



BLUEPRINT FOR A UK CONSTITUTIONAL CONVENTION

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Executive Summary

Proposals for a UK constitutional convention are made by several parties in their 2017 election manifestos and have been prominent on the political agenda for several years. Such proposals are offered both as a response to widespread disillusionment with the state of democracy and as a means of addressing the deep constitutional challenges posed by Brexit and uncertainty over the future of the Union.

The convention's work involves three phases: learning; consultation; deliberation and decision. It would need at least two weekends for each topic on its agenda, spaced two to four weeks apart. But more time is better: the Dutch Civic Forum met for 10 weekends, and the Canadian Assemblies for 12 weekends, spaced out over a year.

This requires a big commitment from members, who should be paid around £150 per day for giving up their time. To maintain high participation they need to enjoy the meetings and feel appreciated, with good hotel accommodation, food and refreshments, and strong support from the secretariat.

The convention needs to reach out from the start to engage with politicians, the media and the public, with an interactive website, and lively social media.

1. Introduction

Table 1.1.Options for a constitutional convention: comparatobodies

	Dates	Membership	Focus	For details, see
Scottish Constitutional Convention	1989-95	143 elected politicians/party reps + 16 civil society reps	Scottish devolution	Box 4.2 on p.25
British Columbia Citizens' Assembly	2004	160 randomly selected citizens + appointed Chair	electoral reform	Box 3.4 on p.16

- x Chapter 6 turns to the structure of a constitutional convention in the US. Should it be a unitary or a federal body? If it is federal, how should its component parts relate to each other? How does this question of structure interact with the issue of the number of members that the convention should have?
- x Chapter 7 investigates the appropriate operating methods of the convention. How should it conduct its business? What steps should it go through in order to complete its work?
- x Chapter 8 analyses the convention's schedule. How much time should it have to conduct its work? Should that work be concentrated or spread out? How should particular meetings be scheduled?
- x Chapter 9 looks at support for convention members. Citizens who give up their time for a convention deserve to be treated well and to be assisted to participate equally. Can this be done, and how can members be protected from potentially hostile comment in traditional or social media?
- x Chapter 10 focuses on the convention's external engagement. How should it draw politicians, opinion-formers, and the general public into its work?
- x Chapter 11 draws together the implications of other chapters in relation to staff. What roles need to be performed? By whom are they best performed? How many staff members, overall, are needed?
- x Chapter 12 looks at the convention's budget. What are the key budget lines that need to be allowed for? Where might an unofficial convention run by civil society organisation be able to save on the budgetary requirements of a full official convention? What have been the budgets of previous similar conventions?
- x Chapter 13

in subsequent years were expert commissions, such as the Jenkins Commission on the electoral system, the Wakeham Commission on reform of the House of Lords, and the many expert commissions on the future of devolution in Scotland and Wales.

Two changes have taken place since around 2010. Proposals for some form of constitutional convention have become much more common. The Liberal Democrats proposed a citizens' convention on the constitution in their 2010 manifesto. In 2012, Welsh First Minister Carwyn Jones proposed a convention on the model of the Scottish Constitutional Convention. In 2013, the House of Commons Political and Constitutional Reform Committee (PCRC) published a report called 'Do We Need a Constitutional Convention for the UK?'. The Scottish Government pledged to establish a constitutional convention in the event of a vote for independence in the referendum of September 2014. In 2015, Labour, the Liberal Democrats, and the Green Party all proposed the

2013 report, four of those who submitted evidence to the inquiry did at least suggest that it should be considered.¹³ In their 2015 manifestos, Labour's proposal was for 'a people-led Constitutional Convention' while the Liberal Democrats advocated

2. The Purposes of a Convention

A constitutional convention can be established for a variety of purposes. This chapter discusses the various purposes that might lie behind a constitutional convention, reflects on their feasibility, and highlights some of the tensions that may exist among them.

2.1. Why Create a Constitutional Convention?

At the broadest level, a constitutional convention might be created:

- x to promote and legitimise particular constitutional reforms that the convention advocates already have clear ideas about;
- x to develop proposals for constitutional reform through deep public engagement;
- x

reasons, a constitutional convention should not be created just to kick complex and difficult questions into the long grass.

engagement with politicians, activists, and others. We explore these dilemmas further in chapters 4, 10, and 13.

2.3. Recommendations on Purposes

- x Constitutional conventions have been proposed for multiple purposes. The most common are to promote particular reforms, develop reform proposals through deep public engagement, and to build a grassroots democratic movement.
- x But there are risks in overselling constitutional conventions. They are not panaceas, which are going directly to re-engage people with politics and restore trust on a large scale. Or can it be presumed that they will produce well grounded representative conclusions unless they are well designed.

3. Scope and Terms of Reference

The question of what should be on the agenda of a constitutional convention is one of the most fundamental in the design of such an institution. This chapter examines the different options for how wide or narrow the agenda of a convention might be, and then discusses who should set the terms of reference which will determine its scope.

3.1. What Should Be on the Convention

Box 3.1 The Icelandic Constitutional Council of 2011

The economic crisis of 2008 hit Iceland hard. Early elections led to the formation of a government in 2009, which was pledged to pursuing a programme of constitutional reform. In October 2010, a one-day National Forum, comprising 950 randomly selected citizens, discussed the themes that they wanted to see reflected in the revised constitution.

