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The rule of law: holding the line against tyranny and anarchy

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FOREWORD

For centuries, it has been recognised that a rules-based society is necessary to keep at bay the evils of tyranny and anarchy and to preserve our freedoms. In the United Kingdom, we are proud that we live in a society governed by the rule of law. Its roots precede Magna Carta, and it has long been a critical part of our constitutional settlement. The rule of law continues to be one of the core principles underpinning our democracy and our culture.

The rule of law is about protecting the citizen from an overmighty state. It describes a framework of law and of checks and balances that exist to prevent the arbitrary exercise of government power. However, the rule of law is much more than this. It governs the relationship between citizens, thus facilitating a peaceful, stable and successful society that brings many benefits. For example, it underpins all economic activity and enables investment and growth.

The rule of law is a strong cultural norm that is woven into our everyday lives. We obey the law because we trust that others will do the same. We accept the decisions of a judge because we trust that they are fair, independent and impartial. We choose to resolve our most challenging disputes through the legal system because we trust that the law will protect us. The rule of law, therefore, protects us from the anarchy of mob rule as much as it protects us from tyrannical government.

Despite a long history in the UK, the rule of law's endurance and vitality is not guaranteed. This is made particularly clear by the decline of the rule of law, and the concurrent rise of autocratic regimes, that we are seeing in countries across the world.

We recognise that, in the UK, the rule of law remains demonstrably strong in many areas. The Government is held to account for unlawful activity by the courts, and businesses from all over the world choose to have their contracts governed by English law. Nevertheless, increasingly, many people do not trust that the rule of law is operating as it should. They feel surrounded by casual mobile phone and shop theft where the perpetrators face no consequences, and the media often shows them that this is a growing problem. If they meet a legal problem themselves and attempt to enforce their legal rights through the justice system, they are faced with huge costs and delays to gain access to judges that some politicians wrongly tell them are biased and not to be trusted. Together with increasing distrust and lack of confidence in institutions, this creates a pervasive sense that the rule of law is under threat.

Declining confidence in the rule of law has become a particularly acute challenge in the last decade. It has been shaped by the widespread impact of the COVID-19 pandemic, which placed significant pressures on individuals and public services, many of which are still evident. In the courts, delays and backlogs have now become stubbornly embedded. For many, their trust in politicians and in the institutions of state has been damaged. The damage to trust in the rule of law has been exacerbated by social media, which has embedded division and misinformation into our society, and made it much more difficult to maintain shared cultural norms.

This report is the outcome of a nine-month-long inquiry, in which we questioned a wide range of witnesses, heard from young people and lawyers, and considered

over 100 pieces of written evidence. The resulting report identifies the most pressing challenges to the rule of law in this country, which include significant barriers to accessing justice, and high visibility of crime that has a direct impact on the ordinary citizen. It recommends immediate action that must urgently be taken by the Government to prevent the further weakening of the rule of law.

The Government must take decisive action to tackle delays in the courts. This should include adopting new technologies across the justice process, and expanding the role of alternative dispute resolution, as well as increased support for advice services. There should also be high-quality provision of education about the rule of law in schools to engage young people and to improve public understanding of, and confidence in engaging with, the justice system. More broadly, the processes of government and our constitution need to be demystified and more widely understood.

Personal attacks on judges, many of whom feel extremely vulnerable, must stop. The Government and politicians must take stronger action to defend the judiciary. Ministers must make crystal clear that questioning the integrity of judges and spreading misinformation about their judgments is totally unacceptable.

Law enforcement must be both even-handed and effective. The Government should do all it can to ensure that law-breaking of any kind is properly sanctioned and that policing is seen to be fair.

Parliament also has a role to play, distinct from that of the Government. Whilst parliamentary sovereignty means that Parliament can make any law including those which could threaten the rule of law, it must take its constitutional responsibilities seriously and exercise this power with due care. New laws must be carefully scrutinised, to ensure that they are clear, accessible, necessary, and not overly complex. The Government must not seek to bypass this crucial process of parliamentary scrutiny through the excessive use of delegated legislation.

Everyone, but particularly those in public life, needs to be proactive in strengthening our rule of law culture, and this must start now. Failing to do so risks the rise of extremist political parties, growing antipathy towards democracy, and, ultimately, creating space for a dictatorship of arbitrary rule.

