

# Response to the House of Lords Constitution Committee inquiry into the Future Governance of the UK

April 2021

The Electoral Reform Society welcomes the House of Lords Constitution Committee call for evidence and its inquiry into the future governance of the United Kingdom.

Debate and concerns around the UK's constitutional arrangements, and their long-term stability and effectiveness, have come to the fore in recent years, particularly in light of the UK's exit from the European Union and, more recently, the coronavirus pandemic.

The ERS has long campaigned on issues relating to the future governance of the UK, including calling for a UK-wide constitutional convention and reform of English devolution.

## About the Electoral Reform Society

The Electoral Reform Society is the UK's leading voice for democratic reform. We work with everyone – from political parties, civil society groups and academics to our own members and supporters and the wider public – to campaign for a better democracy in the UK.

Our vision is of a democracy fit for the 21st century, where every voice is heard, every vote is valued equally, and every citizen is empowered to take part. We make the case for lasting political reforms, we seek to embed democracy into the heart of public debate, and we foster the democratic spaces which encourage active citizenship.

## Executive Summary

- The current balance of powers within the UK is failing, anchored in Westminster and underpinned by its centralising and power-hoarding structures and culture. Despite devolution across the UK, this centralisation permeates the British state's relationships with the UK's nations and localities, acting as a barrier to genuine and long-term collaboration, trust and parity of esteem.
- The current First Past the Post voting system lies at the heart of much of Westminster's centralising approach and culture. Being granted unfettered power on a plurality of the vote means there is little incentive for government to form consensus and collaborate with other parties and legislatures, to formulate a long-term vision, and share power in a more balanced and equitable manner. A proportional voting system would tackle Westminster's over-centralisation and foster a more stable balance of powers.
- Powers should be dispersed more widely across and within the constituent parts of the UK and brought as close as possible to people and communities, in line with the principle of subsidiarity, allowing for local policy-making and citizen involvement.
- The UK's system of multi-level governance continues to be characterised by ad hoc and informal conventions and structures, and comprehensive consideration thereof has been neglected. The central state remains

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unreformed and has struggled to adapt to constitutional changes. Many of the challenges for multi-level governance can be traced back to successive governments' ad hoc and piecemeal approach to devolution and their lack of a clear, long-term, constitutional vision and purpose. This is especially true of England.

- There should be a UK-wide constitutional convention to address the future of the country in a holistic manner. Sub-national conventions and citizens' assemblies could feed into the UK-wide convention. More broadly, to ensure the longer term awareness and accessibility of the new constitutional arrangements, deliberative democratic processes should be used more widely to allow for citizen input in policy-making.
- The ERS is also calling for reform of the second chamber as a central pillar in any package of measures designed to strengthen and enhance the UK's governance arrangements, recognising the UK as it is, not as a pre-devolution, unitary state. A reformed second chamber could serve as a forum in which the nations and localities of the UK can work together and offer a space for union-wide collaboration.
- There should also be a shift in the culture and approach of the British state to adapt to the new constitutional landscape, ensuring that devolution and the governance of the union are at the heart of policy-making.
- Devolution to and within England should be comprehensively reformed. Power and responsibility should be dispersed in a meaningful way across and within English regions and localities. Citizens' assemblies should be established to provide a space for citizens to deliberate on their future and ensure the legitimacy of, and trust, in the new institutional set-up.
- More broadly, the ERS believes that the overall structure of, and approaches towards, constitutional arrangements regarding the governance of the UK should be revisited. There should be a new constitutional framework based on an overarching, comprehensive, long-term vision and purpose, and underpinned by clear principles and parameters.
- Decisions on the distribution and deployment of funding and resources across the UK should be made in accordance with the Nolan principles of public life and should be based on rigorous, transparent and publicly accessible data and criteria.

## **1. Is the current balance of powers within the UK optimal or does power need to be shared differently?**

1.1. The Electoral Reform Society (ERS) believes that power should be shared differently in the UK, moving away from the current balance which is anchored in Westminster and underpinned by a centralising and power-hoarding structure and culture. Powers should be dispersed across and within the constituent parts of the UK, and brought as close as possible to people and communities, in line with the principle of subsidiarity.

