measure the prominence of three different kinds of parliamentary influence, and compare this to findings from earlier periods. We show that some Brexit bills had a fairly typical parliamentary experience, with very few successful non-government amendments but numerous government concessions. However, a dramatic change from earlier periods was the large number of Brexit-related bills that were simply paused once the government encountered parliamentary difficulties. Parliament's influence over Brexit legislation in this period therefore showed elements of both continuity and change. This finding contributes to our understanding of the Brexit process, and of parliament's role in recent British politics.

Keywords: Brexit, Brexit Legislation, Parliament, Parliamentary Influence

The UK parliament's role in the Brexit process was highly controversial. Between 2017 and 2019, successive Conservative minority governments—led first by Theresa May and then Boris Johnson—struggled to get parliamentary support for their approach to leaving the European Union (EU). A series of dramatic parliamentary clashes prompted fierce contestation about parliament's role (Russell, 2021a), which only subsided with the Conservatives' 2019 general election victory (Fowler, 2020). Once the dust had settled on that election result, the widespread consensus was that—for better or for worse—parliament had enjoyed substantial influence during the earlier Brexit period. This view is reflected in academic literature showing parliament's central role in overseeing the UK's withdrawal from

the EU (Lynch and Whitaker, 2019; Lynch *et al.*, 2019; Thompson and Yong, 2019; Cygan *et al.*, 2020; Thompson, 2020; Russell, 2021a).

However, to date there has been relatively little detailed analysis of parliament's influence on Brexit-related *legislation* between 2017 and 2019. This shortcoming is significant because that legislation was extensive and substantial. While public and press attention inevitably focused on a few dramatic flashpoints, MPs spent much of this period considering a raft of proposed new laws designed to shape Britain's post-Brexit future. These addressed the complex tasks of approving and implementing the new UK–EU relationship, disentangling UK and EU law, and creating post-Brexit domestic regulatory frameworks. Obtaining a full picture of parliament's influence in the Brexit process therefore requires an assessment of its legislative role. Moreover, we cannot assume that existing arguments about parliament's influence can be generalised to explain this unusual period of unstable minority government and intense intra-party divisions. Parliament's influence on Brexit legislation thus presents an important puzzle to which existing literature offers no definitive answer.

This article therefore asks how—and how far—parliament influenced Brexit legislation between 2017 and 2019. In particular, it explores three distinct mechanisms of parliamentary influence over government legislation—passing non-government amendments, encouraging new government amendments, and government anticipation of parliament's reactions. We chart the extent of each form of influence, using new data on the parliamentary passage of 13 bills and 3252 proposed amendments. We then compare this to what we know about parliament's legislative influence in earlier periods.

Our analysis shows both continuity and change in parliament's influence over Brexit legislation. Overall, some Brexit bills had quite a typical parliamentary experience, with parliament passing relatively few non-government amendments, but providing pressure for a large share of government amendments. However, in a clear change from earlier periods, a large number of Brexit bills were simply 'paused' once the government faced parliamentary difficulties, and failed to become law. This suggests that the combination of parliamentary influence and government agenda control resulted in stalemate, with government able to delay its own legislation rather than letting parliament reshape it. This finding contributes to a fuller understanding of the Brexit process, and to the wider literature on parliament's influence.

1. Brexit legislation and parliamentary influence

A growing body of work has confirmed parliament's prominent role in scrutinising, ratifying, and extending, the Brexit negotiations between the UK and EU (Lynch and Whitaker, 2019; Lynch *et al.*, 2019; Thompson and Yong, 2019;

Thompson, 2020; Russell, 2021a; Menon and Wager, 2021). Other studies have explored Brexit's impact on parliamentary procedures (Fowler, 2020; Fleming, 2021) and its longer-term implications for parliament's constitutional position (Young, 2017; Cygan *et al.*, 2020). A common theme in this literature is that parliament wielded substantial influence, but often through blocking government proposals rather than agreeing on alternative ways forward, producing 'gridlock and inertia' (Thompson, 2020, p. 61).

However, there has been relatively little detailed analysis of parliament's influence on the extensive Brexit-related legislation it considered between 2017 and 2019. Analysis of this Brexit legislation has largely focused on just one bill—the European Union (Withdrawal) Act 2018.¹ Lynch *et al.* (2019) describe the key issues of contention during this Act's passage, the extent to which it was altered in parliament, and its likely future consequences. Similarly, Smith (2019) has examined the House of Lords' influence on that Act, while Elliott and Tierney (2019) provide examples of the Constitution Committee's influence. Both Lynch *et al.* (2019) and Smith (2019) touch on other Brexit-related legislation, without analysing it in detail.

Attempts to understand parliament's consideration of Brexit legislation might nonetheless draw on the wider literature exploring parliament's legislative role. Conventional wisdom long held that the UK parliament was unusually weak and government-dominated (e.g. Mezey, 1979; Lijphart, 1999), but recent scholarship has cast serious doubt on this, demonstrating that parliament exerts substantial influence throughout the policy-making process (Russell and Cowley, 2016, p. 132). Moreover, this influence may have grown further in recent years, as institutional and behavioural changes have seen parliament become more willing and better equipped to challenge the government (Russell, 2016; Russell and Cowley, 2018). Building on earlier theoretical arguments (Blondel *et al.*, 1970), this work has highlighted that the absence of visible executive-legislative conflict may indicate parliamentary strength, rather than weakness, showing that governments anticipate and pre-empt parliament's wishes (Russell and Cowley, 2016, p. 133).

These findings are largely based on analysing periods of stable majority government. As a result, it is unclear whether we should expect to see similar patterns in the highly unusual conditions of the Brexit period. The chief value of this work for our purposes is therefore that it offers a theoretical and empirical framework for assessing parliament's influence on legislation. Applying this framework to Brexit-related legislation allows us to understand the extent of various

¹The *UK in a Changing Europe* initiative has also provided short summaries related to other Brexit legislation in this period (Fowler and Fox, 2020; James, 2020; Rutter and Owen, 2020), while Thompson and Yong (2019) have discussed the European Union (Notification of Withdrawal) Act 2017, which passed in the previous parliament.

mechanisms of parliamentary influence, and to compare this to earlier periods. The following section outlines how we approach this task.

