

# ***Reforming Governance in the UK***

**Policies for Constitutional  
Reform**

**Policy Paper 40**





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# ***Summary***

Liberal Democrats have long been at the forefront of the constitutional reform agenda in the United Kingdom. While recent constitutional reforms have been significant, they have been piecemeal and lacked coherence. Much remains to be done, in fields as varied as English regional devolution, Freedom of Information, reform of the upper house, and proper financial accountability of the Government to the House of Commons. Above all, there is an urgent need to re-connect citizens and government.

This paper builds on previous policy statements on constitutional reform, developing policy in these and other areas.

## **Re-Connecting Government and Citizens**

Liberal Democrats would re-connect citizens with government by:

- Strengthening the perception that the bodies to which candidates are seeking election have real power and that the composition of the body can make a difference to its policies and performance through effective powers to local government.
- Supporting a referendum on the recommendations of the Jenkins Commission on electoral reform as a first step towards our ultimate goal of the Single Transferable Vote system.
- Encouraging new methods of voting, including more postal votes and Internet voting.
- Promoting greater public involvement in decision-making, including through Citizens' Juries, Citizens' Initiatives and electronic consultation.

## **Political Accountability**

Liberal Democrats would make government more politically accountable by:

- Replacing the House of Lords with an elected Senate.
- Enacting meaningful Freedom of Information legislation for England and Wales, with exclusions limited to material that could cause substantial harm if released, and the final decision on exclusions lying with an Information Commissioner, not Ministers.
- Strengthening the pre-legislative scrutiny of Government Bills, and the Select Committee system.
- Cutting the number of MPs in the Commons to around 450.

- Cutting the number of Ministers, and allowing junior ministers to be appointed from outside Parliament, thereby reducing the Government's patronage over the Commons.
- Moving towards a written constitution for the UK.

## **Financial Accountability**

Liberal Democrats would make government more financially accountable by:

- Separating the annual Finance Bill from a new Tax Technicalities Bill to allow for greater consultation on the detail of tax matters.
- Amending Commons Standing Orders to allow MPs to propose spending amendments to the budget and Government Bills and spending proposals in Private Members' Bills, balanced by an executive financial veto.
- Establishing a new Resource Estimates Commission to support MPs and Select Committees in analysing expenditure proposals.

## **Decentralised Government**

Liberal Democrats would empower the nations and regions of the United Kingdom by:

- Further strengthening the devolution settlement in Scotland and Wales.
- Over time, allowing the devolved tier to raise an increasing share of its own revenue directly.
- Establishing a Finance Commission for the Nations and Regions, charged with devising a new revenue distribution formula based on need to allocate remaining block grant funds.
- Creating the option for devolution to the English Regions by legislating for referenda on regional assemblies, on the basis of a minimum set of core powers.
- Basing regional boundaries on existing RDA regions, but with scope for smaller areas.
- Allowing further devolution of powers to the regions by subsequent referendum.
- Making future boundary changes possible only after referenda called by the Secretary of State for the Nations and Regions.

## **Efficient and Effective Government**

Liberal Democrats would make government more efficient and effective by:

- Enacting a Public Services Act requiring an annual Social Strategy Statement setting outcome targets for Government.
- Establishing a Public Services Select Committee to scrutinise all Government targets.
- Enacting an Environmental Responsibility Act, and requiring Social Justice Audits of all new bills.
- Encouragement of staff mobility between central and local government and the private sector, and promoting a Masters Degree in Public Policy and Administration to develop management expertise in the public sector.

# ***Introduction***

1.0.1 The vitality of democracy as a system of government is drawn from its openness to change. When the system is working well, changes in government policy would be seen by the citizens as flowing from changed circumstances or from altered perceptions which require adjustments of direction to be made. Ideally, these adjustments are made without dislocating lurches and, through the continuing dialogue of government and governed, with a high degree of acceptance that the measures proposed are apt to tackle emerging new requirements.

1.0.2 In practice that ideal is not always realised. Complacency on the part of both government and governed is the besetting characteristic of the democratic system. This is, perhaps, the downside consequence of the general awareness that if things go badly wrong parliamentary democracy does at least allow for challenge and even for the ultimate sanction of removing the perpetrators of error through the ballot box. But that is a crude and not well targeted response to the multiplicity of day to day decisions, which make up the business of modern government. That sanction, often long delayed, can leave injustices untouched for years and can exacerbate problems by postponing their consideration.

1.0.3 Liberal Democrats consider that our British system of democratic government is in need of further reform to achieve a greater continuing responsiveness to the particular concerns of the citizens. We want to sharpen up the receptivity of the system

to good cases that call for government action.

1.0.4 We are conscious that, although in this Parliament important constitutional changes have been put in train that owe much to Liberal Democrat striving, many required reforms remain unachieved.

1.0.5 This paper, however, is not a mere reassertion of our commitment to the goal of a written constitution, which enshrines a proper distribution of accountable public power and citizens' rights. It is a new attempt to respond to some of the pressing immediate needs for reform that we believe should be readily attainable and which are important constitutional building blocks. In particular, we have been struck by the need to look behind some of the long established forms of our democratic system to recognise that they do not match the substance of our contemporary requirements. The upper house of Parliament, for example, should be made capable of playing a more significant legislative and scrutiny role. The House of Commons, which has long claimed exclusive rights to control taxation and expenditure, should be empowered to discharge these roles, where they are properly theirs, with real effectiveness.

1.0.6 It is the Liberal Democrats' judgement that if these further reforms of our democratic system are implemented it will not only improve the quality of government but will do so by engaging the good sense and the commitment of our citizens in the process.

# ***Re-connecting Government and Citizens***

2.0.1 Liberal Democrats are concerned that citizens all too often see government as remote and irrelevant. We would work to create a new and more inclusive politics. Every citizen should have the maximum opportunity and encouragement to participate in the democratic process. We would build a genuine partnership between the people of the UK and their Government.

## **2.1 The Politics of Exclusion**

2.1.1 Too many people feel excluded from or are voluntarily opting out of politics. For example, they are less and less likely to vote. At the 1997 General Election, voter turnout fell to 71 per cent, the lowest figure in more than sixty years.

2.1.2 For a decade, surveys have shown that trust in politicians and institutions has continued to fall away. People think that between elections, ordinary voters have less say over government policies than they should. People are less and less likely to see elections as relevant. And public understanding of the political system is sketchy. Indeed, awareness of such elements as citizens' rights, the constitution and how Parliament works actually fell during the 1990s.

2.1.3 The reasons for the growing sense of exclusion from politics and decision-making are highly complex:

- First, they are partly systemic in nature. For example, underlying our

politics is the archaic notion that we are subjects, not citizens. The education system has failed to provide an understanding of how politics works and what citizenship means.

- Second, the conduct of successive British Governments has fuelled political disillusionment. Too often, the trust that the British people place in their leaders has been betrayed. The result has been bad policies and defective laws. The products of Conservative arrogance included the poll tax, the coal fiasco, the arms-to-Iraq scandal and the BSE crisis. Labour has shown similar tendencies, as shown by its approach to genetically modified products and the Sierra Leone affair and its handling of devolution, particularly in London and Wales. It is little wonder that people are disillusioned.
- Third, the current style of political reporting may also be a factor. There is too much focus on trivia and personalities, too little on substance and issues.
- Finally, there are deeper social causes of political alienation. Those who suffer from social exclusion are more likely to feel shut out of politics. Over nearly two decades, the British Social Attitudes report has measured peoples' expectations of their ability to shape, either alone or with others, the course of events. It has found that people in lower socio-economic groups have a much

lower sense of political efficacy than those in better-off groups. Closely linked is the role of education in determining how much political power people think they have. This data, and that on the treatment at the hands of institutions that people have come to expect, presents a powerful and disturbing picture of alienation.

2.1.4 Therefore, the causes of the public's disconnection from politics do not lend themselves to easy or simplistic solutions. We will not have a more inclusive politics without making basic changes to the way the UK is governed. We need to guarantee people's rights as citizens, bring government closer to the people, introduce a fairer system of voting and make government more open.

2.1.5 But such reforms will not, on their own, create a new politics. They will not, for example, stop politicians breaking their promises or quickly address the causes of social exclusion. We also need to encourage people to take part in politics. And we need to make important and practical changes to put a new style of politics into practice. This chapter sets out how Liberal Democrats would:

- Put in place the basic structure that is needed if we are to re-connect the government and the citizens of Britain.
- Encourage citizens' participation in politics.
- Give people more say in the decisions that affect their lives, in particular, by using the new communications technologies to renew democracy.

## 2.2 Towards the Politics of Inclusion

2.2.1 Inclusive government is based on the notion that power flows upward from the people. But authority in the British State flows downwards from the ruler. This is the context for several aspects of our exclusive political culture, including excessive centralisation and secrecy. It also means that people have not been imbued in a strong civic culture that encourages political involvement. Therefore, the United Kingdom needs a new constitutional settlement between the citizen and the state, to ensure that public power genuinely belongs to the people.

2.2.2 *Liberal Democrats would give the UK a written constitution to protect people's rights* and ensure that recent and new reforms cannot be reversed by a future UK Parliament. The constitution would set out the powers and responsibilities of Parliament, the executive, the judges, the Head of State, set out the right to self-determination of the peoples of England, Scotland, Northern Ireland and Wales and Wales, entrench the Human Rights Act and establish the independence of local government.

