JUSTICE

The Rule of Law: Building Resilience through Culture and Practice

Foreword by The Rt. Hon. the Lord Strathclyde CH, Chair of the House of Lords Constitution Committee

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Foreword

The rule of law is a constitutional principle of vital importance, underpinning our democracy and protecting the citizen from an overmighty state. It is also a strong cultural norm that is woven into our everyday lives, governing the relationships between citizens and facilitating a successful society.

Despite its long history in the UK, we cannot take its continued strength for granted, and there is an increasing sense that the rule of law is beginning to fray at the edges.

The House of Lords Constitution Committee, which I chair, recently conducted an inquiry examining the state of the rule of law in the UK. The resulting report, published in November 2025, called on the Government to take their responsibility for protecting the rule of law seriously.

We called for decisive action to be taken to tackle delays in the courts, for personal attacks on judges to stop, and for the quality of legislation to be improved. We welcome this new report from JUSTICE which similarly warns of the danger of taking the rule of law for granted, and which emphasises the need for cultural change to protect it.

As a Committee, we play our own role in safeguarding the rule of law. One way in which we do this is by scrutinising every Government bill for its constitutional implications, and, where necessary, reporting to the House on our findings.

We are pleased to see that JUSTICE recommends our *Legislative standards of the Constitution Committee: 2017-2024* as a guide to best practice.

We also set out in our rule of law report some of the key questions that we ask of legislation, and we hope that, together, these can be helpful resources for lawmakers both in Government and in Parliament.

The Rt. Hon. the Lord Strathclyde CH, Chair of the House of Lords Constitution Committee

Executive Summary and Recommendations

The rule of law serves as the cornerstone of the UK's constitutional framework. It creates a foundation for exercising public power, ensuring legality, accountability, and respect for fundamental rights. The idea, at the most basic level, that laws be clear, foreseeable and apply to everyone equally, regardless of power, education, wealth or status, *should* represent a common ideal to which we can all strive.

This matters because the rule of law touches every part of daily life. It is what ensures that a tenant can challenge an unfair eviction, that a parent knows their child's rights will be respected at school, and that an employee can seek redress when treated unlawfully at work. It means that when you buy a home, sign a contract, or start a business, you can do so with confidence that the rules are clear, stable, and enforced fairly. It guarantees that power, whether held by government, corporations, or individuals, is exercised within limits, and that everyone has access to justice when those limits are breached.

Beyond fairness, the rule of law underpins prosperity. This means a predictable legal system, enforced by an independent judiciary and supported by accessible courts, affording businesses and communities the vital certainty they need to invest, trade, and thrive. Put simply, the UK's democratic health and economic strength depend on the resilience of the rule of law.

This report examines what steps could be taken to improve the UK's rule of law adherence. To do so, we consulted with lawyers, politicians, ministers, experts and international stakeholders, including peers, former members of the judiciary, academics, and legal professionals, to identify how the rule of law is currently being challenged and how to create a culture that is more rule of law-cognisant.

In Chapter 1 – The Rule of Law from the Grassroots, we explore how the rule of law is experienced in everyday life and why cultural attitudes matter. The rule of law is not confined to judicial control over legal compliance, but of how the law is woven into the everyday practices of governance and society. We highlight the risks posed by legislative complexity, delays in justice, and declining public trust, and argue that resilience depends on embedding legality in social norms, not just formal institutions such as the court or Ministry of Justice.

Although the UK's adherence to the rule of law is largely considered a success story, since our 2023 report new threats to the rule of law have emerged. Everyday discussions on the rule of law often focus on the concept's importance to big UK commercial players, and the economic advantages that a robust English legal system can offer. However, although economic prosperity matters, most of those interacting with law fall outside of these categories. Rule of law discourse has largely failed to address how everyday people in Britain encounter it week-in and week-out.

In Chapter 2 – The Rule of Law in Public Life, we look to the political sphere, where constitutional guardrails are under strain, posing risks for democratic resilience. In fact, the very *idea* of using legal standards to constrain state power remains under challenge. We are concerned that comments about the 'rule of lawyers' and 'regaining sovereignty' risk subordinating key constitutional principles to short-term political agendas, granting the government increasingly unconstrained power. For example, one stakeholder observed that proposals to disapply human rights safeguards were quickly treated as routine during legislative review.

The Constitution Committee's 2023 report on the Illegal Migration Bill flagged the unprecedented nature of clauses excluding section 3 of the Human Rights Act 1998, yet by its 2024 report on the Safety of Rwanda (Asylum and Immigration) Bill, similar provisions were described as "no longer novel", even though only one had been enacted at that point.[1] Combined with pressures to loosen guardrails and expand executive authority, this dynamic could steadily erode the checks and balances that protect democratic governance. We analyse measures that weaken these guardrails and propose approaches that resist concentration of power within the executive, improve constitutional literacy among MPs and civil servants, and ensure that public power is exercised within clear and accessible standards.

We also consider what makes people follow the law, noting that compliance depends on trust and internalised norms as much as sanctions. Unless we build a genuine understanding of what the rule of law is and why it matters, any outward commitment to it will not take root. The consequences of this are profound: research in sociology indicates that formal rules, including legislation, achieve their intended effect only when properly implemented, and that implementation is shaped by the prevailing social norms and practices of those asked to implement them.

We highlight the UK Supreme Court as an example of positive rule of law leadership through its outreach and engagement and discuss the non-criminal responses to breaches of law or procedure that already exist, such as parliamentary questioning and internal investigations. Finally, we warn that Britain's day-to-day politics is often driven by short-term policy pressures, which incentivise rushed lawmaking and erode scrutiny, making it easier for future governments to bypass checks and balances. As such, we recommend that the government, parliamentary leaders, party leaders, and civil society regularly refer to the rule of law and the standards governing the exercise of public power in their everyday work.

In Chapter 3 – Lawmaking under the Rule of Law, we address the deterioration in the quality of legislation and policymaking, the frontline of the rule of law. Stable laws provide certainty and security, enabling individuals, businesses, and state actors to make long-term decisions with confidence. When laws change rapidly or unpredictably, as seen during the Covid-19 pandemic, complex rules become hard to follow, leading to confusion and unintended breaches even by typically law-abiding people.

The ways in which laws are currently made and enforced are not conducive to long-term planning or certainty because of their volume, pace, and complexity. For example, in immigration law alone Acts of Parliament were passed in 2014, 2016, 2020, 2022, 2023 and 2025, each introducing wide-scale changes to an already complex and convoluted area of law. As a result, individuals are poorly equipped to plan their lives, and may be subject to disruption or even mistakenly issued penalties. Excessive reliance on secondary legislation, rushed timetables, and insufficient scrutiny also undermine clarity and predictability.

We propose reforms to improve pre- and post-legislative scrutiny, unify standards for secondary legislation and expand these to include additional grounds, and embed equality and human rights considerations into lawmaking. To facilitate equality before the law, we need greater engagement at all levels of lawmaking in assessing the impact of new laws on different sections of society

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[1] House of Lords Select Committee on the Constitution, '*Safety of Rwanda (Asylum and Immigration) Bill*' (3rd Report of Session 2023-24, HL Paper 63), para 27.

and relatedly recommend that the government make more effective use of impact assessments to evaluate policy effects on different groups. For reforms to be the most meaningful, better collection and publication of equalities and human rights data is essential.

In Chapter 4 – A System that Serves Us All, we focus on practical access to justice and public legal education. Most people do not encounter the rule of law as a constitutional ideal, but through its impact on daily life such as professionals dealing with unpredictable legislative changes; tenants seeking timely home repairs; or parents ensuring that their child's special needs are properly accommodated at school. Failing to uphold the rule of law therefore means that people may feel consistently failed by legal and judicial institutions, making them more likely to take the law into their own hands.

Relatedly, making the rule of law a resilient constitutional principle requires the public to understand it. However, many people in Britain currently lack a clear grasp of what their rights are, and how the legal system works, thus reducing equality before the law. Our research revealed that public confidence in addressing legal issues is low, but even still, people may overestimate what they do know. This problem is aggravated by misleading media reporting, which further reduces public trust.

We also show how systemic delays, legal aid deserts, and complexity leave rights unenforceable for many, and propose solutions to improve education about the rule of law, data collection, and facilitate cross-government collaboration. We emphasise the importance of judicial diversity to sustain public confidence in the courts. Finally, we discuss how emerging technologies like AI can both help and hinder, offering opportunities to improve justice system efficiency and access to information, but may also introduce new risks that could undermine fairness and trust in the system.

Our recommendations, set out below, include raising awareness about the value of the UK's constitutional principle, taking steps to reduce the EHRC's dependence on the government of the day, empowering Parliament with the ability to amend the text of statutory instruments; developing and using better tools and standards to collect high-quality data for equality and human rights analysis, and providing rule of law education focusing on scenarios and day-to-day issues that people can relate to.

Taken together, our goal is to ensure the rule of law remains a vibrant cornerstone of our constitutional settlement, serving to maintain (and where necessary, restore) the public's confidence, improve governance and ensure that this fundamental principle which is understood, valued and upheld across all corners of our country.

Recommendations

Chapter 2 - The Rule of Law in Public Life

1. We recommend that the government, parliamentary leaders, party leaders, and civil society regularly refer to the rule of law and the standards governing the exercise of public power in their everyday work. This should be reflected in speeches, policy statements, and parliamentary debates to reinforce the principle that legality and accountability underpin democratic governance.

2. We therefore recommend that the House of Lords Constitution Committee's compendium, Legislative Standards: 2017–2024, is actively promoted as a key resource for parliamentarians and used to guide best practice in law-making.

3. We recommend that the government implements the existing recommendations on improving access to justice and ensures that institutions whose remits carry human rights and equalities consequences, across both the public and private sectors, receive sufficient funding to discharge their responsibilities effectively.

4. For this reason, we recommend the provision of a systematised introduction to core UK constitutional norms and their rationales, as well as an outline of the UK legal system, to all incoming MPs. This will help parliamentarians understand the principles that structure governance and the long-term consequences of legislative choices.

5. We recommend that measures taken to raise awareness about the value of the UK's constitutional principles, including the rule of law and the consequences of failing to uphold it, among politicians are also extended to the Civil Service. Such training should accompany operational delivery training, ensuring civil servants understand both the practical and constitutional dimensions of their role.

6. We recommend that consideration is given to measures intended to reduce the EHRC's dependence on the government of the day. These measures should include depoliticising the Commission appointments and budget-setting process. This could involve a model where the EHCR's budget, as well as appointments, are controlled by a Select Committee – for instance, the Joint Committee on Human Rights or the Women and Equalities Select Committee.

7. We recommend that the government, parliamentary Select Committees, the Commons and Lords Libraries, and parliamentary leadership work together to create consolidated, accessible statements of norms governing how public power should be exercised in the UK. These statements should be clear, authoritative, and easy to use.

8. We recommend the creation of a research repository that compiles existing resources, such as materials published by the House of Commons Library's Parliament, Public Administration and Constitution Hub and the Constitution Committee's Legislative Standards compendium, into an easily accessible format. This could take the form of an interactive website or app, enabling MPs and other stakeholders to access key information quickly.

Chapter 3 – Lawmaking under the Rule of Law

9. We recommend increasing both the frequency and the quality of key scrutiny processes in order to improve the overall quality of UK policy and legislative outputs and reduce the need for post-enactment amendments. In particular, there should be:

    (a) enhanced pre-legislative scrutiny such as public consultations and scrutiny of both policy proposals and the text of legislative acts;

    (b) and post-legislative scrutiny.

10. We recommend that Parliamentary and party leaders should examine how MPs could be given more recognition for conducting high-quality, effective scrutiny.

11. We recommend that the government adopt a more proactive approach to consultations, with the type and scale of each consultation exercise proportionate to the potential impact of the draft Bill or measure.

12. We recommend that human rights and equalities considerations are expressly incorporated into the process of post-legislative scrutiny.

13. We endorse the recommendations of the Hansard Society Working Paper to replace the current tripartite structure of the Joint Committee on Statutory Instruments, the Lords Secondary Legislation Scrutiny Committee, and the Commons' Delegated Legislation Committees.

14. We recommend that the Houses of Parliament be given a power to amend the text of statutory instruments or to accept them in part.

15. We recommend that the standards applied when scrutinising secondary legislation are unified into one list and expanded to include additional grounds.

16. We recommend adding the following criteria of scrutiny to the grounds on which a statutory instrument can be drawn to each House's attention:

    (a) whether the instrument is clear, simple, and practical for its intended users; (by analogy with standards applied in New Zealand and Australia)

    (b) whether the instrument makes rights, liberties, obligations or interests unduly dependent on insufficiently defined administrative powers; (Australia, Canada)

    (c) whether the instrument trespasses unduly on personal rights and liberties, including rights protected by human rights legislation (Australia, Canada)

    (d) whether those likely to be affected by the instrument were adequately consulted in relation to it; (Australia); and

    (e) whether the instrument appears for any reason to infringe the rule of law (Canada).

17. We recommend making more effective use of impact assessments to evaluate policy effects on different groups. This should include, for example, using assessment templates requiring policymakers to consider how a policy solution might disproportionately impact a particular demographic or Convention right.

18. We recommend developing and using better tools and standards to collect high-quality data for equality and human rights analysis and impact assessments.

19. We recommend learning from recent human rights- and equalities-focused data programmes developed abroad.

20. We recommend implementing measures to strengthen the data skills and literacy of policy professionals within government and public bodies more broadly.

Chapter 4 – A System that Serves us All

21. In line with the main themes of this report, our overarching recommendation concerning Public Legal Education is that education about the rule of law should be provided in a manner focusing on scenarios and day-to-day issues that people can relate to.

22. The government must take action aimed at implementing the multitude of existing recommendations from stakeholders across the justice system on how to improve people's access to justice.

23. The government, including the Ministry of Justice, HMCTS, and all departments and public bodies that feed cases into the justice system, should improve the collection and publication of justice system data so that new funding can be directed to where it will have the greatest impact.

24. To improve access to justice the government needs to work in a cross-departmental manner, focusing on overall thematic outcomes rather than individual parts of the system. This requires allocating funding using an outcomes-based model, so departments must work together to meet shared goals for improving access to justice.

25. The government must also develop its strategy on how to secure human rights and the rule of law in the actions of private actors in the justice system. We recommend ensuring that private actors using AI tools to provide legal help can deliver accurate legal advice, especially since chatbots currently operate outside legal services regulation.

26. Relatedly, we recommend developing robust ongoing monitoring and evaluation systems for AI tools against clear and agreed standards of what 'good' looks like in specific contexts. These measures must be put in place before unregulated AI use becomes entrenched and creates systemic problems for courts, tribunals, and users.

27. We reiterate the recommendations to increase the diversity of the judiciary made in our *Increasing Judicial Diversity* reports including:

    (a) the ability to contribute to a diverse judiciary being taken into account in the assessment of 'merit';

    (b) the introduction of diversity "targets with teeth" i.e. publicly stated targets for selection bodies, with monitoring and reporting on progress to the Justice Select Committee;

    (c) the creation of a permanent Senior Selection Committee dedicated to senior appointments;

(d) creation of 'appointable pools' of individuals deemed to have met the high standard of appointability for a particular court, with pooled candidates from under-represented groups being given priority to fill vacancies when they arose;

(e) The JAC should conduct an in-depth expert review of their appointment processes, looking beyond 'best practice' to focussing on the reasons for differential attainment by differential groups, in particular Black and other ethnic minorities and those from lower socio-economic backgrounds;

(f) And, establishment of an internal judicial career path where judges can begin their career in the more diverse Tribunals or District Judges.

Chapter 1 – The Rule of Law from the Grassroots

Introduction

1. The UK's adherence to the rule of law is, by and large, a success story. We rank highly on the World Justice Index across all measures, including government accountability, absence of corruption, and having effective civil and criminal justice systems.[2] We also have a strong track record with respect to compliance with our international law obligations: by the number of adverse European Court of Human Rights judgments in the last decade, the UK leads the way in Europe.[3] Our legal system is also the premier jurisdiction for global commercial disputes. As noted by Lord Hodge, the Deputy President of the Supreme Court, one aspect of the UK's reputation for the "provision of robust and reliable jurisdictions for the conduct of business" is the "historical commitment of its judges and practitioners to uphold the rule of law," a "necessary precursor for legal certainty."[4]

2. However, this does not mean that such a world-leading position is guaranteed. When laws are clear, stable, and capable of being relied on, businesses and individuals benefit from confidence that their rights and obligations will be reliably enforced and safeguarded. A stable legal system, underpinned by judicial independence and access to justice, supports economic growth by ensuring certainty, reliability, and fairness in commercial transactions. Uncertainty regarding what the law is, or whether and to whom it will be applied saps momentum from the economy;[5] it also prevents people from being able to plan their lives confidently.[6] The UK's economic strength and international standing depend on the rule of law.

3. In 2023, we identified recent developments that have been corrosive to the rule of law in the UK. In our report, *The State We're In: Addressing Threats & Challenges to the Rule of Law*, we diagnosed a number of challenges: opaque, inefficient, and under-inclusive law-making processes, significant problems with access to justice, difficulties with ensuring equality before the law, and concerning trends related to the UK government's compliance with its domestic and international law obligations.

4. The causes of these issues transcend party lines, with successive governments failing to meet the public's expectation of living in a country governed by evidence-based, well-functioning laws.

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2 World Justice Project, Rule of Law Index; in 2024, the UK ranked 15th out of 142 countries.

3 J. Grogan and A. Donald, '*Explainer: Compliance with the European Convention on Human Rights: the UK and Europe*', (UK in a Changing Europe, 12 Feb 2025); European Court of Human Rights, '*Violations by Article and by State (2024)*', (ECHR, 2024).

4 Lord Hodge DPSC, *'The Contribution of the Common Law and the Courts to Economic Prosperity'* (25 February 2025), p.4.

5 See e.g. expert opinions on the impacts of recent U.S. trade policy: '*"Danger zone": Top companies weather uncertaintyas Trump's tariffs fluctuate*' (ABC News, 4 June 2025).

6 A. Betts, '*"My stomach just dropped": foreign students in panicked limbo as Trump cancels visa interviews*' (The Guardian, 30 May 2025); G. De Vynck and D. Abril, '*Tech companies are telling immigrant employees on visas not to leave the U.S.*' (The Washington Post, 31 March 2025).

- **Complexity**: Every year, the systems of laws governing the everyday lives of people living in Britain grows in complexity. During the COVID-19 pandemic, deluges of hastily-drafted secondary legislation stumped the public[7] and the police alike,[8] leading to mistakenly issued fines and disruption to people's lives. Senior judges have long decried Immigration Rules as "byzantine,"[9] with UK immigration law being subjected to substantial reform every year - if not every month.[10] Due to increasing reliance on secondary legislation and guidance, some standards for the publicity of laws are slipping. For instance, updates to Government-issued guidance for landlords and tenants, are made without being flagged to the interested parties – even when, as was the case in 2019, the statutorily prescribed documents changed four times in the span of three months.[11]

- **Access to Justice**: Even if a person successfully identifies that their rights have not been upheld, they might fail to obtain timely redress or rehabilitation due to the chronic underfunding of the UK's justice system. Fewer than one in three people in England and Wales can access legally-aided advice on community care issues;[12] only one person in ten can access such advice in relation to education issues.[13] In England, an employee may wait as long as 18 months or more for the conclusion of their claim before an employment tribunal.[14] Meanwhile victims, witnesses, and defendants can expect to wait almost a year for their criminal case at the Crown Court to proceed from offence to completion [15] Indeed, one Crown Court has recently offered a trial date as late as 2029.[16] Defendants who receive a prison sentence are often then placed in overcrowded prisons[17] with under-resourced rehabilitation programmes,[18] vermin and insect infestations, and malfunctioning fire systems.[19]

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7 A. Therrien and F. Gillett, '*Covid rules confusing and £10,000 fines disproportionate – Patel*', (BBC News, 9 November 2023); https://www.nytimes.com/2021/07/27/travel/britain-traffic-light-system-covid-restrictions.html

8 D. Casciani, '*Covid: Police watchdog says officers confused by unclear pandemic laws*', (BBC News, 20 April 2021).

9 https://freemovement.org.uk/senior-judges-despair-of-byzantine-immigration-laws/

10 Electronic Immigration Network, '*Timeline of policy and legislative changes affecting migration to the UK (1983 to 2025)*', (22 May 2025); https://nearlylegal.co.uk/how-to-rent-archive/

11 Nearly Legal, '*"How to Rent" Archive*', (Nearly Legal: Housing Law News and Comment, 2023).

12 The Law Society, '*Community care – legal aid deserts*', (The Law Society, 9 June 2025).

13 The Law Society, '*Education – legal aid deserts*', (The Law Society, 21 February 2024).

14 C. Carr and A. Campbell, *'Employment Tribunal backlog – how employers can avoid joining the queue*', (BTO Solicitors LLP Blog, 12 May 2025).

15 Ministry of Justice, '*Criminal court statistics quarterly: January to March 2025*', (GOV.UK, 26 June 2025).

16 M. Fouzder, '*Crown court offers trial date in October... 2029*', (Law Gazette, 25 September 2025).

17 P. Seddon and S. Kotecha, '*More inmates released early to stop prisons running out of space*', (BBC News, 14 May 2025).

18 L. Brooks, '*"Broken" prison system sets inmates up to fail, top Scottish inspector says*', (The Guardian, 1 September 2024).

19 Independent Monitoring Boards, '*Breaking point: the impact of a crumbling prison estate on prisoners*', (IMB, 27 November 2024).

- **Judicial Independence:** Over the past 20 years, politicians from all parties have criticised the judiciary, the legal profession, and the idea of due process.

5. Earlier in the year, Prime Minister Keir Starmer and the Leader of the Opposition Kemi Badenoch both opined that they "do not agree" with a court decision, with Starmer referring to the judgment as reflective of a "legal loophole."[20] In 2020, the official Home Office Twitter account blamed "activist lawyers" for "disrupting" deportation flights,[21] while the then-Attorney General Suella Braverman promised to "take back control from the judges."[22] In 2012, then-Prime Minister David Cameron bemoaned decisions being made by "unelected judges" rather than Parliament,[23] while in 2016 then-Prime Minister Theresa May promised to "never again" let "those activist, left-wing human rights lawyers harangue and harass" members of the British armed forces.[24] In 2008, the then-Justice Secretary Jack Straw described judges who do not agree with ministers' assurances that removals of extremists would be in the national interest as "nervous."[25] Finally, in 2006, the then-Home Secretary David Blunkett, called judges "bewigged menaces who make the law look like an ass"' and said that a judge needed "a brain transplant".[26]

6. At the same time, since the publication of our 2023 report, we have observed new threats to the rule of law emerge. Most crucially, people are increasingly losing faith in the concept itself. Globally, there has been a palpable rise of "political movements openly antagonistic to its ideals."[27] As the President of the UK Supreme Court, Lord Reed, pointed out in a recent speech:

7. "In a number of countries, voters have turned to leaders who argue that executive powers cannot be constrained by unelected judges ... and who are hostile to courts that uphold constitutional principles, protect the rights of minorities, and safeguard the separation of powers."[28]

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[20] D. Casciani, '*Judge 'deeply troubled' by PMQs exchange on Gazans settling in UK*', (BBC News, 18 February 2025).

[21] Electronic Immigration Network, '*Home Office deletes controversial Twitter post accusing "activist" immigration lawyers of disrupting the removal of migrants*', (EIN, 1 September 2020).

[22] The Economist, '*Why pruning the British judiciary's powers will prove tricky*', (The Economist, 20 February 2020).

[23] The Daily Telegraph, Nick Parker, Male pensioners to lose hundreds a year

[24] The Independent, '*Theresa May's keynote speech at Tory conference in full*', (The Independent, 5 October 2016).

[25] A. Sparrow and agencies, '*Jack Straw plans to 'rebalance' Human Rights Act*', (The Guardian, 8 December 2008).

[26] N. Stadlen KC, '*Brief Encounter: David Blunkett*', (The Guardian, 9 October 2006).

[27] G. Swenson, '*Rule of law in crisis: The need for a new approach*', (City St George's, University of London, 28 January 2025); A. Khardori, '*We Still Don't Know How Far They'll Go*', (Politico Magazine, 25 August 2025); M. Gehring and T. Rao, '*International Law Under Pressure: An Analysis of the First Six Weeks of the 2025 Trump US Administration*', (Verfassungsblog, 24 March 2025); G. Swenson, '*Rule of law in crisis: The need for a new approach*', (Foreign Policy Centre, 22 January 2025); World Justice Project, '*The rule of law has declined globally for the 8th year in a row*' (World Justice Project, 2025).

[28] Lord Reed '*Trust in the Courts in an Age of Populism: The Peter Taylor Memorial Address 2025*' (Supreme Court of the United Kingdom, 12 June 2025), p.3.

8. In June 2025, YouGov polling found that - for the first time since polling on the question started in 2019 - a majority of Britons expressed little to no confidence in the British judicial system.[29]

9. For these reasons, we resolved to continue our work on the rule of law, examining what steps could be taken to improve the United Kingdom's rule of law adherence. This work complements several other pieces of ongoing and recently published work in this field, by the government and other organisations. At the time of writing, this includes the Independent Sentencing Review,[30] led by former Lord Chancellor, the Rt Hon David Gauke; the Independent Review of the Criminal Courts,[31] led by former President of the Queen's Bench Division, Sir Brian Leveson; the recent Civil Legal Aid Review;[32] investment in increasing legal aid fees for Housing and Debt and Immigration and Asylum work;[33] the Ministry of Justice's proposed Legal Support Strategy;[34] and potential reconfiguring of the HMCTS's digital support service.

10. This report was originally envisioned as complementary to these efforts, looking abroad to find examples of best practice that could provide "fixes" for some of the issues we identified in our 2023 report. However, as we consulted with international stakeholders and carried out research of the relevant literature, it soon became clear that whatever rules we suggest are introduced, their efficacy is contingent on how they are put into in practice, and whether the UK general public and politicians support their retention.

11. For this reason, we decided to refocus the report to provide a perspective complementary to ongoing efforts to identify precise fixes to particular rule of law issues in the UK. Therefore, we examine how to create a culture – a shared way of thinking, believing, perceiving, and evaluating that exists in the realm of common ideas, values, and symbols - that is more rule of law-cognisant, so as to ensure the resilience of this core constitutional principle long into the future.

12. In doing so, we draw inspiration from other countries' experiences. We examine solutions currently implemented or proposed in countries that top various rule of law rankings, such as New Zealand, Canada, Germany, Finland, or Sweden. We also look at the cycles of rule of law recession and renewal in Europe's post-communist jurisdictions – in particular Poland, a "laboratory" of rule of law recovery.[35]

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29 YouGov, '*Confidence in the British judicial system (tracker)*', (YouGov, 1 December 2025).

30 Ministry of Justice, '*Independent Sentencing Review 2024 to 2025: Guidance*' (GOV.UK, 21 October 2024, last updated 14 November 2024).

31 Ministry of Justice, '*Independent Review of the Criminal Courts: Guidance*' (GOV.UK, 21 October 2024, last updated 7 October 2025).

32 Ministry of Justice, '*Review of Civil Legal Aid: Guidance*' (GOV.UK, 30 January 2023, last updated 3 March 2025).

33 Ministry of Justice, '*Civil Legal Aid: Towards a Sustainable Future – Consultation Response*' (GOV.UK, 2 July 2025).

34 GOV.UK, '*Legal Support Strategy Delivery Group*' (2025).

35 M. Skóra, '*Restoring the Rule of Law: Politics in the Service of Democracy*' (Verfassungsblog, 18 December 2024).

Current Approaches

13. The topic of the rule of law forms part of the daily political agenda. Current members of the government have commendably reiterated their commitment to the principle. During his 2024 Bingham Lecture, the Attorney General, Lord Hermer KC, spoke of his determination "to make the promotion of the rule a project we can all sign up to irrespective of our political allegiance". [36] In her 2024 swearing-in speech, the then-Lord Chancellor, Shabana Mahmood MP, vowed that she would defend "the international rule of law" and uphold "human rights."[37] That same year, when opening House of Lords debate on the rule of law, the Advocate-General for Scotland Baroness Smith of Cluny described the rule of law as "the bedrock on which democracy sits," highlighting its importance in devolution issues, the international order, and the UK's separation of powers.[38] The House of Lords Constitution Committee's rule of law inquiry, which reported in November 2025 in 'Rule of law: holding the line between anarchy and tyranny', found that it is "being weakened, and everyone must take steps to protect it against further erosion". Indeed, Lord Strathclyde, Chair of the Constitution Committee, remarked:

    "The erosion of trust in the rule of law has become particularly acute in recent years, as law breaking with apparent impunity in the form of shop theft and other visible crimes, alongside delays and backlogs in the courts, have now become part of our everyday lives".[39]

14. However, when the impact of upholding the rule of law on particular individuals or institutions is discussed, the conversation often focuses on the importance of the rule of law to big UK commercial players. Lady Chief Justice of England and Wales, Baroness Carr, this year defended the importance of not taking the rule of law "for granted" by pointing to the need to "stress the significant economic advantages in resolving disputes quickly, efficiently and at proportionate cost."[40] In a recent lecture, Lord Hodge also highlighted the UK courts' long tradition of independent administration of high-quality justice as an important factor in their popularity with commercial litigants. In the November 2024 Lords debate, Lord Wolfson - himself a barrister specialising in commercial litigation - highlighted that "the rule of law is one of the reasons why litigants and commercial parties from all over the world choose to have their disputes determined in London." The UK's 2025 Industrial Strategy proudly proclaimed that "the United Kingdom is a thriving global economy founded on stability, fairness, and the rule of law".[41]

15. Outside of the commercial context, the rule of law is mentioned in discussions of the ongoing crises faced by the UK's formal legal system – particularly in the criminal justice

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[36] Attorney General's Office, '*Attorney General's 2024 Bingham Lecture on the Rule of Law*' (15 October 2024, last updated 16 October 2024).

[37] Ministry of Justice, '*Lord Chancellor swearing in speech: Rt Hon Shabana Mahmood MP*' (GOV.UK, delivered 15 July 2024, published 16 July 2024).

[38] HL Deb, *Rule of Law*, (vol 841, col 4.13pm–5.38pm, 26 November 2024)

[39] Select Committee on the Constitution House of Lords, '*The rule of law: holding the line against tyranny and anarchy*' (13th report of Session 2024-26, 20 November 2025)

[40] J. Rozenberg, '*Law at the Precipice*' (A Lawyer Writes, Substack, 9 June 2025).

[41] Department for Business and Trade, '*The UK's Modern Industrial Strategy*' (CP 1451, November 2025), p.10.

system.42 The rule of law is thus identified as the constitutional principle threatened by criminal court delays, prison overcrowding, or litigants self-representing when faced with the prohibitive costs of litigation. It is also relevant to discussions of international law and policy. In November 2024, the Prime Minister restored to the Ministerial Code an explicit reference to international law and treaty obligations as part of Ministers' overarching duty to uphold the law.

16. We commend these efforts to highlight the importance of the rule of law as a UK constitutional principle, as well as efforts to pin down its precise meaning. However, most of those interacting with the law are not big commercial players or diplomats. What is largely absent from the conversation we observed is how the rule of law is – or is not – experienced by people who live in Britain in the course of their daily lives.

17. They are employees, who want to know what sick leave coverage they are entitled to, or owners of small businesses who want to know what license they need to obtain to operate their premises. The accessibility and efficiency of courts and other legal redress systems affects whether a tenant can protect themselves from being unfairly evicted by their landlords, whether a business will be able to recoup its losses after their contractor fails to perform, or how a family's life will be disrupted by a contentious divorce.

18. People's perception of the rule of law and its importance is coloured by local interactions with the law and the public officials in charge of administering it. Frequent changes make it difficult for people to plan their lives – for example, in knowing what benefits they will be entitled to in the future, understanding what actions are lawful when attending a protest, or anticipating when their case will be resolved, as trial dates are now often scheduled months or even years ahead due to the growing criminal court backlog.

19. We are concerned that the current treatment of the rule of law by policymakers, the media, and the public misses this vital connection between the rule of law and life in Britain. In doing so, it fails to offer the public the most compelling case as to the centrality of the rule of law in their everyday lives.

Embedding the rule of law in everyday life

"*The rule of law is too important to be left to lawyers*"

20. The Lord Chancellor recently defined the rule of law as entailing that "laws are clear and apply to all; that power is exercised within limits; and that everyone – government included – is bound by the rules."[43]

21. Our research suggests that to realise those aspirations, the rule of law cannot be seen solely a legal principle enforced through courts and legal institutions or as solely the province of stakeholders with legal training more generally. Rather, its effectiveness depends on the broader political and social culture within which the law operates.

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42 UK Parliament Justice Committee, '*Justice denied: 'Dysfunctional' County Court system 'failing to deliver' justice and requires urgent review, Committee warns*' (UK Parliament, 21 July 2025).

43 Rt Hon Shabana Mahmood MP, *'Lord Chancellor speech at the Council of Europe'* (Ministry of Justice, 18 June 2025).

Rule of law and culture

22. It is well-acknowledged in the field of sociological studies that "to study the impact of a legal system, we must ... examine the rules, belief, and norms that generate behaviour among members of its constituting organizations and between them and others"[44], and that the effectiveness of the law is "heavily dependent on the degree of synchronization with the 'indigenous' orderings generated from within social fields."[45]

23. Krygier argues that for this reason, "the rule of law is too important to be left to lawyers."[46] In its most core definition, the rule of law is the aspiration for the law to effectively govern how people – politicians and individual citizens alike – behave on a day-to-day basis. As Professor Neil Walker points out, rule of law in this "regulatory" sense is directly dependent "upon a culture of support within the relevant society."[47] This "relevant society" can be formed of lawmakers, whose approach to legislating determines to what extent laws will indeed be stable, clear, accessible; but it can also be formed of the wider public, asked to adhere to the law without being forced to do so by a court or law enforcement officers.

24. We found those insights reflected in the opinions of stakeholders from some of the jurisdictions we examined. In the European Commission's view, respect for the rule of law depends "not only on the existence of laws and institutional structures, *but also on institutional practices*," (emphasis added) such as the practice of cooperation between state institutions and acceptance that different parts of the state "have legitimate functions which need to be respected."[48]

25. Similarly, in Poland, Ewa Letowska, Poland's first Ombudsman for Citizen Rights, cautioned against the "belief that writing laws is enough to make everything better" that may arise from legal training,[49] while the founder of Court Watch Poland, Bartosz Pilitowski, argues that the rule of law stems not only from formal institutions, but also from culture. This "culture" is shaped by patterns according to which decision-makers exercise their power and competencies, and how they make decisions to carry out their political programme.[50]

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44 Avner Greif, Institutions and the Path to Economic Modernity: Lessons from Medieval Trade (Cambridge University Pres, 2006), p.3

45 M. Krygier, *'Why the Rule of Law is too important to be left to lawyers'* (2012), 2 Prawo i Więź 30, 46. On the challenges of making generally applicable laws effect local change in the human rights context, see also S. E. Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago University Press, 2005).

46 Ibid.

47 Neil Walker, '*Relocating the Rule of Law',* (Hart Publishing 2008).

48 European Commission, *'Communication from the Commission to the European Parliament, the European Council and the Council: Further strengthening the Rule of Law within the Union – State of play and possible next steps'* (COM 163 final, 3 April 2019).

49 Jędrzejczyk, *'Where are we after a year of restoring the rule of law?'* (Verfassungblog, 2 December 2024).

50 K Krzyżanowska, *'How to rebuild trust in the law? Certainly not by breaking it'* (Oko press, 20 March 2024)

Rule of law in public governance

26. The rule of law is not simply a matter of a formal legal institution's control of legal compliance in cases brought before them, but **of how the law is embedded in the everyday practices of governance and society**. When it comes to ensuring that government's actions are bound by rules, for instance, the cases that reach the courts are only a snapshot of the legally regulated tasks that public officials fulfil every day.

27. As we discussed above, for many, the rule of law is reflected in how a job applicant is assessed by a public body, how a protestor is policed, or how a citizen understands their rights when interacting with the welfare system. In each of these settings, the rule of law is either upheld or undermined not solely by court judgments, but through the conduct of decision-makers and the culture in which they operate. Courts, for example, do not oversee Parliament's internal procedures and are reluctant to interfere with the government's legislative agenda without express statutory authority.

28. The answer also does not lie in stricter regulation, as attempts to facilitate compliance with the law by adding more law can be counterproductive. The Council of Europe's Centre of Expertise for Good Governance found that "the stricter and more complex the legislation" governing public consultations, "the less it is used or fully implemented."[51] In the countries examined, frameworks that focused more on principle, such as those found in Finland, Norway, or Germany, were considered to lead to better outcomes in terms of facilitating citizens' participation in public governance. Indeed, in Norway, the conduct of consultations was regulated predominantly by guidance and established practice,[52] rather than legislation.[53]

Rule of law outside of public governance

29. Outside of the question of public authorities' compliance with the law, formal legal structures are similarly not exhaustive of the ways in which individuals experience the rule of law.

30. While ensuring that people can enforce their rights through the formal legal system is undoubtedly important – and a particular rule of law problem in the UK - legal sociologist Professor Marc Galanter notes that "people experience justice (and injustice) not only (or usually)" in forums such as courts "but at the primary ... locations of their activity – home, neighbourhood, workplace, business deal, and so on."[54] Further, as legal theorist and

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[51] Council of Europe, '*Comparative Analysis of European Practices on Public Consultations*' (Centre of Expertise for Good Governance, 5 July 2021), p.4.

[52] E.g. Norwegian Ministry of Local Government and Modernisation, '*How to Facilitate Increased Public Participation and Influence in Municipal and Regional Planning pursuant to the Planning and Building Act*' (June 2014).

[53] Council of Europe, *Comparative Analysis of European Practices on Public Consultations*, (Centre of Expertise for Good Governance, 5 July 2021), p.17.

[54] M. Galanter, '*Justice in Many Rooms: Courts, Private Ordering, and Indigenous Law*', (*Journal of Legal Pluralism and Unofficial Law* 1, 1981) p.17.

sociologist Professor Martin Krygier points out, "an enormous amount of activity to which state law might relate will never find its way to state institutions" such as courts.[55]

The rule of law in the eyes of the public

31. While institutional reforms are clearly important, a crucial component of upholding the rule of law is how far the ideas enshrined in black-letter law influence the culture of a particular dimension of UK life - for instance, the culture of how legislation is made.

32. Further, while political leaders frequently affirm their commitment to the rule of law, such top-level proclamations are not, in themselves, sufficient to safeguard it. For the rule of law to be resilient, it must be understood, experienced, and valued by the public. This means that individuals must recognise how the rule of law protects them in their daily lives, whether by ensuring fair treatment in the workplace, safeguarding access to public services, or holding public authorities accountable for their actions. Without this foundation of public understanding and trust, the rule of law risks becoming an abstract ideal, vulnerable to erosion in the face of political expediency or populist rhetoric.

33. The damage to legal stability and certainty is one of the most intractable consequences of such vulnerability. In Poland, for instance, the Law and Justice government carried out a series of reforms that considerably curtailed the separation of powers and judicial independence between 2015 and 2023.[56] From 2023, the new coalition government started introducing its own reforms to reverse the damage to the rule of law – only for the new Polish President to announce he would hold a referendum on the justice system in February 2026 if the system is not "fixed by then." He did not indicate the referendum's subject matter, or the reforms it might entail.[57]

34. In the meantime, Polish people and businesses with cases pending before courts do not know when their cases will end or whether, in the long term, the verdict they receive will be held to be valid.[58] They also do not know whether the decisions handed down by the courts are valid law – muddying the legal backdrop against which contracts and other legal relations are formed.[59]

Communicating the rule of law to the public

35. One of the keys to ensuring the rule of law's resilience may lie in ensuring that the UK population is aware that being governed through stable, well-informed rules administered by an independent judiciary serves to prevent such difficulties. Such an awareness would, at the very least, make UK voters better placed to evaluate any far-reaching reforms proposed by politicians. For this reason, it is crucial that any attempts to embed rule of law

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55 M. Krygier, *'Why the Rule of Law is too important to be left to lawyers'* (2 Prawo i Więź 30, 2012), p.42.