This led on in November 2010 to elections for a 25-member Constitutional Council (originally called the Constitutional Assembly). The election was conducted by a nationwide referendum using the single transferable vote (STV) system. Politicians were excluded. Those elected included a lawyer, an artist, a priest, a professor, a political scientist, a media person, an erstwhile politician, a company board member, a farmer, a campaigner for the rights of disabled people, a mathematician, a nurse and a labour union leader.

The Constitutional Council deliberated intensively over several months in early 2011 and delivered its draft for a new constitution to parliament in July. This draft has since been referred to as the 'crowd-sourced constitution', but the reality was more prosaic: while much public submissions were made, they appear to have influenced only a relatively small number of articles.**

The proposals were endorsed at a referendum in 2012. But this referendum was purely advisory and required the endorsement of two successive parliaments. That has not been done, though it has remained a live issue in Icelandic politics.

* Eirikur Bergmann, *Iceland and the International Financial Crisis: Boom, Bust and Recovery* (Basingstoke: Palgrave Macmillan, 2014), p. 177.

** For discussion, see Alan Renwick, *The Referendum for a Constitutional Convention* (London: Constitution Society, 2014), pp. 61–62.

legislature in the other three parts of the UK constitutional convention could address all the unfinished business of previous reforms: further reform of the House of Lords, a British Bill of Rights, reform of party funding, the English Question, devolution and the Union, changing relationship with Europe, and a written constitution.

The argument against such a wide agenda is that a convention charged with resolving diverse issues would face an almost impossible task. Each issue, by itself, has been difficult in combination they might prove insuperable. That may be especially so for a citizens' convention rather than, say, an expert panel, given the need for members gradually to build their understanding of the issues.

Midi model: the future of the Union, or a selection of half a dozen constitutional topics

An example of a midi model from international practice would be the Constitutional Convention of 2012–14, which was required 12 months to consider eight unrelated constitutional topics (see Box 3.2). The convention's timetable meant that, for the most part, it devoted one weekend to each topic, which inevitably was very rushed.

An alternative version of the mid-model could give a constitutional convention not a set of disparate topics to consider, but a broad remit of the constitutional framework. The proposals from Scottish Labour and Gordon Brown for a constitutional convention to examine the federalisation of the UK provide an example. Box 3.3 sets out one recent attempt to summarise the issues that such a convention specifically, one examining the unfinished business arising from devolution

the official citizens' assemblies that have been established to date have all followed this model. The original citizens' assemblies – in Canada and the Netherlands – looked at the question of electoral reform (see Box 3.4). The current Irish Citizens' Assembly in principle has a broader agenda encompassing six topics; in practice, it is heavily focused on just one of these – namely, abortion (see Box 3.5).

In the UK, a convention of this kind could be asked to examine one aspect of devolution, such as the governance of England. The Electoral Reform Society, one of the leading advocates of a constitutional convention, has proposed just this:

The governance of England is the most pressing issue in the current political debate, and English citizens have not yet had the opportunity afforded to other nations during the devolution process to have a say on these issues. It would therefore be preferable to proceed first with an English convention, which addresses the question: how should England be governed? This would cover how England relates to the other nations of the UK, and how power can be devolved within England.²⁵

²⁵ Electoral Reform Society,

Eventhis is a big agenda: it comprises issues

report that it would have 'preferred more time to discuss some of the issues, particularly those of a more technical or complex nature'.²⁶

3.2. Who Should Decide the Agenda?

Some advocates of a constitutional convention, such as OpenDemocracy, have suggested that the convention members should decide their agenda. They will be in charge of their own agenda. Their mandate will be to set out the constitution of British democracy and put this into a set of proposals to the British people in the form of a referendum.²⁷ But all the citizens' conventions which have been established in other countries have been given a specific task, or tasks, with a specific timetable. A small exception was seen in Ireland, where the Irish Constitutional Convention was allowed, once it had completed its eight tasks, to consider other matters to the Irish constitution. It chose to consider reform of the Dáil, and the inclusion of economic and social rights, but in the time available was not able to do justice to either topic. Of recent constitutional review bodies, only the Constitutional Council in Iceland was given genuine freedom to range across all constitutional matters.²⁸ But it was an elected body that behaved quite differently from a genuine citizens' convention.

In its final report the Irish Constitutional Convention suggested that some of the topics on its agenda were not suited for the convention format, and that in future it would be easier to answer

²⁶ Irish Constitutional Convention, [Ninth Report of the Convention on the Constitution and Final Recommendations](#), March 2014, p. 13.

²⁷ Anthony Barnett, [From Here to Democracy](#), open letter to Ed Miliband MP, February 1 2012, [http://www.open-democracy.org/2012/02/01/2012-02-01-05-000008871-0-595.32-84](#)

Yes/No questions, as was asked to do for examples same sex marriage and the voting age. Its report continued, It is ironic that two of the subjects with which the members appeared to struggle most were the two they chose themselves (Dail Reform and Economic, Social and Rights) and it was a challenge to retain a focus within single weekends on-sounding topics.²⁹

These experiences suggest that it is best for those who establish a convention to decide its agenda; otherwise, there is a danger that it will lack the focus required to reach well grounded conclusions on any particular issue. The more time and resources that are available to the convention, the more complex can be its agenda. As we explore in detail in chapter 6, however, truly informed deliberation, even on a single topic, takes considerable time. We therefore recommend that the work of a convention should be limited to one aspect of the constitution, the breadth of which should be decided in light of the time and resources available to it.

