

The Government's Constitution Democracy and Rights Commission

Submission to the Public Administration and Constitutional Affairs Committee by the Joseph Rowntree Reform Trust

About the Joseph Rowntree Reform Trust

The Joseph Rowntree Reform Trust Ltd (JRRT) is one of three grant making trusts, independent of each other, set up in 1904 by Quaker businessman Joseph Rowntree. JRRT was set up as limited company, not a charity, able to fund political causes. The Trust funds a wide range of campaigns in the UK to promote democratic reform and civil liberties. Our contributions include, the 2006 [Power Inquiry](#), an initiative with the Joseph Rowntree Charitable Trust, to address both the need for constitutional change and to tackle the connected and growing political disengagement in the UK. Last year we set up the [UK Democracy Fund](#) to tackle political inequality and work for reform of the voting system and increased voter participation. The Fund is supported by a number of Trusts and operates on a strictly nonpartisan basis.

Question 1. What form should the Commission take?

The work of the Commission has the potential to shape the rules for how the state may legitimately exercise power and alter the framework of rights protecting citizens. These are issues which require a different approach to everyday law making or policy development, one that takes a longer-term and inclusive approach to building legitimacy.

a. How should it be composed?

The appointment process for the individual selected to lead the Commission and for the Commissioners is vital for signalling government intent and building confidence in its role as a forum that can "[constructively review](#)" the balance of powers at the heart of our constitution. These signals are particularly important given [concerns](#) that the executive is seeking to reduce constraints on central executive power.

Independence and credibility will be vital and can be demonstrated by appointments of individuals known for independence of mind, drawn from different backgrounds and from across the political spectrum. Any Commission should properly reflect the diversity of modern Britain, including those from black, Asian and minority ethnic backgrounds and those from younger demographics.

b. Should the Commission engage the public and if so how?

2020 began with reports of a deep malaise with democracy across the globe. [Cambridge University research](#) recorded UK citizens' faith in democracy to have

suffered one of the sharpest falls of any country: a clear majority were dissatisfied with democracy. The analysis finds political institutions to be falling short of the outcomes that matter most for their legitimacy, including probity in office, upholding the rule of law, responsiveness to public concerns, ensuring economic and financial security, and raising living standards for the larger majority of society. This reinforced the findings of a number of UK studies: the Hansard Society [Audit of Political Engagement](#) in 2019 for example found sizeable numbers of people willing to entertain radical political changes, with opinions of the system of governing at their lowest point in the 15-year Audit series and strong feelings of powerlessness and disengagement intensifying. More recently, [Cambridge University research](#) has shown that disaffection with democracy world-wide is alarmingly marked among young people, with governments derived from democratic processes seemingly failing to address their concerns.

Public participation in any long term process of constitutional change will be essential for legitimacy, rebuilding trust and creating the political space to implement recommendations.

The Commission should commission a high-quality deliberative and representative process such as a Citizen's Assembly to inform its work and commit to engage with and respond to its recommendations. There is a [wealth of documentation](#) on the role these processes can play, of how to ensure representative sampling, of how the process can inform constitutional change (see the [experience in Ireland](#)), as well as [recent experience](#) in the UK on climate change to draw on.

Citizen's Assemblies are well suited to tackling complex issues but need the time and resource to do so, and, as Professor Graham Smith [argues](#), should be formally tied into the political process to ensure they have real impact. Government and the Commission should both therefore give a commitment to a meaningful response to recommendations and parliamentarians across the political spectrum – including members of PACAC - have a role in pressing for recommendations to be acted upon.

The Commission's work should be a springboard to build and inform a national conversation about the constitutional, democratic reform and rights issues it is addressing.

The Commission should hold sessions across the UK and ensure the perspectives from the devolved nations and regions are seen to be taken into account.

Given the national divides over Brexit, a renewal of face to face efforts to bring people together to listen to people with different perspectives would be welcome.

Given the long-term impact of changes to the constitution, democracy and rights, young people are likely to live for much of their life with the impact of whatever is implemented. There is therefore a strong case for a specific engagement strategy with young people. This could run in parallel with a rethink of democratic education in schools and resourcing a programme of engagement with the Commission.

The health of UK Democracy is undermined by the shocking scale of political inequality in the UK. Millions of citizens do not vote in elections, particularly young people and people from black, Asian and minority ethnic communities. The Covid-19 pandemic has laid bare the impact of inequality in the UK and this year has seen an outpouring of support for racial justice. The Commission should give particular attention to how it engages with the perspectives of demographic groups who are most likely to be disengaged or marginalised.

Input from civil society organisations will also be vital: many have close relations with communities and marginalised groups, and sound understanding of changes needed to enable democratic processes to interact with and become more responsive to people the system should represent.

c. How should the Commission proceed in its work? Over what timescale?

By its nature this work should be distinguished from everyday laws and policy making and take a longer-term perspective.