56 J. D. Cameron, S. Cullinane, D. Mazur and A. Wójcik, '*Poland: Why Rule of Law Matters as the Country Faces a Pivotal Election*' (Just Security, 13 October 2023).

57 https://www.portalsamorzadowy.pl/polityka-i-spoleczenstwo/nawrocki-zaproponuje-nowa-ustawe-o-referendum-aby-obywatele-mogli-zapytac-np-o-zielony-lad,614277.html#google_vignette

58 M. Stambulski, *'Schrödinger's Judges: Challenges to the Rule of Law Restoration in Poland'* (Verfassungsblog, 19 December 2024).

59 Ibid.

thinking at the highest levels of policy-making – for instance in the UK's new Industrial Strategy[60] – are accompanied by efforts to effectively promote and convey the benefits of the rule of law *to the wider population*.

36. The importance of making sure that the public understands why upholding the rule of law is beneficial was the primary lesson Polish commentators derived from Poland's rule of law crisis. Professor Tomasz Tadeusz Koncewicz argued Poland's weak resilience to rule of law backsliding is rooted in an "on-going public disengagement and indifference" of the Polish public as to whether the rule of law is upheld. Koncewicz sees this indifference as arguably rooted in the "top-down nature in which Poland's rule of law was built in the first place." After the fall of the Berlin Wall, Koncewicz argues, the Polish rule of law was built "from top to bottom" through "declarations, texts, and institutional solutions." Consequently, little attention was paid to making sure Polish citizens understand "*why* the institutions exist in the first place, *what* and *how* they do and *how* they matter to and affect the daily lives of the citizens." As a result, reforms undoing those institutions could be carried out "with the tacit approval of political opinion".[61]

37. Podolska, Śniadach, and Warylewska-Kamuś similarly point to the failure of making the wider public aware of the importance of the rule of law being upheld as constituting one of the root causes of the Polish rule of law crisis, arguing that:

> "it took the destruction of what was developed after the year 1997 to trigger mechanisms that contributed to raising and broadening of the level of knowledge and awareness of the idea of a democratic state ruled by law."[62]

38. Unlike Poland, the United Kingdom has not experienced a rule of law crisis severe enough to alert the wider public to the consequences of living in a country where the rule of law is not observed. However, this does not mean we should stop taking action to strengthen the rule of law in the UK.

39. To avoid the risk of a future rule of law crisis, we should ensure that the rule of law is and remains a prized UK principle by taking proactive measures to raise the awareness of the value of upholding rule of law standards.

Ensuring the public experiences the rule of law

40. The experience of post-communist European states helps inform how we design measures to promote the rule of law. First, as we discuss above, the role of the rule of law has to be *explained* to wider society, through incorporating teaching on the issue in formal and informal educational settings. Second, *the benefits* of the rule of law must be enjoyed by the general population.

41. In Poland, Podolska, Sniadach, and Warylewska-Kamus point out that "[t]he chasm between the proclamation of the rule and its realization grew and led to public resentment

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60 Department for Business and Trade, '*The UK's Modern Industrial Strategy*' (CP 1451, November 2025).

61 T. T. Koncewicz, '*How to Rebuild Poland's Rule of Law*' (Verfassungsblog, 24 June 2023).

62 A. Podolska, O. Sniadach and K. Warylewska-Kamus, '*The rule of law "on the ground". The Polish courts' perspective*' (15 Adam Mickiewicz University Law Review, 2023), p.61. Poland's first post-communist constitution was agreed in 1997.

and fear of the judiciary."[63] It is for this reason that Polish scholars such as Koncewicz or the former Polish Justice Minister Adam Bodnar considered that "[t]he rule of law must work, and it must work in a way that is visible to and felt by the ordinary citizens."[64] If the society at large does not benefit from the stability and certainty that the rule of law promises, education alone may not suffice to convince the public that upholding the rule of law is worth their time - especially when coupled with a perception of unequal access to the benefits of the rule of law.

42. Polish sociologist Professor Grażyna Skąpska hypothesised that in post-Soviet Europe, the feelings of exclusion of the general population, united by informal networks, and the distant "them," - classified as the authorities and upper class who possess significant political and economic capital- may account for the general population's political passivity and a "recurring popularity of populist parties."[65] In the European Union's case, the bloc's development through government- and expert-led processes, coupled with the perception that the participation in the internal market produced inequitable benefits has been theorised as forming one of the root causes of anti-EU and anti-immigration sentiments.[66]

Working with what is already there

43. The final reason motivating this report's focus on the "bottom-up" means of building rule of law resilience is that to convince people to care about the rule of law, *one has to work with whatever attitudes they already have.*[67]

The importance of paying attention to the fit

44. What it takes for a measure to become socially embedded in a particular group (e.g. the Parliament, the civil service, the wider UK society) is context-dependent.[68] This is one reason why rule of law solutions cannot be "transplanted" and expected to work in the same way across jurisdictions.

45. Copying measures across different contexts and jurisdictions without paying attention to such context can result in failure to achieve a desired outcome. For example, the Argentine Supreme Court, established as a carbon copy of the US Supreme Court has not become an independent guardian of the rule of law for much of the 20th century. This is because it

[63] A. Podolska, O. Sniadach and K. Warylewska-Kamus, '*The rule of law "on the ground". The Polish courts' perspective*' (15 Adam Mickiewicz University Law Review, 2023), p.61.

[64] T. T. Koncewicz, '*How to Rebuild Poland's Rule of Law*' (Verfassungsblog, 24 June 2023); Agnieszka Jędrzejczyk, Gdzie jesteśmy po roku przywracania praworządności?, (Oko press, 1 December 2024).

[65] See G. Skąpska, *From 'Civil Society' to Europe': A Sociological Study on Constitutionalism after Communism* (Brill, 2011), p.123, and discussion in M Krygier, '*The Challenge of Institutionalisation: Post-Communist "Transitions", Populism, and the Rule of Law*' (15 European Constitutional Law Review, 2019).

[66] See e.g. P. Craig, *'Integration,Democracy and Legitimacy'*, in Craig and de Búrca (eds.), *The Evolution of EU Law* (OUP, 2nd ed., 2011)

[67] M. Krygier, '*The Challenge of Institutionalisation: Post-Communist "Transitions", Populism, and the Rule of Law*' (15 European Constitutional Law Review, 2019), p.576.

[68] M. Krygier, *'Why the Rule of Law is too important to be left to lawyers'* (2 Prawo i Więź 30, 2012), p.46.

was established with little attention paid to the compatibility of U.S.-derived frameworks with the pre-existing Argentinian institutions and experiences.[69]

46. Similarly, throughout the latter part of the 20th century, in many of the Eastern Bloc countries, there was "no space for a legal system to constrain the leader" and the implementation of their policies. [70] Many decades under this kind of rule "left deep scars"[71] on their populations, engraining an antipathy and distrust towards state norms, laws, and officials.[72] In an environment like this, most of the liberal democratic values and institutions introduced in the 1990s did not have much of a foothold. For this reason, in the absence of a concentrated effort to change people's attitudes towards the law and the state, changes had little significant resonance on how politics and daily life was organised.[73]

47. International institutions recognised the importance of tailoring solutions to context as early as 2011, when the World Bank's World Development report recommended that justice strategies are based on "best fit" practices, adjusted to local demands and contexts, and to focus on the social and economic dimensions of justice alongside black letter law and formal justice institutions.[74]

Learning Lessons for the UK Context

48. UK law and governance have developed in its own unique way. For this reason, the question of fit must be assessed within the context of the attitudes, political structures and institutions that already exist.

49. First, on the question of social attitudes, research carried out by Frameworks for the Law Society, found that the British public sees the rule of law and access to justice as primarily valuable for holding back chaos and disorder – rather than facilitating balance in social, political, and economic systems.[75] For this reason, when designing strategies for how to best promote and embed the concept of the rule of law in the British popular consciousness, it is not enough to solely look to other countries for inspiration. Instead, to ensure the concept will find purchase with the politicians and the wider public, one must start from the grassroots by determining what attitudes are already held by the public and how the idea of the rule of law can be situated within them.

50. Second, on the question of fit to political structures, it is notable that, unlike in many countries – for example, the United States, Germany, the Netherlands, Spain, and Canada – UK constitutional laws and principles are not protected to the same extent, by a

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69 C J Walker, '*Judicial Independence and the Rule of Law: Lessons from Post-Menem Argentina*', (14 Southwestern Journal of Law and Trade in the Americas 89, 2007), p.96.

70 G. Elezi, '*Establishing the rule of law after communism: a comparative approach*' (16 Polis 73, 2017) p.76.

71 Ibid.

72 M. Krygier, '*The Challenge of Institutionalisation: Post-Communist "Transitions", Populism, and the Rule of Law*', (15 European Constitutional Law Review, 2019) p.552.

73 Ibid., p.556.

74 World Bank, '*World Development Report 2011: Conflict, Security, and Development*' (World Bank 2011), p.16; M. Krygier, *'Why the Rule of Law is too important to be left to lawyers*' (2 Prawo i Więź 30, 2012), p.50.

75 FrameWorks UK and The Law Society, '*The rule of law and access to justice: core ideas from the field of law and justice*' (May 2023).

mechanism that would make it more difficult for one-time Parliamentary majorities to alter them. Similarly, while UK courts have a power to read legislation – as far as possible – in compliance with human rights laws, they cannot strike down legislation that is inconsistent with constitutional norms as done by courts in Germany or the United States. For this reason, if Parliament passes legislation that poses rule of law risks – for instance, vague legislation with unclear effects, as is the case with "skeleton" Acts of Parliament, or legislation putting the UK in breach of its binding international law obligations – there are limits to what the court can do to mitigate these impacts.

51. These differences are a necessary concomitant of the principle of parliamentary sovereignty, which together with the principles of the rule of law and separation of power form the key principles animating the UK constitution.[76] However, it also means that other ways have to be found to ensure the resilience of these core UK constitutional principles. As the majority of attendees of our roundtable on rule of law resilience suggested, relying on hard-law norms and their enforcement by courts to uphold the rule of law in the UK would be a constitutional novelty.[77]

52. An emphasis on upholding the rule of law through "softer," less rigid and bureaucratic means, could be a better fit for the UK's constitutional tradition. This is because the UK constitution prioritises regulation that relies on political actors' "shared understanding of what constitutes good behaviour in public and political life, and trust that people in positions of power will abide by that understanding" as opposed to hard constitutional rules[27] and asking the courts to police political actors' behaviour.

53. Therefore, we think that the governance of the UK can most reliably be carried out within the constraints of law if decision-makers effectively comply with legal standards when they formulate policy and make decisions. To achieve such efficient compliance, the rule of law should be promoted by focusing on the "input side" of legislating and policy-making, largely governed by non-legal standards of the UK's parliamentary and public administration culture.

People-centric Approaches to the Rule of Law

54. According to our research, a degree of consensus that a more-people centric approach to protecting the rule of law is needed in the UK seems to already be emerging. During our roundtables, several expert stakeholders expressed concerns that while upholding the rule of law is important for economic prosperity and maintaining the stability of Britain's governance:

    - rule of law debates often centres on questions of institutional design, even though fostering culture and political space for the rule of law among lawmakers and decision-makers is at least as important to upholding it;

[76] S. Wheatle and R. Masterman, '*The Legal and Political Dimensions of Unwritten Constitutional Norms and Principles*' (UK Constitutional Law Association Blog, 29 May 2024).

[77] For a fuller discussion, see Bennett Institute for Public Policy Cambridge and Institute for Government, '*Review of the UK Constitution Final report*' (September 2023), Chapter 3.

- both politicians and the public seem to lack awareness of what the constitutional principle of the rule of law is and what it is useful for;
- in the absence of systematised delivery of educational measures focused on explaining the UK's laws, political systems, and constitutional values to politicians and the population at large, such education is occurring informally. This includes through social media sites, such as TikTok, Instragram, or X, and other channels, including by actors funded by foreign entities that spread inaccurate information and propaganda.[78]

55. Similar observations have been made on behalf of the UK government. In a 2024 speech, the Attorney General noted that rebuilding the rule of law in the UK "must be sensitive to any legitimate reasons why people have lost faith in the rule of law and its institutions."[79] Themes of culture in discharging legal obligations were also raised outside of the context of citizen-state relations, with the Housing Ombudsman's recent report recommending measures to create culture change in how landlords address tenant complaints and rebuild trust between landlords and tenants, [80] as well as aligning the values of social housing leadership with those of front-line staff.[81]

56. At the same time, the urgency of ensuring that both politicians and the public *can feel* the benefits of living in a society ruled by law and *understand* that those benefits come from rule of law being upheld is growing. In June 2025, YouGov polling found that, for the first time since the polling on the question started in 2019, a majority of the public expressed little to no confidence in the British judicial system.[82]

57. Moreover, data showed regional disparities on the issue: while 39% of Londoners indicated they have not very much or no confidence in the judicial system, that figure rose to 45% of respondents from North England and 50% for Welsh respondents. On the law enforcement end, a March 2025 poll found that 51% of British people have no/not very much confidence in the police to tackle crime locally.[83] According to More in Common's 2023 research, 68% of Britons also believed that the police "have given up on trying to solve crimes like shoplifting and burglaries altogether."[84] The perceptions were also affected by the race and gender of the respondent, with Black people reporting lower trust in their local police than other groups.[85]

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78 J. Morley-Davies, '*How Did Foreign Actors Exploit the Recent Riots in the UK?*' (Royal United Services Institute (RUSI), 28 August 2024).

79 Attorney General's Office, '*Attorney General's 2024 Bingham Lecture on the Rule of Law*' (16 October 2024).

80 Housing Ombudsman Service, '*Spotlight Report: Repairing Trust*' (2025) p.6-7.

81 Ibid, p.8.

82 YouGov, '*Confidence in the British judicial system (tracker)*', (YouGov, 1 December 2025).

83 YouGov, '*How much confidence Brits have in police to deal with crime (tracker)*', (YouGov, 17 November 2025).

84 More in Common, '*Where are the police? Briton's attitudes to crime, anti-social behaviour, and the police*' (30 January 2024).

85 R. Brown, A. Hobbs, '*Trust in the Police*' (POSTnote 693, Parliamentary Office of Science and Technology 25 April 2023), p.3.

58. We are concerned that at a time of a global rule of law recession and increasing attacks on the international rules-based order, the UK's current rule of law protections may not suffice to ensure its resilience in the face of pressure from abroad.[86] Moreover, we are worried that despite the UK's rich history of holding the rule of law to be one of its core constitutional principles, such falling levels of trust, accompanied by a perception that people from different regions, ethnic backgrounds, or of different genders do not enjoy equal protection of the law, can prove corrosive. The question is thus how to make sure we do not lose the rule of law tradition, of which the UK is proud, and how to make it more vibrant in the future.

59. This report aims to address these questions, examining how the rule of law in the UK can become more resilient and vibrant, and recommends a range of measures intended to make the UK's rule of law practices more people-centric so as to best serve its communities in the years to come.

[86] M. Ward-Brennan, '*Trump's Attack on Big Law Puts London Lawyers into an Awkward Place*' (City AM, 20 March 2025).

Chapter 2 – The Rule of Law in Public Life

Introduction

1. The rule of law underpins the United Kingdom's constitutional framework. It provides the structure within which public power is exercised, ensuring legality, accountability, and respect for fundamental rights. These principles safeguard democratic governance and maintain public confidence in the institutions of the State.

2. This chapter examines how those safeguards can be reinforced in the political sphere. While legislation and formal rules are essential, they depend on a culture that values legality and understands its purpose. A system grounded in shared norms and constitutional conventions is vulnerable when those norms are disregarded. Our focus is therefore on embedding respect for the rule of law in political practice and strengthening the conditions that sustain it.

3. We begin by analysing the pressures that have weakened constitutional guardrails and the risks that these pose for democratic resilience. We then set out practical measures to address these challenges: promoting leadership that champions legality, improving constitutional literacy among decision-makers, and creating institutional mechanisms that support compliance and accountability. This demands deliberate, sustained action to preserve its integrity and ensure that power continues to serve the public interest in the years to come.

The rule of law and democracy

4. The rule of law means that the law should apply equally to both the public and those in power. In the "public sphere" - comprised of groups including politicians, ministers, and civil servants – the rule of law includes the presence of guardrails on what the State is able to do, and accountability mechanisms when it oversteps the mark.

5. A liberal democracy is characterised by the presence of checks and balances, which prevent one group or person from being too powerful; providing a space in which different views can be advanced, and political groups can compete openly; free and fair elections, producing an outcome in which people can trust; and a system in which people are kept in touch with the people who represent them, know who is responsible for decisions affecting their lives, and can hold them to account.[87] In our view, the rule of law is a necessary, albeit not sufficient, component of this framework.

6. Each of those goals is dependent on the efficient functioning of rules designed to secure these ends. It is a rule of law,[88] for instance, that it is judges, and not politicians, who can pass criminal sentences. Rules of law regulate who can protest in support of their political ideals, and what can and cannot be done when conducting a political campaign. Rules guide when and how people should be consulted on proposals which might affect their

[87] UK Parliament, '*How it Works: Parliament, Government and You*' (2019), p.6.

[88] See e.g. *Weeks v United Kingdom* (1988) 10 EHRR 293, *Hirst v United Kingdom* 2000 (ECtHR, App. No. 407 86/98), and *R (Brooke) v Parole Board* [2007] EWHC 2036 (Admin).

lives; legal rules also form the framework allowing people to seek information from public bodies.[89]

7. These guardrails are not there to constrain the democratically elected Parliament and executive from legislating and governing in the way that they consider to be best for the country. Rather, they are there to give effect to values that we hold dear and span beyond the government of the day. The Public Sector Equality Duty gives effect to a belief that everyone in the UK should be treated fairly when they interact with the government, and that the special needs of vulnerable groups and people should be considered when making law and policy. Similarly, the administrative doctrine of improper purposes and irrelevant considerations ensures that all public power in the UK is used for the ends that Parliament intended it to be used for – rather than a public office-holder's own purposes.

8. We are concerned that despite the above, there persists a lack of appreciation for the benefits of the rule of law, particularly with respect to good governance. In our work, we have observed consistent efforts to revise – either formally, through amending laws, or through practice – constitutional safeguards with the effect of loosening those guardrails. We discuss many of those developments in our report *The State We're In: Addressing Threats & Challenges to the Rule of Law (2023)*.[90] More recent examples are listed below.

Reducing legal constraints on the state

9. The very *idea* of constraining state power using legal standards remains under pressure. Statements invoking a perceived need for the UK to regain "sovereignty" have been a consistent echo throughout the Brexit period and beyond, alternating between calls for withdrawal or revision of various legal frameworks[91] and suggestions that judges' powers to hold Government to account should be constrained.[92] Shadow Justice Secretary Robert Jenrick likewise referred to a need to "rein in mistaken impulses of an occasionally fallible judicial branch" and complained about "rule by lawyers."[93]

10. Criticism has also been levelled across the political spectrum against the civil service, which has the role of delivering the policy objectives of the government of the day in an independent and impartial manner. One government advisor, shortly after the 2024 General Election, remarked "The biggest disappointment of going into government has been the quality of the civil service".[94]

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89 Freedom of Information Act 2000.

90 JUSTICE, '*The State We're In: Addressing Threats and Challenges to the Rule of Law*', (September 2023)

91 K. Badenoch, '*Kemi Badenoch exposes the laws and treaties holding Britain back*' (Conservative Party, 6 June 2025).

92 R. Hogarth, '*The government's reforms to judicial review must respect the separation of powers*' (Institute for Government, 11 November 2021).

93 Robert Jenrick, *'Rule of law is being replaced with rule of lawyers'* (Daily Telegraph, 9 July 2025)

94 H. Zeffman, '*Starmer and Dominic Cummings now agree on one thing – the civil service is a problem*' (BBC News, 5 December 2024).

11. Likewise, recent years have seen terms like "deep state" and "the blob" proliferate with respect to government officials and their work.[95] The FDA – the trade union for senior civils servants – has called on the government to do more to defend the profession. Dave Penman, its General Secretary, remarked in September 2025 that "[t]he civil service cannot be isolated from legitimate public interest or criticism, but what we are seeing is the constant drip feeding of stories, designed to undermine individuals and the service as a whole... This will do nothing to attract the best talent from outside the service".[96]

Increasing the state's powers

12. Alongside calls to loosen the guardrails on exercises of public powers, the scope of these powers is further expanding.

13. As David Allen Green recently pointed out, the "sheer range and wealth of discretionary powers" held by the government "existing under perhaps thousands of legislative provisions" can be argued to constitute one of the government's "constitutional super-powers", as well as the Royal Prerogative and the parliamentary supremacy doctrine. As Green points out, successive governments have added more provisions that allow ministers to change the law made by Parliament.[97]

A downward spiral?

14. Our worry is that comments about the "rule of lawyers" and "regaining sovereignty," in effect, call for key constitutional principles to give way to political agendas of the day, giving the government increasingly unconstrained power. Combined, such calls for loosening the guardrails on state action and expansion of the powers held by the state can lead to a feedback loop ruinous for the UK's future.

15. The key purpose - and benefit - of upholding the rule of law in the political sphere is making sure that over time and throughout electoral cycles, each consecutive government continues to work towards the same high-level principles and values held dear by the UK. These include respect for different faiths and beliefs, a society governed by law rather than wealth or individual caprice, and a commitment to allowing those subject to law to choose how the UK should be governed in democratic elections.

16. A gradual erosion of the guardrails that keeps government aligned with these goals risks undermining the progress that the UK has made toward building a vibrant society in which people from different backgrounds and beliefs can live together.

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95 J. Urban, '*Who are 'the blob'?*' (The Spectator, 10 May 2025).

96 D. Penman, '*Ministers must "step up to the plate" or risk undermining the civil service, says Penman*' (FDA, 4 September 2025).

97 D. A. Green, '*Yes, an incoming illiberal and radical UK government would have absolute constitutional power*' (The Empty City, 27 August 2025).

17. For instance, recent examples – such as the protest against South Korea's martial law announcement,[98] marches against Hungary's ban on pride marches,[99] and protests against Ukraine's weakening of anticorruption agencies' independence[100] – show how important protest is to maintaining democratic values.

18. If the executive is given extensive powers to police protest that are not accompanied by appropriate checks and balances, it is possible that future governments could use them to stifle protests by those whose views they disagree with. Such a development would impede Britain's commitment to a fair, democratic exchange of ideas about how the country should be governed.

19. In a different context, the Wall Street Journal's Editorial Board recently warned that dislodging the guardrails that prevent the executive from influencing the decisions of expert panels – such as the Unites States Federal Reserve – can lead to the panels being swayed by majorities of the day, including future majorities that do not align with the political preferences of those who undo the legal and conventional safeguards.[101]

20. This risk is particularly high in the UK context. As the Institute for Government's Hannah White and Jess Sargeant explain, the UK's primarily "political" constitution rests on "a shared understanding of the rules and the principal actors being willing, for the most part, to abide by them."[102] As they point out, in other countries, the constitution serves as a higher law, sitting above day-to-day politics. In the UK, the constitution and politics are becoming increasingly intertwined. This, in turn, could make it easier for populist or authoritarian actors to challenge core democratic institutions or rights of minorities should they get into power.

21. For this reason, we believe it is imperative that everyone involved in governing the UK understands what we stand to gain from upholding such limitations, including legal limitations; and what we stand to lose from disregarding them.

Rule of Law from the Ground Up – Making the Case

22. Most fundamentally, as we discuss in the preceding chapter, without building an appreciation for what the rule of law is and why it is important "from the ground up" of how UK governance in politics is done, a culture that is outwardly appreciative of the rule of law will not take root.

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98 D. Rising and K. Tong-Hyung, *'6 hours of anger, bravery and defiance during martial law in South Korea'* (AP News, 5 December 2024).

99 L. Rutai and A. Kassam, *'Tens of thousands defy Hungary's ban on Pride in protest against Orbán'* (The Guardian, 28 June 2025).

100 L. Gozzi, *'Zelensky backtracks on law over anti-corruption bodies after protests'* (The BBC, 24 July 2025).

101 The Editorial Board, '*What if Trump Runs the Federal Reserve?*' (Wall Street Journal, 26 August 2025).

102 J. Sargeant and H. White, *'The United Kingdom's political constitution is under severe strain'* (The Economist, 7 November 2023).

23. As the experience of Central and Eastern European ("**CEE**") countries suggests, promoting the rule of law in a formalistic, top-down manner yields "little attachment [to the rule of law] from the wider population" and politicians. [103]

24. Krygier argues that in those countries, values such as the idea that power should be constrained by law "did not have much of a foothold." Historically, they were not part of those countries' living tradition, and values contrary to them – for instance, distrust of state law and institutions – were widely held.[104] Further, the values were introduced to the constitutions of the post-communist countries in a top-down manner, using a process that was "elite driven, instrumentalist, technocratic, undemocratic, and formalistic."[105]

25. Several studies[106] argue that because of this incomplete cultural transformation, behind the "façade of harmonized legal rules transposed from various EU legal sources," informal networks continued to regulate the day-to-day of governance in those CEE countries. This undermined formal law and institutions[107] and ultimately contributed to the erosion of the EU-derived façade altogether.

26. The insight that "excessive focus on rules and legislation disassociated from policy goals and social context" can have a "surprisingly limited effect on society"[108] is not isolated to the CEE context. Sociological studies show that legislative measures, or any other formally pronounced norms, are only as effective as their implementation, and how legislation is implemented depends on the social norms and customs of those asked to implement them.[109]

27. In the case at hand, those asked to implement legislation and norms (including by adhering to them) are UK politicians, civil servants, and other state actors. As such, it is their social norms and customs – which creates a "culture"- that should be our primary interest.[110]

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[103] M. Krygier, '*The Challenge of Institutionalisation: Post-Communist "Transitions", Populism, and the Rule of Law*' (15 European Constitutional Law Review, 2019), p.556.

[104] Ibid.

[105] M. Krygier, 'Introduction' in W. Sadurski et al. (eds.), *Spreading Democracy and the Rule of Law? The Impact of EU Enlargement on the Rule of Law, Democracy and Constitutionalism in Post-Communist Europe* (Springer Verlag 2006), p.13.

[106] J. Rupnik and J. Zielonka, '*Introduction: The State of Democracy 20 Years on: Domestic and External Factors*' (27 East European Politics and Societies and Cultures 3, 2013), p.2-13; P. Blokker, *New Democracies in Crisis? A Comparative Constitutional Study of the Czech Republic, Hungary, Poland, Romania and Slovakia (Routledge 2013)*; D. Dolenec, *Democratic Institutions and Authoritarian Rule in Southeast Europe* (ECPR Press 2013)

[107] Ibid., p.233

[108] Ibid., p.237

[109] T. H. Parsons, *The Rule of Empires: Those Who Built Them, Those Who Endured Them, and Why They Always Fall* (Oxford University Press 2012); J. R. Hay and A. Shleifer, '*Private Enforcement of Public Laws: A Theory of Legal Reform*', (88 American Economic Review 398, 1998), p.309-403.

[110] P. Selznick, *Leadership in Administration: A Sociological Interpretation* (University of California Press 1984) p.15–16. References to "culture" in this work track this definition.

General principles

28. One way of ensuring that those asked to implement legislation and norms continue to observe laws and procedures would be to attach criminal sanctions to their breach.

29. The Bribery Act 2010, for instance, prompted cultural changes in how UK businesses conduct their operations and monitor their compliance with obligations.[111] The design of its "failure to prevent" offences incentivises compliance with procedures. Section 7(2) of the Act provides the entity charged with a bribery offence a defence if it can show that at the time off the offence, there were adequate procedures in place to prevent bribery. In light of its success, similar mechanisms emulating this approach have been transplanted into fraud prevention through the enactment of the "failure to prevent fraud" offence introduced in the Economic Crime and Corporate Transparency Act 2023.[112]

30. In the public governance context, criminal liability would be appropriate for serious breaches of public governance laws and standards. The Public Office (Accountability) Bill (better known as the "Hillsborough Law") proposes creating offences intended to facilitate greater transparency and honesty among those holding public responsibilities.[113] It does so by imposing criminal liability when:

    - A person who had a public responsibility in connection with an incident under investigation intentionally or recklessly fails to act with candour, transparency and frankness in their dealings with an inquiry or an investigation;[114]

    - A public authority or public official acts with the intention of misleading the public or are reckless as to whether their act would mislead the public in circumstances where they know or ought to know that their act was seriously improper;[115]

    - A person who holds public office uses their office to obtain a benefit or cause another to suffer a detriment and knows, or ought to know, that their doing so constitutes a seriously improper act.[116]

    - We strongly support this Bill, which serves, in our view, as a proportionate way to encourage transparent governance in the public interest and ensure justice is delivered for those affected by tragedies like Hillsborough, the Grenfell Tower Fire, or the Post Office Horizon scandal, among many others.

31. The Bill also imposes a duty of candour on public authorities in dealing with investigations and a duty to proactively "promote and take steps to maintain ethical conduct, candour,

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111 See e.g. House of Lords Select Committee on the Bribery Act 2010, '*The Bribery Act 2010: Post-Legislative Scrutiny*' (HL 303, 2017–19); J. Sinclair, '*The Bribery Act 2010: Wider Impacts?*' (Centre for the Study of Corruption Blog, 14 April 2020).

112 Home Office, Attorney General's Office, Crown Prosecution Service, Serious Fraud Office, Lucy Rigby KC MP and Lord Hanson of Flint, '*New measures to tackle fraud come into effect*' (GOV.UK, 1 September 2025).

113 J. Moritz, '*Hillsborough Law – what is it and how did we get here?*' (BBC News, 15 September 2025).

114 *Public Office (Accountability) Bill*, HC Bill (2024–26, [341], cl 5.

115 *Public Office (Accountability) Bill*, HC Bill (2024–26), [341], cl 11.

116 *Public Office (Accountability) Bill*, HC Bill (2024–26, [341], cl 12.

transparency and frankness within all parts of the authority". [117] We are hopeful that the imposition of those duties will prompt a cultural shift towards greater transparency in a manner akin to the Bribery Act 2010.[118]

32. However, with respect to breaches of run-of-the-mill laws and procedures – for example, rules structuring policy development, or discretionary decision-making processes – the imposition of criminal sanctions would be a disproportionate response. The point of criminal law, at its most general,[119] is to secure social order by providing a response to conduct considered so wrongful as to attract condemnation and punishment. A failure to properly take guidance into account may result in the decision-maker making a decision they had no power to make. Although this may be an example of inefficient administration,[120] it would not normally be seen as meriting punishment imposed by the state.

33. This means that for many – if not most – of the interactions public officials have with the law, the challenge of promoting compliance must be resolved using a less heavy-handed approach. Such an approach could be achieved by decreasing the severity of the sanction. Social sanctions, for instance, constitute positive or negative reactions from other people in response to someone's behaviour and serve to encourage behaviour that aligns with established norms and deter behaviour that does not.[121]

34. Non-criminal responses to failure to follow procedures can include:

- Internal investigations, Select Committee inquiries, or public inquiries;
- Judicial review proceedings;
- Parliamentary questioning;
- Public demands from a person in a position of authority to a person who failed to follow procedures to explain or justify their actions.[122]

35. At the same time, we think it is important to remember that avoiding a prospective sanction is not the only possible motivation for adhering to rules.

What makes people follow the law?

Intuitively, relying on precisely constructed laws backed by sanctions to get people to follow laws and procedures makes sense. We assume that people are rational and

[117] *Public Office (Accountability) Bill*, HC Bill (2024–26), [341], cl 1(2)(b) and 2(1).

[118] For a fuller discussion of JUSTICE's position on the Public Accountability Bill, see E. Snell, '*Public Office Bill: Toward Transparency & Justice*' (JUSTICE Blog, 18 September 2025).

[119] For a discussion, see A. Cornford, '*The Aims and Functions of Criminal Law*' (87 *Modern Law Review* 398, 2024) .

[120] Questions concerning guidance, and the decision-makers' interpretation of it, are a notable feature of litigation before the Administrative Court: see J. Bell and E. Fisher, '*Exploring A Year of Administrative Law Adjudication in the Administrative Court*' (Oxford University Research Archive, 2019), p.23-25.

[121] T. Claridge '*Social Sanctions – Overview, Meaning, Examples, Types and Importance*' (Social Capital Research, February 2020); A. Heitkamp and T. J. Mowen, '*The Influence of Formal and Informal Sanctions on Offending: The Moderating Role of Legal Cynicism*' (Crime & Delinquency, 2023).

[122] Or employing a different form of "soft accountability" mechanism.

responsive to incentives and disincentives; when not following a rule attracts a disincentive, we assume that people will respond by following the law.

While this intuition is to a certain extent correct – when people understand they may suffer consequences as a result of breaking a rule, they are less likely to break it[123] - it is not the whole story.

First, there is a limit to how far behavioural change can be affected by threats of sanctions and external pressure. In the criminal law context, the government itself acknowledges that there is little evidence that increasing custodial sanctions attached to offences promotes deterrence and reduces reoffending.[124]

Second, socio-legal and economic analysis point to several different reasons why people may want to adhere to a law.

In one recent study, even in the absence of social pressure, sanctions, and personal gain, 25% of participants chose to follow a rule anyway, *simply because* it was a rule and rules should be followed.[125] This finding, and other behavioural studies with similar findings,[126] track the theory discussed by HLA Hart in *The Concept of Law,*[127] that for many people compliance with the law stems from an internalised commitment. People who have internalised commitment to the rules *want* to follow the rules, even if no external pressure is applied to them.[128]

People who do not already have an internalised commitment to following rules can have many reasons other than the threat of punishment to adhere to rules.

For one, people could want to adhere to a rule because the rule is self-imposed. There is evidence suggesting that adherence to rules not backed by significant sanctions is "much improved" where the rules are self-imposed – for instance, when people vote for them or co-design them.[129] Tyran and Feld theorise that in a voting scenario, people adhere to the rule because they expect others to adhere to it, too – the rule expresses a shared social norm that people seek to adhere to.[130] People could also want to adhere to a rule because this would help them coordinate with and avoid conflict with other

[123] D. S. Nagin '*Deterrence in the Twenty-First Century*', (42 Crime and Justice 199, 2013).

[124] Parliamentary Question on 1 March 2021, Minister Chris Philp, Hansard 2021. See also discussion of this point in the Independent Sentencing Review, at Final Report and proposals for reform, p.19; Report, p.29

[125] S. Gächter, L. Molleman and D. Nosenzo, '*Why People Follow Rules*' (9 Nature Human Behaviour 1342, 2025); H. Thomson '*Why Do We Follow Rules?*' (266(3547) New Scientist 10, 2025).

[126] H. Thomson '*Why Do We Follow Rules?*' (266(3547) New Scientist 10, 2025).

[127] H. L. A. Hart, '*The Concept of Law*' (3rd edn, Oxford University Press 2012), p.124-125.

[128] J. Drury, '*Get the Psychology Right for the Law: Public and Policy Responses to the Covid-19 Pandemic*' (UK Constitutional Law Blog, 27 January 2025).

[129] J.-R. Tyran and L. P. Feld, '*Achieving Compliance when Legal Sanctions are Non-deterrent*' (108 Scandinavian Journal of Economics 135, 2006), p.148-152.

[130] Ibid.

people,[131] or because they consider that the authority issuing the rule possesses greater expertise on a particular issue than they do.[132]

Social psychologist John Drury illustrates this mechanism using the example of Covid-19 regulations. According to Drury, an internalised commitment to following the rules may result in the rules being better observed overall. In a public health emergency context, measures that rely on building a trusting, inclusive relationship between the public and the authorities – rather than coercion, or legal enforcement – form "the basis for greater public willingness to engage with public health measures, including rules or guidance that might limit movement and other personal freedoms."[133]

Importantly, the fact that a rule was issued by an institution holding formal authority does not by itself mean that rule will be perceived as holding legitimate authority: in comparison to rules that were voted on, adherence does not increase as much when the rule is introduced by an external authority. [134]

36. These general insights provide an explanation why, unless people *already have an existing predisposition to following the rules*, writing rules down or making pronouncements about rules is, in itself, unlikely to make a difference in increasing adherence to the law.

37. In our opinion, increasing the resilience of the rule of law in the UK political sphere should focus on providing political actors with positive reasons to adhere to laws and procedures and thereby to the idea of power being structured by law.[135]

38. The government, parliamentary leaders, and civil society leaders should thus focus on highlighting the ways in which the laws and procedures structuring Britain's governance represent shared social norms that people in Britain value.

39. It is imperative that reinforcing the resilience of Britain's rule of law is seen as a cross-party issue and a commitment shared by all UK state actors, rather than a partisan matter. The idea of politics and life in Britain being ruled by law, rather than power alone, is fundamental to the British way of living. The constitutional idea of the rule of law, particularly in the political sphere, is not just an aspiration for people to adhere to whatever law happens to be enacted: it is an ambition for the United Kingdom to be a liberal democracy where the power of the government is limited and fundamental freedoms are protected.

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[131] B. B. Gillespie, '*Why Do People Obey the Law?*' (University of Chicago Law School News, 13 January 2015).

[132] See e.g. J. Raz, '*The Problem of Authority: Revisiting the Service Conception*' (90 Minnesota Law Review 1003, 2006).

[133] J. Drury, '*Get the Psychology Right for the Law: Public and Policy Responses to the Covid-19 Pandemic*' (UK Constitutional Law Blog, 27 January 2025); see also J. Jackson, C. Posch, B. Bradford, Z. Hobson, A. Kyprianides and J. Yesberg, '*The Lockdown and Social Norms: Why the UK Is Complying by Consent Rather than Compulsion*' (LSE British Politics and Policy Blog, 27 April 2020).

[134] See e.g. J.-R. Tyran and L. P. Feld, '*Achieving Compliance when Legal Sanctions are Non-deterrent*' (108 Scandinavian Journal of Economics 135, 2006) p.153; P. Bardhan, '*Irrigation and Cooperation: An Empirical Analysis of 48 Irrigation Communities in South India*' (48 Economic Development and Cultural Change 847, 2000).

[135] In part adapted from the House of Lords Select Committee on the Bribery Act 2010, '*The Bribery Act 2010: Post-Legislative Scrutiny*' (HL 303, 2017–19), p.54.

40. Political leaders – including the Prime Minister, Cabinet-level and junior ministers, the Speaker of the House of Commons, the Speaker of the House of Lords, the Leader of the Opposition, the Attorney General, the Lord Chancellor, Lady Chief Justice, and civil society leaders – should all encourage compliance with rules and highlight the benefits gained by following procedures to the institutions and departments that they lead. To the maximum extent possible, the idea of power being structured by law should be perceived to be a self-imposed commitment.

41. Leadership is crucial to guiding such a transformation.[136] Stakeholders often described this kind of leadership as having two key elements:

    (a) First, leadership requires leading by example and actively standing up for values that we want to uphold – in this case, the rule of law - during everyday governance.

    (b) Second, it involves promoting values, both internally and externally, explaining what those values are and why they are important to diverse audiences.