3.3. Recommendations on Scope and Terms of Reference

We recommend the following:

- x The terms of reference for any constitutional convention should indicate the issues that the convention is to consider
- x Those issues should be limited to one aspect of the constitution; an overarching constitutional review would be too complex and controversial
- x The breadth of this aspect of the constitution should be determined in light of the time and resources that are available to the convention: the tighter the resources, the narrower should be the convention's focus in order to permit meaningful learning and deliberation.

²⁹ Irish Constitutional Convention, [Ninth Report of the Convention on the Constitution and Final Recommendations 2014](#), p13-14. For the full list of the Convention's recommendations, see Appendix D at pp 24-6.

4. Membership

As we indicated in the Introduction, this report sets out options for the design of what, in broad terms, can be called a Welsh Constitutional Convention. We therefore do not consider bodies whose membership is composed entirely of experts or politicians. Nevertheless, two sources of possible variation in membership remain. First, there are different ways in which ordinary members of the public might be chosen. Second, many of the proposals that have been made are for mixed bodies, in which ordinary citizens sit alongside other participants.

In fact, five broad categories of proposed member can be identified in current debates:

- x ordinary members of the public, chosen at random;
- x elected non-politicians;
- x politicians;
- x representatives of organised civil society;
- x experts.

The following sections of this chapter flesh each of these out in turn, assessing arguments for and against their inclusion and drawing out recommendations. The final section considers how many members there should be.

4.1. Ordinary Members of the Public

The major newcomer to the menu of options available for a constitutional convention is the 'citizens' assembly': a body comprising members of the public who are selected at random to be representative of the population as a whole (see Box 3.5 on pp. 16-17 for sketches of previous examples). The details of the selection process are in 0 g 0 G 9Seion 17

- x The constitution sets out the fundamental rules of the community and must therefore reflect the wishes of the community as a whole. By contrast, if the constitution is determined by those who already hold political power, the structure of power that they devise will inevitably reflect their own interests.
- x Given the public's disengagement from traditional representative institutions and disillusionment with 'the establishment', a conventional, elite-led constitution-making process would no longer garner public legitimacy.
- x Contrary to what some may say, ordinary members of the public, when given appropriate time and support, are well able to deal with complex constitutional questions.

Opponents make rather different points:

- x Major constitutional reforms can legally be introduced only through Acts of Parliament, so political buy-in is essential. This is unlikely if politicians are excluded from the process of devising proposals.
- x Constitutions set out fundamentally important rules and must therefore be shaped by expertise. Politicians, who see how power structures work by day, have that expertise; most ordinary citizens do not.
- x It is difficult to make a citizens' assembly representative of the whole population: even if representativeness is engineered in terms of criteria such as age and gender, those who accept the invitation to participate will principally be people who are unused to being in politics. They are unlikely to reflect the interests and concerns of the wider public.

All of these arguments, on both sides, have evidence. Evidence suggests, however, that most of the sceptics' concerns can be addressed. The hardest challenge is that of representativeness, which we explore further in the next chapter. Taking the arguments in turn:

- x It is true that politicians, when considering political reforms, are heavily influenced by their own power interests. Many political scientists regard this as an obvious point that does not require detailed justification. That is not our view: one of us has explored in depth the various circumstances and ways in which other considerations also come into play.

about such issues is, it is true, well founded: survey evidence suggests that most people do not have worked through opinions on such matters.³³ But the experience of citizens' assemblies is that citizens who are given time ~~and~~ ^{opportunities} to learn and think are well able to develop reasoned positions: the proposals they put forward are internally coherent and reflect the underlying values that assembly members identify as important. We explore the structures need to build these ~~ones~~ ^{ones} in chapters 7-9.

- x Nevertheless, political ~~is~~ ^{is} also crucial. As the Constitution Unit pointed out in its first report, if the purpose is to get something done rather than just to gather opinions, parliamentarians need to be engaged.³⁵ It is notable that none of the three pure (and official) citizens' assemblies that have ~~concluded their work to date~~ ^{concluded their work to date} - in British Columbia, the Netherlands, and Ontario ~~has led to any actual reform~~ ^{has led to any actual reform} every case, that was partly G [()008

Some of the arguments for and against inclusion of politicians flow from what has already been said. On the side against their inclusion:

- x Politicians' personal interests are deeply tied up in constitutional structures. **Being human, they cannot be expected to make constitutional choices unaffected by those interests.**
- x Politicians are (at least to a degree) tied to the positions on which they were elected. **As a result, the positions taken by their parties in the case of elected non**

Overall, therefore, including politicians as members does appear to pose problems. While it may be possible to overcome problems of dominance, it may be harder to secure regular attendance, and it may also be difficult for politicians to engage in genuinely open deliberation.

nominees) should have greater access to the constitutional change process than other citizens.⁴¹

- x For those groups that are included, it may be unclear who should represent them. Some groups have clear authority structures, but others do not. TUC, for example, represents most trade unions, but not all. Some religious groups have systems of election for choosing representatives of their communities, but others do not. Some spokespeople may therefore have views that are unrepresentative of those they purport to speak for.

Existing models come in two basic types:

- x Some bodies are small.

5. Selecting Citizens

We concluded in chapter 4 that at least the substantial majority of the members of any citizens' constitutional convention should be ordinary members of the public who are invited at random to participate. We also indicated, however, that securing a representative sample is far from straightforward. Most of those who are invited to take part will turn down the offer. Those who accept the offer will not be wholly representative of those who do so, and therefore it is important to use a variety of methods, including, but not limited to, sample stratification in order to maximize representativeness.

