

# Democracy, Constitution and the Law

Strengthening democracy, rights and responsibilities



## Moj's role

**3.1** Our objective is to safeguard and modernise our constitution by ensuring it is fit for today's society and to uphold people's human and information rights by:

- further improving engagement between the citizen and the state. We want to strengthen democracy, rights and responsibilities so that more people will understand and engage with government to provide a democracy in which everyone can influence decisions which affect their lives
- improving understanding of rights
- demonstrating that rights are not just for lawyers or minority groups but for everyone
- ensuring that government departments and public authorities apply the Human Rights Act with common sense, balancing the rights of individuals with the needs of wider society
- ensuring that government and public authorities adopt a culture of openness through the Freedom of Information Act.

## The Governance of Britain

**3.2** Our aim is to ensure a new far-reaching constitutional settlement that will lead to the executive handing over more power to Parliament and the people.

**3.3** On 3 July 2007, the Prime Minister launched a Green Paper, *The Governance of Britain*, which set out the Government's plans for constitutional renewal. The Department is working in partnership with other Whitehall departments to put them in place.

**3.4** *The Governance of Britain* programme is designed to strengthen the relationship

between government, Parliament and the people. Its aims are to:

- invigorate our democracy, with citizens given the means to participate in decision-making at every level
- clarify the role of government, both central and local
- rebalance power between Parliament and government and give Parliament greater ability to hold government to account
- give British people a stronger sense of what it means to be British and to include them in a debate on the future of the country's constitution.

**3.5** Governance of Britain activities this year have included:

- public consultation of the role of the Attorney General, judicial appointments, protests near Parliament and parliamentary control of war powers and treaty ratification
- Publication in March 2008 of the draft Constitutional Renewal Bill and accompanying White Paper.
- a review of Royal Prerogative powers
- the creation of the interactive Governance of Britain website (<http://governance.justice.gov.uk/>)
- a public engagement event in Leicester 'Whose democracy is it anyway?', led by the Justice Secretary and the Minister of State, Michael Wills MP.

## Constitutional settlement

**3.6** The Department continues to provide advice on a number of constitutional issues. These include overseeing the overall strategy in relation to devolution, in particular its impact on the UK's constitutional settlement and advising on the use of the Royal Prerogative, the relationship between Church and state, and the sovereignty of Parliament.

**3.7** Since 1 April 2007, the Department has housed the Privy Council Office, which provides administrative support for the Privy Council, and the Judicial Committee of the Privy Council. With colleagues from the Irish Government, the Department provided the secretariat for meetings of the British-Irish Council, including a summit level meeting in Belfast in July 2007.

### Improved electoral engagement

**3.8** We aim to strengthen people's engagement with democracy, encourage confidence in the security and fairness of elections and enable people to exercise their rights whatever their commitments or lifestyle.

#### Implementation of the Electoral Administration Act 2006

**3.9** A range of new provisions arising from the Electoral Administration Act 2006 and associated secondary legislation was introduced at the May 2007 local government elections. The changes were designed to improve access to the electoral system, to ensure confidence in the system and to maximise participation in elections. They included:

- allowing people to register to vote up until 11 working days before polling day
- new security provisions for postal voters, including the requirement for them to provide personal identifiers
- lowering the minimum age of candidacy from 21 to 18 years
- new rules concerning descriptions for candidates, including the use of candidates' common names.

**3.10** Innovative voting method pilots. Twelve pilot schemes operated during the May 2007 local government elections. There were four different types: e-voting,

e-counting, advance voting and signing for ballot papers in polling stations. The pilots provided valuable evidence and lessons learned, which will further inform the Government's Electoral Modernisation programme.

### Marked register of electors

**3.11** In July 2007, a consultation paper on fees for the marked register of electors produced at UK elections was published. Consultation responses are being analysed and we plan to bring forward proposals for new fees taking into account the comments received.

**3.12** Legislation and extra funding for registration has contributed to an increase of around 450,000 in the number of people on the electoral roll. This has meant that there are more people eligible to exercise their democratic rights and vote in local/European elections and the General Election.

**3.13** The registration rates for people eligible to vote in both Local/European and the General Election now stand at 45.1 million for both.

#### Greater London Assembly elections

**3.14** The Department, in consultation with key stakeholders, prepared new rules for the conduct of elections scheduled for May 2008 for the Mayor of London and members of the Greater London Assembly (GLA). The rules were laid before Parliament in December 2007. We supported the work of the GLA in the preparations for the elections, and the e-counting of votes cast.

#### Boundaries

**3.15** Parliament considered and approved the report of the fifth general review of Parliamentary constituencies by the Boundary Commission for England.