42. Political leaders seeking to strengthen the rule of law should first identify the attitudes toward legal compliance that people in the areas that they govern have already internalised.[137] A failure to work with pre-existing social norms was a major contributing factor to why the liberal democratic project came undone in Europe's post-communist countries.

43. Leaders should then periodically explain and reiterate *why* there is value in following laws and procedures when exercising public powers. This point was made by multiple participants in our roundtables, who considered that a core part of changing the culture of how public power is exercised in the UK lies in making those who wield it aware of the value in following existing laws and procedures.

44. The core rule of law principle that laws and regulations should be obeyed even when inconvenient forms a guardrail on what action can be taken by political actors. This guardrail may present an obstacle to the perceived need to act speedily. At the same time, as one of the participants in our roundtable explained, the pressure to take shortcuts when exercising public powers, or to announce policies before they are fully formed, and to legislate at speed is unavoidable. In many cases, prompt action is seen as necessary to maintain public confidence in the government and state institutions. It is thus impossible to remove the incentives for political actors to circumvent procedures and legal rules. What *is* avoidable, however, is ministers and other public officials assessing whether to act on such pressure without understanding what is at stake.

45. For this reason, participants stressed that those who exercise public power must not only understand the rule of law, but also why actions such as conducting proper consultations

[136] P. Selznick, '*The Moral Commonwealth: Social Theory and the Promise of Community*' (University of California Press 1994), p.139-140.

[137] Ibid. p.32

improve policymaking, and why investing in the justice system boosts economic productivity[138] and reduces public spending.[139]

46. In contrast, examples from both the UK and abroad illustrate how failing to follow procedures intended to facilitate good governance can lead to abrupt policy reversals,[140] creation of more administrative work in the future,[141] or loss of expertise.[142]

47. To derive value from compliance with laws and procedures, political leaders should ensure the laws and procedures they ask their subordinates to abide by are clear and easily accessible. They should also ensure that procedures are effectively implemented, particularly through building trusting relationships with the public and other stakeholders who participate in public governance.

48. The rest of this chapter fleshes out the principles set out above. We first discuss the Supreme Court's example of rule of law leadership. We then propose a number of specific measures that should be taken by the government, Parliamentary leaders, regulators, and other stakeholders.

Example of good rule of law leadership: the Supreme Court

49. Based on feedback from stakeholders as well as our own experience, we consider the United Kingdom Supreme Court to constitute an example of a state institution which provides good rule of law leadership.

> ***The UK Supreme Court's Rule of Law Strategy***
>
> First, as the President of the Supreme Court, Lord Reed, highlighted in a recent speech, the Supreme Court has been seeking to improve understanding in Parliament, and in the government, of the constitutional role of the courts. For instance, Lord Reed and the Court's Chief Executive:
>
> - engaged directly with new MPs in the 2024 election, and with the support of the Speaker of the House of Commons, by providing all 335 new MPs with materials explaining the rule of law and the constitutional role of the courts;
> - sent all new MPs an "invitation to visit the court for a tour and a meeting with justices and staff," with the offer being taken up by at least 20 MPs;

[138] P. Kapopoulos and A. Rizos, *'Judicial efficiency and economic growth: Evidence based on European Union data'*, (Scottish Journal of Political Economy 71, 2024) p.101, 104.

[139] The Law Society, *'Civil legal aid: the public service that can benefit us all'* (23 September 2024).

[140] A. Hutzler, *'Trump White House tries to clarify confusion over abrupt federal assistance freeze'*, (ABC News, January 28 2025); L. Irwin, *'Social Security walks back cuts to phone services, announces 'anti-fraud check'*, (The Hill, 4 September 2025); A. Ollstein and S. Gardner, *'Trump admin cancels layoffs for some health workers ahead of Kennedy hearing'* (Politico, 13 May 2025); A. Madhani, S. Min Kim and T. Copp, *'Trump caught off guard by Pentagon's abrupt move to pause Ukraine weapons deliveries'*, (AP News, 9 July 2025)

[141] Eileen Sullivan, *'Federal Workers' 'Emotional Roller Coaster': Fired, Rehired, Fired Again'*, (The New York Times, 15 July 2025)

[142] Michael Crowley, Greg Jaffe and Julian E. Barnes, *'State Dept. Layoffs Hit Russia and Ukraine Analysts'*, (The New York Times, 15 July 2025); E. Nilsen and R. Marsh, *'Trump officials struggled to reinstate nuclear weapons staff after firing hundreds'*, (CNN, 18 February 2025).

- held and attended Q&A events with MPs and Peers in Parliament, with some of the meetings attended by Cabinet ministers, other members of the government, backbench MPs and peers; and
- encouraged MPs to visit the court and to meet justices and staff.[143]

Second, Supreme Court Justices have also built relationships with government actors. For instance, they have sought to coordinate their engagements with foreign courts and governments through the Foreign Office. As a result of these efforts, the Foreign Office started providing briefings and organisational support for the Justices' foreign engagements, and the Supreme Court became involved "in the induction of training officials."[144] Lord Reed also indicated that he found his engagement with the consecutive holders of the post of Lord Chancellor to be productive, for instance "when there was a government media briefing [that he] felt undermined judicial independence."[145] This part of the Court's strategy, Lord Reed explained, focuses on interacting with other institutions "which have a particularly important role in supporting the rule of law"[146] and on developing "a sense that we have a shared responsibility for the rule of law."[147]

Third, the Supreme Court has been taking steps to improve the general public's understanding of the Court's role and key constitutional concepts. As Lord Reed noted, "media coverage of the judiciary is not always accurate or well-informed." For this reason, the Supreme Court "employs an expert communications team and uses a number of means to inform the public about [its] work" in a way that is accessible to laypeople. [148] Finally, the Supreme Court Justices have engaged with Parliamentary and government work on law reform – for instance, the 2020 Independent Review of Administrative Law or the 2025 House of Lords Constitution Committee Rule of Law Inquiry – in order to "inform consideration of policy proposals affecting the courts by sharing relevant factual information."

50. We consider that Lord Reed's stated goal of developing "a sense that we have a shared responsibility for the rule of law" is one that should be pursued by all UK public institutions and actors. We think that an important part of developing such a shared sense of responsibility lies in creating a shared understanding of the rule of law's importance. As is apparent from the discussion of actions taken by the Supreme Court above, measures to develop such an understanding will depend on the particular institution's role in the UK legal and political system. Below, we suggest some measures that various UK public actors can take.

143 Lord Reed '*Trust in the Courts in an Age of Populism: The Peter Taylor Memorial Address 2025*' (Supreme Court of the United Kingdom, 12 June 2025), p.13-14

144 Ibid., p.11

145 Ibid.

146 Ibid., p.10

147 Ibid., p.12

148 Ibid., p.3

All stakeholders

51. We recommend that the government, parliamentary leaders, party leaders, and civil society regularly refer to the rule of law and the standards governing the exercise of public power in their everyday work. This should be reflected in speeches, policy statements, and parliamentary debates to reinforce the principle that legality and accountability underpin democratic governance.

52. The attendees of our roundtables told us that one way to bring any standards to life is to ensure that various stakeholders can and *do* refer to them during their everyday activities – in civil society briefings and publications, or in parliamentarians' floor speeches.

53. We are keenly aware that many insights as to constitutional principles and legislative best practices are contained in reports produced by Select Committees, independent reviews, large-scale inquiries, or research institutions. Often, such work also contains valuable insights on how the UK's adherence to rule of law principles could be improved. At the same time, we understand that it is difficult to keep on top of information dispersed across multiple documents produced by a range of stakeholders according to different publication schedules. This is particularly so when relevant information is needed at short notice – for instance, a point that could challenge the rule of law may arise during debate on a bill.

54. For this reason, we strongly support efforts such as the creation of the House of Commons Library's Parliament, Public Administration and Constitution Hub, and the Library's recently-published *The United Kingdom constitution – a mapping exercise* project, "intended as a navigational aid to what can often appear an endless and impenetrable mass of constitutional information."[149]

55. We therefore recommend that the House of Lords Constitution Committee's compendium, Legislative Standards: 2017–2024, is actively promoted as a key resource for parliamentarians and used to guide best practice in law-making.

The Government

56. From the government's side, the key element of rule of law leadership involves introducing reforms aimed at improving people's experience of the rule of law and their understanding of the concept.

57. In particular, as we discuss in Chapter 4, we recommend that the government implements the existing recommendations on improving access to justice and ensures that institutions whose remits carry human rights and equalities consequences, across both the public and private sectors, receive sufficient funding to discharge their responsibilities effectively.

58. It is worrying that we have seen little progress on introducing some of the rule of law-centric reforms the Attorney General outlined in October 2024, such as public legal education measures. Other elements of rule of law leadership from the government could include:

[149] House of Commons Library, '*The United Kingdom constitution – a mapping exercise*' (25 July 2025).

- Consistently speaking about the rule of law (and other core constitutional concepts, such as fundamental rights) as a positive message;
- Ensuring that central government departments lead by example in terms of rule compliance, and that all advisors working for the government receive rule of law training similar to parliamentarians (discussed below);
- Ensuring that there are internal harmonizing political voices explaining why following the rules is valuable to members of government and those working for them, and that the responsibility for promoting adherence to the rule of law does not rest solely with one official;
- Spearheading the creation of a standing, arm's length institution dedicated to safeguarding the longevity of British constitutional norms – we discuss one model that could be adopted below.

Parliament

59. Multiple participants in our roundtables pointed out that despite their key role in shaping laws within a notoriously complex Parliamentary system, MPs are not given any training on the British constitution, their constitutional role (e.g., vis-à-vis the judiciary and the executive), or the British legal system more broadly.

60. This is so despite the absence of any form of public education that would introduce the principle to society at large. As one stakeholder put it, "at the Bar, you get ethics training before you even start the job." MPs, on the other hand, are "assumed to have acquired this [knowledge] through some process of osmosis."

61. As a result, MPs most likely to be familiar with the rule of law are those with experience in fields where the concept is frequently referred to – for instance, MPs who work in the legal sector. Other parliamentarians may be unaware of fundamental principles of the UK legal system. In a recent speech, Lord Reed spoke of a Member of Parliament who asked him "whether the Supreme Court gives reasons for its decisions, and if so, whether they are made public." Another parliamentarian assumed that the law consists only of legislation, with judicial development of the common law representing "constitutionally illegitimate activism."[150]

62. We are concerned that if MPs misunderstand how UK governance is regulated, they may also lack an understanding of why specific rules exist. To help MPs uphold British constitutional values, those disparities in familiarity with the British constitutional and legal system must be removed – particularly as 62% report needing more training in navigating the policy-making process.[151]

63. Some efforts to provide such training have already been made:

[150] Lord Reed '*Trust in the Courts in an Age of Populism: The Peter Taylor Memorial Address 2025*' (Supreme Court of the United Kingdom, 12 June 2025), p.14-15

[151] YouGov '*UK MPs Polling January 2025*', (Civic Future, February 2025).

- Since 2023, the House of Commons Library has operated a Public Administration and Constitution Hub to better support Parliamentarians in scrutinising constitutional issues.
- In July 2024, the Supreme Court provided all new MPs with materials explaining the rule of law and the constitutional role of the courts, as well as organising private Q&A sessions for new parliamentarians; [152]
- Also in July 2024, JUSTICE published an updated version of our *Law for Lawmakers* guide, introducing some of the key legal and constitutional principles which Parliamentarians are likely to encounter.[153]
- In May 2025, the House of Lords Constitution Committee published its *Legislative standards of the Constitution Committee: 2017-2024* compendium, which brought together the legislative standards that the Committee had noted in its scrutiny of legislation between the beginning of the 2017-19 parliamentary session and December 2024.[154]
- In June 2025, the UCNP project, the Public Administration and Constitution Hub, and UCL's Global Centre for Democratic Constitutionalism held a workshop on the role of politicians and parliamentary personnel in sustaining Britain's unwritten norms;[155]
- The UK Supreme Court President, Lord Reed, has accepted an invitation from the Lord Speaker to give a lecture to Parliamentarians, "with the aim of promoting greater understanding of the rule of law and its relationship with democracy."[156]

JUSTICE's Law for Lawmakers

In 2015, JUSTICE published the first edition of Law for Lawmakers,[157] an introductory guide to some key legal and constitutional principles confronted by MPs, Peers and their staff in their work. In July 2024, in collaboration with A&O Shearman, we published the second, updated edition of the guide.[158] We also published Law for Scottish Lawmakers,[159] a Scotland-focused edition of the guide.

The guides are designed to provide basic information and signpost to sources of legal advice and support. Each guide explains key legal and constitutional principles to help politicians of

[152] Lord Reed '*Trust in the Courts in an Age of Populism: The Peter Taylor Memorial Address 2025*' (Supreme Court of the United Kingdom, 12 June 2025), p.4

[153] JUSTICE, '*Law for Lawmakers*' (2024).

[154] House of Lords Select Committee on the Constitution, *'Legislative standards of the Constitution Committee: 2017–2024'* (6 May 2025).

[155] Durham University, '*A Parliamentarian's Guide to the Unwritten Constitution*' (2 June 2025).

[156] Lord Reed '*Trust in the Courts in an Age of Populism: The Peter Taylor Memorial Address 2025*' (Supreme Court of the United Kingdom, 12 June 2025), p.13

[157] JUSTICE, '*Law for Lawmakers: A JUSTICE Guide to the Law*' (2015).

[158] JUSTICE, '*Law for Lawmakers*' (2024).

[159] JUSTICE, '*Law for Scottish lawmakers: A JUSTICE guide to the law*' (2017).

all parties (and their staff) review new laws, table and write amendments to Bills, support their constituents, and more. The 2024 edition of the guide also follows controversies such as the Rwanda policy, the proroguing of Parliament during Brexit debates, and attempts to repeal the Human Rights Act.

It is intended to equip MPs with the knowledge needed to ensure democratic, evidence-based lawmaking and protect the rule of law.

64. As far as we understand, these efforts do not constitute mandatory and formalised training that is provided to all MPs on a regular basis.

65. This is problematic because – as participants in our roundtables underlined – key norms, standards, and procedures must be periodically reiterated to prevent a loss of institutional memory, particularly due to the high rate of turnover in the Commons.

66. One participant highlighted that from the mid-2010s until 2022, Parliament was legislating in a near-constant state of emergency and disruption – first due to the fallout of the Brexit vote, then due to the global Covid-19 pandemic. As a result, few MPs remain who remember the way in which Parliament *used* to operate – or why it operated that way. In these conditions, reliance on informal educational models, where newer MPs interact with those who have been in Parliament longer, would likely be wholly inadequate, as entire segments of the Commons would have never experienced law-making before 2016. Particularly in the face of pressure to achieve short-term policy goals, all MPs need to be aware of the long-term consequences of acting in a way that undermines the rule of law. Yet, many MPs serve in Parliament only briefly. Without formal training, they may not be there long enough to develop an understanding of the rule of law as it applies to British politics – or why upholding it matters.

67. For this reason, we recommend the provision of a systematised introduction to core UK constitutional norms and their rationales, as well as an outline of the UK legal system, to all incoming MPs. This will help parliamentarians understand the principles that structure governance and the long-term consequences of legislative choices.

68. Multiple participants in our roundtable expressed strong support for the idea of introducing mandatory training, included in all MPs' induction, that explains parliamentarians' roles and responsibilities within the UK constitution and legal system. While we appreciate that new MPs' time is already subject to considerable constraints, it is notable that, in a 2025 poll, over half (55%) of MPs indicated that they do not believe that newly elected MPs receive sufficient training and preparation for their role.[160]

69. As roundtable participants also stressed, the creation of such training should not be a party-political initiative. Constitutional norms are the "rules of the game" applicable to all political activity in the UK. They represent values that the UK holds dear as a country and to which it aspires; the foundational blocks of British democracy.

70. In agreement with the participants of our roundtables, we consider that the creation of such "core norms and values" training result from a multilateral effort, spearheaded by the Prime Minister, the Leader of the Opposition, and the Speaker of the House of Commons,

[160] YouGov, '*UK MPs Polling January 2025*' (Civic Future, February 2025).

with involvement from the House of Commons Library, the Select Committees concerned with constitutional affairs, and the Government Law Officers.

A standing guardian of constitutional values?

The benefits of upholding constitutional values are realised in the long term. However, Britain's day-to-day politics is often driven by short-term policy pressures. Roundtable contributors underlined the speed at which unwritten principles and norms change or get "lost."

One stakeholder highlighted how quickly the idea of disapplying human rights protections became "normalised" in the context of legislative scrutiny.

In its report on the-then Illegal Migration Bill, published on 19 May 2023, the House of Lords Select Committee on the Constitution drew the House's attention to the "novel nature" of clauses appearing expressly to disapply s.3 of the Human Rights Act 1998, stating that it is "difficult to predict" how such a clause would be interpreted by the courts.[161] In its report on the-then Safety of Rwanda (Asylum and Immigration) Bill, released on 9 February 2024, however, similar disapplication clauses were described as "no longer novel," even though at the time, only one such provision was ever enacted.[162]

To provide a source of long-term constitutional thinking that could preserve constitutional values over time, we find great value in the Institute for Government's proposal for the establishment of a new constitutional body that would safeguard core constitutional principles.[163]

As discussed by the IfG, such a centre could take the form of an arm lengths' body, or a cross-party committee working to provide an authoritative view on the constitution. Such a body could provide impartial and authoritative – albeit non-judicial - interpretation of the constitution and build institutional memory of constitutional principles. Its creation could remove the pressure on the UK courts to serve as the most visible check on unconstitutional actions by other branches of the state and help make the rule of law a principle that is visibly enforced in both the political and legal spheres.

Depending on the form taken, the body's core tasks could include:

Serving as a voice for long-term constitutional thinking and countering the pressure to carry out constitutional reforms based on short-term political exigencies.[164]

[161] House of Lords Select Committee on the Constitution, '*Illegal Migration Bill*' (16th Report of Session 2022-23, HL Paper 200), para 41.

[162] House of Lords Select Committee on the Constitution, '*Safety of Rwanda (Asylum and Immigration) Bill*' (3rd Report of Session 2023-24, HL Paper 63), para 27.

[163] J. Sargeant, J. Pannell, R. McKee, S. Coulter and M. Hynes, '*Review of the UK Constitution: Final report*' (19 September 2023), 25ff.

[164] Such a body could, in essence, fulfil a similar function to France's Conseil d'État to the extent it acts as an independent source of authoritative legal advice for the government. As the IfG report notes, multiple countries with constitutional models similar to the UK's emphasis on parliamentary primacy have such centralised constitutional advisors – for instance, the Netherlands' Council of State, or the Finnish Constitutional Law Committee.

Providing guidance and resources for ministers and other government actors to better understand and undertake their obligations in relation to the constitution, helping free up Law Officers' capacity to advise the government on public law issues;

Strengthening parliamentarians' ability to fulfil their constitutional-safeguarding role by providing them with in-depth constitutional guidance or training on constitutional concepts.

71. Working to make the rule of law more resilient is not the responsibility of the government and Parliament alone. Other institutions and groups should also play a leadership role in promoting an awareness of the rule of law as a constitutional principle, and of the value in following laws and procedures.

72. First, stakeholders who attended our roundtables underlined the important role that civil society must play in promoting the rule of law. There are multiple ways in which civil society can contribute to explaining why rules exist, and their value, including by:

- Collaborating with the government and Parliament on rule of law programs and initiatives – e.g. in 2019, the Bundestag created the Forum Law Foundation, a federal foundation intended to address issues of law and the rule of law in Germany. Its programs include producing podcasts, quizzes, film festivals, and city tours about the rule of law and democratic principles.[165]
- Exploring how education on UK law could be incorporated into a civil society organisation's operation.
- Responsibly communicating on legal topics, including by ensuring that commentary on the law is not misleading.

73. Second, participants in our roundtable pointed to political parties' role in raising the awareness of the value of following rules as political actors. Participation in political parties is many political actors' entry to the world of public law standards: new members of the party, who may eventually rise to high ministerial positions, learn how politics is done by observing their own party's internal processes.

74. Those processes can also have profound impacts on the wider public. Legal scholar Leah Trueblood recently highlighted the degree of public power which a party can wield – particularly where party members holding a Commons majority choose a party leader (as the leader would become the Prime Minister).[166]

75. For this reason, we consider that political party leadership should ensure that, similarly to members of the government and parliamentarians, those involved in party structures and activities are provided with basic training on the UK constitutional norms and the legal system. This should also include explanations for why particular processes exist both within the political party itself and the UK constitutional system at large.

[165] Civil Liberties Union for Europe, '*Liberties Rule of Law Report*' (2025), p.383.

[166] L. Trueblood, '*An Injustice in the Law of Information Rights: Tortoise Media Ltd v Conservative Party and Unionist Party*', UK Constitutional Law Blog (11 June 2025).

76. It is important to acknowledge the role the Civil Service plays in upholding procedures and shaping Britons' perceptions of standards of governance. As the Civil Service keeps the country running, they are the first point of contact with the British state for most of the public. Furthermore, due to civil servants' central role in converting ministerial priorities into policy and translating legislation into practice, the civil service is also a "front-line" nexus for upholding quality standards in policy formulation and implementation.[167]

77. For this reason, we believe that civil servants:

- should understand the overriding constitutional principles, as well as more specific laws, that apply to their work as public servants;
- must be confident in what they can and cannot challenge when impartially implementing democratically chosen policies in compliance with the UK's constitutional principles and laws; and
- must be confident in voicing the risks of not abiding by frameworks or processes in place, including when under pressure to deliver at a quick pace, and can access venues for good faith challenges to the way that policy is implemented.

78. We recommend that measures are taken to raise awareness about the value of the UK's constitutional principles, including the rule of law and the consequences of failing to uphold it, among politicians and the Civil Service. Such training should accompany operational delivery training, ensuring civil servants understand both the practical and constitutional dimensions of their role.

79. Taking inspiration from abroad, more tailored training focused on particular challenges likely to be encountered by civil servants should be provided. In the Netherlands, for example, civil servants are provided with a tailored rule of law leadership course168 and training on how to effectively communicate and influence under pressure in a political-administrative context. In Germany, civil servants can access a "Resilient Democracy" lecture series, covering topics such as values and attitudes in public service,169 the psychology of radicalisation, and conspiracy theories.170

80. We believe the provision of training on core UK constitutional concepts and values would help civil servants – as well as politicians, and other stakeholders - better understand the role that the Civil Service plays in the UK constitutional setup. Further, it would upskill civil servants: the Civil Service Code itself presupposes that civil servants will have a degree

[167] For a discussion of the potential of public administration institutions to protect liberal democracies against democratic backsliding, see K. Yesilkagit, M.Bauer, B. Guy Peters, and J. Pierre, *'The Guardian State: Strengthening the public service against democratic backsliding*', (2024) 84 Public Administration Review 414.

[168] https://abdleerportaal.nl/nl/ui#/catalog/topic/71fffdbf-1237-4db9-9919-0d554df9f7e0?searchQuery=&showAllCourses=1

[169] H.M. Heimann, '*Werte und Haltung im öffentlichen Dienst*' (10 December 2024).

[170] Ibid.

of familiarity with UK constitutional principles and conventions171 and calls for civil servants to "comply with the law and uphold the administration of justice."172

81. We believe that the provision of similar training in the UK would not run contrary to the Civil Service's fundamental duty of political impartiality. As stakeholders who participated in our roundtable on the UK's democratic resilience pointed out, the idea of "core constitutional principles" implies that the principles relate to the basics of how a political system is arranged and are shared by all political actors. They are thus not party political. Such training would ensure that the operations of the Civil Service, reflects the values and aspirations the UK seeks to preserve and nurture as a state.

Regulators

82. Our recommendations, set out later in chapter 4, to improve guidance on the collection of human rights and equalities data, and to provide assessment of human rights and equalities risks, hinge on a more general concern: the capacity of UK regulators to take the lead on providing such guidance.

83. According to the National Audit Office, in 2019 there were over 90 regulatory bodies in the UK.173 New regulatory bodies have been created since. Many exercise powers in areas that directly affect individuals' rights and lived experiences. Among them are the United Kingdom's equalities and human rights institutions - including the Equality and Human Rights Commission,174 the Scottish Human Rights Commission, the Northern Ireland Human Rights Commission, and the Equality Commission for Northern Ireland - who are responsible for providing authoritative guidance on equality and human rights law and its enforcement.

84. However, many other regulators' work also carries human rights and equalities consequences. For instance, the Information Commissioner's Office is responsible for enforcing data protection laws; the Health and Safety Executive regulates to protect people against ill health, injury or death from work activities; and the Care Quality Commission monitors all health and social care providers in England.

85. Based on conversation with stakeholders, as well as our interactions with the regulators, we are concerned that at present, some regulators whose remit contains equalities and human rights dimensions lack the capacity to fulfil their statutory obligations.

Equality and Human Rights Commission

86. The Equality and Human Rights Commission (the "EHRC") is a non-departmental public body responsible for promoting and enforcing equality and human rights frameworks in

171 Cabinet Office, '*Civil Service Code*' (16 March 2015): "*Civil servants advising ministers should be aware of the constitutional significance of Parliament, and of the conventions governing the relationship between Parliament and the government*".

172 Ibid.

173 National Audit Office, *'Regulation Overview'* (2019), p.3; this figure does not include local authorities.

174 The main regulator of human rights and equalities law for England and Wales, and the equalities regulator for Scotland.

England, Wales, and Scotland.[175] Designed as an independent watchdog with a wide range of powers, it has the potential to act as a powerful constitutional actor, safeguarding the practical effectiveness of rights and ensuring that legal protections are realised in everyday life.[176]

87. In principle, the EHRC is well placed to do so: through issuing authoritative guidance to employers and service providers; using its enforcement powers to investigate an organisation or individual's non-compliance with equality law; employing its litigation powers to provide legal assistance or intervene in court proceedings for human rights and equality related cases; and contributing to public and parliamentary debate by publishing impact assessments of legislation and policy.

88. In practice however, stakeholders have indicated that the outcomes of the Commission's work fall short of its statutory promise. As early as 2019, the Women and Equalities Select Committee highlighted a decline in the EHRC's enforcement activity.[177] The Commission itself acknowledges in its 2025-2028 Strategic Plan, that it lacks the internal capacity and funding to produce equally high-quality output across its entire full remit – it has to prioritise certain areas at the cost of others, requiring prioritisation that leaves some areas under-served.[178] The EHRC's human rights activity has also become marginalised over time, at the expense of the equality mandate.

89. The Commission is also facing a crisis of legitimacy and has struggled to maintain the confidence of civil society and affected communities, in part due to limited engagement and visibility. Outside a small number of select issues,[179] the EHRC carries out little public leadership, civic, or educational activity.[180] In 2022, the Global Alliance of National Human Rights Institutions, the international body accrediting human rights watchdogs, recommended that the EHRC "take visible and clear steps to strengthen its working relationship with civil society organizations."[181]

Under-enforcement beyond the EHRC: The Information Commissioner's Office

90. Concerns about regulatory capacity are not confined to the EHRC. According to Professor David Erdos, the Information Commissioner's Office Annual Report for 2024 points to a marked weakening of information rights regulation. According to Erdos, ICO's launching of investigations into just 3% reported data breaches (dropping from 6%) and a ballooning percentage of individuals who receive no response to their data protection complaints

[175] In Scotland, the EHRC is responsible for the enforcement of equalities law only, while the Scottish Human Rights Commission is a dedicated human rights watchdog.

[176] https://www.equalityhumanrights.com/about-us/who-we-are

[177] https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/1470/147006.htm, para.33

[178] Equality and Human Rights Commission '*Strategic Plan 2025 to 2028'*, (27 March 2025)

[179] E.g. the debate on the impacts of the Supreme Court's *For Women Scotland* judgment.

[180] Most of the EHRC's activities are focused on focused interactions with specific groups of stakeholders, such as creating guidance for employers, taking enforcement action and intervening in select cases, reporting internationally on the UK's compliance with its human rights obligations, and advising on legislative proposals: see Equality and Human Rights Commission '*Annual report and accounts 2024 to 2025'* (22 July 2025)

[181] Global Alliance of National Human Rights Institution, "*Sub-Committee on Accreditation Report*", (October 2022)

show a trend directing "strongly away from rather than towards any expectation of regular and concrete regulatory action."[182]

91. Even in cases involving serious breaches, the ICO has declined to pursue formal enforcement action. For example, the ICO failed to take any regulatory action in response to a breach of data protection protocols that had put up to 100,000 individuals at risk of grave harm and resulted in the courts granting a two-year-long superinjunction to protect those affected.[183] These examples reflect a broader pattern. The House of Lords Industry and Regulators Committee's 2024 Who watches the watchdogs identified "growing concerns about... the role and performance of regulators, their independence, and their accountability" and the adequacy of regulator's resources.[184] There is a risk that insufficient capacity leads to weaker enforcement, which in turn erodes public confidence and further diminishes regulatory authority. This risk is particularly acute in the case of the EHRC, given its central role in the UK's constitutional and human rights architecture.

Structural constraints on the EHRC

92. Stakeholders we engaged with identified several factors that limit the EHRC's ability to perform its dual promotion-enforcement mission.

(a) **The width of the EHRC's remit.** As former EHRC Chair David Isaac has observed, the Commission's mandate is "as wide as it could possibly have been imagined." Unlike many international counterparts, the EHRC is responsible for both equality and human rights across a wide range of protected characteristics and policy areas, while also undertaking large-scale investigations and enforcement activity.[185] This breadth causes structural pressure on a body with limited scale.

(b) **Budgetary constraints.** The EHRC's budget has never matched the combined resources of the three legacy commissions it was designed to replace and has been successively shrinking since its establishment. The Commission itself notes that since 2010 its funding has decreased while its regulatory duties have grown.[186]

(c) **The EHRC's dependence on the government of the day.** In 2022, the Sub-Committee on NHRI Accreditation (GANHRI) expressed the view that the process by which EHRC commissioners are chosen "is not sufficiently broad and transparent" and there are no sufficient safeguards against the commissioners being dismissed at the discretion of the appointing ministers.[187] As an arm's length body funded by a government department, the EHRC is subject to the same fiscal pressures as central government. This dependence constrains its ability to argue

[182]David Erdos, *'The UK Information Commissioner's Annual Report 2024/25: Surveying a Systematic Trend Away from Adequate Enforcement'*, (U.K. Const. L. Blog, 22nd July 2025)

[183]Ibid.

[184]Industry and Regulators Committee, *'Who watches the watchdogs?'* (HL 1st Report of Session 2023–24), p.3-4

[185]David Isaac *'Reflections on the EHRC'*, (E.H.R.L.R. 2020, 6), p.578-584, p.578-9

[186]Equality and Human Rights Commission, *'Strategic plan 2025 to 2028'* (March 2025)

[187]GANHRI, *'Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)'* (October 2022), p.21-22

for increased funding and "makes it more difficult for it to act robustly in holding governments (of any political complexion) to account."[188]

93. In Isaac's view, between the width of the remit, the funding pressures, and the "inevitable dependency ... on the government of the day," the EHRC "doesn't have sufficient resources and scale to meet the expectations of all its stakeholders." As a result, Isaac argues, the Commission struggles to give equal attention to all protected characteristics, to advocate effectively across the full range of human rights issues, or to respond adequately to fast-moving developments – particularly where its priorities do not align with those of the government.[189]

94. The EHRC's capacity to be independent in the absence of political support is further impeded by the lack of trust from civil society groups. Civil society support and engagement can provide a regulator or enforcer with an alternative source of regulatory authority. In the EHRC's case, the absence of such support further entrenches its reliance on government, limiting its operational independence.

Strengthening independence and capacity

95. Comparable models for how such an increase in independence and operational capacity could be secured have been envisaged elsewhere. For example:

- In Scotland, the Scottish Human Rights Commission is a parliamentary commission, with commissioners appointed and funding overseen by the Scottish Parliamentary Corporate Body.
- In Ireland, members of the Irish Human Rights and Equality Commission are appointed through a competitive process by the Public Appointments Service for terms not exceeding five years. Members must be approved by both Houses of the Oireachtas.
- In New Zealand, Judge Coral Shaw's Ministerial Review of the Human Rights Commission's organisational culture suggested that the concerns relating to the HRC's independence could be remedied by making Commissioners Officers of Parliament. Commissioners would be selected by the House of Representatives on the unanimous recommendation of the Officers of Parliament Committee, which comprises representation from all political parties and is responsible for recommending funding for the Offices of Parliament. In the review's opinion, making Commissioners Officers of Parliament would provide for less partisan appointment and funding processes by requiring cross-party consensus.[190]

96. Having consulted on the issue of EHRC's regulatory performance in our roundtables, we recommend that consideration is given to measures intended to reduce the EHRC's dependence on the government of the day. These measures should include depoliticising the Commission appointments and budget-setting process. This could involve a model

[188] D. Isaac *'Reflections on the EHRC'*, (E.H.R.L.R. 2020, 6), p.579

[189] D. Isaac *'Reflections on the EHRC'*, (E.H.R.L.R. 2020, 6), p.580

[190] Judge Coral Shaw, *'Ministerial Review of the Human Rights Commission in relation to the internal handling of sexual harassment claims and its organisational culture'* (May 2018), p.5

where the EHCR's budget, as well as appointments, are controlled by a Select Committee – for instance, the Joint Committee on Human Rights or the Women and Equalities Select Committee.

97. While we agree with Isaac that the EHRC should report to Parliament rather than government, reliance on the House of Commons alone risks reproducing executive dominance, given the constitutional relationship between the Commons majority and the government. Cross-party committee oversight would offer greater insulation from partisan pressure.

98. In the longer term, further easing pressure on the EHRC's resources may require structural reform. One option would be to separate responsibility for the prosecution of individual complaints into a distinct body, enabling the EHRC to concentrate its limited resources on strategic enforcement, advocacy, guidance, and public leadership—as envisaged by Judge Coral Shaw in New Zealand.

99. Absent such reforms, there is a real risk that the EHRC's capacity, credibility, and constitutional role will erode, with significant consequences for the protection and practical realisation of human rights and equality in the UK.

Making the implementation of laws, standards, and procedures effective: accessibility and clarity

100. Increasing the awareness of the existence and value of the rule of law and improving the regulation of human rights and equality law are important steps to making sure Britain continues to be the "gold standard" of rule of law adherence.[191] However, it is not the complete story.

101. Lack of training and poor regulation is not the only reason why people who exercise public powers may struggle to confidently orient themselves in the UK's constitutional landscape.

102. The UK constitution is not codified. While some statements of public life and governance standards exist – for instance the Nolan Principles, which apply to all public office holders, the Cabinet Manual, or the Civil Service Code – they are contained in a myriad of documents. As the Institute for Government's 2023 Review of the UK Constitution notes, there is no clear and widely agreed statement of core constitutional principles governing how the UK should be run:[192]

103. "With the absence of a codified document, UK politicians must rely on their understanding of various constitutional conventions to determine the constitutionality of their own behaviour and that of others."[193]

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191 "We are the gold standard of the rule of law, according to a member of the German Federal Constitutional Court at a conference I attended at Yale University." Lord Reed '*Trust in the Courts in an Age of Populism: The Peter Taylor Memorial Address 2025*' (Supreme Court of the United Kingdom, 12 June 2025), p.18

192 Institute for Government "*Review of the UK Constitution: Final report*", (19 September 2023), p.73

193 J. Sargeant, J. Pannell, R. McKee, S. Coulter and M. Hynes, '*Review of the UK Constitution: Final report*' (19 September 2023), p.73.

104. Complicating this picture, the UK constitution is largely shaped by political conventions and norms that are not enforceable in courts.

105. Lagassé and MacDonnell, writing in the Canadian context, point out that "the political constitution is more difficult to grasp than its legal counterpart," partly because it is not written down[194] - even though non-legal rules and norms are equally as important to shaping Canadian democracy as legal rules.

106. For this reason, to make procedures more accessible to those who are asked to abide by them, we recommend that the government, parliamentary Select Committees, the Commons and Lords Libraries, and parliamentary leadership work together to create consolidated, accessible statements of norms governing how public power should be exercised in the UK. These statements should be clear, authoritative, and easy to use.

107. Consolidating the core principles – rule of law, parliamentary sovereignty, liberal democracy, the Nolan principles, devolution arrangements, and the main political conventions governing relations between Westminster and the devolved governments – into a single, written statement could help make such standards more accessible.[195]

108. New Zealand, which pioneered the use of a single statement of standards – the Cabinet Manual, on which the UK Cabinet Manual is based – to set out how successive governments choose to operate, provides an illustration of the value in writing standards down. Michael Webster, former Secretary of the Cabinet and Clerk of the Executive Council, said that the Manual:

"has been described as providing clarity in moments of political flux ... Its accessibility means it also provides clarity about those matters for members of the public and the media."[196]

109. The authors of the Manual, Webster added, sought to ensure that it reflects an "integrity-based" approach to ethics management, focusing on aspirational values and actions or effects that should be achieved, rather than policing the minimum standards below which behaviour should not fall. Framing standards in line with such an "integrity-based" approach is a strategy this report also advocates for.[197]

The impact of writing standards down on the culture of public governance

Research suggests that there are further benefits in publicly enunciating and writing down standards reflecting our aspirations for how public power should be exercised.

Anthropologist Fernanda Pirie argues that writing standards down promotes political accountability by publicising a shared vision of how we want to resolve problems of disorder and arbitrariness. Rules that constrain power, Pirie argues, "make it easier for people to articulate their hopes and dissatisfactions with the exercise of power" and "provide resources for argument … "allow[ing] us to make statements by reference to explicit standards."[198]

194 V. MacDonnell and P. Lagassé, '*Writing Canada's Political Constitution*' (48 Queen's Law Journal, 2023) p.27.

195 Institute for Government "*Review of the UK Constitution: Final report*", (19 September 2023), p.79

196 Department of the Prime Minister and Cabinet (NZ), '*History of the Cabinet Manual*' (August 2017).

197 Ibid.

198 F. Pirie, *'Why the rule of law? A historical perspective'* (12 *Comparative Legal History* 136, 2024) p.159.

The IfG's 2023 review notes the role that the Ministerial Code has played in the scrutiny of ministers such as Dominic Raab, Priti Patel and Nadhim Zahawi.[199] This is in line with Pirie's suggestion that promulgation and publication of standards creates opportunities for accountability through inviting external scrutiny of conduct, making it more difficult to depart from the rules without consequence.[200]

Writing down standards for the exercise of public power could also help revitalise the UK's political constitution. Lagassé and MacDonnell argue that the act of

> *"committing the political constitution to writing would give political actors — parliamentarians, ministers, and senior parliamentary and government officials — an opportunity to reflect on the political rules and norms ... [providing] a vehicle to revitalize their roles and responsibilities as authors of the political constitution, an organic, evolving set of rules and norms that governs how our legislative and executive bodies operate."*[201]

While opining on what type of process would be the most appropriate for such purposes is beyond the scope of our expertise, our roundtables yielded two clear insights. Participants agreed that the creation of any standards generally applicable to exercises of public power should be carried out on a cross-party basis to ensure consensus.

For statements of high-level constitutional principle, such political legitimacy could be conferred by a political act different from "ordinary" acts of law-making – for instance, a Royal Commission, or a "national consensus" mode of agreement such as a citizens' assembly. For more granular guidance, the appropriate mechanism could be provided by more "ordinary" cross-party reviews. The House of Lords Constitution Committee's recent Rule of Law inquiry provides an example of how such a review can be carried out.[202] Where topics engender polarised opinions, inspiration could be drawn from institutions designed to foster dialogue between opposing sides in the transitional justice field.[203]

110. Further, to ensure that MPs and other stakeholders have access to materials that could help them understand and effectively discharge their role in upholding the rule of law – for instance, materials published by the House of Commons Library's Parliament, Public Administration and Constitution Hub, or the Constitution Committee's Legislative standards compendium, we recommend the creation of a research repository that compiles existing resources, such as materials published by the House of Commons Library's Parliament, Public Administration and Constitution Hub and the Constitution Committee's Legislative Standards compendium, into an easily accessible format. This could take the form of an interactive website or app, enabling MPs and other stakeholders to access key information quickly.

