



Library Note

Constitutional Conventions: Possible Options in the New Parliament

Discussion of the case for a UK constitutional convention predates the Scottish referendum on independence held in September 2014, but has received increased attention in the months since voting in that referendum took place. Four of the five UK-wide political parties currently polling above 5 percent in the run-up to the general election scheduled to be held on 7 May 2015—the Labour Party, the Liberal Democrats, the United Kingdom Independence Party and the Green Party—have supported calls for a constitutional convention to consider aspects of the constitution or the constitution as a whole. Some politicians in the Conservative Party, though not the leadership of that party, have also reportedly expressed support for the idea of holding a constitutional convention in the new Parliament. However, despite agreement among some of the parties, there appears to be less clarity, or indeed consensus, on a number of factors, including on what form such a convention may take, what remit it may have and what difficulties it may face in practice.

This Note sets out some of the ‘key issues’ that have been put forward as being important when a process of constitutional review or reform is being devised and briefly highlights examples of the different structures used during such processes both in the UK and around the world. The Note ends with an overview of the latest known positions of a selection of political parties represented in the current House of Commons on the case for holding a constitutional convention.

This Note uses the definition of a constitutional convention as a representative body collected together to discuss constitutional change. It is not concerned with constitutional conventions in the sense of uncodified procedural agreements followed by the institutions of a state.

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20 March 2015
LLN 2015/008

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I. Introduction

It should be stated at the outset that this Note is not concerned with constitutional conventions in the sense of uncodified procedural agreements followed by the institutions of a state. Rather, it uses the same definition as that set out by the House of Commons Political and Constitutional Reform Committee during its inquiry into whether there is a need for a constitutional convention for the UK: that is, a “representative body collected together to discuss constitutional change”.¹

Discussion of the case for a UK constitutional convention predates the Scottish referendum on independence held in September 2014, but has received increased attention in the months since voting in that referendum took place. Four of the five UK-wide political parties currently polling above 5 percent in the run-up to the general election scheduled to be held on 7 May 2015—the Labour Party, the Liberal Democrats, the United Kingdom Independence Party and the Green Party²—have supported calls for a constitutional convention to consider aspects of the constitution or the constitution as a whole. Some politicians in the Conservative Party, though not the leadership of that party, have also reportedly expressed support for the idea of holding a constitutional convention in the new Parliament.³ However, despite agreement among some of the parties, there appears to be less clarity, or indeed consensus, on a number of factors, including on what form such a convention may take and what remit it may have and what difficulties it may face in practice.⁴

This Note sets out some of the key issues that have been put forward as being important when a process of constitutional review or reform is being devised and briefly highlights examples of the different structures used during such processes both in the UK and around the world. The Note ends with an overview of the latest known positions of a selection of political parties represented in the current House of Commons on the case for holding a constitutional convention.

2. Issues to be Considered

2.1 Academic Recommendations

In 2003, Vernon Bogdanor, now Research Professor at the Institute for Contemporary British History, argued that the “unique constitutional experiment” enacted by the previous Labour governments had led to a constitutional “half-way house”, and that this had led to a view of the

¹ House of Commons Political and Constitutional Reform Committee, [Do We Need a Constitutional Convention for the UK?](#), 28 March 2013, HC 371 of session 2012–13, p 9.

² BBC News website, [Election 2015: Poll Tracker](#), accessed 4 March 2015.

³ Recently, Baroness Stowell of Beeston, Lord Privy Seal and Leader of the House of Lords, stated, in response to the suggestion that the Prime Minister call a constitutional convention, “as far as the Conservative Party within this Government is concerned, there are other things that have a higher priority [that] do not need a constitutional convention. We want to see those implemented first” (HL *Hansard*, 2 March 2015, [col 4](#)). In contrast, Lord Baker of Dorking, a former Home Secretary and Chairman of the Conservative Party, has called for a constitutional convention to be held following the general election (*Independent*, [‘General Election 2015: Why a Con-Lab Coalition May be Needed to Save the United Kingdom’](#), 6 March 2015).

⁴ For information on the lack of clarity attached to the term ‘constitutional convention’, see Patrick Farard and Darrel R Reid, [Constituent Assemblies: A Comparative Study](#), 1991, p 5.

constitution that was incomplete and uncertain.⁵ Writing in 2009, he reiterated his view:

There is a sense of incompleteness about the constitutional reforms since 1997, an uncertainty about their final direction. Constitutional reform has been a process rather than an event, and so far it is an incomplete process.⁶

It is in this context that calls for a constitutional convention have gathered pace in recent years.

Dr Alan Renwick, Associate Professor of Comparative Politics at the University of Reading, has written in detail on the precedents and forms a possible constitutional convention may take.⁷ Whilst noting that, “of course, the aspects we might consider are numerous and the possibilities for innovation in design almost infinite”, Renwick, in part one of his paper, [After the Referendum: Options for a Constitutional Convention](#), set out six ‘key issues’ or ‘key areas of choice’ that, in his view, “need to be thought about when a process of constitutional design or reform is being devised”.⁸ In summary, these six key issues are as follows:

1. What is the purpose of this process? Is a wholly new constitution being devised, is the existing constitution being comprehensively reviewed, or is the review restricted to specific aspects?
2. Who is represented in this process? It should be taken as a given that the people in a democracy are sovereign and their representation is therefore essential. But who are “the people”? Are there particular groups that especially deserve or require representation? And to what extent is there a case for following the non-representative principle that expertise should count?
3. What is the basic structure of the body or set of bodies that debates the options and makes recommendations? [...] At the least inclusive end of the spectrum are expert commissions. These are followed by negotiations among political leaders, indirectly elected assemblies, and civil society conventions. Directly elected assemblies, as their name suggests, integrate citizens more directly into the process. Citizens’ assemblies go still further by removing the intermediation of politicians. Finally, these pure models can be mixed, either by establishing constitution-making bodies with mixed memberships or by creating processes that incorporate multiple bodies of differing composition.
4. Who can influence the constitution-making body’s deliberations? In particular, who sets its agenda and with whom does it consult, on what basis, through the course of its work?
5. What are the body’s operational procedures? Most importantly, how does it make decisions: by simple majority, qualified majority, consensus, or some other principle?
6. What happens once the constitution-making body has made its recommendations? Does that body have the capacity to enact its recommendations into law itself? Does it merely recommend to parliament? Is a referendum held? Do the recommendations

⁵ Vernon Bogdanor (ed), *The British Constitution in the Twentieth Century*, 2003, pp 718–9.

⁶ Vernon Bogdanor, *The New British Constitution*, 2009, p 230.

⁷ See Alan Renwick, [After the Referendum: Options for a Constitutional Convention](#), April 2014.

⁸ *ibid*, p 6.

automatically go to a referendum or can parliament decide after the recommendations have been made?⁹

As Renwick observed later in his paper, “the first [of these] is perhaps the most fundamental: what is the purpose of instituting a constitution-making process in the first place?”¹⁰ The next four points “concentrate on the design of the body or set of bodies charged with devising constitutional proposals”, and the final point listed above “looks at how proposals are translated into final decisions: who is involved and what roles do they play?”

Robert Hazell, Professor of British Politics and the Constitution at UCL and currently Director of the UCL Constitution Unit, has also written on the factors which, in his view, ought to be considered when planning a process of constitutional review or reform. In a [blog post](#) on the subject, published in October 2014, Hazell listed the following factors, in addition to the issue of the selection of members, as requiring consideration by those devising such a process:

- Purpose
- Scope and terms of reference
- Timetable
- Establishing the convention: membership, budget and staffing
- Working methods of a convention
- Links to representative government and legislatures and the political process.¹¹

Hazell argued that balance between these factors was required if a constitutional convention were to be successful. He concluded:

[...] a convention established hastily, overloaded with too many tasks, inadequately staffed or required to report too quickly is almost certain to fail. That will be damaging to the cause of deliberative democracy as well as to constitutional reform. Those who call for a constitutional convention have focused almost exclusively on its membership, and how those members would be selected. As much thought needs to be given to its purpose, terms of reference, timetable, budget, leadership and staffing, as well as its links to government and parliament. If equally careful thought and planning is given to all those things, a convention stands a much greater chance of success.¹²

In addition, Dr Clodagh Harris, Senior Lecturer in the Department of Government, University College Cork, has written about the factors which, in her view, should be considered ahead of a possible UK constitutional convention taking place. In a [blog post](#) on the subject, published on 16 October 2014, Harris stated:

Whatever remit is chosen for [a] UK convention, care is required to ensure that its work is inclusive, well resourced, allocated sufficient time, open, and has a clearly defined timeline for governmental response if it is to achieve legitimacy.¹³

⁹ *ibid*, pp 7–8.