2. Mechanisms of parliamentary influence

Russell and Gover (2017, pp. 266–273) built on earlier work by Griffith (1974) to show that parliament wields influence through multiple mechanisms. This section focuses on the three mechanisms which are particularly relevant to parliament's consideration of government bills: passing non-government amendments, inspiring concessionary government amendments, and the logic of 'anticipated reactions'.² For each mechanism, we explain how it allows parliamentary influence, discuss contrasting expectations about its likely prominence in this period, and outline what observable empirical implications might help adjudicate between these expectations.

2.1 *Non-government amendments*

The first way for parliamentarians to influence government legislation is by formally amending it. Most bills see opposition parties and government backbenchers propose large numbers of amendments, reflecting a wide range of motivations and strategies (Russell *et al.*, 2017). These amendments can either pass because the government accepts them, or because it is defeated in a parliamentary vote. In practice, this rarely happens, particularly in the Commons (Russell and Gover, 2017).

We might expect this form of influence to feature prominently during parliament's consideration of Brexit legislation between 2017 and 2019, as several factors made the government more vulnerable to defeat. First, from the 2017 general election onwards, the Conservatives formed a minority government, dependent on the Democratic Unionist Party (DUP) for a Commons majority. Secondly, this position was compounded by widespread disagreement about the future UK–EU relationship, within and between parties. This lack of agreement led to both Eurosceptic and pro-EU Conservative backbenchers rebelling against the government's approach (Xu and Lu, 2021). It also led to an increase in cross-party working, with some Conservative backbenchers actively cooperating with the opposition in order to 'soften' Brexit and enhance parliament's role in the process (Thompson, 2020). These Commons dynamics might have also made

²The first two of these capture Russell and Gover's (2017, p. 267) 'first face of parliamentary power', which indicates visible changes through amendments. The second captures their second face, 'anticipated reactions' (Russell and Gover, 2017, p. 268). We omit their other 'faces of parliamentary power', which are more diffuse, and relate to parliament's wider role (Russell and Gover, 2017, pp. 269–273), so are less directly relevant to the specific question of parliament's influence over Brexit legislation.

peers more assertive, by increasing the chances of Lords amendments being accepted rather than overturned by the dominant lower chamber.

On the other hand, there are reasons to think that non-government amendments might have been no more extensive than usual, or even less so, in this period. First, the Conservative government's formal support agreement with the DUP included a commitment to back the government's Brexit legislation (Tonge, 2017). Such agreements can help minority governments to remain in control of the legislative process (Thürk, 2022). That said, the DUP's support still provided only a precariously small majority, which defections from the Conservative Party had entirely eroded by autumn 2019. The DUP also proved unreliable partners, occasionally withdrawing legislative support.³ Secondly, existing work has highlighted limitations to this period's cross-party collaboration, with a range of disagreements over policy and strategy (Lynch *et al.*, 2019, pp. 61–62). Third, the government may have been even less willing than usual to accept opposition amendments, given Theresa May's inflexible style of political leadership (discussed below).

This form of parliamentary influence can be detected and measured straightforwardly, by identifying the number and proportion of amendments which were successfully proposed by non-government parliamentarians. However, solely examining such amendments risks ignoring other, subtler, forms of parliamentary influence, to which we now turn.

2.2 Concessionary government amendments

Parliament can also influence legislation through amendments which are formally proposed by the government, but which respond to parliamentary pressure. These 'concessionary' amendments may respond directly to specific non-government amendments, but allow ministers to deprive opponents of political credit, avoid accepting badly drafted amendments, and ensure they have wider government approval (Russell and Gover, 2017, p. 78). Government amendments might also respond to other kinds of parliamentary pressure, such as select committee recommendations, or concerns raised during debate (Russell *et al.*, 2016, pp. 294–298).

There are plausible reasons for expecting this mechanism to have been unusually prominent during the consideration of Brexit legislation. A key driver of government concessions is a desire to avoid embarrassing parliamentary defeats

³For example, in November 2018 DUP MPs abstained on opposition amendments to the Finance (No.3) Bill and even voted with Labour on one amendment. The party's Brexit spokesperson Sammy Wilson explained that the votes were intended to 'send a political message' to May's government about the DUP's opposition to its Brexit policy (BBC Newsnight, 2018).

(Russell and Gover, 2017, p. 79). As explained above, the government was particularly vulnerable to Commons defeats and rebellions in this period. The wider structural context may thus have incentivised the government to make concessions by introducing its own amendments.

However, this expectation depends on government reacting to its structural context by accommodating parliament's concerns. In practice, both Theresa May and Boris Johnson took an inflexible and even confrontational approach to managing parliament (Russell, 2021a). This may partly have stemmed from the fact that the content of some Brexit-related bills interacted with the ongoing Brexit negotiations, limiting government scope for domestic concessions.⁴ It may also have reflected limited room for manoeuvre within the government, particularly under May, who suffered 22 ministerial resignations over her Brexit policy (Freeguard *et al.*, 2020, p. 18). But it was also rooted in a view that parliament should not challenge government attempts to implement (its interpretation of) the 2016 referendum result (Ward, 2021). This view was most starkly evident in both prime ministers' resort to populist anti-parliamentary rhetoric, framing parliament as illegitimately obstructing the wishes of 'the people' (Alexandre-Collier, 2022; Russell, 2021a).

This kind of parliamentary influence cannot be identified by simply examining the sponsors of successful amendments. Instead, it is illuminated by investigating how far successful government amendments reflect earlier parliamentary pressure (Russell *et al.*, 2016, pp. 294–298).