111. In collaboration with international law firm A&O Shearman, JUSTICE is currently working on a podcast series containing key information on the UK constitution and legal system

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199 Institute for Government "*Review of the UK Constitution: Final report*", (19 September 2023), p.73

200 '*Why Is There Law? Skeptic Interviews Oxford Professor Fernanda Pirie*' (Skeptic, 6 March 2025).

201 P. Lagassé and V. MacDonnell '*Writing Canada's Political Constitution*' (48 Queen's Law Journal, 2023), p.4

202 House of Lords Constitution Committee, '*Rule of Law Inquiry Launched by Lords Constitution Committee*' (11 March 2025).

203 Agnieszka Jędrzejczyk, *'Where are we after a year of restoring the rule of law?* [DEBATE]' (2 December 2024). Suggested by Maciej Nowicki from the Helsinki Foundation of Human Rights during a debate on the restoration of the rule of law in Poland

based on our Law for Lawmakers guide. It will also provide expert commentary on issues related to justice system reform and the UK legal system more generally.

Making the implementation of laws, standards, and procedures effective: building relationships of trust

"Societies are built upon trust. They need to rely on those with power and influence using that power and exerting that influence with integrity and transparency. Any abuse of power, any improper influence, any action led by self-interest rather than the public interest, destroys that trust. Where this becomes the norm, democracy, the economy and the rule of law all suffer, and ultimately the fabric of society is at risk."[204] – House of Lords Committee on the Bribery Act 2010.

112. An important type of procedure which public decision-makers and politicians are asked to adhere to are procedures intended to facilitate public participation in governance. Adherence to such procedures helps to make decisions and laws better informed, through crowdsourcing insights from a wider range of stakeholders. It also helps make the resultant laws, decisions, and policies more legitimate in the eyes of the public, who get a voice in how they are governed. This legitimacy, in turn, can translate into people complying with the rule of law more,[205] improving its overall health.

113. However, for public participation to render those benefits, participative governance procedures must be implemented effectively by those responsible for developing laws or policies. A crucial element of such effective implementation is ensuring that those taking part in consultations, engagement exercises, and other participative governance initiatives feel that their insights are being taken seriously.

114. In a recent speech on protecting the rule of law in an "age of populism," the President of the UK Supreme Court, Lord Reed considered that:

> *"If you ask why the public accept decisions made by the judiciary, the answer, I would suggest, depends on confidence or trust. And trust depends on openness and effective communication with all parts of the community we serve*."[206]

115. It was for this reason Lord Reed considered that the Supreme Court "needs to deploy judicial statecraft" and "communicate effectively with politicians, with the media and with the general public, so as to build a level of trust which can withstand tensions if and when they arise."[207] Similarly, the Attorney-General has described a "rule of law culture" as one that "builds public trust in the law and its institutions" and ensures constitutional rules can withstand populist pressures.[208] The European Commission similarly framed the role of

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[204] House of Lords Select Committee on the Bribery Act 2010, '*The Bribery Act 2010: Post-Legislative Scrutiny*' (HL Paper 303, 2017–19), para.1

[205] See the discussion of reasons why people might choose to adhere to laws earlier in this chapter.

[206] Lord Reed '*Trust in the Courts in an Age of Populism: The Peter Taylor Memorial Address 2025*' (Supreme Court of the United Kingdom, 12 June 2025), p.1

[207] Ibid., p.8

[208] Attorney General's Office, '*Attorney General's 2024 Bingham Lecture on the Rule of Law*' (15 October 2024, last updated 16 October 2024).

the rule of law as ensuring that states and their citizens "can work together in a spirit of mutual trust".[209]

116. If people do not believe they are being taken seriously by those who govern them, this can have corrosive effects on the rule of law.

117. Some of those effects may be indirect. As we discuss below, when people do not trust that their responses to consultations will be considered by decision-makers, they might stop contributing, leading to the creation of law that is poorly informed and has to be frequently amended.

118. A study carried out by Demos and the Joseph Rowntree Foundation found that low levels of trust in the state, politicians, and government services appeared to translate into distrust towards legislation. More specifically, some individuals seeking help in relation to poverty and hardship expressed concerns that the Data Protection and Digital Information Bill (proposed in 2022, replaced by a bill that eventually became the Data (Use and Access) Act 2025) would give the government excessive power to "govern [their] behaviour and decide for [them] what they believe is fit,"[210] while other questioned if making access to support difficult was a deliberate policy. More generally, the impact of the integrity of government action on public trust and whether people are "motivated ... to follow guidance and rules" is demonstrated by the consequences of the Partygate scandal.[211]

119. We are concerned that such a growing gap in trust in political institutions may eventually lead to direct challenges to the law. Telegram posts about the Covid-19 pandemic from Australia suggest that distrust towards political authorities and institutions has "significant downstream consequences for compliance with public policy initiatives" – indeed, this was the most commonly user-articulated reason for lack of compliance with pandemic-era rules. Strikingly, some of those posts used language similar to that seen in the UK context discussed above, referring to "disingenuous governments...controlling us" and government information "not giving the whole story."[212]

120. To avoid a scenario in which the UK populations' distrust in politicians and political institutions develops into distrust towards the law itself and outright non-compliance, it is crucial to rebuild trust between the individual and the state.

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[209] European Commission, '*Communication from the Commission to the European Parliament, the European Council and the Council: Further Strengthening the Rule of Law within the Union – State of Play and Possible Next Steps*' (COM 163, 3 April 2019).

[210] Demos and Joseph Rowntree Foundation, '*"This System is Rigged": A Social Media Listening Exploration Revealing How People Are Talking about Poverty Online'* (May 2024)', p.17 and 40.

[211] Swansea University, '*Study Reveals Factors Affecting Public Attitude towards Covid and the New Normal*' (12 July 2022). See more generally S. Marien and M. Hooghe, '*Does Political Trust Matter? An Empirical Investigation into the Relation between Political Trust and Support for Law Compliance*' (50 European Journal of Political Research 267, 2011)

[212] M-E. Dowling and T. Legrand, '*"I Do Not Consent": Political Legitimacy, Misinformation, and the Compliance Challenge in Australia's Covid-19 Policy Response*' (42 *Policy and Society* 319, 2023)

General principles

121. The OECD has identified five drivers of public governance that influence trust in government institutions: integrity, responsiveness, reliability, openness, and fairness.[213] In particular, "the largest trust gaps are associated with individuals' sense of having a say in government actions, which is a key driver of trust," as well as communicating data and evidence that supports reforms.[214]

122. This relationship is unsurprising: if the public is told that "in the public realm, law is the great leveller that holds the powerful to account, and ensures that individual rights are respected,"[215] then the public must be able to see powerful entities abide by the law and respect individual rights.

123. Public trust in state institutions' adherence to the law cannot be taken for granted. As with justice, the rule of law must be seen to be done. [216]

124. Further, in light of OECD findings, the government must recognise that people are sensitive to how government and public service providers treat them. Legal scholar Joe Tomlinson argues that when individuals feel that public service providers use fair procedures, they are more likely to perceive that provider as a legitimate authority. This then increases the rates of voluntary compliance with the law, as "people obey it ...because they trust the system and believe it is just."[217]

125. The validity of the OECD's focus on sense of agency in governance and reliable delivery is also demonstrated by insights from abroad. During a roundtable assessing Poland's progress on restoring the rule of law, Polish then-Minister of Justice Adam Bodnar highlighted "ensuring the reliability of and transparency in the functioning of state institutions" as an aspect of upholding the rule of law that "often escapes notice." All of the Nordic countries, which routinely emerge top of various rule of law indicators, "share a clear, and perhaps partly concomitant, shift from executive government to public governance ... based, for example, on partnership and association and hybrid forms of decision-making" that solve problems in a predominately administrative setting instead of relying on execution of laws.[218]

126. The UK does not share the post-communist countries' history of "cynicism towards, and mistrust of, political institutions."[219] However, the British public's trust in British institutions is low. In a 2023 survey, 73% of British adults would not trust an Member of Parliament to

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[213] Organisation for Economic Co-operation and Development (OECD), '*Trust in Government*' (OECD, 2024).

[214] Ibid.

[215] Attorney General's Office, '*Attorney General's 2024 Bingham Lecture on the Rule of Law*' (15 October 2024, last updated 16 October 2024).

[216] Ibid.

[217] J. Tomlinson, '*Fair Process as Public Policy*' (Public Policy Design Blog, 22 May 2025).

[218] Olli Mäenpää and Niels Fenger, *'Public Administration and Good Governance'*, in P Letto-Vanamo, D Tamm & BO Gram Mortensen (eds), Nordic Law in European Context. Ius Gentium: Comparative Perspectives on Law and Justice, vol. 73, Springer, Cham, p.163-178, 169

[219] G. Elezi, '*Establishing the rule of law after communism: a comparative approach*' (2017) 16 Polis 73, p.77.

tell the truth much or at all; 65% would not trust a Member of the House of Lords to be truthful. 220 In 2024, the percentage of people who said they would not trust a MP to tell the truth rose to 76%.221 According to the 2023 Trust in Government Survey, only 18% of people considered that it would be likely for a politician to refuse a job in exchange for a political favour.222

127. The 2023 edition of the British Social Attitudes Survey reported that two thirds of people in the UK had little or no confidence that they have a say in decisions made by the government.223 These feelings of political disempowerment also have a strong regional dimension: 51% of young people in the North East of England felt that their vote can help shape the future of the UK, compared with 71% of London residents.224 Such data also differs depending on race and age. A respondent to the John Smith Centre/Focaldata's Youth Poll 2025 felt that "The majority [of politicians] do not listen to what the country wants or needs and just goes against them; they only listen to upper class White people." The John Smith Centre/Focaldata report warned that there is a:

> "need to reach out much more to those young people who feel they don't have a voice in the UK. A failure to do so will only create a new generation of left-behinds who end up feeling cut off from society, and thereby vulnerable to extremes."225

128. While public trust in government and UK state institutions is built by people's interactions with many sectors of state activity, there is one area which we are particularly concerned about.

Case study: Consultations

129. In English law, there is no general common law duty for public authorities to carry out a consultation prior to formulating policy or enacting legislative measures. However, there are many pieces of legislation that carry a statutory requirement to consult.

130. A public body will generally have discretion regarding the mechanics of a consultation, subject to statutory and common law requirements. The overarching common law obligation to consult fairly is contained in the *Gunning* principles, sourced from *R v London Borough of Brent ex p Gunning*[226] . The principles require that: (i) proposals consulted on are still at a formative stage; (ii) there is sufficient information to give 'intelligent consideration'; (iii) there is adequate time for consideration and response; and (iv) conscientious consideration must be given to the responses prior to a decision being made.

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220 YouGov and Sortition Foundation, '*Foundation Survey Results*' (2023).

221 D. Difford, '*Who Do Britons Trust to Tell the Truth?*' (YouGov, 6 September 2024).

222 Office for National Statistics (ONS), '*Trust in government, UK*' (2023)

223 Ibid.

224 John Smith/ Focaldata, '*UK Youth Poll 2025*', p.30

225 Ibid., p.11

226 [1985] LGR 168.

131. The idea behind both the *Gunning* principles and the suggested minimum durations of consultation periods lies in ensuring that stakeholders are given sufficient time and information to provide meaningful input into formation of policy. In our experience, however, public authorities can consult in a way that seems to be at cross-purposes with this overarching goal.

132. As demonstrated by the EHRC's actions that followed the *For Women Scotland* judgment, failure to meaningfully engage with those affected by rules made by state institutions and to follow the overriding goal of consulting can have profound rule of law impacts. According to established case law and s.14 of the Equality Act 2006, the EHRC has a duty to "consult such persons as it thinks appropriate" before issuing guidance.[227] On 15 April 2025, the UK Supreme Court handed down its judgment in *For Women Scotland Ltd v The Scottish Ministers,*[228] ruling on the meaning of the terms "man" "woman" and "sex" for the purposes of the Equality Act 2010.

133. A day after the judgment was handed down, the Chair of the Equality and Human Rights Commission, Baroness Kishwer Falkner, stated that the NHS "have to change" their policies regarding trans people, so that "there is no confusion" following the judgment.[229] Less than 10 days after the judgment was handed down, the EHRC published an "interim update" to provide "further clarity" by highlighting the "main consequences of the judgment."[230] The "interim update" was not consulted on, and provided detailed guidance addressed to employers, service providers, schools, associations, and others. It included guidance stating that "in workplaces, it is compulsory to provide sufficient single-sex toilets" and in the context of public services open to the public, "it could be indirect sex discrimination against women if the only provision [of toilet facilities] is mixed-sex."[231] The update, which has been subsequently amended, contained a statement reminding employers and other duty-bearers that they "must follow the law."

134. The EHRC's decision to issue the update which *de facto* contained guidance without consultation prompted confusion about the document's legal status. On 6th June 2025, the EHRC provided an update on when a Code of Practice, intended to provide formal guidance to service providers, public bodies and associations in relation to their duties under the Equality Act 2010, revised in light of the judgment, would be submitted for ministerial approval. According to the update, a consultation on how *For Women Scotland* would affect the Code was meant to run for two weeks. The EHRC also stated that it was not seeking views on the legal aspect of the interim update.

135. The brief duration of the consultation, as well as the restriction on what was being consulted on, prompted a response from multiple stakeholders.

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227 Section 14(6)(b) of the Equality Act 2010.

228 For Women Scotland Ltd (Appellant) v The Scottish Ministers (Respondent) [2025] UKSC 16.

229 A. Gregory, S. Carrell, R. Syal and P. Walker, '*NHS Warned It Must Change Guidance on Single-Sex Spaces after Court Ruling*' (The Guardian, 17 April 2025).

230 Equality and Human Rights Commission, '*UK Supreme Court Ruling on the Meaning of Sex in the Equality Act: Our Work*' (2025).

231 Ibid.,

136. The Chair of the Joint Committee on Human Rights, Lord Alton, wrote to Baroness Falkner, seeking clarification of a number of issues, including whether the proposed two week consultation period provided sufficient time and scope to effectively engage with the consultation, what steps the EHRC will be taking to ensure that the code of practice is supportive of the rights of all people, and the legal status of the EHRC's "interim update."[232]

137. The Chair of the Women and Equalities Committee, Sarah Owen MP, also wrote to Baroness Falkner, asking for clarification of "the reasoning ... on deciding on a two-week consultation period" and whether the EHRC would "proactively seek input from any particular groups or stakeholders." Speaking on behalf of the Committee, Owen said that:

"we feel that at least six weeks minimum would be more appropriate to allow all stakeholders, including individuals, charities and disability groups, businesses, health providers and local authorities to contribute."[233]

138. Following a wave of criticism, the EHRC announced that it was extending the consultation period to 6 weeks. The EHRC stated that a 6-week consultation period was intended to balance gathering comprehensive stakeholder input whilst addressing the urgent need for clarity among duty-bearers and wider society.[234] This extended duration of consultation was held to be lawful by the High Court and the Court of Appeal.

139. Despite its stated goal, the EHRC's actions failed to facilitate legal certainty. Shortly after the interim update was issued, a group of independent human rights experts affiliated with the United Nations' Human Rights Council expressed concern about the implications of the *For Women Scotland* judgment, warning that the way the decision was being applied by the EHRC "risk[ed] entrenching legal uncertainty and undermining the rights of transgender persons in all aspects of life."[235]

140. The lack of certainty was demonstrated by the response to the guidance. The Labour Party chose to postpone its annual Women's Conference due to "a significant risk of legal challenge to the event."[236] Museums Galleries Scotland described the guidance as "unfeasible," "adding substantial workload and staff costs" and failing to make "sufficient effort to offer advice to museums and organisations who wish to remain or become trans inclusive."[237]

141. As a result of this confusion, the guidance may have also failed to ensure that individual rights are upheld. Although the interim guidance was not a legal document, it was followed

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[232] Lord Alton of Liverpool, '*Letter to the Chair of the Equality and Human Rights Commission*' (Joint Committee on Human Rights, 1 May 2025).

[233] Sarah Owen MP, '*Letter to the Chair of the Equality and Human Rights Commission*' (Women and Equalities Committee, 7 May 2025).

[234] Equality and Human Rights Commission, '*Consultation on Updates to Services Code of Practice Closes*' (1 July 2025).

[235] Office of the High Commissioner for Human Rights (OHCHR), '*UN Experts Warn of Legal Uncertainty and Rights Implications Following UK Supreme Court Ruling*' (22 May 2025).

[236] J. McKiernan, '*Labour Postpones Women's Conference after Supreme Court Ruling*' (BBC News, 20 May 2025).

[237] G. Kendall Adams, '*EHRC Guidance Risks Discrimination, Says Museums Galleries Scotland*' (Museums Journal, 25 July 2025).

by some public institutions and private businesses. Cabinet Office minister Pat McFadden said that "the logical consequence of the court ruling and the EHRC guidance" is that transgender people would be banned from using the toilets of the gender they identify with.[238] Meanwhile, the Scottish Parliament announced trans women would no longer be able to use the women's toilets in the Holyrood building and Barclays Bank "believes that it has" to prohibit trans women from using female bathrooms "to comply with the Supreme Court ruling."[239]

142. At the same time, Lady Hale, a former President of the UK Supreme Court, suggested the guidance goes beyond the Supreme Court's judgment as there was "nothing in the judgment that says that you can't have gender neutral loos," opining that the judgment "has been misinterpreted."[240] The UN experts likewise considered that despite the Supreme Court's "nuanced legal framing", "the ruling has been widely misrepresented in public discourse."[241]

143. Crucially, the situation described above is not a one-off. As we discuss in our *The State We're In* report, the quality of consultations is a persistent issue. Our roundtable participants suggested that dismissive attitudes toward the need for - and results of - consultations and other participatory governance mechanisms are not a recent development. In a 2015 interview, the then-Prime Minister David Cameron described consultations and reviews as a "buggeration factor" that "the bureaucrats love."[242]

144. More recently:

- in the case of *R (Clifford) v Secretary of State for Work and Pensions*,[243] the court found that the Secretary of State had largely formulated policy in advance of the consultation, provided explanations of proposals that did not enable the respondents to understand what was being proposed, and ran the consultation on a shortened timescale (8 weeks) to be able to quickly announce the financial cuts resulting from the intended policy.
- The Equality and Human Rights Commission's October 2024 strategic consultation provided the respondents with only 450 words to make their comments.
- In 2022, the government disregarded a consultation where 90% of respondents expressed opposition to some of the proposed changes to the UK's human rights

238 P. Walker and A. Gregory, '*Trans People Banned from Toilets of Gender They Identify With, Says UK Minister*' (The Guardian, 27 April 2025).

239 J. Partridge, '*Barclays to Bar Trans Women from Using Its Female Bathrooms*' (The Guardian, 30 April 2025).

240 L. Knight, '*Court Ruling on Legal Definition of a Woman "Misinterpreted", Lady Hale Says*' (The Guardian, 22 May 2025).

241 Office of the High Commissioner for Human Rights (OHCHR), '*UN Experts Warn of Legal Uncertainty and Rights Implications Following UK Supreme Court Ruling*' (22 May 2025).

242 George Parker and Lionel Barber, *'David Cameron interview: A job half-done'* Financial Times (12 March 2015)

243 [2025] EWHC 53 (Comm)

frameworks and - without explaining its reasons for doing so - went on to include the heavily contested clauses in the Bill of Rights Bill 2022.[244]

145. More generally, according to the 2023 Trust in Government survey, only 22% of the UK public think the government is likely to adopt opinions expressed in public consultations, and only 27% think that national policy is likely to be changed even when most people are opposed.

146. We do not consider that policy should *always* be made in line with the prevailing opinion. While consultations can help decision makers gain a more thorough understanding of what the problem is and what people care about, civil servants' administrative expertise and the government's priorities also play important roles in deciding how to formulate policy. However, we are worried that every rushed, excessively short, or seemingly pre-determined consultation causes people to lose trust that the government will take what they have to say seriously. We think this risk is particularly high when the decision-maker does not provide reasons for departing from the views expressed in the consultation.

147. Our remarks on the need for a wider cultural change in how the government and other state actors approach the issue of compliance with procedures must be read within this context. To build trust between the state and those asked to abide by state laws, it is fundamental that political actors understand that they should go beyond formal compliance with legal requirements. Instead, to give effect to the basic premise of the state and its residents being subject to laws aimed at furthering the common good, they should meaningfully engage with the people impacted by their decisions, treating them as partners in governance rather than subjects of regulation.

Recommendations

148. We recommend that the government, parliamentary leaders, party leaders, and civil society regularly refer to the rule of law and the standards governing the exercise of public power in their everyday work. This should be reflected in speeches, policy statements, and parliamentary debates to reinforce the principle that legality and accountability underpin democratic governance.

149. We therefore recommend that the House of Lords Constitution Committee's compendium, Legislative Standards: 2017–2024, is actively promoted as a key resource for parliamentarians and used to guide best practice in law-making.

150. We recommend that the government implements the existing recommendations on improving access to justice and ensures that institutions whose remits carry human rights and equalities consequences, across both the public and private sectors, receive sufficient funding to discharge their responsibilities effectively.

151. For this reason, we recommend the provision of a systematised introduction to core UK constitutional norms and their rationales, as well as an outline of the UK legal system, to all incoming MPs. This will help parliamentarians understand the principles that structure governance and the long-term consequences of legislative choices.

[244] UK Parliament, '*Bill of Rights: Question for Ministry of Justice*' (6 June 2022); Ministry of Justice, '*Human Rights Act Reform: A Modern Bill of Rights – Consultation Response*' (July 2022).

152. We recommend that measures taken to raise awareness about the value of the UK's constitutional principles, including the rule of law and the consequences of failing to uphold it, among politicians are also extended to the Civil Service. Such training should accompany operational delivery training, ensuring civil servants understand both the practical and constitutional dimensions of their role.

153. We recommend that consideration is given to measures intended to reduce the EHRC's dependence on the government of the day. These measures should include depoliticising the Commission appointments and budget-setting process. This could involve a model where the EHCR's budget, as well as appointments, are controlled by a Select Committee – for instance, the Joint Committee on Human Rights or the Women and Equalities Select Committee.

154. We recommend that the government, parliamentary Select Committees, the Commons and Lords Libraries, and parliamentary leadership work together to create consolidated, accessible statements of norms governing how public power should be exercised in the UK. These statements should be clear, authoritative, and easy to use.

155. We recommend the creation of a research repository that compiles existing resources, such as materials published by the House of Commons Library's Parliament, Public Administration and Constitution Hub and the Constitution Committee's Legislative Standards compendium, into an easily accessible format. This could take the form of an interactive website or app, enabling MPs and other stakeholders to access key information quickly.

Chapter 3 – Lawmaking under the Rule of Law

"Excessive complexity hinders economic activity, creating burdens for individuals, businesses and communities. It obstructs good government. It undermines the rule of law." – Richard Heaton, First Parliamentary Counsel and Permanent Secretary to the Cabinet Office, 2013.[245]

The problem: poor lawmaking is undermining the benefits of the rule of law

1. Lawmaking is the frontline of the rule of law. When Parliament and government produce too much law, too quickly, and in increasingly impenetrable form, certainty, accountability and rights suffer. Businesses and public services absorb avoidable costs, and public confidence erodes. Legal certainty and intelligibility are prerequisites for access to justice. People must be able to find, understand and challenge the law.

2. Recent cycles of primary legislation and a deluge of statutory instruments have outpaced consultation, evidential testing and scrutiny, normalising emergency-style timetables. This chapter argues for a reset: a culture that prizes legislative quality over speed, embeds transparent standards, and equips Parliament and the public to scrutinise effectively. We will set out the problem (volume, pace, complexity), the incentives that drive poor practice, and practical reforms to pre-legislative, post-legislative and secondary legislation processes.

Certainty for all

3. A framework of stable laws gives security and certainty to rights, empowering both citizens and private actors, as well as the state, to make long term decisions with a sufficient level of certainty.[246]

4. Laws that are clear and easy to follow allow individuals to plan their lives in the long term. Quick changes in laws, or the enactment of laws with uncertain consequences, can make it impossible for people to plan their lives. As vividly demonstrated during the Covid-19 pandemic, quickly changing, complex laws may also prove difficult to follow, resulting in unwitting breaches of the law by otherwise law-abiding citizens. At the time, former UK Supreme Court President Lady Hale described the government's rapidly changing and numerous coronavirus restrictions as a "bewildering flurry of new regulations coming in at very short notice."[247]

Economic Benefits

5. The relationship between the quality of law and its enforcement and economic prosperity has historically formed an important reason for why we prize the rule of law in the UK.[248]

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[245]Office of the Parliamentary Counsel, Cabinet Office '*When Laws Become Too Complex: A review into the causes of complex legislation*' ("**n 47**") (March 2013), p.1

[246]Daron Acemoglu and James A. Robinson, '*Persistence of Power, Elites, and Institutions*' (American Economic Review 98 (1): 267–93, 2008)

[247]Select Committee on the Constitution, '*Corrected oral evidence: Constitutional implications of Covid-19*' (2 December 2020)

[248]See Lord Hodge, '*The Rule of Law, the Courts and the British Economy*' (Guildhall Lecture, 4 October 2022)

6. OECD notes that "delays in processing legal cases inhibit economic activity, while the inability to enforce contracts deters people from entering into them."[249] Similarly, in their submission to the House of Lords' Constitution Committee's Inquiry on the Rule of Law, international law firm Linklaters LLP emphasises that the extent to which a legal system relies on vague or unpredictable laws - or permits broad executive or regulatory discretion over business - strongly influences whether companies choose to invest in or base their operations in one country rather than another.[250]

7. London, as a commercial hub, reaps the benefit of a good rule of law. The quality of British laws and justice institutions remains a major draw for global businesses, as reflected in the record number of international companies represented in the London Commercial Courts in 2024.[251] British legal expertise is also in high demand among investors: according to TheCityUK, the UK legal sector contributed £37bn to the British economy in 2023.[252] The UK is home to 7 of the largest 15 global legal firms,[253] and the 2025 Industrial Strategy identifies the UK legal services sector as one of the "pioneering and world-leading frontier industries with the greatest growth potential."[254]

Action to safeguard the rule of law

8. To ensure the UK retains its position as a global legal leader over the long term, action is needed. As we discuss in our 2023 *The State We're In* report,[255] the ways in which laws are currently made and enforced are, at times, not conducive to long-term planning or certainty.

9. We can see this in three ways:

> **Volume**: too much legislation, especially statutory instruments (SIs)
>
> Parliament considers and passes a large amount of both primary and secondary legislation each year.[256] Together with the frequency of amendments to already-existing rules, this can have significant cost implications for businesses that have to navigate complex legislative landscapes.[257] Small and medium businesses, already struggling with the costs of obtaining legal advice, are particularly likely to suffer from the legislative deluge.[258] More generally, the

[249] https://www.oecd.org/en/about/programmes/mena-oecd-governance-programme/rule-of-law.html

[250] Linklaters (n 2), para 2.2.2.

[251] Portland '*Commercial Courts Report 2025*' (19 May 2025)

[252] TheCityUK '*UK maintains its reputation as a world leader for international legal services*' (10 December 2024)

[253] https://www.thecityuk.com/our-work/uk-legal-services-2024/

[254] Department for Business and Trade, Government of the United Kingdom '*The Industrial Strategy*' (2025), p.142

[255] JUSTICE, '*The State We're in: Addressing Threats & Challenges to the Rule of Law*, (September 2023) Chapter 2, p.10ff.

[256] According to Legislation.gov, in 2024 – an election year - Parliament enacted 25 Acts of Parliament and almost 1130 Statutory Instruments (excluding Wales Statutory Instruments).

[257] Linklaters (n 2), p.28

[258] Cabinet Office (n 47), p.17-18

2013 *When the Laws Get Too Complex* review found that "*citizens tend to find the statutes and regulations difficult and intimidating*."[259]

Pace: rushed lawmaking driven by political cycles

Rushed development of legislation may lead to insufficient attention being given to the evidential background of policy, with the result that the legislative measures fail to give effect to intended policy.

Over the past 15 years, successive prime ministers have sought to reduce crime by introducing legislation imposing longer and "tougher" sentences.[260] Legislation increasing judicial sentencing powers for various offences was passed in 2015, 2017, 2018, 2021, 2022, and 2024.[261] Further increases are proposed in the Crime and Policing Bill, currently progressing through Parliament.

However, as the Independent Sentencing Review found, the absence of a "coherent and evidence-based approach to sentencing reform that [would consider] system-wide impacts" has produced "a complex and intricate system where policy has responded to public narratives on crime but the full consequences are often overlooked."[262] As the review notes, the "numerous changes and interactions" in the legislation has led to sentence inflation and longer periods spent in prison and on licence, causing "catastrophic impacts on the delivery and quality of the prisons and probation services,"[263] and contributing to widespread "confusion and frustration" felt by victims of crime and the broader public.[264]

Immigration law is another case in point. Acts of Parliament[265] introducing wide-scale changes to immigration law were passed in 2014, 2016, 2020, 2022, 2023 and most recently 2025, with the Border Security, Asylum and Immigration Act. Meanwhile, numerous additional changes continue to be made each month by secondary legislation. Departments working under such compressed timetables may fail to carry out consultations and impact assessments that could inform the legislation,[266] or may decide to introduce secondary legislation amendments *before the relevant policy is fully developed,* creating significant uncertainty for those affected.[267]

As the Secondary Legislation Scrutiny Committee recently underlined, deficiencies in the information provided to support proposed legislative change make proper scrutiny of proposed

[259]Ibid.

[260]Such proposals were introduced by e.g. Rishi Sunak in 2023; Boris Johnson in 2021 and 2019; Theresa May in 2014; and David Cameron in 2012.

[261]In Acts of Parliament including the Criminal Justice and Courts Act 2015, Policing and Crime Act 2017, Assaults on Emergency Workers (Offences) Act 2018, Counter-Terrorism and Sentencing Act 2021, The Police, Crime, Sentencing and Courts Act 2022, and Sentencing Act 2020 (Magistrates' Court Sentencing Powers) (Amendment) Regulations 2024 (SI 2024/1067).

[262]Independent Sentencing Review, *'History and Trends in Sentencing'* (October 2025), p.23

[263] Ibid., p.38

[264]Ibid., p.45

[265]Immigration Act 2014, Immigration Act 2016, European Union (Withdrawal Agreement) Act 2020, Nationality and Borders Act 2022, Illegal Migration Act 2023, Safety of Rwanda Act 2023,

[266]See Joint Committee on Human Rights '*Legislative Scrutiny : Illegal Migration Bill'*

[267]Secondary Legislation Scrutiny Committee '*Statement of Changes in Immigration Rules (HC 997)'* (33rd Report of Session 2024-2025), Introduction

instruments "impossible" because Parliament is given "insufficient information to gain a clear understanding" of the instrument's "policy objective and intended implementation."[268]

Complexity: legal frameworks are increasingly impenetrable

Taken together, these issues have contributed to UK law becoming increasingly complex. As early as 2015, the House of Lords Constitution Committee warned of the complexity created by near-yearly changes to primary legislation governing immigration.[269] The "Byzantine" complexity of UK immigration law, scattered around several Acts of Parliament and more than 1,100 pages of secondary legislation, [270] has been widely decried. In 2018, barrister Colin Yeo noted that,

"*Even if you can find out what immigration law says about a given immigration scenario, is it possible to understand what the law means? For members of the public the answer is increasingly "no" and even lawyers and judges struggle to make sense of many provisions of immigration law*."[271]

The unchecked complexity of the UK's legal regimes can also carry profound economic consequences, as demonstrated by the recent *PACCAR v Competition Appeal Tribunal* case.[272] In *PACCAR*, the Supreme Court was asked to determine whether a litigation funding arrangement was a "claims management service" for the purposes of the Courts and Legal Services Act 1990. In answering that question, the court was required to navigate no fewer than four interlocking pieces of legislation.[273] The Court's decision that, within the complex statutory scheme, a litigation funding arrangement *was* a "claims management service" took the litigation funding industry by surprise,[274] as the sector had long operated on the assumption that the statutory framework did not have this effect.[275]

The ruling disrupted the funding arrangements underpinning nearly all collective actions pending before the CAT, triggering significant volatility in the fast-growing UK litigation funding

[268] Ibid.

[269] Ibid., para.18

[270] Law Commission, *Simplification of the Immigration Rules* (Law Com No 388, 2020), para 2.4

[271] https://freemovement.org.uk/how-complex-are-the-uk-immigration-rules-and-is-this-a-problem/

[272] *PACCAR v Competition Appeal Tribunal and others* [2023] UKSC 28

[273] Courts and Legal Services Act 1990, the Compensation Act 2006, the Financial Services and Markets Act 2000, and the Damages Based Agreements Regulations 2013.

[274] Michael Cross, *'Shockwaves' as Supreme Court rules litigation funding deals unenforceable*' (The Law Society Gazette, 26 July 2023)

[275] White & Case *'Upheaval in the Litigation Funding Industry: UK Supreme Court Rules that many Litigation Funding Agreement are Unenforceable'* (2 August 2023)

market,[276] a swift government response,[277] the introduction of a bill to reverse the decision,[278] and a review of the third-party litigation market.[279]

[276] Andrew Higgins and Matthew Tweddell '*The Supreme Court blows up the litigation funding market in PACCAR in the name of the Parliament – to the surprise of everyone including the Parliament*' (Civil Justice Quarterly, Q1 2024)

[277] https://www.gov.uk/government/news/department-for-business-and-trade-statement-on-recent-supreme-court-decision-on-litigation-funding

[278] Michael Cross '*Legislation to be unveiled to reverse Supreme Court's ruling in PACCAR*' (The Law Society Gazette, 4 March 2024)

[279] Civil Justice Council '*Review of Litigation Funding. Final Report*' (2 June 2025)

Finding solutions

10. This deterioration in legislative standards is not inevitable. In 2013, the *When Laws Get Too Complex* review suggested that while some causes of legislative complexity are unavoidable, others can be acted upon.[280]

11. Part of the problem stems from legislative scrutiny processes that are not sufficiently robust. Effective scrutiny safeguards against poorly designed legislation and is considered of "paramount" importance as an economic factor.[281]

12. UK policymakers already use tools that help improve the quality of legislation, such as Regulatory Impact Assessments and consultations with stakeholders during the law-making processes. However, the average sitting time in the Houses of Parliament has been steadily trending down since the 1980s, while the volume of legislation has steadily trended up.

13. The problem of insufficient scrutiny is compounded by the broad law-making powers often granted to the executive. These powers can be conferred by primary legislation that allows the government to issue secondary legislation, amend primary legislation without consulting Parliament ("Henry VIII clauses"), or provide minimal guidance on how the powers should be exercised ("skeleton legislation"). Below, we discuss a number of solutions which could be introduced to strengthen UK institutions' capacity to produce high-quality legislation.

14. However, as discussed in the previous chapters, we believe that changes to UK institutions' processes and powers will not, *by themselves,* reverse the long-term deterioration in legislative scrutiny standards. Under pressure to act quickly, "hard" legal standards governing the conduct of the legislative process are perceived as obstacles that slow responses to crises, while departures from softer guidelines are justified by the immediate demands of the emergency of the day.

15. As mentioned in the previous chapter, the emergency, speed-tracked procedures used during the Covid-19 pandemic have also altered expectations about how much time is required to draft a Bill.[282] In *Democracy Denied: The urgent need to rebalance power between Parliament and the Executive,* the House of Lords Delegated Powers and Regulatory Reform Committee discussed a number of ways in which the quality of policy-making and legislative scrutiny deteriorated during the Brexit and pandemic legislation era.[283]

16. For this reason, consistent with the overarching focus of this report, we consider that for better laws to be made, we must encourage a culture that incentivises good law-making at every stage. As the *When Laws Get Too Complex* review observes, improving the standards of lawmaking requires "a shared ownership of, and pride in, legislation,"

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[280] Cabinet Office (n 47), p.29

[281] Sotiris Karkalakos, '*The Economic Consequences of Legal Framework*', (Statute Law Review 45, 2024) p.4

[282] The Economist '*Lawmaking in Britain is becoming worse*' (7 November 2023)

[283] Delegated Powers and Regulatory Reform Committee, House of Lords '*Democracy Denied? The urgent need to rebalance power between Parliament and the Executive*' (12th Report of Session 2021-22, 24 November 2021)

accompanied by a "stronger incentive on all involved [...] to avoid generating excessively complex law or to act positively to promote accessibility, ease of navigation, and simplification."[284]

The culture shift: how can we incentivise good lawmaking?

17. In our view, creating a sense of shared ownership and fostering good law-making practices requires addressing the root causes of the present situation.

18. First, the government needs to realign its incentive structure to strike a balance between the speed and quality of legislation giving effect to its policy priorities. Based on our roundtable discussions, the key message that must be conveyed to policymakers across Whitehall is that creating high-quality policy and legislation is worth slowing the pace of law-making. A more considered legislative pace helps to avoid costly policy failures, embarrassing U-turns, and the need to continuously amend.285

19. Such a realignment would also necessitate a change of approach to the government's use of secondary legislation. The Delegated Powers and Regulatory Reform Committee's 2021 Democracy Denied? report argues that to stem the shift of power from Parliament to the executive, "we need to challenge the culture of Whitehall itself" insofar it "appears to encourage a tendency to see the delegation of legislative powers as a matter of political expediency."286

20. An effort to counter these tendencies would be for the government to publish Cabinet-mandated expectations requiring government agencies to follow good legislative practices. Such a statement could mirror the New Zealand government's statement of Government Expectations for Good Regulatory Practice, which sets out an expectation for "regulatory agencies to adopt a whole-of-system view, and a proactive, collaborative approach to the care of the regulatory system(s) within which they work," including by providing external parties with opportunities to comment when changes to regulatory systems are proposed.287

21. To effectively drive behavioural changes, the attendees of our roundtables underlined that a failure to abide by such principles should imply a political cost. Further, consideration should be given to expressly assigning responsibility for ensuring good law-making standards. In 2013, the Office of the Parliamentary Counsel sought to create a network of "good law champions" who would advocate for good law-making practices within their departments.288 In New Zealand, s.12(e)(v) and s.12(2) of the Public Service Act 2020 require public service chief executives "to proactively promote stewardship of the public

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[284]Cabinet Office (n 47), p.29

[285]In 2013, the Office of the Parliamentary Counsel identified the provision of rushed and inaccurate instructions, setting imprecise objectives for legislative outcomes, superficial assessment of legal framework, not giving department opportunity to provide early advice on the bills as some of the causes of failures to translate policy into legislation. All of the these are characteristic of legislating at speed, and reactive policy-making, Cabinet Office (n 47), p.23

[286]Delegated Powers and Regulatory Reform Committee, House of Lords '*Democracy Denied? The urgent need to rebalance power between Parliament and the Executive*' (12th Report of Session 2021-22, 24 November 2021) p.5

[287]New Zealand Government '*Government Expectation for Good Regulatory Practice*' (April 2017) p.3-4

[288]Cabinet Office and Office of the Parliamentary Counsel, '*Good Law Guidance*' (April 2013)

service, including of... the legislation administered by agencies" when carrying out their responsibilities and functions.