1.2. Current governance and constitutional arrangements are centred around the continued dominance and centripetal pull of Westminster and Whitehall vis-à-vis the constituent parts of the UK. This continues despite significant developments since the late 1990s in relation to devolution, with the establishment of devolved legislatures and executives in Scotland, Wales and Northern Ireland, and the expansion of areas of full legislative competence in the 2010s (the 'reserved powers' model of devolution).<sup>1</sup> Though there has not been meaningful devolution in England comparable to that of the other nations, England too has undergone changes in recent years, with some local authorities being granted limited powers and responsibilities as part of bespoke 'devo deals'.<sup>2</sup>

1 Unlike Scotland and Wales, Northern Ireland already had experience of devolved institutions between 1921 and 1972.

2 For information on devolution in the UK see: Torrance, D. (2020). *Introduction to Devolution in the UK*. House of Commons Library. <https://commonslibrary.parliament.uk/research-briefings/cbp-8599/>

3 Kenny, M., Rycroft, P. and Sheldon, J. (2021). *Union at the Crossroads: Can the British state handle the challenges of devolution?*. The Constitution Society. <https://consoc.org.uk/wp-content/uploads/2021/04/Union-at-the-Crossroads-FINAL.pdf>

4 Ibid.

5 <https://www.instituteforgovernment.org.uk/explainers/sewel-convention>

6 McEwen, N., Kenny, M., Sheldon, J. and Brown Swan, C. (2018). *Reforming Intergovernmental Relations in the United Kingdom*. Centre on Constitutional Change. [https://www.centreonconstitutionalchange.ac.uk/sites/default/files/migrated/papers/Reforming%20Intergovernmental%20Relations%20in%20the%20United%20Kingdom\\_nov18.pdf](https://www.centreonconstitutionalchange.ac.uk/sites/default/files/migrated/papers/Reforming%20Intergovernmental%20Relations%20in%20the%20United%20Kingdom_nov18.pdf)

7 Garland, J. and Palese, M. (2019). *Westminster Beyond Brexit: Ending the Politics of Division*. Electoral Reform Society. <https://www.electoral-reform.org.uk/latest-news-and-research/publications/westminster-beyond-brexit-ending-the-politics-of-division/>

8 <https://www.electoral-reform.org.uk/new-polling-reveals-just-how-powerless-people-feel-over-westminster/>

9 Dinic, M. (2020). Democracy and British parliamentarianism. *YouGov*, 8 December. <https://yougov.co.uk/topics/politics/articles-reports/2020/12/08/democracy-and-british-parliamentarianism>

1.3. Westminster's structural centralisation continues to permeate its relationships with the nations and localities of the UK, and acts as a barrier to genuine and long-term collaboration, trust and parity of esteem.<sup>3</sup> This approach has been linked, more recently, with a more assertive unionism and 'a concerted push to strengthen the profile and influence of the centre in the devolved territories' by the current government.<sup>4</sup> A frequently adduced example is the Brexit process, which saw little genuine attempt to involve the devolved governments and legislatures in negotiations with the European Union and with regards to post-Brexit arrangements, and exposed the British state's ability to ride roughshod over the interests and views of the devolved nations, without having to seek consensus. Both the European Union (Withdrawal) Act and the United Kingdom Internal Market Act failed to obtain legislative consent in one or more of the devolved legislatures, breaching and de facto nullifying the 'Sewel convention', by which the UK parliament will not normally pass legislation on issues of devolved competence without the consent of the relevant devolved institution(s).<sup>5</sup> Further, England's lack of any formal, distinctive mechanisms and structures to make its views heard as a separate entity means that the UK government often assumes the dual role of speaking for both the UK as a whole and England,<sup>6</sup> raising concerns of conflicts of interest and the appropriate representation of England in UK-wide forums.

1.4. The ERS believes that the current voting system lies at the root of many of these structural failings. The UK's imbalanced and centralised constitutional and governance arrangements are a result of, and continue to be exacerbated by, Westminster's First Past the Post (FPTP) voting system and consequent culture of majoritarianism and two-party adversarialism, which leads the government of the day to adopt a winner-takes-all, short-termist approach to policy-making and power-sharing, as decisions are likely to be undone if/when power swaps hands. Being granted unfettered power on a plurality of the vote means that there is little incentive for a government to seek to form consensus and collaborate with other parties and legislatures, to formulate a long-term vision, and share power in a more balanced and equitable manner. A proportional voting system would temper Westminster's over-centralisation and foster a more stable power balance. There is public demand for a more balanced approach to power. Polling conducted by BMG for the ERS in 2019 showed that 64 percent of people thought the political system should foster the values of cooperation and compromise between parties, though only 19 percent thought this was currently the case.<sup>7</sup>