We begin by briefly considering what representativeness should actually mean in this context: in what ways is it important for the membership of the convention to be representative of the population as a whole? Then we apply that understanding to assess how the sample should be stratified. Finally, we consider alternative practical methods of selection.

5.1. Representativeness

Theoretical questions about representativeness are deep and numerous, and we do not propose to examine them in detail. Four points do, however, deserve attention:

First, Z K R People Who Should be represented? We have so far assumed the people are citizens and, specifically, those adult citizens who are entitled to vote and are on the electoral register. This is the most obvious definition, and the one that (broadly) we use for other decision

- or the nations and the English ones - separately, perhaps with representation of the smaller parts of the Union. This is a fundamental question of structure, which we explore in the following chapter.

Third, how far off the ground (3) - (ost) f (l) - (cre) (T) (na) - 3 (nna) - g pa) - ay, T6 - cortl ostl so (6 - cat) - ietyis 9 (by.)

minimum levels of representation for certain groups. The following criteria for stratification have been used in the past:

- x gender: all of the official citizens' assemblies and the Irish Constitutional Convention have required equal numbers of men and women (in the Irish Constitutional Convention, this applied only to the citizen members);
- x geography: all previous cases have required an equitable geographical spread, based either on regions or on electoral constituencies;
- x ethnic background: the two Canadian citizens' assemblies required at least a minimal level of representation of the First Nations;
- x age: the Ontario Citizens' Assembly and both Irish bodies required representativeness across four age bands, the lowest of which was designed to reach the part of the electorate that is hardest to engage.

6. Structure

All citizens' assemblies to date have been simple, unitary bodies. In the UK, however, there might be reasons, at least on some issues, to adopt more complex, federal structures. In this chapter, we

To illustrate the range of options available, and for the moment leaving cost considerations aside, we can posit the following different approaches to different policy topics:

Case Study 1: A convention on the franchise and the electoral system at Westminster

This is an all-UK matter. Although different electoral systems have been adopted for elections to the devolved assemblies, the European Parliament and directly elected mayors, and a lower voting age introduced for the Scottish Parliament and local government elections in Scotland, those voices do not need to be separately heard or privileged. The convention, if it wishes, can hear evidence about the effects of those different electoral systems, including the lower voting age in Scotland. It can be constituted as a single-UK convention, with representatives from all parts of the UK, and meet for as many weekends as necessary to do justice to the topic.

Case Study 2: A convention on the governance of England

This could be a single-England convention, with members drawn from all over England. Alternatively, it could start with smaller regional conventions in the nine regions of England (London, South East, South West, East Midlands, West Midlands, East Anglia, North West, North East, Yorkshire and Humberside). The average population size of each region is 7 million, with a range from 8.6

6.4. Recommendations on Structure

We recommend the following:

- x A structure should be chosen that fits the convention's agenda. **Unless there is good reason, a federal structure should be avoided.** But a federal structure is likely to be necessary if the agenda relates to aspects of devolution.
- x If a federal structure is chosen, careful consideration should be given to its implications for the size of the convention, the character of its deliberations, ~~time table~~ **time table** and the timing of its work.

7. Operating Methods

We have suggested that the goal of a citizens' constitutional convention should be to elicit informed and considered public views. Whether that goal is reached or not depends in considerable

ordinary citizens. Experts on accessibility to a variety of groups should be consulted. Sometimes, of course, materials will be needed quickly in the course of a convention's work, making such extensive checks impossible. The quality and impartiality of the core team therefore matters.

Two important issues arise:

- x First, all of this takes time. Based on past experience, we suggest that, wherever possible, preparation of learning materials should begin at least six months before a convention is due to begin. At the same time, the approach taken will often have to remain flexible to ongoing developments.
- x Second, there may be concerns that the Academic Director and his team may exert undue influence over the convention's deliberations and, therefore, its decisions. To counter this danger, the team around the Academic Director should be diverse, the convention should hear from the widest possible range of voices, convention members themselves should be able to request additional information on particular options, viewpoints, or other matters. So far as possible, the Academic Director should become the

extent that they have felt able, to engage in discussions with their communities. But this may raise questions about privacy.

Deliberation and decisionmaking also constitute the third phase of the convention's work: having learnt about options and consulted with the widest possible range of voices, members should have time to reflect in detail on what they have heard and gradually work towards **Decisions** proceedings, the convention should consider the criteria it will use to evaluate the options, and it should repeatedly revisit and, if desired, revise these criteria as members become more informed. A preliminary sifting of options against the **Criteria** can then be used to develop a shortlist of options for detailed consideration. As members come to a view on particular issues, there should always be opportunities for them to reflect on that view and make sure they have not ignored important counterarguments or better alternatives. **Final** decisions should be reached only after multiple rounds of reflection.

Some theorists of deliberative democracy suggest that the ideal mode of **deliberation** is discussion that continues until consensus is reached. In practice, however, complete consensus is

In addition, as we discuss further in chapter 13, if the convention's report is to have real impact, it is important to consider the processes through which it will be disseminated and progress on its recommendations assessed. Previous assemblies and conventions have all disseminated their reports immediately upon reporting. There is a strong case for saying, however, that their work should continue for a period in two ways. First, members might be assisted in taking part in dissemination work: by presenting their conclusions in parliament, for example, or by speaking in their local communities or in the media. Second, the convention as a whole might reconvene one or two more times after agreeing its report to hear responses from government and other politicians to its recommendations and to assess those responses. If a referendum is held on some or all of the recommendations, the convention might be given an opportunity to explain its thinking.