2.2.3 Inclusive government empowers people to get involved in decisions that affect their regions, localities and communities. There is a developing layer of regional bureaucracy in England, but it is accountable to central government, not to the people of the region. And successive Labour and Conservative administrations have encroached on the powers of local government in England – limiting its ability to raise revenue, fragmenting its functions and restricting

its role. The result has been a loss of interest in the governance of local communities. We must move power from Westminster and Whitehall and towards the smallest units of democratic government. This includes a redistribution of tax-raising power, which may encourage interest and participation in the work of sub-national government.

#### 2.2.4 Liberal Democrats would:

- Promote the development of democratically elected regional government in England, to take powers and responsibilities away from Westminster, where there is demand within the region (see chapter 4).
- Strengthen local government in England. We would enhance innovation by giving local government a constitutional power of general competence and strengthen the link between what people pay and what their council spends. We would promote local participation by establishing a comprehensive network of parish/community councils. (See Policy Paper 30, *Re-inventing Local Government* (1999)).

2.2.5 Inclusive government would have an agenda that broadly reflects the views of most voters. But British Governments assume massive powers, despite having the support of as few as 43 per cent of those who vote. Inclusive politics would ensure that the House of Commons looked like the country it is meant to represent. But women, young people and members of ethnic minorities are not well represented. It would also encourage participation. But those who do not live in marginal seats – over 90 per cent

of the electorate - have little incentive to vote. Furthermore, nearly half the votes that people cast in 1997 did not count towards the election of an MP. Another 20 per cent were surplus, cast for candidates over and above what they needed to win. And more than three voters in five did not vote for their MP!

2.2.6 *Liberal Democrats would bring in a fairer system of voting.* Our first choice is the Single Transferable Vote (STV) system. This would ensure that everyone's vote had the same value, facilitate the election of governments with the support of a majority of the electorate, ensure that the House of Commons was more genuinely representative, and allow voters to choose between different candidates of the same party. At the same time, we recognise that AV 'Top-up' (AV+), as proposed by the Jenkins Commission on voting reform for Westminster elections, would be a big improvement on the current system. AV+ could be a 'stepping stone' to a further reform to STV at a future date.

2.2.7 Inclusive government would give people access to official information, so that they could play a full part in decisions. But government proceedings and advice to ministers are kept secret unless Ministers decide to disclose them. Liberal Democrats would greatly expand citizens' rights to public information (see section 3.9).

## 2.3 Encouraging People to Take Part in Politics

2.3.1 People are less likely to take part in elections. In the 1999 elections for the European Parliament, barely one elector in four turned out to vote. This is the lowest figure since direct elections started. And, on average, only 40 per cent of British people, less than any other EU country, vote in local elections.

2.3.2 Turnout is higher where voters believe that the result is not a foregone conclusion. We believe that electoral reform and in particular a move to STV as outlined in section 2.2.6 would provide the greatest boost to voter turnout, particularly by ending the problems of wasted votes in safe seats. The wish to exercise the right to vote strengthens when it is perceived that the bodies to which candidates are seeking election have real power and that the composition of the body can make a difference to its policies and performance. Restoring effective powers to local government (see section 2.2.4) will therefore promote higher turnout in local elections.

2.3.3 Expanding people's opportunities to vote can contribute to a solution. Subject to imposing appropriate safeguards against abuse, Liberal Democrats would:

- Make a wider use of postal votes.
- Introduce voting by Internet and telephone.
- Introduce an extended period for voting, including weekends.
- Make available a wider choice of polling stations.
- Improve facilities at polling stations for disabled people and providing to all who are registered disabled or who are in sheltered and residential accommodation, help that is independent of the people among

whom they live and of political parties.

2.3.4 We are not persuaded that compulsory voting is the solution to declining voter turnout. Making people vote in a free society appears to be a contradiction in terms.

2.3.5 We recognise that asking people to go to the ballot box too often can result in voter fatigue. However, our policy for four yearly all-up elections in local government combined with our commitment to a fixed four year term for the Westminster Parliament will give greater scope for holding elections for different tiers on the same day.

2.3.6 *Liberal Democrats would take action to increase the political interest of young people*, who are less likely than other groups to vote. In 1997, 40 per cent of 18-24 year olds did not turn out to vote. This compared to nearly 30 per cent of the population as a whole. Further, around 20 per cent of 18-24 year olds, nearly three times the figure for the total population, are not even registered to vote. Young people are less inclined to become politically involved in other ways. For example, they are less likely to belong to a mainstream political party. The established Liberal Democrat policy of giving the right to vote and stand in elections from the age of 16 will encourage young people to become more politically aware.

2.3.7 One of the most important features of a well balanced education should be to teach young citizens about their constitutional rights and the system for making important decisions in their country and local community, yet this is often neglected. Liberal Democrats would redress this by

including citizenship education in our proposed Minimum Curriculum Entitlement.

2.3.8 We would also bring in new forms of representation for young people. These could help to involve young people in a practical and interesting way. Examples are a Youth parliament, Youth and School councils, the use of on-line forums and schemes for ‘shadowing’ MPs, Members of the Scottish Parliament and Assembly Members in Wales. Decision-making bodies should be under an obligation to consult youth fora at the appropriate level.

2.3.9 *Liberal Democrats would promote citizens awareness of their rights.* For example, we would ensure distribution of clearly written material laying out the basic rights and responsibilities of citizens in settings where citizens are likely to come into contact with the state, for example social security and local government offices, courts and Police Stations.

2.3.10 To reinforce pride in citizenship, we would replace the existing antiquated, over complicated and obscure civil honours system in the United Kingdom with a new Order which gives proper recognition to those who have made outstanding contributions as citizens. The Head of State on the advice of an independent panel would make these awards, with provision for the public to put forward nominations.

## **2.4 Putting the Politics of Inclusion into Practice**

2.4.1 Inclusive government would enable people to have a say in policy decisions before they were made. Too often, policies are presented as a *fait accompli*, with little public consultation or involvement. And where formal consultation takes place, it can be too easily dominated by political and business elites. New means of enabling the public to take part in decision-making are urgently needed.

2.4.2 *Liberal Democrats would make greater use of Citizens’ Juries, as a means of consulting the public on specific policy issues.* Citizens’ juries are a structured way of obtaining detailed, considered views from people. They enable participants to engage with policy questions and move beyond initial views to reach more considered opinions. Citizens’ Juries are a relatively new invention in the UK. To date, they have mainly been used in the local government and health sectors. In central government, the Women’s Unit has used them to discern women’s views on issues relating to working mothers.

2.4.3 In particular, we propose to use Citizens’ Juries to ‘shadow’ particular government department and agencies. We envisage that each jury would consist of around 20 people, who would serve for up to two years. Such juries would be encouraged to think ‘outside the box’, developing their own agendas, rather than merely responding to questions set by Government.

2.4.4 *Liberal Democrats would use the new Information and Communication technologies (ICTs) to empower citizens, provide them with more information and make the political process much more open than at present.* The new technologies present exciting new opportunities to

increase participation in the democratic process. People can obtain high quality more information more quickly. They can communicate with policy-makers on a more interactive and responsive basis. They can participate in political debates across the country and the world – this is the ‘death of distance’. They can create new discussion forums and new networks, within or without the formal political process, political parties and pressure groups.

2.4.5 The potential of ICTs to enhance democracy has already been shown by the forums developed by UK Citizens On Line Democracy. Examples are the 1997 election on-line discussions, the public consultation with the citizens of Brent and supporting the Newham Youth Parliament. This culminated in the Have Your Say website, that invited people to make submissions on the Government’s Freedom of Information White Paper and provided background information. Successful overseas innovations include the Minnesota e-democracy project, which has enabled citizens to have more deliberative participation than ever before.

2.4.6 Pursuing these opportunities does not mean that representative government should be replaced by direct democracy. Nor does it mean government by cyber-referendum. And the use of ICTs should not be seen as a “quick-fix” for UK democracy. The evidence is that they will not, in the short term at least, bring a range of excluded new groups into the political process. (For example, Internet users are still more likely to be male, well educated, in higher income groups and aged under 30). At the same time, the advent of digital television will significantly increase access to the Internet. We cannot afford to ignore,

until some ill-defined time in the future, ICTs’ potential to help us renew our democracy. The new technologies can and should be used to empower citizens, providing them with more information and making the political process much more open than at present. Liberal Democrats would:

- Greatly increase the use of on-line pre-legislative consultations and enable people to provide feedback on bills right up to report stage.
- Require all departments and agencies to publish and consult on all policy proposals on-line and provide people with access to relevant background material and supplementary information.
- Make all Select Committee hearings web-cast, and ensuring access to Select Committees for broadcasters at reasonable cost.
- Enable the public to make direct submissions to Select Committees on-line.
- Hold on-line conferences on policies, current issues and proposed legislation.
- Use on-line Citizens' Juries and deliberative polls to provide formal inputs into policy-making.

2.4.8 *Liberal Democrats would also make greater use of referendums to inform decision-making and to settle major constitutional issues.* We would:

- Give people the right to put a particular subject on the agenda of the next meeting of their local authority if 1.5% of the electorate signed a petition calling for it.