¹⁰ *ibid*, p 17. See pages 17–29 of the paper for a more detailed discussion of the issues listed here in summary.

¹¹ Robert Hazell, ‘[You Want a Constitutional Convention? This is What You Need to Think Through First](#)’, UCL Constitution Unit Blog, 8 October 2014.

¹² *ibid*.

¹³ Clodagh Harris, ‘[The UK Has Much to Learn from the Irish Constitutional Convention](#)’, LSE British Politics and Policy Blog, 16 October 2014.

The importance of clear planning was also commented on by Canon Kenyon Wright, former executive chairman of the Scottish Constitutional Convention, in evidence to the House of Commons Political and Constitutional Reform Committee during its inquiry into a constitutional convention for the UK, which took place during the 2012–13 session. He stated that there were five questions the inquiry, and by extension anyone planning a convention, would need to answer:

The questions are: first, why do we need/want a convention; what is the problem? Secondly, what is it for—clear goals? Thirdly, who does it consist of? Fourthly, how does it work? And, fifthly, where is it going?¹⁴

Having briefly covered the issues that commentators have suggested should be considered if planning a process of constitutional review or reform, the following section provides an overview of the basic structures of bodies identified in academic literature as having been tasked with such a process, together with examples of these structures being used in practice in either the UK or other countries.

2.2 Government Position

The Government has stated that it is aware of these issues. In its command paper, [The Implications of Devolution for England](#), published in December 2014, the Government observed the following in respect of a possible UK constitutional convention taking place:

A decision would need to be taken about the **terms of reference** and scope of the Convention. The **composition of the convention** would also be a key consideration. There are a number of ways a convention could be approached, ranging from an exercise carried out by an Independent Chair and panel of experts to a body made up of citizens and representative of the nations and regions, and local Government, and with a strong element of public consultation. Parliament could decide how those on the convention from such groups would then be selected and what proportion was independent or belonged to political parties.

Decisions on the scope and composition of the convention would have a significant impact on **timescales**. The House of Commons Select Committee on Political and Constitutional Reform recommended that the Government considers establishing a forum or ‘pre-Convention’ with public participation to involve the English people in the resolution of these issues. In their view this would provide a useful opportunity for people to discuss “whether and how they wished to follow Scotland, Wales and Northern Ireland and access statutorily defined substantial devolved powers for their local communities”.

Similarly, further work would be needed to consider how a constitutional convention would **interact with changes which are happening in parallel** (e.g. further devolution to Scotland) and how that might impact on timing, the scope of the issues under consideration and what action should be taken. A decision would also need to be taken on how the convention would report, what commitment the Government should make on taking forward recommendations and the timescales for doing so. Again, this would depend on the nature of the exercise and its scope. Parliament may wish to have

¹⁴ House of Commons Political and Constitutional Reform Committee, [Do We Need a Constitutional Convention for the UK?](#), 28 March 2013, HC 371 of session 2012–13, p 13.

a binding commitment from the Government to consider the proposals of the Convention, report on them, and to put them to a vote—either in Parliament or through a referendum.¹⁵

The command paper noted that the Conservative Party and the Liberal Democrats had different views on the issue of constitutional review and reform. See section 4.3 below for further information on the positions of the two parties on this issue.

3. Basic Structures

Hazell stated in his [blog post](#) that, “there is no single model for a constitutional convention”.¹⁶ This point was also made in the House of Commons Political and Constitutional Reform Committee report on the subject of a constitutional convention, and is well illustrated by the work of Renwick.¹⁷ In part two of his paper, [After the Referendum: Options for a Constitutional Convention](#), the latest analysis of its type, Renwick considered six typologies of composition, and a seventh category of mixed arrangements, used during processes of constitutional review or reform, and explored them in further detail through detailed examples from the UK and other countries. He identified seven categories of constitutional deliberative body:

- Expert commission
- Negotiation among leaders
- Indirectly elected assembly
- Civil society convention
- Directly elected constituent assembly
- Citizens’ assembly
- Mixed assembly¹⁸

These typologies are surveyed, in brief, below.

3.1 Expert Commission

Claudia Landwehr, Professor of Political Science in Public Policy and Administration at the Johannes Gutenberg University of Mainz, has defined expert commissions as follows:

The typical expert commission is a forum authorised to examine the definition of a problem, a situation, or the available alternatives with which a collective is confronted. Expert commissions are created and given responsibility by a hierarchically superior body such as the Government or Parliament. The typical expectation is that the commission will, through its members’ superior information and judgement, arrive at explicit and rational recommendations on policies to adopt. Members usually come from different disciplines and represent different positions within single disciplines. To the public, they are presented as each of them being (one of) the best within their field.¹⁹

¹⁵ HM Government, [The Implications of Devolution for England](#), December 2014, Cm 8969, p 21, bold in original.

¹⁶ Robert Hazell, ‘[You Want a Constitutional Convention? This is What You Need to Think Through First](#)’, UCL Constitution Unit Blog, 8 October 2014.

¹⁷ House of Commons Political and Constitutional Reform Committee, [Do We Need a Constitutional Convention for the UK?](#), 28 March 2013, HC 371 of session 2012–13, p 28.

¹⁸ Alan Renwick, [After the Referendum: Options for a Constitutional Convention](#), April 2014, pp 8–9.

¹⁹ Claudia Landwehr, *Political Conflict and Political Preferences: Communicative Interaction Between Facts, Norms, and Interests*, 2009, p 113.

Writing on the past use of expert commissions in the UK, Renwick noted in his paper that “most major constitutional reforms in the UK in recent decades have been preceded by detailed investigation by a commission of individuals selected, at least in part, for their expertise or their capacity to develop expertise” and cited the Kilbrandon, Richard, Calman and Silk Commissions on devolution proposals, the Jenkins Commission on electoral reform and the Wakeham Commission on the future of the House of Lords as examples.²⁰

The House of Commons Political and Constitutional Reform Committee, during its inquiry into the case for a constitutional convention in the UK, considered appointed commissions versus conventions. In its final report, the Committee considered the commissions cited in Renwick’s paper, together with the McKay Commission on solutions to the West Lothian Question and the Commission on the British Bill of Rights, but concluded that, “despite the reams of recommendations from these commissions that the Government has implemented, or has indicated that it will implement, there has been no analysis of the combined effect that these changes have had on the constitution as a whole”.²¹ Despite this observation that appointed commissions have considered particular issues but not the constitution in its entirety, the Committee stopped short of recommending a commission over negotiation among leaders or a convention (form undefined) for a process of constitutional review or reform, stating:

If there is a need for a review of the constitutional relationships in the UK, this could be put into effect by a decision of the Government and devolved Administrations, or a commission or a constitutional convention.²²

The expert commission model has been both supported and criticised. The Political and Constitutional Reform Committee noted in its report that “some witnesses questioned why we [the Committee] were considering the case for a UK-wide constitutional convention, rather than an appointed commission”.²³ Indeed, Hazell, writing in 2007, stated that some had called for “a standing constitutional commission, to provide an external and independent motor of reform, and to ensure the reform programme is coherent and the interactions fully thought through (Brazier, 1998)”.²⁴ However, he also noted that opinion on handing responsibility to a commission for major constitutional review or reform could be divided:

Royal Commissions have gone out of favour in recent years. They can be an excuse for procrastination; their findings can be delivered into a completely different political environment; and collecting the views of external experts neglects the importance of engaging parliamentarians in negotiating the settlement of constitutional issues.²⁵

More recently, Hazell wrote that, “if the main objective is to harness expert opinion, then the best vehicle may be an expert commission”.²⁶ He cited the examples of commissions leading to further devolution in Scotland and Wales as cases where commissions have been successful. However, he added, the “extraordinary levels of public engagement during the referendum

²⁰ Alan Renwick, [After the Referendum: Options for a Constitutional Convention](#), April 2014, p 21. See pages 31–4 for further information on these expert commissions and an assessment of their outcomes.

²¹ House of Commons Political and Constitutional Reform Committee, [Do We Need a Constitutional Convention for the UK?](#), 28 March 2013, HC 371 of session 2012–13, p 5.

²² *ibid*, p 10.

²³ *ibid*, p 5.

²⁴ Robert Hazell, [Towards a New Constitutional Settlement](#), June 2007, p 17.

²⁵ *ibid*, p 16.

