

UK Constitutional Reform Tracker – scope, tags and definitions

Meaning of constitutional reform

We are defining “constitutional reform” in a broad way to cover matters that are connected to, or have implications for, principles such as the rule of law; the separation of powers; the protection of human rights; government integrity, standards, and ethics; parliamentary sovereignty; executive accountability; judicial independence; the devolution settlement; public administration and decision-making; machinery of government; the union of the UK; and Brexit.

A connection to these principles does not imply a negative relationship. Therefore, an event may be positive, negative, mixed, or inconclusive depending on the point of view. Furthermore, the tracker will address not only express legislative change but also adherence to conventions; public appointments; statutory instruments; parliamentary activities; cases; exercises of prerogative and statutory powers; and other matters. This is so that important events – or events that only become important in combination with other events – are identified in the tracker and so that connections, patterns, and trends can be made over time.

Importantly, we also appreciate that reform, development, and change in a constitutional system may not be intentional or calculated. Constitutional reform can be produced in an unintentional, organic way through a series of measures taken together over time. By collating a range of relevant events and categorising them according to potential consequences, the tracker will assist users to understand this unintentional, organic change.

Scope of the events identified in the tracker

The key purpose of the tracker is to identify the activities of the central government which have constitutional implications so as to give an insight into constitutional change produced by the central government during this period. The tracker will also include important events directly produced by or associated with a central government decision, such as parliamentary reports and the outcomes of court cases.

However, at this stage, the tracker is not designed to identify constitutional change produced independently by the devolved governments or legislatures, the courts, local government, or any other public or private bodies. This may be an area for expansion in future but for now the focus is constitutional reform associated with central government.

In terms of case law, this means that not every UK public and administrative law related case during this period is in the tracker. Instead, only those cases of particular importance brought against central government that have constitutional implications are recorded. Cases not pursued directly against central government may also be included on a discretionary basis where the court made findings or conclusions of importance related to central government, or where central government intervened in the case and made notable submissions.

In terms of ministerial appointments, the tracker has identified Cabinet-level appointments (including Secretaries of State and Ministers attending Cabinet) and junior ministerial positions with a substantial connection to public law, such as Minister for the Constitution. Similarly for appointments to public bodies, there is an entry included where the appointment relates to public law matters or where the process of appointment created constitutionally relevant tensions, such as a parliamentary committee advising against the appointment and the government making the appointment nevertheless.

Similarly, given that there are already projects collating and analysing the use of statutory instruments – not least, Public Law Project’s own [SIFT](#) project, the Hansard Society’s [Statutory Instrument Tracker](#), and Parliament’s statutory instrument [website](#) – this tracker does not duplicate that effort and instead only those statutory instruments of particular importance during this period are included.

Decisions on inclusion of events and categorisation

We recognise that given the large amount of relevant data and the number of potential tags and sub-tags, the inclusion of events and the categorisation of entries is a discretionary exercise. However, to ensure consistency and oversight, two research fellows (Lee Marsons and Lewis Graham) carried out separate categorisation exercises on a sample of entries twice during the development of the tracker. Each researcher then compared their choices, discussed and agreed amendments where there were differences, and clarified the definition of each tag and sub-tag.

In addition, Musta Iqbal (Research Assistant, Public Law Project) reviewed each entry at the end stages of the project and was asked to identify useful additional tags and to comment on where tags or sub-tags should be added or removed. Therefore, each entry has been examined by at least two researchers within Public Law Project. Moreover, at two stages in its development, the tracker was circulated to colleagues at Public Law Project and partner organisations in order to obtain further comments on relevant entries and the categorisation choices. Therefore, while it is unlikely that another researcher would duplicate the categorisation precisely, it has been through several processes of quality assurance.

Tags, sub-tags and definitions

Each entry is categorised with the following information:

1. Date of the event;
2. Description of the event;
3. Type of event;
4. Institutions or actors;
5. UK jurisdiction;
6. Subject-matter (general and specific); and
7. Any special tags.

Date of the event: This category identifies the date of the publication of the policy paper, case, ministerial statement, or other event. If a precise date cannot be determined, the event will be categorised only with a month and year. Each date is searchable either in full or in part e.g. 1-January-2020 or August-2021.

Description of the event: In this category, the following questions are answered in a brief paragraph: **which** minister or institution is involved in the event; **what** did that minister or official do, announce, or decide; and **why** is it important, if this is not obvious? The description of the event is designed to be politically neutral and impartial and to avoid technical legal jargon wherever possible.

Type of event: The purpose of this category is to give a summary of the basic and general nature of the event. Where possible, a single event tag is used. Current event tags are:

Appointment, dismissal or resignation; Case; Commission or review; Decision, announcement, statement or speech; International treaty; Letter; Ministerial statement; Parliamentary motion; Point of order; Policy paper; Primary legislation; Public inquiry; Report; Royal prerogative; Statutory instrument.

Institutions or actors: This category gives the name of the central government department either with departmental responsibility for the event or which had strong connections with the origins, announcement, or implementation of the event. For instance, a Cabinet appointment will be tagged with “Prime Minister” and the name of the department. Current institutional tags are:

Prime Minister; Treasury; Home Office; Foreign Office; Leader of the House of Commons; Ministry of Justice; Ministry of Housing, Communities and Local Government; Department for Health; Department for Education; Whips Office; Wales Office; Scotland Office; Northern Ireland Office; Cabinet Office; Department for Exiting the European Union; Department for International Trade; Department for International Development; Department for Business, Energy and Industrial Strategy; Department for Digital, Culture, Media and Sport; Department for Transport; and Department for Levelling Up, Housing and Communities; Department for the Environment, Food and Rural Affairs; and Leader of the House of Lords.