- Give people the right to call Citizens' Initiatives. A referendum would have to be called if 5 per cent of the electorate at regional and local levels signed a petition calling for it. The results would be advisory, with elected representatives free to act on their judgement and conscience.
- Commit a future Liberal Democrat government to hold binding

referendums on significant proposed constitutional changes. This would stop Government and Parliament exercising undue power without a specific mandate. In the longer term, once a written constitution was in place it would lay down procedures for further constitutional amendments.

# ***Accountable and Representative Government***

## **Political Accountability**

### **3.1 Constitutional Principles**

3.1.1 The different parts of the constitution are inter-related. They must be considered as a whole. Our proposals are therefore based on constitutional principles that we have identified and published in *the Constitutional Declaration (1996)* and in *Moving Ahead (1998)*.

3.1.2 We believe that the new constitutional settlement, when it is complete, should be entrenched in a written constitution, which derives its validity from the consent of the people and which defines and limits the powers which politicians can exercise. In particular, the exercise of power under the prerogative of the Crown would cease, (including, for example, the treaty making power and the power to make political appointments) and derive solely from the powers set out in the constitution.

3.1.3 We recognise that there is an important background of constitutional developments at the European level. This paper, however, concentrates on the position within the UK and stands independently of any European developments.

### **3.2 Parliament**

3.2.1 The main functions of Parliament are to provide strong representation of

the people, to apply strict scrutiny to legislation and public expenditure, and to hold Ministers to account for their actions. Britain needs a two chamber legislature so that the second chamber can help to fulfil the classic constitutional role of providing checks and balances in the political system and democratic protection for people's liberties.

3.2.2 We think it should be the function of a reformed second chamber, which we would call 'the Senate', to provide a direct regional influence in Parliament, to scrutinise legislation and executive action, and to take a backstop role in preventing abusive amendment of the constitution without popular consent. Both Houses should be responsible for legislation, with the Senate imposing so much delay (and no more) in the passing of a bill as to enable the opinion of the nation to be adequately expressed upon it. Both Houses should control the executive including agencies and quangos that have executive functions affecting the United Kingdom as a whole.

3.2.3 A joint committee of both Houses should be established to apportion an appropriate amount of Parliamentary time to each of the functions of Parliament, including adequate time for the revision, simplification and codification of the law, and for the consideration of private members bills.

### **3.3 The House of Commons**

3.3.1 In *Here We Stand (1993)* we wrote:

*“The Commons exhibits five main weaknesses. It is too large. The spirit in which it conducts itself is too partisan to be constructive. Its membership is too mediocre. Its workload is too heavy. And it is dominated to an unhealthy degree by the government.”*

3.3.2 Our proposed reform of the electoral system will change Parliament for the better. The advent of MPs representing broader electorates, less beholden to the party whips and local selectorates, would go some way to liberating the Commons from executive dominance. Our proposal (see below) for greater separation of powers will also help. Governments likely to result from the introduction of proportional representation would be more reliant on persuasion and debate, rather than sheer weight of numbers, to guide through legislation.

3.3.3 Liberal Democrats also believe that the time has come to make politics more stable by introducing four year fixed term Parliaments. This will remove the power of the prime minister to dissolve parliament at a time of his or her choosing. Any motion of no confidence would have to contain a proposal for an alternative government. Any new government would only sit for the remainder of the four year term.

3.3.4 With the establishment of a Parliament in Scotland, a strengthened Assembly in Wales and elected regional government in England, it is our intention substantially to reduce the size of the House of Commons (but without consequential loss of seats in the Scottish Parliament and Welsh Assembly). We would:

- Cut the number of Westminster MPs to around 450.

3.3.5 Some of the constituency casework traditionally undertaken by Westminster MPs will be taken up by representatives at lower levels. There will also be scope for reducing the number of Whitehall Departments as more functions and powers are decentralised to the regions and nations - for example, a single Department of the Nations and Regions could eventually replace the existing Scottish, Welsh and Northern Ireland Offices, and functional Departments could be merged. This will also reduce the number of Parliamentary Select Committees.

## 3.4 The Senate

3.4.1 The future of the House of Lords is currently being considered by the Government in the light of the disappointing report from the Royal Commission chaired by Lord Wakeham. The Liberal Democrat submission to the Royal Commission called for:

- 261 senators to be elected by thirds every two years, for a six year term, using the single transferable vote in constituencies based on the existing European Parliamentary Constituencies. This would ensure proper representation for the nations and regions.
- The phasing out of appointed members of the second chamber over the first six year cycle, with a final decision to be made on retaining a maximum of 50 appointed members at the end of the transitional period.

- A rejection of reserved places for law lords, bishops or other religious representatives.
- A further separation of powers, which we discuss below.
- Granting the Senate additional powers to those of the existing House of Lords, including the ability to force Governments to hold referendums on constitutional legislation, greater scrutiny of secondary legislation and treaties and oversight of quangos and public appointments.
- A simplification of the way in which the delaying power of the second chamber is determined.

The Senate should be established on these principles.

### **3.5 Separation of Powers**

3.5.1 The powers of Prime Ministerial patronage reduce the capacity of the House of Commons to hold the government to account. As many MPs strive to achieve Ministerial office, their enthusiasm for the detailed scrutiny of executive action and legislation is often limited. Liberal Democrats propose to address this problem, in part, by reducing the number of ministers (the payroll vote) to 10% of the membership of the House of Commons. We also propose that Ministers should no longer be drawn from, or sit in the Senate. We would, however, allow and encourage the appointment of Junior Ministers from outside the Commons. Secretaries of State would remain MPs and would be directly accountable to the Commons for all the actions of their Departments; they would have the power to appoint their own Junior Ministers.

3.5.2 The reduction of the payroll vote in the Commons and the removal of Ministers from the second chamber would be balanced by the ability of both Houses to summon Ministers (whether or not they are Members of Parliament) to give written and oral evidence.

3.5.3 We envisage that there would be a Prime Minister's question time in the Senate and all Cabinet and other Ministers could have regular question sessions there. This will significantly increase the influence of the second chamber as it acquires the ability to access senior ministers. A second advantage of the removal of Ministers is the strengthened independence the Senate will acquire. At present, with Ministers as members of the House of Lords, there is scope for advancement for members of the governing party, and for non-governing parties in potential future governments. As in the House of Commons, this inevitably reduces the number of members who are willing to speak out against their own party. A second chamber where members have no possibility of becoming Ministers by virtue of their membership of the chamber is bound to be more independent of the executive. A Senate without Ministers will develop an institutional identity clearly separate from the executive.

3.5.4 In accordance with the principle of separation of powers, we would establish a Supreme Court of the UK, which would discharge the judicial functions currently taken by the House Of Lords. Supreme Court judges will swear to preserve, protect and defend the constitution of the UK.

3.5.5 We believe that the existing arrangements for the appointment of judges lack transparency and accountability. We therefore propose that

a Judicial Services Commission established by Parliament should nominate judges of the High Court and of our new Supreme Court. They would be approved by a resolution of the appropriate Committee of the House of Commons, and could only be removed by a resolution of both Houses of Parliament.

3.5.6 The current position of the Lord Chancellor as a part of the executive, the legislature and the judiciary is in complete contradiction to the principle of the separation of powers. We propose to abolish this office, and re-allocate its existing multiple roles. The Ministerial functions would go to a Minister of Justice, who would be a member of the House of Commons like other Cabinet Ministers. The Senate would elect its own Speaker, in the same way as the Commons. Appointment of judges would be made as described in 3.5.5 above. The Supreme Court judges would choose one of their number as President.

## **3.6 The Quality of Law Making**

3.6.1 There is great scope for improvement in legislative procedures. We support:

- Pre-legislative scrutiny and draft bills, which should become the norm.
- Rolling over Bills to the next Session if necessary, rather than rushing them through at the end of a Session as at present.
- Greater use of the Westminster Hall chamber for Select Committee Report debates or even some non-controversial legislation.

- Taking some pre-legislative scrutiny in the Senate.
- Consultation with the Scottish Parliament and Welsh and Northern Ireland assemblies where appropriate.

3.6.2 These measures would improve the quality of legislation going to the third reading stage, and would free up urgently needed time for other business in the main Chamber - there are many outstanding Law Commission reports which remain on the shelf for lack of legislative space.

3.6.3 The Statute Book needs a regulator to ensure that the laws under which we live are as clear and concise as possible. The Senate should be charged with particular responsibility for this task. The existing House of Lords has established a Select Committee to scrutinise order making powers contained in primary legislation. This should be extended to secondary legislation. As well as verifying that satisfactory standards have been attained in the format and drafting of new legislation, the Senate should oversee the regular review of the Statute Book with a view to ensuring the removal of archaic law and the revision of law, which has been found to be unnecessarily obscure. If as we recommend a Select Committee is established for this purpose, we would suggest that the Law Commission report to that committee.

## **3.7 Select Committees**

3.7.1 We welcome the report of the Liaison Committee on Select Committees of 2 March 2000. We support many of its recommendations, including: reconstitution of the Liaison Committee

as the Select Committee Panel appointed by the House at the very beginning of a Parliament to enhance its independence; recognition of the additional work of Chairs, whether by payment or an increase in the office cost allowance; increased staff and policy advice for Committees.

3.7.2 Strengthened select Committees have a vital role to play in providing adequate scrutiny of the increasing volume of secondary legislation. In particular, there needs to be greater scrutiny of secondary legislation implementing European legislation.

