

Liberal Democrats Policy Consultation

Political and Constitutional Reform

Consultation Paper 113



Background

This consultation paper is presented as the first stage in the development of new Party policy in relation to Political and Constitutional Reform. It does not represent agreed Party policy. It is designed to stimulate debate and discussion within the Party and outside; based on the response generated and on the deliberations of the working group a full policy paper will be drawn up and presented to Conference for debate.

The paper has been drawn up by a working group appointed by the Federal Policy Committee and chaired by Dinti Batstone. Members of the group are prepared to speak on the paper to outside bodies and to discussion meetings organised within the Party.

Comments on the paper, and requests for speakers, should be addressed to: Elizabeth Hawryluk, Policy Unit, Liberal Democrats, 8-10 Great George Street, London, SW1P 3AE. Email: elizabeth.hawryluk@libdems.org.uk

Comments should reach us as soon as possible, and no later than 8 April 2013.

Federal Policy Consultation Paper No. 113 © February 2013

Published by the Policy Unit, Liberal Democrats, 8-10 Great George Street, London SW1P 3AE.

Layout and Design by Christian Moon.

ISBN: 978-1-907046-62-9

Printed by Sarum Colourview, 23-24 Henrietta Street, London WC2E 8ND



The cost of not choosing our greener options

Every year for Conference, we spend around **£30,000** and use over **2 tonnes** of FSC® recycled paper on printing copies of agendas, directories, policy papers, and reports to conference.

Hundred of our members are already selecting our Green Pack and our online-only options.

Why not join them next time and get your papers digitally at:
<http://www.libdems.org.uk/conference.aspx>.

Contents

1. Introduction	4
2. Philosophy	4
3. Progress on constitutional reform 1997-2012	6
4. A new constitutional framework	8
4.1 Legislative	8
4.2 A bicameral UK Parliament	8
4.3 Lords Reform	9
4.4 Executive	10
4.5 Judicial	11
4.6 Constitutional rights.....	11
4.7 Federalism	12
4.8 The Position of England in the UK	12
4.9 Fiscal federalism.....	13
4.10 Constitutional Rights for Local Government	15
4.11 A Europe of Citizens	15
5. Getting from here to there – endorsement for a new constitutional settlement.....	16
6. Political engagement between elections	17
7. Gender Balance and Diversity	18
8. Media Standards.....	20
9. Political Parties.....	21
9.1 Decline in membership	21
9.2 Party Finance.....	21
10. Standards in Public Life	24

Introduction

1.1 A commitment to political and constitutional reform has long been a defining characteristic of Liberal Democrats. The Party insisted on a range of political reforms as part of the Coalition's agreed *Programme for Government*. However, key parts of this package have not come to fruition. In the case of electoral reform the compromise offered by the Coalition – the Alternative Vote – failed to persuade voters. Meanwhile, despite majority support in a Commons vote, the Coalition's House of Lords Reform Bill failed in the face of tactical opposition both from Labour and Conservative rebels. Conservative-initiated political reforms also foundered: voters rejected proposals for more directly elected mayors, while Police and Crime Commissioner elections met with indifference and hostility in equal measure.

1.2 The Federal Policy Committee has therefore set up this policy working group to consider 'What next for political and constitutional reform?'

1.3 This consultation seeks your views on the approach the Party should take to political and constitutional reform. Specifically, the party needs to consider its position in light of:

- our wider philosophical starting point
- the piecemeal progress made on reform during Labour's period in office
- the attempts – both successful and thwarted – at reform made by the Coalition
- the overall constitutional settlement to which the Party aspires
- the likely route to successful delivery of a package of reforms endorsed by the wider public
- the decline of political party membership, as well as the potential for, and desirability of, increased direct democracy facilitated by information technology

1.4 Existing party policy in this area is set out in policy paper 83 *For the people, by the people* (2007).

Philosophy

2.1 Our recent policy on constitutional and political reform has tended to focus on altering the democratic *structures* of the United Kingdom. We have sought pluralism in our electoral system, strength and legitimacy in our Parliament, and radical decentralisation of power to national, regional and local institutions.

2.2 One of the challenges for a working group whose remit also covers political engagement is to recognise that reforms to political structures and institutions are not in themselves sufficient to engage citizens in the running of their country.

2.3 To this end, we seek your views on how best to reaffirm a long-held Liberal commitment “*to help organise people in communities to take and use power; to use our political skills to redress grievances; and to represent people at all levels of the political structure.*” Our challenge is to preserve “*a dual approach to politics, acting both inside and outside the institutions of the political establishment*”¹.