1.5. In addition to reform of the voting system, which would help tackle hyper-centralisation and disperse power within Westminster, the ERS believes that power should be dispersed in a meaningful way across and within nations, regions and localities in the UK, through more local policy-making and citizen involvement. Recent polling for the Politics for the Many campaign and the ERS shows that people themselves recognise the current lack of bottom-up involvement in policy-making, with 57 percent of people saying their counties or boroughs are represented only a little or not at all in national decision-making at Westminster. This rises to 62 percent when people are asked about how their local neighbourhoods are represented.<sup>8</sup> YouGov's recent Democracy Study showed that over half of the public (52%) would like to see more decision-making powers in the hands of local and regional governments. Only 12 percent would like to see Westminster concentrating more power and only one in five (21%) thought the current power balance was about right.<sup>9</sup>

1.6. The ERS believes that there should be a UK-wide constitutional convention to address the future of the country in a holistic manner. As the UK's constitutional settlement evolves and adapts, we must ensure that each constituent part is appropriately represented therein. The work of sub-national conventions and citizens' assemblies could feed into the UK-wide convention.

1.7. The ERS is calling for reform of the second chamber as a central pillar in any package of measures designed to strengthen and enhance the UK's governance arrangements, recognising the UK as it is, not as a pre-devolution, unitary state. A reformed second chamber could serve as a forum in which the four nations (including English localities, depending on how they choose to be represented at the national level) can work together. An elected second chamber could be the place where UK-wide, sub-national, and cross-border issues are discussed, where sub-national interests and concerns can be raised and given a fair hearing away from the more politicised and short-term ethos of the House of Commons,<sup>10</sup> and which provides a space for union-wide collaboration and shared learning on an ongoing basis.

10 For further details about how a reformed second chamber might work, see: Garland and Palese (2019).

1.8. There is majority public support in favour of reforming the House of Lords right across the political spectrum. Polling by Survation for the ERS in September 2020 found that 71 percent of the public backed reform of the House of Lords, with only 12 percent supporting the status quo.<sup>11</sup> Our 2018 survey showed that 56 percent of people supported electing the House of Lords and this was consistent among people who supported different political parties, with around 61 percent of those who intended to vote for the Conservative, Labour and Liberal Democrat parties all supporting an elected House of Lords. Support has also been high over time and there has been majority support for an elected House of Lords since at least 2001.<sup>12</sup>

11 <https://www.electoral-reform.org.uk/latest-news-and-research/media-centre/press-releases/poll-support-for-house-of-lords-at-rock-bottom-as-public-overwhelmingly-back-overhaul/>

12 For further details, see Garland and Palese (2019).

## **2. What are the current challenges for multi-level governance in the UK and how can these be addressed?**

2.1. The ERS believes that the UK's system of multi-level governance has so far been neglected and continues to be characterised by ad hoc and informal conventions and structures. This situation is no longer sustainable. The evolution of devolution in Scotland, Wales, Northern Ireland and – to a lesser extent – England has inevitably created tensions within the UK's constitutional settlement. The devolution settlements of the late 1990s were formulated within the context of EU membership which guaranteed the existence of a single market deriving from EU rules and consistency of legal and regulatory standards in all parts of the UK, including in devolved policy areas.<sup>13</sup> It also allowed the co-existence of parliamentary sovereignty in Westminster with the permissive autonomy granted to the devolved nations, allowing them to become quasi-sovereign in their own territories.<sup>14</sup> The UK's exit from the European Union (and the consequent repatriation of powers from Brussels) and more recently the response to the covid-19 pandemic have brought to the fore the deficiencies of our institutional set-up, including in terms of multi-level governance, devolution and cross-border working, and have served as a prompt for thinking about the bigger picture of constitutional and institutional change.

13 Bogdanor, V. (2019). The Constitution. In: *The UK in a Changing Europe* (2019). *Article 50 two years on*, pp. 28–9. <https://ukandeu.ac.uk/wp-content/uploads/2019/03/Article-50-two-years-on.pdf>

14 Sandford, M. and Gormley-Heenan, C. (2018). Taking Back Control: the UK's Constitutional Narrative and Schrodinger's Devolution. *Parliamentary Affairs*, pp. 1–19.