### **3.8 Accountability of Quangos and Agencies**

3.8.1 Clear rules need to be laid down for the accountability of Next Steps agencies and quangos which have a UK wide operation. Ministers should be accountable to Parliament for the policy of agencies and of quangos that they appoint. Clearly the Chief Executive of an agency and the members of a quango are responsible for the service that they provide or the task they undertake. They should be accountable in the case of agencies to the relevant departmental committee and in the case of quangos to a joint select committee set up to undertake this task. Select Committees should have power to scrutinise appointments to such senior public sector posts. In any particular case where a question arises as to whether an issue is a matter of policy for which the Minister is accountable or a matter of service provision for which the Chief Executive or the members of the quango are responsible this should be determined by the Select Committee. The Public Services Commission which we advocate (see chapter on Efficient Government) should ultimately be able to dismiss Chief

Executives who flagrantly fail to manage their Agencies to an acceptable standard.

3.8.2 Quangos with more local or regional remits should be accountable to the relevant elected body, whether the Scottish Parliament, Welsh or Northern Ireland assemblies or English Regional Assemblies.

3.8.3 In addition to Parliamentary scrutiny, there should be clear and effective avenues of redress for individuals who feel they have been mistreated by quangos. Our proposals for Freedom of Information legislation will assist people in bringing complaints, and make Judicial Review of quango decisions a more realistic option in many cases. We would also ensure that there were Ombudsmen or equivalents in place to cover all quangos.

3.8.4 Quangos should also be required to have regard to the Community Plans of Local Authorities in whose areas they operate.

### **3.9 Freedom of Information**

3.9.1 Liberal Democrats have long argued and campaigned against the obsessive secrecy of British Governments. Information is essential for accountability. Liberal Democrat participation in the Scottish Executive has been vital in securing meaningful Freedom of Information legislation for Scotland. We welcome the introduction of a Freedom of Information Bill in the Westminster Parliament, but the Government's present proposals are inadequate. In particular, we believe that:

- The Information Commissioner and not Ministers should have the final say on release of documents.

- When documents are to be withheld, the test must be substantial harm to the public interest and not simple prejudice.
- The blanket exemption on policy advice is too sweeping - the factual basis for decisions and any alternative options proposed should be released.

### 3.10 Political Parties

3.10.1 Political parties are integral to the democratic process and their activities are closely regulated by statute; it is right that the state should therefore control election expenditure and make funding available to ensure fair competition between parties and to reduce their financial dependence on sectional interests.

3.10.2 It is more than a decade now since the Houghton Committee recommended a “*modest injection of state aid*” into the UK’s parties. Liberal Democrats endorse this view. We believe that state funding should be broadly related to votes gained in the previous general election and seats to be fought, as is the practice in many other European states. For regional parties, it would be based on performance in the relevant geographical area.

3.10.3 We believe that state funding should go hand-in-hand with curbs on total national spending by parties on election campaigns. Under the current Political Parties’ Bill, a new Electoral Commission will police a national election expenditure limit of £20 million. We believe the limit should be half this - £10 million. Of course, payment of state funds to political parties must be made conditional upon the publication of full accounts, in particular, the source of all large donations over £1,000.

## Financial Accountability

### 3.11 Introduction

3.11.1 The British Executive is at its most powerful and centralised when it comes to the budget. Liberal Democrats believe that, in failing to scrutinise budgets of successive Governments, Parliament has failed the taxpayer for over eighty years.

3.11.2 Whether one considers revenue or expenditure, the role of Parliament has rarely been more than a rubber stamp, both in practice and theory. This is in direct contrast to local government, where councillors play an active part in scrutinising the details of the annual budget, tabling and often passing amendments to the draft budget.

3.11.3 Liberal Democrats believe that a radical overhaul of Parliament’s role in the budget could lead to major improvements in decision-making and thereby to huge savings and improved services. By reforming Parliamentary control of the budget, Liberal Democrats would:

- Radically change the role of an MP, empowering MPs to take an active role in analysing Government spending proposals.
- Force Ministers to defend their budgets (and therefore understand them, perhaps for the first time ever).
- Powerfully enhance the search for value for money for the taxpayer.

### 3.12 The Existing System

## **Revenue**

3.12.1 Taxation matters are effectively the sole preserve of the Treasury.

While some decisions on taxation are taken at local government level (council tax) or European level (primarily agreements on indirect tax), most key tax changes are announced by the Chancellor on the annual 'Budget Day', and are then enacted through the annual Finance Bill between May and July each year. This does at least ensure that, unlike the system for analysing expenditure (see below), Parliament is partly involved in scrutinising proposed changes to the tax system.

3.12.2 The problem with Parliamentary scrutiny of the revenue side of the budget is therefore not the lack of direct Parliamentary involvement. The problem relates far more to the method of parliamentary scrutiny and the resources available to MPs to analyse the details of the Finance Bill and related tax changing legislation.

3.12.3 The annual Finance Bill method of tax scrutiny has, if anything, become the problem in itself. The number of pages, clauses and schedules in this Bill has ballooned since the 1950s. This has led to:

- Extra complexity
- Lack of constancy
- Inconsistency

3.12.4 These features of the current system of parliamentary scrutiny impose great compliance costs on the private, public and voluntary sectors. Major savings could be realised by reforming both the way the Executive

proposes its tax measures and Parliament scrutinises those measures

## **Expenditure**

3.12.5 Formally there is a specific procedure the Government must go through to get parliamentary sanction for the money it needs. This is called the 'Supply Procedure'. It consists of 'main Supply estimates' in which the Government gives a provisional estimate of the money it needs for the coming year to Parliament, which then duly grants the money, almost invariably without a vote.

3.12.6 The 'myth' of Parliamentary control over spending is actually clear in the procedural rules. These even prevent MPs amending a spending proposal upwards, and prevent MPs switching spending from one area to another. Indeed, the last time Parliament voted down a spending proposal of the Executive was in 1919, when Parliament deleted an Estimate from the Royal Palace's Vote which was to provide the funds for an additional bathroom for the Lord Chancellor. No such action was taken in 1997 over spending proposals for new wallpaper for the current Lord Chancellor!

3.12.7 The only time when Parliament does trouble itself with the details of Government spending is when the money has already been spent. The Public Accounts Committee is arguably the most powerful committee of the House, and its job is to question the accounts prepared by government departments. Unlike any other committee, it has at its disposal significant resources in the shape of the National Audit Office, which is a prestigious and independent body which works explicitly for Parliament

and not the Executive, trawling through the accounts and financial records of government.

3.12.8 This system of ‘ex post’ financial scrutiny has often uncovered financial scandals and probably represents Parliament at its most powerful. However, even it is severely limited. The National Audit Office no longer has the power to scrutinise all public monies spent by central government, and is thereby weaker than its local government equivalent, the Audit Commission. The accounting standards of central government are set by itself, not by an external, independent body. The resources available to the National Audit Office and the Public Accounts Committee are recognised as being far too limited.

### **3.13 Reforming Parliamentary Control of Taxation**

3.13.1 The key to reform of Parliamentary scrutiny of taxation is to separate the large revenue-raising proposals from the more technical ones. Such a separation would enable:

- The key revenue proposals to be compared with key spending proposals.
- Greater consultation with the private sector on technical tax proposals.
- A focus on reducing the compliance costs of tax, with greater simplicity and constancy.

3.13.2 This separation would work in practice through having two separate parliamentary bills.

3.13.3 A first bill could be published soon after the budget, with the details of the few tax measures yielding large sums – the Finance Bill – and proceed through Parliament quickly to ensure taxes for the coming year had statutory sanction.

3.13.4 Later on, a draft bill containing details of technical proposals could be published, for consultation – the Tax Technicalities Bill. Measures in such a Bill could be deliberately restricted to tax changes for future tax years, so that consultation and Parliamentary progress was much less time pressured.

3.13.5 Any such separation would be criticised for being arbitrary: there is no tax yield which can be objectively said to make a specific proposal ‘significant’ in revenue terms. Indeed, it would be too inflexible to set a figure that always determined which bill a tax proposal had to go in. However, the presumption would be that the main Finance Bill would be short, restricting itself to matters crucial to funding the budget.

### **3.14 Reforming Parliamentary Control of Spending**

3.14.1 For Parliament to play a proactive and positive role in financial scrutiny, three key things have to happen:

- information to Parliament must be improved.
- resources for Parliament to examine that information must be increased.
- procedures for MPs to utilise the information must be changed.

## **Financial Information for Parliament**

3.14.2 The Executive had always jealously guarded the way it provides information to Parliament on the budget, both ex ante and ex post.

3.14.3 None of the information in the Supply Procedure is given on the basis of any statutory requirement. The information provided ex ante on spending is both limited and difficult to interpret.

3.14.4 Despite reforms to the information provided over the years ex post, opacity has remained the mandarins' main objective. While the National Audit Office, on behalf of Parliament, has had access rights to all relevant financial documents within Whitehall, until very recently many Civil Service documents were deliberately marked 'Not for NAO Eyes', and there is still far too much public money that falls outside the NAO's jurisdiction.

3.14.5 Nonetheless, the financial information provided to Parliament is about to take a major leap forward with the introduction of resource accounting and budgeting. This new system will provide Parliament with much greater information than ever before, including balance sheets and information that relates spending to policy objectives.

3.14.6 However, most of the improvement in information will only come in the accounts for 'ex post' scrutiny. Even then, there is a real concern that the Treasury has kept for itself the power to determine the accounting standards that Departments must report to. How many Chief

Executives would like to set their own accounting standards?