The rule of law: holding the line against tyranny and anarchy

CHAPTER 1: INTRODUCTION

The rule of law as a constitutional principle

1. The rule of law is a constitutional principle of fundamental importance. Its existence is essential to promote good governance of a civilised society both by protecting the citizen from an overmighty state and also by enabling fair and trusted relations between citizens themselves in accordance with the law.

2. We recognised the rule of law's centrality to the UK's constitutional settlement in our first report, published in 2001, which identified the rule of law, encompassing the rights of the individual, as one of the five key tenets of the UK constitution.[1] Its status was also recognised by part 1 of the Constitutional Reform Act 2005. It begins "[t]his Act does not adversely affect the existing constitutional principle of the rule of law" or "the Lord Chancellor's existing constitutional role in relation to that principle". The Act also created a new oath to be sworn by the Lord Chancellor on appointment, which begins with a commitment to "respect the rule of law". As we noted in our 2023 report on the roles of the Lord Chancellor and the Law Officers, the rule of law is the "only constitutional concept with a presence in Cabinet consideration supported by statute".[2]

3. This Government has repeatedly expressed a strong commitment to the rule of law. At his swearing-in speech as Attorney General in July 2024, the Rt Hon Lord Hermer KC said that "the rule of law will be the lodestar for this government".[3] The oath that he swore upon taking office was also updated to include a new commitment to "respect the rule of law".[4]

The national and international context

4. We launched this inquiry in March 2025 amid concern at the apparent decline in respect for the rule of law globally and domestically.[5] These concerns were summarised by the Attorney General in his October 2024 Bingham Lecture. He argued that, in the UK, "we cannot afford to be complacent about the extent to which values that once were taken for granted have been undermined" and pushed for the "restoration of our reputation as a country that upholds the rule of law at every turn".[6] He suggested that the rule of law is being threatened globally as a result of "struggling" post-war international institutions and declining faith in international law.[7]

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1 Constitution Committee, *Reviewing the Constitution: Terms of Reference and Method of Working* (1st Report, Session 2001–02, HL Paper 11), para 21

2 Constitutional Reform Act 2005, sections 1, 3 and 17, Constitution Committee, *The roles of the Lord Chancellor and the Law Officers* (9th Report, Session 2022–23, HL Paper 118), para 31

3 Attorney General's Office, *Attorney General swearing-in speech: Rt Hon Richard Hermer KC*, July 2024

4 Written evidence from the UK Government (ROL0104), Q 194 (Lord Hermer)

5 Concerns about domestic challenges to the rule of law were evident in, for example: JUSTICE, *The State We're In: Addressing Threats & Challenges to the Rule of Law*, September 2023 and The Law Society, *'Three core asks from the next government'*, July 2024

6 Attorney General's Office, *Attorney General's 2024 Bingham Lecture on the rule of law*, October 2024

7 *Ibid.*

5. Concerns about the rule of law in the UK were expressed by many witnesses throughout our inquiry. The Rt Hon Shabana Mahmood, the then Lord Chancellor, expressed concern that, given the extent of the issues facing the justice system, it "is not worthy of the name 'justice'".[8] She also made the point that law-breaking taking place with apparent impunity damages public confidence in the rule of law.[9] Others told us that, given issues with the accessibility and affordability of civil justice, the state of the rule of law "is worse than it seems".[10] Yet others were concerned about political rhetoric serving to undermine judicial independence, the weakening of judicial scrutiny, and the excessive use of skeleton bills and delegated powers.[11] More broadly, we heard that there are low levels of trust in institutions and political leaders, particularly among young people.[12]

6. These concerns are not unique to the UK, but sit within an important international context. Anne Applebaum, journalist, writer and historian, described the international deterioration of the rule of law as a "spiralling and worsening problem".[13] In its 2024 Rule of Law Index[14], the World Justice Project observed a "continued global deterioration in rule of law, with more than half of the 142 countries assessed experiencing declines over the past year".[15] They attributed this decline to "weakening constraints on government powers, reduced protection of fundamental rights, and worsening access to justice", as well as "systemic challenges to public trust, accountability, and the effective functioning of institutions around the world".[16] We heard that there is a "global crisis in the rule of law"[17] and international experience, including across the EU, of "rule of law backsliding"[18]. This has involved the erosion of judicial independence, attacks on the judiciary and the legal profession, the weakening of checks and balances, reduced trust in rule of law institutions, the restriction of individual rights, and reduced access to justice.[19]