Also identified in this column are key courts connected with the event where it has produced litigation: Administrative Court; Court of Appeal; Court of Protection; Court of Session; High Court (Queen’s Bench Division); Technology and Construction Court; and UK Supreme Court.

Special tags: This category identifies the connection of an event to a broader political or legal theme or stream of activity which may not be captured by other tags or sub-tags. At this stage, the special tags are: Brexit; Coronavirus; first reshuffle; second reshuffle; third reshuffle; initial Covid response; first lockdown; second lockdown; third lockdown; local

lockdowns; roadmap out of lockdown. To be labelled with a special tag, the entry should either be expressly connected or have a substantial implicit connection.

General and specific subject-matter: Each entry should be tagged with one or more of these subject-matter tags. Each event should have at least one primary general tag (“Human rights and equality”) and specific tag (“LGBT”, “protected characteristics”). Ultimately, the objective of these tags and sub-tags is not to identify every nuance and every possible topic in the data. The minimum number of tags are used to keep the dataset useable, relevant, and searchable. The purpose of the tags and sub-tags is to highlight patterns and trends on key topics to encourage researchers to carry out their own investigations and draw their own conclusions from the data available.

Elections and voters - Matters related to the ways that voters can hold the executive, parliamentarians, and other officials, accountable for their conduct and decisions. This includes procedures for the removal of officials, the creation of new elected positions, the voting systems and franchise under which this is accomplished, and matters which may influence the capacity of voters to engage with electoral accountability mechanisms.

boundary changes; Electoral Commission; Fixed-Term Parliaments Act 2011; franchise; general election; local government; mayors; police and crime commissioners; postal voting; referendums; Speaker’s Committee; voter identification; voter registration; voting system.

Courts – Matters concerning the access that individuals have to the courts to seek redress for legal wrongs committed by public bodies, including the availability and effectiveness of judicial review, appeal rights, and legal remedies available. This will also include matters related to the reform of courts and tribunals, judicial remedies, judicial independence, and rules regarding the conduct of litigation.

access to justice (*including obtaining access to the courts and legal aid*); ADR (*alternative dispute resolution including mediation, negotiation, and arbitration*); Administrative Court; appeals (*focusing on rights of appeal to a higher court from first instance or appellate decisions*); cases (*focusing on decided and reported cases*); Court of Appeal; CPR (*relating to the Civil Procedure Rules governing the conduct of civil litigation*); digitalisation (*focusing on technological reforms of tribunals, courts, and the justice system*); effective remedies (*focusing on the ability of a claimant to obtain a remedy, from a court or other body, which effectively vindicates their rights*); IRAL (*Independent Review of Administrative Law*); judicial independence (*focusing on the capacity of the judges to make decisions independently of the executive in particular*); judicial review; ouster clauses; Supreme Court; tribunals; TPRC (*Tribunal Procedure Rules Committee*).

Parliament – Matters concerning the ability of the Westminster Parliament to hold the executive accountable for its actions in an effective and independent way.

committees; defection; House of Commons; House of Lords; humble address; hybrid proceedings; Lord Speaker; parliamentary procedure; peerages; party discipline and whip system; parliamentary questions; prorogation, dissolution, adjournment and recess; proxy voting; restoration and renewal; scrutiny; Speaker of the House of Commons; standing orders; transparency.

Ethics, standards and integrity – Matters related to the government abiding by codes of conduct, parliamentary rules, statutory duties, and political conventions about the expected public conduct of ministers, including problematic public rhetoric, transparency, respect for independent bodies and advice, and appointment practices.

public body appointments; honours; Electoral Commission; House of Lords Commissioners for Standards; House of Commons Commissioner for Standards; Information Commissioner; National Audit Office; Committee on Standards in Public Life; ministerial code; ACOBA (Advisory Committee on Business Appointments); public rhetoric; civil society independence; lobbying; contempt of Parliament; Code of Conduct for Members of Parliament; procurement; personal conduct; ministerial conduct; National Security Council; conventions; manifesto pledge.

Civil service and public sector reform – Matters related to the form, number, leadership, and membership of the Cabinet and ministers, government departments, the civil service, and the broader public sector.

BBC; government departments; new public bodies; civil service; training and skills; permanent secretaries; non-executive directors; data; digitalisation; taxation; communications; resignation; dismissal; regulators; regulation principles; relocation; special advisors; cabinet committees; privatisation; nationalisation; special envoys; ministerial appointments; public body appointments; ombudsmen.

Human rights and equality – Matters related to the recognition, protection, and enforcement of human rights in the UK, including domestic statutes, the protection of people with protected characteristics, non-statutory guidance, international treaties, and socio-economic rights.

HRA; academic freedom; freedom of expression; freedom of association; protests; internet freedom; police powers; IHRAR; criminal sanctions; prisons and probation; ECHR; freedom of information; religion; asylum and refugee protection; journalists; immigration; children; education; social security; race; LGBT; women and gender; abortion; disabilities; mental health; protected characteristics; fair process; national security; terrorism; privacy; data.

Rule of law – Matters related to the application of the law equally to all people, including public bodies and agents of the state, and ensuring that people can obtain an effective legal remedy when they have suffered illegal public conduct. This includes the rule of international law and EU law so far as applicable.

criminal immunity; international law; government under law; EU law; United Nations; sanctions; Henry VIII powers.

Devolution and the Union – Matters related to the devolution settlement and the union of the UK, including the relevant devolution statutes, political conventions, political events and rhetoric, joint ministerial working, and matters connected with the future of the union of the UK.

Sewel convention; British identity; common frameworks; joint ministerial councils; UK relations; Union policy; Scotland; Wales; Northern Ireland; Northern Ireland Protocol; mayors; England; internal market; English votes for English laws.