2.4 Principles we identify as guiding lights for devising detailed policy include:

- federalism – a constitutionally defined balancing of powers and duties across the political system
- the need for political structures to provide both oxygen for debate and space for consensus and cross-party working on issues requiring a long-term approach, such as social care and pensions.
- the principle that the power of the state must be justifiable in the interests of individuals, and that power should be exercised at the lowest appropriate level
- the idea that political parties are not there simply to act as mouthpieces for ideas, nor as cheerleaders for politicians, but rather as organisations which mobilise people for change in their own communities
- the recognition that, despite their shortcomings and unpopularity, political parties have a crucial role to play in balancing and prioritising the multitude of competing demands on the modern state - a role which single-issue campaign groups cannot fulfil

Questions

1. *Are these the right principles on which to anchor our policy making?*
2. *What other principles and political philosophy should we consider?*

¹ 1970 Liberal Assembly resolution
Consultation Paper 113

Progress on constitutional reform 1997-2012

3.1 Labour claim they have a good story to tell on constitutional reform, however their reform agenda owed much to Liberal Democrat thinking. The success of the Labour Government in getting reforms on to the statute book is attributable not only to their overwhelming Commons majority, but also to the cross-party credentials they could claim for the reforms, which had Liberal Democrat support.

3.2 Labour's success manifested itself more in their ability to drive legislation through than in the quality of the actual reforms. Each reform, from the Human Rights Act to the institution of the Scottish Parliament and the separation of the UK Supreme Court from the House of Lords, stands on the weak foundations of a simple Act of Parliament.

3.3 A full constitutional resettlement in a Liberal Democrat mould would have established new rights and institutions in a written constitution, with endorsement from the people and enshrinement beyond the level of an Act of Parliament.

3.4 Moreover, Labour left unfinished business. The Human Rights Act is constantly under threat. The future position of Scotland in the United Kingdom is in question. The House of Lords has not progressed beyond 'Stage 1' reform. Regulation of party donations and expenditure remains inadequate, leaving the whole political system susceptible to scandals and low levels of public confidence.

3.5 The Coalition's *Programme for Government* set out a wide-ranging package of constitutional reform.

3.6 Most notable among these were:

- fixed-term Parliaments
- a referendum on changing to the Alternative Vote for elections to the House of Commons
- redrawing parliamentary boundaries to make each constituency contain a similar number of electors, and reduce the size of the Commons to 600
- reforming the House of Lords
- implementing the 'Wright Committee' proposals to reform the internal procedures of the House of Commons
- speeding up implementation of individual voter registration
- introducing a power of recall against MPs guilty of 'serious wrongdoing'
- establishing a Commission to consider the 'West Lothian Question'
- providing for e-petitions to be debated in the Commons

3.7 The Coalition's early successes, introducing fixed-term Parliaments and updating the internal workings of the Commons, were achieved in part thanks to emerging cross-party consensus before the last election.

3.8 In contrast, where the Coalition has met controversy in the face of reform proposals, they have largely faltered, most notably in the case of House of Lords reform.

Questions

3. *What lessons should the Party draw from the varied experience of implementing political and constitutional reforms over the past 15 years?*
4. *How should the Party square the objective of building cross-party consensus for constitutional change with the inevitable blockages caused by vested interests in the existing systems? What degree of compromise is acceptable?*
5. *Should the Party continue to pursue the incremental piecemeal reforms it can achieve in any given Parliament or put further reform on hold in favour of a more holistic, comprehensive approach?*
6. *What are the prospects for our long-standing goal of electoral reform?*

A New Constitutional Framework

4.0.1 Liberal Democrats need to consider both the constitution we aspire to and the likely steps needed to get there. This section sets out some key elements of a new constitutional framework, and asks for your views.

4.1 Legislative

4.1.1 The legislative branch of our constitution resides not only in the UK Parliament but also, to differing extents, in the devolved institutions. In all cases, the executive is derived exclusively from members of the legislature.

4.1.2 The House of Commons, and the unicameral legislative chambers of the devolved institutions, have a dual, and arguably internally contradictory, role in that they have to both sustain and scrutinise the Executive branch .

4.1.3 In the House of Commons, large majorities – predicated on a distortion of the popular vote – have tended to undermine the scrutinising role of the legislature, a situation characterised as “elective dictatorship”².

4.1.4 In the devolved institutions, proportional electoral systems have militated towards multi-party government, and fragile majorities for governing parties.

4.1.5 As such, the UK has experience of legislative chambers constituted by both proportional and first-past-the-post electoral systems, and of their capacities to hold their respective executives to account.

Questions

7. *Are the devolved legislatures more successful at scrutinising their respective executives than the House of Commons is at scrutinising the UK Government?*
8. *Should all members of the executive continue to be members of the legislature?*

4.2 A bicameral UK Parliament

4.2.1 At the UK level, there is considerable, though not overwhelming, consensus that Parliament should remain bi-cameral. At the last opportunity to vote on this issue, the Commons supported a bi-cameral Parliament by 423 votes to 157.

4.2.2 This has implications for major legislative initiatives for England only (see 4.8 on ‘the West Lothian Question’), which generally have to gain the support of the House of Lords, where the Government has no overall majority.

4.2.3 The House of Lords’ powers are defined and limited in the Parliament Acts 1911 and 1949. Only Bills extending the life of a Parliament beyond five years remain subject to an absolute veto by the House of Lords.

² Lord Hailsham, in a lecture to the BBC, 1976

4.2.4 Comparative work by Meg Russell of the Constitution Unit shows that, notwithstanding the constraints of the Parliament Acts, the Lords' powers are among the most substantial of any second chamber in the world.³

4.2.5 Conflicts between the Lords and the Commons are largely resolved by the Lords' willingness to give way to the Commons and by Government giving some modest concessions on amendments to Bills, in return for quiescence on the Bill as a whole.