3.14.7 Even the new accounting information to be provided on 'outputs and performance', which will enhance the financial information, and relate spending to objective, is a very partial improvement. Government itself is determining both the form and content of this new information, and there is no provision for this data to be independently and externally validated.

3.14.8 Moreover, the new system of resource accounting has resulted in only minor changes to the Supply Estimates: Parliament's 'ex ante' information will therefore remain both partial and uninformative. In direct contrast to experience in New Zealand, when a similar system of resource accounting was introduced several years ago, there has been no attempt to undertake a major overhaul of the system of Estimates, Classes and Votes.

3.14.9 Liberal Democrats would radically reform the information that Government provides to both Parliament and the people on its spending. In particular, we would:

- Legislate to require Ministers to set out their budget estimates in the way Parliament chooses
- Reform the Supply Estimates, so Parliament gets more detailed spending information, including a closer link between inputs (cash) and outputs (services)
- Take the power to set public sector accounting standards from the Treasury, and give it to the independent Accounting Standards

Board, which currently sets standards for the private sector

- Empower the Accounting Standards Board to propose the format for Output and Performance data in the accounts, and the National Audit Office to validate such data
- Strengthen the powers of the National Audit Office, by giving it a general power of competence to audit all bodies in receipt of public money, and so to report to Parliament

### ***Financial Expertise for Parliament***

3.14.10 A key practical problem for the exercise of real financial scrutiny is that Parliament lacks the skills and resources to assess adequately what the budget Estimates actually mean. Moreover, should MPs wish to alter the Estimates, they totally lack the facilities to analyse the implications for the budget and particular departmental programmes, and to model alternative budget proposals.

3.14.11 Liberal Democrats would equip the House of Commons, for the first time in its modern history, with the skilled staff and resources to be able to scrutinise the budget. In particular Liberal Democrats would:

- Establish a Resource Estimates Commission, whose key responsibility would be to report on the budget Estimates to the House, its Departmental Select Committees and individual MPs.
- Enable rigorous modelling of MPs' alternative budget ideas by providing the Resource Estimates

Commission with the necessary IT facilities and information access rights.

- Strengthen Departmental Select Committees' financial know-how with additional staff, with specific expertise in accountancy and financial modelling.
- Train MPs and staff with new training programmes in understanding the Estimates and Accounts.

### ***Financial Procedures***

3.14.12 Whatever improvements are made to the information and expertise available to MPs, reform will only enable real financial scrutiny if there are reforms to Parliament's procedures for amending the budget and advancing alternative proposals. Current procedures (Standing Order No. 48) prevent all proposals to increase or even switch spending (e.g. take £10 million from the Sports Council budget and give it to the Department for International Development, or vice versa).

3.14.13 However, radical reform will also only succeed if it admits the practical limitations for reform in this area. Procedures enhancing the involvement of MPs in budget decision-making will only be acceptable to any Executive, so long as they do not challenge the right of Ministers to propose the main initial budget and to operate an overall control of fiscal policy. That is both a political reality and a genuine argument for balance in the reforms. Procedural reforms to enhance scrutiny should in no way undermine the key features of Executive financial initiative and stable macroeconomic control.

3.14.14 Liberal Democrats believe a reasonable balance can be struck to retain Executive's power, with genuine accountability, by the following measures:

- Enable proposals to increase and switch spending through reform of the Commons' Standing Orders, whether spending proposals are contained in amendments to the Estimates or Government Bills or within Private Member's Bills.
- Introduce an Executive Financial Veto, to enable the Chancellor to strike down, without debate, any spending proposal made by the Commons which would significantly threaten the financial stability of the Government. Such a veto could not be used where the Commons had backed a revenue-neutral amendment.
- Require Departmental Select Committees to make financial reports to the House of Commons, after consultation with the Resource Estimates Commission, as to whether they are satisfied with the budget Estimates in their area or whether they have any budget amendments to propose.
- Require the Resource Estimates Commission to review Parliament's financial procedures at regular

intervals, and make recommendations for enhancing financial accountability, with an initial study on the advantages and disadvantages of placing the whole Supply process on a statutory basis.

### **3.15 Monitoring Parliamentary Control of the Budget**

3.15.1 The reforms proposed in this section would amount to a significant shift of power away from the Executive to Parliament. The role of an MP would alter drastically, as would Parliament's, with the importance of scrutinising spending once again taking centre stage.

3.15.2 However, while the proposed reforms are thereby radical, they are also finely balanced. By proposing new, highly prestigious bodies such as the Resource Estimates Commission to parallel the National Audit Office, and by retaining a Executive Financial Veto, the danger of shifting the balance towards legislative anarchy has been avoided.

3.15.3 However, we would in addition propose that this package of reforms is reviewed after its first five years of operation by an international body such as the OECD, so that Parliament's new powers are themselves subject to audit.

# ***Decentralised Government***

## **4.1 Introduction**

4.1.1 The Liberal Democrats have long advocated devolution for Scotland and Wales (and when possible Northern Ireland) and a system of directly elected regional government for the English Regions. These commitments have been a core element in our vision of accountable, responsive and efficient government, delivering services at the lowest effective level.

4.1.2 In recent years important advances have been made. A fully fledged Scottish Parliament with legislative and tax-varying powers has been achieved as the fruit of long-term cross-party co-operation within the Scottish Constitutional Convention.

4.1.3 By contrast, devolution for Wales and London has also made some progress, but Labour's one party approach has led to timid and incomplete reform. We would like to see the powers of the Welsh Assembly enhanced to include tax varying powers and primary legislative powers in a range of key areas including: economic development, industry and training, Welsh language and culture, health, transport, education and law and order. We would also wish to see the Greater London Authority have greater powers, for example to raise revenue and to hold the Mayor to account.

4.1.4 The great failure of the current Government, however, has been to provide democratic decentralisation within England. The majority of this chapter concentrates on this issue.

## **4.2 The Existing Regional Tier**

4.2.1 There is already a significant amount of administration of public services that is done at the regional level. There is a range of quangos and other public bodies operating at a regional level which have a significant impact on the lives of the people in their areas. The problem is that because none of them are directly accountable to the local electorate there is very little awareness of the existence of this layer, let alone much public involvement with decision-making. The relevant secretary of state appoints most of these quangos. They have little statutory responsibility to take account of local views in what they do. Their boundaries frequently overlap. Recent research done by the Centre for Urban Regional Development Studies has identified 19 separate bodies working within the North East Region, a pattern that is likely to be mapped closely in most regions in England.

4.2.2 Liberal Democrats support directly elected regional assemblies. We wish to pull all these quangos together under the umbrella of regional assemblies. We would simplify the current mess of regional administration, to make it far more transparent, approachable and accountable to ordinary people.

## **4.3 The Desire for Change**

4.3.1 The political imperative for devolution has been ignored in the London-based discussions of regional issues. While demand for regional Assemblies varies across England there are regions – most particularly in the North East, but also in the North West and Yorkshire and Humberside – where the public are demanding devolution and the status quo is not an option.

4.3.2 The potential for regional government to alter the current stagnant nature of government has hitherto been ignored. Regional government has the ability to deliver 'joined-up' government - to use a current buzzword – in other words a holistic, strategic approach to problems. With its attachment to departmental baronies, Whitehall delivers fragmented government. The debate is too much centred on 'adding another layer of bureaucracy and politicians'. The bureaucracy is already there. The point is to democratise it. A key objective of regional government would be to democratise those organisations and bring them under the scrutiny of elected government, local and regional media and the general public.

4.3.3 Addressing the direct democratic deficit is only part of solving the general lack of involvement by the public in decision-making. Creating a genuinely new body that works with the people of the region and brings them into the decision-making process will give people a degree of ownership over what happens on their own doorstep. This will help create a sense of responsibility and self-reliance as well as generate pride in one's area.

4.3.4 The establishment of Regional Government will also help to disperse economic power through the regions, as more public sector workers are located at the regional level and Regions enhance their capacity to run effective economic development strategies. Stronger regional political centres will help regions retain talented individuals in fields such as the Civil Service and journalism, who currently tend to be drawn to London in order to progress their careers.

## 4.4 What will Regional Assemblies Do?

4.4.1 Currently there are a number of services that are provided or administered at a regional level, but they are provided by a complex web of quangos and other organisations. These cover a number of strategic functions including economic development, transport, planning, the environment, further education & training as well as cultural issues including the arts, sport and tourism. Many of these bodies cover geographical areas with different boundaries. Liberal Democrats would bring the majority of these organisations under the democratic control of elected regional assemblies. So we would redraw their boundaries, as far as possible. We recognise that this would take time, but this would allow 'joined up thinking' between all these various bodies, as well as giving greater clarity for the local population. Most importantly, it would allow them to be democratically controlled by the elected assemblies.

4.4.2 A range of functions currently the responsibility of Whitehall departments could also be carried out by the regions. Regions would:

- Follow the model of the North East Constitutional Convention in democratising and asserting an influence over regionally based quangos. Regional authorities would be given control over regionally administered functions such as planning housing growth figures for the region. Those quangos that have coterminous boundaries with the Region would be brought under the control of the regional authority. Other quangos without coterminous

boundaries would be given a duty to consult all relevant regional authorities on their activities, to at least bring them under the influence of democratically elected bodies. Over time, boundaries would be brought into line and most quangos democratised. The precise nature of each process would vary from region to region, according to local circumstances and the wishes of local people.