²⁶ Robert Hazell, [You Want a Constitutional Convention? This is What You Need to Think Through First](#), UCL Constitution Unit Blog, 8 October 2014.

campaign in Scotland have created an expectation that for proposals to command legitimacy, there must be greater citizen involvement in producing them”.

The above suggests that any constitutional change initiated following the recommendations of an expert commission may potentially be interpreted as lacking the legitimacy which may come from wider public involvement in a process of constitutional deliberation.

3.2 Negotiation Among Leaders

In his paper, Renwick suggested a second typology for processes of review or reform of constitutional arrangements: negotiation among leaders. This typology could include constitutional conferences where delegates have been drawn from the “existing national government (if there is one) and the constituent units”, and “have also included the leaders of the major political parties”, if applicable.²⁷ It has also been observed that, “while in many respects similar to indirectly-elected constituent assemblies”, this model is usually less formal in terms of its selection and organisation.

Renwick summarised this second model as follows:

Constitution-making sometimes occurs through bargaining between negotiating teams from various political parties, provinces or other groupings. Such negotiations can take many forms, as can best be summed up through a number of examples.²⁸

As one of his examples, Renwick cited the case of Poland and Hungary following the collapse of communism in those countries, where “new constitutional structures were devised at roundtable negotiations between representatives of the old regimes and of the dissident movements that had opposed them”.²⁹

He also noted an example from Canada, where “major negotiations over the structure of the federation and the question of Quebec’s continuing membership were conducted in the 1980s and early 1990s through negotiations among the provincial premiers and the federal prime minister”, leading to the ultimately unsuccessful Meech Lake Accord of 1987 and Charlottetown Accord of 1992. Renwick noted that the assembled premiers “could claim to represent the voters who had elected them, although, inevitably, the question also frequently arose of whether in fact they also represented their own institutional and partisan interests”.

Also mentioned was an example from Sweden, where a “perceived need for constitutional review [...] led in 1954 to the establishment of a parliamentary committee charged with devising reform proposals”.³⁰ Renwick wrote that in practice, the “committee functioned as a forum for building consensus among the various parliamentary parties”, but that such consensus took a long time to emerge and “it was not until 1974 that the review process was finally concluded and the new constitution enacted”.

²⁷ Patrick Farard and Darrel R Reid, *Constituent Assemblies: A Comparative Study*, 1991, p 6.

²⁸ Alan Renwick, *After the Referendum: Options for a Constitutional Convention*, April 2014, pp 21–3.

²⁹ *ibid.*

³⁰ *ibid.*, p 22.

Finally, Renwick mentioned an example from Northern Ireland as a case when negotiation by leaders was successful in securing an agreement with constitutional implications:

In Northern Ireland, the Belfast Agreement of 1998 was negotiated between the British and Irish governments and the representatives of the political parties. This structure of indirect representation may have been crucial to acceptance of the proposals that were drawn up and to the broader success of the peace process.³¹

After assessing the examples of Canada and Northern Ireland later in his paper, Renwick concluded that the “Canadian experiences [...] exemplify an important danger of constitution-making by elite negotiation: it may delegitimise the decisions that are reached in the eyes of the public, thereby jeopardising their successful implementation”.³² However, citing the Belfast Agreement, he also stated that, “notwithstanding the Canadian experience, therefore, there are circumstances in which elite bargaining may be the only plausible path to take”.

This typology could also include, as a further example, the Committee of the Diet of the Swiss Confederation which drafted the federal constitution of 1848 following the civil war of 1847.³³

Robert Hazell has written on forums which could fit within the ‘negotiation among leaders’ typology, in particular cross-party talks and parliamentary committees. On cross-party talks, Hazell noted that the “past century has seen several attempts to secure consensus on constitutional measures through cross-party talks, both private talks on Privy Councillor terms and more formal interparty talks”.³⁴ He noted that cross-party talks have “repeatedly been used to try to progress reform of the House of Lords from 1910 onwards (mostly without much success)” and cited the Joint Labour/Liberal Democrat Committee on Constitutional Reform (1997); the cross-party talks on House of Lords reform chaired by Jack Straw (initiated in June 2006); and the cross-party talks on reviewing party funding chaired by Sir Hayden Phillips (2006–07) as other examples of this model. On parliamentary committees, Hazell wrote that “in the twentieth century Speaker’s Conferences were convened to recommend changes in electoral law” and he cited the more recent examples of a joint committee “convened as a cross-party forum to consider Lords reform”, a joint committee “asked to produce options in terms of the balance between appointed and elected members” and a joint committee “asked to codify the key conventions governing the relationship between the two Houses [of Parliament]”. On the effectiveness of the parliamentary committee model, Hazell wrote:

The joint parliamentary committee on Lords reform received few submissions and very little publicity. But this need not necessarily be so. The joint parliamentary committee in Canada which considered the draft Canadian Charter of Rights and Freedoms held nationally televised hearings in which it heard evidence from 300 groups and 1000 individuals.³⁵

³¹ *ibid*, pp 21–3. See pages 35–40 for further information on the Canada and Northern Ireland examples, together with assessments.

³² *ibid*, pp 39–40.

³³ Patrick Farard and Darrel R Reid, *Constituent Assemblies: A Comparative Study*, 1991, p 6.

³⁴ Robert Hazell, *Towards a New Constitutional Settlement*, June 2007, p 15.

³⁵ *ibid*, p 16. The Research Service of the National Assembly for Wales has published a briefing paper on a possible UK constitutional convention, in which examples of Speaker’s conferences, established by the Speaker of the House of Commons to investigate matters on an all-party basis, are set out (National Assembly for Wales Research Service, *Towards a UK Constitutional Convention?*, May 2012, pp 8–9).

Although leading politicians would be engaged in such a model, it could be argued that this typology may be perceived to lack the legitimacy which may come from wider public involvement in a process of constitutional deliberation.

3.3 Appointed or Indirectly Elected Assemblies/Conventions

This typology can include those bodies charged with constitutional review or reform in which the members are either appointed, or elected by state or provincial legislatures.³⁶ Renwick defines this category of model as including “constitution-making bodies where the emphasis (at least in theory) is more upon deliberation than upon negotiation”.³⁷ The following examples were provided in his paper for appointed or indirectly elected types of composition:

The Philadelphia Convention of 1787 [at which the US Constitution was drafted] belongs to this category: the members were (in almost all cases) elected by their respective state legislatures. Another example is the much more recent Convention on the Future of Europe, which devised a Constitution for Europe in 2002–3: this Convention was designed to move away from the structure of intergovernmental negotiations in order to widen the democratic conversation and ease resolution of differences. Most of its members were thus chosen from the parliaments, rather than the governments, of the various member states and accession states.³⁸

Other examples of this model include the Australian constitutional conventions of 1891, 1897–98 and 1973–85, and the German Parliamentary Council established in 1948.³⁹

The House of Commons Political and Constitutional Reform Committee, in its report, stated that the Philadelphia Convention model “serves as an interesting historical example of where constitutional conventions can lead, but offers fewer lessons for the UK than the more recent examples of constitutional conventions. However, it is worth noting that the Philadelphia Convention had a clearly defined remit and only a small number of delegates”.⁴⁰

After assessing the Convention on the Future of Europe as an example of this type of composition, Renwick concluded that although “in many respects the Convention was [...] clearly a great success [...] it also had limitations”, including that it “did not succeed in engaging a wider public”.⁴¹ Arguably, this lack of public engagement manifested in 2005 when voters in France and the Netherlands rejected the Treaty Establishing a Constitution for Europe in referenda which followed the convention process.

³⁶ Patrick Farard and Darrel R Reid, *Constituent Assemblies: A Comparative Study*, 1991, p 5.

³⁷ Alan Renwick, *After the Referendum: Options for a Constitutional Convention*, April 2014, p 23.

³⁸ *ibid.* See pages 40–7 for further information on the Convention on the Future of Europe, including an assessment.

³⁹ Patrick Farard and Darrel R Reid, *Constituent Assemblies: A Comparative Study*, 1991, p 6.

⁴⁰ House of Commons Political and Constitutional Reform Committee, *Do We Need a Constitutional Convention for the UK?*, 28 March 2013, HC 371 of session 2012–13, p 10.

⁴¹ Alan Renwick, *After the Referendum: Options for a Constitutional Convention*, April 2014, p 23. See pages 40–7 for further information on the Convention on the Future of Europe, including an assessment.