2.3 *Anticipated reactions*

As well as responding to parliamentary pressure, governments often anticipate that pressure, and shape their proposals accordingly. Governments often wish to avoid the forms of parliamentary influence described above—successful non-government amendments and concessionary government amendments—as they can be time-consuming and politically costly. Ministers may therefore avoid introducing proposals which they judge will lead to substantial parliamentary conflict (Blondel *et al.*, 1970; Russell and Gover, 2017). They may even withdraw proposals if such conflict emerges after a bill has been introduced (Russell and Cowley, 2016, pp. 125–126). Thus, parliament can exert important *indirect* influence on government legislation, by shaping which proposals are pursued.

As with the other mechanisms discussed here, we might expect this dynamic to be important during the consideration of Brexit legislation. In particular, there were

⁴The extent of this interaction varied across bills. Some related directly to subjects under negotiation, like the future customs relationship, while others addressed policy areas where the EU would clearly have little or no post-Brexit role.

high-profile pauses in non-legislative aspects of the Brexit process. Perhaps the most dramatic was Theresa May's decision to postpone the first 'meaningful vote' on her Brexit deal. This was originally scheduled for December 2018, but was postponed at the last minute, and not held until January 2019. Theresa May explained openly to the Commons that this delay was due to the government (correctly) anticipating a heavy defeat (Thompson, 2020, pp. 50–52). This suggests that the government did take steps to avoid (or at least delay) parliamentary defeats.⁵

On the other hand, we might question how far the government's handling of Brexit legislation involved anticipation of parliament's reactions. One of the most straightforward methods of responding to probable parliamentary opposition—simply not introducing contentious legislation—was not available to the May government. But even in this context, other aspects of its Brexit strategy showed a willingness to press ahead with proposals regardless of their likely parliamentary reception. This can be seen in Theresa May's failure to alter her approach after the 2017 general election dramatically weakened her parliamentary position. Russell (2021a, p. 450) has argued that despite leading a minority government, May 'sought to govern as if she had an assured majority'. Other work shows that the government gave little thought to reshaping its Brexit goals to reflect the altered balance of parliamentary power (Seldon and Newell, 2019, pp. 298–306). It might therefore be expected that the government would show little willingness or capacity to anticipate parliament's reactions.

This form of parliamentary influence can be hard to detect, because it is preemptive, and explicitly intended to avoid visible conflict. However, one sign of significant parliamentary influence through anticipated reactions is when backbench rebellion leads governments to 'pause', or even abandon, legislation (for examples see Russell and Cowley, 2016, pp. 125–126). Of course, such 'retreats' indicate a government failure to anticipate parliament's reactions *before* introducing legislation (Russell and Gover, 2017, pp. 268–269). But they are powerful evidence of governments altering course when faced with parliamentary defeat or embarrassment. They are thus a useful indicator of parliamentary influence through anticipated reactions.

This section has highlighted that parliament typically influences government legislation through various mechanisms. But it is unclear how prominent these mechanisms should have been in shaping Brexit legislation between 2017 and 2019, as plausible expectations point in contradictory directions. The next section thus explains the data with which we explore this question empirically.

⁵It might be suggested that the Fixed-term Parliaments Act 2011 made such delays more likely by creating a statutory no-confidence route not linked to individual votes. However, the FTPA did not prevent May from designating a vote as a matter of confidence; the primary constraints upon her were political rather than procedural (Russell, 2021b).

3. Data

We test these expectations by analysing the 13 Brexit-related bills introduced to parliament between the 2017 and 2019 general elections. Eleven of these bills were introduced while Theresa May was Prime Minister; two were introduced under Boris Johnson. Just six passed into law before the 2019 general election. [Table 1](#) lists these bills, and indicates the furthest parliamentary stage they reached.

Our analysis covers all amendments proposed to these bills in either the House of Commons or House of Lords.⁶ Both the Commons and Lords consider legislation through a sequence of different stages. MPs can propose amendments at three of these—committee stage, report stage, and the Commons' consideration of amendments made by the House of Lords. Peers can propose amendments at four stages—committee stage, report stage, third reading, and the Lords' consideration of Commons amendments. Across the thirteen bills, we have identified all 3252 amendments proposed in either the Commons or Lords, and recorded three kinds of information about each.⁷

First, we have categorised amendments according to their proposer. Once amendments have been tabled, parliamentarians are free to 'sign' them to show their support.⁸ These lists of supporters allowed us to record whether each amendment was proposed by the government, by government (Conservative) backbenchers, by a combination of government backbenchers and opposition members, or solely by opposition members.⁹ We further disaggregated the latter group, recording whether amendments were supported by members from multiple opposition parties or just one.¹⁰ We also identify any amendments sponsored solely by the DUP.¹¹

⁶Since several of these bills failed to complete their passage through parliament, we do not record amendments which were put down for a stage which never took place.

⁷Given the very large number of amendments, this coding was undertaken separately by two coders. To check intercoder reliability, one section of the data—on the Commons stages of the European Union (Withdrawal) Act—was double-coded. This process showed very high levels of agreement.

⁸Lords amendments can usually be sponsored by at most four peers (or five if a minister adds their name); MPs face no equivalent restriction ([Russell and Gover, 2017](#), p. 244).

⁹Where ministers *and* other parliamentarians signed an amendment, we treat it as a government amendment, to avoid over-stating other groups' influence. This is consistent with the approach taken by [Russell and Gover \(2017, p. 69\)](#), and by parliament itself.

¹⁰For the purposes of this classification, we treat crossbench peers in the same way as an opposition party.

¹¹Only one amendment was supported jointly by the DUP and other groups (Conservative backbenchers and a Labour backbencher). For simplicity, we classify this as 'opposition and government backbench'.

