



**Government Response to the House of Commons  
Political and Constitutional Reform Committee Fourth Report of  
Session 2012-13:  
Do we need a constitutional convention for the UK?**

Presented to Parliament  
by the Deputy Prime Minister  
by Command of Her Majesty

November 2013

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## Introduction

1.1 This Command Paper provides the Government's response to the House of Commons Political and Constitutional Reform Committee's (PCRC) report on the need for a constitutional convention for the UK. The Government is grateful to the Committee for its report, which has added to the broad-ranging conversation that is taking place on the UK's constitutional arrangements, including the shape of the UK's devolution settlements.

1.2 The Committee, which consulted a range of experts, did not unanimously support the view that there should be a constitutional convention or further review of constitutional arrangements.<sup>1</sup>

1.3 As the PCRC observed, the Government can focus on a variety of issues simultaneously,<sup>2</sup> but limited resources and time mean the Government needs to prioritise its activities. The Government has been consistently clear that its first priority is growing the economy and it continues to support economic development as the UK moves from recovery to economic growth. While this does not mean a constitutional convention cannot be a priority, it does mean there must be a compelling case to justify its establishment.

1.4 The question of establishing a constitutional convention does not exist in a vacuum—context is crucial. If the time is not right, or other priorities mean resources are focused elsewhere, such a convention risks being ineffective and even detrimental.

1.5 This response is organised as follows:

- Support for a Convention
- Constitutional Reform and Development
- Conclusion

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<sup>1</sup>PCRC Fourth Report, *Do we need a constitutional convention for the UK*, 28 March 2013, at Paragraph 47.

<sup>2</sup>*Ibid.*, para 40.

## Support for a Convention

- 2.1 The Government agrees with the Committee's view that conventions are most effective when "they engage the public with their deliberations."<sup>3</sup> This finding is consistent with international evidence suggesting that constitutional conventions work best when the public is the driving force. The Government remains unconvinced, however, that there is currently strong public interest in a constitutional convention for the UK.
- 2.2 Without public demand for a constitutional convention, it is difficult to anticipate the strong public engagement necessary for a constitutional constitution to have a lasting impact. The Government submitted in its written evidence that there has not been strong public demand at the current time for a constitutional convention and the PCRC's report does not contradict this finding.
- 2.3 The Committee itself did not agree on the need for a constitutional convention. According to its report, "There is a range of very different opinions. This is true, not only among the witnesses but also among the members of our Committee, some of whom do not accept either the need for further review of constitutional arrangements or that a constitutional convention would be the right vehicle for any such review."<sup>4</sup>
- 2.4 Some who gave evidence felt that the timing was not right because of the challenging economic problems the Government is attempting to tackle and in light of the "referendum for independence for Scotland and a major reappraisal of the UK's relationship with the European Union."<sup>5</sup>
- 2.5 In light of this disagreement, at a time when the public's attention is focussed elsewhere, it might be difficult to justify using scarce resources on another process, especially when there is a significant amount of work in

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<sup>3</sup>Ibid., para 30.

<sup>4</sup>Ibid., para 47.

<sup>5</sup>Ibid., para 45.

this area ongoing and, as the Committee noted, it might take years for a convention to reach a consensus.<sup>6</sup>

## **Constitutional Reform and Development**

3.1 The Committee took the view that there has been substantial constitutional change made in recent years.<sup>7</sup> The Government agrees that there has been a wide programme of change at a number of levels, following an incremental approach to reform. Within the broad scope of constitutional reform, a number of changes which represent major shifts have recently been implemented in the UK at all levels and some of which are still ongoing. It will be important to first gauge the effectiveness of this work before asking what else can be done.

### **General Approach to Constitutional Change**

3.2 The Committee highlighted the asymmetric nature of the different devolved settlements and the incremental way in which these settlements have been changed.

3.3 In particular, the Committee concluded: “The devolution of power from Westminster to the other parts of the Union is a principle, and not simply a political expedient. Some have argued that if devolved powers were extended to England, this would, in part, address the asymmetry of the current devolution settlements, and allow the UK to move forward and embrace the future as a quasi-federal union.”<sup>8</sup>

3.4 The Government agrees that the devolution of power from Westminster is an important principle. This decentralisation, however, can take many forms, including decentralisation and localism within England.

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<sup>6</sup>Ibid., para 110.

<sup>7</sup>Ibid., para 5.

<sup>8</sup>Ibid., para 52.

3.5 The devolution settlements not only acknowledge, but support the idea that a blanket, “one-size-fits-all” approach is not always appropriate for the diverse histories, needs, and priorities across the UK. There have been and remain different levels of demand, in different contexts, for devolution in England, Scotland, Wales and Northern Ireland. Devolution is asymmetric in nature precisely to reflect and support the variations of all these factors.