4.2.6 There is no enshrined committee system to resolve intercameral disputes, as for example occurs in Germany, France, South Africa and the European Union (where conciliation committees resolve disputes between the Parliament and the Council of Ministers).⁴

4.2.7 The powers of the House of Lords were central to arguments deployed by opponents of the Coalition's House of Lords reform proposals.

4.3 Lords Reform

4.3.1 The genesis of the Coalition's proposed reforms to the House of Lords lay in more than a decade of cross-party working⁵,

4.3.2 The proposals were examined and endorsed by a majority of a Joint Committee, specially convened to undertake pre-legislative scrutiny of the Draft Bill, in 2011-12.

4.3.3 The proposal would have seen 360 members of the second chamber elected alongside 90 members appointed by a statutory, independent commission. Political party nominees would have been subject to election, with the appointed remainder comprising figures from outside politics.

4.3.4 The Draft Bill had proposed election by Single Transferable Vote (STV). However, the Coalition agreed to change the system in the final Bill to one of Semi-Open Lists.

4.3.5 The primary role for members of the Lords would be (and is) to scrutinise legislation, and hold the executive to account. STV's tendency to militate towards strong individual campaigning both within and beyond parties makes it ideally suited to the House of Commons, less so to a scrutinising chamber. Semi-Open Lists would have provided the parties with levers to improve and maintain gender balance and diversity in the Lords, while permitting voters – not just party members – to have the final say over which individuals were elected.

4.3.6 Elections and appointments would have taken place in thirds, with 120 elected and 30 appointed every five years.

4.3.7 Members would have served a single, long, non-renewable term lasting for three Parliaments, usually 15 years.

4.3.8 While a majority of the House of Commons voted in favour of the substance of the proposals, there was no majority to see the Bill through the legislative process. While purporting to support the package as a whole Labour nevertheless voted with Conservative rebels to create a procedural impasse from which it proved impossible to extricate the Bill.

³ M. Russell, 'Elected second chambers and their powers: an international survey', *Political Quarterly*, Volume 83, Issue 1, pp. 117-129, Jan-March 2012

⁴ *ibid*

⁵ Wakeham Commission (2000), followed by a Joint Select Committee of both Houses, an inquiry by the Public Administration Select Committee, a cross-party group convened by Paul Tyler, Ken Clarke and Robin Cook (Breaking the Deadlock), a further Joint Committee (on Conventions of the UK Parliament), and another cross-party group convened by Jack Straw.

Political and Constitutional Reform

4.3.9 Various aspects of the package were alighted upon by reform opponents. The 15 year non-renewable term proved particularly controversial since it removed accountability from individual members once elected. The Government countered that the single term would give members a long-term perspective, uncoloured by immediate electoral considerations. This distinct mandate from that of an MP would also have served to underline the differing roles for the Lords and Commons, and the primacy of the latter whose members would continue to provide core accountability to the electorate.

4.3.10 Within the Liberal Democrats, some were disappointed that STV was not chosen, while others lamented that proposals merely provided for a reduction in the numbers of Bishops rather than their removal.

4.3.11 Despite eventual withdrawal, the Coalition's proposals nevertheless commanded considerable cross-party support. Should other opportunities arise to pursue Lords reform Liberal Democrats will have to consider whether to a) reintroduce the 2012 package, b) modify the 2012 package c) come up with completely new proposals.

4.3.12 Introduction of a federal constitution (see below) would add another dimension to the debate about the future of the UK's second chamber.

Questions

9. *Should the UK Parliament remain bi-cameral? Is there a place for bi-cameralism in the devolved institutions?*
10. *What is your view of the Lords reform package put forward by the Coalition Government? What aspects would you keep? What aspects would you change?*
11. *Should the House of Commons retain 'primacy' if the Lords is substantially or wholly elected? If so, how can this best be enshrined?*
12. *Would the introduction of Federalism alter your view of the role and composition of a second chamber in the UK?*

4.4 Executive

4.4.1 The executive branch of our constitution now resides not merely in Whitehall, but also in Edinburgh, Cardiff and Stormont.

4.4.2 Under the doctrine of individual ministerial responsibility and the doctrine of collective responsibility Ministers are accountable individually for the actions of their Departments, and collectively for the policies of the Government.

4.4.3 Power and responsibility for the exercise of power lie with Ministers, but the administration of those responsibilities – and thereby significant influence over the shape, success and failure of various policy decisions – lies with civil servants.

4.4.4 The Civil Service rests on principles of neutrality, anonymity and permanence. They serve whatever government is in power, irrespective of political composition, do not speak publicly about government policy – leaving accountability instead to Ministers – and provide continuity and experience to an incoming government.

4.4.5 Ministers from across the political spectrum have in recent years expressed frustration with arrangements governing the relationship between elected politicians and the civil service. The latter is perceived to be inherently risk-averse and hostile to change, acting as a barrier to innovation. Some have advocated a move to continental-style "cabinet" private offices for Ministers, while others have pushed for

greater Ministerial involvement in the appointment of senior civil servants. Meanwhile civil servants have highlighted the value of their experience and political neutrality in enabling them to “challenge” (and by implication, “improve”) policy initiatives.