Table 1. Brexit legislation considered in the 2017–2019 Parliament

Name	Furthest stage completed	Date of furthest stage
Agriculture Bill 2017–2019	Commons committee	20 November 2018
Environment Bill 2019	Commons second reading	28 October 2019
European Union (Withdrawal) Act 2018	Royal Assent	26 June 2018
European Union (Withdrawal Agreement) Bill 2019	Commons second reading	22 October 2019
Financial Services (Implementation of Legislation) Bill 2017–2019 [HL]	Commons committee	26 February 2019
Fisheries Bill 2017–2019	Commons committee	17 December 2018
Haulage Permits and Trailer Registration Act 2018	Royal Assent	19 July 2018
Healthcare (EEA and Switzerland Arrangements) Act 2019	Royal Assent	26 March 2019
Immigration and Social Security Co-ordination (EU Withdrawal) Bill 2017– 2019	Commons committee	5 March 2019
Nuclear Safeguards Act 2018	Royal Assent	26 June 2018
Sanctions and Anti-Money Laundering Act 2018	Royal Assent	23 May 2018
Taxation (Cross-border Trade) Act 2018	Royal Assent	13 September 2018
Trade Bill 2017–2019	Lords third reading	20 March 2019

Note: [HL] indicates bills which began in the House of Lords. Royal Assent indicates bills passing into law.

Secondly, we have identified how far amendments would—if passed—alter the substantive content of legislation, rather than making wholly technical or clarificatory changes. We broadly follow the approach taken by [Russell and Gover \(2017\)](#), which was itself based on earlier amendment studies (e.g. [Shephard and Cairney, 2005](#)).¹² We classify amendments as substantive where they would alter the bill's meaning. Otherwise, we classify them as 'clarificatory' (where they simply clarify interpretation), or 'technical' (where they make typographical changes, or are consequential on other amendments). This classification, importantly, relates to the *effect* of amendments if passed, rather than their *motivation*. Parliamentarians may propose substantive amendments without intending to press them to a vote.

¹²Although we broadly follow this approach, we depart from it in some ways—in particular, we do not adopt [Russell and Gover's \(2017\)](#) 'legislative strands' methodology.

Third, we have identified the formal outcome of each amendment. We code these outcomes into just three categories. First, amendments can be ‘agreed’. This includes all amendments which were passed, either with or without a vote. Secondly, amendments can be ‘negatived’: put to a decision but defeated. Finally, some amendments were ‘not decided’: MPs or peers were not asked to make a formal decision, either because their proposers withdrew them or (in the Commons) they were not selected or called by the chair.

Finally, we also identified any successful amendments which overturned earlier amendments, or which were overturned themselves. In the former category, we distinguished between those which simply overturned an amendment, and those which overturned an amendment but also replaced it with alternative text, as the latter represent a change to the original text of the bill.¹³

Taken together, this data allow us to identify the proposers, substantiveness, and outcome of all 3252 proposed amendments to Brexit-related legislation which were considered during the 2017–2019 parliament.¹⁴

4. Analysis

How did parliament influence Brexit legislation between 2017 and 2019? In particular, how far did parliament pass non-government amendments, encourage concessionary amendments, or lead the government to anticipate its reactions? In this section, we explore each of these mechanisms, charting their extent, and comparing this to previous studies of parliament’s legislative influence.

4.1 *Non-government amendments*

We begin by asking how far non-government actors amended the government’s Brexit legislation in this period. [Tables 2](#) and [3](#) shed light on this by showing the outcome of the amendments proposed by various parliamentary groupings in the Commons and Lords, respectively.¹⁵ This reveals several interesting patterns.

First, [Tables 2](#) and [3](#) support the view that this period saw extensive cross-party cooperation ([Thompson, 2020](#)). In all, 448 of the 1482 non-government amendments in the Commons, and 506 of the 1132 in the Lords, were proposed by cross-party groupings: this amounts to fully 30% of non-government

¹³Where amendments clearly formed part of a group that jointly overturned (or overturned and replaced) another amendment, they were all coded according to their joint effect.

¹⁴This approach allows us to provide a systematic overview of amendment patterns. This prioritises breadth over depth, at the expense of more detailed analysis of specific bills.

¹⁵For completeness, these tables include all amendments, even where they were classified as overturned or overturning.

Table 2. Outcomes of Commons amendments to Brexit legislation

Proposers	Agreed (%)	Negatived (%)	Not decided (%)	Total (%)
Government	273 (98)	0 (0)	6 (2)	279 (100)
Government backbench	7 (8)	2 (2)	78 (90)	87 (100)
Opposition + gov. backbench	12 (12)	6 (6)	86 (83)	104 (100)
Joint opposition	0 (0)	35 (10)	309 (90)	344 (100)
Labour alone	0 (0)	144 (26)	405 (74)	549 (100)
SNP alone	2 (1)	37 (13)	246 (86)	285 (100)
Minor opposition party alone	0 (0)	2 (2)	105 (98)	107 (100)
DUP alone	0 (0)	0 (0)	6 (100)	6 (100)
Total	294 (17)	226 (13)	1241 (70)	1761 (100)

Table 3. Outcomes of Lords amendments to Brexit legislation

Proposers	Agreed (%)	Negatived (%)	Not decided (%)	Total (%)
Government	321 (89)	0 (0)	38 (11)	359 (100)
Government backbench	1 (1)	0 (0)	79 (99)	80 (100)
Opposition + gov. backbench	29 (13)	2 (1)	186 (86)	217 (100)
Joint opposition	14 (5)	1 (0)	274 (95)	289 (100)
Labour alone	3 (1)	0 (0)	292 (99)	295 (100)
Minor opposition party alone	0 (0)	0 (0)	251 (100)	251 (100)
Total	368 (25)	3 (0)	1120 (75)	1491 (100)

Commons amendments, and 45% of non-government Lords amendments. How far is this degree of cross-party working unusual? We can investigate this by comparing the figures in [Table 2](#) with similar data provided by [Russell and Gover's \(2017\)](#) analysis of amendments to 12 case study bills between 2005 and 2012. They found that only around 7% of non-government Commons amendments (102 of 1479), and 23% of non-government Lords amendments (453 of 1996) were cross-party ([Russell and Gover, 2017](#), p. 242), indicating that cross-party attempts to amend Brexit legislation were indeed much more extensive than is typical in the Westminster legislative process.