- Take over a range of current central government responsibilities, such as strategic management of education at a regional level, for example to co-ordinate and link secondary education, further and higher education and work-based training schemes.
- Have powers to enact secondary legislation. Rather than the relevant Secretary of State setting the regulations for the implementation of certain laws, the Regional Assembly would determine them.

4.4.3 Ultimately, some Regions might take on primary legislative powers. However, an important set of powers would be retained at Federal level (see section 4.9)

## **4.5 Implementation and Boundaries**

4.5.1 There has been much debate about where the ‘natural boundaries’ of regions fall, particularly in relation to the South East and some of the regions in the Midlands which are particularly difficult to identify. Regions must reflect cohesive natural communities, yet be large enough to be able to compete in the European environment.

There is certainly no requirement for uniformity of size.

4.5.2 The nine English regions that were defined for the regional government offices, the RDAs and the regional chambers have proved a good starting point for building a consensus in favour of an elected regional assemblies and the Liberal Democrats are broadly in favour of this approach. In most regions the politicians and interest sectors involved in the new regional organisations are learning how to work together and find common interests. Constitutional Conventions such as already exist in the North East and other areas help in this process, and we would encourage their establishment in all regions.

4.5.3 The process of moving towards democratic regional government would start with the passage of an Enabling Act, setting out a menu of powers which might be adopted by a region. There would be a set ‘core’ of powers which any region wishing to devolve would need to take up. This menu would be drawn up by central government in consultation with existing regional bodies. A referendum on adopting devolved powers could then be triggered by a request from a majority of local authorities or a petition of 5% of the population of a region. Boundaries in this phase would be based on existing regions or subdivisions thereof comprising groups of existing local authorities (to allow smaller areas within existing regions some flexibility where it may be desired, for example in Cornwall). Initial referenda would be on the basis of the minimum core powers for each regional assembly.

4.5.4 Individual regions could subsequently choose to adopt, by

referendum, powers from the menu beyond the 'core'.

4.5.5 Future changes to regional boundaries could be made subject to local referenda called by the Secretary of State for the Nations and Regions. The Secretary of State would be responsible for receiving all representations on requests for boundary changes, and would be required to seek the greatest possible consensus between all affected local authorities and regions before moving to a referendum.

## 4.6 Funding

4.6.1 In time financial devolution must follow political devolution. This means that devolved bodies should be able to levy and vary specific taxes. Consideration should also be given to allocating a share in the UK taxes raised within their boundaries directly to the devolved authorities.

4.6.2 The transfer of additional funds from the Treasury to devolved authorities – the fiscal transfers – should be on the basis of needs. It should be on a sufficient time scale and on the clear understanding that no area should be penalised. The objective must be to raise standards everywhere as the economy grows.

4.6.3 It is anticipated that Regional Government would be funded via a direct bloc grant that would be augmented by local tax raising powers. Over time, our intention would be to transfer the tax-raising function progressively towards the regions, from the centre. Options for the tax raising powers could include one or more of the following:

- A regional element of a local income tax.
- A local business rate with regional element.
- A locally determined level of Site Value Rating with regional element.

4.6.4 All central government expenditure should be expressed in regional terms, so that it is clear which regions receive most direct investment from central government in all policy areas.

4.6.5 One of the most contentious issues relating to government finance is the allocation of revenue to different parts of the UK. Some is allocated to the Welsh Assembly, Northern Ireland Assembly and the Scottish Parliament, on the basis of the Barnett Formula, which was originally intended to be temporary. This does not relate to all the money received by those bodies, but does affect any changes in government expenditure. In the first instance, changes in expenditure are determined in Parliament on an English basis. Under the terms of the Barnett Formula, a proportion of any increase allocated to England is then allocated to the rest of the UK on the following basis: Scotland 10.34% (9.77% for law and order); Northern Ireland 3.41% (3.22% for law and order); and Wales 5.93%. If there is a reduction in expenditure, then a reduction is made along similar lines.

4.6.6 There are five problems with this approach. The Barnett Formula:

- Takes no account of the needs of the relevant areas of the UK, because it is solely based on population figures - giving rise to inappropriate comparisons made

between the funding received by different parts of the UK, e.g. Scotland and London.

- Takes no account of changes in needs over time.
- Takes no account of differences within Wales, Scotland and Northern Ireland.
- Only relates to changes in expenditure, and is not able to tackle inequalities inherent in the current bases of expenditure.
- Is not able to take account of regional disparities within England.

4.6.7 Liberal Democrats have consistently argued that all devolved administrations within the UK need to have greater powers over taxation, so that they can meet their own needs through raising resources in their own territories. There is also a case for regions keeping some of the UK - wide taxation raised in their areas rather than it all going direct to the Treasury; this would allow regions as well as the Treasury to enjoy some of the benefits of revenue buoyancy. However, to meet disparities throughout the UK, and to recognise that not all areas may be able to raise adequate funds, Liberal Democrats believe that a Finance Commission for the Nations and Regions (FCNR) should be established. Liberal Democrats believe that the FCNR should:

- Have a constitutional status, enshrining the principle of equity of finance across the UK's nations and regions. The FCNR would be under a constitutional duty to agree rules governing revenue-support and borrowing.

- Be chaired by the Secretary of State for the Nations and Regions.
- Be composed of representatives of the national parliaments and assemblies of the UK, along with representatives of regional assemblies in England (or regional chambers where assemblies do not exist). The conclusions of the FCNR would require consensus of its members, and would be ratified by the executives of the bodies represented on it. No revenue would be released without such consensus.

4.6.8 The FCNR should carry out the following six tasks in the first year of its operation:

- Establish a new Revenue Distribution Formula (RDF) to replace the Barnett Formula. This would be a needs-based formula (reviewed periodically in conjunction with the Comprehensive Spending Review), taking account of key health, poverty and education indicators, and the available tax bases. It would recognise the problems of providing services in areas with widely dispersed populations. The formula would also take account of all spending in the nations and regions by the UK government and the European Union, regardless of whether this constituted revenue made available to sub-UK levels of government. The RDF would be used to allocate finance to devolved administrations. The FCNR would also recommend to Parliament where it would be appropriate to use the RDF to distribute expenditure which involves neither devolved administrations nor local government.

- Use the Revenue Distribution Formula to re-base the current distribution of expenditure to reflect needs.
- Establish the terms for distributing revenue within England to reflect not only differences between regions, but also differences within regions (e.g. poor districts within generally rich regions). Where regional governments existed, these would match regional government boundaries. Otherwise, Regional Development Agency boundaries would be used.
- Establish whether differences within Scotland, Northern Ireland and Wales should be considered when allocating revenue for distribution in those countries, recognising that the distribution of revenue is a matter for devolved administrations.
- Establish a timescale for implementing any changes in the balance of spending, so that there would not be any reduction in the quality of services provided in any areas that have previously benefited from the formula or from successful local policies. The aim of the timescale would be for the whole country to achieve the high standards reached elsewhere, funded by the growth of the economy, rather than an increase in the tax burden or cuts in services. The changes in the balance of spending would be completed by the end of the process of establishing the framework of elected regional government.
- Investigate the possibility of regions receiving directly a proportion of the United Kingdom taxes raised within their area.

4.6.9 In future years, in conjunction with the Comprehensive Spending Review, the FCNR would use the RDF to allocate new expenditure to the nations and regions of the UK.

4.6.10 This new system would be fairer than the current system to all concerned. Northern Ireland, Wales and Scotland would receive revenue according to their current needs, and disparities within the English regions would be recognised.

4.6.11 The current method of determining need for funding local government is opaque and difficult for the lay person to understand. Despite the complexity of the formula, there are hundreds of examples of anomalies with authorities being given widely varying amounts for providing the same service. This system commands very little confidence amongst government, local government finance experts or the general public alike and it is vulnerable to criticisms of tampering with the formulae to suit political interests.

4.6.12 Once regional devolution in England was established, regions would be given the task of distributing grants to local authorities within their area, from the monies allocated by the FCNR. In the longer term, we would reform local government finance so that local councils were able to raise a much higher proportion of their funding through local taxation (see Policy Paper 30, *Re-Inventing Local Government*).

## **4.7 Relationship with Local Authorities**

4.7.1 Local government should welcome the advent of elected regional

assemblies. Regional assemblies will be drawing power down from national government and nationally-appointed quangos, not drawing it up from the local level. Regional assemblies will do much to reduce the local government time consumed dealing with the multiplicity of regional governmental bodies. Some regional chambers have already enabled a much greater level of regional dialogue, and so co-operation, between their constituent local authorities.

4.7.2 Local government would find a democratically elected regional assembly easier to work with than the current mish-mash of agencies and offices. Devolution and the creation of regional assemblies is about drawing power out from the centre, and providing a strategic approach to powers currently at a regional level. So there should be no adverse effect on either the powers or influence of local government.

4.7.3 Liberal Democrats would draw up devolution legislation tightly, to ensure that regions could not encroach on the existing powers of local authorities. If they wish to, however, local councils should be able to work together to provide efficiency savings, within the framework of the regional government. A good example of how joint working could develop in the regions is the Integra waste management project in Hampshire. The project involves the county and district councils. Because of co-operation, they are projected to achieve recycling levels far higher than would be realistic working alone.