# 450,000

The increase in the number of people on the electoral roll

## October 2009

The Supreme Court will commence operations

Parliament made an Order implementing the new constituencies on 13 June 2007.

A further Order was made on 3 October 2007 designating returning officers and acting returning officers for the new constituencies.

### **Co-ordinated on-line Record of Electors (CORE)**

**3.16** The Department continued work on CORE, in particular, the definition of data standards for implementation by all electoral registration officers to improve the quality of electoral registers. We also continued work on clearly specifying the scope of the CORE project, collecting business and user requirements.

### **Prisoners' voting rights consultation**

**3.17** The UK Government consulted publicly on the complex issues raised by the judgement of the Grand Chamber of the European Court of Human Rights on prisoners' voting rights. The Government is currently considering how to take forward the implementation of the Grand Chamber judgement in light of this consultation.

## Democratic and youth engagement

**3.18** Our aim is to encourage people to engage in the democratic process; to promote what the Government is doing to engage young people, but also to hear first hand what young people have to say about the causes of disengagement and how they might be tackled.

### **Democratic engagement**

**3.19** The Department's democratic engagement programme aims to increase the capacity of Government to engage with citizens. We work closely across Whitehall to help create a coherent cross-government approach to engagement.

The 'Digital Dialogues' project on the use of digital technologies by Government continued into a third phase with further case studies and guidance. Peopleandparticipation.net, an online tool, was launched in October 2007 to help users select appropriate engagement methods. An innovation fund supports small-scale projects to develop innovative and transferable engagement tools.

### **'Your Voice Counts' – youth conference**

**3.20** During 2007 the Democracy Minister met 300 young people from youth groups, secondary schools, primary schools and community groups to hear first hand what young people have to say about the causes of disengagement and how these might be tackled. On 9 October, the Minister hosted a Ministry of Justice Youth Conference 'Your Voice Counts' to bring all those young people together for further discussion. It was attended by more than 140 young people, and around 100 adults including 13 Ministers, 4 MPs and 41 councillors. The conference received extremely positive feedback from the participants as well as local, national and international media coverage.

## Supreme Court implementation

**3.21** The establishment of the Supreme Court of the United Kingdom was enacted in the Constitutional Reform Act 2005. The Supreme Court is due to commence operations in October 2009, and take over the jurisdiction of the Appellate Committee of the House of Lords, and the devolved functions of the Judicial Committee of the Privy Council (the highest court of appeal for several independent Commonwealth countries, the UK overseas territories, and the British Crown dependencies). It will be the final court of appeal for all criminal and civil cases in England, Wales and Northern Ireland and the final court of appeal for civil cases in Scotland. It will visibly strengthen



**A date with democracy**  
Case study

More than 140 young people were invited to the 'Your Voice Counts' conference to have their say about why they and their contemporaries find politics so uninspiring and what it might take to get them involved.

The event, which aimed to persuade young people to take more of an interest in the democratic process, included a 'speed-dating' session. The young delegates were given three-minute slots to put their questions to the Ministers, MPs and councillors who volunteered to take part.

A 16-year-old schoolgirl from Ealing in West London, was impressed by the informal nature of the speed dating: "You could ask what you wanted, things that really mattered to you". The conference also gave the youngsters opportunities to:

- try out an electronic voting system
- have a go at being a councillor, and
- speak their minds in a Big Brother-style diary room.

For nine-year-old Nicholas, the day achieved its objective and raised his sights even higher: "I learned a lot about politics today. Me and my friends are dreaming about becoming Prime Minister now".

the independence of the judiciary from the legislature and executive and support public understanding of the judicial system, sitting at the apex of all other courts.

**3.22** Westminster City Council gave planning permission for the new Supreme Court building at Middlesex Guildhall in November 2006. Kier Group was the successful building contractor and work began in June 2007. The first stage of the renovation works will conclude in spring 2008, when refurbishment will begin. The work is currently on target to be completed in early 2009 to budget. However, some

damage to the fabric has been found which may affect the overall cost of the programme. The Justice Secretary will make a statement to the House when the full extent of the damage is known.

**3.23** The appointment of the first Chief Executive of the Supreme Court was announced in January 2008. The Chief Executive will work with the Supreme Court implementation team and the Law Lords to ensure a modern, world class institution is established, based on the principles of justice, democracy and independence.

**3.24** In April 2008, it was announced that Lord Phillips of Worth Matravers would be the next Senior Lord of Appeal in Ordinary, replacing Lord Bingham of Cornhill when he retires in October 2008. Lord Phillips will become President of the Supreme Court of the United Kingdom when the Court is launched in October 2009.