However, [Tables 2](#) and [3](#) also suggest that this cross-party working did not automatically translate into success at amending government legislation. In particular, none of the 344 Commons amendments sponsored by a combination of opposition groups were successful. Amendments of this kind fared better in the Lords, but even there just 5% were agreed. Cross-party amendments involving

Table 4. Substantiveness of successful amendments to Brexit legislation

Proposers	Substantive (%)	Clarificatory (%)	Technical (%)
Government	190 (90)	60 (100)	309 (96)
Government backbench	6 (3)	0 (0)	1 (0)
Opposition + gov. backbench	9 (4)	0 (0)	8 (2)
Joint opposition	6 (3)	0 (0)	0 (0)
Labour alone	0 (0)	0 (0)	1 (0)
SNP alone	0 (0)	0 (0)	2 (1)
Total	211 (100)	60 (100)	321 (100)

Conservative backbenchers were more successful, with success rates of 12% in the Commons and 13% in the Lords. But overall, just 68 of the 2614 non-government amendments were successful (21 in the Commons and 47 in the Lords). This represents a 2.6% success rate, which contrasts starkly to the 93% of government amendments which passed.

How do these patterns compare to those found in earlier work? To explore this, we consider the Commons and Lords separately.¹⁶ Our data find that non-government amendments had a success rate of 1.4% in the Commons, noticeably higher than the equivalent figure of 0.3% provided by [Russell and Gover \(2017, p. 71\)](#). However, in the Lords we found a success rate of 4.2%, somewhat lower than their 6.1% ([Russell and Gover, 2017, p. 71](#)). Neither of these differences indicates a dramatic departure from previous findings. Nor do they alter the overall pattern suggested by [Tables 2 and 3](#): non-government amendments to these bills had very low success rates (even allowing for the fact that many amendments are not intended to pass).

One limitation of the figures presented in [Tables 2 and 3](#) is that they do not distinguish between substantive attempts at policy change and technical or clarificatory changes. This risks overstating the dominance of government-backed amendments, which are often technical alterations ([Russell et al., 2016](#)). [Table 4](#) thus compares successful substantive, clarificatory and technical amendments across different proposers. To focus on amendments that materially altered the relevant bill, we exclude any which we have classified as overturning another without replacing it, and any which were either overturned or overturned and replaced.¹⁷

¹⁶Omitting this distinction would artificially lower the overall success rate, as several of our bills didn't reach the Lords, where non-government amendments are typically more successful.

¹⁷It remains possible that amendments included here might have gone on to be overturned, if they were made to a bill which did not complete its passage.

As expected, Table 4 slightly qualifies the picture of government dominance suggested by Tables 2 and 3. It shows that out of 211 substantive changes to these bills, 21 were proposed by non-government actors. While the government remained responsible for 90% of the substantive changes to its Brexit bills, non-government actors proposed a non-negligible share. Such amendments originated from backbenchers on both sides of the Brexit debate (and both wings of the Conservative Party), illustrating the challenging Commons arithmetic faced by the government. On consecutive days in July 2018, May's government first accepted Eurosceptic Conservative MPs' amendments to the Taxation (Cross-Border Trade) Bill intended to restrict the options for the customs relationship with the EU, and was then defeated on an amendment to the Trade Bill tabled by Conservative former Remainer Phillip Lee, aiming to secure an ongoing relationship with the European Medicines Agency. Moreover, several of these non-government changes were not only substantive but genuinely important. Perhaps most significantly, one amendment made to the European Union (Withdrawal) Bill—against the government's wishes—required any withdrawal agreement to be approved by an Act of parliament.

Overall, how far did parliament influence Brexit legislation by passing non-government amendments? Taken as a whole, non-government actors were largely unsuccessful at amending government bills. Despite a large increase in cross-party working, the success rate of non-government amendments was not markedly higher than usual. Even so, the government's tendency to focus on technical aspects of legislation means that non-government amendments did still make up a fair proportion—around one tenth—of all the substantive changes to Brexit-related bills.

4.2 Concessionary government amendments

While most successful amendments were formally proposed by the government, these may nonetheless have responded to parliamentary pressure. Such concessionary amendments represent an important, but less immediately visible, form of parliamentary influence.

Table 5 explores the extent of this kind of influence, showing how many of the government's successful substantive amendments can be traced to parliamentary pressure. As in Table 4, we exclude amendments which overturned another without replacing it, and any which were themselves overturned or overturned and replaced. Table 5 demonstrates that a clear majority of the substantive government changes in the Commons (65%) and almost all such amendments in the Lords (92%) can be traced to pressure from within parliament. This suggests that parliament wielded important *indirect* influence in this period, by encouraging the government to propose amendments that addressed parliamentary concerns.

Table 5. Parliamentary pressure behind successful substantive government amendments

	Commons (%)	Lords (%)
Parliamentary pressure	60 (65)	90 (92)
None identified	32 (35)	8 (8)
Total	92 (100)	98 (100)

As usual, this dynamic was particularly dominant in the Lords, though it should be noted that concessions there are often a delayed response to earlier pressure in the Commons (Russell and Gover, 2017, p. 80).

This parliamentary pressure came in various forms. Some government amendments explicitly introduced something proposed in an earlier non-government amendment. For example, during discussion of one government amendment to the European Union (Withdrawal) Bill, Conservative backbencher Dominic Grieve remarked that ‘it is rather nice to see the Government echoing the very words that I drafted when the matter was in Committee’ (HC Deb 16 January 2018, c809). In other cases the government responded to specific earlier amendments with compromise proposals. One high-profile example was the meaningful vote on the Brexit deal and guaranteed debate on next steps should it be rejected; this government concession followed multiple Lords defeats and sustained Commons pressure, and paved the way for Theresa May’s later parliamentary difficulties. Other government amendments responded to concerns raised at earlier stages, if not specific earlier amendments. For instance, a government amendment passed at committee stage of the European Union (Withdrawal) Bill reflected an intervention by the chair of the Women and Equalities Select Committee, raising a Committee recommendation (HC Deb 14 November 2017 c308).