4.7.4 Once elected regional government is in place, we would anticipate that the principal local authority tiers of local government

would be rationalised. However, in accordance with the principle of devolution, we believe that decisions about local government structures should be determined at local rather than national level.

## **4.8 Co-ordination between Regions**

4.8.1 The Local Government Association has already taken a lead in furthering co-ordination between the regions and we see this useful role continuing. In the longer term it may be necessary to construct a separate body to represent the interests of regional government, but that would be a matter for the regional authorities themselves to decide upon.

## **4.9 Continuing Federal Responsibilities**

4.9.1 The Westminster Parliament and the UK Government will continue to be responsible for defence, foreign affairs, national security, immigration, social security, macro-economic management, freedom of commerce, some transport infrastructure and setting minimum standards and targets for public service provision. In England and Wales they would also be responsible for the courts, legal services, the law and criminal justice system. In some fields, legislative powers would need to be exercised concurrently at European, national and sub-national levels, for example with respect to the environment.

## **4.10 West Lothian Question**

4.10.1 The West Lothian question (the issue of whether Scottish MPs can vote on English matters at Westminster

while English MPs cannot vote on Scottish matters) has been much debated. If regional assemblies are established throughout England, the Westminster Parliament will increasingly focus on federal UK issues and the West Lothian problem will be vastly reduced. Liberal Democrats are clear that regional government is the only sensible way to resolve concerns about powers that are devolved only to some regions. Although we are keen to encourage the maximum possible levels of devolution in all parts of the country, of course no region would be forced to take on powers that it did not want beyond the core. However, it seems likely that once the process of regional devolution is firmly underway there will be something of a “domino effect”. Slower regions will see the benefits of devolution for their more advanced neighbours, and demand the same for themselves – just as the North East is following Scotland’s lead today.

4.10.2 Once regional government is in place in most parts of England, we will correspondingly reduce the overall size of the Westminster Parliament. For further details on reform of the House of Commons, see the chapter 3 on “Accountable and Representative Government”.

## 4.11 Input into EU

4.11.1 A regional government should be able to negotiate directly with EU on policy matters as well as grant applications, be fully represented on the Committee of the Regions and, if appropriate, have representative offices in Brussels. Decisions on new towns and cross council area developments, including for example housing policy, should be settled at regional level rather than via the DETR.

## 4.12 The Council of the Isles

4.12.1 The British-Irish Council or ‘Council of the Isles’, established under the Good Friday Agreement, provides for regular meetings between representatives of all the national governments of the British Isles. That includes: the United Kingdom (the Westminster Parliament and the representative bodies in Cardiff, Belfast and Edinburgh); the Republic of Ireland; the Isle of Man; and the Channel Islands. Liberal Democrats believe that the Council provides new opportunities for recognising the flexible nature of relationships within the British Isles, and welcomes the establishment of the Council. Liberal Democrats believe that in its first years, the Council should focus on the following areas of work:

- Education, e.g. mutual recognition of qualifications and entry standards.
- Environment, e.g. pollution in the Irish Sea.
- Tourism.
- Agriculture and fishing.
- Transport.

4.12.2 In particular, we believe that there is room for regular meetings of a ‘Council of the Irish Sea’ within the framework of the Council of the Isles. In many areas, such as transport and pollution, there will be strong shared interests between representatives of Cardiff, Dublin, Belfast, the Isle of Man and a North West England regional assembly. Liberal Democrats believe that it makes more sense to discuss them at this level in the first instance,

than it does for matters to be resolved on a simple Dublin-London basis.

4.12.3 To support the work of the Council of the Isles, Liberal Democrats

believe that a permanent secretariat should be established, based in a central location such as Cardiff.

# ***Efficient and Effective Government***

## **5.1 Poor Government**

5.1.1 Both at the policy making and implementation levels, there has been long-standing dissatisfaction with the performance of central and local government in the UK. There has been too much 'departmentalism' and insufficient focus on common goals. Successive governments have been too 'short termist' in their approach. Ministers' annual spending rounds added little value to public services. Too many decisions are made behind closed doors. The responsibilities for actions of departments, Ministers and Civil Servants have not been clear enough. Observers have pointed to a tendency to 'draft around' problems, rather than solve them. There have been few clear benchmarks for public servants to be judged against and therefore inadequate incentives to improve performance. This in combination with a media agenda which thrives on 'scandals' and bad news has led to a concentration on avoiding mistakes by sticking to tried and tested routines rather than innovation and risk taking in the public sector.

5.1.2 Under the Conservatives, there were major policy debacles - the poll tax, rail privatisation and the BSE crisis. The Blair Government has had its share of policy and delivery failures, with welfare reform and last summer's crisis in the Passports Agency topping the list.

## **5.2 Conservative Reforms**

5.2.1 During the 1980s and early 90s the Conservative government launched a series of Civil Service reforms, culminating in the Next Steps Agencies introduced from 1988 and the Citizens' Charter launched in 1991. Other Western Countries such as New Zealand and Canada underwent analogous programmes of reform from the late 1980s.

5.2.2 The underlying Conservative analysis was twofold. In a bureaucracy in which market forces are not paramount the self-interest of public servants will lead to goods and services being supplied at high unit cost; and the imbalance in information between Civil Servants and Ministers allows the bureaucracy to run the public sector their way rather than the Government's way.

5.2.3 The answer to these perceived problems was the Next Steps reforms. These tried to make public service deliverers work more like private sector firms in the market place. This was to be achieved by splitting off from main Civil Service departments certain agencies concerned with the delivery of policy, which then had a contract based relationship with their Whitehall department. So-called Framework Documents set quantifiable targets which the Agencies were expected to reach, and Agency Chief Executives had performance related bonuses assessed against these targets.

## **5.3 Criticisms of Next Steps**

5.3.1 Some aspects of the Next Steps programme were clearly desirable. Giving clear performance indicators to public servants and linking them to pay and promotion was essential to improving management, and in line with public sector reforms carried out in other countries during the same period - notably New Zealand. Yet there were also serious flaws.

5.3.2 One of the most obvious was confusion over Parliamentary accountability. In theory, Ministers remained accountable for policy matters relating to the work of Agencies, while the Chief Executives were accountable for operational matters. This distinction is however extremely difficult to make, and open to abuse by Ministers wishing to evade their responsibilities.

5.3.4 Perhaps the most serious criticism of the Next Steps approach is that it has been inward looking in its focus and has militated against imaginative new approaches. Targets for Agencies are frequently set in terms of 'outputs' (e.g. numbers of drivers breathalysed) rather than 'outcomes' (number deaths on the road). An example of the kind of objective set for the Benefits Agency is 'Ensure that the correct amounts of benefit are paid on time with proper safeguards against fraud and abuse.' While this is perfectly adequate as far as it goes, it is typical of the Next Steps approach in that it addresses delivering existing programmes to a certain standard, rather than trying to find new ways of achieving the outcomes which policy is supposed to bring about. Although subject to negotiations with Agency Chief Executives, objectives are

essentially determined top down. They actually reinforce 'departmentalitis', as staff are judged specifically on delivering their own agency targets. A rigid management by contract system inevitably encourages delivery of the agreed contract, and changing track during the period of a contract may be difficult even if it becomes clear that objectives are inappropriate. This focus on processes and outputs rather than outcomes is also a weakness of overseas reform efforts - in 1999 the New Zealand State Services Commission reported that it was unable to form an authoritative judgement as to whether the capability of departments was growing or eroding over time, and their ability to respond to government priorities and their external environment over the next two to three years.

## **5.4 'Joined-Up' Government**

5.4.1 Concerns about the partial improvements secured by the contract driven approach to public service reforms in Britain and elsewhere have given rise to calls for 'Holistic' or 'Joined Up' Government in the late 90s. This approach recognises that many of the social and economic problems Governments seek to remedy require combined interventions from a variety of functionally organised Government Departments and Agencies. It also focuses on Preventative Government, advocating early action to head off problems rather than traditional responsive policies. This would argue that the existing NHS is actually a National Illness Service, trying to treat people after they have become sick, and devoting very limited resources to health promotion and the kind of environmental and social

changes which would prevent much illness at lower cost.

5.4.2 The Government has adopted two main strategies for implementing 'Joined-Up' Government. At the policy-making level it has set up or expanded a number of cross-departmental bodies alongside the functional departments. Most important of these is the No.10 Policy Unit, which already existed but has been greatly expanded. Other examples include the Social Exclusion Unit and the Performance and Innovation Unit. The PIU is a stronger break with Whitehall tradition in that its project teams are staffed by outside experts and often exclude the relevant Whitehall Department altogether. Ministers in charge are also usually drawn from other departments. The effect of this has been to give the Prime Minister greater control of and independence from departments and their Cabinet Ministers. It has also led to the setting up of a range of special initiatives outside mainstream programmes - for example Education Action Zones.

5.4.3 The second major plank of 'Joined-Up' Government comes from the Treasury, in the form of the Comprehensive Spending Review and its associated Public Service Agreements. In place of the traditional annual spending round where departments haggled with the Treasury over their expenditure totals, government spending is now to be set in terms of a succession of three-year CSRs. Departments have to bid for funds for these periods through the Public Service Agreements, which contain specific outcomes which are supposed to be achieved with the funds allocated. This system places more power to shift trends in spending with

the Treasury, and by setting objectives in terms of outcomes for the public is aimed at creating incentives for holistic approaches. Beneath the headline targets set in the PSAs, there is a plethora of more detailed targets.