22. The New Zealand government has also published guidance on how to comply with this obligation, emphasising that the stewardship obligation is intended to "protect against short-term thinking when developing policy and making decisions."289 According to academic commentary, the introduction of stewardship into legislation processes in New Zealand illustrates that it is possible to facilitate an approach of reforms as "opportunities for win-win outcomes at the systems level" rather than "zero-sum games."290

23. Second, on a parliamentary level, it is undoubtedly the case that volume and pace of legislative activity lead to Parliament being overburdened. Additionally, as the Hansard Society's Ruth Fox argues, incentives for MPs are "misaligned": parliamentarians get little credit or benefit for being good at legislative scrutiny in either their constituency or the media.291 On the contrary, as one of the participants in our roundtable noted, the pressure may be to legislate quickly, particularly in response to events and issues attracting significant media coverage.

24. Similar sentiments have been expressed by Lord Norton of Louth, a peer and a constitutional expert, and Richard Heaton, the former First Parliamentary Counsel and Permanent Secretary to the Cabinet Office. Commenting on Parliament's contribution to good legislation being made, both noted the absence of a compelling incentive for Parliamentarians to prioritise scrutiny work. In Lord Norton's words, "who watches a public bill committee? "292

25. According to an Institute for Government/Bennet Institute for Public Policy analysis, MPs on average spend just a quarter of their time in the chamber debating bills.293 In addition to the institutional changes intended to give Parliament a power to better scrutinise proposed legislation, we recommend that parliamentary and party leaders should examine how MPs could be given more recognition for conducting high-quality, effective scrutiny.

26. Finally, to ease the pressure placed on Parliament by the volume of secondary legislation produced each year, we recommend exploring mechanisms that would enable meaningful public involvement in the scrutiny of secondary legislation, going beyond traditional consultative exercises.294 Historically, Parliament was not the only body responsible for scrutinising secondary legislation.295 Comparable systems that incorporate structured public participation operate in jurisdictions such as the United States (through the

[289]https://www.publicservice.govt.nz/guidance/principles-guidance/stewardship

[290]Jeroen van der Heijden '*State of the Art in Regulatory Governance Research Paper'* (Victoria University of Wellington, September 2021), p.17

[291]The Economist, *Lawmaking in Britain is becoming worse'* (7 November 2023)

[292]Cabinet Office (n 47), p.1; The House '*The Slow Death of Parliamentary Scrutiny'* (15 May 2023)

[293]Bennett School of Public Policy Cambridge, '*Government should give parliament proper power to scrutinise legislation'* (8 December 2022)

[294]Many thanks to Professor Paul Craig for highlighting to us that Parliament need not be the only actor scrutinising secondary legislation and outlining the historical approaches to such scrutiny.

[295]See Paul Craig '*English Administrative Law from 1550: Continuity and Change*, (OUP 2024), Chapter 6

Administrative Procedure Act's notice and comment process), Canada,296 Denmark, Portugal, and Japan.297

27. The When Laws Become Too Complex review notes that within the UK, interest groups and constituents already draft amendments for MPs to use in debates on primary legislation.298 This existing willingness to contribute could be harnessed more transparently and systematically to increase the scrutiny time provided for secondary legislation. As early as 2013, the review suggested that in specific cases, "public participation could be particularly appropriate and beneficial" in helping to "identify pitfalls in the legislation and ensure that implementation is as efficient and effective as possible." It further anticipated that a "participatory, yet controlled, digital environment" for such scrutiny could reduce "the burden of regulation on communities and businesses."299

28. Consideration should also be given to the role that technology, including AI, could play in facilitating such open-forum scrutiny. Useful examples include the United States' regulations.gov website, which enables the public to comment on regulatory proposals and submit ideas for deregulation, and Estonia's eelnoud.valitsus.ee, which provides a transparent digital environment for public engagement with draft legislation.

Embedding scrutiny and standards

29. We are far from being the first or the only organisation to highlight the need for institutional reform in the UK's legislative process. A wealth of resources exists that examines how the UK law-making procedures and legislative outputs might be streamlined,300 and the House of Commons Modernisation Committee was set up last year to review how the Commons procedures could be improved.

30. For this reason, we limit our discussion of recommended institutional fixes to an outline focusing on the timing of legislative scrutiny, the standards of legislative scrutiny, and the government and Parliament's respective powers concerning secondary legislation.

Timing of scrutiny

31. In line with our 2023 *The State We're In* report, we recommend increasing both the frequency and the quality of key scrutiny processes in order to improve the overall quality

[296]For example, the Department of Finance routinely publishes draft legislative and regulatory proposals for public comment in the course of developing new tax and similar laws and regulations or modifying existing ones. In their "Guidelines for Effective Regulatory Consultations", the Treasury Board of Canada Secretariat states that government departments and agencies must "make systematic efforts to ensure that interested and affected parties have the opportunity to take part in open, meaningful, and balanced consultations at all stages of the regulatory process, that is, development, implementation, evaluation, and review".

[297]OECD '*Practitioners' Guide For Engaging Stakeholders In The Rule-Making Process*' (2013), 39

[298] Cabinet Office (n 47), p.12

[299]Cabinet Office (n 47), p.11

[300]E.g. the Secondary Legislation Scrutiny Committee '*Government by Ditkat: A call to return power to Parliament*' (2021); the Delegated Powers and Regulatory Reform Committee '*Democracy Denied? The urgent need to rebalance power between Parliament and the Executive.*' (2021); Bennet Institute for Public Policy Cambridge '*The Legislative Process. How to empower parliament*' (2022)

of UK policy and legislative outputs and thereby reduce the need for post-enactment amendments. In particular, there should be:

(a) enhanced pre-legislative scrutiny - public consultations and scrutiny of both policy proposals and the text of legislative acts; and

(b) post-legislative scrutiny.

32. In 2013, the Office of the Parliamentary Counsel identified ineffective pre-legislative scrutiny and consultation policies, poor impact assessments, and neglect of post-legislative scrutiny as some of the reasons for failing to effectively translate policy into legislation.[301]

33. Pre-legislative scrutiny and consultations provide a greater opportunity to identify and rectify issues with the legislation when it is in a more malleable form. As New Zealand's Cabinet Manual observes, "[l]ack of consultation within the public sector produces legislation that is likely to require early amendment or to have a protracted or difficult passage through the government policy process and the House."[302] Conversely, opening draft bills to structured scrutiny could facilitate better quality control of a bill's substance and introduce greater accountability into the legislative process - both of which help to enhance public confidence in the final legislation.

34. For these reasons, we recommend that the government adopt a more proactive approach to consultations, with the type and scale of each consultation exercise proportionate to the potential impact of the draft Bill (or measure), rather than determined by the political exigencies of the moment.[303] The recent Change NHS national conversation, consisting of an online GoVocal portal and regional deliberative events, offers an example of best practice,[304] particularly in how it coordinated and combined different types of consultation tools.[305] To ensure that consultation feedback can meaningfully support policy-makers and drafters, consultations should also avoid relying on generic questions that merely respond to already-formulated policy.[306]

35. We also consider that it is imperative that pre-legislative scrutiny is used more widely. According to an IfG/Bennett School of Public Policy analysis, between 2007 and 2022 only one in ten (11.6%) government bills passed by Parliament received pre-legislative scrutiny.[307] As the IfG/Bennett School report also observes, the introduction of pre-legislative scrutiny "has been the most common recommendation parliamentary committees have made for improving the legislative process" and has been recommended by eight select committee reports since 1997.[308]

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[301] Cabinet Office (n 47), p.23

[302] Cabinet Office '*Cabinet Manual*' (2023)

[303] Cabinet Office (n 47), p.27

[304] Department of Health and Social Care '*Change NHS: help build a health service fit for the future*' (21 October 2024)

[305] See also the "Grenelle" Environment Forums in France, p.47-48

[306] Cabinet Office (n 47), p.28

[307] Bennet Institute for Public Policy Cambridge '*The Legislative Process. How to empower parliament*' (2022), p.25

[308] Ibid.

36. For these reasons, we consider that draft legislation, particularly drafts of constitutionally significant or contentious bills, should be subject to detailed scrutiny by one of the Parliamentary select committees.

- As suggested by a stakeholder during one of our roundtables, Departmental Select Committees could be particularly well-suited to play such a role, given their knowledge of the proposing department's work and resource levels.
    - Such an approach resembles the model used in Ireland, where ministers are required to submit draft legislation to the relevant Oireachtas Joint Committee for possible scrutiny.[309] The Committee is given 8 weeks to scrutinise the bill; once 8 weeks pass, the minister can proceed with publication of the bill.
    - A 2017 review of the Irish pre-legislative scrutiny process found that over 40% of the recommendations made by Oireachtas joint committees were adopted by the government.[310]
- An alternative model is New Zealand's Legislation Design and Advisory Committee. The Legislation Design Committee is tasked with drafting guidance on good legislative practice, advising departments in the initial stages of developing legislation, and scrutinising government bills for consistency with the legislation standards.[311] Those standards relate to, among other things:
    - legal areas with significant impact (i.e. matters such as retrospectivity, delegation, charging fees and levies, consultation, search and surveillance powers, seizure powers, and compliance and enforcement).
    - constitutional issues (inc. matters arising out of key constitutional documents such as the New Zealand Bill of Rights Act);
    - international issues (i.e. matters arising out of international treaties and obligations).[312]

37. Consideration should also be given to strengthening the requirement to conduct post-legislative scrutiny. Such requirements exist in other jurisdictions. In Ireland, for instance, twelve months after the enactment of a bill,313 the Government member or Minister of State officially responsible for its implementation must provide a report reviewing the functioning of the Act, which is then laid in the Parliamentary Library.314

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[309] Unless there are exceptional circumstances or the bill is one of the Finance Bill, Social Welfare Bill, and Appropriation Bill.

[310] Catherine Lynch and Shane Martin, '*Can parliaments be strengthened? A case study of pre-legislative scrutiny*', (Irish Political Studies 35(1)), p.138–157, 146; Jennifer Smooklerk, *'Parliamentary Affairs'* (Vol. 59(3), 2006), p.522-535

[311] https://www.ldac.org.nz/; at present, the UK Guide to making legislation is published by the Cabinet office

[312] Legislation Design and Advisory Committee, New Zealand '*Legislation Guidelines*' (2021)

[313] Save in the case of the Finance Bill and the Appropriation Bill.

[314] Dail Standing Order 164A; Deanad Standing Order 168.

38. In the UK, the House of Lords Liaison Committee could have a greater oversight role in ensuring that departmental select committees conduct post-legislative inquiries where appropriate. This approach was suggested by Dr Tom Caygill in a Westminster Foundation for Democracy/Nottingham Trent University report on post-legislative scrutiny.315

39. In addition, we recommend that human rights and equalities considerations are expressly incorporated into the process of post-legislative scrutiny.

40. Currently, under s.19 of the Human Rights Act, the minister proposing a bill is obligated to issue a statement declaring whether they consider the bill's provisions to be compatible with the UK's human rights framework. However, these statements primarily function as a transparency measure intended to inform parliamentary and public debate on a proposed legislative measure. Once tabled, Parliament remains free to amend the legislation considerably, potentially introducing measures not addressed by the original statement's assessment.[316] Incorporating specific human rights compatibility evaluations into post-legislative scrutiny would help to bridge this gap and enable assessment of the long-term human rights impacts of legislation as enacted.

Rebalancing the government and Parliament's legislative powers

41. Along with the recommendations above, we also suggest that a number of more specific changes should be introduced to the process by which Parliament scrutinises secondary legislation introduced by the government.

42. First, with regard to the mechanisms for scrutinising all statutory instruments (SIs), we endorse the recommendations of the Hansard Society's Delegated Legislation Review. It suggests that to enable Parliament to use its time more effectively, the current tripartite structure of the Joint Committee on Statutory Instruments, the Lords Secondary Legislation Scrutiny Committee, and the Commons' Delegated Legislation Committees should be replaced with a two-committee structure, in which a joint committee of MPs and Peers would determine the appropriate level of scrutiny for each statutory instrument. As suggested in the Hansard Society's Working Paper, the House of Commons Delegated Legislation Committees could then be replaced by a set of new permanent Regulatory Scrutiny Committees to scrutinise, debate and, in some circumstances, approve SIs.317

43. To ensure that Parliament acts on the Committee's findings, we also recommend that the Houses of Parliament be given the power to amend the text of statutory instruments and/or

315 Tom Caygill, '*Post-legislative scrutiny in the UK Parliament*' (2021)

316 This is a mechanism analogous with what happens in Canada. In Canada, Section 4.2 of the Department of Justice Act, RSC 1985, c J-2, requires Canada's Minister of Justice to table a Charter statement for every federal Government bill that sets out potential effects of the Bill on the rights and freedoms with the Canadian Charter of Rights and Freedoms. See: Charlie Feldman, "*Preliminary Observations on Parliamentary and Judicial Use of Charter Statements*" (13 J. Parliamentary & Pol. L. 587, 2020); Charlie Feldman, "*Legislative Vehicles and Formalized Charter Review*" (25:3 Constitutional Forum, 2016)

317 Hansard Society, 'Proposal for a New System for Delegated Legislation: A Working Paper of the Hansard Society Delegated Legislation Review' (2023).

accept them in part. As Fleming and Ghazi discuss, the parliaments' inability to amend secondary legislation is a weakness shared by multiple common law jurisdictions.[318]

44. In the UK, Ireland, and South Africa, the parliaments simply do not possess such a power. In New Zealand, s.119 of the Regulations (Disallowance) Act 1989 does provide that if secondary legislation is disallowed, the House of Representatives may amend or replace the secondary legislation. However, according to Fleming and Ghazi, "in practice this power seems to be curtailed."[319]

45. Short of granting Parliament the power to amend statutory instruments, we consider that, at a minimum, the Select Committee conducting the detailed scrutiny of statutory instruments should be given a power to independently trigger their disallowance. As Ghazi and Fleming[320] discuss, this is consistent with practice in Canada, New Zealand, and Australia, where the specialised committees responsible for scrutinising secondary legislation already play a formal role in the process of disallowing secondary legislation.

46. In the UK, however, the Committees that scrutinise statutory instruments currently have no formal power to initiate the process for rejecting an instrument: they can only alert the Houses to their concerns. Even when the Houses are alerted, it can be difficult for MPs to secure a debate on the instrument, particularly given the government's control of the Commons timetable and the fact that most SIs do not require Parliament's positive approval.[321]

47. Giving the Select Committee responsible for detailed scrutiny of SIs the power to prevent a SI from permanently entering the statute book - unless it is addressed by the legislature within a set time period - would help rebalance the respective roles of Parliament and the government in the process of creating delegated legislation.

48. Second, in addition to the above, we believe consideration should be given to enshrining clear, binding standards on which powers should not be delegated to the Executive.

49. At present, bills containing delegated powers must be accompanied by a delegated powers memorandum that explains and justifies why the power is being granted. These clauses are then examined by the Delegated Powers and Regulatory Reform Committee (DPPRC), which monitors the appropriateness of delegating legislative authority to the government and highlights any concerns to Parliament. 322 According to DPRRC estimates, between 2019 and 2023, the government acted on only 30% to 50% of the Committee's comments.

50. We believe that this process forms an important part of preserving the balance of legislative powers between the government and Parliament. In line with our emphasis on the importance of culture in the previous chapter, efforts should be made to increase the

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[318] T. Flemming and T. Ghazi '*Scrutinising delegated legislation: what can Westminster learn from other parliaments?*' (The Constitution Unit Blog, 18 August, 2023).

[319] Ibid.

[320] Ibid.

[321] The majority of SIs are laid in Parliament under the negative procedure: https://www.parliament.uk/about/how/laws/secondary-legislation/statutory-instruments-commons/

[322] Cabinet Office '*Guide to Making Legislation*' (2025), part 15

uptake rate of the DPRRC's recommendations, including through alerting stakeholders to why legislative scrutiny matters,323 and to the negative consequences of excessive delegation, some of which are set out at the beginning of this chapter.

51. It is notable, however, that in its Democracy Denied? report, the DPRRC considered that to change the prevailing culture in Whitehall of treating the delegation of powers "as a matter of political expediency" would require significant revisions to the standards set out in the Cabinet Office Guide to Making Legislation. Many of those changes have been implemented – for instance, the 2025 Guide to Making Legislation references the DPPRC's 2021 statement of principles for assessing whether to include delegated powers in a bill324 and provides a Delegated Powers Toolkit offering guidance on when to include a delegated power in a bill.325

52. However, while the Toolkit identifies circumstances in which delegated powers "should not generally be used" or are "unlikely to be appropriate," it does not draw any red lines.326 Further, despite the redesign of the Guide to Making Legislation, bills containing delegations of powers considered "inappropriate" or even "unacceptable" by the DPRRC are, from time to time, still laid before Parliament.327

53. The UK is an outlier in terms of not setting out any red lines on the delegation of legislative powers.

- In New Zealand, the Legislation Guidelines make it clear that it is "*not* appropriate" to delegate powers in order to "fill any gaps in an Act that may have occurred as a result of a rushed or unfinished policy development process,"; "avoid full debate and scrutiny of politically contentious matters in Parliament,"; or, "solely to speed up a Bill's passage through Parliament."[328]

- The Constitutions of Portugal, France, Italy, Spain, and the Netherlands all contain articles imposing limits on the different spheres in which delegated legislation operates, restricting lifespan, potential and the topics it might address.

- The delegation of legislative powers in the United States and Ireland is governed by the judicial interpretation of broad constitutional provisions focusing on the power of the legislature.

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[323]See Delegated Powers and Regulatory Reform Committee '*Democracy Denied? The urgent need to rebalance power between Parliament and the Executive*' (2021) p.4

[324]Cabinet Office '*Guide to Making Legislation*' ("**n 122**"), para 15.3

[325]Ibid., Annex E

[326]Ibid., p.359-369

[327]See e.g. https://publications.parliament.uk/pa/ld5901/ldselect/lddelreg/23/2303.htm;

https://publications.parliament.uk/pa/ld5901/ldselect/lddelreg/49/4903.htm;

or https://publications.parliament.uk/pa/ld5901/ldselect/lddelreg/172/17203.htm.

[328]Legislation Design and Advisory Committee, New Zealand '*Legislation Guidelines*' (2021), ch.14

54. We consider that in the long term, thought should be given to incorporating "hard" restrictions on the delegation of legislative powers. This should both be set out in the Cabinet Office Guide to Making Legislation, as well as codified in primary legislation.

Standards of scrutiny

55. Finally, to ensure that improvements in the scrutiny of primary and secondary legislation lead to an improvement in legislative outcomes, we also recommend that the standards applied when scrutinising secondary legislation are (i) unified into one list and (ii) expanded to include additional grounds.

56. At present, the Joint Committee on Statutory Instruments (JCSI) is responsible for scrutinising the technical and legal aspects of statutory instruments, and the Secondary Legislation Scrutiny Committee (SLCS) considers the policy effects and procedural compliance of secondary legislation. Instruments subject to affirmative procedure are also scrutinised by ad-hoc Delegated Legislation Committees in the Commons.

57. The grounds on which each committee can draw an instrument to the Houses' attention are set out in their terms of reference and are summarised in the table below.

Secondary Legislation Scrutiny Committee (SLSC)	**Joint Committee on Statutory Instruments (JCSI)**
The SLSC should alert the House when an instrument: 1. Is politically or legally important or gives rise to issues of public policy likely to be of interest to the House; 2. May be inappropriate in view of changed circumstances since the enactment of the parent Act; 3. May imperfectly achieve its policy objectives; 4. Is accompanied by explanatory material that provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation; or 5. There appear to be inadequacies in the consultation process which relates to the instrument.	The SlJC can draw to the House's attention instruments that: 1. Impose a charge on the public revenues or contain provisions requiring payments to be made to the Exchequer, a government department, or a local or public authority;[330] 2. Are made in pursuance of any enactment containing specific provisions excluding it from challenge in courts (ouster clauses); 3. Purport to have retrospective effect where the parent statute does not expressly confer such authority;

[330] in consideration of any licence, consent, or services to be rendered.

Secondary Legislation Scrutiny Committee (SLSC)	Joint Committee on Statutory Instruments (JCSI)
The above list of grounds is not exhaustive.[329]	4. Have been subject to an unjustifiable delay in publication or laying before Parliament;[331] 5. Appear to be defectively drafted; 6. Should be elucidated for any reason related to their form; or 7. There appears to be doubt whether they are intra vires, or they appear to make unusual or unexpected use of the powers conferred by statute.[332]

58. We have reviewed the standards of scrutiny used in various jurisdictions, which are summarised in Table 2 in the Annex. Drawing on the experience of those jurisdictions,[333] we recommend adding the following criteria of scrutiny to the grounds on which a statutory instrument can be drawn to each House's attention:

    (a) whether the instrument is clear, simple, and practical for its intended users; (by analogy with standards applied in New Zealand and Australia)

    (b) whether the instrument makes rights, liberties, obligations or interests unduly dependent on insufficiently defined administrative powers; (Australia, Canada)

    (c) whether the instrument trespasses unduly on personal rights and liberties, including rights protected by human rights legislation (Australia, Canada)

    (d) whether those likely to be affected by the instrument were adequately consulted in relation to it; (Australia)

    (e) whether the instrument appears for any reason to infringe the rule of law (Canada).

59. We believe that incorporating these criteria into the grounds for scrutiny could help scrutinising committees engage with all potential relevant grounds more effectively than a shorter and non-exhaustive list would.

[329] Secondary Legislation Scrutiny Committee '*SLSC Terms of Reference*' (29 July 2024), s1(a)-(e); s6

[331] And there appears to have been unjustifiable delay in sending a notification under the proviso to section 4(1) of the Statutory Instruments Act 1946, where an instrument has come into operation before it has been laid before Parliament.

[332] Standing Order 151(1)(i-viii),

[333] Please see Annex for a full list of standards in jurisdictions references.

60. Including a criterion that explicitly considers whether secondary legislation respects fundamental rights would also help "streamline" human rights scrutiny across Parliament, rather than leaving it solely to the Joint Committee on Human Rights.

61. Similarly, adding a criterion on adequate consultation could help prevent situations like that in R. (Associated Society of Locomotive Engineers and Firemen and others) v Secretary of State for Business and Trade,334 where a piece of secondary legislation was found to be void because of a minister's failure to properly carry out a statutory duty of consultation. The failure exposed several businesses to the risk of retrospective criminal liability.335

62. We recommend that, to enable holistic scrutiny of SIs, the criteria outlined above should be applied by both the "sifting" and "in depth" scrutiny committees proposed in the Hansard Society's Working Paper. Attention should also be paid to measures that build the capacity of parliamentarians and drafters to conduct effective scrutiny from an early stage. This could include, for example, training provided to MPs during induction or greater incorporation of legislative techniques and interpretation in university-level curricula.[336]

Designing laws that apply equally to all

63. A core aspect of the rule of law is equality before law: the idea that the rules should apply equally to everyone, regardless of their status, background, or position. Unless legal rules are designed and enforced with an eye to such disparities, people will not feel, or be, equal before the law. To achieve this, there needs to be greater engagement at all levels of lawmaking in assessing the impact of new laws on different sections of society to prevent unintentional, as well as intentional, discriminatory consequences.

64. Article 14 ECHR places a duty on the state to treat all persons in relevantly similar situations equally as concerns their enjoyment of the rights and freedoms guaranteed by the Convention unless there is an objective and reasonable justification for the state not to do so.4 In domestic law, the Equality Act 2010 created the Public Sector Equality Duty,5 which requires all public authorities, including government departments, to have due regard to the need to eliminate discrimination, harassment, and victimisation; advance equality of opportunity; and foster good relations. However, as the examples below illustrate, these duties have not been sufficient in ensuring equality before the law.

65. By making use of the existing framework, we must ensure proper awareness of Article 14 ECHR, and that carrying out the PSED,337 is not simply viewed as a box-ticking exercise,

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[334] *R. (Associated Society of Locomotive Engineers and Firemen and others) v Secretary of State for Business and Trade* [2023] EWHC 1781 (Admin).

[335] Joanna Bell '*Strike Cover, Consultation and Quashing: An Analysis of R. (Associated Society of Locomotive Engineers and Firemen) v Secretary of State*' (Industrial Law Journal, Volume 52, Issue 4, December 2023), p.930–943

[336] See e.g. Lord Burrows, '*Seven Lessons from Inside the UK Supreme Court*' (Neill Lecture 2023), p.2

[337] Public Sector Equality Duty requires all public authorities, including government departments, to have due regard to the need to eliminate discrimination, harassment, and victimisation; advance equality of opportunity; and foster good relations.

but part of a culture wherein such considerations are at the forefront of policymakers' minds and baked in from the beginning.

66. Research indicates that growing up in the UK today is not an equal experience: there are wide disparities between young people depending on their region, their ethnicity, their income bracket, their gender and their education. Those inequalities persist into adulthood and impact the everyday lives of many people. White working-class men, for instance, are less likely than any other group to access higher education.338 Black people, in turn, report lower trust in their local police than other groups.339

67. Even when laws appear on their face to apply equally to all, the reality can be very different as demonstrated by the 2017 UNISON340 decision. In this case the Supreme Court found that the Employment Tribunal fees, introduced in 2013, were likely to impact women more severely than men – even though the fees nominally applied to all cases equally. This was because women's experiences of mistreatment at work, and hence ET claims, were typically more complex and likely to involve multiple causes of action more complexly discriminated.341

68. Another example is the law governing stop and search, which makes no distinction between people of different races and ethnicities. However, in the year ending March 2025, people identifying as Black or Black British were stopped and searched at a rate 3.8 times higher than people identifying as White across England and Wales.342

69. These examples demonstrate that the way laws are designed has a significant impact on whether everyone is equally affected by them or benefits from their protection.

Impact Assessments

70. In line with our suggestions on the measures which should be implemented to make British laws clearer and more predictable, we recommend that the government make more effective use of impact assessments to evaluate policy effects on different groups. This should include, for example, use of adequate and accurate data and assessment templates that require policymakers to consider how a policy solution might disproportionately impact on a demographic or Convention right.

71. Impact assessments are generally required for all UK government interventions of a regulatory nature. The Cabinet Office's 2025 Guide to Making Legislation sets out that "an impact assessment comprises a full assessment of economic, social, and environmental impacts,"343 setting out that a department should ensure they have covered all relevant points; where necessary, consult the Better Framework Regulation Guidance; or ask for advice from their departmental Better Regulation Unit.

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338 Office for Students, '*White British males from low socioeconomic status backgrounds*' (27 July 2020)

339 https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/stop-and-search/latest/

340 *R (UNISON) v Lord Chancellor* [2017] UKSC 51

341 Ibid. [132] (Lord Reed, giving the judgment of the Court)

342 https://irr.org.uk/research/statistics/criminal-justice/

343 Cabinet Office *'Guide to Making Legislation'* (2025)

72. Despite this recent publication, the current approach to impact assessments in central government is, in fact, disjointed. In some ways, the UK follows a similar system to many other countries, notably Ireland and New Zealand, of using Regulatory Impact Assessments (RIA) when preparing new policies. However, in the UK, RIAs are oriented towards economic impacts, focusing primarily on cost-benefit analysis. Separate equality and environmental impact assessments may additionally be undertaken as part of the impact process.

73. In New Zealand, the Regulatory Impact Statement (RIS) template,344 published by the Ministry for Regulation, sets out wider-ranging questions than the equivalent UK template, requiring policymakers to consider how the problem requiring a policy solution might disproportionately affect any population groups.345 It goes on to ask "What are the distributional impacts of this intervention, including on regulated parties?", with a follow-up of "Could this option have any other possible impacts, including unintended ones?"346

74. An independent study commissioned by the Scottish government in December 2023 also highlighted New Zealand's use of an intersectional lens when assessing impacts, highlighting that "policymakers and organisations must consider the potential cumulative effects of policies on different groups," with this strategy ensuring that "policies are tailored to meet the diverse requirements and life experiences of all individuals."347

75. In Ireland, the Cabinet Handbook provides that any Memorandum brought by a government minister to Cabinet seeking approval for legislation or secondary legislation involving changes to the regulatory framework must be accompanied by a Regulatory Impact Analysis. Under the "full RIA" model set out in the Handbook, an assessment must consider the impacts of options considered under several headings relating to social, environmental and economic concerns, such as the impacts on socially excluded or vulnerable groups, as well as people with disabilities and rural communities; poverty levels; and the rights of citizens and human rights.348

76. As per the Better Regulatory Framework (BRF), there is an expectation that UK policymakers will carry out separate Equality Impact Assessments (EIA) where relevant, in compliance with the PSED. However, in England,349 there is no legally prescribed process, template, or style guide for complying with or recording compliance with the

[344]In New Zealand, the Cabinet Circular requires that Regulatory Impact Statements (RIS) accompany all policy proposals taken to Cabinet for approval that require creating, amending or repealing primary or secondary legislation, unless an exemption applies.

[345]Regulatory Impact Statements; listing: eg, Māori (as individuals, iwi, hapū, and whānau), children, seniors, people with disabilities, women, people who are gender diverse, Pacific peoples, veterans, rural communities, ethnic communities, etc.

[346]Ibid.

[347]Scottish Government, Director of Equality, Inclusion and Human Rights, *'International approaches to advance equality: insights from six countries'* (15 December 2023)

[348]Department Of The Taoiseach "*Cabinet Handbook"* (December 2006), p.62

[349]unlike in Scotland and Wales.

PSED for public authorities.350 EHRC guidance does not require an EIA, though they strongly suggest conducting them at the formative time of policy development. The guidance also states that "[a]dequate and accurate equality evidence, properly understood and analysed, is at the root of effective compliance with the general equality duty."351

77. Practitioners and government auditors have lamented the "rubber stamping" or "tick box" view of EIAs: that is, that they are done as a defensive exercise for legal compliance, without rigour or any intention to meaningfully promote equality.352 Often, this means that EIAs are conducted late in the policy formulation or decision-making process.

78. JUSTICE analysis of policy EIAs reveals that they are often based on shaky or missing evidence. In addition, when data does demonstrate an unequal impact, policies are often justified as "proportionate means to achiev[ing] a legitimate aim," and weak mitigation measures are put in place, if any.

79. Often, EIAs are compiled on scant or cherry-picked evidence. For example, the Housing Benefit Cap EIA does not include much detail on how data was gathered, or efforts to gather data. It determined the impact of the policy based only on a DWP simulation model, with admittedly "a degree of uncertainty around the results."353 The data within the model, how the model produced results, or any further information about the model is absent from the EIA. And instead of using direct evidence of the policy's impact on different racial groups, the EIA generalises based on the DWP model's expected impact of families of a certain size, then uses the Office for National Statistics' findings about average family size by ethnic group to generalise.354 This example demonstrates the lack of data transparency and the cherry-picking or generalising of existing data, which is used to estimate impact.

80. When data does show a disproportionate impact on a particular group, weak mitigation measures are often put in place, or the unequal impact is simply said to be "a proportionate means of achieving a legitimate aim."355 For example, the Compliant Environment 2023 EIA recognises the disproportionate effect of the policy based on age but excuses it as a

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[350]Equality and Human Rights Commission *"Technical Guidance on the Public Sector Equality Duty: England"* (2014) p. 20 (citing R (Brown) v Secretary of State for Work and Pensions [2008] EWHC 3158 (Admin), [93]), (n 2) ("*[T]he fact that a body subject to the duty has not specifically mentioned [s.149] in carrying out the particular function … is not determinative of whether the duty has been performed.*"); Whilst EIAs are not required, the burden to demonstrate compliance with the PSED rests on the decision-maker in legal proceedings. Written impact assessments have therefore become an important written record to show that the decision-maker had considered the impact of the policy on equality considerations and, where relevant, had good reasons why the duty did not apply to that decision

[351]*R. (on the application of DXK) v The Secretary of State for the Home Department* [2024] EWHC 579 (Admin), 4 W.L.R. 46 [137], [154(i)-(iii)].

[352] Auditor General for Wales "*Equality Impact Assessments: more than a tick box exercise?"* (September 2022) p. 22.

[353]Department for Work and Pensions "*Equality Impact Assessment: Household Benefit Cap*" (October 2011) p.5 par.11

[354]Ibid p. 7, par. 22.

[355]Home Office "*Overarching Equality Impact Assessment [EIA] of the Compliant Environment*" (November 2022) p.14, par.12, p.16., par. 23.

"proportionate means of achieving a legitimate aim."356 The same is said about disproportionate impacts of the policy based on disability,357 gender reassignment,358 race,359 and other protected characteristics throughout. However, this quick dismissal meant that no (or very weak) mitigation measures were put in place, and the EIAs did not specify a way to prevent or ensure there was no resulting discrimination.

81. As these examples illustrate, the current approach to EIAs in the UK is lacklustre and frequently an afterthought. It is notable that in the UK, it is only the RIAs and not other types of assessment that have templates and structured guidance documents published by the government. As stated above, EHRC guidance on PSED and EIAs sets out that there is no prescribed way to complete an EIA, nor what needs to be included. Further, in the BRF guidance and 2025 Cabinet Office guide, RIAs are coterminous with "final impact assessments" and simply "impact assessments." This further solidifies the sense that RIAs are prioritised over the social and environmental equivalents in policy development.

82. Research commissioned by the Scottish Government suggests that the provision of guidelines, standardised templates and training in the analysis of equality issues helps with intersectional reporting.360 Taking into consideration the Irish and New Zealand approach, we suggest that streamlining impact assessments into a single process and single document could promote a stronger culture of engaging with potentially discriminatory effects in policy and law.

Human Rights

83. We are also concerned that there is a lack of attention to human rights in the development of policies by public authorities. Looking again at the Irish Cabinet Office guidance on RIAs, the impact of the "rights of citizens/human rights"361 is listed as a standalone factor to be considered in the impact assessment. There is currently no equivalent phrasing in the existing RIA template or guidance, nor do we have a separate human rights impact assessment. In fact, human rights are not mentioned at all in the BRF guidance for policy development.

84. Nevertheless, it is the case that there is direct engagement with Convention rights as bills are being prepared. A legal issues memorandum, including any relevant human rights concerns, must be produced for the Parliamentary Business and Legislation Committee before it will approve a bill for introduction or publication in draft. At the publication stage, either the explanatory notes to the bill or a specific human rights memorandum must set out the bill's compatibility with the Convention rights. Finally, as set out earlier, s.19 of the Human Rights Act requires that a minister must make a statement of compatibility with Convention rights, or a statement that he is unable to do so. A review of this process

[356]Ibid.

[357]Ibid. p.19 par. 36.

[358]Ibid. p. 21 par. 37.

[359]Ibid. p. 24 par. 65, p. 30 par. 84.

[360]Scottish Government, Director of Equality, Inclusion and Human Rights, 'International approaches to advance equality: insights from six countries' (15 December 2023).

[361]Department Of The Taoiseach "*Cabinet Handbook"* (December 2006), p.62.

illustrates that human rights are firmly the remit of lawyers and the advice that they give to policymakers to assess whether policies will be compliant with the Human Rights Act.

85. The 2025 Cabinet Office guidance sets out that:

*"It **should be standard practice**, when preparing a policy initiative, for officials to consider the impact of the proposed policy on people's Convention rights. Officials, therefore, need awareness of the Convention rights and of key concepts such as proportionality. Such consideration must not be left to legal advisers (though they should be involved throughout) or to a last-minute 'compliance' exercise*." [emphasis added].

86. This vague concept of "standard practice" does not instil confidence that policymakers are fully immersed in the Convention rights to consider them as policies are being designed. There is currently no public guidance for policy makers, whether from the government, the EHRC, or any other group, on applying a human rights framework. The requirement, which falls on lawyers, is to consider legal compliance.

87. We are concerned that the lack of guidance on human rights obligations for officials without a legal background makes them reliant on departmental legal advisers. This, in turn, may contribute to a perception that human rights are the lawyers' exclusive domain, rather than standards applied by all policy- and decision-makers. A specific focus on human rights should be included in the impact assessment process.

88. For this reason, we recommend the development and adoption of a more streamlined impact assessment process, alongside the introduction of training and tools for policymakers to properly assess the human rights and equalities impacts of their proposals.

89. Examples of such tools utilised in other jurisdictions include:

- In **Ireland**, the Irish Human Rights and Equality Commission provides eLearning modules and workshops to public servants (such as members of An Garda Síochána (the Irish police force), Irish Prison Service, local authority officials and civil servants) to raise awareness and understanding of equality, human rights, the obligatory Duty, and how to apply it in their work. By 2023, over 3000 public servants across 181 Public Bodies had registered to complete the module.

- In **South Africa**, the government publishes standardised templates[362] available for organisations to use when reporting on progress towards equality outcomes.

[362] https://hrtorque.co.za/wp-content/uploads/2016/03/EEA2-Form.pdf; https://www.21century.co.za/wp-content/uploads/2019/09/EEA4-form-pdf.pdf

Better collection of equalities and human rights data

90. In connection with the above, we recommend the development of tools aimed at the collection of high-quality data that could support equality and human rights analysis. The many characteristics which shape people's identities – for instance, the place where they live, their gender, race, religion, socio-economic status, sexual orientation, disability, or religion – all influence their individual experiences and outcomes and cannot be meaningfully analysed in isolation.363

91. A recent study, for instance, found that while reduced trust in the UK police is associated with factors such as being from an ethnic minority and belonging to a lower social class, low predicted trust in the UK police is the most prevalent among those who are younger, non-White and socioeconomically disadvantaged. White socioeconomically disadvantaged men living outside of London also displayed lower-than-expected trust. According to the authors of the study, efforts to increase trust in the police would thus be the most effective when targeted and adapted towards the needs of these specific groups.364

92. However, to be able to identify such groups, researchers need high-quality data – and, as we identify in our The State We're In Report and experience in our day-to-day work, UK data is at times collected and handled in ways that do not facilitate analysis.

Data collection and quality

In relation to data collection, there are significant issues with both quantitative and qualitative data collection to be used for equality impact assessments, such as on protected characteristics. A 2022 report of the Auditor General for Wales on Impact Assessments found that there are serious gaps in the data available to public bodies when carrying out equality impact assessments. Generally, there is little information available about sexual orientation, gender reassignment, and pregnancy and maternity. Data that is available at a national level is sometimes not available at a health board, council, or ward level, which makes it difficult for public bodies to understand local populations.[365]

Even where collected, there may be gaps in knowledge concerning the quality of the data collected. For example, the Office for Statistics Regulation recently assessed that the Home Office had "insufficient oversight of police force data quality, which poses a significant risk to the quality of the statistics."[366]

Publication of data

In addition to problems with data collection, JUSTICE has also identified concerns about some government departments' approach to releasing data that *is* collected. For instance, there are numerous examples of important categories of data only being released in response to Parliamentary questions, or freedom of information requests. It is unclear why the government

[363]Ferhat Tura, Steven Pickering, Martin Ejnar Hansen, and James Hunter, '*Intersectional Inequalities in Trust in the Police in England*' (Policing and Society (July 2025)) p1–15, 3

[364]Ibid., p10-11

[365]Audit Wales, 'Equality Impact Assessments: More than A Tick Box Exercise?' (2022).

[366]Office for Statistics Regulation, 'The quality of police recorded crime statistics for England and Wales' (2024)

sits on key data rather than proactively taking steps to publish it. This lack of transparency can also have an impact on data quality. For instance, the inaccuracies identified in Crown Court data in 2024 and made subject to a review by the statistics regulator, were only identified due to analysis for a Freedom of Information request, rather than as part of an in-house routine data checking and validation.[367]

93. These difficulties come on top of the wider reliability problems faced by the UK's data collection and analysis systems.368

94. To make laws that apply equally to all and have no unintended discriminatory effects, policymakers must have access to a reliable set of data points and indices that could inform their decisions across all areas of policy making. We therefore recommend that consideration is given to lessons which may be learned from human rights and equalities-centric data programs launched abroad in the past few years, some examples of which are listed below and in the Annex.