2.2. Many of the challenges for multi-level governance in the UK can be traced back to successive governments' approach to devolution and their inability to set out a clear, long-term and comprehensive constitutional vision and

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purpose, which takes into account the UK as a whole and how the constituent parts interact with each other and with the UK state. Rather, the central state's approach to devolution has been characterised by ad hoc, piecemeal and temporary fixes to long-term problems and grievances. While it is understandable that the devolution process has proceeded in different stages in different nations, according to their specific needs and circumstances, this piecemeal approach and lack of an overarching vision have meant there has been no genuine discussion about what successive constitutional changes entail for the governance of the UK as a whole. The UK government's approach has been to 'devolve and forget'.<sup>15</sup> There has been little consideration about how each constituent part is appropriately represented within the UK's constitutional settlement. In particular, English devolution has not been addressed in a comprehensive way alongside devolution to the other nations and there has been very limited, if any, public constitutional debate in England on how it should be governed.

15 Kenny et al. (2021).

2.3. Relations between the UK's governments and parliaments continue to be informal, thus allowing the UK to preserve Westminster's parliamentary sovereignty and the legitimacy and authority of the constitution, while letting the devolved legislatures enjoy de facto autonomy in their areas of competence. Mechanisms for intergovernmental and interparliamentary discussion and dispute resolution have not been properly developed over the years, with consequences for the effectiveness of multi-level governance in the UK. Indeed, as McEwen et al. (2018) point out 'the design of the machinery for intergovernmental cooperation appears more of an afterthought, taking a variety of forms as and when needed, or in response to demand'.<sup>16</sup> Current systems do not appear to be working as well as they should, and do not offer a genuine voice to the constituent parts of the UK vis-a-vis the UK government, which continues to dominate such forums.<sup>17</sup> The lack of genuine consultation and involvement of the devolved legislatures in the Brexit process, and consequent withholding of legislative consent, are but one example of the failure of the UK's multi-level governance system.

16 McEwen et al. (2018).

17 For more information see: Kenny et al. (2021); Garland and Palese (2019); McEwen et al. (2018); Sandford and Gormley-Heenan (2018).

2.4. While current mechanisms for intergovernmental relations (IGR) need significant improvement,<sup>18</sup> in which regard we welcome the government's commitment to reviewing IGR structures and improving their transparency and accountability,<sup>19</sup> we also need other forums for discussing and dealing with cross-border relations, providing a space for union-wide collaboration, consultation and engagement. Reforming the unelected House of Lords offers a chance to rebalance politics away from Westminster, thus tackling Westminster's centralising pull, and to help the union work more effectively and fairly.

18 See for example the proposals in the Dunlop review for a new UK Intergovernmental Council, which would replace the current Joint Ministerial Committee as a forum for co-operation and joint working.

19 <https://questions-statements.parliament.uk/written-statements/detail/2020-11-10/hcws564>; [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/973001/L\\_Dunlop\\_Letter.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/973001/L_Dunlop_Letter.pdf)

2.5. An additional challenge relates to the unreformed nature of the central British state, which still struggles to adapt to the constitutional changes that have taken place over the past few decades. As set out by Kenny et al. (2021) 'debate about the failings and future of the Union has tended to overlook the question of how the administrative and political centre has approached issues of territorial management, and whether it too needs to change its culture and institutional structures'.<sup>20</sup> They highlight how 'the British state has struggled to internalise the implications and realities of devolved governance' and how there is an 'ingrained disinclination to engage deeply with its peripheral territories', with Whitehall displaying ignorance and indifference towards devolution and politics outside of England. In his review of the UK

20 Kenny et al. (2021).

government's union capability, Lord Dunlop also highlighted the little attention that 'has been paid to the implications of this power transfer for the way our Union runs. The focus has not been on the machinery and arrangements which enable the UK Government to discharge sensitively its own unique duties to people across all parts of the country, and to work constructively with devolved governments where responsibilities overlap.'<sup>21</sup>

21 Lord Dunlop (2019). *Review of UK Government Union Capability*. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/972987/Lord\\_Dunlop\\_s\\_review\\_into\\_UK\\_Government\\_Union\\_Capability.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972987/Lord_Dunlop_s_review_into_UK_Government_Union_Capability.pdf)