3.6 The Committee noted that there has been “a huge amount of incremental constitutional change over the past two decades” and that “there has been no analysis of the combined effect these changes have had on the constitution as a whole.”<sup>9</sup>

3.7 The Government takes the view that broad brush changes at a generic level may lack the concrete support needed for lasting changes. Demonstrating that a given change has resulted in positive benefits and growth will directly support further innovation both in that area and more widely. When the benefits are made more tangible, it is more likely to become the beginning of a permanent shift.

3.8 The Coalition’s Programme for Government described the Government’s aim of cleaning up Westminster and undertaking a radical redistribution of power away from Westminster and Whitehall to councils, communities and homes across the nation. The Government’s approach facilitates a flexible constitutional structure which is able to respond effectively when issues are raised in one particular part of the UK.

3.9 The Government is committed to constitutional reform driven from the ground up. Inevitably, as a result of this approach constitutional reform may not be neat or consistent across the UK. The Government is of the view that an approach which is built on public demand will reflect local circumstances and have a greater chance of success.

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<sup>9</sup>Ibid., para 5.

3.10 With this view in mind, the Government has been pushing forward a number of constitutional reforms at all levels within the UK.

### **United Kingdom**

3.11 As the Committee pointed out, at the UK level there have been a number of changes in the last decade.<sup>10</sup> For instance, the Parliamentary Voting Systems and Constituencies Act 2011 made a number of reforms to the electoral system, and the Fixed-Term Parliaments Act 2011 established five-year fixed terms for the UK Parliament.

### **Northern Ireland**

3.12 In Northern Ireland, the current devolution settlement has its origins in the Belfast Agreement 1998, which was endorsed by both main parts of the community and the Irish as well as the UK Government. Devolution has only operated on a stable basis in the last few years, following a long period of uncertainty. The UK Government has made clear its willingness to consider further evolution of the Northern Ireland devolved settlement. The transfer of policing and justice functions to the NI Assembly and Executive in 2010 was a significant measure of additional devolution reflecting the development of the political process there. The Government and Northern Ireland Executive committed to examining the potential for devolving specific additional fiscal powers as part of the implementation of the 'Building a Prosperous and United Community' package in June 2013. Overall, however, the Government believes that the focus should be on delivery and addressing the social division beneath the conflict, not reopening the debate on institutional changes.

### **Wales**

3.13 Wales has undergone significant constitutional changes in the last 15 years. Following introduction of the National Assembly for Wales in 1999, the UK Government delivered a referendum which enabled the people of

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<sup>10</sup>Ibid., para 7.



Wales to vote for devolution of full law-making powers in the 20 devolved areas covered by the original devolution settlement. Following the affirmative result, these new powers were brought into force on 5 May 2011, making the current Assembly the first Welsh Assembly to have these powers.

3.14 Furthermore, a review by the Commission on Devolution in Wales (known as “the Silk Commission”) is still underway. The UK Government set up the Silk Commission in October 2011 to look at financial and constitutional arrangements in Wales. Part I of the Silk Commission’s review was published in November 2012.

3.15 The Government’s response to Part I, published on 18 November 2013, accepted 30 of the Report’s 31 recommendations for the UK Government, in full or in part. This will give the Welsh Government new tax and borrowing recommendations and will make the Welsh Government more accountable for funding its spending as a result. The Commission is now working on Part II, which will report on constitutional arrangements in spring 2014.

## **Scotland**

3.16 Scotland has also seen a major shift in its devolved settlement. The transfer of power to the Scottish Parliament under the Scotland Act 2012 represents the greatest devolution of fiscal powers to Scotland in 300 years. These changes are being phased in to ensure these substantive changes are introduced effectively. Powers such as the new £2.2 billion of capital borrowing and devolution of stamp duty land tax and landfill tax are to be place from April 2015, with the Scottish rate of income tax following from April 2016.

3.17 On 18 September 2014, people in Scotland will vote on whether Scotland should be an independent country. This primary question needs to

be addressed in advance of considering further devolution to Scotland within the United Kingdom. The Government has made clear that in the first instance it is for the parties in Scotland to develop proposals for further devolution in the event that people in Scotland vote to remain part of the United Kingdom.

## **England**

3.18 The Committee's report draws particular attention to England and suggests holding a pre-convention for England.<sup>11</sup> The Government is working to devolve power in England. Whilst this is ongoing and there is no clear demand for such a process, the Government does not believe that the time is right for a pre-convention of this nature.

3.19 In addition, the UK Government set up the McKay Commission to examine how the House of Commons might deal with legislation which affects only part of the United Kingdom, following the devolution of certain legislative powers to Scotland, Wales and Northern Ireland. The Commission has published its report, which included a menu of recommendations. The Government is giving serious consideration to this report. Given the significance of the recommendations for both England and the UK as a whole, it is right to take the time required for a thorough and rigorous assessment.