3.4 Civil Society Convention

Regarding the civil society convention typology, Renwick stated in his paper that “citizens can be represented by groups from civil society as well as by politicians in order to seek consensus across politically active society”.⁴² He added:

This model is rarely used as the primary organizing principle of constitution-making processes. Indeed, the closest example is the unofficial Scottish Constitutional Convention of 1989–95. This body included representatives of the churches, trade unions, business, local authorities, and ethnic minorities, as well as those political parties that agreed to take part. The key decisions were, however, dominated by the two participating parties—Labour and the Liberal Democrats.

Hazell has summarised the civil society convention model as typically having a wider membership than expert commissions and structures based on the ‘negotiation among leaders’ model, involving both politicians and the wider community.⁴³ Regarding the choice of an expert commission or wider convention in line with the civil society convention typology, Hazell has stated that, in his opinion, such a choice depends on the nature, size and scale of the task:

A convention is more suitable as a forum to negotiate between the political parties and other interests, but could lose credibility if major parties decide not to be involved (the SNP and Conservative party did not join the Scottish Constitutional Convention). A convention can more easily get bogged down: in Australia in 1985 the Hawke government lost patience with the slow progress of the Constitutional Convention (1973–85) and set up a Constitutional Commission in its place. A commission can be equally good at engaging in systematic and widespread consultation, as shown by the Australian state of Victoria in their consultation exercise on a bill of rights, led by a four person panel in six months in 2005.⁴⁴

The House of Commons Political and Constitutional Reform Committee stated that the experience of the Scottish Constitutional Convention demonstrated the need for future processes based on this model to have a clear remit and clarity about the questions they should consider:

The Scottish Constitutional Convention was highly successful in achieving its aim. The Convention had a clearly defined remit of making the case for an Assembly or Parliament for Scotland. Nonetheless, the example of the Scottish Constitutional Convention shows that there is a need for clarity about the questions that [a] convention would seek to answer.⁴⁵

Although observing that the Scottish Constitutional Convention was “clearly a great success” because it influenced future devolution, Renwick noted that the Convention had been criticised on at least two fronts.⁴⁶ Firstly, “it was far less inclusive than at first it might have appeared”, and secondly, “its model of representation may be viewed as elitist”.

⁴² *ibid*, pp 23–4.

⁴³ Robert Hazell, [Towards a New Constitutional Settlement](#), June 2007, p 17.

⁴⁴ *ibid*.

⁴⁵ House of Commons Political and Constitutional Reform Committee, [Do We Need a Constitutional Convention for the UK?](#), 28 March 2013, HC 371 of session 2012–13, p 11.

⁴⁶ Alan Renwick, [After the Referendum: Options for a Constitutional Convention](#), April 2014, p 55.

3.5 Directly Elected Constituent Assembly

This typology refers to processes defined by bodies where delegates are elected by the population at large with the primary purpose of drafting a new constitution.⁴⁷

Hazell has written that directly elected constituent assemblies have, historically, been used at the birth of a new state, or to create a new constitutional order (for example, in the case of India, post-war Germany, Israel and South Africa after apartheid).⁴⁸ In addition:

They are directly elected, representative bodies, which may be separate or may just be the parliament sitting as a constituent assembly, and their task is to draft a new constitution. They are generally convened following a seismic event, such as defeat in war, the grant of independence, or the complete collapse of the previous system of government.

Renwick stated that such assemblies were, however, “very rarely used in existing democratic contexts: if an existing legislature is to take on constituent functions, it is likely to establish a committee to conduct the detailed work [as in the Swedish example provided in section 3.2], while the rest of the assembly gets on with its own regular business; and politicians may be reluctant to set up a separate constituent assembly lest it develop as a rival power centre”.⁴⁹ He added:

In fact, the only example in an established democracy of a constituent assembly distinct from the regular legislature that was composed entirely by direct election appears to be the Constitutional Council elected in Iceland in 2010 in the wake of the banking crisis and consequent collapse of public confidence in the political system. This was a highly unusual assembly, in that only independents ran for election. The intention was to create an assembly responsive to popular concerns and free of the institutional interests of the established power elite.

However, in terms of the effectiveness of such a model, Renwick noted that Iceland’s Constitutional Council of 2011—the “only example in the world of a pure elected constituent assembly operating in parallel to the regular legislature in an existing, consolidated democratic polity”—has to date “not delivered any result”.⁵⁰ This is perhaps, according to social scientist Jon Olafsson, because of the Constitutional Council’s “failure to engage with politicians and parliament and ensure they were kept on board”.⁵¹ Questions had also been raised about the process in Iceland itself—including low poll turnouts.⁵²

The House of Commons Political and Constitutional Reform Committee, after describing the processes which took place in Iceland, stated that the Icelandic Constitutional Convention was a “good example of the use of multiple facets to a convention to gain widespread support amongst the public”, and praised the Icelandic convention’s use of social media.⁵³ However, the Committee observed that if the Icelandic model was to be followed in the UK, given the UK’s

⁴⁷ Patrick Farard and Darrel R Reid, [Constituent Assemblies: A Comparative Study](#), 1991, p 5.

⁴⁸ Robert Hazell, [Towards a New Constitutional Settlement](#), June 2007, p 16.

⁴⁹ Alan Renwick, [After the Referendum: Options for a Constitutional Convention](#), April 2014, p 24.

⁵⁰ *ibid*, pp 9 and 64.

⁵¹ *ibid*, p 64.

⁵² *ibid*, p 65.

⁵³ House of Commons Political and Constitutional Reform Committee, [Do We Need a Constitutional Convention for the UK?](#), 28 March 2013, HC 371 of session 2012–13, p 12.

much larger population as compared to Iceland, “work would need to be done to ensure that a UK convention was representative, but also a manageable size”, given that a convention on this model would be directly elected.

3.6 Citizens’ Assembly

Robert Hazell has described citizens’ assemblies as “a radical new model developed in Canada, using citizens drawn randomly from the electorate”.⁵⁴ Regarding this typology, Renwick stated in his paper:

The major innovation in constitution making processes in recent years has been the creation of citizens’ assemblies: assemblies comprising ordinary citizens selected at random from among those who responded positively to an invitation to take part. Such assemblies have been used in the Canadian provinces of British Columbia [2005] and Ontario [2006–7] and in the Netherlands [2006], in all cases to debate a possible new electoral system for their polity. Ireland’s ongoing Constitutional Convention [2012–14] is based in part on this model and is introduced as one of the mixed models in the point below. Iceland’s recent constitutional reform process also incorporated a similar—though limited—element.⁵⁵

Renwick concluded that in all three citizens’ assemblies that took place in Canada and the Netherlands, “all succeeded in working harmoniously towards a precise conclusion, with final recommendations endorsed by a large majority of assembly members”. However:

[...] whatever the merits of the process, none of the assemblies delivered any actual change. Perhaps this was because there was little need for change. But another possibility is that the process was better suited to warm discussion than to concrete action: as in Iceland, we might be concerned that politicians, because they were excluded from the process, felt little connection to the reform proposals and therefore did not work for their enactment.⁵⁶

Hazell has observed that the nearest the UK has come to citizens’ assemblies has been the use of citizens’ juries, “which sit for a much shorter period (typically 3-5 days) to debate a public policy issue and report back”.⁵⁷

The House of Commons Political and Constitutional Reform Committee, commenting on one of the citizens’ assemblies that took place in Canada, stated that, “while the reforms proposed by the British Columbia Citizens’ Assembly ultimately failed, the Assembly clearly managed to engage citizens of British Columbia”.⁵⁸ The Committee observed that replicating the ‘town hall’ meeting style used during the process in British Columbia “could be a way of increasing engagement” with the public in the UK, during a process of constitutional review or reform.

⁵⁴ Robert Hazell, [Towards a New Constitutional Settlement](#), June 2007, p 17.

⁵⁵ Alan Renwick, [After the Referendum: Options for a Constitutional Convention](#), April 2014, pp 24–5. See pages 66–73 for further information on the citizens’ assemblies in Canada and the Netherlands, including an assessment.

⁵⁶ *ibid*, p 73.

⁵⁷ Robert Hazell, [Towards a New Constitutional Settlement](#), June 2007, p 17.

⁵⁸ House of Commons Political and Constitutional Reform Committee, [Do We Need a Constitutional Convention for the UK?](#), 28 March 2013, HC 371 of session 2012–13, p 12.