- A number of Canadian provinces have enacted legislation, or other measures, calling for the collection and analysis of disaggregated demographic data for the purposes of identifying and eliminating racial disparities in the impact of laws and other racial disparities.

- The Canadian federal government sometimes uses Gender-based analysis plus (GBA+)[369] while developing policies programs and legislation to assess how diverse groups of people may experience those initiatives. The "plus" indicates that the analysis goes beyond sex and gender and includes the examination of a range of other intersecting identity factors including age, race, religion, and class.[370]

- Statistics New Zealand operates the Integrated Data Infrastructure,[371] which collects, stores, and allows the provision of equalities data (among other types of data) by government agencies and non-government organisations.

- In Ireland, the Irish Human Rights and Equality Commission issues the "Implementing the Public Sector Equality and Human Rights Duty" guidance,[372] which sets out the general principle that data collection should inform what public

[367]Office for Statistics Regulation '*Review of the quality of criminal court statistics for England and Wales*' (March 2025)

[368]Richard Partington, '*Troubled UK statistics agency warns of errors in its growth figures*', (The Guardian, 21 March 2025); Stuart Adam, Isaac Delestre, Carl Emmerson, and David Sturrock , '*£2 trillion poorer than previously thought? Assessing changes to household wealth statistics*' (IFS Report, March 2025), p.2

[369]The "plus" indicates that the analysis goes beyond sex and gender and includes the examination of a range of other intersecting identity factors including age, race, religion, and class.

[370]Women and Gender Equality Canada "*What is Gender-based Analysis Plus*" (July 31 2024); Vanessa A MacDonnell "*Gender-Based Analysis Plus (GBA +) As Constitutional Implementation*" (96-2 Cdn. Bar Rev. 372, 2018); Auditor General of Canada "*Report 3—Follow-up on Gender-Based Analysis Plus*" (2022)

[371]Stats NZ, *Integrated Data Infrastructure*

[372]Irish Humann Rights and Equality Commission '*Implementing the Public Sector Equality and Human Rights Duty*' (2021), p.24

bodies know about its service users and suggests an approach for the factors to consider in collecting data. In 2022, the Irish Government also announced the development of a National Equality Data Strategy, the stated goal of which is to improve the collection of all equality data and will improve the ability of public bodies to monitor the impact of policies and initiatives.[373]

95. In addition to the above, we also recommend implementing measures intended to strengthen the data skills and literacy of policy professionals and make such professionals "intelligent customers" of data analytics produced by data programmes. As the OECD explains, this can be done through "*ad hoc training within a skills framework [or] identifying where good capability sits in the public sector system, facilitating the access of professionals to these centres of expertise and capability, and encouraging knowledge-sharing and peer learning*."[374]

Recommendations

96. We recommend increasing both the frequency and the quality of key scrutiny processes in order to improve the overall quality of UK policy and legislative outputs and reduce the need for post-enactment amendments. In particular, there should be:

    (a) enhanced pre-legislative scrutiny such as public consultations and scrutiny of both policy proposals and the text of legislative acts;

    (b) and post-legislative scrutiny.

97. We recommend that Parliamentary and party leaders should examine how MPs could be given more recognition for conducting high-quality, effective scrutiny.

98. We recommend that the government adopt a more proactive approach to consultations, with the type and scale of each consultation exercise proportionate to the potential impact of the draft Bill or measure.

99. We recommend that human rights and equalities considerations are expressly incorporated into the process of post-legislative scrutiny.

100. We endorse the recommendations of the Hansard Society Working Paper to replace the current tripartite structure of the Joint Committee on Statutory Instruments, the Lords Secondary Legislation Scrutiny Committee, and the Commons' Delegated Legislation Committees.

101. We recommend that the Houses of Parliament be given a power to amend the text of statutory instruments or to accept them in part.

102. We recommend that the standards applied when scrutinising secondary legislation are unified into one list and expanded to include additional grounds.

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[373] Department of Children, Disability and Equality '*Minister O'Gorman announces the development of a National Equality Data Strategy*' (21 March 2022); Council of Europe *'Creating the conditions for an equality data strategy in Ireland - Intercultural cities programme'* (2020)

[374] OECD, '*Strengthening Policy Development in the Public Sector in Ireland'* (OECD Public Governance Reviews, 2023)

103. We recommend adding the following criteria of scrutiny to the grounds on which a statutory instrument can be drawn to each House's attention:

(a) whether the instrument is clear, simple, and practical for its intended users; (by analogy with standards applied in New Zealand and Australia)

(b) whether the instrument makes rights, liberties, obligations or interests unduly dependent on insufficiently defined administrative powers; (Australia, Canada)

(c) whether the instrument trespasses unduly on personal rights and liberties, including rights protected by human rights legislation (Australia, Canada)

(d) whether those likely to be affected by the instrument were adequately consulted in relation to it; (Australia); and

(e) whether the instrument appears for any reason to infringe the rule of law (Canada).

104. We recommend making more effective use of impact assessments to evaluate policy effects on different groups. This should include, for example, using assessment templates requiring policymakers to consider how a policy solution might disproportionately impact a particular demographic or Convention right.

105. We recommend developing and using better tools and standards to collect high-quality data for equality and human rights analysis and impact assessments.

106. We recommend learning from recent human rights- and equalities-focused data programmes developed abroad.

107. We recommend implementing measures to strengthen the data skills and literacy of policy professionals within government and public bodies more broadly.

Chapter 4 – A System that Serves us All

Introduction

"*We need to explain that the rule of law is not the preserve of arid constitutional theory. We need to explain how it provides the stable and predictable environment in which people can plan their lives, do business and get ahead; in which businesses can invest, the economy can grow; people can resolve disputes fairly and peacefully, and express and enjoy their basic rights and freedoms*."[375] Lord Hermer KC, Attorney General for England and Wales

1. The rule of law is often discussed in abstract or institutional terms, yet its legitimacy ultimately rests on whether people experience it as real, fair, and effective in their daily lives. If the law is seen to protect some interests more reliably than others, or to exist only on paper, then public confidence erodes. Strengthening the rule of law and support for it requires attention to how it operates at the level of day-to-day interactions.

The rule of law on the microscale

2. For most people, the rule of law is not encountered as a constitutional ideal, but through its impact on daily life.376 It is encountered by businesspeople grappling with unpredictable legislative changes; renters trying to get their home repaired; parents trying to make sure their child's special needs are accounted for at school. Its beneficiaries are victims of crime, hoping for a thorough investigation from the police and justice from the courts; they are defendants, waiting for a decision on their guilt or innocence.

3. A review commissioned by the Scottish government suggests that "the strongest drivers of public attitudes to the justice system seem to be those closest to the individual - personal experience of the justice system, and of the local neighbourhood."377 Some of the most consequential departures from the rule of law relate to how the law shapes - or does not shape - the actions of their employers, landlords, and business partners, and other members of their community.[378]

Rule of law on the microscale: Employment law

UK employment law contains several measures aimed at protecting the interests of employees in the private sector, such as protections against unjustified wage deductions or dismissals, or provisions entitling disabled workers to reasonable accommodations in their workplace. This is because employees are frequently economically dependent on their employers. Some employers may seek to use this power to adopt unethical labour practices – for instance, by not paying their employees

[375] Attorney General Lord Hermer KC, '*The Rule of Law in an Age of Populism*', (Bingham Lecture on the rule of law, 14 October 2024).

[376] Linklaters LLP, '*Written Evidence to HL Constitution Committee on the Rule of Law*', (14 April 2025), para 3.1.2.

[377] Scottish Government, *'The Public and the Justice System: Attitudes, Drivers and Behaviour - A Literature Review'* (28 June 2012).

[378] G. Postema, *'Law's Ethos: Reflections on a Public Practice of Illegality'* (Boston University, 2010).

the legal minimum wage,[379] making them work long hours,[380] or failing to ensure safe work conditions.[381]

Employment law strives for a fair balance between the interests of the employer and the employee, creating certainty and trust in their relationship. However, if employees cannot access the *means* of upholding their rights – for instance, because the employee-employer conciliation services and tribunal proceedings are experiencing delays,[382] or because they cannot afford the fee to bring their case to a tribunal[383] - the presence of such protections on the statute books cannot serve its purpose. The inability to vindicate their rights could also make employees feel like the law applies to them, but not their employer.

Rule of law on the microscale: Housing law

Housing is an example of an area where the "interpersonal" dimension of the rule of law makes a substantial difference to everyday lives. Domestic law in England provides piecemeal rights and protections for tenants through several different pieces of legislation, and has been criticised as outdated, complex and poorly enforced. Tenants in both social and private rented accommodation often struggle to take action against poor living conditions and health and safety hazards.[384] Recent legislation has been a positive step forward. For example, the Renters Rights Act 2025 removes 'no-fault evictions,' aimed at addressing the issue of retaliatory evictions for tenants making requests for repairs.[385] It also brought a 'decent homes standard' into the private rented sector. The introduction of Awaabs Law requires social landlords in England to fix reported hazards such as damp, mould, and emergency repairs within strict, legally enforceable timeframes. However, without raising awareness of these rights on a large scale and providing access to advice on how to enforce them, many individuals will continue to live in poor housing conditions despite regulatory changes.

4. At present, the government and other stakeholders alike often defend the rule of law by pointing to its contribution to Britain's economic prosperity. However, as the above examples illustrate, this explanation of why the rule of law is important is unlikely to resonate with young people anxious about their financial and housing situations386 or children in England who the Children's Commissioner found live in "*almost Dickensian*

[379] *'Textile workers 'denied tens of millions in unpaid wages*'', (BBC News, 11 October 2020).

[380] S. Miskin & L. Fewster, '*Bosses said I'd lose visa if I complained - care worker',* (BBC News, 16 April 2025).

[381] N. Nanji & Z. Conway, '*McDonald's workers make fresh harassment claims*' (BBC News, 7 January 2025).

[382] H. Wyatt, '*Employment tribunal backlog worsens*' (HR Magazine, 9 October 2024).

[383] Shantha David, '*Why could tribunal fees be on the way back?*' (28 February 2024).

[384] Equality and Human Rights Commission, '*Following Grenfell: the right to adequate and safe housing*', (September 2018), p.2.

[385] Shelter, '*Evidence to the Renters Rights' Bill Committee*', (October 2024), para 1.5.

[386] E. Barnes & E. Loose, 'UK Youth Poll 2025,' (John Smith Centre, 2025), p.17.

levels of poverty."[387] At a time when the United Kingdom registered a record-breaking year for the number of international litigants who sought to resolve their disputes before London's commercial courts,[388] nearly 42 million people in England and Wales were denied access to a community care legal aid provider in their area and more than half of adults with a domestic abuse issue received no legal support.[389] For those who cannot obtain basic legal assistance when they need it, the prosperity of London's legal industry is an irrelevant measure of the strength of the rule of law.

Building the long-term resilience of the rule of law

5. To avoid a situation in which the benefits of upholding the rule of law are the province of the few, rather than the many, we consider that the rule of law has to be seen primarily through the prism of how the majority of people living in the UK experience it.

6. As we discussed in Chapter 1, an effective defence of the rule of law must engage with the concerns that matter most to the public. Data shows that the public cares about the "local" dimensions of their lives: the 2025 John Smith Centre/Focaldata report found that "young people [in Britain] are focused on quality-of-life issues that affect their day-to-day lives, less so global or cultural matters,"[390] with "affordable housing" ranked as a top policy priority.[391] They also feel that politics "often feel disconnected from [their] everyday concerns."[392]

7. Failing to address everyday rule of law challenges therefore risks serious consequences. When people feel consistently failed by legal and justice institutions, the likelihood that individuals resort to taking the law into their own hands grows. In the past year, this risk was highlighted by:

    - Law Society President Richard Atkinson, who suggested that people let down by a criminal justice system "on the brink of collapse" may ultimately turn to vigilantism, seeking to find justice "in alternative ways – more direct ways."[393]

    - Housing Ombudsman Richard Blakeway, who pointed out that there was an "imbalance of power" in the tenant-landlord relationship and that poor housing conditions risk "simmering anger" turning into "social disquiet."[394]

    - Lady Chief Justice Baroness Carr, who warned that judges "across many courts and tribunals have been subject to increasing and increasingly unacceptable"

[387] J. Murray, '*Children in England 'living in almost Dickensian levels of poverty*', (The Guardian, 8 July 2025).

[388] Portland Communications, '*Commercial Courts Report 2024'*, (21 May 2024).

[389] The Law Society, 'Campaign for more investment into civil legal aid'

[390] E. Barnes & E. Loose, 'UK Youth Poll 2025,' (John Smith Centre, 2025), p.17.

[391] ibid, p.12.

[392] ibid, p. 25.

[393] A. Gray, '*Risk of vigilantes as justice system 'on the brink', warns Law Society head*',

(*Financial Times*,27 October 2024).

[394] K. Armstrong and J. Crew, '*Social housing complaints soar as watchdog warns of 'simmering anger*', (BBC News, 29 May 2025).

abuse, including by being subjected to "grave threats and intimidation both inside and outside the courtroom, both online and in the physical world."[395]

8. Recognising that these concerns are, at least in part, rule of law issues – and communicating this clearly to the public – is essential to convincing people to care about the rule of law ideal. Moreover, addressing these everyday failures is central to building trust in the system.

9. If individuals feel that the law protects their rights fairly and consistently, they are more likely to respect and uphold the law themselves, reinforcing the rule of law for society as a whole. While, as we discussed in Chapter 3, lawmakers still have much to do to address inequalities in legislation, improving both understanding of the law and practical access to justice would go a long way towards restoring public confidence and reinforcing the legitimacy of our legal structures, strengthening not only the rule of law itself but public support for it as a shared societal value.

Public Legal Education

10. Making the rule of law a vibrant and resilient constitutional principle begins with ensuring the wider public understands it and appreciates the benefits of living under a system governed by rules, rather than arbitrary power. Currently, many people in Britain do not have a solid grasp on what rights they have and how the UK legal system and institutions work.

11. Public legal education ('PLE') can help advance this mission. By PLE we mean education which:

    "provides people with awareness, knowledge and understanding of rights and legal issues, together with the confidence and skills they need to deal with disputes and gain access to justice. Equally important, it helps people recognise when they may need support, what sort of advice is available, and how to go about getting it.

    PLE has a further key role in helping citizens to better understand everyday life issues, making better decisions and anticipating and avoiding problems."[396]

12. There are two broad aims of PLE: (i) enhancing people's legal capability; and (ii) democratic empowerment. Both of these aims are crucial to the rule of law. The first helps to ensure that the law applies equally to all. As we explain further below, if some people are not aware of their rights and are not able to access the justice system to enforce them then there is no equality before the law. The second facilitates public understanding of the rule of law and other constitutional concepts - such as the separation of powers - and what we gain from upholding them.

13. We heard from multiple attendees at our roundtables concerns about the level of PLE in the UK and the impact that this has on people's understanding of the rule of law, including

[395] Lady Chief Justice Baroness Carr, '*Mansion House Speech*', (2 July 2025).

[396] PLEAS Task Force, *'Developing capable citizens: the role of public legal education: The report of the PLEAS Task Force',* (July 2007), para. 12. This definition has been widely recognised across legal and research sectors.

core concepts regarding how our society is structured or what rights they have. These concerns are borne out by research.

14. Studies by Law for Life[397] and the Public Legal Education Network[398] reveal that most people lack a basic understanding of their legal rights, with the least privileged groups - manual workers, young people, and migrants - knowing the least.[399] Public confidence in dealing with legal issues is similarly low: in a 2020 YouGov poll, only 11% felt able to handle a hypothetical legal scenario.[400]

15. People also tend to overestimate what they know. Consumer law, for example, is widely misunderstood despite being an area where people report high confidence.[401] Human rights are similarly poorly grasped: the 2021 Independent Human Rights Act Review found widespread misconceptions, including the belief that human rights do not apply to everyone or that some groups have "more" rights than others.[402]

16. The constitutional concept of the rule of law does not fare much better in terms of public understanding. Frameworks' research for the Law Society found gaps between the way the rule of law is talked about by experts and the UK public's understanding of the concept, with the majority public understanding the rule of law in terms of controlling disorder, rather than facilitating long-term planning and economic development.[403]

17. Broader constitutional knowledge is similarly limited:

    - In a 2024 survey, two thirds of Britons (64%) said that they have not very much or no knowledge at all of how the House of Lords works.[404]
    - In 2019, only 51% of Britons said that they know a great deal or a fair amount about politics, and 54% considered they know not very much or nothing at all about the UK Parliament.[405]
    - In its 2021 report, the Independent Human Rights Act Review panel were "in little doubt" that "there is much room for increasing understanding of the UK's constitution, and particularly, of the [Human Rights Act, the European Convention on Human Rights and the European Court of Human Rights]."[406]

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[397] L. Wintersteiger, '*Legal Needs, Legal Capability and the Role of Public Legal Education*', (Law for Life: the Foundation for Public Legal Education, 2018), p.15.

[398] Advicenow, '*Public legal education*'. See also N. Balmer, A. Bucky, A. Patel, C. Denvir, and P. Pleasence, '*Knowledge, capability, and the experience of rights problems*', (Plenet and Legal Services Research Centre, March 2010).

[399] L. Wintersteiger, '*Legal Needs, Legal Capability and the Role of Public Legal Education*', (Law for Life: the Foundation for Public Legal Education, 2018),p.16.

[400] Legal Services Board, '*Legal needs of Individuals in England and Wales*,' (2020), p.23.

[401] ibid, p.16.

[402] Ministry of Justice, '*Independent Human Rights Act Review*', (December 2021), p.17, p.28.

[403] The Law Society, '*Reframing Justice – our research*', (02 May 2025).

[404] D. Difford, '*Most Britons would support making the House of Lords fully elected*', (YouGov, October 2014).

[405] Hansard Society, '*Audit of Political Engagement 16*' (2019).

[406] Ministry of Justice, '*Independent Human Rights Act Review*', (December 2021), p.19.

A challenging informational landscape

18. Aggravating this problem, there is evidence that media reporting of legal issues can be misleading, which in turn can undermine trust in the legal system. Several stakeholders in our roundtables noted the role traditional and social media, as well as high-profile individuals, play in providing informal education about core legal and political concepts to the public. Many of those stakeholders also expressed concerns about misrepresentation and misinformation in these contexts, corrosive to public understanding and support for the rule of law.

19. Those concerns are shared more broadly. Discussing perceptions of business regulation, the 2013 When the Laws Get Too Complex review warned that media coverage of regulation can create misunderstanding of proposed legislative changes, including among Parliamentarians.[407] Similarly, the Independent Sentencing Review found that media narratives, which often focus on high-profile or atypical cases, have embedded misunderstandings about sentencing and fuelled increasingly punitive attitudes to sentencing.[408]

20. Immigration law and policy is particularly affected by this problem. The University of Oxford's Bonavero Institute of Human Rights[409] found that over a six month period in 2025, 75% of news reporting in relation to the European Convention on Human Rights focused on immigration.[410] Most of the reporting selectively focused on arguments and judgments in cases decided at the lowest tier of the immigration tribunals.[411] This reporting was frequently incomplete, failing to indicate the ultimate outcome of the case or clarify that arguments made by counsel did not reflect the court's decision.[412] In addition, major media outlets and politicians[413] cited poorly-substantiated statistical claims relating to immigration, including a report [414] - repeated by other media outlets[415] - which contained claims that were so inaccurate that the Independent Press Standards Organisation found

[407]Cabinet Office, '*When Laws Become Too Complex: A review into the causes of complex legislation*', (March 2013), p.18.

[408]D. Gauke, '*Independent Sentencing Review History and Trends in Sentencing*', (Ministry of Justice, 18 February 2025), p.21, pp. 25-28.

[409]V. Adelmant, A. Donald, and B. Çalı,'*The European Convention on Human Rights and Immigration Control in the UK: Informing the Public Debate*', (Bonavero Reports, 4 September 2025).

[410]ibid, p.3.

[411]ibid, p.6.

[412]ibid, pp.6-12.

[413]E. Courea, A. Bychawski, and J. Elgot, '*Disputed or debunked claims about migration and crime in the UK*', (The Guardian, 5 August 2025); D. Dunford, '*Fact-checking Farage: Are foreigners more likely than Britons to commit sexual offences?*', (Sky News, 8 August 2025).

[414]S. Ashworth-Hayes and C. Hymas, '*Up to one in 13 in London is an illegal migrant*', (Telegraph, 22 January 2020); C. Tobitt, '*Telegraph inaccurately calculated 'one in 12 in London is illegal migrant' stat, IPSO finds*', (Press Gazette, 15 August 2025).

[415]G. Lambert and M. Dathan, '*1 in 12 London residents could be an irregular migrant, report suggests*', (The Times, 23 January 2025); Daily Mail, '*Clarifications and corrections*', (31 January 2025).

the reporting to be demonstrative of "lack of care" as to accuracy on the publication's part.[416]

21. As the Bonavero report notes, multiple such misreported cases were directly referred to at the highest level of political debate in the UK, with the inaccuracy "soon becom[ing] baked into the public narrative."[417] The report highlights that:

"Misreporting and inaccurate or incomplete information in public discourse undermines public confidence in the legal system and legal processes, and can lead to an erosion of trust in the rule of law. ... While commentators may hold different views on matters of human rights and immigration, it is vital that public debate is based upon accurate data and a sound understanding of legal frameworks and cases."[418]

22. Inaccurate or misleading media reporting is not the only source of public misapprehensions as to the UK constitution, legal framework, and the concept of the rule of law. According to the Law Society, "the rule of law has been positioned as a tool for 'enemies of the people' and 'lefty lawyers' to frustrate public will."[419] Part of the positioning comes from the media itself: the Daily Mail infamously proclaimed the High Court judges who ruled that Parliament's consent would be needed for the UK to leave the European Union "enemies of the people" who "declared a war on democracy."[420] The President of the Supreme Court, Lord Reed, has argued that "in the wake of the murders of Jo Cox and David Amess, commentators should understand that inflammatory attacks on judges are irresponsible."[421]

23. Against a backdrop of misinformation, it is crucial that people living in Britain possess the knowledge necessary to critically engage with what they read in the media and online spaces. Equally importantly, they should be able to appreciate what they stand to lose by heeding the calls that exist in particular online, regarding the undermining of the rule of law.

Insufficient provision of legal education to the public

24. Fortunately, the UK public has repeatedly demonstrated a strong public sentiment supporting the spirit of the rule of law, particularly when it comes to perceptions of fairness and justice. Public reactions to high-profile instances, such as Horizon/Post Office Workers scandal, Partygate, the Hillsborough disaster, and the Grenfell Tower tragedy, demonstrate a deep-rooted belief in the importance of accountability and fairness. In each case, the public's demand for justice and the proper application of the law reflects a

[416] IPSO, *00251-25 Portes v The Daily Telegraph*, (14 August 2025), para.43

[417] V. Adelmant, A. Donald, and B. Çalı,'*The European Convention on Human Rights and Immigration Control in the UK: Informing the Public Debate*', (Bonavero Reports, 4 September 2025), p.12.

[418] ibid, Executive Summary.

[419] The Law Society, '*How to talk about access to justice and the rule of law*', (2 May 2025).

[420] J. Slack, '*Enemies of the people: Fury over 'out of touch' judges who have 'declared war on democracy' by defying 17.4m Brexit voters and who could trigger constitutional crisis*', (Daily Mail, 3 November 2016).

[421] Lord Reed, '*Trust in the courts in an age of populism*', (Peter Taylor Memorial Address, 2025), p.7.

broader understanding of the rule of law as an essential mechanism to ensure that no one is above the law, regardless of their position or status.

25. This shows that while the rule of law and other constitutional ideals may not be fully understood in their legal and technical senses – and certainly not by the names used in academic and professional discourse - the sentiment they represent is strongly felt and engaged with by the public. However, critically, individuals may not realise that this sentiment is encapsulated by one of the UK's core constitutional ideals.

26. Education, and especially public legal education could play a key role in bridging this cognitive dissonance.[422]

27. In this regard, we are concerned that PLE, whether delivered in formal education settings or outside of the classroom (for example, in youth clubs or social media) is not adequately prioritised in the UK at present.

Delivery of public legal education in school settings across the UK

28. As educational provision is largely a devolved competency, frameworks governing the delivery of PLE within formal educational settings differ by nation.

England

29. There are four statutory duties, particularly relevant to PLE delivery to millions of school-age children and young people[423] in England:

- Local authorities have a duty to "contribute towards the spiritual, moral, mental and physical development of the community" by securing "efficient" primary, secondary and further education to meet the needs of their respective populations.[424]

- The 'Prevent duty', part of the Government's CONTEST strategy to reduce the risk from terrorism in the UK, requires all schools and further education settings to "actively promote the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs."[425] To our knowledge, this is the only statutory duty on education authorities which specifies the rule of law as a teaching area. However, Whilst we would like to see the rule of law taught as a requirement in all schools, we have concerns that the PREVENT duty, with its focus on counter-terrorism, risks

[422]For an outline of the state of research on the links between PLE and increased legal capability of PLE recipients, see '*Effectiveness of Public Legal Education Initiatives*', (Legal Services Board, February 2021).

[423]Children is taken to mean any person under the age of 18, as per the legal definition of a child in England in s.105 Children Act 1989. 'Young person' is taken to mean a person over compulsory school age but under 25, taken from s.83(2) Children and Families Act 2014.

[424]Section 13 Education Act 1996. Whilst the proportion of local authority maintained schools has steadily declined over the past 10 years, local authorities continue to maintain over 10,000 English schools as of June 2025 (Chart entitled "Number of schools by type of school, 2015/16 to 2024/25").

[425]Section 26 Counter-Terrorism and Security Act 2015 read with the statutory guidance contained in HM Government's Prevent duty guidance: Guidance for specified authorities in England and Wales (2023) at para. 180.

undermining effective and inclusive teaching and learning on the rule of law, particularly as relates to legal rights and the justice system.

- Statutory duties on the Equalities and Human Rights Commission ('EHRC') to promote understanding of the importance of equality, diversity and human rights which can be fulfilled by providing education or training.[426]

- The duty on the Legal Services Board to "support the constitutional principle of the rule of law" and "increas[e] public understanding of the citizens' legal rights and duties."[427] (Whilst we are considering PLE for school-age children and young people here, it is worthwhile noting that the LSB's duty applies to the adult general public, too).

30. PLE delivery to school-age children is decentralised, inconsistent, and led by youth-focused organisations and the legal sector. Amongst other reasons, this is a consequence of the current lack of attention on law and the justice system in the National Curriculum; the uneven requirements of the multiple types of schools in England to follow the National Curriculum;[428] citizenship studies suffering from de-prioritisation as compared with other subjects; and insufficient capacity-building amongst teaching staff, given timetabling issues, lack of relevant training, and confidence.

31. Citizenship is the natural home for PLE to be delivered in school. However, in relation to mainstream schooling, Citizenship is only a statutory 'foundation' subject at Key Stages 3 and 4 (i.e. for 11 – 16 year olds, and separate from the low levels of uptake in a specific Citizenship GCSE).[429] There is no statutory requirement for Citizenship to be taught to primary school-aged children, however the independent review of the National Curriculum did recommend that Citizenship becomes a statutory subject from Key Stage 1.[430]

32. The aims of the Citizenship programme at Key Stages 3 and 4 include ensuring that all pupils "develop a sound knowledge and understanding of the role of law and the justice system in our society and how laws are shaped and enforced".[431] However, the content of Citizenship curricula across all Key Stages pays insufficient attention to the law and justice system. The independent review into the National Curriculum has recognised this by

[426] Sections 8(1)(a) and 9(1)(a) read with section 13(1)(c) Equality Act 2006.

[427] Section 1 Legal Services Act 2007.

[428] Maintained schools must follow the National Curriculum (Sections 78(1) and 79(2) of the Education Act 2002), however, academies are not required to. Academies now comprise the majority of English Schools (DfE dataset – Table entitled "Number of schools by type of school, 2015/16 to 2024/25"). However, the Children's Wellbeing and Schools Bill, which is being debated in Parliament at the time of writing, will require academies to follow the National Curriculum if it is passed as drafted. Free and independent (private) schools do not have to follow the National Curriculum.

[429] Section 84(3)(h) and section 85(4)(c) of the Education Act 2002.

[430] Department for Education, '*Building a world-class curriculum for all*', (November 2025), p.59.

[431] Department for Education, '*Statutory guidance: National curriculum in England: citizenship programmes of study for key stages 3 and 4*', (September 2013).

recommending that a dedicated 'Law and rights' Programme of Study be included in the updated Citizenship curricula.[432]

33. Proposals to reform the curricula to include PLE is a welcome step towards standardising PLE delivery in schools. However, it needs to be matched with appropriate prioritisation, timetabling, resourcing, and capacity-building amongst school staff. According to DfE data, the number of hours of teaching dedicated to citizenship has declined by 57% from nearly 21,000 hours in 2011/12 to 9,000 in 2023/24.433 Citizenship education in England is also often hidden within or conflated with Personal, Social, Health, and Economic education.[434] Citizenship is one of the only subjects where a teacher training bursary is not available for those wishing to become Citizenship teachers.435 Teachers report lacking both sufficient training, and the pedagogical autonomy, to deliver engaging, values-driven Citizenship classes, despite being personally motivated to do so and recognising the value of its subject matter.[436]

Scotland

34. In Scotland, the Curriculum for Excellence ("CfE") provides the national framework setting out the curriculum that must be followed by all Scottish publicly funded nursery settings and schools.[437]

35. Citizenship is one of the "core priorities" of the CfE.[438] According to the Scottish government, global citizenship and human rights are embedded in the CfE as "cross-curricular themes."439 The General Teaching Council[440] and Education Scotland[441] provide resources to support children's rights in schools and guidance on taking a children's human rights approach. Within the Health and Wellbeing strand of teaching, there are also some resources available on crime and the law in Scotland.[442]

36. However, the CfE does not contain an outright requirement for learners to develop an understanding of key human rights principles and the values that underpin them, as well

[432]Department for Education, '*Building a world-class curriculum for all*', (November 2025), pp. 59 – 60.

[433]JUSTICE, '*Written Evidence*', (19 May 2025). p.29.

[434] Select Committee on Citizenship and Civic Engagement, '*The Ties that Bind: Citizenship and Civic Engagement in the 21st Century*', (House of Lords, 18 April 2018), pp.28-32.

[435]Association for Citizenship Teaching, *'Written evidence to the Democracy and Digital Technologies inquiry'*, (29 October 2019), para 2.3.

[436]For discussion on teachers' reported needs to build capacity in Citizenship lesson delivery, see ibid. For discussion on the reported lack of autonomy, constraints, but also personal motivations, see A. Body et al *'Educating for Social Good Final Report*', (ESRC and University of Kent, January 2025), p.19.

[437]A. Maisuria, '*Comparing the school curriculum across the UK*', (House of Commons Library, 29 July 2024), p.23.

[438]Scottish Government, '*Embracing global citizenship*', (22 October 2020).

[439]BEMIS, '*Human Rights Education: Theory and Practices*', (2011), p.15; Scottish Government, '*Curriculum for Excellence Factfile*.'

[440]Education Scotland, '*A Children's Rights-based Approach: A Guide for Teachers*'.

[441]Education Scotland, '*Children's rights in Scotland*'.

[442]Education Scotland, '*Crime and Law*', (1 January 2017).

as human rights as a legal concept.[443] To our knowledge, there is also no component of the curriculum dedicated to learning about other parts of the Scottish and UK legal systems. While Scottish students score highly in assessments of their knowledge and understanding of global issues and the world views of others,[444] we could not find data on their familiarity with domestic issues or the domestic legal system.

37. In addition, the PREVENT duty to promote the rule of law as a 'British value' also applies to Scottish education authorities.[445] The Scottish legal services regulators are required to take into account the principle that "a consumer should receive sufficient information about the consumer's rights and the services that are available."[446] Similar to the EHRC's education duty, the Scottish Commission for Human Rights has a statutory duty to provide education on human rights.[447]

38. The above duties on Scottish legal services and education authorities must be considered against the context of children's rights in Scotland, and in particular, the incorporation of the United Nations Convention on the Rights of a Child ('UNCRC') in Scots law. Article 29 of the UNCRC provides children and young people with rights to education which include the development of respect for human rights, fundamental freedoms and the principles contained in the UN Charter; developing respect for their country's "national values"; and preparing them for "responsible life in a free society", based on coexistence. How these rights inform the delivery of PLE to children and young people in Scotland is an outstanding question.

Wales

39. Wales is currently in the process of rolling out the new Curriculum for Wales ("CfW") for ages 3 to 16,[448] with a view to all learners being taught under the Curriculum for Wales by 2026.[449]

40. One of the key purposes of the CfW, is to support pupils in becoming "ethical, informed citizens of Wales and the world."[450] The CfW further states that to achieve this goal, the curriculum should enable learners to "understand and exercise their human and

[443] S. Daniels, '*Human Rights Education in Scotland: Challenges and opportunities*', (CR&DALL, 2019), pp.8-9.

[444] Scottish Government, '*Embracing global citizenship*', (22 October 2020).

[445] See Part 2 of Schedule 6 to the Counter-Terrorism and Security Act 2015.

[446] Section 3(2)(b) Regulation of Legal Services (Scotland) Act 2025. In our view, whether 'consumer' is taken to include children and young people for the purposes of the regulation is of note to PLE delivery in Scotland, as it will likely inform how legal services contribute towards children's teaching and learning about Scots law and the justice system.

[447] Section 3 Scottish Commission for Human Rights Act 2006.

[448] Welsh Government, '*Introduction to Curriculum for Wales guidance*', (31 January 2024). This curriculum applies primarily to maintained schools and funded non-maintained nursery education providers. The CfW requires schools to design their own curriculum and assessment arrangements, based on a mandatory list of key ideas and principles that should be explored in the pupils' learning.

[449] Welsh Government, '*Education is changing*'.

[450] Welsh Government, '*Developing a vision for curriculum design*,' (10 January 2022).

democratic responsibilities and rights."[451] The mandatory teaching objectives also call for this teaching area to "encourage learners to understand ... justice and authority" as well as "help learners develop an awareness of their own rights," including the rights contained in the international frameworks on the rights of children.[452]

41. Whilst this curriculum reform is encouraging, the Children's Legal Centre Wales have found that there is a comparative dearth of third-sector PLE delivery in Wales. They found that several third sector initiatives by 'England and Wales' or UK organisations based in England, either did not operate in Wales or, if they did, struggled to engage with the different law, policy and practice contexts including Welsh language needs and cross-cutting legal requirements.[453] Welsh law and the operation of its justice system contains divergences from English law and systems, not least because of the number of areas of devolved competence, such as education and health,[454] which require PLE initiatives to be tailored to the Welsh context.[455]

42. Wales was the first country in the UK to incorporate the UNCRC in domestic law, by creating a statutory duty for Welsh ministers to have regard to the Convention.[456] In our view, and as with Scotland, the implications of Article 29 are of relevance to PLE delivery in Wales.

43. Additionally, the PREVENT duty to promote the rule of law as a 'British value' applies to Welsh educational authorities. The EHRC's duties to promote equality, diversity and human rights by way of education applies to Wales, too.[457]

Northern Ireland

44. The Northern Irish statutory curricula, at Key Stage 3, includes a module entitled "Learning for Life and Work: Local and Global Citizenship". The module consists of four strands, including one entitled "Democracy and Active Participation" aimed at "providing opportunities for young people to understand...their role in promoting inclusion, justice and democracy."[458] The curriculum specifies that the minimum content of this strand should provide children with opportunities to "[i]nvestigate why rules and laws are needed, how they are enforced and how breaches of the law affect the community." A separate

[451] ibid.

[452] Education Wales, '*The Curriculum for Wales - Statements of What Matters Code*', (Welsh Government, 2023), para 2.3.5.

[453] H. Bussicott and J. Williams, '*The 'Desert': Public Legal Education for Children and Young People in Wales*', (Children's Legal Centre Wales Research, 2018), pp.11-12.

[454] ibid.

[455] The Children's Legal Centre Wales has since used their research to deliver PLE to young people in Wales, including developing teaching resource packs linked to the new CfW, which was informed by consultation with 70 Year 6 pupils to identify what would be meaningful interventions (Unnamed author, '*Knowledge Is Power: Building Legal Literacy with Children in Wales*', (Children's Legal Centre Wales, 3 July 2025). Additionally, Young Citizens, in partnership with the Legal Education Foundation, has produced resources entitled '*Law in Wales*', which are aimed at pupils in Key Stages 3 and 4.

[456] Section 1 Rights of Children and Young Persons (Wales) Measure 2011.

[457] Section 92(ca) Equality Act 2006.

[458] Part 5 to The Education (Curriculum Minimum Content) Order (Northern Ireland) 2007.

strand of learning, entitled "Human Rights and Social Responsibility" has minimum requirements for children to be provided with "opportunities to understand that a globally accepted values base exists that reflects the rights, as outlined within various international human rights instruments, and responsibilities of individuals and groups in democratic society." These include opportunities to "[i]nvestigate why it is important to uphold human rights standards in modern democratic societies, including meeting basic needs, protecting individuals and groups of people" and "[i]nvestigate key human rights principles."

45. At Key Stage 4, the curriculum for Learning for Life and Work: Local and Global Citizenship specifies that the minimum content should enable pupils to "identify and exercise their rights...in relation to local, national and global issues" and "develop awareness of key democratic institutions and their role in promoting inclusion, justice and democracy."[459]

46. The Council for the Curriculum, Examinations & Assessment has produced learning resources supporting teachers in delivering these curricula. The resources include a three-lesson module entitled "What is Lawfulness?", which aims to teach Key Stage 3 pupils on the concept of lawfulness, how incentives are used to encourage people to abide by the law, and the benefits of a lawful society.[460] The materials were created to support the NI government's Fresh Start Plan, and its aim to promote the rule of law and tackle paramilitary activity.[461]

47. The Northern Ireland Human Rights Commission ('NIHRC')'s duty to promote understanding and awareness of the importance of human rights in Northern Ireland, including through education activities, is of additional relevance to PLE delivery.[462]

48. JUSTICE has been conducting work to map PLE delivery to young people in England in order to inform a public legal education-centric project that will focus on how provision of PLE both within and outside of the school system can be more effective.

49. From our preliminary research we have identified a number of issues in current PLE delivery. Whilst the scope of the research is specifically England, some of these may also apply in other UK nations.

50. First, at present there is insufficient attention paid to law and the justice system in the National Curriculum. The proposals in the recent Curriculum Review, which include making Citizenship education statutory from Key Stage 1, aligning primary and secondary school Citizenship curricula to reflect this change, and including a 'Law and rights' Programme of Study in the curricula, are welcome reforms. The final curriculum will be published in spring 2027, and schools will start teaching it from September 2028.[463] If formulated well and coupled with the appropriate funding, training, and capacity-building amongst teachers, these reforms will go a long way to scaling up and standardising PLE delivery,

[459] Part 6 to The Education (Curriculum Minimum Content) Order (Northern Ireland) 2007.

[460] CCEA, '*Lawfulness Resources: What is Lawfulness*?' (26 February 2020).

[461] ibid.

[462] Section 69(6)(a) and (b) Northern Ireland Act 1998.

[463] Department for Education, '*What you need to know about the changes to the National Curriculum*', (5 November 2025).

so it reaches many more pupils and provides an engaging, measured, and meaningful form of learning about the rule of law and justice.