3.20 The Committee recommended, whether in convention or not, that the Government consider "whether England should be given similar devolved tax arrangements to those taking shape in Scotland, Wales and Northern Ireland, and consider the feasibility of tax assignment." The Government supports the current system of local taxation (council tax and business rates). This system ensures that individuals and business contribute to the provision of local services. National taxes are not hypothecated to any

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<sup>11</sup>Ibid., paras 50,76.

specific purpose but instead used to fund general Government expenditure, including grants to local authorities. This approach to taxation means resources can be pooled and redistributed across the country to ensure all areas receive similar levels of services.

## **Regional**

3.21 The Government has not continued pursuit of regional devolution because previous efforts have not received popular support. Findings from the Committee's inquiry support this conclusion. During the inquiry, "no witnesses suggested a return to regional devolution."<sup>12</sup> The Committee concluded, "The people of England have made it quite clear that they have no appetite for another layer of elected politicians" so further devolution should not involve "new elected politicians or additional layers of government, but rather utilises the existing political and operational infrastructure."<sup>13</sup> Through the abolition of Regional Development Agencies and Government Offices for the Regions, the Government has removed the regional tier of government. It has consistently argued that power belongs at the lowest appropriate level.

## **Local**

3.22 The Government has made significant progress in devolving powers at the more local level. There are clear benefits from moving power away from Westminster and Whitehall: stronger local democracy, innovation and local growth. The Government is committed to giving more power to leaders in cities, towns, and counties to initiate policies and retain greater control of financial resource. In areas as broad as education, public health, welfare and planning, reforms that devolve power are now in force.

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<sup>12</sup>Ibid., para 14.

<sup>13</sup>Ibid., para 14.

3.23 The Government's approach has been to introduce policies, linked to legislative change where necessary, that increase powers of local institutions, enhance local accountability and transparency, reduce barriers that prevent people from doing things for themselves and reduce bureaucratic and regulatory burdens that take up time and energy. This avoids a "one-size-fits-all" approach and allows different responses to different challenges. It supports communities to do different things in different ways to meet their different needs.

3.24 The Government's historic shift of decentralisation and distribution of power from Westminster includes:

- local government finance reforms, including the introduction of business rate retention and new borrowing powers to local authorities;
- giving local authorities a general power of competence;
- decentralising responsibility for commissioning many public health services to local government;
- investment of £2.6 billion through the Regional Growth Fund;
- introduction and implementation of a number of tailored 'city deals.' The first wave concluded deals for eight cities in 2012 and second wave is in progress, with three deals agreed at time of publication;
- establishment of Local Enterprise Partnerships to bring together civic and private sector leaders to drive growth;
- giving Local Enterprise Partnerships responsibility for how €6.2 billion (£5.3 billion) of EU Structural and Investment Funds is spent;
- creation of enterprise zones in 24 cities and wider Local Enterprise Partnership areas that provide significant tax breaks; and
- acceptance of 81 of 89 recommendations from the Heseltine review, which build on work to decentralise power and boost growth, including Creation of a Local Growth Fund with over £2 billion of budgets from skills, housing and transport for 2015-16.

3.25 Individuals and communities are also being given greater power. The community rights brought in by the Localism Act 2011 enable individuals and communities to take more control over the neighbourhoods and places they live. For example, neighbourhood planning enables local communities to shape the future of the places where they live and work and neighbourhood plans have exactly the same legal status as those developed by councils.

3.26 The Community Right to Bid helps people protect locally important community assets and the Community Right to Challenge enables voluntary and community sector organisations to bid to take over local services they think they can run differently and better. Outside the Act, other approaches, such as Our Place!, are aimed at helping residents work together with councillors, service providers, businesses and voluntary and community organisers to solve local problems and improve local services.

3.27 The PCRC's Report concludes that England is "micro-managed from Whitehall."<sup>14</sup> The Government rejects this conclusion but agrees that there is more to be done. This Government has made significant changes to decentralise power in England. The above examples illustrate the Government's strong commitment to shifting power away from Whitehall. Reforms such as city deals demonstrate the Government's continuing efforts to devolve power from Westminster.

3.28 The above examples also illustrate the Committee's observation that a number of changes are still in progress or have only been recently implemented. The Government remains committed to these processes and is focussed on achieving outcomes first, before it moves on to consider any further changes to the UK's constitutional structure. The PCRC is also

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<sup>14</sup>Ibid., para 50.

conducting an inquiry into codifying the constitution, to which the Government will give careful consideration.<sup>15</sup>

## Conclusion

4.1 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 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.”<sup>16</sup> The state of the economy remains the priority for the UK public and the Government; and the Committee’s report has 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.

4.2 Furthermore, the Government has already embarked on a significant programme of constitutional reform at all levels, with a focus on decentralisation. Many of these changes have not yet been implemented, or have been so recently implemented that the impact on the wider constitutional framework is not yet apparent.

4.3 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.

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<sup>15</sup>Ibid., para 81.

<sup>16</sup>In response to Q422, Political and Constitutional Reform Committee, Minutes of Evidence, HC 371, Oral Evidence Taken before the PCRC on Thursday 8 November 2012, <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpolcon/371/121108.htm>



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