3.7 Mixed Assembly

In his paper, Renwick identified a final, seventh typology—that of the mixed assembly:

Finally, it is possible for the various pure types that have been identified so far to be combined in a wide variety of ways. The Irish Constitutional Convention is one example, including both randomly selected citizens and politicians [two thirds of the membership (66 persons) was comprised of ordinary citizens chosen on the model of the citizens' assemblies, and one third (33 persons) was comprised of politicians chosen by their parties]. Iceland provides another recent example: the elected Constitutional Council was preceded by a one-off meeting of randomly selected citizens. A third example comes from Australia: the Constitutional Convention of 1998 was half directly elected and half appointed. Furthermore, many cases combine one or more of the representative elements with an expert commission or advisory structure.⁵⁹

Assessing the recent Irish Constitutional Convention, Iseult Honohan, Senior Lecturer in the School of Politics and International Relations, University College Dublin, stated that the experience provided an “example of a relatively successful experiment in deliberative democracy, which engaged citizens in considered political discussion, achieved buy-in from the political elite, and reached decisions, at least three of which the government has agreed to bring to a public referendum”.⁶⁰ She argued that it provided a “model of a mixed convention in which elected politicians and citizens sit together—neither purely political, purely expert nor purely citizen in composition”.

A process of constitutional review or reform in the next Parliament, should one take place, could take any one of the forms, or combination of forms, categorised above. The next section summarises recent opinion on what form, if any, such a process should take, together with the positions of a select number of political parties with a presence in the current House of Commons.

4. UK: Recent Developments

4.1 House of Commons Political and Constitutional Reform Committee Report and Government Response

Political and Constitutional Reform Committee Report

The House of Commons Political and Constitutional Reform Committee, during its inquiry into whether there is a case for establishing a constitutional convention for the UK, also “considered more detailed questions about the basis on which a convention should be established, its legal status, its composition, and how it should engage with the public”.⁶¹ In its final report, published on 28 March 2013, the Committee considered the remit and composition of a UK constitutional convention and suggested that “the Government consider,

⁵⁹ Alan Renwick, [After the Referendum: Options for a Constitutional Convention](#), April 2014, p 25. See pages 74–93 for further information, including assessments, of two examples of mixed assemblies: the Australian constitutional convention of 1998 and the Republic of Ireland’s recent constitutional convention.

⁶⁰ Iseult Honohan, ‘[What Can the UK Learn from the Irish Constitutional Convention?](#)’, openDemocracy Blog, 8 October 2014.

⁶¹ House of Commons Political and Constitutional Reform Committee, [Do We Need a Constitutional Convention for the UK?](#), 28 March 2013, HC 371 of session 2012–13, p 5.

amongst other options, preparations for a UK-wide constitutional convention”. Although noting that the Committee was not in unanimous agreement on the “need for further review of constitutional arrangements or that a constitutional convention would be the right vehicle for any such review”, the Committee made the following recommendations, should a UK-constitutional convention take place:⁶²

Remit

81. We are concerned that a UK-wide constitutional convention with an open remit could struggle to reach clear conclusions. The complexity of the UK’s constitutional relationships is such that it may be best for the Government to try to solve these issues first. While there is a case to be made that the evolving devolution settlements have altered our unwritten constitution to such an extent that it may be best to revise and codify it in a written document, we believe further work is necessary fully to examine this option. We are exploring this issue further in our inquiry into mapping the path to codifying, or not codifying, the UK’s constitution [...]

A formal or informal convention?

94. It would be best if either the Government undertake the work, or appoint a commission or set up a constitutional convention. The legal status of any work undertaken, and the process involved, should be clear at the outset. The Government should make a commitment in advance to report any proposals resulting from a convention or a commission to Parliament and be clear about whether a referendum would be necessary before the proposals could be implemented [...]

Composition

101. Some believe the arguments point strongly to the need for a constitutional convention. There is a choice about whether a constitutional convention should be directly elected, or include a mix of appointed and elected delegates. Questions of composition may come rapidly into focus when the remit of a UK-wide convention has been agreed. There is not just one type of successful convention. However, we believe a successful convention would involve representatives from all parts of the Union. We are clear that the convention must have a strong element of public participation if it is to be credible. We believe that the public should be represented among the members of the convention, but we also believe that there are a number of useful precedents for involving the wider public. Using social media, as Iceland did in its constitutional convention, would be a comparatively low-cost way of ensuring engagement by citizens across the UK. Given that the UK has a lower rate of internet use than Iceland, 83 percent compared to Iceland’s 95 percent, use could also be made of public meetings so ordinary citizens could contribute to the work of the convention [...]

Decision making

105. How the delegates of a UK-wide constitutional convention take decisions will be key to its success. Requiring unanimous agreement might lead to gridlock and risk the timescale for the convention becoming prolonged. However, we are not convinced that simple majority voting is a satisfactory way of proceeding on proposals of a

⁶² *ibid*, p 3.

constitutional nature. At the very least, we would want to see decisions supported by a majority of the representatives from each of the parts of the UK.

106. The Governments and Legislatures of all the nations of the Union would be key participants in the convention and the public debate. It would be expected that all the political institutions and parties would take the long view on the future shape of the Union [...]

Timing

110. International examples suggest that conventions can be completed within one to two years [...] However, since it would take time to set up a convention, the Government should begin work without delay on resolving the English Question. It would be best if either the UK Government and the devolved Administrations undertake the work, or jointly appoint a commission, or set up a UK-wide constitutional convention.⁶³

The Committee reached the following summary conclusion in its report:

We therefore suggest that the Government consider, among other options, preparations for a UK-wide constitutional convention, including decisions about its form and organisation, and the process of calling for evidence. If the Government chooses to take this option, the UK-wide constitutional convention should be able to take into account the debate from the [recommended] pre-convention hearings in England and the referendum result in Scotland, and produce a preliminary report. Alternatively, the UK Government and devolved Administrations may form agreements themselves.⁶⁴

Government Response

In its response to the Committee's report, published in November 2013, the Government highlighted that the Committee "did not unanimously support the view that there should be a constitutional convention or further review of constitutional arrangements".⁶⁵ The Government agreed with the Committee's view that "conventions are most effective when 'they engage the public with their deliberations'", but stated that it remained "unconvinced, however, that there is currently strong public interest in a constitutional convention for the UK".⁶⁶ In conclusion, the Government stated:

The Government is grateful to the Committee for its report. It agrees that constitutional reform is important, and there may be situations in which a constitutional convention is needed. But as the then Minister for Political and Constitutional Reform Chloe Smith [Conservative] said to the Committee, it is difficult to "necessarily see a clear route to justifying time spent on a convention when... the public is clearly very focused on the economy and on the cost of living." The state of the economy remains the priority for the UK public and the Government; and the Committee's report has

⁶³ *ibid*, pp 24–32.

⁶⁴ *ibid*, p 4.

⁶⁵ Deputy Prime Minister's Office, [Government Response to the Political and Constitutional Reform Select Committee Fourth Report of Session 2012-13: Do We Need a Constitutional Convention for the UK?](#), November 2013, Cm 8749, p 4.

⁶⁶ *ibid*, p 5.

not revealed evidence to the contrary. As public engagement is a crucial component of an effective convention, an absence of public interest is an important factor [...]

At a time when the economy is the first priority of Government and there has been recent and ongoing significant constitutional reform, the Government does not consider that there is a strong case for holding a constitutional convention at this time. Therefore the Government has not commented on the potential remit or composition of any constitutional convention.⁶⁷

4.2 Academic Recommendations

A number of views on proposals for processes of constitutional review or reform have been expressed by academics in recent years. A selection of these views are summarised below.

In evidence to the House of Commons Political and Constitutional Reform Committee, Professor Matthew Flinders of the Department of Politics at the University of Sheffield stated that a constitutional convention was needed from a practical viewpoint, as “there are already a number of single-issue government-commissioned reviews underway and there is an urgent need to ‘join-up’ the outcome of those processes”.⁶⁸ Professor Flinders repeated this view in February 2015.⁶⁹

However, the House of Commons Political and Constitutional Reform Committee report on the case for a constitutional convention in the UK quoted academics who pointed out difficulties which may arise should a constitutional convention take place:

Professor Iain McLean, of the University of Oxford, pointed out in his written evidence: “the main problem for a proposed UK constitutional convention is that nobody in England, representing 85 percent of the population, seems to feel much urgency about it”. In his written evidence, Professor James Mitchell, of the University of Strathclyde, highlighted the difficulties that there would be in ensuring that the composition of any convention had legitimacy. He concluded that “it might prove as easy to agree on a new constitutional settlement for the UK as on how to constitute any Convention”.⁷⁰

Regarding the criteria that could be used for selecting among the options for a constitutional convention in the UK, Alan Renwick, in his paper cited above, stated that “perhaps surprisingly, there is no substantial body of existing scholarship from which criteria can be straightforwardly extracted”.⁷¹ In part as a consequence, in part three of his paper Renwick argues that the various options for a constitutional convention in the UK should be judged against the following criteria:

I. the process should foster a debate that is based upon *reason rather than interest or passion*: that is, it should be designed to make it more likely that participants will ground

⁶⁷ *ibid*, p 14.

