



The Governance of Britain

A preliminary JUSTICE response

5 July 2007

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1. This document is a preliminary response of JUSTICE to *The Governance of Britain* published as a green paper on 3 July 2007 by the Secretary of State for Justice and Lord Chancellor (CM 7170) to which paragraph numbers refer.
2. We commend the Prime Minister's hope that:

By working together for change in a spirit that takes us beyond parties and beyond partisanship, we can agree a new British constitutional settlement that entrusts more power to Parliament and the British people.
3. The paper suggests an enormous programme of constitutional reform and a period of important debate. JUSTICE looks forward to engaging in it.
4. Many of the proposals have implications which it will be necessary to examine in more detail before coming to a final view. It must be emphasised that the response in this document is merely our initial position on the principle of a proposal. Many require further detail before they can be fully evaluated.
5. JUSTICE can only comments on matters within its remit and experience. These include matters relating to the rule of law, the removal of the arbitrary powers, the legal system and human rights.
6. We would make one addition to the government's list of challenges that remain, namely that 'respect for, and understanding of, human rights must be embedded in popular culture within the United Kingdom'. This should be added to the four challenges listed in para 7: over-centralised power, insufficient clarity over the power of government, over-cynicism and disengagement, better shared understanding of British identity. We think that respect and understanding of human rights should also be one of the government's goals in para 10.

Prerogative powers

7. We welcome:
 - The government's belief that 'in general, the prerogative powers should be put onto a statutory basis and brought under stronger scrutiny and control' (para 24).
 - The requirement that the House of Commons approve 'significant, non-routine deployments of the Armed Forces into armed conflict' (para 26) while preserving necessary swiftness of response.
 - The opportunity for Parliament to debate and vote on some international treaties before they are signed (para 33).
 - A Civil Service Act that guarantees independence and clarifies the role of special advisers (para 44 and 45).
 - A review of all prerogative powers and we look forward to participating in it (para 50).

Appointments

8. We welcome:

- a. The review of the powers of the Attorney General (Para 54). Such a review should be comprehensive and extend to whether the office should be abolished and replaced with a different mechanism. This is not an issue on which we have, as yet, a settled view but it is a question which is now very much in the public domain.
- b. The assurance in the Prime Minister's statement that 'while we consult on reform, the Attorney-General has decided, except if the law or national security requires it, not to make key prosecution decisions in individual cases'.
- c. The government's willingness to look again at the provisions of the Constitutional Reform Act that allow the Lord Chancellor to reject a recommendation for a judicial appointment from the Judicial Appointments Commission (para 71).
- d. Pre-appointment hearings for key appointments, such as the Ombudsman (para 77).

Parliament

9. We welcome:
 - a. The prior disclosure of the government's prospective legislative programme for public discussion (para 101). The government should consider whether Parliament should have more power of its timetabling of government bills. A crucial issue is that government limits the number and length of bills that it presents to those which can be properly scrutinised. We note that the government states only that it 'will consider the most appropriate use of Parliamentary time'.
 - b. The tightening of the Ministerial code (para 121).
 - c. The acceptance that the Freedom of Information Act should, in principle, apply to Parliament (para 140). If an issue arises about the confidentiality of MP's correspondence then it should be dealt with as proposed, by guidance from the Information Commissioner.

Criminal justice

10. We welcome consultation by the government on the amendment of ss132-9 Serious Organised Crime and Police Act 2005 which we vigorously opposed at the time and which restricts demonstrations in the vicinity of Parliament (para 166).

Charities

11. We welcome the government's willingness to increase the ability of charities to campaign on issues to advance the causes for which they have been established (para 168).

Citizenship and human rights

12. We welcome:
 - a. The launch of a Youth Citizenship Commission to increase understanding of citizenship (para 190).
 - b. The review of citizenship to be carried out by Lord Goldsmith (para 193).
 - c. Consideration of a 'British statement of values' (para 201) of which 'the end point will be a British statement of values that reflects the voices of citizens across the country' (para 203).
 - d. The acceptance that the UK must remain subject to the European Convention on Human Rights (para 207).

- e. A debate on a Bill of Rights and Duties (para 209). We have already released an interim paper on a British Bill of Rights as part of this process and will publish a full paper in the autumn. Consideration of such a bill needs to focus on its content, amendability, enforcement and the process by which agreement is built up on its content.
13. Finally, we agree that a full blown written constitution or, at least, a written concordat between the executive and Parliament should be regarded as a long-term aim (para 212).