4.4.6 At the UK level the Executive is not endorsed by the legislature other than through *de facto* confidence votes on the Queen’s Speech. Secretaries of State and their junior Ministers hold their positions at the invitation of the Prime Minister, not on the say so of the people or Parliament in any guise.

4.4.7 In the devolved institutions, the legislature chooses the First Minister and as such endorses an Executive with her or him at its head.

Questions

13. *Would greater separation of powers make the UK a more effective democracy? If so, what is the route to achieving this?*
14. *Should the executive branch continue to be derived exclusively from the legislature? What role is there for executive appointments (such as those presently effected indirectly through Ministers brought in via the peerage)?*
15. *Should the legislature formally vote to elect or endorse the executive and/ or individual Ministers? Should the executive be separately elected?*
16. *Are the existing principles underpinning the civil service still appropriate? Do they operate satisfactorily in practice? Is there a case for a 21st century Northcote-Trevelyan review?*

4.5 Judicial

4.5.1 The judicial branch of the UK’s constitution was separated from the legislative and executive branches by the Constitutional Reform Act 2006, which removed the Law Lords from Parliament, placing them in a new UK Supreme Court.

4.5.22 The Act also reformed the office of Lord Chancellor, leaving it as a Cabinet position (now conventionally allied to the role of Secretary of State for Justice) without the traditional legislative role as Speaker of the House of Lords, nor the judicial role as Head of the Judiciary.

4.6 Constitutional rights

4.6.1 The Human Rights Act constitutes the nearest analogy in the UK constitutional system to a Bill of Rights, enshrining essential individual liberties and entitlements.

4.6.2 The Act entitles UK citizens to claim these rights in British courts, but does not prevent recourse to the European Court of Human Rights in Strasbourg.

4.6.3 The Act is often maligned in the UK media, leading to calls, especially among Conservatives, for a new ‘British Bill of Rights’.

4.6.4 However, if the UK remains part of the European Convention on Human Rights (as distinct from the EU which is a separate institution) then citizens could still seek to have their rights upheld in Strasbourg, even if a British Bill of Rights conferred a lesser set of rights on them in UK courts.

Questions

17. *Should there be any amendment to the existing Human Rights Act?*

Political and Constitutional Reform

18. *Are there rights conferred by the ECHR which should not be enshrined in UK law? Conversely, are there rights not within the existing ECHR suite of rights, which should be added to any British Bill of Rights?*

4.7 Federalism

4.7.1 The 'devolution' settlements for London, Scotland, Wales and Northern Ireland fail to recognise constituent parts of the United Kingdom as constitutionally entitled to power – in various degrees – over their own affairs.

4.7.2 Instead, power is 'given' to these parts of the UK by Acts of Parliament, which can – in theory at least – be repealed by a future House of Commons.

4.7.3 Liberal Democrats have long-recognised federalism as a constitutional model which defines and limits the power of central (federal) government, while enshrining the rights of lower levels to self-determination in any matters not reserved to the federal tier.

4.7.4 The recent Home Rule Commission, chaired by Sir Menzies Campbell, (<http://tinyurl.com/campbellcommission>) has set out how Scotland, if it chooses to remain inside the United Kingdom, could take its place within a federal UK.

4.7.5 The report envisages 'reserve powers', 'devolved powers' and 'partnership powers', which would be constitutionally agreed. Reserve powers would be retained at UK level at Westminster, devolved powers constitutionally enshrined as those of the constituent parts of the UK, and partnership powers constitutionally enshrined as areas of policy where the constituent parts and Federal tier must agree.

4.7.6 The Campbell Commission's vision is one of 'home rule all round', and the report invites the Party to seek an electoral mandate for a 'routemap' to a federal UK by reaffirming its commitment to federalism in its next manifesto.

4.7.7 The working group is evaluating the implications of the Campbell Commission's conclusions as they relate to Wales, Northern Ireland and England. Our starting point is that an 'all-England' tier within a federal UK would be inappropriate, since it would concentrate an overwhelming proportion of the overall UK population into one unit of the federal structure.

4.8 The Position of England in the UK

4.8.1 There has been a reluctance to address the West Lothian Question because none of the answers make for an easy, neat 'settlement' among the different constituent parts of the United Kingdom. Our last policy paper, *For the People, By the People*, concluded that the matter was so complex it should be referred to a constitutional convention.

4.8.2 As the leading party of constitutional reform in the UK, it behoves us to put forward clear ideas for resolving the position of England - ideas which could then be considered in further detail by a constitutional convention or commission.

4.8.3 An all-England tier, with similar legislative powers to Scotland might appear to be a 'neat' solution, but would require an English Government, which could be disproportionately hampered in its public spending plans by a federal Government with reserve powers over macroeconomic policy.

4.8.4 Furthermore, a new national Parliament would not address the serious over-centralisation of power in England, and indeed could further entrench it.

4.8.5 The working group has considered outline proposals for 'Devolution on Demand' in England, which would permit areas of England (whether within existing local authority boundaries, or other areas to be defined) to claim powers from the UK Parliament / Federal Government.