2.6. The ERS believes that there should be a shift in the culture and approach of the British state to adjust to this new constitutional landscape and to foster a more effective system of multi-level governance. The institutions, mechanisms and culture of the central state need to be restructured so as to take account of the new devolved arrangements, including the relationship with devolved administrations with full legislative competence in their respective territories. Leadership is needed from the top to ensure that devolution and governance of the union are at the heart of policy-making and of Whitehall/Westminster culture. As mentioned in the Dunlop review, trust, respect and co-operation between governments should be 'built into our system of government.'<sup>22</sup>

22 Ibid.

### **3. Should there be a greater degree of devolution within England and, if so, how should these arrangements relate to the UK as a whole?**

3.1. The ERS believes that devolution to and within England should be comprehensively reformed. England remains one of the most centralised countries in Western Europe<sup>23</sup> and is still run primarily through centralised UK-wide institutions.<sup>24</sup> Where devolution has occurred within England, the process has itself been led from the centre and has occurred in a piecemeal, asymmetric, and top-down manner, with limited attempts to engage local leaders and, most importantly, the local population. To truly achieve the purposes of devolution and decentralisation, power and responsibility need to be dispersed in a meaningful way across and within English regions and localities, following the principle of subsidiarity. This may include fiscal decentralisation, as the APPG on devolution has recently considered.<sup>25</sup>

23 Raikes, L., Giovannini, A. and Getzel, B. (2019). *Divided and connected: Regional inequalities in the North, the UK and the developed world - State of the North 2019*. IPPR North. <https://www.ippr.org/research/publications/state-of-the-north-2019>

24 Paun, A., Kenny, M. and McLean, I. (2018). Understanding English identity and institutions in a changing United Kingdom. *The Constitution Unit*, 29 November. <https://constitution-unit.com/2018/11/29/understanding-english-identity-and-institutions-in-a-changing-united-kingdom/>

25 The Devolution All-Party Parliamentary Group (2021). *Levelling-up Devo: the role of national government in making a success of devolution in England*. <https://connectpa.co.uk/wp-content/uploads/2021/03/Levelling-up-Devo-The-role-of-national-government-in-making-a-success-of-devolution-in-England.pdf>

3.2. The ERS advocates the establishment of citizens' assemblies within England to provide a space for citizens to carefully, thoughtfully and respectfully deliberate on their future. Power and voice cannot be achieved without bringing politics closer to people, meaning bottom-up citizen involvement is necessary to ensure the legitimacy of, and trust in, our institutional set-up and democracy more broadly.

3.3. With regards to the rationalisation of local government in England, symmetry in English devolutionary arrangements should not necessarily be an overarching aim. A single devolutionary system cannot be imposed throughout England, given the real differences that exist between areas (e.g. metropolitan versus more rural communities). What is needed is a clear plan and vision underpinning devolutionary arrangements, combined with buy-in from the centre and from the localities themselves. How devolution develops in each area should be determined at the local level and this may lead to some asymmetry in arrangements, which respond to local needs and address existing inequalities. In this regard, asymmetry and bespoke arrangements should be welcomed as the positive expression of an area's identity and self-determination.

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3.4. Genuine, comprehensive reform of devolution within England will necessarily involve considering the UK's constitutional set-up in a holistic manner, taking into account how all the different nations, each with its own devolutionary arrangement, fit together and relate to each other and to the UK as a whole. In this regard, the ERS believes that there should be a UK-wide constitutional convention to address the future of the country.

3.5. The ERS does not have a position on English Votes for English Laws (EVEL), however, we do believe a more proportional electoral system would help alleviate the tensions inherent in the West Lothian question and which led to EVEL, by creating a more balanced political map. The First Past the Post electoral system used for parliamentary and local elections in England means that, because of the dominance of two-party politics, a range of voices are effectively excluded both at Westminster and local levels, skewing political representation in England.