### House of Lords reform

**3.25** Reforming the House of Lords is a key part of achieving the Government's objective of modernising the constitution. Following its historic reforms in 1999, when the bulk of the hereditary peers were removed, the Government is pressing ahead with plans to develop a more legitimate and representative second House.

**3.26** In March 2007, MPs voted for the second chamber to be 80 per cent or 100 per cent elected. Since then, a cross-party group led by the Justice Secretary has been discussing how the details of reform might be worked out in practice. The cross-party talks have taken place against this background and against an agreed understanding that the primacy of the House of Commons will be preserved. The group has discussed the full range of issues, including matters such as the role and powers of the second chamber, electoral systems, how any appointed element might work, matters such as provision for disqualification and resignation and the transition from the present House to a new chamber. The talks have been constructive. The Government plans to publish a further White Paper before the summer recess reflecting the outcome of the cross-party meetings and other work.

### European and international relations

**3.27** The MoJ is responsible for policy at

EU level concerning judicial co-operation in civil, family and certain aspects of criminal justice matters, human rights and information rights, notably data protection. It works closely with the Home Office and the office of the Attorney General on other criminal policy and with the devolved administrations in relation to devolved justice matters.

### European policy

**3.28** In 2007 there was agreement on several important proposals supported by the UK. They included transfer of prisoners from other EU states to their home countries, rules governing sharing of data in the area of police co-operation, a measure on mutual recognition of suspended sentences and similar sanctions, and a directive concerning mediation in civil matters. The Government welcomed agreement on rules about which country's law should apply in international contracts. The Government will now consult on whether the UK should opt-in to these rules.

**3.29** Negotiations were successfully concluded in November 2007 for a new Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. This will enable better collection of maintenance for children from parents who have moved abroad by making the procedures less complex.

### International development and reform

**3.30** The Department provided assistance to the Romanian Government on the development of judicial administration. Ministers met Ministers of Justice in Romania, Bulgaria, Croatia and Turkey to encourage development and reform.

### Judicial exchanges

**3.31** The Department took part in judicial exchanges with Germany and Israel to

promote the common law, links between senior judges and a greater understanding of the operation of the administration of justice in the UK.

### Legal services

**3.32** The Department continued to work closely with legal services stakeholders, other Government departments, and the European Commission, to promote more open and competitive markets for legal services around the world, concentrating in 2007 on India, where it is unlawful for foreign lawyers to practice. The lead Minister visited four Indian cities and the Permanent Secretary visited Delhi to lobby the Government and legal profession to liberalise the sector. The Indian Justice Minister in turn visited London to continue these discussions and made a firm commitment to opening the market.

### Crown dependencies

**3.33** The MoJ manages the relationship between the Crown Dependencies and the UK, the EU and the wider international community.

**3.34** The Bailiwicks of Jersey and Guernsey and the Isle of Man are internally self-governing dependencies of the Crown, with their own ministerial systems of government and legal, judicial, fiscal and administrative systems. The UK is responsible for their international representation. The Department works with the Governments of each to represent and promote both their policy interests to relevant UK Government departments, and UK policy and interests to the dependencies. In April 2007 the Justice Secretary signed with the Chief Ministers of Jersey and the Isle of Man an international identity framework document setting out the nature of the relationship between the UK and the relevant Crown Dependencies in the international arena. It is hoped that

a similar document in respect of Guernsey will be finalised in due course.

### Freedom of information

**3.35** The MoJ is responsible for leading on information rights within Whitehall and has policy responsibility for the Freedom of Information Act 2000 and the Data Protection Act 1998.

#### Freedom of information

**3.36** The Department's Freedom of Information (FOI) Clearing House advises departments across Whitehall in handling complex FOI requests and seeks to improve capability to deliver FOI as business as usual. The Clearing House also co-ordinates the Government's FOI litigation to ensure that appeals to the Information Tribunal and the courts are determined in line with the Government's policy objectives.

**3.37** In 2006/07 the Department consulted on proposals to amend the FOI fees regulations. Following responses to the consultation, the Government announced on 25 October 2007 that it would not be proceeding with the proposals, but would instead be working with the Information Commissioner's Office to provide good practice on FOI. A consultation was launched on extending FOI to a range of organisations carrying out public functions.

#### Data protection and data sharing

**3.38** The Department is responsible for the Government's domestic policy on data protection and data sharing. We have a central role on providing advice on policy and legislative proposals and ensuring that all parts of Government apply the legal framework in a consistent manner. Following an announcement by the Prime Minister on 25 October, the Department has provided the secretariat to the independent review, established to examine how personal information

is used and protected within the private and public sectors. Richard Thomas, the Information Commissioner, and Dr Mark Walport, Director of the Wellcome Trust are jointly leading this review. In December 2007, the Department announced that it would consult in the new year on giving the Information Commissioner statutory powers to inspect organisations right across the public sector and a commitment in principle to the introduction of new sanctions under the Data Protection Act 1998 for the most serious breaches of its principles.