7.7. Implications of Including Elite Members

This chapter has so far assumed that the constitutional convention takes the form of a pure citizens' assembly. If elite members whether politicians, representatives, or experts are to be included, the question arises of whether standard deliberative procedures remain feasible. These procedures seek to create conditions for equality among all participants: the goal is that all members should be equally able to engage with the agenda and have their voices heard. Where elite members are included alongside ordinary members of the public, however, there is inequality: elite members are included on the premise that they can make a special contribution.

The approach taken in the mixed civil constitutional Convention and in the mixed pilot citizens' assembly in Southampton was nevertheless that all members should be treated equally. In the small group discussions, the politician members were distributed among ordinary members of the public, such that they would have to interact with each other. Experience was that, while politician members could initially dominate discussions, this tended to diminish as time went by.

Alternative operating methods could be considered where different categories of members are not treated equally. But this would significantly violate the principles underlying deliberation and might well also antagonise the citizen members. This further illustrates the difficulty of including elite members within a citizens' constitutional convention and highlights the desirability of seeking other means of integrating politicians and campaigners into the convention process, explored further in chapter 10.

7.8. Recommendations on Operating Methods

We recommend that a citizens' constitutional convention should operate according to the following principles:

- x The work of the convention should be divided into three phases: learning, consultation, and deliberation and decision.
- x The learning phase should be supported by a learning programme that is carefully worked out to maximise accuracy, breadth, impartiality, clarity, and accessibility.
- x Consultations should be as wide and open as possible. They should include representatives of any organisations and any members of the public who wish to express their views.

- x **Deliberation should characterize** all of the convention's work. **This should be carefully structured and supported by trained facilitators.**
- x The design of the convention's work and the writing of its final report should be flexible **and** responsive to members' wishes. **Consideration should be given to continuing the** convention's work after it has reported, so that it can advocate and monitor **implementation of its recommendations.**
- x If elite members are included, they should be treated **on par** with and work alongside the ordinary citizens.

8.

- x The extended timetable used in British Columbia, Ontario, and the Netherlands clearly increases scope for thoughtful and informed decision making. It minimises the danger that conclusions will be reached whose implications have not been carefully considered.
- x On the other hand, the longer the convention works for, the more costs to run (see chapter 12) and the heavier its demands on members.

Table 8.1 SFKHGXOH RI WKH 2QWDULRe&draMRejho V. \$VVHPEO\ RC

Learning Phase
Weekend 1 (9-10 September 2006)

8.4. Recommendations on Duration and Schedule

We recommend the following:

x

9. Support for Members

The success of a citizens' convention on the constitution will depend on its members. High rates of participation at all meetings are essential for effective deliberation to occur, so members need to want to return for successive weekends. Members need to maintain that commitment during the weekends themselves, and they need to be comfortable working with each other. Instrumentally, but just as importantly, members give a great deal to the convention, and they therefore deserve to be treated well.

Past conventions have shown that high levels of engagement and satisfaction are attainable. Ontario, for example, average attendance across the twelve plenary meetings was an astonishing 102 out of a possible 104 (with no substitutes).⁵³ But such success is not achieved without considerable effort. In part, it requires that members feel their work and recommendations will be taken seriously—a point we pick up in chapter 11. In part, it simply requires also that members enjoy the meetings, that they feel well treated, and that any special needs that they may have be taken into account so far as possible. In this chapter, we discuss several aspects of the support that can be provided.

9.1. Accommodation, Food, and Refreshments

The lesson that the organizers of past citizens' assemblies emphasize to us in private communications more than almost any other is the importance of providing good accommodation, food, and refreshments. While it may be tempting, when dealing with a tight budget, to trade down on the quality of the hotel that members stay in or of the meals they receive, this is unwise. If members can look forward to a pleasant stay in congenial surroundings, they will look more fondly on their participation as a whole. At the same time, accommodation should not be too luxurious: otherwise, there is a danger that hostile sections of the media will portray assembly members as pampered dupes of the system.

⁵³ Ontario Citizens' Assembly Secretariat, ["HPRFUDF\ DW :RUN 2QWDULR &LWLJHQV· \\$VVH 2QWDULR·V \)LUVW &Tolnto; Ontario Citizens' Assembly, 2007\) p. F31VV](#)

- x Support for those with caring responsibilities might be considered if this is deemed unfeasible, financial support for care and other forms of care assistance can be provided.
- x Support for those whose first language is not English we discussed in chapter 5 is important that members should be able to engage fully in the convention's deliberations, which requires that they be able to express themselves in spoken English and understand contributions from others. If some members can engage in this way, but require (limited) support to do so, this can be considered.

9.4. Protecting Members from Harassment

As we noted in chapter 7 the concern has sometimes been expressed to us that, in the UK and in current times, the members of a citizens' constitutional convention might be exposed to harassment from outsiders in a way that has not been seen elsewhere. We are aware of instances where such harassment has affected members of citizens' assemblies or of Ireland's Constitutional Convention. But a UK constitutional convention might be different for two reasons. First, the tabloid newspapers in the UK can be particularly vicious towards those who question their agenda. They might choose to dig up stories about members' past lives in order to discredit the convention. Second, the rise of social media both makes it easier to find such stories and provides a new outlet for trolling by individuals with an axe to grind.

