

Inquiry on Post-Brexit Scrutiny of EU Law and Policy—Draft Terms of Reference

The UK will leave the EU on 31 October 2019 unless a further extension of the Article 50 deadline is agreed, a Withdrawal Agreement ratified, or the UK's Article 50 notification revoked, before then. No matter how the UK leaves the EU — with or without an exit deal — the UK will no longer participate in the EU's institutions and decision-making structures. Nor will the EU Treaties and laws made under them apply directly in the UK as a matter of EU law, though some EU law would continue to apply and have the same legal effects in the UK under the draft EU/UK Withdrawal Agreement, but as a matter of international law.

The main elements of the current system of EU document scrutiny and the mechanisms enabling Parliament to hold the Government to account for its role in shaping EU laws and policies were put in place in the 1970s when the UK first joined what was then the European Economic Community. There have been incremental changes since then. The prospect of Brexit provides an opportunity both to review the current system and to consider what changes might be needed to reflect the UK's status outside the EU.

The European Scrutiny Committee is launching an inquiry into *Post-Brexit Scrutiny of EU Law and Policy*. The starting point of the inquiry is 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".¹ The inquiry will explore how EU laws and policies may continue to affect the UK if an EU/UK Withdrawal Agreement is ratified, after a post-exit transition period has ended, under one or more future EU/UK relationship agreements, or in the event of a no deal exit. It will consider what the purpose of scrutiny should be, what the Government should do to "support and facilitate a strong parliamentary scrutiny process", and what form scrutiny should take.

Key issues which the European Scrutiny Committee will wish to address in its inquiry include:

- How the UK's exit from the EU will affect the current system for scrutinising EU law and policy and what changes might be needed
- Whether and how EU laws and policies might affect the UK after Brexit
- What the purpose of scrutiny of EU law and policy should be in a post-exit world
- What action the Government should take to "support and facilitate a strong parliamentary scrutiny process" post-exit

¹ Letter dated 5 September 2018 from the former Secretary of State for Exiting the European Union (Rt Hon Dominic Raab MP) to the Chairs of the European Scrutiny Committee (Sir William Cash) and the European Union Select Committee (Lord Boswell).

- What form scrutiny should take to maximise its effectiveness