⁶⁸ House of Commons Political and Constitutional Reform Committee, [Do We Need a Constitutional Convention for the UK?](#), 28 March 2013, HC 371 of session 2012–13, p 14.

⁶⁹ Matthew Flinders, [‘Let the People Speak! Devolution, Decentralisation, Deliberation’](#), Oxford University Press Blog, 1 February 2015.

⁷⁰ House of Commons Political and Constitutional Reform Committee, [Do We Need a Constitutional Convention for the UK?](#), 28 March 2013, HC 371 of session 2012–13, p 16.

⁷¹ Alan Renwick, [After the Referendum: Options for a Constitutional Convention](#), April 2014, p 94.

their positions in considerations of general principle rather than either vested interest or emotional reaction;

2. *this reasoning should be of high quality*: participants should have a good understanding of the options available and the strengths and weaknesses that each may reasonably be considered to have;

3. *deliberations over the constitution should be inclusive*: in a democratic society, it is essential to ensure that all parts of that society are fairly represented and that their participation should be as active as possible;

4. constitution-making processes should be designed to maximize *public legitimacy*: members of the public should have confidence in the processes that are established and the recommendations that are produced;

5. constitution-making processes should also be designed to achieve *political legitimacy*: politicians in positions of power (in both government and opposition) should feel connected to the process and bound to take the recommendations of a constitution-making body seriously.⁷²

Following these recommended criteria, in part four of his paper Renwick offered his preferred design for a constitution-making convention in the UK. In brief, he declined to recommend the basic purpose of a constitution-making process in the UK, stating that any remit would be decided by democratically elected politicians. However, he made the following recommendations for the design of a constitution-making process in the UK, should such a process take place:

- The core body that deliberates options and makes recommendations *should represent the people of the UK as a whole in proportion to population*. It should be designed to ensure that politicians feel directly included as well.
- The *basic structure* of this body should be modelled on the recent Irish Constitutional Convention: that is, a *mixed model* should be adopted, including a majority of ordinary citizens chosen at random (though with the opportunity for those who are initially invited to choose whether to accept the invitation) and a minority of politicians chosen by their parties.
- The *agenda* of this body should be set flexibly, so that it can consider not only what the various units of government should be within the UK and what powers they should have, but also any other aspects of the constitution that may be affected by decisions on the structure of the Union. The constitutional convention should *consult widely* in the course of its deliberations. In particular, there is a strong case for also establishing short-lived deliberative fora in particular regions that can offer guidance to the main convention.
- The *operational procedures of the convention* should be decided so far as possible by the convention itself. Early on in its deliberations, it should seek broad internal consensus on whether its decisions will be made by simple majority or by qualified majority across regions or by less formalized procedures. A UK

⁷² *ibid*, p 10, italics in original.

constitutional convention would have a complex agenda. It would need time to work through this agenda and it would need to draw on expert guidance as well as inclusive consultation. Implications for the duration of the convention, the pattern of its meetings, and the compensation given to members for their time would need to be thought through carefully.

- The legislation establishing the convention should also *commit the government to putting the convention's proposals to a referendum*. This referendum might include one or more questions, depending on the convention's recommendations. These questions should be worded following the advice of the Electoral Commission. The decision threshold in this referendum—in particular, whether majorities should be required in the nations and regions as well as across the UK as a whole—should be determined by the constitutional convention itself.⁷³

Renwick stated that there is “no guarantee” that a convention following such guidance would succeed, but added that such a convention would offer the “best prospects of fostering a serious and inclusive discussion of the future of the Union that would engage public opinion, draw in the political establishment, revitalize the structure of the Union, and revive the health of the democratic system”.⁷⁴

In response to Renwick's preferred model, Meg Russell, Professor of British and Comparative Politics and Deputy Director of the Constitution Unit at UCL, stated:

As an expert witness to that convention [the Irish Constitutional Convention] I can testify that it was not perfect but the involvement of both citizens and politicians clearly worked well, and succeeded in engaging the wider public. A mixed membership has the advantage of gaining political ‘buy-in’, and helping keep recommendations politically realistic. But given how entrenched political positions are on the English question [which may be considered by a convention], at least some sessions should probably involve citizens alone.⁷⁵

David Farrell, the Research Director of the Irish Constitutional Convention, supported the view that the Irish Constitutional Convention provides a model for the UK. He stated that it “might be timely” for the UK to “consider borrowing from the Irish example and establish a constitutional convention for the UK”.⁷⁶

Thorvaldur Gylfason, Professor of Economics at the University of Iceland, who was elected to be a delegate at the Icelandic Constitutional Assembly in 2011, has argued against including politicians in any constitution review or reform process in the UK:

There may be a lesson or two also for the UK in the Icelandic constitutional saga as it has played out thus far. A national assembly comprising a statistically significant sample of the electorate is a crucial initial step toward a democratic constitution because political parties tend to serve as interest organizations for politicians or other groups. For that reason, politicians should not be allowed near the constitution making process

⁷³ *ibid*, pp 11–2, italics in original.

⁷⁴ *ibid*, p 12.

⁷⁵ Meg Russell, ‘[An English Constitutional Convention Could Benefit Both Main Parties in the Face of the UKIP Threat](#)’, UCL Constitution Unit Blog, 17 October 2014.

⁷⁶ David Farrell, ‘[The Irish Constitutional Convention Offers a Potential Route-map For Renewing UK Democracy](#)’, Democratic Audit UK Blog, 15 October 2014.

because of the danger that they will try to hijack the process for their own benefit. Large countries like the UK should have no trouble with extending an open invitation to the public to participate in the process through crowd sourcing as long as appropriate sampling techniques are used to compile a representative collection of comments and suggestions offered by the citizenry.⁷⁷

4.3 Political Opinion

Conservative Party

The Government's command paper, [The Implications of Devolution for England](#), published in December 2014, set out the Conservative Party position, as well as that of the Liberal Democrats, on holding a constitutional convention. The command paper indicated that the Conservative Party did not have a preference for a constitutional convention over a commission, or vice versa. In respect of the Conservative Party, the command paper stated:

The Conservative Party believes that any future constitutional convention or commission should be concerned with the effective working of the constitutional arrangements for each part of the Union, including the new arrangements for England, to build a better and fairer settlement within our United Kingdom.

Such a body could consider the case for a 'Statute of the Union' to enshrine and reinforce the constitutional arrangements for each part of the Union, and to assist in achieving a stable, long-term settlement across the United Kingdom.

The establishment of any such convention or commission should not delay the implementation of the Smith Commission in Scotland and equivalent changes in the rest of the United Kingdom, including the introduction of English Votes for English Laws, or English and Welsh Votes for English and Welsh Laws.⁷⁸

This position was repeated in the Conservative Party publication, [The Future of England: Decentralisation and English Votes for English Laws](#).⁷⁹

William Hague, First Secretary of State and Leader of the House of Commons, made a statement in the House of Commons on 16 December 2014 in which he introduced the Government command paper and stated:

The command paper sets out the arguments on a constitutional convention and the Government are open to ideas on that—but a constitutional convention cannot be an excuse for delay on what needs doing now in the British constitution.⁸⁰

More recently, Baroness Stowell of Beeston, Lord Privy Seal and Leader of the House of Lords, set out the Conservative Party leadership's position on holding a UK constitutional convention in the immediate future. In response to the suggestion, during oral questions in the House of Lords on 2 March 2015, that the Prime Minister call a constitutional convention, Baroness

⁷⁷ Thorvaldur Gylfason, '[Events in Iceland Show that a UK Constitutional Convention Should Involve Politicians as Minimally as Possible](#)', Democratic Audit UK Blog, 28 October 2014.

⁷⁸ HM Government, [The Implications of Devolution for England](#), December 2014, Cm 8969, p 27.

⁷⁹ Conservative Party, [The Future of England: Decentralisation and English Votes for English Laws](#), undated.

⁸⁰ HC Hansard, 16 December 2014, [col 1270](#).