- x Ways should be found to minimize any harassment that members might be subjected to, notably by the traditional media or by individuals on social media.
- x Multiple avenues should be provided through which members can express their thoughts and concerns about any aspect of the convention to this organization

10. External Engagement

External engagement is an integral part of the consultation phase of any convention's work, as dealt with in chapter 7. In addition, however, a convention's legitimacy and impact are likely to depend on the degree to which its existence is known and its work is seen to be fair and rigorous. Politicians and other influential voices are likely to accord the assembly and its conclusions respect only if they have a sense of connection and good understanding of its mission and ways of working.

In Ireland sections of the press were quick to dismiss the Irish Constitutional Convention as 'all form and little substance',⁵⁷ and 'unelected and powerless'.⁵⁸ In Ontario, one columnist dismissed the Citizens' Assembly as 'comprised mostly of trees, part-time workers, students, homemakers and computer nerds looking for some excitement in their humdrum lives'.⁵⁹ The British press may be even more caustic, and the convention will have to work hard right from the start to engage with the media, politicians, civil society and the general public, to earn its place under the sun. It will not be easy: the public have little interest in constitutional matters, and a convention charged with devising a new electoral system, or a Senate of the nation, risks attracting bafflement or, at worst derision. It will need to work hard to exploit its potential advantages, not least that its members are a cross-section of the public, who have volunteered for an important public duty.

10.1. Engaging Opinion -Formers

Right from the start the convention will need to engage strongly with opinion-formers: with politicians, civil society organisations and the media. It might want to organise early briefings in parliament about its work (and in the devolved assemblies where appropriate), and to provide follow-up briefings and interim reports so that politicians can stay in touch with its thinking.

⁵⁷ 'The way politics is done', Irish Times (editorial), 12 July 2012.

⁵⁸ 'Fine words don't do Collins justice', Irish Independent (editorial), 20 August 2012.

⁵⁹ Ian Urquhart, 'Beware Citizens' Assemblies on Electoral Reform', Toronto Star, 19 September 2006; quoted in Lawrence LeDuc, 'The Failure of Electoral Reform Proposals in Canada', Political Science, no. 2 (December 2009), 21-40, at p. 36.

will need to reach out to civil society organisations to invite them to make submissions, to spread the word around their networks and generally tap into their energy and expertise. It will need to be very media friendly, with press releases, background briefings, photos and film of the convention at work, good news stories and human interest stories about the convention members and their backgrounds. These materials should be brought together on a well designed website.

The convention may want to establish reference groups or forums to maximise their engagement with different groups of opinion formers. These could include a civic forum to reach out to civil society organisations and NGOs, a bipartisan parliamentary group (if one does not already exist) to reach out to parliamentarians; and an academic advisory group to reach out to academics and ensure that the convention draws on the widest possible range of academic expertise. All these different groups must be encouraged to submit evidence, and to solicit evidence from others, so that the assembly receives plenty of written submissions during its c.32 8e5ct/F2 12 Tf 1 0 0 1 239

thinking, and were not prepared for their findings and recommendations when the Constitutional Convention in Ireland offered an alternative approach, by including parliamentarians in its members. When it reported, some of those politician members became ambassadors for the report and pressed for implementation of its recommendations.

The pros and cons of including politicians in the convention are discussed in chapter 4. If it is decided to have a convention consisting simply of citizens, then it needs to find other ways of engaging with the (UK and/or devolved) government(s) and parliament(s). It could give regular briefings to the responsible minister, to keep government abreast of its thinking; and it could publish an interim report and seek a parliamentary debate to keep parliamentarians interested and informed. It could also invite politicians to come and give evidence at its introductory sessions, public meetings or advisory forums, and to attend its deliberations as guests and observers. We return in chapter 10 to the vital importance of engaging with politi

Box 102. %ULWLVK & ROXPELD & LWLJHQV · \$V VHPEO\

Staff actively sought speaking engagements for members through distribution of the Assembly newsletter, via the website and news releases, and through direct contact with community groups and service clubs throughout the province.

Over the course of 2004, members spoke to a wide range of British Columbians, from seniors' groups to secondary school classes, from chambers of commerce to union meetings. In addition, many members wrote to their local papers promoting upcoming public hearings in their community. Others, with staff support, prepared feature articles for their local paper.

By the time the public hearings had finished, in addition to all of the members having at least one public hearing as a panel member:

- x 60% had done newspaper interviews
- x 49% had given public talks about the work of the Assembly
- x 38% had written letters to a newspaper about the Assembly
- x 21% had participated in a radio program about the Assembly; and
- x 19% had participated in a TV program about the Assembly.

Source: Text taken from British Columbia Citizens' Assembly Technical Report 2004 pp 100-101.

How much outreach work can be done by convention members will depend on their commitment to the exercise, and their confidence. Similar considerations apply to how much is disclosed about the members on the website. As noted in chapter 9, the Ontario Citizens' Assembly disclosed full details, with addresses and phone numbers of each member. But if members fear being the victims of harassment or of trolling, they may wish to disclose more limited personal details, as happened in Ireland. Wherever possible, we encourage convention designers to find ways to allow transparency, rather than close it down.