#### **International data sharing**

**3.39** The Department is responsible for promoting and safeguarding the UK's interests in the development of international information rights. A general approach to the Data Protection Framework Decision, which will set uniform, appropriate data protection standards where personal data is transferred between EU Member States in the criminal context, was agreed at the Justice and Home Affairs Council in November 2007. We aim to develop an international data sharing framework which promotes the interests of the UK by advising on and negotiating appropriate data protection standards and co-ordinating UK Government initiatives. To this end, the Department took steps to set up a cross-Whitehall group to consider UK Government initiatives that involve the sharing of personal data with EU and international partners. The group will meet at regular intervals throughout 2008.

#### **Human rights**

**3.40** The Department is responsible for ensuring that Government departments and public authorities apply the Human Rights Act 1998 with common sense and incorporate human rights principles into their plans for service delivery.

#### **Human Rights programme**

**3.41** The Human Rights programme followed the *Review of the Implementation of the Human Rights Act* published in July 2006. Under the programme, completed in September 2007, the Department has put in place a series of initiatives, both to improve training, guidance and advice within central government and the wider public sector and to increase public awareness and understanding of the Human Rights Act itself. As part of this process, the Department has published new and revised generic human rights guidance for officials in public authorities. This has been widely distributed and is available on the MoJ website. The Office for Government Commerce conducted an independent evaluation of the Programme, confirming it had achieved all its principal objectives.

#### **Equality and Human Rights Commission**

**3.42** The Equality and Human Rights Commission began operation in October 2007. The Department is working closely with the new commission to ensure that human rights policy is at the forefront of its work in reducing inequality, eliminating discrimination, protecting human rights and strengthening good relations between communities.

#### **Agency for Fundamental Rights**

**3.43** The Department co-ordinated the UK negotiations leading to the establishment of the European Union Agency for Fundamental Rights (FRA) on 1 March 2007 and the Fundamental Rights and Citizenship Programme 2007-2013 in April 2007, achieving all the UK's key objectives in the negotiations. The agency and the programme will complement the work of existing international human rights bodies, particularly the Council of Europe and the Organisation for Security and Co-operation in Europe (OSCE).

**Periodic report to the United Nations**

**3.44** In July 2007, the Department sent the UK Fifth Periodic Report to the United Nations on the International Covenant on Economic, Social and Cultural Rights. In 2008, the Department will lead two delegations at two examinations on human rights at the United Nations. In April, the UK was examined under the newly established *Universal Periodic Review* procedure (which will cover the entire spectrum of human rights protection in the UK). This included the delegation led by the Michael Wills MP, Minister for Human Rights in Geneva, which aims to promote open dialogue on human rights issues and improved delivery of human rights in practice. In July, the UK will be examined on fulfilment of its obligations under the International Covenant on Civil and Political Rights (on which the Department submitted the UK's Sixth Periodic Report in November 2006).

**British Bill of Rights and Responsibilities**

**3.45** The Department is currently leading on proposals to consult on a possible British Bill of Rights and Responsibilities, as announced on 25 October 2007 in speeches by the Prime Minister and the Justice Secretary.

**Law reform**

**3.46** As part of its aim of making law fairer, simpler and more cost-effective, the Department remains committed to finding ways in which Law Commission recommendations can be more readily implemented. Various discussions have been held with interested parties as to possible parliamentary procedures but no consensus has yet been reached. This work is ongoing.

**3.47** The Law Commission is independent from the Government but is sponsored

by the MoJ and is an Advisory Non Departmental Public Body of the Department. It recommends reform of the law to make it clear, modern and accessible and assists the work of a number of Government departments.

**3.48** During 2007/08, the Department published a total of six consultation papers, including on encouraging responsible letting, insurance contract law and reforming bribery. Two final reports were published on participating in crime, and cohabitation. There were no consolidation Bills this year but a Statute Law (Repeals) Bill was introduced in Parliament on 27 February. At the time of writing the Bill was awaiting its committee stage in the House of Lords.

**3.49** The Government also plans to strengthen the role of the Law Commission by placing a statutory duty on the Lord Chancellor to report annually to Parliament on the Government's intentions regarding outstanding Law Commission recommendations, and by providing a statutory backing for the arrangements underpinning the way in which Government should work with the Law Commission. Further details of this work will be announced in due course.

**3.50** Full details of the Commission's work in 2007/08 will be reported in its annual report, to be published in June 2008.