4.8.6 Under this settlement *not* demanding power would be taken as tacit consent to government from Westminster, on a federal UK basis. This would have parallels in the Spanish system of asymmetrical devolution to autonomous regions, where Catalonia and the Basque country have taken advantage of enshrined rights to additional powers in the Spanish constitution. Similar examples exist elsewhere in Europe.

4.8.7 The last Labour Government's attempts at regional devolution beyond London failed in part because proposals were seen as shallow, artificial and top-down,. The cause of regional devolution might be rejuvenated if the "regions" concerned could be drawn up by those who live in them, and if the powers available were more substantial.

4.8.8 A transfer of powers in key areas of public policy like health, education, housing, local government and policing – with commensurate tax-varying powers – could be attractive.

4.8.9 To take forward the idea of "Devolution on Demand", Liberal Democrats will need to consider further which menu of powers could be offered to what *size* of unit within England, and how to entrench a constitutional right to claim these powers from Westminster.

4.8.10 Previous devolution settlements have all been predicated on the principle that new assemblies should be elected by a form of proportional representation. This principle should also underpin 'Devolution on Demand'.

Questions:

19. *Do you support a renewed commitment to a federal constitution for the United Kingdom, along the lines outlined by Sir Menzies' Campbell's Home Rule Commission?*
20. *Do you support the idea of asymmetrical 'Devolution on Demand' for England, with constitutionally enshrined rights for areas of England to claim powers from Westminster, as well as a presumption that government from London is legitimate where those powers have not been sought?*
21. *Which powers could be devolved, and to what size of unit (geographical, population size)?*
22. *What process should be involved for an area to agree that it wishes to claim power from Westminster? What democratic safeguards should there be?*

4.9 Fiscal federalism

4.9.1 *For the People, by the People* stated "Liberal Democrats believe that, as well as devolving political power out from Westminster, fiscal power also needs to be devolved from the Treasury if the UK is to have a genuine federal system".

4.9.2 Our policy distinguishes between fiscal federalism, which provides a constitutionally enshrined measure of responsibility for revenue raising coupled with levers for redistributing wealth around the whole federal union, and fiscal autonomy which gives each unit total financial independence. The Steel Commission (2006) concluded that "no industrialised countries have opted for full fiscal autonomy. The reason for this is clear: to do so strikes against the principle of unity within states that sees an element of redistribution between areas with different levels of income and wealth."

Political and Constitutional Reform

4.9.3 The Campbell Commission reaffirms this position and develops the Scottish Liberal Democrats' proposals for fiscal federalism. Its recommendations include:

- income tax paid by Scottish taxpayers should be almost entirely the responsibility of the Scottish Parliament;
- powers over Capital Gains Tax, Inheritance Tax, the Aggregates Levy and Air Passenger Duty should be allocated to the Scottish Parliament;
- regulation of business, employment and financial services, VAT, and excise duties should remain the responsibility of the UK Government;
- Corporation Tax should be managed at a UK level but the proceeds raised in Scotland should be assigned to the Scottish Parliament.

4.9.4 Under the Campbell Commission regime, once Scotland has collected taxes, "the remaining funds required to fund the Scottish Government's annual programme should come from an equalising payment from the UK Treasury".

4.9.5 *For the People, by the People* envisaged "a new needs-based equalisation formula – the Revenue Distribution Formula"⁶. This would take into account factors such as geography, how rural an area is, health, the state of infrastructure, poverty and deprivation and the cost of delivering services. The Formula would be drawn up by a Finance Commission of the Nations and Regions (FCNR).

4.9.6 The Campbell Commission endorses such a new formula to replace the Barnett Formula, and further recommends that an independent fiscal agency separate from the UK Treasury should oversee the formula.

Questions

23. *Do the tax proposals for Scotland elucidated by the Campbell Commission provide a good template for the measure of fiscal power which could be claimed by other parts of the UK?*
24. *Should the basket of taxation powers available to units below the federal level be varied according to the size of the population and/or geographical size of the area?*
25. *Is a needs-based formula still the right mechanism by which to maintain the principle of unity within the overall nation-state of the United Kingdom?*
26. *How best can we anchor the concept of an entitlement to political power for units below the federal tier in the financial relationship between different levels of government?*

4.10 Constitutional Rights for Local Government

4.10.1 The Communities and Local Government and Political and Constitutional Reform Select Committees of the House of Commons have both been investigating various ways in which the rights of local government could be codified.

4.10.2 A federal constitution could give UK local government the same certainty and entrenchment as enjoyed by local jurisdictions in most other democracies.

4.10.3 Recent years have seen concerns about particular local authorities characterised as 'one party states'. There are strong democratic arguments for introducing proportional representation into local

⁶ as set out in Policy Paper 75 *Fairer, Simpler, Greener*

government, and existing multi-member ward structures would lend themselves to a transition to STV without excessive upheaval.

Questions

27. *What constitutional rights for local government do you believe should be enshrined in a written constitution?*
28. *Following the change in Scotland, should STV now be used for local Government elections across the rest of the UK? How should such a change be introduced?*

4.11 A Europe of Citizens

4.11.1 Liberal Democrats have a unique role in British politics as consistent advocates of the benefits to the UK and its citizens of playing a leading role in the European Union.