10.4. Recommendations on External Engagement

We recommend the following:

- x A citizens' convention needs to reach out from the start to engage with politicians, the media and the public, to explain its role and interest people in its work and recommendations
- x The most important single group to engage with politicians through regular briefings, interim reports, and parliamentary questions and debates
- x The convention will need a full-time Communications Director to devise strategies to engage with different social groups, and for different phases of the convention's work.
- x To maximise public engagement the convention will need an interactive website, with lots of learning materials, and lively presence on social media
- x The convention can also draw on its members as ambassadors for its work.

weekend: she or he must understand the convention's purposes and work to nurture it through its business. **She or he must also be at ease in engaging closely with a diverse group of citizens.**

Past citizens' assembly Chairs have had a variety of backgrounds. The British Columbia Citizens'

For small group sessions, it may be desirable to have note takers as well as assisting the facilitator and taking the notes through which each group will feed back to the plenary.

11.4. Secretariat and Support Staff

A constitutional convention requires much practical organization. The secretariat is in charge of:

- x event management: booking venues/hotels, arranging refreshments, room preparation, etc.;
- x supporting the practical needs of members, speakers, and witnesses;
- x the convention's website: ensuring that all materials are posted in a timely fashion and that members of the public can make submissions;
- x media relations and

12. Budget

It should be clear by now that holding a citizens'

12.2. Budgets of Citizens' Assemblies

In order to gain a sense of how much it might cost to cover the budget lines set out in Table 12.2, Table 12.2 summarizes the budgets of the various citizens' assemblies that have been held to date. As is apparent, these assemblies fall into three categories. Canadian and Dutch assemblies received substantial public funding, which allowed them to employ a group of staff, provide members with considerable resources, maintain quality websites, and generally complete all aspects of their work to a high standard. By contrast, the Irish Constitutional Convention had a much more limited budget. The academic team who provided the learning resources were entirely unpaid for the many hours' work they provided, and other

Democracy Matters assemblies worked ~~fastidiously~~ given that they were only pilots, if an unofficial convention were established with the intention of pushing debates about constitutional reform in the UK forward, it would need to be more rigorous in a variety of ways. benefits in kind would need to be included in the budget, and it probably would not be possible to rely so extensively on volunteer labour. On this basis, we suggest that a budget in the region of ~~at least~~ £1 million would be needed for an unofficial UK-wide (unitary) convention

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It is clear, therefore, that holding a citizens' convention on the constitution would be expensive. The question might reasonably be asked whether this cost can be justified. some comparisons, the total annual cost of the Westminster parliament including running costs and salaries, allowances, and expenses for MPs, peers, and their staff is in the region of £400 million.⁶¹ A well resourced official citizens' convention would cost only around 1 per cent of that. The Electoral Commission reported that the referendum on the Westminster electoral system held in May 2011 cost taxpayers £75.3 million.⁶² The Commission's early estimates suggest that the referendum on EU membership in June 2016 cost significantly more.⁶³ A well resourced convention would cost something like one fifth of the cost of the AV referendum if a citizens' convention helped to push forward the public debate on key constitutional issues providing a forum for public understanding

12.4. Recommendations on Budget

13. Role in Decision -Making

This chapter picks up the issue of purposes that w

- x put the proposals to a referendum
- x legislate to implement the proposals.

The last four options are not mutually exclusive: to implement proposals, the government may need to pursue a combination of all of them. In Ireland, the government gave a commitment giving a public response, through the Oireachtas [the parliament], to each recommendation from the Convention within four months. It will arrange for a debate in the Oireachtas on that response in each case. In the event the Government accepts a recommendation that the Constitution be amended, the Government's public response will include a timeframe for the holding of a referendum⁶⁴;

This clarification in Ireland was given in response to concerns expressed by the opposition parties and a technical group in the Dáil about the status of the convention's recommendations. If the government gives no indication in advance about what will happen to the convention's report, then its status will be purely advisory. The government may feel quite comfortable with that; indeed it may not wish to tie its hands any further. But it may be preferable for the government to spell out in advance what the process will be once the convention reports. That provides clarity for the convention members, for politicians and for the public. It is what happened in British Columbia, where

British Columbia also shows that a constitutional convention cannot be left simply to speak for itself once the convention has reported. It requires people actively to campaign for its proposals to be adopted. If the proposals are put to a referendum, it also requires public education and information. That will not necessarily come from the government, or public bodies such as the Electoral Commission. In British Columbia, Elections BC did not provide information on the Citizens' Assembly proposal: to preserve its neutrality, its role was limited to ensuring that voters had information on voter registration and the conduct of the referendum. None of the major parties came out formally in favour of the proposed reform, and their energies were devoted primarily to fighting in the election held at the same time, not campaigning in the referendum. Voters seeking guidance from the parties on how to vote in the referendum were thus left without much direction.⁶⁶

There was a similar experience in Ontario, where the referendum in 2007 also required a 60 per cent majority across the province, but achieved only 37 per cent. Reasons for the low level of support included the short amount of time devoted to public education, the lack of information available to voters, limited understanding of the MMP system proposed by the Citizens' Assembly, and no guidance from the parties, who (as in BC) were fighting a provincial election and remained neutral in the referendum.⁶⁷

13.3. Maximising the Chances of Implementation

Looking at the reasons why the recommendations of constitutional conventions in other countries have not been implemented (including in Iceland, Ireland and the Netherlands, not British Columbia and Ontario), we can venture some general propositions on what might need to be done to maximise the prospects of success:

- x The government needs to establish the convention early during its term of office, so that when the convention reports back the government is still in office, and has time to implement the convention's proposals before the next election (unlike what happened in the Netherlands)
- x The government commits in advance to a series of actions which it will take once the convention reports (as happened in British Columbia, Ontario, and Ireland)
- x The government can make the change by legislation or other action, or the need for a referendum (as happened with some earlier recommendations of the Irish Convention)
- x If a referendum is required as would be the case in the UK for some significant constitutional changes it is not held at the same time as an election so that the referendum issues are not obscured by the election battle (unlike what happened in British Columbia and Ontario)
- x Politicians are engaged throughout the exercise and feel both able and willing to explain the work of the convention and act as ambassadors for its recommendations (as happened in Ireland). If politicians are not members of the convention, they need to be engaged with

⁶⁶Dennis Pilon, 'The 2005 and 2009 Referenda on Voting System Change in British Columbia', Canadian Political Science

its work in other ways so that they will want to campaign for the convention's recommendations.