Stowell stated that, “as far as the Conservative Party within this Government is concerned, there are other things that have a higher priority”.⁸¹ Earlier, she had stated that the Government had “not ruled out a constitutional convention, but certainly the Conservative part of the coalition thinks that other, more immediate issues should be addressed first”.⁸²

However, other members of the Conservative Party have called for a constitutional convention to take place in the new Parliament. For example, Lord Baker of Dorking, a former Home Secretary and Chair of the Conservative Party, writing in the *Independent* on 6 March 2015 on the prospects of a Conservative-Labour grand coalition after the general election scheduled for 7 May 2015, stated:

[...] this [grand coalition] government’s main purpose should be to establish a constitutional convention—covering not just Scotland but Wales, Northern Ireland and England—with the intention of preserving the United Kingdom and ensuring that devolution, which is the order of the day, is achieved in an orderly, fair, consistent and coherent way. It must not come about through a series of patchwork measures driven by just one part of the UK, the consequences of which have not been thought through.

One would hope that a consensus would emerge but, in any event, each party could set out its own views at the ensuing general election.⁸³

In summary, the Conservative Party does not appear to reject a constitutional convention in principle, but rather views other issues as being of a higher priority. In contrast to the Labour Party and the Liberal Democrats, the Conservative Party has not, so far, publicly called for a constitutional convention to be held in the next Parliament.⁸⁴

Liberal Democrat Party

On 21 September 2014, following the result of the Scottish independence referendum, Nick Clegg, Leader of the Liberal Democrats and Deputy Prime Minister, stated, in respect of a UK constitutional convention:

[...] it needs a precise mandate, beginning next year and concluding in 2017. It should have a citizens’ jury at its heart, representing every corner of the UK. One area it will need to address is the future of the House of Lords which, in my view, would better serve people as an elected second chamber, in keeping with federal political systems across the world. Ultimately, however, it will not be up to politicians—this process will be led by the people.⁸⁵

The Government’s command paper, [The Implications of Devolution for England](#), published in December 2014, set out the Liberal Democrats’ position, as well as that of the Conservative Party, on holding a constitutional convention. The command paper indicated that the Liberal

⁸¹ HL *Hansard*, 2 March 2015, [col 4](#).

⁸² HL *Hansard*, 6 January 2015, [col 335](#).

⁸³ *Independent*, ‘[General Election 2015: Why a Con-Lab Coalition May Be Needed to Save the United Kingdom](#)’, 6 March 2015.

⁸⁴ House of Commons Political and Constitutional Reform Committee, [Consultation On A New Magna Carta?](#), 9 March 2015, HC 599 of session 2014–15, p 11.

⁸⁵ Liberal Democrats, ‘[Nick Clegg: This Opportunity Cannot be Hijacked](#)’, 21 September 2014.

Democrats supported a constitutional convention. In respect of the party's position, the command paper stated:

A constitutional convention is of crucial importance not only in seeking public consent for major change, but also in ensuring that such change is coherent and properly thought through and does not inadvertently unravel our United Kingdom [...]

[...] the time is right for a constitutional convention to discuss the relationship between the constituent parts of the UK and also to explore the values and principles which bind us together.

A constitutional convention should be composed of representatives of the political parties, academia, civic society and members of the public. The Convention should be led by an independent chair agreed by the leaders of the three main political parties. The remit of the Convention should be decided by parliament through legislation, if possible on a cross party basis. The Liberal Democrats believe this should include the consideration of the appropriate level for political decision-taking in the UK, the powers of the devolved administrations, the interactions between the different institutions of the UK and the voting rights of MPs. The working practices and way in which it chose to approach the remit should be decided by the Convention itself.

The Liberal Democrats believe that a constitutional convention should be legislated on at the earliest possible opportunity so its work can start as soon as possible. We would expect the next Government to recognise and engage with the outcome of the Convention and put its proposals to a binding vote of parliament in the most appropriate possible way.⁸⁶

More recently, speaking in debates in February 2015, other Liberal Democrat ministers in both the House of Commons and House of Lords voiced support for the principle of holding a constitutional convention. During a debate on Scottish representation in the Union held in the House of Commons on 4 February 2015, Alistair Carmichael, Secretary of State for Scotland, stated:

The options [for Scottish representation in the Union] can and should be considered by a constitutional convention [...]. The convention should be empowered to look at all the anomalies and difficulties that we face. In that way, we can forge a consensus and build lasting solutions that strengthen the bonds of our United Kingdom, rather than threaten to break them.⁸⁷

Lord Wallace of Tankerness, Deputy Leader of the House of Lords, Advocate General for Scotland and spokesperson for the Scotland Office in the House of Lords, speaking in the House on 26 February 2015, observed:

It is not going to happen this side of the general election—it cannot practically be set up in the next three or four weeks—but, post-election, it is almost inevitable in some form. It will involve not only the political parties but civic communities, which is important, but that is for the other side of the election. It has happened before. In the debate we had in October after the referendum, views from different parts of the United Kingdom

⁸⁶ HM Government, [The Implications of Devolution for England](#), December 2014, Cm 8969, pp 28–32.

⁸⁷ HC Hansard, 4 February 2015, [col 398](#).

and from different parties were expressed about the importance of a constitutional convention.⁸⁸

In summary, the Liberal Democrat Party has supported calls for a constitutional convention, and has stated that one be legislated for at the “earliest possible opportunity”.⁸⁹ The party has stated that such a convention should be composed of representatives of the political parties, academia, civic society and members of the public, should begin this year, and should conclude in 2017.

Labour Party

On 19 September 2014, following the result of the Scottish independence referendum result announced that morning, Ed Miliband, Leader of the Labour Party and Leader of the Opposition, stated:

In the coming weeks we [the Labour Party] will set out a process to begin before the next election with every region in the country engaged in a dialogue with the people about how power needs to be dispersed, including in England. That process will culminate next year with a constitutional convention to discuss how we are governed. It will look at new ideas for representation including reforms at Westminster and the case for a Senate of the Nations and Regions. This is a convention for the United Kingdom. It is not a convention to divide or drive our country apart once more.⁹⁰

This was commented on further by Angela Eagle, Shadow Leader of the House of Commons, on 20 November 2014, who provided some detail as to the Labour Party’s preferred models:

It is clear that we need a radical plan for reform and change. That is why Labour has built on our proud tradition of constitutional reform, and has announced a comprehensive programme for change. We will deliver a new English deal, which will devolve over £30 billion to city and county regions. We will ensure that the Welsh model of devolution is on an equal footing with the Scottish, and will hold an unprecedented and wide-reaching constitutional convention, in order to have a conversation with all parts of our country about the change that we need if we are to modernise the way that we are governed [...]

We are already doing some pre-work, before the election. We want this to happen very quickly after the election, and want to be ready to come forward with some views after proper conversations with people from across the entire country. We are looking at models such as the Scottish Constitutional Convention and the Irish Constitutional Convention, which happened after the crash. There are good models out there that we can use to bring about a process that would give a new settlement the legitimacy it deserves.⁹¹

⁸⁸ HL *Hansard*, 26 February 2015, [col 1795](#).

⁸⁹ HM Government, *The Implications of Devolution for England*, December 2014, Cm 8969, p 32.

⁹⁰ Labour Party, ‘[A Constitutional Convention for the UK; a Dynamic New Political Settlement for England and for Britain](#)’, 19 September 2014.

⁹¹ HC *Hansard*, 20 November 2014, [col 520](#).

Carwyn Jones, Welsh First Minister and Leader of the Labour Party in Wales since December 2009, called for a constitutional convention in January 2012.⁹² At the time, he stated:

I'm open to discussion about what form a convention should take but the key point is that it should include a variety of opinion formers and members of the public to ensure that politicians can focus on the really important issues like jobs and growth.

Mr Jones repeated his call for there to be a mechanism for “listening to the public in the constitutional discussion” in a speech at the Institute for Government in October 2014.⁹³

In summary, the Labour Party has called for a wide-ranging constitutional convention to take place in autumn 2015 that “involves the people rather than just an elite in Westminster”.⁹⁴ The party plans for regional meetings involving MPs, councillors, “ordinary citizens” and civil society to take place before a main convention would be convened in autumn this year, which would consider the “shape and extent of English devolution and what reforms are needed in Westminster, as well as the case for a regionally representative Senate or for codifying the constitution”.