The Commission should operate over a timeframe that allows for

- the importance of a full public engagement process including a Citizens Assembly as outlined in 1b. and
- the highest standards of evidence gathering, with resources and time to commission additional evidence the Commission identifies as needed.

We strongly agree with the [remarks made](#) by Lord Lisvane to this Committee: “If the time allowed is ridiculously impractical the whole process is inevitably going to be superficial and go nowhere near the profundities that we have been exploring”.

The Commission needs to be able to take a view on what level of resource is required to carry out its work and that of the Citizen’s Assembly and government should be open to allocating those resources.

Question 2. What should be the main purpose and output of the Commission?

The overall purpose of the Commission should be to rebuild confidence and trust in and the effectiveness of UK democracy, shifting the balance of powers toward people, served by accountable and responsive government.

The political landscape has changed dramatically since the December 2019 General Election which provided the Conservative government with a sizeable majority, able to take forward its page 48 manifesto pledges. The role of the Commission was set out in the [Queen’s speech](#) as to “examine the broader aspects of the constitution in depth and develop proposals to restore trust in our institutions and in how our democracy operates.”

Shaped by the experience of Brexit deadlock frustration in the previous parliament, the proposal to set up a Commission has provoked concerns that it may be a vehicle to strengthen the executive at the expense of parliament, diminish judicial review, interfere with appointment of judges and weaken the Human Rights Act. Other

[commentators](#), such as Lord Dunlop, have countered this, claiming that the long-term context is key and that the key question for the new government is what ‘taking back control’ means in constitutional terms.

Since the proposal was developed, the government’s agenda has been shaped above all by the Covid-19 crisis which, in addition to its severe health, social and economic impacts, has further undermined public trust and confidence in the institutions of democracy and has reinforced the case for a fundamental review.

While the manifesto commitment may have been a product of its time, it is hard to overstate the need for fundamental reform of how our democracy operates and therefore of the lasting impact that an effective Commission could have.

The [Labour party manifesto](#) also called for a Constitutional Convention led by a Citizens Assembly, the [Green party manifesto](#) for a Citizens Assembly to strengthen democracy and the [Liberal Democrats](#) for use of citizens assemblies for the greatest challenges we face, suggesting broad cross party support for a process of far reaching review involving citizens.

It is in this context that JRRT welcomes the PACAC review of the Commission’s purpose, remit and operation.

It is our view that the Commission needs to take an overview of how the different elements of our constitutional arrangements balance and interact with each other and with citizens.

This should include:

- the relationship and balance of powers between Government, parliament and the courts, addressing in particular the question of executive accountability.
- the relationship with devolved nations and regions, given growing tensions and the impact of exiting the EU, in particular whether more (and if so which) powers should be devolved.
- the relationship between the state and its citizens – addressing barriers to participation, political equality and inclusion, trust and engagement, accountability and responsiveness.

a. How should the Commission report its findings?

Transparency should be a fundamental principle informing the operations of the Commission.

The Commission should broadcast videos of sessions, publish all evidence submitted, interim reports, provocations or findings and its final report in full.

The Commission should be responsible for publication of its own recommendations to which Government should commit to a full response within a specified timeframe.

Question 3. Given the remit of the Commission to look at “the broader aspects of the constitution” and come up with “proposals to restore trust in our institutions and in how our democracy operates” are there issues not on the Government’s list that need to be examined?

The electoral system will need to be central to the Commission’s work. Exclusion of such a fundamental element of democracy would risk undermining its potential impact. As Lord Sumption [said to the Committee](#) in October, it “determines the relationship between the electorate at large and the membership of the House of Commons” and is “of fairly critical importance in the eyes of electors”. The confidence of the electorate in how parliamentarians are selected (a question that will need to also address the composition of the House of Lords), and new governments formed, is fundamental to representative democracy and to its core principle of one person one vote. The composition of the House of Lords will also need to be addressed in the context given, as noted by [Democratic Audit](#): members are “wholly unaccountable to the UK’s citizens.”.

We would also argue that it is important for the terms of reference to have enough flexibility to respond to recommendations of the Citizen’s Assembly.

Question 4. What areas should be a priority for the Commission and why?

It is difficult to overstate the scale of challenge that restoring trust in our institutions and in how our democracy operates represents.

It is vital that the Commission gives highest priority to a focus on an overview of the balance of powers between the different parts of our constitutional arrangements – Government, parliament and the courts – and between the state and citizen.

We would argue that restoring trust entails addressing how power is secured – with electoral reform a fundamental issue the Commission should give priority to – alongside the effective operation of democracy.

It is of central importance that the underlying principles are clear and coherent, and consensus built on these, before the detail of specific powers or practices can be meaningfully addressed. Fragmentation into smaller reviews, such as that on administrative law, risks loss of coherence.

The response to the Covid-19 pandemic has thrown light on many of the shortcomings of our political institutions and their ability to respond to public concerns. While many of these deficiencies are long standing, there may now be greater public appetite for reform, openness, accountability, and fairness, to which a well constituted and resourced Commission could respond.

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