- x Members of the convention will also need to act as ambassadors for its report in British Columbia when no one else came out to explain and campaign for the citizens' Assembly's recommendations, individual members took it upon themselves to be advocates for their proposals. But their impact was limited: they had no professional communications support, because by then the Assembly had dissolved. We suggested in section 7.6 that it might be worth considering adding a further phase to the work of a convention, after it is reported, allowing it to remain in being to monitor the implementation of its recommendations and campaign.

14. Recommendations and Conclusions

This final chapter draws together the recommendations we have made in preceding chapters. Our conclusions are simple:

- x First, a citizens' constitutional convention could make a great and positive contribution to democratic governance in the UK, both by aiding in the development of reform proposals that could advance the effective and stable operation of government and by modelling a new way of engaging members of the public in quality deliberation over key policy issues.
- x Second, however, the benefits of such a convention should not be exaggerated. On its own, it would not transform democratic performance. Only a tiny fraction of the public could participate in it directly, and long-term gains only if politicians and policy making institutions engaged with it constructively.
- x Third, to succeed, a citizens' constitutional convention must be designed well. Great care must be given to thinking through the purpose of the convention, working out its terms of reference, selecting its members, devising its basic structure, developing and delivering its work programme, deciding its duration, supporting its members, engaging non members in its deliberations, and connecting its work to wider political processes. This requires significant staffing and budgetary resources.

14.1. Introduction

- x Proposals to hold a UK constitutional convention (or something similar) are high on the political agenda. Their supporters tend to advocate some form of 'citizens' assembly' or 'mini-public'. Accordingly, this report sets out what such a convention could look like and what would be needed for it to succeed. We draw on evidence from past conventions and assemblies of this kind around the world, notably in Canada, the Netherlands, Ireland (like)-50

14.2. The Purpose s of a Convention

- x Constitutional conventions have been proposed for multiple purposes. The most common are to promote particular reforms, to develop reform proposals through deep public engagement, and to build a grassroots democratic movement.
- x But there are risks in over-selling constitutional conventions. They are not panaceas, which are going directly to engage people with politics and restore trust on a large scale. can it be presumed that they will produce well grounded and representative conclusions unless they are well designed. They might produce recommendations that their creators are very uncomfortable with. And there is no guarantee that their recommendations will be implemented even if they are impeccably developed.
- x So advocates of a constitutional convention must be careful not to state what might be achieved. They should be cautious in suggesting that a convention holds the key to promoting wider public engagement or restoring trust in public deliberative democracy does hold great potential; but if it is sold, and exaggerated expectations are not fulfilled, the effect will simply be disappointment and disillusionment, which will serve further to diminish trust.
- x A convention will work best if its purpose is understood as being simply to develop proposals that are well grounded, being based in serious, thoughtful, and knowledgeable engagement of a broadly representative sample of the population with the issues in hand.
- x The success or otherwise of such a convention can be gauged in terms of four criteria: how far it represents the wider population; how far it deliberates effectively in a manner that is reasoned and reflects the interests and values of all parts of society; how far it influences wider public discourse positively; and whether its proposals are implemented.

14.3. Scope and Terms of Reference

- x The terms of reference for any constitutional convention should indicate the issues that the convention is to consider.
- x Those issues should be limited to one aspect of the constitution: an overarching constitutional review would be too complex and controversial.
- x The breadth of this aspect of the constitution should be determined in light of the time and resources that are available to the convention: the more resources, the narrower

necessary, we also discuss, in chapter 10, other ways through which these groups might be included.

- x If politicians or representatives of organised civil society are included as members of the convention, they should constitute no more than a third of the total membership. Any larger proportion would risk sidelining the ordinary citizen members.
- x If the constitutional convention is a single, unitary body, a membership of around 100

- x **Deliberation should characterise all of the convention's work. This should be carefully structured and supported by trained facilitators.**
- x The design of the convention's work and the writing of its final report should be flexible and responsive to members' wishes. **Consideration should be given to ~~conting~~ the**

x The convention will need a full-time Communications Director to devise strategies to

Proposals for a UK constitutional convention are made by several parties in their 2017 election manifestos and have been prominent on the political agenda for several years. Such proposals are offered both as a response to widespread disillusionment with the state of democracy and as a means of addressing the deep constitutional challenges posed by Brexit and uncertainty over the future of the Union. But there has as yet been little detailed thinking about the form that a constitutional convention should take. This report fills that gap. It examines the issues, explores the lessons to be learned from constitutional conventions elsewhere, and identifies the pitfalls to be avoided.

We set out a blueprint for a constitutional convention that reaches beyond politicians to include ordinary members of the public. We find that a constitutional convention of this kind could make a great and positive contribution to democratic governance in the UK. But the potential benefits should not be exaggerated. Furthermore, to succeed, a

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About the Constitution Unit

The Constitution Unit conducts timely, rigorous, independent research into