## 5.5 Tensions between Rhetoric and Reality

5.5.1 As with much on the New Labour agenda, there is a tragic contradiction between the stated aims and principles of policy, and the Government's ability to understand their logic and follow them through. One of the key factors which has led to a responsive 'fire-fighting' approach to policy-making over the years has been successive Governments' sensitivity to short term criticism and need to present every initiative as a glorious success. This has actually discouraged initiative, risk taking, long-term thinking, and willingness to learn from mistakes. To make a success of joined-up government, an administration would have to be prepared to accept some failed experiments, some ultimately successful projects taking time to develop and show results, and a large measure of local initiative and discretion. New Labour's obsession with presentation makes them almost uniquely ill-suited to introduce the kind of reforms which they propose. Their approach has been characterised by top-down dictation, the setting of targets which are easily achievable, meaningless or determined by a tabloid agenda rather than the public interest.

5.5.2 As at February 2000, Liberal Democrat research has identified no less than 8,636 different targets set by Government under the aegis of the Public Service Agreements or otherwise. Many of these are highly detailed and process oriented - the kind

of target which ties public servants down to existing agendas rather than encouraging innovation. For example, the Royal Observatory has a target of increasing the number of enquiries answered from 10,000 to 11,000 per year. Many targets are already achieved - for example, the Next Steps Annual Report for 1998-99 said that only 27% of Agencies' targets were set at a level which required an improvement in performance. Of the 32 performance targets set for the Treasury itself, two are already achieved, six target a trend that is in place already, for five the Treasury determines success or failure itself, three targets require the government simply to have a policy, six are uncontroversial and the data on which five are to be assessed won't be available until after the next phase of the CSR is decided. This leaves only six targets as meaningful.

5.5.3 It is obvious from this sad story that priority is given to presentation over substance in the PSA process, and the Government does not have the willingness to relax rigid central control which is essential if 'holistic' government is to be achieved.

5.5.4 Another criticism of the Government's progress is the large number of special initiatives - 'initiativitis'. Pilots and other schemes can be helpful in producing new and better ways of working, but their ultimate objective must be to incorporate new best practice into mainstream programmes. The present initiativitis can lead to confusion, duplication, and the diversion of the best staff away from mainstream delivery into special initiatives serving small groups.

## 5.6 Setting the Right Targets

5.6.1 Much of the intention behind the Next Steps programme and the current Government's 'Joined-Up' Government is good, and the best aspects should be retained. However, the way targets are set needs to be improved. There should be a limited number of 'outcome' targets on which Ministers would be judged and which would provide the main focus of political accountability. At the lower level, there would need to be more detailed targets, including the 'output' type targets which remain useful as internal management tools. There should be an overall legislative framework which would provide for consistency, and prevent Ministers moving the goalposts to suit themselves. A new Public Services Act would require the Government to:

- Publish annually a "Social Strategy Statement", identifying its social priorities and translating these into a set of measurable medium and long term targets. This should be undertaken without regard to traditional departmental boundaries. The Social Strategy Statement should contain quality of life measures and environmental indicators.
- Set out annually, in a "Social Targets Statement", to be delivered and debated before the Budget, progress in meeting targets. These targets will be divided into long term "outcome" targets - or Strategic Results Areas (SRAs), and shorter term "output" targets, or Key Results Areas (KRAs).

- Establish a Public Services Select Committee to scrutinise all the targets adopted in these Statements to ensure they are relevant and meaningful, and require the National Audit Office to report annually on performance against targets and on the costs of achieving different standards. This would help to encourage genuine pre-Budget debate.
- Specify the output targets in a “Service Delivery Agreement” between the responsible Minister and the Chief Executive of his Department. Chief Executives would be held responsible for performance against outputs, and their pay would include a performance related component.

5.6.2 In order to measure and assess Government performance against targets, it is necessary to have adequate series of authoritative statistics. It is therefore worrying the Government’s current proposals for establishing a Statistical Commission will allow the Government of the day to decide what statistics the Commission should collect and publish, and what should be left to Departments. We therefore propose that the Commission should be placed on a properly independent basis.

5.6.3 To ensure government as a whole is addressing key political priorities, we would also legislate for an Environmental Responsibility Act and for Social Justice Audits of all bills coming before Parliament. This would complement existing certification under the Human Rights Act. We would also create a high-level Environmental Sustainability Unit along the same lines as the Social Exclusion Unit.

5.6.4 It is important that cross-departmental agencies such as the

Social Exclusion Unit do not escape Parliamentary scrutiny. All such agencies must be subject to the scrutiny of an appropriate Select Committee, or to the Public Services Select Committee.

## 5.7 Initiatives and Experimentation

5.7.1 Special initiatives and pilot schemes have an important role to play in achieving a more creative and enterprising public sector. However, they cannot be a substitute for improving mainstream programmes, and should not be used as a way of evading normal lines of accountability. There must also be scope for ‘bottom up’ initiatives as well as new programmes imposed from the centre. We propose:

- Giving guidance to the NAO to assess success of pilots and experimental schemes in terms of what lessons they give for the future design of policy, not just their direct effectiveness
- Setting clear time limits for special initiatives and pilot schemes at the outset, so that they cannot outlive their usefulness or proliferate unnecessarily
- Setting up a series of task forces to interview Civil Servants, including those on junior grades, about their views on the running of their departments or agencies and ideas for improving them.

## 5.8 Government and the Governed

5.8.1 Despite the efforts of Plain English campaigners and some new forms of service delivery such as NHS Direct, contact between government agencies and the citizens who they are supposed to serve is often difficult, time consuming, and even baffling for the individual. The public sector lags behind the private in standards of customer service.

5.8.2 It is also a role of good government to ensure that individuals and groups are empowered to stand up to government agencies when the occasion demands. Voluntary organisations have important functions in informing government on policy matters, assisting individuals who are sometimes wary of approaching official agencies for support and advice, and acting as advocates for individuals who may come into conflict with officialdom

5.8.3 We therefore support:

- An obligation on all government bodies to make advice services available on all form filling and entitlement programmes
- The use of personal caseworkers who meet the whole needs of individuals in fields such as social security and employment advice
- Increased use of telephone helplines and more interactive government websites
- Partnership between government and voluntary organisations, including where appropriate targeted funding for voluntary

organisations to help them fulfil their advice and advocacy roles

## 5.9 The Civil Service

5.9.1 The move towards Next Steps Agencies and devolution in Scotland and Wales has inevitably had some impact on the structure of the Civil Service. Reforms have tended to undermine the unified Civil Service, both by dividing Civil Servants between 'policy' civil servants based in the Whitehall HQs and the Agency staff who are increasingly recruited independently on Agency-set terms and conditions, and by strengthening the separate identity of the Scottish and Welsh Office Civil Servants. Recent years have also seen a growth in the number of Ministerial Special Advisers, raising questions about the continued political impartiality of the Civil Service. We wish to retain an impartial Civil Service with a long-term career structure, but welcome greater mobility between the central Civil Service, the rest of the public sector, and the world of business. There is also greater scope for direct accountability of civil servants to Parliament. We propose:

- Creation of a Public Service Commission to replace the Civil Service Commission, with a remit to ensure political neutrality and appointment on merit in central, local and devolved government. The Commission would report to a Select Committee of the House of Commons, and could in extreme cases dismiss Senior Civil Servants
- Every Civil Servant's first duty should be to the Written Constitution, rather than their Minister or Agency

- The Ostmotherly rules governing Civil Servant appearances before select Committees should be changed to allow discussion of policy dimensions of Service Delivery Agreements, and to enable Chief Executives to give evidence on their own behalf about management issues
- Establishing a Master of Public Policy and Administration degree course at leading UK Business schools, to which Civil Servants from central or devolved government or local government officers could be nominated by their departments or authorities.
- An expectation that every Civil Service career will involve at least one appointment in an Agency, local or devolved Government or the private sector.
- Encouragement for private sector and local government staff to take appointments or secondments within the Civil Service.
- Opening all Chief Executive Posts in both Departments and Agencies to public advertisement.
- Rigorous codes of practice to ensure probity in Civil Servants moving into the private sector, and vice versa.
- Maintaining a clear distinction between politically appointed Special Advisers and mainstream Civil Servants

*This paper has been approved for debate by the Federal Conference by the Federal Policy Committee under the terms of Article 5.4 of the Federal Constitution. Within the policy-making procedure of the Liberal Democrats, the Federal Party determines the policy of the Party in those areas which might reasonably be expected to fall within the remit of the federal institutions in the context of a federal United Kingdom. The Party in England, the Scottish Liberal Democrats and the Welsh Liberal Democrats determine the policy of the Party on all other issues, except that any or all of them may confer this power upon the Federal Party in any specified area or areas. If approved by Conference, this paper will form the policy of the Federal Party, except in appropriate areas where any national party policy would take precedence.*

*Many of the policy papers published by the Liberal Democrats imply modifications to existing government public expenditure priorities. We recognise that it may not be possible to achieve all these proposals in the lifetime of one Parliament. We intend to publish a costings programme, setting out our priorities across all policy areas, closer to the next general election.*

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*Note: Membership of the Working Group should not be taken to indicate that every member necessarily agrees with every statement or every proposal in this Paper.*

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