51. Second, until September 2028, the status quo will be insufficient to meet the needs of children and young people as stakeholders in, and future guardians of, the rule of law. As shown below, many excellent PLE resources and initiatives are already available. However, currently, most PLE initiatives are not led by teachers and school staff, but individuals from university legal clinics, legal professionals, charities, and the courts. Their work is incredibly valuable, but limited in scale; engagement with these resources and initiatives is not mandatory for schools and depends on individual teachers and/or schools' engagement with third sector organisations such as Young Citizens, and the availability and accessibility of non-school-based PLE, such as courts' outreach. This means potentially millions of children and young people are missing out on vital knowledge and inequities in access to PLE. Yet the current landscape sees inequities in access to PLE, or more broadly 'active citizenship' teaching, which risks compounding existing inequalities and vulnerabilities.[464]

52. Third, where PLE is being delivered, there is a notable lack of research measuring its longer-term efficacy.[465] Given the identified importance of PLE to safeguarding the rule of law, we need to develop ways of measuring children and young people's teaching and learning in PLE. Particular attention needs to be given as to how to evaluate the effectiveness of different PLE initiatives in embedding the rule of law as a value which children and young people understand as having a stake in.

53. Fourth, most initiatives focus on teaching children about their rights and the justice system in classroom settings. However, PLE may be most successful when it's delivered outside of the classroom. Additionally, the content must be tailored to learners' lives and needs. These will be informed by their particular education setting – for example, the needs of those in alternative provision will differ from those children in mainstream schools – as well as the country and jurisdiction in which the learner is receiving PLE.

54. Fifth, there is an acute need for PLE for young people and adults who have left the classroom for good. There are many innovative and effective models of delivering PLE to people over compulsory school age, which can be characterised as either "just in time" models (i.e. where a legal issue arises or becomes acute) or "just in case" models (i.e. to mitigate against a legal issue). The challenge specific to PLE as a rule of law safeguard is identifying how best to promote adult public understanding of the law and justice system as a form of civic education. There is a knowledge gap amongst the public as to how law-making, the courts, and legal processes work in a democracy based on the rule of law, as distinct from individual needs for legal information, advice, redress or remedy. This is despite repeated acknowledgement of adults' susceptibility to misinformation on the law and justice system, particularly in politics, media, and online. Little has been done in terms

[464] A. Body et al *'Educating for Social Good Final Report*', (ESRC and University of Kent, January 2025), p.14.

[465] This gap was noted in research commissioned by the Legal Services Board. See L. Wintersteiger et al, *'Effectiveness of Public Legal Education initiatives: A literature review'*,(February 2021), pp.32 – 33.

of PLE to address the diminishing trust of young people and adults in institutions that are meant to serve their interests, including Parliament,[466] the courts, and prisons.[467]

Public legal education resources

- Young Citizens, which is a charity working to empower children and young people as stakeholders in our democracy, has worked in partnership with the Legal Education Fund and law firms to develop teaching resources for primary and secondary schools, in areas including but not limited to human rights,[468] data protection law,[469] and youth justice.[470] Young Citizens and its partners also deliver workshops, the Big Legal Lesson annual campaign, and other PLE initiatives that have reached over 300,000 young people since 2020.[471]
- OAK National Academy, which is an arm's length public body, has developed free teaching resources intended to support teachers in delivering Citizenship lessons per the National Curriculum. Its lesson plans span children's right to education, social rights, crime, the UK's constitution, and democratic lawmaking.[472]
- BPP University Law School delivers 'Goldilocks trials' for primary school-age children to learn about the criminal trial process through role-play.[473]
- Queen Mary University of London delivers interactive workshops to primary school-age children on equalities law,[474] and interactive workshops to secondary-school age children on the law and issues surrounding the sharing of intimate images.[475]
- The libraries of the Houses of Parliament have published a series of guides to how the British political and law-making system works;[476]

[466] In public polling conducted by YouGov in August 2024, 79% of respondents reported that they either did not trust, or have very much trust in, MPs to tell the truth. See YouGov Survey Results (August 2024), p.1.

[467] Public polling conducted by Ipsos in April - May 2024 found that 42% of those polled were dissatisfied with the police, and only 10% of those polled were satisfied with the courts. See chart entitled "Satisfaction with most public services is low, with only recycling receiving a positive rating from at least half of the public" in Ipsos, '*Shifting Expectations: The future of public services*' (September 2024), p.7.

[468] Young Citizens, An Introduction to Human Rights.

[469] Young Citizens, Who Owns Your Data?

[470] Young Citizens, Youth Justice (SmartLaw Subscription).

[471] Young Citizens, The Big Legal Lesson; Young Citizens, Citizenship Workshops.

[472] For example, see the materials for teaching Citizenship at Key Stages 3 and 4 *at* Free KS3 Citizenship teaching resources | Y7, 8, & 9 | Page 1 of 2 | Oak National Academy and Free KS4 Citizenship teaching resources | Y10 & 11 | Page 1 of 2 | Oak National Academy.

[473] UK Government, '*Will the Solicitor General find Goldilocks guilty?*', (10 November 2017).

[474] Queen Mary University, I am You - Legal Advice Centre.

[475] Queen Mary University, SPITE for Schools - Legal Advice Centre.

[476] See e.g. UK Parliament, '*How the UK Parliament Works*', (June 2022); '*Have your Say*', (November 2022).

- Blackstone Chambers, in partnership with the Guy Fox History Project, have also developed children's books on the constitution, our legal system, dispute resolution, and the Magna Carta.[477]
- The UK Supreme Court runs several types of education and outreach initiatives, including the Ask a Justice scheme, which gives pupils at selected schools across the UK, between Years 11 – 13, the opportunity to take part in an online Q&A session with a Supreme Court judge from their classroom,[478] and an online course on the Supreme Court, created in partnership with the Royal Holloway University, which about 5000 members of the public have enrolled in to date.[479]
- The Bingham Centre for the Rule of Law produced a Massive Open Online Course on Citizenship and the Rule of Law, which includes modules on judicial independence, equality before the law, access to justice and international rule of law. At the time of writing, almost 28,000 people were enrolled on the course.[480]

Our approach to finding solutions

55. In line with the main themes of this report, our overarching recommendation concerning PLE is that education about the rule of law should be provided in a manner focusing on scenarios and day-to-day issues that people can relate to.

56. As shown by research carried out by Frameworks for the Law Society, explaining what the rule of law is and why it is important by focusing on the tangible contributions that upholding the rule of law makes to our lives, means that it is more likely to be understood and valued by the public.

57. Regardless of whether it is delivered in a school setting or outside of it, PLE should focus on explaining concepts the rule of law by reference to its everyday application. The teaching materials developed by the Young Citizens charity, for instance, help children understand what rules are and why we need them through exploring why rules are helpful to have in a classroom;[481] similarly, the significance of the Magna Carta is considered through pupils taking on the role of a head teacher deciding what rules to have in school.[482]

58. In addition, our upcoming research will look at:

    - **Systematising PLE and civics in schools** - how to embed high quality, standards PLE and civics education across schools without overloading the curriculum. This includes exploring how the existing wealth of resources could be best incorporated into the curriculum and tailored to the needs of different schools. As well as

[477]Blackstone Chambers, '*How the World REALLY Works: Our Constitution*', (14 June 2024).

[478]UK Supreme Court, Ask a Justice.

[479]Future Learn, Inside the UK Supreme Court: Its Role, Its Work, and Cases that Affect Us All; Lord Reed, *'Judicial Transparency and Communication*', (20 June 2025), p.5.

[480]Bingham Centre for the Rule of Law, Public and Youth Engagement Programme.

[481]Young Citizens, Our Rules.

[482]Young Citizens, Magna Carta.

measures to give teachers – many of whom would have never received any form of formal civics tuition as part of their schooling or training – the confidence to incorporate civics themes into their teaching across different subjects.

- **Early PLE provision –** citizenship education is more effective if started at an early age. The recommendation to make Citizenship statutory from Key Stage 1 by 2028 offers a key opportunity to embed PLE into learning much earlier on; we are looking at how this can be best achieved.

- **PLE beyond schools** - In order for PLE to be a continuous and inclusive process, and reach those over compulsory school-age, we will explore how PLE can be delivered outside of formal educational settings. In line with the "trusted faces in trusted places" model of support and outreach, which builds on delivering public services in places where people already congregate or turn to for help, we will consider how PLE could be offered in everyday community settings such as youth centres or sports venues.

- **Media and PLE** – As we highlight above, the way in which the law and legal process are portrayed in traditional and social media plays an important role in shaping the public's perception and understanding of the legal system and rule of law. We will explore the ways in which the media can be harnessed for the delivery of PLE.

- **International comparative approach** - We will review how other countries deliver civics and PLE, including France's compulsory civic education from age 6, including hands-on experience through giving elected student representatives a say in how schools are governed, as well as Nordic models of active citizenship education.[483] We will also look at other countries for examples of delivery of PLE outside formal school settings. For example Brazil's Politize! project which, apart from working with schools, has reached an estimated 61 million people through campaigns on citizenship activities and developed a civil leader training programme that generated 663 public policy proposals on how to improve political culture and participation.[484] Poland's "Flying University of Human Rights" [485] and its predecessor, the Human Rights School,[486] forms another interesting example – for over 24 years, experts have provided an intensive course on human rights to people working across the public, business, academic, and charity sectors so that they can champion human rights in their sectors.

Access to justice

59. Even when people understand the advantages of living under a rules-based system rather than one governed by arbitrary power, those advantages are only meaningful if they are

[483]Ministere de l'Education Nationale, '*Les programmes du lycée général et technologique*'; F. Martela, B. Greve, B. Rothstein and J. Saari, '*The Nordic Exceptionalism: What Explains Why the Nordic Countries are Constantly Among the Happiest in the World*' (2020), p.12.

[484]Politize! - Civil Education.

[485]ECS, Flying University of Human Rights, (2025).

[486]Homo Faber, Flying University of Human Rights, (2022).

accessible. Practical barriers, such as cost, complexity, and procedural hurdles, often prevent people from engaging with the justice system. Mitigating these barriers is essential not only for empowering individuals to resolve their legal concerns but also for maintaining public confidence in the system.

60. Access to justice provides a guarantee that all people can enforce their legal rights or resolve their legal disputes using state institutions. From the perspective of individuals, accessible courts serve as guardians of people's ability to vindicate rights related to their family, employment, housing, or finances. From the business perspective, the availability of courts and legal advice provides certainty in transacting and contracting, facilitating commercial risk-taking and collaboration. Core rule of law principles are not realised if access to the formal justice and law enforcement systems is not equal. People are not equal before the law if some people are less able to access the justice system than others.

61. Further, the question of whether people have access to justice is not simply synonymous with the question of whether people can access the formal justice system. Lawyers and courts frequently only come into the picture once the relevant law has already not been adhered to, "mopping up after the fact." Issues with access to justice can be seen at much earlier stages than when an individual needs to engage a lawyer or take a claim to court. For example, in a 2020 survey, the Government Equalities Office found that only 33% of survey respondents who experienced sexual harassment in the 12 months preceding the survey had formally reported it.[487]

62. The issue of access to justice also bears on the rule of law's long-term resilience. Perceptions of being treated unfairly by the justice system have a potent impact on people's trust and confidence in the justice system:

63. "When people feel that they are being treated fairly, neutrally, respectfully, that they are being allowed to have their say, and that they trust the motives of justice professionals, they are more likely to see their authority as legitimate, and comply and cooperate with justice professionals",[488] with a degree of correlation observed between perceived legitimacy of legal authorities and law abiding behaviour.

64. In Poland, the Polish public's "exceptionally low trust in the country's criminal justice system" was a long-running and well-known feature of Polish legal culture, with excessive length of proceedings forming one of the most prominent deficiencies identified in surveys. As legal scholar Anna Matczak found, the members of the Polish public she interviewed saw justice as a "privilege of the rich, who can effortlessly evade justice, and as oppression for the poor."[489] The populist Law and Justice party justified its reforms of the justice system – widely considered to threaten judicial independence and found to violate the Art.2 TEU principle of the rule of law and ECHR right to fair trial – by portraying

[487] L. Adam et al., '*2020 Sexual Harassment Survey*', (Government Equalities Office, 2020), p.60.

[488] Scottish Government, '*The Public and the Justice System: Attitudes, Drivers and Behaviour – A Literature Review*', (28 June 2012), para 4.2.

[489] A. Matczak, '*Understandings of Punishment and Justice in the Narratives of Lay Polish People*', (LSE, 6 March 2017), p.145.

them as necessary to "restore the public confidence in the justice system" and make the Polish judiciary "efficient."[490]

65. Jan Winczorek and Karol Muszynski suggest that failings in access to justice provision were one of the components that led to the Polish public's relative indifference towards the threat of the dismantlement of the rule of law – "if the law is inaccessible and irrelevant, why die for it?"[491]

66. Current obstacles to access to justice in the UK similarly threaten to escalate public discontent towards the justice system, as discussed below.

The state of access to justice in the UK

67. Only one in five people believes justice is genuinely accessible in England and Wales, according to a 2023 YouGov poll conducted with the Law Society.[492] As Lord Reed recently observed, concerns about access to justice – and in particular delays in the criminal courts and the County Court – sit at the centre of media and political criticism of the justice system.[493] The gaps in access to justice in both the criminal and civil justice systems are extensive and well-documented.

68. Broadly, the challenges fall into several interconnected categories: significant cuts to legal aid eligibility and scope under LASPO 2012; stagnant legal aid rates for areas that remain in scope, which have produced legal aid deserts;[494] the escalating number of litigants in person (caused in large part by the legal aid cuts);[495] severe and persistent court backlogs;[496] staff shortages within HMCTS;[497] and the deteriorating condition of the physical court estate.[498] Over the past year alone, several major reports have examined these systemic issues, including the Law Society's 21st Century Justice and Reframing Justice, the Justice Committee's Work of the County Court, the Civil Justice Council's Litigation Funding Review, David Gauke's Independent Sentencing Review, and Sir Brian Leveson's Independent Review of the Criminal Courts.

Individuals

69. It is essential to consider how these systemic issues play out in the experiences of individuals.

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[490] A. Matczak, *'Judicial reforms in Poland – getting the public on board'*, (LSE Blog, 26 July 2017).

[491] J. Winczorek and K. Muszynski, '*The access to justice gap and the rule of law crisis in Poland*', (Zeitschrift für Rechtssoziologie, 2022), pp. 6–7.

[492] The Law Society, '*21st Century Justice Final Report*', (June 2025), Foreword.

[493] Lord Reed, '*Trust in the Courts in an Age of Populism: The Peter Taylor Memorial Address 2025*' (Supreme Court of the United Kingdom, 12 June 2025), p.1.

[494] The Law Society, '*Legal aid deserts*', (9 June 2025).

[495] The Law Society, '*Perfect storm brewing in family courts as rising numbers represent themselves*', (24 April 2024).

[496] Committee of Public Accounts, '*Crown Court backlogs*', (House of Commons, 5 March 2025).

[497] The Justice Committee, '*Work of the County Court*', (House of Commons, 21 July 2025).

[498] Ibid.

70. Structures that should work proactively to prevent legal problems from arising are often perceived to be inefficient, untrustworthy, or actively harmful. For example, a poll conducted in March 2025, found that 51% of Britons have no/not very much confidence in the police to tackle crime locally.[499] According to More in Common's 2023 research, 68% of Britons also believed that the police "have given up on trying to solve crimes like shoplifting and burglaries altogether."[500]

71. Confidence in public services and social support systems is in crisis, with a 2024 survey reporting that only 21% of people are satisfied with their local council, a significant decrease from 40% in 2021.[501] Research by the national disability charity Sense reveals that 45% of those applying for benefits say the process made their disability or condition worse and more than half report feeling humiliated during their benefits assessment.[502]

72. Once a dispute arises, systems that are meant to provide individuals with a remedy are often difficult to navigate and are markedly inefficient. As our 2020 report Solving Housing Disputes highlighted, the housing redress landscape in the UK is complex and confusing, often forcing tenants to navigate multiple different avenues depending on their issue.[503] Indeed, despite recent attempts to improve the housing redress system,[504] it remains disjointed and alienating.[505] A 2024 TDS Charitable Foundation report found that 75% of private renters and 84% of social renters want clearer and more specific information on how to raise a complaint when needed. Further, there is very little coordination and communication between different housing redress bodies. Redress bodies do not share information or redirect cases, leaving people stranded on urgent issues.[506] There are also typically no checks carried out as to whether the person ever reached the "right" point of contact.

73. Similarly, there is inefficiency and unreliability in the employment law context, the Advisory, Conciliation and Arbitration Service's (ACAS) system providing free services of professional conciliators for employers and employees, is "very busy," with ACAS' website warning that claimants might "only have 1 to 2 weeks for early conciliation" despite the conciliation period lasting for up to six weeks.[507]

74. Our 2022 report, Improving Access to Justice for Separating Families, found families with child arrangements problems facing a confusing and disaggregated landscape of legal

[499] YouGov, '*How much confidence Brits have in police to deal with crime*', (December 2025).

[500] More in Common, *Where are the police? Britons' attitudes to crime, anti-social behaviour and the police*', (30 January 2023).

[501] IPSOS, '*Public Services Face Crisis of Confidence as Election Looms*', (6 June 2024).

[502] Sense, '*Half of disabled people 'humiliated' during benefits assessments, new research finds*', (9 October 2024).

[503] JUSTICE, '*Solving Housing Disputes*', (5 March 2020), para 4.1.

[504] These steps include a new mandatory ombudsman scheme for private landlords, and the creation of 'My Housing Gateway,' an online tool created by the TDS Charitable Foundation that should direct individuals to the correct place for early dispute resolution. UK Government, '*Implementing the Renters' Rights Act 2025*', (13 November 2025).

[505] TDS, '*Helping tenants resolve housing issues*', (21 May 2024).

[506] JUSTICE, '*Solving Housing Disputes*', (5 March 2020).

[507] ACAS, Notify ACAS about making a claim to an employment tribunal.

information and scarce affordable and trustworthy legal advice. Population-level data analysis has revealed families who go to court with child arrangements problems are disproportionately economically deprived, and experience mental health difficulties and domestic abuse at a higher rate than the population at large.[508] Despite this, the majority are left representing themselves since the legal aid cuts in 2013 – as of September 2025, only 15% of cases featured represented parties on both sides, with almost half of all cases (47%) featuring no lawyers at all.[509] These litigants in person experience fear, anxiety, confusion, marginalisation, and frustration, at an already profoundly difficult time of family breakdown.[510] While there have been recent initiatives to improve court processes,[511] families still lack the fundamental basics of legal advice. JUSTICE has recommended free early legal advice for such families, to support early resolution as well as help vulnerable individuals access their legal entitlements as early as possible. The previous Government committed to a free legal advice pilot before the July 2024 election,[512] however there has been no such commitment by the current Government.

75. In the social security sector, the introduction of Mandatory Reconsideration (MR) for DWP decisions in 2013 has acted as a barrier to an individual's access to justice and made the appeals process confusing and difficult to navigate. As our 2021 report Reforming Benefits Decision-Making found, this extra stage often adds weeks or months to the process, delaying access to an independent review in the First-tier Tribunal, and leaving many without correct benefits during the wait.[513] This additional procedural burden results in many abandoning their claims at the MR stage, despite having strong cases.

76. An analysis of PIP award statistics shows that the MR stage addresses only a limited proportion of problems with DWP's initial decisions. From 2015-2019, only around 20% of MRs changed the decision in the claimant's favour, whilst around 65% of appeals that reached the tribunal were successful.[514] Over the most recent five-year period, 31% of MRs led to change in award.[515] While this increase is welcome, many decisions are still

[508] L. Cusworth et al, '*Uncovering private family law: Who's coming to court in Wales?*', (NFJO, 2020) and L. Cusworth et al, '*Uncovering private family law: Who's coming to court in England?*', (NFJO, 2021).

[509] Ministry of Justice, '*Family Court Statistics Quarterly: July to September 2025*', see Figure 4: Proportion of private law disposals by type of legal representation of the parties, January to March 2014 to April to June 2025 (Source: Table 10).

[510] L. Trinder, R. Hunter, E. Hitchings, J. Miles, R. Moorhead, L. Smith, M. Sefton, V. Hinchly, K. Bader and J. Pearce, '*Litigants in person in private family law cases*', (Ministry of Justice, 2014), pp. 80-83. This study looked at both children and finance cases.

[511] See Ministry of Justice, '*Private Law Pathfinder: An update on the implementation of the Government's Pathfinder programme for private law reform*', (March 2025).

[512] Ministry of Justice, '*Supporting earlier resolution of private family law arrangements: Government response*', (February 2024).

[513] JUSTICE, '*Reforming Benefits Decision-Making*', (8 July 2021). In this report, we recommended removing the MR requirement and allowing direct appeal to the Tribunal to improve access to justice and the opportunity for a fair, timely, and accurate decision on benefits.

[514] ibid; UK Government, '*Personal Independence Payment statistics to July 2025*', (16 September 2025).

[515] UK Government, '*Personal Independence Payment statistics to July 2025*', (16 September 2025).

overturned only at tribunal: approximately 67% of PIP appeals heard over the same period were overturned in the claimant's favour.[516]

77. Although individuals facing such disputes would clearly benefit from legal assistance, accessing such support is highly challenging. Current levels of legal aid funding significantly impede access to justice. The Institute for Fiscal Studies has found that legal aid spending is now 29% lower than in 2007-8, largely due to LASPO's reduction in scope. In per-person terms, day-to-day spending on legal aid was 36% less in 2023-24 than in 2007-8.[517] Until the 2024 announcement of a prospective increase for housing and immigration work, legal aid rates had not risen in any sector of the justice system.[518] In fact, a 95% increase in legal aid fees would be needed to restore fees to the 1996 levels in real terms.[519]

78. As a result, as of February 2024, large proportions of the population lacked access to a local provider of legally aided advice: 44% for housing law issues, 90% in education; 63% in immigration and asylum, and 85% in welfare benefits.[520] Recent statistics from June 2025 show that 69.9% of people had no access to a community care legal aid provider.

79. The decimation of legal aid has had knock-on effects for public awareness of its existence. A recent survey by the Legal Services Board found that 29% of people did not know whether legal aid was available for any type of issue.[521] This lack of awareness means that many who could qualify for support never seek it. This is borne out by the survey's finding that among those facing serious legal problems but choosing not to seek help, over a quarter (26%) said they assumed it would be too expensive.[522]

80. In the absence of formalised routes of obtaining legal advice, individuals with unmet legal needs turn elsewhere. For example, a 2023 study found that of 279 MP surgery appointments observed, 75% related to legal issues, with housing being the most common issue (46% of appointments).[523] The Law Society recently highlighted that people are frequently going to their GPs with legal issues, particularly concerning welfare advice. This is a long-standing pressure on the medical system, to which many stakeholders, including JUSTICE, have recommended the same solution: establishing health-justice partnerships through co-location.[524] Many others who cannot access legal support, self-represent or are forced to abandon claims altogether.

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[516] S. Timms, '*Personal Independence Payment: Appeals,*' (UK Parliament, 18 March 2025).

[517] M. Dominguez and B. Zaranko, '*Justice spending in England and Wales*', (IFS, 11 February 2025).

[518] Ministry of Justice, '*Civil legal aid: Towards a sustainable future*', (2 July 2025); The Law Society, '*Civil legal aid*', (7 July 2025).

[519] The Law Society, '*Legal aid fees must increase to protect this vital public service*', (20 March 2025).

[520] The Law Society, '*Legal aid deserts',* (9 June 2025).

[521] Legal Services Board and the Law Society, 'Legal Needs of Individuals in England and Wales', (2024), p.15.

[522] ibid.

[523] Law Works, '*Mind the Gap, The unmet need for legal advice in England & Wales*', (June 2023), p.4.

[524] JUSTICE, '*Reforming Benefits Decision-Making*', (8 July 2021), p.107; The Law Society, '*21st Century Justice Final Report*', (June 2025), p.22.

81. A lack of available and/or affordable legal representation also entrenches inequalities, leading to individuals in a weaker financial position choosing to abandon their claims and not enforce their rights. According to research published by the Law Society in 2024, "alarmingly, eight out of 10 believe that people with less money get a worse outcome in the civil justice system," with 42% of people on low incomes appearing in court having no legal assistance or representation compared to only 19% on higher incomes.[525]

82. International comparisons underscore the paucity of provision of legal advice in England and Wales. For example, Finland's National Legal Service Authority operates 23 legal aid offices across the country, providing services and public legal aid lawyers throughout the country,[526] with 52.3% of the population qualifying for legal aid, unlike 18-23% of England and Wales.[527] Further, the scope of legal issues for which legal aid is available is broader, notably covering divorce, child maintenance, and a broad range of employment and housing issues.[528]

83. Cuts to legal aid have also placed an enormous strain on the free advice sector in the UK, which itself is severely underfunded. In 2019, the Civil Justice Council said demand for pro bono services had dramatically increased since the scope of legal aid was restricted in 2013.[529] In addition to legal aid cuts, the cost-of-living crisis, the current strain on the welfare system, and NHS waiting times have all contributed to increasing demand on the advice sector in recent year.[530] For instance, several advice organisations interviewed by the Access to Justice Foundation highlighted that they were supporting increasing numbers of people experiencing poor mental health, as the strain on mental health services meant they were not getting the support they needed elsewhere. The fact that other sectors are also overstretched has resulted in increasing complexity of cases which acts as a major factor impacting the advice sector's capacity to meet demands.[531]

84. AdviceUK's 2025 report shows that these services are struggling now more than ever to meet soaring demand, with annual caseloads in 2024-2025 around 40% higher than the 2018–22 average.[532] Organisations working within the advice sector face serious financial insecurity as they rarely receive consistent public sector funding despite supporting an estimated 2.8 million people each year. For instance, Advice Now received a Ministry of Justice 'Online Support and Advice Grant' lasting a year.[533] Short term, year on year funding creates enormous precarity for such vital organisations and poses enormous delivery issues. AdviceUK's report reveals that 88% of surveyed advice services

[525]The Law Society, *'Mind the Justice Gap' press release'*, (3 May 2024).

[526]Finland Ministry of Justice, '*Finland: National Report ILAG Harvard 2023*', (4 May 2023).

[527]Open Innovation Team, '*Review of Civil Legal Aid in England and Wales: Comparative Analysis of Legal Aid Systems*', (March 2024), p.23.

[528]Oikeus, Legal Aid.

[529]J. Hyde, '*Pro bono sector 'overwhelmed' after legal aid cuts - CJC*', (The Law Society Gazette, 2 January 2019).

[530]The Access to Justice Foundation, '*The value of justice for all*', (August 2024).

[531]Ibid.

[532]Advice UK, '*Advice Works Building a Skilled Advice Sector Workforce*', (October 2025), p.4.

[533]Advice Now, '*Written evidence submitted by Advicenow to Justice Select Committee inquiry on access to justice*', (Justice Committee, 24 October 2025), p.10

experienced major recruitment and retention difficulties, and only 11% feel extremely confident that they can operate beyond next week.[534]

85. The combination of existing complex redress systems and underfunded legal advice fails to help people resolve their disputes without the need for litigation. This contributes directly to court backlogs across jurisdictions and the rising number of litigants in person.

86. The downstream effects of underfunding legal aid and maintaining overly complex and inefficient redress systems are far-reaching. People are often unable to access advice until they are already in crisis. This not only causes significant harm to individuals but is also an inefficient use of resources – at a crisis point, a case is likely to become protracted, more complicated, and an individual is more likely to need to engage with a range of public services.[535] Litigants in person require longer hearings, making it more difficult to reduce court backlogs and delaying access to justice for others.[536] The Justice Committee's Work of the County Court report focuses on the relationship between access to justice, court delays, and litigants-in-person, recommending that the Ministry of Justice and the Civil Justice Council must publish guidance for litigants-in-person explaining the claims process, their responsibilities, and the implications of failing to comply with deadlines "written in clear, accessible language and be available in accessible formats."[537]

87. The Justice Committee also called for an "urgent and comprehensive, root-and-branch" review aimed at addressing systemic delays and entrenched inefficiencies across the "dysfunctional" County Court system."[538] The Crown Court backlog as of June 2025 constituted 78,328 open cases, with people waiting years for trial, and individuals spending significantly longer in prison on remand ahead of hearings.[539] In the tribunals, SEND appeals are not being listed for a whole year,[540] whilst there is a record number of asylum appeals pending before the First-tier Tribunal.[541]

88. Poor initial decision-making by state bodies further exacerbates demand in the courts and therefore access to justice issues. For instance, IPSEA (and many others) have highlighted that unlawful decision-making has become endemic in SEND cases, evidenced by annual figures from the Ministry of Justice that show not just a rapid year-on-year rise in the number of appeals by families to the SEND tribunal, but a rise in the proportion of appeals that are at least partially upheld, which is currently close to 100%."[542]

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[534]Advice UK, '*Advice Works Building a Skilled Advice Sector Workforce*', (October 2025), p.5.

[535]ibid, p.4.

[536]The Bar Council, '*Written evidence submitted by the Bar Council to the Justice Committee inquiry on access to justice*', (Justice Committee, 24 October 2025), p.3.

[537]Justice Committee, '*Work of the County Court*', (House of Commons, 21 July 2025), para 87.

[538]ibid, para 158-159.

[539]Ministry of Justice, '*Criminal court statistics quarterly: April to June 2025*', (30 September 2025).

[540]Ministry of Justice, '*Consultation on possible amendments to the Tribunal Procedure questions*', (September 2024).

[541]Ministry of Justice, '*Tribunal Statistics Quarterly: July to September 2025*', (11 December 2025).

[542]IPSEA, '*Written evidence submitted by IPSEA*', (Justice Committee, 24 October 2025), p.2.

Businesses

89. Although the UK is often praised as a business-friendly jurisdiction, inequalities in access to justice also persist in the business context. Research published by the Legal Services Board in 2022 shows that small and medium-sized businesses (SMEs) in the UK face a significant access to justice gap and are not empowered to obtain legal services meeting their needs.[543]

90. According to the Board's findings, half of SMEs facing a legal issue sought to resolve them entirely on their own, without seeking legal advice, or took no action at all. Survey respondents saw the legal system as unaffordable (only 10% considered lawyers to be cost-effective) and tilted against those lacking financial resources.[544]

91. Even where small businesses do access legal help, they are often left waiting for a remedy. In London and the Southeast, small claims are taking over a year to dispose of, whilst multi-track claims are taking an average of over two years.[545]

92. As SMEs represent around 99% of all firms, are a main source of employment, and generate 50% to 60% of value added on average across OECD countries,[546] such findings suggest that despite its reputation as a business-friendly jurisdiction, the UK is not a jurisdiction friendly for the majority of its homegrown businesses.

93. As the ability to access a court in a timely and cost-effective manner underpins commercial confidence and access to justice has been shown to have a "sizable positive effect on economic growth"[547,] this disparity in access to justice between smaller and bigger business actors may have impacts on the UK's economic growth. It also makes the UK more reliant on foreign business actors and investment. In effect, the majority of UK small and medium enterprises are priced out of their own courts.

Outstanding recommendations

94. JUSTICE and many other stakeholders have put forward numerous proposals to deal with the ongoing access to justice crisis, including in response to government and parliamentary reviews and inquiries into access to justice and proposed legislative reforms.

95. Around the time of LASPO 2012, JUSTICE warned that cuts to legal aid were ill-considered, rushed and unsupported by evidence.[548] However, once the changes came into force, we sought to promote innovative but practical solutions to try to protect the most vulnerable despite drastically depleted legal aid provisions. For instance, in 2015, JUSTICE published Delivering Justice in an Age of Austerity - trying to improve the Litigant in Person journey

[543]Legal Services Board, Legal Support Strategy for small businesses - Key asks, (April 2022).

[544]ibid, p.5.

[545]Ministry of Justice, 'Civil Justice Statistics Quarterly: January to March 2024', (6 June 2025).

[546]OECD, SME and entrepreneurship.

[547]A. Deseau, A. Levai, and M. Schmiegelow, '*Access to justice and economic development: Evidence from an international panel dataset*', (European Economic Review, February 2025).

[548]JUSTICE, '*Transforming Legal Aid: Consultation Paper JUSTICE Response*', (4 June 2013).

through the courts which proposed a new model of dispute resolution for civil courts and tribunals, and a new model for delivering accessible and affordable legal advice and information.[549] In our 2019 report Understanding Courts, we detailed 41 recommendations that would improve a lay person's understanding of court processes, focussing particularly on guidance for litigants-in-person and simplifying the language used by judges and legal professionals in court.[550] We have also looked at, and made recommendations, in relation to jurisdiction specific access to justice issues, including housing, welfare benefits and private family proceedings.[551]

96. Recently, 149 stakeholders submitted evidence to the Justice Committee's Access to Justice Inquiry, most of whom have independently gathered evidence and prepared reports or briefings on the issue of access to justice repeatedly.[552]

97. Many of the recommendations are the same, including:

- fund early legal advice
- increase legal aid rates and scope
- simplify and centralise guidance on legal aid
- streamline legal aid processes and reduce the administrative burden on providers
- increase support for litigants in person, including better guidance and better signposting
- simplify the redress landscape and/or increase coordination between different redress mechanisms
- improve the quality of initial decision-making by government departments and local authorities
- address court and tribunal backlogs and staff shortages
- fund the repair and improvement of neglected court infrastructure
- better use of online dispute resolution services and online courts

98. Several reports and reviews have criticised the disconnect between persistent calls for the same recommendations and minimal action from the government, beyond an acknowledgement of the evidence put forward. The Justice Committee noted that "the

[549] JUSTICE, '*Delivering Justice in an Age of Austerity*', (April 2015).

[550] JUSTICE, '*Understanding Courts*', (25 January 2019).

[551] JUSTICE, *'JUSTICE submission to the Law Commission's consultation on criminal appeals*', (27 June 2025); JUSTICE, JUSTICE submission to the House of Lords Constitution Committee for Rule of Law Inquiry, (April 2025); JUSTICE, *'JUSTICE submission to Independent Review of the Criminal Courts'*, (31 January 2025); JUSTICE, '*JUSTICE submission to Independent Sentencing Review*', (9 January 2025); JUSTICE, '*JUSTICE submission to the Ministry of Justice's call for evidence for a Review of Civil Legal Aid'*, (February 2024).

[552] Notably, these include The Bar Council; Bar Standards Board, Legal Aid Practitioners Group; the Law Society; IPSEA; Victim's Commissioner for England and Wales; the Domestic Abuse commissioner; Criminal Appeal Lawyers Association and the Public Law Project. See Written Evidence - Access to Justice.

causes of the inefficiencies and delays in the County Court are well-established, and openly recognised by Ministers and officials," yet there remains a lack of "any attention or commitment to improving the [County Court's] dire situation."[553] This reflects a wider reality across the justice system.

99. The government must take action aimed at implementing the multitude of existing recommendations on how to improve people's access to justice.

The case for better data

100. As we have set out, it is widely acknowledged that the justice system is seriously underfunded, and as such stakeholders repeatedly call for an increase in funding. However, funding alone is no panacea for access to justice.

101. To ensure that existing funds and any future funding is effectively directed into the places that will have the biggest impact on access to justice, we urgently need better data about how the justice system operates. While the Ministry of Justice demonstrates willingness to embrace change by publishing strategies to improve access to justice, such as the 2019 Legal Support Action Plan, the ability to implement such plans is "undermined by a lack of data and evidence to compare the effectiveness of different models of provision or to understand what methods of delivery work best for different client groups."[554]

102. For instance, it is well-known that the Crown Court has an overwhelmingly large backlog of cases that could be reduced through additional funding. However, the 2021 report from the National Audit office found that we lack adequate data to understand the nature, composition, and causes of the Crown Court backlog, concluding that without significant improvement on the quality of the data "there is a risk that further investment will not support long-term value for money, ensure timely access to justice, or improve the experiences of victims, witness and defendants." [555] The recent Nuffield Foundation report Where has my justice gone? illustrates that this is still the case. The Centre for Public Data found a lack of data on the types of cases that take the longest; timeliness of individual courts; timeliness of specific offences; and, data on the types of cases in the backlog.[556]

103. Moreover, there is no concerted effort to gather data on the effectiveness of various measures that have been applied to reduce the backlog, such as Nightingale Courts, remote hearings, or increasing magistrates' sentencing powers. The irrationality of this approach is underpinned by the fact that these measures were continued as part of the £2.2 billion criminal justice action plan 2022-2024.[557]

104. Recently, the government announced that it plans to replace juries in a wide range of cases, with judges making decisions instead, in order to reduce the backlog in our criminal courts. However, in the absence of robust data clarifying the underlying causes and

[553] Justice Committee, '*Work of the County Court*', (House of Commons, 21 July 2025), para 158.

[554] Nuffield Foundation, '*Where has my justice gone?*', (March 2024).

[555] National Audit Office, 'Reducing the backlog in criminal courts', (Ministry of Justice and HM Courts & Tribunals Service, 22 October 2021), p.10.

[556] Centre for Public Data, '*Data and statistical gaps in criminal justice*', (March 2023).

[557] Nuffield Foundation, '*Where has my justice gone?*', (March 2024), p.28.

composition of the backlog, this policy would be another instance of implementing measures without sufficient evidential justification. The removal of jury trials in such circumstances is "the constitutional equivalent to removing a limb to fix a fever."[558]

105. Backlogs have also been reported across the civil and family courts, and tribunals. Yet, as with the position across the criminal courts, there is a lack of authoritative data to understand the composition of cases in the backlog, the characteristics of users, and a lack of connected data to understand individuals' pathways once they enter the court system.[559] Whilst, as set out above, there are various recommendations for reform that have been reiterated by multiple organisations over the years, in order to ensure that reforms and crucially the public funding they require, are targeted where they will have the most impact, much better data is required.

106. The recent Work of the County Court report repeatedly calls for improving data collection and publication to meaningfully enact substantive changes to improve access to justice. For instance, the Committee recommends that HMCTS must collect and publish data on individual court and tribunal performances to allow for the identification of regional disparities, and support investment planning in reducing the County Court delays.[560] Similarly, it criticises insufficient data collection on the prevalence of litigants-in-person, meaning that the Ministry of Justice cannot understand how to properly direct and provide the support needed.[561]

107. Indeed, the Law Society highlights that despite the clear operational impact of litigants in person across jurisdictions, there is a lack of data available to support anecdotal evidence of its impact on delays in the courts.[562] The Bar Council calls for the integration of data across the criminal justice system, for instance, between the police and the CPS, predominantly for case management purposes, but such data would enable improved targeting of funds.[563]

108. In order to allow injections of funding into the justice system to be directed towards areas where they will make the biggest difference, the government - including the Ministry of Justice, HMCTS, as well as other departments and public bodies that feed cases into the justice system - should improve the collection and publication of justice system data.

109. In addition to more data about people's journeys through the formal justice system, more also needs to be done to understand people's journeys into and beyond the justice system. Without this data, justice system leaders, policy makers and frontline agencies miss opportunities to identify problem drivers, to intervene earlier and to design better, more inclusive policies, systems and services. And prevention efforts, including providing early

[558] T. Steele, '*An Attack on Juries Is an Attack on Democracy*', (Tribune, 25 November 2025).

[559] Nuffield Foundation, '*Where has my justice gone?*', (March 2024).

[560] Justice Committee, '*Work of the County Court*', (House of Commons, 21 July 2025), p.55.

[561] ibid.

[562] The Law Society, '*Written evidence to the Justice Select Committee Inquiry on access to justice*', (Justice Committee, 24 October 2025).

[563] The Bar Council, '*Written evidence submitted by the Bar Council to the Justice Committee inquiry on access to justice*', (Justice Committee, 24 October 2025), p.12.

legal advice, often fail to reach the individuals and communities who need them most, allowing issues to escalate unnecessarily.