## **5. How can the existing constitutional arrangements regarding the governance of the UK be made more coherent and accessible, or should the overall structure be revisited?**

5.1. The ERS believes that the overall structure of, and approaches towards, constitutional arrangements regarding the governance of the UK should be revisited. There should be a new constitutional framework, based on an overarching, comprehensive, long-term vision and purpose, and underpinned by clear principles and parameters, to serve as the overall structure of the UK's governance arrangements – across, between and within each constituent part. Principles might include: transparency, participation and co-creation, subsidiarity, trust, collaboration, and parity of esteem. A new framework of this kind should not only inform reform of the UK's constitutional arrangements, but the various devolutionary settlements across the UK. For example, the Scottish state itself remains highly centralised, with many local communities having limited powers – this should be addressed, in accordance with the principle of subsidiarity.<sup>26</sup>

<sup>26</sup> See, for example: <https://www.electoral-reform.org.uk/only-real-local-democracy-can-rebuild-our-communities/>; Mitchell, J. (2017). Audit 2017: How democratic is local government in Scotland?. *Democratic Audit Blog*, 24 May. <https://www.democraticaudit.com/2017/05/24/audit-2017-how-democratic-is-local-government-in-scotland/>

5.2. More bespoke arrangements in relation to each of the UK's constituent parts are likely to be necessary given the different devolved settlements and levels of sub-national government. Though the UK's model of governance has been described as asymmetric, symmetry should not necessarily be the overarching aim, as asymmetry in arrangements may be necessary to respond to the local context. For example, it is unlikely that formalised arrangements which might work in relation to Wales or Scotland, could be easily applicable to England, given the slower pace of devolution and different forms of sub-national government in this nation. Of course, consideration should be given to the way these different arrangements interact with each other, with the devolved legislatures, and with Westminster and the machinery of the state, on the basis of the overarching structure set out above.

5.3. The ERS believes that decisions on such constitutional arrangements should be agreed both by politicians at all levels, who are ultimately responsible for setting out, and ensuring compliance with, the new framework and underlying principles/parameters, and by citizens themselves across the UK, who should be actively engaged and involved in shaping these decisions from the bottom-up. For this to work effectively, there needs to be a genuine commitment at the centre to let go of power, and a shift in culture and approach, so that devolved/sub-national governments and citizens are viewed

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as collaborators in shaping the future of the country. In Westminster, parties should work together to develop and articulate a shared and long-term vision, framework and principles, which can then be deliberated upon by citizens. Politicians should be committed to debating and implementing the outcomes of these deliberative processes.

5.4. As set out above, the ERS believes that citizens should be involved in shaping the big constitutional questions of our time, supplementing the piecemeal and incremental work that has thus far been undertaken, primarily – if not solely – by politicians. A UK-wide constitutional convention is key in this regard, providing the legitimacy of, and trust in, the new constitutional arrangements. In addition to the UK-wide convention, there could be a series of sub-national conventions and assemblies, reflecting the differences within and across the nations, which could then feed into the UK Convention.

5.5. Citizen involvement would help address the accessibility of and information surrounding the new constitutional arrangements. Further, we believe that, to ensure the longer term awareness and accessibility of these arrangements, citizens should be involved throughout the policy- and decision-making processes, with multiple entry points for democratic participation at different levels. Forms of deliberative democracy are already being used more frequently throughout the UK as a way of providing for citizen input in the policy-making process outside of election time,<sup>27</sup> and there is increasing demand for such involvement by citizens themselves. Recent polling for ERS Scotland found that people want decisions to be taken more locally, and are willing to get involved and devote a considerable amount of their own time to this.<sup>28</sup> Indeed, over four in 10 respondents (44%) said they would be willing to give up their free time, with nine in 10 saying they would be willing to give up two or more days per month to help their local council make decisions on local services. Over half (58%) would help out for three or more days, and 43 percent would give up four or more days.

27 <https://cynnalcyrmru.com/blaenau-gwent-climate-assembly/https://cynnalcyrmru.com/blaenau-gwent-climate-assembly/https://www.citizensassembly.scot/https://www.climateassembly.uk/>

28 Hutchison, C. (2021). Covid Scotland: Poll finds Scots want local decision control of recovery from pandemic. *The Herald*, 7 April. <https://www.heraldsotland.com/news/19214733.covid-scotland-poll-finds-scots-want-local-decision-control-recovery-pandemic/>

## **6. How effective are the current funding arrangements for the UK and to what constitutional implications do they give rise?**