Some government amendments resulted directly from cooperation between the government and other groups. For example, one amendment passed to the Sanctions and Anti-Money Laundering Bill was drafted on a cross-party basis and aimed to ensure that the UK’s post-Brexit sanctions regime allowed sanctions to be imposed for the purpose of preventing or punishing gross human rights abuses (HC Deb 1 May 2018, cc174–178). Another amendment to the same bill responded to concerns raised by the Joint Committee on Human Rights (HC Deb 1 May 2018, cc236–237). Similarly, the government worked with both the Procedure Committee and Secondary Legislation Scrutiny Committee during the passage of the European Union (Withdrawal) Bill to develop a system for sifting secondary legislation in the House of Lords (HL Deb 19 March 2018 cc152–153).

These proposals also demonstrated the way in which multiple forms of parliamentary pressure might combine: the House of Commons Procedure Committee originally tabled amendments, accepted by the government, to establish a Commons sifting committee. The amendments on which the government and Lords committees collaborated represented an extension of this proposal to the upper house.

How does this degree of parliamentary influence on government amendments compare to previous findings? Russell *et al.* (2016, p. 296) showed that 60.3% of successful substantive government amendments could be traced to parliamentary pressure. Combining our figures for the Commons and Lords produces an equivalent overall figure of 78.9%. This comparison should be treated cautiously, given that our bills reached varying parliamentary stages. Even so, it suggests that the extent of concessionary amendments during the consideration of Brexit legislation was potentially even higher than in earlier periods. Even if not, the overall picture fits that from earlier work—while the vast majority of non-government amendments were not directly successful, parliamentary pressure lay behind a clear majority of substantive changes to this legislation.

4.3 Anticipated reactions

The final mechanism of parliamentary influence considered here—anticipated reactions—is harder to gauge. However, the clearest sign of ministers altering their plans to account for parliament's likely reaction is when government bills are paused or withdrawn.

Of the 13 Brexit-related bills proposed during the 2017–2019 parliament, just six became law. This suggests that the governments faced severe difficulties in progressing their Brexit-related legislative agendas. As shown in Table 1, two bills stalled after Commons second reading, four reached Commons committee stage, but never moved to report stage, and one—the Trade Bill—passed through both Commons and Lords but was never scheduled for the Commons to consider the Lords' amendments.

Five of these seven delayed bills were introduced by Theresa May's government. These had reached their furthest stage by winter 2018 or spring 2019, but were not scheduled for further consideration. They fell away with the October 2019 prorogation, and were not re-introduced before the end of the parliament. The bills were therefore 'paused' for between six and ten months. While the government did not frame the bills' lack of progress in these terms, opposition MPs regularly did so. For example, Labour's Thangam Debbonaire asked the Leader of the House about 'the location of missing pieces of legislation' in June 2019 (HC Deb 27 June 2019, c813).

Was this delay due to parliament's influence? The government did point to a role for parliament, with the Leader of the House claiming in September that 'one of the reasons why they [the bills] have not made progress is that they have been in other cases amended in such a way as not to achieve the object of Government policy' (HC Deb 26 September 2019, c926). However, this seems far from a full explanation—while the Trade Bill had been extensively amended in the Lords, the other four bills had attracted just one successful non-government amendment between them at Commons committee stage, yet still awaited report stage. It seems more plausible that the government may have feared *future* amendments to this legislation—otherwise, there would be little reason not to continue its passage. The Leader of the House's subsequent claim that 'there is no certainty that these Bills will get through without doing things that are contrary to Government policy, and therefore it is unlikely that they will make progress' (HC Deb 26 September 2019, c926) seems to bear out this suggestion.

These exchanges also suggest that deterring or delaying the legislation was not parliament's preferred outcome. Faced with the prospect of unwelcome future amendments, the government used its power over the parliamentary agenda simply to pause the bills, choosing legislative gridlock rather than accepting parliamentary influence. This tactic was perhaps enabled by parliament's role in delaying the wider Brexit process. 'Exit day' was pushed back multiple times during this period (ultimately from March 2019 to January 2020), driven by MPs' repeated unwillingness to endorse either the various Brexit agreements or a so-called 'no Deal' Brexit (Thompson, 2020). Of course, delaying the date of Brexit also delayed the date by which post-Brexit legislation was needed. Parliament's influence in other spheres may thus have allowed a government fearing future amendments to adopt delaying tactics.

Under Boris Johnson, two further pieces of Brexit legislation were introduced but failed to pass. The most high-profile was the EU (Withdrawal Agreement) Bill, which would implement the government's newly renegotiated withdrawal agreement with the EU.¹⁸ The government introduced this bill on 21 October 2019, proposing to pass it within three days, so that the UK could leave the EU by 31 October. The bill passed its Commons second reading comfortably (by 329 votes to 299). However, MPs then voted against the motion establishing the timetable for subsequent stages (by 322 votes to 308). The Prime Minister immediately announced that the government would 'pause' the legislation while considering its next steps (HC Deb 22 October 2019, c927). Within a few days, MPs agreed to the government's calls for a general election, and the Withdrawal Agreement Bill—together with the government's Environment Bill—fell at the

¹⁸Parliamentary opposition and cabinet disagreements prevented the equivalent bill under Theresa May even being introduced (Barwell, 2021, pp. 354–381).

end of the parliament. Though the government only paused the legislation *after* parliament had defeated its proposed timetable, this vote did force the government to look ahead and choose between either pursuing the legislation on a more prolonged timetable, or renewing its push for a general election.¹⁹ At the time, there was widespread speculation that MPs would attempt to amend the bill, particularly to add a requirement for a second Brexit referendum (see, e.g., [Parker, 2019](#)). Subsequently, [Dominic Grieve \(2021\)](#) confirmed that such an attempt would have been made: ‘most of us recognised, when he brought that legislation in, that we had come to crunch time and that there would be an attempt during the passage of the bill in committee to insert a referendum clause.’ This is plausibly another case of parliament shaping the government’s decision about its legislative agenda. However, it is also possible that the government was perfectly happy with this parliamentary reaction, or even set out to provoke it, knowing that it would bolster Johnson’s claim to need a new mandate to ‘get Brexit done’.