110. The UK government has recently renewed its focus on harnessing data for public benefit, as seen in initiatives such as the proposed National Data Library[564] and the publication of the AI Opportunities Action Plan.[565] These initiatives intend to promote strategic data collection, incentivise data sharing, and emphasise the importance of data-driven policy and innovation. In sectors such as health and education, data are increasingly being used to deliver better outcomes. However, there is currently no dedicated initiative ensuring that the justice system, or organisations working to improve access to justice, can fully participate in and benefit from these developments. Now is the right time to ensure these developments will also benefit the justice system and the people it serves.

111. To address this gap JUSTICE is seeking to establish a new JUSTICE Insights Network which will:

- convene key organisations and experts to advocate for better justice system data, collating key asks and setting out the benefits of improving justice data.
- advocate for justice related datasets and research questions to be included in ongoing data sharing projects aimed at improving wider social outcomes.
- build networks in the wider data policy community, to ensure that justice data is represented in wider developments in data policy and practice and to share learning about the benefits of community and participatory data governance models.
- explore the potential for developing a data platform or data collaborative to bring together people's experience of the justice system and seek to augment existing datasets that could be capable of supporting original research and analysis from a people-centred perspective ie. the Family Justice Observatory model.[566]

A broader view of access to justice

112. Access to justice is impacted by what happens 'upstream' of the justice system – for example, decision-making in government departments or poor housing conditions and unscrupulous landlords. Issues with access to justice are also felt 'downstream', in other parts of the justice system and beyond: in the NHS, by local authorities or in declines in consumer spending and business activity.

113. For example, Public Law Project's 'Immigration legal aid and value for money: identifying the missing data' project shows that the LASPO 2012 legal aid cuts led to increased spending in other parts of government and public services, resulting in extra pressure on

[564]Government Office for Science, National Data Library, (29 July 2025).

[565]Department for Science, Innovation & Technology, '*AI Opportunities Action Plan*', (13 January 2025).

[566]See Nuffield Family Justice Observatory.

courts, health services legal authorities, prisons and social services and costs being shifted across- but not away from – the government's budget.[567]

114. Access Social Care CEO Kari Gerstheimer found that often "if people with a learning disability or with complex needs don't have their needs met by social care, they end up in A&E or in the criminal justice system. It is horrifying and costs so much money."[568] In fact, research from the Access to Justice Foundation and the Bar Council found that for every £1 the government spends in free specialist legal assistance, there's an estimated saving of £2.71 to the public purse.[569] Getting early free legal advice to 100,000 people could lead to more than 38,900 more entering the workforce, which would generate approximately £81 million in income tax and national insurance contributions.[570]

115. Health care professionals spend 19% of their time addressing non-health issues, such as housing problems or welfare issues. Health-Justice partnerships (HJP) aim to reduce the burden by creating clear pathways for health providers to refer patients to specialist support or legal advice, facilitated through co-location. Data from the Central England Law Centre Health-Justice partnership in Coventry shows that 37% of patients reported fewer visits to their GP since receiving support from the HJP, and 73% of patients said they had not needed to return to their GP regarding social welfare issues,[571] reducing demand on the NHS.

116. In the other direction, the financial and administrative burden of poor decisions frequently does not fall on the government department in question, but on the courts and tribunals which deal with the resulting challenges. For example, the asylum appeal backlog is currently at an all-time high, with around 50,000 asylum appeals outstanding in June 2025.[572] This is a 579% increase since the end of March 2023, and an 88% increase since the end of 2024. In an attempt to speed up the initial decision time for asylum claims, the Home Office has transferred the backlog to the Immigration and Asylum First-tier Tribunal, putting the cost on the Ministry of Justice's budget.

117. Dr Jo Wilding has observed that in housing possession courts, many cases arise from broader crises in housing and social security. Defendants often attend court for rent arrears caused by delays in Universal Credit or other benefits, deductions under the bedroom tax, or deductions coming in too soon after a bereavement or relationship breakdown.[573] This means that the courts are spending significant time and resources on,

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[567] S. Pearce, Dr E. Marshall and Dr S. Engle, 'Immigration legal aid and value for money: Identifying the missing data', (Public Law Project, July 2024).

[568] R. Du Cann, '*The economic case for free legal advice*', (Counsel Magazine, 7 November 2024).

[569] R. Munro and L. Preece, '*The value of justice for all*', (The Access to Justice Foundation and the Bar Council, 2024), p.8.

[570] R. Du Cann, '*The economic case for free legal advice*', (Counsel Magazine, 7 November 2024).

[571] Happy Healthy Lives, '*Improving Future Health Outcomes: The Impact of the Health Justice Partnership on Tackling Inequalities in Coventry & Warwickshire*', (14 February 2025).

[572] Refugee Council, '*Outstanding Asylum Appeals Rises to 50,000*', (13 June 2025).

[573] Dr J. Wilding, '*Written evidence by Jo Wilding submitted to the Justice Select Committee inquiry on access to justice*', (Justice Committee, 28 October 2025), p.5.

in effect, trying to mediate irresolvable problems which exist outside of the housing system.

118. Alternatively, there are positive examples of integrated government programmes which show that joined-up support can have cost-saving benefits for the justice system. Sure Start was a major government programme in the 2000s which provided integrated health, education, and family support, aiming to boost child development by providing holistic support. Analysis of Sure Start's impact indicates that for every pound spent at its peak in 2010, the program averted approximately 19 pence in public spending on youth justice and children's social care, equivalent to £500 million of savings per cohort attending at the time.[574] These figures highlight the potential for well-targeted early social support initiatives to generate meaningful cost savings within the justice system while achieving positive social outcomes.

119. The impact that other areas of government have on access to justice, and the far-reaching consequences of inadequate access to justice, are not properly reflected in the current structure of government funding. Decision makers, for example, in the Home Office, do not have an incentive to consider the impacts their decisions have downstream on the immigration tribunal because it does not impact their department's funding. Likewise, when considering whether to inject additional resources into the justice system, the costs of a poorly functioning justice system on other public services are not taken into consideration, despite the evidence that exists, because departmental budgets are viewed in isolation.

120. Ultimately, a justice system that is funded with a strategic, cross-government lens, recognising how investment in other public services can ease pressure on the courts and vice versa, would both ensure rational spending and strengthen public confidence in the state's ability to govern effectively. Considering alternative approaches to government funding which foster greater collaboration between departments, such as outcomes-based budgeting,[575] could be an effective method for tackling some of the more complex issues affecting access to justice, such as where legal, health, and social issues interact.

121. In order to improve access to justice, the Government needs to work in a cross-departmental manner, focusing on outcomes rather than individual parts of the system. To do this, consideration should be given to the way in which funding is allocated, with more outcomes-based funding, so that departments are required to work together to achieve specified goals around improving access to justice.

Using AI to improve access to justice

122. We are living in an era of rapidly advancing technology. Artificial Intelligence (AI) is increasingly adaptive and autonomous, and the emergence of generative AI in recent years, particularly in the form of LLM-based AI tools which can generate complex and coherent text responses to prompts, has been predicted to have transformative effects on

[574] P. Carneiro, S. Cattan, G. Conti, C. Crawford, E. Drayton, C. Farquharson, and N. Ridpath, '*The effect of Sure Start on youth misbehaviour, crime and contracts with children's social care*', (IFS, October 2024).

[575] PWC, '*Outcome Based Budgeting*', (2017).

global economies and productivity.[576] These advancing technologies will undoubtedly offer an array of opportunities for improving access to justice in the UK. Opportunities can be usefully divided into two categories: those which help individuals access information or improve their experience of the justice system, and those which increase the capacity of the justice system to provide better and more timely access to justice.

123. JUSTICE's report on a rights and rule of law-based approach to AI in our justice system canvassed how AI tools could assist individuals: by providing legal information, helping individuals understand their rights and options, helping translate information, and assisting litigants in person with drafting letters, legal documents and meeting formal court requirements.[577] There is little empirical research on how individuals are in fact using AI tools. A 2023 survey found that 53% of people with legal needs looked online for information to help resolve the issue.[578] This trend has likely accelerated in the years since: OpenAI's Chat GPT – the "emblematic product of the AI boom"[579] – launched as a free to use chatbot in November 2022. Just three years later in November 2025 it has 800 million active weekly users.[580] While it is not yet clear precisely how AI is being used for legal help, anecdotal reports from law centres, legal professionals and judges confirm individuals are increasingly using AI chatbots for legal help, and indeed the updated Judicial Guidance on AI confirms simply: "AI chatbots are now being used by unrepresented litigants."[581]

124. Given this trend, it is essential to ensure that the adoption of AI is done in a way which harnesses its benefits whilst mitigating against the risks. LLMs may provide inaccurate information, with hallucinations being a well-known risk of LLMs. Publicly available general purpose LLMs may also oversimplify complex legal issues or give advice that inadvertently harms a person's case. Without a plan for managing this shift, the justice system could soon face new pressures such as poorly prepared litigants, defective applications, or increased court time spent correcting misunderstandings generated by AI tools.

125. Notably, some studies suggest that AI may be directing users away from reliable resources. In the health sector, the Patient Information Forum found that Google's 2024 launch of its AI search results panel has not only impacted traffic to support lines and health content but also raised concerns that this zero-click approach poses a risk to health outcomes.[582] Advice Now has carried out a smaller review of their own Google Search insights and raised similar concerns within the legal advice sector. They found a drop in clicks on their website, while impressions remain unchanged, indicating visibility is the

[576] M. Chui and others, '*The Economic Potential of Generative AI: The Next Productivity Frontier*' (McKinsey & Company, June 2023) p.50.

[577] JUSTICE, '*AI in Our Justice System*', (January 2025), p.26.

[578] The Law Society, '*21st Century Justice Final Report*', (June 2025), p.15.

[579] D. Milmo, '*Boom or bubble? Inside the $3tn AI datacentre spending spree*', (*The Guardian,* 2 November 2025).

[580] Ibid.

[581] Judicial Office, '*Artificial Intelligence (AI) Guidance for Judicial Office Holders*', (31 October 2025), p.6.

[582] Marie Curie, 'Google AI search results and the health sector', (Patient Information Forum,2025); Advice Now, '*Written evidence submitted by Advicenow to Justice Select Committee inquiry on access to justice*', (Justice Committee, 24 October 2025), p.14.

same, but 'click through' behaviour has changed due to AI summaries.[583] This is only one example of how AI may be impacting individuals' access to legal information.

126. AI also risks deepening the inequality of arms between those who can afford lawyers that have access to expensive and powerful AI tools and those who cannot. While legal tech investment hit a record high in 2025, this was largely the B2B market, with B2C products accounting for only 17% of the market activity.[584] It will also widen the digital divide between those who are digitally excluded – either by a lack of digital skills and/or access to the internet or digital devices due to their economic or geographic circumstances. The European Ethical Charter on AI in judicial systems has warned against such imbalances, emphasising that technological tools should facilitate proceedings without disadvantaging those less familiar with digital means.[585]

127. The opportunities offered by AI to improve the efficiency and capacity of the justice system are also wide-ranging. AI has the potential to significantly reduce delays in the court system by streamlining procedures, improving efficient scheduling of hearings and resource management, managing case files, automating routine tasks, improving essential tasks for open justice, such as transcription and redaction, and assisting judges and lawyers with drafting. Automated translation technology can assist those who have a different first language, allowing them to more effectively participate in the judicial process and speeding up cases.

128. Again, there are risks with implementing streamlining technology that must be carefully managed. There is a potential for bias and discrimination, based on the demographics of people reflected in the input data or how algorithms are weighted; there are security risks particularly when very sensitive data is involved; risks of inaccuracies due to poor or incomplete data; and where LLMs are used, hallucinations. There are also risks that the efficiencies promised do not in fact materialise, as was found to be the case when police in the US used AI drafting tools, resulting in a net loss to the taxpayer and not improving efficiency at all. The impacts are wide ranging in a high-risk deployment context such as the justice system. For example:

- Transcription errors could lead to confusion for victims, or unmeritorious appeals.
- Overreliance on AI to schedule hearings may infringe on judicial independence.
- Automation bias could deskill current professionals working in court administration, leading to reduced institutional capability to step in if something goes wrong.
- Judicial and legal professional use of AI to summarise and draft sections of legal analysis may embed only one interpretation of the law which would otherwise be tested, distinguished or developed, thereby stagnating legal development.[586]

[583] ibid.

[584] N. Hilbourne, '*Legal tech investment hits record level in 2025*', (Legal Futures, 14 October 2025).

[585] European Commission for the Efficiency of Justice (CEPEJ), CEPEJ European Ethical Charter on the Use of Artificial Intelligence (AI) in Judicial Systems and Their Environment (2018).

[586] JUSTICE, '*AI in Our Justice System*', (January 2025), p.38.

- On a wider scale, if unfair or unsafe outcomes result from the implementation of AI, we risk further deterioration in the public's trust and confidence in the justice system.

129. JUSTICE has produced a framework for the deployment of AI in the justice system,[587] which embeds the rule of law and human rights as guiding principles. It proposes that AI innovation in the justice system should be led by a goal which improves rights and the rule of law, like improving access to justice. In addition, those developing any AI tool, regulation, or guidance must then act responsibly, to identify and mitigate risks posed to human rights and the rule of law, at the technical level, the individual level, and the systemic level. This must be an iterative process, which incorporates transparent ongoing monitoring and evaluation, with accountability and safeguards in place to stop the deployment of AI that is causing more harm than good.

130. The Ministry of Justice's AI Action Plan ("the MOJ AI action plan") embeds safety and fairness as its primary cross-cutting principles, whilst also capturing the constitutional importance of justice system by including "protect independence" as another principle.[588] These are compatible with JUSTICE's rights and rule of law-based approach at a high level, albeit the devil will be in the detail of how they are applied.

131. However, the MOJ AI action plan is also a reflection of the wider strategic priorities of the Government: to "mainline AI into the veins" of the nation[589] and rapidly embed AI across public services, to drive productivity and growth.[590] The pervasive presumption is that AI will be good for public services generally and the justice system in particular, and that through a "scan pilot scale" approach AI can and should be successfully embedded. There is little consideration of how AI could in fact worsen public services, fail to deliver efficiencies, harm public trust, or leading to harms like discrimination. Where it is briefly acknowledged, it is presumed that any risks will be identified during a piloting stage, after which tools can be "scaled" and repurposed elsewhere, where they weren't originally tested, i.e. "build or buy once and use many times". There is consequently little acknowledgment of the need for ongoing vigilance concerning risks to rights and the rule of law, or how systemic risks can develop over time, beyond the initial pilot phase. In this vein, the MOJ AI action plan's strategic priority to "embed AI" in the justice system is the wrong starting point. The question should not be "where can we embed AI in our justice system?"; but rather "where are the problems, and is AI the right solution, considering other strategies?". This must be teamed with a commitment to ongoing monitoring of risks, including the systemic impact of AI in the justice system on the fairness of processes and outcomes, public trust and legitimacy, and independence.

132. Government must also develop its strategy on how to secure human rights and the rule of law in the actions of private actors in the justice system. Specific attention must be given

[587] ibid.

[588] Department for Science, Innovation and Technology, 'AI Opportunities Action Plan' (January 2025).

[589] Department for Science, Innovation and Technology, Prime Minister's Office, 10 Downing Street, The Rt Hon Peter Kyle MP, The Rt Hon Sir Keir Starmer KCB KC MP and The Rt Hon Rachel Reeves MP, *'Prime Minister sets out blueprint to turbocharge AI'* (UK Government, 13 January 2025).

[590] Department for Science, Innovation and Technology, 'AI Opportunities Action Plan' (January 2025).

to how accurate legal advice can be ensured when private actors are involved in the provision of legal help using AI tools, since chatbots providing legal advice currently do so outside of any legal services regulation. While the Online Procedure Rule Committee recently suggested developing voluntary standards for out of court legal tools, its capacity to do so is limited, and without any specific regulatory remit there is no scope for any standards to become mandatory and therefore to ensure private actors are accountable for the AI-generated advice given. In addition to standards, the MOJ must consider the role of accreditation schemes, public investment in AI tools for areas where the market is unlikely to provide a solution, and public-facing guidance and education on the safe and appropriate use of AI in the legal context.

133. It must also include robust ongoing monitoring and evaluation of AI tools against clear and agreed standards of what 'good' looks like in specific contexts. These measures must be put in place before unregulated AI use becomes entrenched and creates systemic problems for courts, tribunals, and users. Further, as we set out earlier, the justice system faces significant data challenges, including inconsistent data standards, limited interoperability, and substantial information gaps. These challenges not only make it difficult to train effective AI tools, but may also hamper crucial efforts to monitor and evaluate the impact of AI on the justice system.

Judicial Diversity

134. Improving access to justice is only part of the picture when it comes to strengthening the legitimacy of the justice system, and correspondingly, the rule of law.

135. As the branch of the state that ultimately interprets and applies the law, it is vital to the rule of law and how individuals understand and feel the rule of law, that the public has confidence in the judiciary, their impartiality and both the perception and reality that they serve everyone equally. Upholding this trust is particularly important in the current climate of increasing political attacks on the judiciary and allegations of judicial bias in the media, such as Robert Jenrick's recent call to remove more than 30 "activist" immigration judges[591] and, as noted above, the Daily Mail's "enemies of the people" headline referring to the judges in the Miller case.[592] In order to mitigate against such threats and sustain public confidence, it is vital that we ensure that we have diversity across the judiciary.

136. JUSTICE has repeatedly highlighted that a rigorous commitment to judicial diversity is necessary to ensure the legitimacy of the judiciary in the eyes of the public and to foster the trust of court users.[593] For example, the Lammy Review showed that the absence of judges from ethnic minority groups contributes to mistrust in the system among Black and ethnic minority communities, given the gulf between the backgrounds of Black and ethnic minority defendants and judges.[594]

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[591] P. Seddon and J. Nevett, *Jenrick attack 'activist' judges in conference speech*', (BBC News, 6 October 2025).

[592] J. Slack, '*Enemies of the people: Fury over 'out of touch' judges who have 'declared war on democracy' by defying 17.4m Brexit voters and who could trigger constitutional crisis*', (Daily Mail, 3 November 2016).

[593] JUSTICE, '*Increasing Judicial Diversity: An Update*', (29 January 2020).

[594] D. Lammy, *'The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System'*, (2017), p.37.

137. As Lady Hale, a former President of the Supreme Court, has explained:

"*People should be able to feel that the courts of their country are 'their' courts, there to serve the whole community, rather than the interests of a narrow and privileged elite. They should not feel that one small section of society is dictating to the rest. These days, we cannot take the respect of the public for granted; it must be and be seen to be earned*."[595]

138. Increasing the diversity of our judiciary is also about improving the quality of judgments and the public's confidence in that quality. A large body of evidence confirms that different but complementary perspectives are better for collective decision-making than homogenous ones.[596] The task of judging is difficult and demanding, and the range of cases in which judgments must be made is extremely broad. The quality of those judgments would be improved by bringing a wider range of perspectives to decision-making, drawn from the widest talent pool.[597] The consequence of not recruiting from a wide enough pool is necessarily that the institution is not benefiting from the best available talent. Further, if we prioritise filling judicial roles with wide-ranging life experiences, this will mitigate against discrimination and bias.

139. Further, changing the makeup of our courts is vital to ensure fairness.[598] It is important that structural and hidden barriers to appointment are removed and that our judges are selected through fair selection processes that do not inadvertently disadvantage or advantage certain demographic groups. Significant overrepresentation of a certain group calls into question the objectivity of the current system and its ability to recruit varied talent. A fairer, transparent selection process, in itself, will improve both public and professional confidence in the legitimacy of the judiciary and reassure both the public and practitioners that judges will apply the law fairly and equally to all.

140. Despite the clear case for judicial diversity, appointments data shows that progress is slow across several underrepresented groups,[599] except for a notable improvement in gender in the lower courts, and in the tribunals where 54% of tribunal judges are female.[600] However, the judiciary as a whole remains 61% male and the more senior echelons of the

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[595] Lady Hale, '*Judges, Power and Accountability: Constitutional Implications of Judicial Selection speech*', (Constitutional Law Summer School Belfast, August 2017), p.4.

[596] I. Bohnet, *What Works: Gender Equality by Design*, (Harvard University Press, 2016), Chapter 11, pp.229-30; J. Surowiecki, *The Wisdom of Crowds*, (Anchor, 2005), Chapter 2. See also: D.L. Rhode, *Lawyers As Leaders*, (Oxford University Press, 2015), p.47: famously, some American presidents surround themselves with a "team of rivals" to avoid the "perils of insular thinking" (including Presidents Lincoln and Obama); The Rt. Hon. Sir Terence Etherton, '*Liberty, the archetype and diversity: a philosophy of judging*', (Public Law, 2010), p.11.

[597] JUSTICE, '*Increasing Judicial Diversity: An Update*', (29 January 2020).

[598] C. Thomas, '*Judicial Diversity in the UK and Other* Jurisdictions, *A Review of Research, Policies and Practices*', (The Commission for Judicial Appointments, November 2005).

[599] JUSTICE, '*Increasing Judicial Diversity: An Update*', (29 January 2020); JUSTICE, '*Increasing Judicial Diversity*', (2017).

[600] Ministry of Justice, '*Diversity of the judiciary: Legal professions, new appointments and current post-holders -2025 Statistics*', (23 July 2025).

judiciary remain overwhelmingly male, with the Supreme Court 83% male, the Court of Appeal 77% male, and the High Court 73% males (including full and part time judges).[601]

141. Advancement among certain demographic groups has been markedly slow, despite the strong justification for improving judicial diversity. At the time of our 2020 report on judicial diversity, individuals from Black and ethnic minority backgrounds accounted for 7% of sitting judges in the courts. This figure has only risen modestly to 12% in the most recent data, and the proportion of Black judges has persistently remained at just 1%, despite the overall increase in ethnic minority judges.[602] Furthermore, as the table below shows, progress in increasing diversity is particularly slow at senior judicial levels:

Senior Judiciary Statistics – Black and ethnic minority representation

	1995	2007	2016	2021	2025
Supreme Court	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Court of Appeal	0 (0%)	0 (0%)	0 (0%)	1 (3%)	1 (3%)
High Court	0 (0%)	1 (0.9%)	2 (1.9%)	5 (5%)	9 (9%)
Circuit Bench	5 (1%)	9 (1.4%)	23 (3.7%)	32 (5%)	67 (10%)

142. In our 2020 report we celebrated that Lord Justice Singh had been elevated to the Court of Appeal as the first visibly Black or minority ethnic person ever to serve at that level.[603] However, six years on, he remains the only visibly Black or ethnic minority person to ever serve at that level. Unfortunately, it appears that change at a senior level has stalled after having barely begun. The strikingly limited Black or ethnic minority representation in the senior courts, including the complete absence in the Supreme Court, raises significant concerns for upholding public confidence and institutional legitimacy. Indeed, across the whole judiciary, white candidates continue to be appointed at a significantly higher rate, being almost twice as likely as Black or minority ethnic candidates to be recommended for appointment.[604]

143. Since 1972, JUSTICE has urged the appointment of solicitors to the higher courts of England and Wales. Not only do solicitors offer different experiences and perspectives to the role of judging – cognitive diversity – as a profession solicitors represent a more diverse pool in terms of gender, ethnicity and social background than the Bar. To recruit the best possible – and most diverse – judges, it is important that the whole profession becomes the pool for the judiciary, yet despite non-barristers accounting for 91% of the legal profession,[605] they make up only 40% of all court and tribunal judges, a figure that

[601]ibid. See Diversity of the judiciary 2025 statistics: data tables.

[602]ibid.

[603]JUSTICE, '*Increasing Judicial Diversity: An Update*', (29 January 2020), p.25.

[604]BAME candidates' recommendation rate from application is 6% whereas for white candidates it is 11%. The relative rate index (RRI) for application to recommendation ethnic minority: white is 0.54. See Diversity of the judiciary 2025 statistics: data tables.

[605]Non barristers include solicitors and Charter Legal Executives. As of 2025 there were 18,009 barristers, 174,33 solicitors and 8,477 Chartered Legal Executives, Ministry of Justice, Diversity of the judiciary 2025 statistics: data tables, table 1_1.

has declined by 8% over the last 10 years.[606] Solicitors are less likely to apply for judicial office than barristers and their relative success rates compared with barristers remain poor.[607]

144. Whilst there is presently no published data on socio-economic background for sitting judges, data on judicial selection exercises shows that those candidates from lower socio-economic backgrounds are less likely to be appointed than those with a professional or intermediate socio-economic background.[608]

145. The government's recent plan to limit jury trials in England and Wales emphasises the need to prioritise greater judicial diversity to maintain public trust. The Lammy review found that juries do not deliver different results for Black and racialised defendants and white defendants, regardless of the ethnic make-up of the jury, as opposed to magistrates where there were disparities in adult verdicts depending on ethnicity.[609] Since juries reflect local populations and deliberate together, they help reduce bias and discrimination. Weakening this aspect of the judicial system, at a time when diversity is still lacking, risks further undermining perceived fairness in the system.

146. Therefore, we reiterate the recommendations to increase the diversity of the judiciary made in our Increasing Judicial Diversity reports including:

- the ability to contribute to a diverse judiciary being taken into account in the assessment of 'merit';
- the introduction of diversity "targets with teeth", i.e. publicly stated targets for selection bodies, with monitoring and reporting on progress to the Justice Select Committee;
- the creation of a permanent Senior Selection Committee dedicated to senior appointments;
- creation of 'appointable pools' of individuals deemed to have met the high standard of appointability for a particular court, with pooled candidates from under-represented groups being given priority to fill vacancies when they arose;
- The JAC should conduct an in-depth expert review of their appointment processes, looking beyond 'best practice' to focussing on the reasons for differential

[606] Ministry of Justice, Diversity of the judiciary: Legal professions, new appointments and current post-holders - 2025 Statistics

[607] Applicants who are 'ever' solicitors are 54% less likely to be successful than applicants who are "ever barristers" See Diversity of the judiciary 2025 statistics: data tables.

[608] For all legal exercises completed in 2024-25, applicants from a lower socio-economic background had a recommendation rate of 7%, compared to those applicants with a professional or intermediate socio-economic background who had rates of 10% and 11% respectively. This is also shown by the drop in representation from 29% of applications to 21% of recommendations for those from a lower socio-economic background. See other characteristics in Ministry of Justice, '*Diversity of the judiciary: Legal professions, new appointments and current post-holders -2025 Statistics*', (23 July 2025).

[609] D. Lammy, *'The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System'*, (2017), p.32.

attainment by differential groups, in particular Black and other ethnic minorities, those from lower socio-economic backgrounds and non-barristers; and;

- And, establishment of an internal judicial career path where judges can begin their career in the more diverse Tribunals or District Judges.

147. A number of further detailed recommendations are set out in our 2017 and 2020 reports on this topic.[610]

Recommendations

148. In line with the main themes of this report, our overarching recommendation concerning PLE (as discussed below) is that education about the rule of law should be provided in a manner focusing on scenarios and day-to-day issues that people can relate to.

149. The government must take action aimed at implementing the multitude of existing recommendations from stakeholders across the justice system on how to improve people's access to justice.

150. The government, including the Ministry of Justice, HMCTS, and all departments and public bodies that feed cases into the justice system, should improve the collection and publication of justice system data so that new funding can be directed to where it will have the greatest impact.

151. To improve access to justice the government needs to work in a cross-departmental manner, focusing on overall thematic outcomes rather than individual parts of the system. This requires allocating funding using an outcomes-based model, so departments must work together to meet shared goals for improving access to justice.

152. The government must also develop its strategy on how to secure human rights and the rule of law in the actions of private actors in the justice system. We recommend ensuring that private actors using AI tools to provide legal help can deliver accurate legal advice, especially since chatbots currently operate outside legal services regulation.

153. Relatedly, we recommend developing robust ongoing monitoring and evaluation systems for AI tools against clear and agreed standards of what 'good' looks like in specific contexts. These measures must be put in place before unregulated AI use becomes entrenched and creates systemic problems for courts, tribunals, and users.

154. We reiterate the recommendations to increase the diversity of the judiciary made in our *Increasing Judicial Diversity* reports including:

    (a) the ability to contribute to a diverse judiciary being taken into account in the assessment of 'merit';

    (b) the introduction of diversity "targets with teeth" i.e. publicly stated targets for selection bodies, with monitoring and reporting on progress to the Justice Select Committee;

[610] JUSTICE, '*Increasing Judicial Diversity: An Update*', (29 January 2020); JUSTICE, '*Increasing Judicial Diversity*', (2017).

(c) the creation of a permanent Senior Selection Committee dedicated to senior appointments;

(d) creation of 'appointable pools' of individuals deemed to have met the high standard of appointability for a particular court, with pooled candidates from under-represented groups being given priority to fill vacancies when they arose;

(e) The JAC should conduct an in-depth expert review of their appointment processes, looking beyond 'best practice' to focussing on the reasons for differential attainment by differential groups, in particular Black and other ethnic minorities and those from lower socio-economic backgrounds;

(f) And, establishment of an internal judicial career path where judges can begin their career in the more diverse Tribunals or District Judges.

Postscript: Holding the line, together

155. This report is published at an important moment. In *The rule of law: holding the line against tyranny and anarchy* (November 2025), the House of Lords Constitution Committee (the "**Committee**") has just completed a detailed and comprehensive inquiry that set out, in accessible terms, both what the rule of law requires in practice and where it is now fraying.[1] JUSTICE's report, in turn, argues that renewal will only endure if it is rooted not just in institutions, but in culture and everyday practice. Read together, the two reports amount to a convergent diagnosis and a common platform for action.

A common diagnosis

156. Both reports identify that the problem is rooted in the public's everyday experiences as much as in public law. The Committee records a "pervasive sense that the rule of law is under threat",[2] shaped by visible, consequence-free, everyday offending; backlogs that impede justice; and, rhetoric that invites people to distrust institutions and courts. It stresses that "everyone...needs to be proactive in strengthening our rule of law culture, and this must start now".[3] JUSTICE likewise argues that resilience rests on a *people centred* culture in which legality is understood, felt and valued in daily life. This means politicians, officials and the public should know and understand *why* rules and procedures exist. In this way, trust can be rebuilt through openness, fairness and reliability in public decision making.

Access to justice as a priority

157. The Committee is unequivocal: delays, backlogs and barriers to advice are "pressing challenges" that must be tackled decisively through increased support for advice services, adoption of appropriate technologies, a larger role for alternative dispute resolution, and public legal education.[4] It links procedural effectiveness to social order, economic productivity and democratic trust. We agree. The government must double down on pre-existing access to justice recommendations, improve cross government data to target funding where it makes the biggest difference, and organise justice funding around outcomes that require departments to work together. Both reports insist that without timely redress, rights risk being rendered theoretical.

Better lawmaking

158. On legislative quality, the reports share a common focus. The Committee sets out the attributes of "good law".5 This means laws that are clear, accessible, prospective, predictable, possible to obey, and coherent with the wider statute book. It warns against "performative, overly complicated and unnecessary legislation", the excessive use of skeleton bills and delegated powers, and the bypassing of scrutiny.6 It also calls for practical steps to make the law easier to find and navigate, including enhancements to legislation.gov.uk so that users can see how primary powers, secondary legislation, codes and guidance interlock.

159. We complement this with a programme to rebalance incentives across the policy cycle: routine pre and post legislative scrutiny; stronger, unified standards for secondary

legislation; the ability (or, at minimum, a reliable mechanism) to disallow or amend instruments that trespass on rights; consultation or clarity, and better use of impact assessments that look beyond economics to distributional effects and equality.

160. JUSTICE also proposes practical tools, such as a consolidated repository of legislative standards and an accessible "one stop" research hub for parliamentarians, to bring constitutional good practice into day-to-day drafting, debate, and scrutiny.

Judicial Independence

161. Both reports recognise that respect for judicial independence is non-negotiable. The Committee documents the rise of personalised attacks on judges, the corrosive effect of inaccurate commentary, and the need - rooted in statute - for ministers (especially the Lord Chancellor) to defend the judiciary and distinguish criticism of judgments from attacks on judges.7 It also highlights the burden on courts created by misinformation and calls for better resourcing of communications (e.g. judgment summaries), consistent with open justice.

162. JUSTICE addresses the same risk from the other end of the issue: increase constitutional literacy among MPs and advisers, embed rule of law leadership across government, and expand nonpartisan public legal education so that debate about courts and cases begins from shared facts. The Supreme Court's recent outreach to new MPs is rightly held up as a model of "rule of law leadership" that others can emulate.

Accountable Government

163. The Committee charts the constitutional responsibilities of ministers, Law Officers and government lawyers to ensure legality in policymaking; to calibrate legal risk to professional standards; to comply with international obligations; and, to refrain from casting judicial review claimants as "blockers getting in the way" when judicial review is, in truth, a constitutional backstop and a driver of law-abiding administration.[8] JUSTICE's recommendations reinforce that culture. We propose equipping ministers, parliamentarians and civil servants with the knowledge and tools to *avoid* legal error, normalise early engagement with legal and equality experts, and bolster watchdogs – such as the EHRC and the ICO – to embed long term norms beyond temporary instances of political pressure.

Equality before the law

164. The Committee records how perceptions of bias and "two tier" justice, amplified by evidence of disproportionality in policing, put into sharp relief "the importance of perception, as much as the reality, for shaping public confidence in equality before the law."[9]This destabilises the social contract on which voluntary compliance depends. It urges strong, visible action to tackle discrimination and cautions against careless political language that undermines policing legitimacy. JUSTICE's proposals on better data, impact assessments and regulator capacity (including human rights and equalities bodies) provide the infrastructure to ensure equalities considerations are at the heart of policymaking across the board.

Public legal education

165. Both reports converge on public legal education as a structural investment. The Committee recommends high quality rule of law education in schools and broader demystification of government processes.

166. JUSTICE, again, agrees. PLE should starts from people's real problems and everyday experiences. This can be achieved through more effective civil society partnerships, hand in hand with targeted programmes for those who exercise public power (MPs, advisers, officials) so that constitutional guardrails are internalised where everyday decisions are made.

Conclusion

167. The rule of law is by no means guaranteed. We may only hope to secure it where there are joint efforts and commitments to ensure its tenants are known, respected, and understood. The Committee's report shows, concretely, where the line is. JUSTICE's report shows how to build the habits that keep us on the right side of it.

168. Going forward, we will continue to work with government, civil society, and crucially members of the public themselves, to reverse recent trends and set a path towards a brighter future in which the UK lives up to the expectations of the very people to whom it has a duty to serve.

Annex

Table 1: A comparison of mechanisms of secondary legislation scrutiny

Country	Standard
New Zealand	In New Zealand, the Regulations Review Committee was established in 1985 to restrain the power of the executive, in response to concerns that the executive was using delegated legislation to push through government policy and to avoid parliamentary scrutiny.[611] Standing Order 326 provides that the Committee's functions are examining all secondary legislation; examining *draft* secondary legislation provided by a Minister; examining *secondary legislation making powers* in all Bills before Parliament; considering any matter relating to secondary legislation; and, hearing complaints regarding secondary legislation. Under s.115 of the Regulations (Disallowance) Act 1989 a piece of secondary legislation can be disallowed where the House of Representatives does not dispose of a motion to disallow given by a member of the Regulations Review Committee within 21 days of receiving the notice. Academic commentary has noted that, "the existence of a power of disallowance provides the sanction that ensures that a Committee's views are taken seriously". In short, the mere prospect of a disallowance motion being moved may encourage the executive to amend regulations to address the Committee's concerns.[612]
Canada	Canada's (federal) Standing Joint Committee for the Scrutiny of Regulations holds powers similar to New Zealand's Regulations Review Committee

[611] https://www3.parliament.nz/en/visit-and-learn/how-parliament-works/parliamentary-practice-in-new-zealand-2023-by-chapter/chapter-41-secondary-legislation

see 41.3 on the origins of parliamentary review of secondary legislation

[612] Regulations Review Committee "Proposals for a Regulations Bill" [1987] AJHR I16B, 36.

	in respect of technical scrutiny of secondary legislation.[613]
Australia	In Australia, the Committee for the Scrutiny of Delegated Legislation may, under standing order 23(2), recommend the disallowance by the Senate of any delegated legislation not in accordance with the committee's principles. The Senate has never rejected a committee recommendation that an offending instrument should be disallowed.

Table 2: A comparison of standards of secondary legislation scrutiny

Issuing body/country	Standard	Contents
OECD	2005 OECD guiding principles for regulatory quality and performance	Good regulations should: 1. serve clearly identified policy goals, and be effective in achieving those goals; 2. have a sound legal and empirical basis; 3. produce benefits that justify costs, considering the distribution of effects across society and taking economic, environmental and social effects into account; 4. minimise costs and market distortions; 5. promote innovation through market incentives and goal-based approaches; 6. be clear, simple, and practical for users; 7. be consistent with other regulations and policies; and 8. be compatible as far as possible with competition, trade and investment-facilitating principles at domestic and international levels.

[613] The Committee can pursue a disallowance procedure where a resolution is put before the House, which if adopted or deemed to be adopted, would require the regulation-making authority to revoke all or part of the impugned regulation within 30 days. Library of Parliament, "*The Standing Joint Committee for the Scrutiny of Regulations*" (21 February 2022)

Australia	In Australia, the Committee for the Scrutiny of Delegated Legislation scrutinises each disallowable legislative instrument as to whether: 1. it is in accordance with its enabling Act and otherwise complies with all legislative requirements; 2. it appears to be supported by a constitutional head of legislative power and is otherwise constitutionally valid; 3. it makes rights, liberties, obligations or interests unduly dependent on insufficiently defined administrative powers; 4. those likely to be affected by the instrument were adequately consulted in relation to it; 5. its drafting is defective or unclear; 6. it, and any document it incorporates, may be freely accessed and used; 7. the accompanying explanatory material provides sufficient information to gain a clear understanding of the instrument; 8. it trespasses unduly on personal rights and liberties; 9. it unduly excludes, limits or fails to provide for independent review of decisions affecting rights, liberties, obligations or interests;
Canada (federal)	In Canada, the Standing Joint Committee for the Scrutiny of Regulations review all statutory instruments against the criteria including whether the instrument: 1. is not authorised by the terms of the enabling legislation or has not complied with any condition set forth in the legislation; 2. is not in conformity with the Canadian Charter of Rights and Freedoms or the Canadian Bill of Rights;

		3. purports to have retroactive effect without express authority having been provided for in the enabling legislation; 4. imposes a charge on the public revenues or requires payment to be made to the Crown or to any other authority, or prescribes the amount of any such charge or payment, without express authority having been provided for in the enabling legislation; 5. imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation; 6. tends directly or indirectly to exclude the jurisdiction of the courts without express authority having been provided for in the enabling legislation; 7. has not complied with the Statutory Instruments Act; 8. appears for any reason to infringe the rule of law; 9. trespasses unduly on rights and liberties; 10. makes the rights and liberties of the person unduly dependent on administrative discretion or is not consistent with the rules of natural justice; 11. makes some unusual or unexpected use of the powers conferred by the enabling legislation; 12. amounts to the exercise of a substantive legislative power properly the subject of direct parliamentary enactment; or 13. is defective in its drafting or for any other reason requires elucidation as to its form or purport. Departments and agencies must also respond to issues raised by the Standing Joint Committee for the Scrutiny of Regulations in a timely manner.
Canada (federal)	Cabinet Directive on Regulation	Four general principles apply to all statutory instruments under section 6 of the Statutory Instruments Act: 1. regulations must be justified to protect and advance the public interest; 2. the regulatory process is modern, open, and transparent;

	3. regulatory decision-making is evidence-based; and 4. the regulations support a fair and competitive economy. Oher regulatory-making authorities are encouraged to follow and apply the Directive.

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