6.1. The ERS does not have a position on the effectiveness and constitutional implications of the current funding arrangements for the UK. Decisions on the distribution and deployment of funding and resources across the UK should be made in accordance with the Nolan principles of public life and should be based on rigorous, transparent and publicly accessible data and criteria.<sup>29</sup>

29 <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

30 House of Commons Public Accounts Committee (2020). PAC “not convinced by rationale” for opaque and “not impartial” Towns Fund selections. <https://committees.parliament.uk/committee/127/public-accounts-committee/news/120657/pac-not-convinced-by-rationale-for-opaque-and-not-impartial-towns-fund-selections/>

31 National Audit Office (2020). *Review of the Town Deals selection process*. <https://www.nao.org.uk/wp-content/uploads/2020/07/Review-of-the-Town-Deals-selection-process.pdf>

32 Dunton, J. (2020). Perm sec defends MHCLG’s handling of £3.6bn ‘struggling towns’ fund picks. *Civil Service World*, 23 September. <https://www.civilserviceworld.com/news/article/mhclg-perm-sec-defends-departments-handling-of-36bn-struggling-towns-fund-picks>

6.2. With regards to the Towns Fund specifically, we wish to flag concerns, in particular a lack of transparency, that have been raised around the criteria used for determining the 100 towns which were to be invited to bid for this fund. The House of Commons Public Accounts Committee has questioned the approach of the Ministry of Housing, Communities and Local Government (MHCLG) in selecting the towns, stating that it was ‘not convinced by the rationales for selecting some towns and not others’, and has raised ‘concerns over the decisions being politically motivated’.<sup>30</sup> A report from the National Audit Office had previously set out how, for some towns, ministers deviated from the recommendations of officials,<sup>31</sup> and the Permanent Secretary at MHCLG confirmed that ministers applied ‘their own qualitative assessment of those towns and their eligibility for funding’.<sup>32</sup>



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33 Hanretty, C. (2021). The Pork Barrel Politics of the Towns Fund. *The Political Quarterly*, 92(1), pp. 7-13. <https://onlinelibrary.wiley.com/doi/full/10.1111/1467-923X.12970>

34 Calkin, S. (2020). Revealed: NAO report on towns fund points to scale of Tory favouritism. *Local Government Chronicle*, 21 July. <https://www.lgcplus.com/politics/devolution-and-economic-growth/revealed-nao-report-on-towns-fund-points-to-scale-of-tory-favouritism-21-07-2020/>

35 Grylls, G. and Webber, E. (2020). Robert Jenrick ignored civil servants to spend Towns Fund millions on Tory marginals. *The Times*, 24 September. <https://www.thetimes.co.uk/article/robert-jenrick-ignored-civil-servants-to-spend-towns-fund-millions-on-tory-marginals-9150q32t8>

36 Hanretty (2021).

37 For more on the workings of FPTP, see: Garland, J., Palese, M. and Simpson, I. (2020). *Voters Left Voiceless: The 2019 General Election*. Electoral Reform Society. <https://www.electoral-reform.org.uk/latest-news-and-research/publications/the-2019-general-election-voters-left-voiceless/>

38 <https://www.electoral-reform.org.uk/latest-news-and-research/media-centre/press-releases/electoral-reform-society-correctly-predict-316-316-safe-seat-general-election-results/>

6.3. In addition to bringing the Nolan principles for standards in public life into question, the allocation of funding as part of the Towns Fund is particularly concerning given the nature of Westminster's broken First Past the Post voting system and the key role played by marginal seats, with elections won and lost on a handful of swing seats. Indeed, it has emerged that the towns invited to apply were 'disproportionately drawn from marginal Conservative-held constituencies, and that the scheme might therefore benefit the Conservatives in any future election.'<sup>33</sup> More than 85 percent of towns selected by ministers to bid for the £3.6 billion fund were in marginal constituencies.<sup>34</sup> Sixty of the 61 areas chosen by ministers were in Conservative-held seats or Conservative targets, with an average majority of only 3,000.<sup>35</sup> Focusing investment on these areas is a clear example of 'pork barrel politics'<sup>36</sup> and has the potential to influence election results, and thus who forms the government, given the importance of marginal seats under FPTP in helping to manufacture a large majority for a single party on a plurality of the vote.<sup>37</sup> Further, it contributes to the neglect of and underinvestment in areas considered to be 'safe' from an electoral standpoint<sup>38</sup> and thus not 'worthy' of political attention or funding.