Overall, this level of legislative failure is clearly unusual. Though there is no directly comparable figure indicating the number of paused or abandoned government bills in earlier periods, [Russell and Cowley \(2016, p. 126\)](#) describe such ‘all-out retreats’ as ‘fairly rare’. They were clearly not rare under these governments—7 of their 13 Brexit-related bills ultimately failed to become law. However, these bills were not formally voted down by parliament. This suggests that delay came instead from ministers’ anticipation of *future* parliamentary problems, enabled by parliament’s role in delaying the Brexit process more generally.

5. Conclusion

This article has asked how, and how far, the British parliament influenced Brexit-related legislation between 2017 and 2019. This is crucial for understanding parliament’s contested role in the Brexit process, but has not yet received systematic empirical scrutiny. Attempts to answer this question can neither rely on existing studies of the Brexit process (which have not focused in detail on parliament’s *legislative* role), nor earlier studies of the legislative process (whose findings may not generalise to this highly unusual period).

We thus addressed this question by identifying the extent of three mechanisms of parliamentary influence over Brexit legislation during the 2017–2019 parliament. This revealed two main patterns in parliament’s influence. First, when parliament was allowed to consider legislation, there was a surprising degree of continuity in the extent and nature of its influence. Parliament wielded considerable influence, but largely by encouraging government concessions rather than

¹⁹The government had already tried and failed, on two occasions in September 2019, to get MPs’ agreement to an early election.

passing non-government amendments. Despite a dramatic increase in cross-party working, non-government amendments were not significantly more successful than in earlier periods. Meanwhile, parliamentary pressure continued to underly most of the government's substantive amendments. Conversely, a major difference from recent experience was the quantity of legislation which parliament *did not* fully consider. Though it is not unheard of for governments to pause or withdraw their legislation in the face of parliamentary opposition, an unusually large amount of Brexit legislation was delayed in this way. This may have reflected government concerns about the risk of its legislation being heavily amended. But it also reflects parliament's role in delaying Brexit itself, highlighting that parliament's consideration of Brexit legislation cannot be separated from its role in the broader Brexit process.

Overall, therefore, our findings suggest that parliament played a powerful but nuanced role in the consideration of Brexit legislation. However, any additional parliamentary influence—relative to earlier periods—was largely preventative, rather than constructive, with parliament deterring government legislation rather than getting to actively reshape it. The article thus makes two specific contributions. First, it extends the literature on parliament's role in the Brexit process, by providing new evidence from the passage of Brexit-related legislation. This evidence reinforces existing views of parliament's wider Brexit role which have emphasized parliamentary influence creating 'gridlock and inertia' (Thompson, 2020, p. 61). Secondly, we hope this article also makes a helpful contribution to the wider literature on parliament's legislative role, by highlighting how far the patterns found during earlier periods could be generalised to the highly unusual 2017–2019 Parliament.

Our findings also point to a wider lesson, highlighting how government control of the parliamentary agenda can limit parliament's legislative impact, even under conditions that strengthen opposition parties and backbench rebels. Ultimately, governments can always decide to abandon legislation rather than see it amended in ways they dislike, safe in the knowledge that parliamentarians have little influence over that decision. Some might view this as a sensible way to ensure that ministers are not required to implement legislation with which they disagree; others may think it strengthens the existing case (see Russell and Paun, 2007; Russell and Gover, 2021) for reducing the government's control of the parliamentary agenda.

Our analysis leaves clear scope for further work. In particular, parliament's consideration of Brexit legislation resumed after the 2019 general election in a very different context. The Conservative government now commanded an 80-seat Commons majority, prompting speculation about a 'return to normal' in the post-2019 parliament (Fowler, 2020). Future work should thus explore how far this new context affected parliament's influence over legislation, and executive-legislative relations more widely.

Funding

Lisa James' work was supported by the Economic and Social Research Council UK in a Changing Europe programme [grant number ES/T000929/1].

Conflict of Interest

The authors have no conflicts of interest to report.

References

- Alexandre-Collier, A. (2022) 'Brexit and anti-Parliament Discourses among Conservative MPs (2016–2019)', *Parliamentary Affairs*, **75**, 239–262.
- Barwell, G. (2021) *Chief of Staff: Notes from Downing Street*, London, Atlantic Books.
- BBC Newsnight (2018, 19 November) 'Sammy Wilson from the DUP has a Message for the Government: "You've got to keep your side of the bargain, otherwise we don't feel obliged to keep ours"', accessed at <https://twitter.com/BBCNewsnight/status/1064650335912833024> on 1 September 2021.
- Blondel, J., Gillespie, P., Herman, V., Kaati, P., and Leonard, R. (1970) 'Legislative Behaviour: Some Steps towards a Cross-National Measurement', *Government and Opposition*, **5**, 67–85.
- Cygan, A., Lynch, P., and Whitaker, R. (2020) 'UK Parliamentary Scrutiny of the EU Political and Legal Space after Brexit', *JCMS: Journal of Common Market Studies*, **58**, 1605–1620.
- Elliott, M., and Tierney, S. (2019) 'Political Pragmatism and Constitutional Principle: The European Union (Withdrawal) Act 2018', *Public Law*, 37–60.
- Fleming, T. G. (2021) 'Parliamentary Procedure under Theresa May: Nothing Has Changed?', *Parliamentary Affairs*, **74**, 943–963.
- Fowler, B. (2020) 'A New Normal? Parliament after Brexit', *Political Insight*, **11**, 41–43.
- Fowler, B., and Fox, R. (2020) 'Delegated Legislation'. In UK in a Changing Europe (ed.) *Parliament and Brexit*, London, UK in a Changing Europe.
- Freeguard, G., Shephard, M., Guerin, B., Pope, T., and Zodgekar, K. (2020) 'Whitehall Monitor 2020', London, Institute for Government.
- Grieve, D. (2021) 'Brexit Witness Archive: Dominic Grieve', *UK in a Changing Europe*, accessed at <https://ukandeu.ac.uk/brexit-witness-archive/dominic-grieve/> on 30 August 2021.
- Griffith, J. A. G. (1974) *Parliamentary Scrutiny of Government Bills*, London, Allen & Unwin.
- James, L. (2020) 'Key Brexit Bills: The EUWB and the WAB Compared'. In UK in a Changing Europe (ed.) *Parliament and Brexit*, London, UK in a Changing Europe.