United Kingdom Independence Party

UKIP has called for a constitutional convention to examine a federal model for the UK. On 19 September 2014, following the Scottish referendum result, Nigel Farage, Leader of UKIP, issued four demands, the last of which related on the holding of a constitutional convention:

1. English only votes in Westminster. Nigel Farage is today writing to all Scottish MPs asking for their commitment not to vote on English matters that would otherwise fall within devolved powers if they related to Scotland.
2. Revision of the Barnett Formula. We want a full debate and vote in the House of Commons to rebalance this arbitrary and out-of-date concept.
3. No taxation without equal representation. The Electoral Commission must determine new boundaries for the constituencies of Scottish MPs so that the average number of constituents more closely resembles that in England.
4. A Constitutional Convention. Such a Convention needs to be rapidly established to put in place a plan for a Federal UK.⁹⁵

In an interview with BBC Northern Ireland a week later, Farage stated that the UK needed a “completely new constitutional settlement”, and added that he did not believe that could be “put together in the course of a few weeks in a private committee room. I want us to have a UK constitutional convention to thrash it out”.⁹⁶

⁹² BBC News website, ‘[Carwyn Jones Calls for Constitutional Convention](#)’, 23 January 2012. For more information, see National Assembly for Wales, [Towards a UK Constitutional Convention?](#), May 2012.

⁹³ Institute for Government, ‘[A Keynote Speech by the Rt Hon Carwyn Jones AM, First Minister of Wales: Our Future Union—A Perspective from Wales](#)’, 15 October 2014.

⁹⁴ Labour Party, ‘[A Constitutional Convention for the UK; a Dynamic New Political Settlement for England and for Britain](#)’, 19 September 2014.

⁹⁵ UKIP, ‘[Nigel Farage: A Voice for England](#)’, 19 September 2014.

⁹⁶ BBC News, ‘[UKIP Leader Nigel Farage Says England Needs More Powers](#)’, 25 September 2014.

Green Party

The Green Party launched a policy briefing following the Scottish independence referendum entitled [Democracy for Everyone: The UK After the Scottish Referendum](#). In it, the party set out its position on holding a constitutional convention:

- In the aftermath of the Scottish Referendum the Green Party is backing calls for a People’s Constitutional Convention to agree radical changes to the governance of the UK.
- As the Scottish Government negotiates additional powers with the UK Government the People’s Constitutional Convention should map out a new settlement for the rest of the United Kingdom.
- The guiding principle should be that power flows upwards from the people rather than downwards from an over-centralised state. The Green Party will push the Convention for a new settlement that includes:
 - Greater powers for local and regional government.
 - Electoral reform.
 - ‘Total’ recall for all elected politicians.
 - Local referenda and citizen’s initiatives.
 - Replacing the House of Lords with a fully-elected Upper House.
 - The extension of the right to vote to all 16 year olds.
 - A written constitution.
- The new settlement should be subject to a referendum.⁹⁷

In summary, the Green Party has called for a “people’s convention” which will consider a wide range of issues. The recommendations of this convention would then be subject to a referendum.

Scottish National Party

It does not appear that the SNP has commented recently on a UK constitutional convention. Rather, in the run up to the Scottish independence referendum the party focused on the prospects for a Scottish constitutional convention in the event of a yes vote. In 2013, Alex Salmond, former First Minister of Scotland and Leader of the SNP, stated that, following a possible yes vote, “one of the first, most fundamental and exciting tasks of [the new Scottish parliament elected in May 2016] will be to establish the process for Scotland’s first written constitution through a constitutional convention”.⁹⁸

More recently, speaking at the London School of Economics on 16 March 2015, Nicola Sturgeon, First Minister of Scotland since 20 November 2014, praised the work of that university’s Institute of Public Affairs in designing a crowd-sourced constitution, stating that it

⁹⁷ Green Party, [Democracy for Everyone: The UK After the Scottish Referendum](#), 19 September 2014.

⁹⁸ Scottish National Party, [Salmond: Scotland to Have Written Constitution](#), 16 January 2013.

was a “fantastic example of an initiative which is timely, innovative, and could have a lasting impact on public affairs”.⁹⁹ Ms Sturgeon also stated:

There’s been a lot of speculation in the newspapers recently that parliament may have to move from London, because the Palace of Westminster is in such a dilapidated condition. Its fabric is crumbling, some areas are prone to flooding, and other parts haven’t been properly refurbished for generations.

But in my view, it’s not just the building that needs to be overhauled. It’s the institution itself—the House of Lords; the first past the post voting system; the culture, procedures and working practices of the current Parliament—all of them need to be overhauled [...]

Policy-making as a whole needs to move a bit further from the arcane rituals of the Commons and a bit closer to the model of the crowd-sourced constitution. None of this is easy—neither my party nor my Government has all of the answers—but we know we need to try and we do want to be part of that effort.¹⁰⁰

In summary, the SNP has called for an overhaul of the UK’s institutions, but does not appear to have put forward a preferred model for doing so.

Plaid Cymru

Leanne Wood, Leader of Plaid Cymru since March 2012, has supported calls for a UK constitutional convention scheduled for after the Scottish independence referendum. In an article published on 13 July 2012, Wood stated:

I am willing to support the idea of a broad ranging constitutional convention which will look at the arrangements between the constituent nations of the UK following the Scottish referendum on independence. The timing of this is crucial. A convention prior to that date would be impractical because we will not know whether the UK in its present form will continue to exist and Scottish minds will be in campaign, not convention, mode. A convention after the vote is not only sensible, but necessary, to discuss either the arrangements for a successor state or the UK-wide implications of devolution-max.

Plaid Cymru is committed to empowering the people of Wales which is why we believe ultimately that Wales should be independent, and we would want the opportunity to put that case in the context of any future convention [...]

A properly structured, inclusive convention could be a real opportunity for broad public participation in constitutional reform. This is why I will be calling for any convention to be as open as possible—like Iceland’s recent experiment in constitutional “crowd-sourcing”—with a real role for citizens in suggesting how we reshape our governance. Power, after all, in a democracy is meant to be bestowed by the people on politicians,

⁹⁹ Scottish Government, ‘[First Minister: Beyond the Budget](#)’, 16 March 2015. See the LSE Institute for Public Policy’s webpages for more information on the crowd-sourced constitution project: London School of Economics, ‘[Constitution UK](#)’, accessed 17 March 2015.

¹⁰⁰ *ibid.*

though the language of devolution seems to get the flow mixed up. It's time to turn our constitution the right way up, and return the power to where it belongs.¹⁰¹

In October 2014, Lord Elis-Thomas, a former leader of Plaid Cymru, asked whether the Government would heed the call of Carwyn Jones for a review of the current constitutional settlement.¹⁰² More recently, Lord Wigley, another former leader of Plaid Cymru, asked Lord Wallace of Tankerness, Deputy Leader of the House of Lords, whether the Government had “ruled out any form of federal solution that brings stability with it and if there is to be a convention, can he give some assurance that it will not take as long as the investigation by the Kilbrandon commission, which took more than five and a half years and just kicked the problem [constitutional settlement] into the long grass?”¹⁰³

Democratic Unionist Party

The DUP does not appear to have explicitly supported the principle of holding a UK constitutional convention. Nigel Dodds, Deputy Leader of the DUP, stated in the House of Commons on 14 October 2014:

If devolution is to be discussed in the context of greater devolution to the nation states and regions of the UK, it is important that no region or constituent part of the UK is left out. The parties in Northern Ireland cannot be excluded from devolution discussions. Giving powers to Scotland and Wales, and potentially to English regions, will affect Northern Ireland and how we govern within the UK [...]

We have a number of asymmetries in our constitution. If we were starting with a blank piece of paper, we would not end up with what we have. However, as has already been said today, the British constitution may not work in theory, but it works in practice. We have heard a number of possible solutions. As Unionists, Democratic Unionist Members will judge any proposal by a single test: does it erode the shared cohesion of the constituent parts that make up the Union?

We believe strongly that we cannot rush into change and that we need to consider the matter carefully. I have a lot of sympathy for the arguments put by the right hon. and learned Member for North East Fife (Sir Menzies Campbell) on the need to consider the matter carefully by way of a constitutional convention. We should not get into a situation in which the law of unintended consequences kicks in. Whatever the solution, as Unionists, we believe that it must not erode or damage the Union or what it has stood for over the years. The Scottish people rejected an assault on the Union. The House needs to heed the people of Scotland, proceed with care and ensure that we do not undermine the Union of the United Kingdom.¹⁰⁴

¹⁰¹ Plaid Cymru, ‘[These Unconventional Times](#)’, 13 July 2012.

¹⁰² HL *Hansard*, 13 October 2014, [col 4](#).

¹⁰³ HL *Hansard*, 10 March 2015, [col 538](#).

¹⁰⁴ HC *Hansard*, 14 October 2014, [cols 233–4](#).