4.11.2 Freedom of movement and the Single Market have conferred substantial economic rights enjoyed by UK citizens at home and elsewhere within the EU.

4.11.3 However the exercise of political rights lags behind that of economic rights. EU citizens are entitled to vote in local and European Parliament elections in their country of residence, but similar rights do not apply in respect of national elections. This gives rise to anomalies, for example:

- Expatriate British citizens in EU countries may lose their right to vote in UK national elections whilst being denied the right to vote in their EU country of residence
- Commonwealth citizens who may not have permanent rights of residence in the UK nevertheless have greater voting rights than EU citizens who have permanently settled in the UK

4.11.4 A separate policy working group is currently reviewing policy in respect of the EU. They have nevertheless indicated that enfranchisement issues are best considered by our own working group.

Questions

29. *Is there an appetite for addressing enfranchisement anomalies? If so, what principles should underpin any new arrangements? Reciprocity? A qualifying period of residence? An 'opt in' to avoid multiple voting?*

Getting from here to there- Endorsement for a new constitutional settlement

5.1 *For the People, By the People* envisaged a three stage process for agreeing a new written constitution:

- a referendum to endorse the principle of a constitutional convention sitting to draw up a new constitution
- if endorsed, a constitutional convention, at least 50% composed of randomly selected members of the public, sitting five to six years to consider all the issues
- a further referendum on the draft constitution produced by the convention

5.2 Since *For the People, By the People*, calls for a convention have largely come from members of the political establishment seeking to *delay* 'piecemeal' reforms. Moreover, the utility of referenda in considering big constitutional issues has been called into question

5.3 The dilemma for reformists is how to grasp the nettle of establishing a process for a comprehensive constitutional settlement, whilst also making the most of piecemeal opportunities for incremental progress towards a more plural, fairer and more responsive political system. We refer to this conundrum in question 5 above.

Questions

30. *Is the process set out in For the People, By the People the right one? Are there international precedents the UK could usefully follow?*

31. *If a constitutional convention is to be established, how should its membership be determined, and under what circumstances should its conclusions be binding on Parliament?*

32. *In what circumstances are referenda appropriate?*

Political Engagement Between Elections

6.1 Liberal Democrats have always supported a robust representative democracy where political decision-making at all levels is led by elected representatives.

6.2 However, in a world where technology has become a great enabler, voters may be frustrated by the limits of their everyday influence as 'consumers' in the political sphere.

6.3 This presents a serious difficulty for democrats. How can politics be more responsive to the ebb and flow of everyday opinion, without succumbing to shallow populism or government by plebiscite?

6.4 Among the great benefits of liberal democracy are its capacity to a) manage and represent minority interests (especially in more plural political systems than that of the UK) and b) to balance competing public policy priorities.

6.5 Liberal Democrats need to consider how to safeguard these elements of liberal democracy while providing more opportunities for individual citizens to influence government at all levels.

6.6 There is a debate to be had as to whether digital media can provide a basis for direct participation in decision-making, or whether it merely provides a different platform through which elected representatives can engage with constituents.

6.7 We also need to consider 'clicktivism' (quick, simple actions, like signing e-petitions or forwarding template emails to MPs, which involve minimal effort on the part of the campaigner). 'Clicktivism' imposes a considerable demand on the time of elected representatives without necessarily moving debates around particular issues forward, other than by demonstrating in quantitative terms the strength of feeling associated with a given point of view (and even that may merely reflect differing levels of organisation and access to resources by groups espousing particular causes)

6.8 At a national level an obvious stumbling block for citizens who wish to engage with parliamentary and administrative processes is the impenetrability and inaccessibility of much of the language, procedure and documentation. An excess of data may become overwhelming, unsearchable, and ultimately meaningless if it is not provided in a form digestible for the end user. We seek views on the best ways to counter this.

6.9 Moreover, significant numbers of people are unable or unwilling to access public services and information digitally (though this is decreasing).

Questions

33. How should politicians embrace online engagement without losing the benefits which representative liberal democracy brings in terms of balancing competing interests? Where is the right balance between meaningful engagement vs government by plebiscite?

34. How can 'clicktivism' be developed into a more discursive, in depth form of engagement?

35. How can elected representatives respond appropriately to increased demands on their time resulting from online engagement?

36. To what extent is political engagement between elections an issue for elected representatives? Can and should the political system be adapted to empower individuals to influence public policy directly on an ongoing basis?

37. How can Parliament and other elected bodies make their procedures and documents more accessible and comprehensible to the public? How can data be presented in a form which is accessible and meaningful to citizens?

38. What further work is needed to make 'digital democracy' a reality?

Gender balance and diversity

7.1 The UK lags behind comparable democracies in terms of gender balance and diversity of representation. In the current House of Commons men outnumber women 4:1 and disproportionately few MPs self-identify as ethnic minority, disabled and LGBT.

7.2 Meanwhile Liberal Democrats lag behind other major UK political parties. Our party in the House of Commons comprises just 12% women (down from 15% in the previous Parliament), while the wholly appointed Lords group comprises twice as many men as women. There are currently no ethnic minority Liberal Democrat MPs, although in the Lords the percentage of ethnic minority Lib Dem peers roughly matches population statistics.