- Lijphart, A. (1999) *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, New Haven, CT, Yale University Press.
- Lynch, P., and Whitaker, R. (2019) 'Select Committees and Brexit: Parliamentary Influence in a Divisive Policy Area', *Parliamentary Affairs*, **72**, 923–944.
- Lynch, P., Whitaker, R., and Cygan, A. (2019) 'Brexit and the UK Parliament: Challenges and Opportunities'. In Christiansen, T. and Fromage, D. (eds) *Brexit and Democracy: The Role of Parliaments in the UK and the European Union*, Basingstoke, Palgrave Macmillan.
- Menon, A., and Wager, A. (2021) 'The Long Goodbye: Brexit'. In Ford, R., Bale, T., Jennings, W. and SurrIDGE, P. (eds) *The British General Election of 2019*, Cham, Palgrave Macmillan.
- Mezey, M. L. (1979) *Comparative Legislatures*, Durham, NC, Duke University Press.
- Parker, G. (2019, 20 October) 'Labour to Try to Add New Referendum to Brexit Deal'.
- Russell, M. (2016) 'Parliament: A Significant Constraint on Government'. In Heffernan, R., Hay, C., Russell, M. and Cowley, P. (eds) *Developments in British Politics* **10**, Basingstoke, Palgrave Macmillan.
- Russell, M. (2021a) 'Brexit and Parliament: The Anatomy of a Perfect Storm', *Parliamentary Affairs*, **74**, 443–463.
- Russell, M. (2021b) 'The Fixed-term Parliaments Act did not cause the Brexit impasse', *The Constitution Unit Blog*, The Constitution Unit, accessed at <https://constitution-unit.com/2021/09/06/the-fixed-term-parliaments-act-did-not-cause-the-brexit-impasse/> on 7 February 2022.
- Russell, M., and Cowley, P. (2016) 'The Policy Power of the Westminster Parliament: The "Parliamentary State" and the Empirical Evidence', *Governance*, **29**, 121–137.
- Russell, M., and Cowley, P. (2018) 'Modes of UK Executive-Legislative Relations Revisited', *The Political Quarterly*, **89**, 18–28.
- Russell, M., and Gover, D. (2017) *Legislation at Westminster: Parliamentary Actors and Influence in the Making of British Law*, Oxford, Oxford University Press.
- Russell, M., and Gover, D. (2021) *Taking Back Control: Why the House of Commons Should Govern its Own Time*. London, Constitution Unit.
- Russell, M., Gover, D., and Wollter, K. (2016) 'Does the Executive Dominate the Westminster Legislative Process?: Six Reasons for Doubt', *Parliamentary Affairs*, **69**, 286–308.
- Russell, M., Gover, D., Wollter, K., and Benton, M. (2017) 'Actors, Motivations and Outcomes in the Legislative Process: Policy Influence at Westminster', *Government and Opposition*, **52**, 1–27.
- Russell, M., and Paun, A. (2007) *The House Rules?, International Lessons for Enhancing the Autonomy of the House of Commons*. London, Constitution Unit.
- Rutter, J., and Owen, J. (2020) 'Brexit Legislation'. In UK in a Changing Europe (ed) *Parliament and Brexit*, London, UK in a Changing Europe.

- Seldon, A., and Newell, R. (2019) *May at 10*, London, Biteback Publishing.
- Shephard, M., and Cairney, P. (2005) 'The Impact of the Scottish Parliament in Amending Executive Legislation', *Political Studies*, **53**, 303–319.
- Smith, J. (2019) 'Fighting to "Take Back Control": The House of Lords and Brexit'. In Christiansen, T. and Fromage, D. (eds) *Brexit and Democracy: The Role of Parliaments in the UK and the European Union*, Basingstoke, Palgrave Macmillan.
- Thompson, L. (2020) 'From Minority Government to Parliamentary Stalemate: Why Election 2019 Was Needed to Break the Brexit Logjam'. In Tonge, J., Wilks-Heeg, S. and Thompson, L. (eds) *Britain Votes: The 2019 General Election*, Oxford, Oxford University Press.
- Thompson, L., and Yong, B. (2019) 'What Do We Mean by Parliamentary Scrutiny of Brexit? A View from the House of Commons'. In Christiansen, T. and Fromage, D. (eds) *Brexit and Democracy: The Role of Parliaments in the UK and the European Union*, Basingstoke, Palgrave Macmillan.
- Thürk, M. (2022) 'Small in Size but Powerful in Parliament? The Legislative Performance of Minority Governments', *Legislative Studies Quarterly*, **47**, 193–224.
- Tonge, J. (2017) 'Supplying Confidence or Trouble? The Deal between the Democratic Unionist Party and the Conservative Party', *The Political Quarterly*, **88**, 412–416.
- Ward, J. W. (2021) 'Reasserting the Centre: The Brexit Doctrine and the Imperative Mandate in British Politics', *Parliamentary Affairs*, **74**, 890–910.
- Xu, R., and Lu, Y. (2021) 'Intra-Party Dissent over Brexit in the British Conservative Party', *British Politics*. Online First. <https://doi.org/10.1057/s41293-021-00165-9>.
- Young, A. L. (2017) 'The Constitutional Implications of Brexit', *European Public Law*, **23**, 757–786.