7.3 Recognising that a representative democracy which fails to reflect the underlying gender balance and diversity of its citizens is not a well formed democracy, and conscious of our own diversity deficit, Liberal Democrats urgently need to set out a distinctive path to achieving balanced representation within our party as well as the wider UK polity.

7.4 There is a substantial body of evidence to consider in this area, much of it highlighted in the Speaker's Conference on Parliamentary Representation⁷ which identified pervasive systemic barriers to political participation by under-represented groups, including:

- cost, time and resource barriers facing would-be activists and candidates from under-represented groups
- 'presenteeist' cultures and inflexible working practices in political parties and institutions (e.g. constituency expectations, Commons sitting hours, absence of parental leave)
- stereotyping of candidates from under-represented groups and a tendency to fall back on "more of the same" in selections

7.5 Comparative academic evidence is unambiguous: internationally, the only countries to have achieved equality of representation have done so through statutory equality guarantees.

7.6 Liberal Democrats used a form of equality guarantee ("zipping") as a one-off for the 1999 European elections, yielding a gender balanced parliamentary group which has remained so notwithstanding the 'churn' of individual MEPs.

7.7 Over the last decade the party has put considerable effort into increasing its pipeline of candidates from under-represented groups. At the last general election one third of candidates in notionally winnable seats were women.

7.8 The distorting impact of the first past the post electoral system has undermined the party's efforts to deliver gender balance and diversity, in contrast to other parties which have been able to engineer diversity by 'parachuting' candidates into 'safe' seats.

7.9 In November 2012 a Private Member's Bill was introduced in the Commons proposing that parliamentary candidates should be able to put themselves forward for election on a job-share basis. While

⁷The Speaker's Conference was convened in 2008 to consider the disparity between the representation of women, ethnic minorities and disabled people in the House of Commons and their representation in the UK population at large. It worked through 2009 collecting evidence and published its final cross-party report in January 2010.

the Bill did not proceed further, it gained support from individual MPs in several parties, including some Liberal Democrats.

7.10 The object of such a change would not be to impose job-sharing MPs on constituents. Rather, job-share candidates would stand on a joint ticket and voters would choose whether or not to vote for them in the same way they decide whether or not to vote for any other candidate.

7.11 If elected, agreed protocols around voting, serving on select committees and other MPs' duties would bind the job-share candidates. The election campaign would ensure proposed protocols receive plenty of scrutiny from constituents before election day.

7.12 The rationale behind the proposal is that it could open up the role of MP to a much wider group of people than at present. Research shows that one of the main barriers to increasing women's participation in politics is perceived incompatibility with family life, while evidence from professions such as medicine, law and the senior civil service suggests that provision for part time working significantly increases the talent pool of women progressing into senior roles.

7.13 Existing party policy states that Ministerial roles may be undertaken on a job-share basis. MP job-shares would be a democratic variant of this, as constituents would have a choice as to whether or not to vote for job-share MP candidates.

Questions

39. What systemic changes to the political system do you believe would promote gender balance and diversity in UK political parties and institutions?

40. How do the barriers faced by other under-represented groups differ from those confronting women? What measures could be used to boost participation in politics by other under-represented groups?

41. Should Liberal Democrats revisit the issue of equality guarantees? How can these be reconciled with a core liberal belief in individual merit?

42. Given that the Party voted against All-Women Shortlists in 2001, what other measures might be effective in delivering gender balance and diversity, especially in single-member constituencies?

43. Do you support, in principle, the idea of a legal right for two people to stand for office jointly, and, if duly elected by constituents, to share the work of one Member of Parliament (or other elected representative)?

Media Standards

8.1 In 2012 Lord Justice Leveson published a detailed report on media standards in Britain with recommendations for establishing an independent self-regulatory regime, underpinned in statute. His recommendations are available at: <http://www.levesoninquiry.org.uk/about/the-report/>

8.2 Nick Clegg has broadly endorsed Lord Leveson's proposals as "proportionate and workable", in contrast to David Cameron's "serious concerns and misgivings" about the report.

8.3 While Lord Leveson's detailed recommendations are beyond the scope of this working group, potential changes to media regulation do have a bearing on issues within our remit including constitutional enshrinement of media plurality and media treatment of women and other under-represented groups.

Questions

44. Should a constitutional requirement of media plurality be established alongside any new framework of constitutional rights?

45. How does the media treatment of women and other under-represented groups impact diversity of representation? Would a different regulatory regime make a difference? If so, how?

Political Parties

9.1 Decline in membership

9.1.1 Well beyond the downward trends in most other European countries, UK political party membership has fallen steeply in recent decades. Total UK party membership was about 10% of the electorate in 1960, but only 1.2% by 2008.

9.1.2 The POWER Inquiry⁸ noted a widespread sense that Labour and the Conservatives were failing in the basic function of connecting governed and governors, and indeed were perceived as obstacles to democratic engagement.

9.1.3 Two negative perceptions were particularly notable, namely that:

- Labour and the Conservatives were widely regarded as too similar in their core policies, driven by the search for the centre ground rather than basic principles
- Many people found it difficult to express support for very broad programmes of policies, supporting some rather than all of a party's policies

9.1.4 Patrick Dunleavy⁹ argues that the historic two party system is cracking under the pressure of its failure to represent adequately the range of values of the electorate: "people don't like to be told "you must choose between us and them" when they don't want to do that. ...That's a fundamental issue and it's really a difficulty almost unique to British political elites that they can't see any problem with that'.

9.1.5 POWER's research found that people active in single issue campaigns, community groups and political parties, all regarded the lack of influence and autonomy of local parties and party members as very unattractive features of party politics. The inquiry was surprised by the strength of negative attitudes of local activists towards parties, and at activists' very low morale.

Questions

46. Can and should political parties retain their traditional role as the entry point for political engagement?

47. What public policy measures can be used to foster greater political engagement and involvement in democratic decision-making? Is there a public appetite for it?

48. Do voters suffer from election fatigue? Is there a case for consolidating elections, for example moving to all-up elections for local authorities which currently elect by thirds?

9.2 Party Finance

9.2.1 Our last election manifesto committed Liberal Democrats to capping donations to political parties at £10,000 and limiting spending throughout the electoral cycle. The Coalition Agreement commits to pursuing "a detailed agreement on limiting donations and reforming party funding in order to remove big money from politics".

9.2.3 From a Liberal Democrat perspective the key elements of any reform package would be:

⁸ *Power to the People*, 2006, p.181

⁹ Refs to be found (2005, 2011)

Political and Constitutional Reform

- stricter and greater limits on donations to political parties
- more comprehensive limits on campaign spending by political parties
- parallel arrangements to regulate the activity of third party organisations seeking to influence elections
- reform of trade union political funds to establish an 'opt in' regime

9.2.4 Over the last decade a number of reviews have considered the issue of political party finance, most notably Sir Hayden Phillips' review (2006) and Sir Christopher Kelly's Committee on Standards in Public Life (2011).

9.2.5 Sir Hayden Phillips' review proposed a donation cap of £50,000, reform of trade union finance and introduction of a "registered supporter" scheme with match state funding.

9.2.6 Sir Christopher Kelly proposed:

- a donation cap of £10,000
- reform of trade union funds such that affiliation fees may be regarded as separate contributions from trade union members if a) individual members make a positive decision to contribute to the Labour Party by opt in, b) members can pay into the political fund without funding affiliation fees, c) fees paid accurately reflect the number of members opting in, and are paid over automatically without the opportunity for a TU to hold them back for any reason (e.g. to influence party policy).
- a review of the existing definition of third party campaigning organisations
- tax relief on basic rate donations of up to £1,000 and on membership fees for political parties
- £23m of public funding to the parties each year, allocated on the basis of £3 per year for every vote received at a general election and £1.50 per year for every vote in devolved and European elections

9.2.7 *For the People, By the People* advocated "limited public financing of political parties, used to encourage local campaigning [with] voters able to nominate a local party (or none) to donate funding to rather than the central party HQ". Kelly's model would have allocated monies to central parties only.

9.2.8 Since 2011 there has been little progress, stalled, largely because of the difficulty in justifying further state funding of political parties at a time of austerity. Nevertheless, cross-party talks are ongoing.

9.2.9 The working group will consider what parts of the Sir Christopher Kelly package it would want to adopt as policy, and which it would prefer to modify.

9.2.10 The working group will also consider whether existing public finance to political parties may be reallocated from:

- the Policy Development Fund, available to all parties in Parliament
- the Short/Cranborne money for opposition parties in Parliament

- funds paid by HM Treasury to Royal Mail to fund the postage of individual election address mailings from each candidate to each elector at general and European elections, and of election address booklets used in Mayoral elections

Questions

49. How can public policy around party finance promote greater participation in politics? Should this be solely through the medium of political parties?

50. Do you support Sir Hayden Phillips' proposals for a 'registered supporter' scheme? Could his proposals be improved?

52. What elements of the Sir Christopher Kelly proposals should Liberal Democrats endorse? Are there areas in which we should seek to be more radical?

53. Should the Liberal Democrats advocate increased state funding for political parties? How should additional funds be allocated? How could existing funds be better deployed?

54. What implications might reform of party funding have for the role of the Electoral Commission? Are there any other changes to the Electoral Commission that we should consider?

Standards in public life

10.1 In the 1990s the Committee on Standards in Public Life led by Lord Nolan conducted an inquiry into "current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities". The Committee was tasked to make recommendations designed to "ensure the highest standards of propriety in public life."

10.2 The seven 'Nolan Principles' of public life are:

- **Selflessness:** Holders of public office should act solely in terms of the public interest.
- **Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- **Honesty:** Holders of public office should be truthful.
- **Leadership:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

10.3 These principles govern the behaviour of public servants (whether political or official) across the public sector. However, the MPs' expenses scandal in 2009, and recent scandals revealing the closeness of politicians and powerful media interests (exposed by the Leveson Inquiry - see Section 8), give rise to legitimate questions about whether the Nolan principles are sufficient.

Questions

55. Are the Nolan Principles still the right principles against which to judge public servants and their actions? Could they be updated or supplemented?

56. Are there areas of public life where the principles could be upheld or enforced more effectively?