7. This context serves as a stark reminder that the rule of law is not guaranteed and that we must be vigilant and actively protect it to avoid erosion. We were told that "the rule of law in the UK is strong", and a "gold standard" but we "cannot take for granted what we have".[20] Lord Reed of Allermuir, President of the Supreme Court, told us that "we do not see in this country the threats to democracy that we are seeing in many other countries, but we cannot be

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8 Q 190 (Shabana Mahmood)
9 Q 182 (Shabana Mahmood)
10 Q 68 (Nimrod Ben-Cnaan)
11 See, for example: Written evidence from the Public Law Project (ROL0015)
12 Q 102 (Ashley Hodges)
13 Q 153 (Anne Applebaum)
14 The World Justice Project's Rule of Law Index "annually assesses adherence to the rule of law across 142 countries and jurisdictions, identifying strengths, weaknesses, and trends through comparative rankings" [Written evidence from the World Justice Project (ROL0011)]
15 Written evidence from the World Justice Project (ROL0011)
16 *Ibid.*
17 Written evidence from Professor Aziz Z. Huq (ROL0026)
18 Written evidence from Dr Joelle Grogan and Professor Laurent Pech (ROL0085)
19 QQ 150–158 (Anne Applebaum) and 1–17 (Jeff King); Written evidence from Leeds Law School (ROL0063), Bingham Centre for the Rule of Law (ROL0081), Professor Stephanie Laulhe Shaelou (ROL0083), Dr Joelle Grogan and Professor Laurent Pech (ROL0085), and Bar Council (ROL0095)
20 Q 60 (Stephanie Needleman); Constitution Committee, Annual evidence session with the President and Deputy President of the Supreme Court, 4 June 2025, Q 7 (Lord Reed of Allermuir). This sentiment was reflected in other evidence including Q 118 (James Wolffe) and written evidence from Leeds Law School, Leeds Beckett University (ROL0063),

complacent".[21] Anne Applebaum warned that the UK is not immune to risk noting that, "I know that probably seems far-fetched to you right now, but it seemed pretty far-fetched in the United States a decade ago as well; now, it seems much less so".[22] As has been evident elsewhere, it "will always be a temptation for British politicians … who see the attack on the rule of law, on judges and on courts as a way to obtain or hold power".[23] The rule of law is a vital part of our constitutional settlement. Protecting it, especially in the context of domestic and international challenges and the rise of populist politics, is of utmost importance and a collective responsibility of all of us.

Our inquiry

8. Despite its importance, the rule of law is a part of our constitution that is often poorly understood. It is an amorphous concept that has evaded a single definition.[24] In part, this is because political and academic discussions about the rule of law are mired in sometimes significant disagreement. Much of the writing on the rule of law is technical and complex. However, people need to understand what it is and why it is worth protecting—appealing to a vague and undefined concept is not enough to protect it against erosion.

9. In launching this inquiry, we hoped to cut through these academic and political debates and to focus instead on the practical operation, and shortcomings, of the rule of law as it is generally understood. We have sought to demonstrate how the rule of law affects our everyday lives, and why it is a principle of vital constitutional importance. Given the warnings about challenges to the rule of law, we also wanted to assess the strengths and weaknesses of the concept in the UK and thus identify where safeguards need to be strengthened.

10. The first chapter of this report looks at what the rule of law means and why it is important. The following chapters explore what the principle looks like in practice. We hope that this report will be useful as a frame of reference for politicians, policy makers, academics, students and the general public when they are seeking to understand the rule of law. As such, we have sought to ensure each chapter can be read in isolation. Furthermore, the report largely focuses on conclusions to inform the direction of the Government's work in this area, rather than making detailed recommendations for short term policy change.

11. In undertaking this inquiry, we have taken a UK-wide approach, seeking to understand the way that the rule of law is understood and operates. However, several of the policy areas related to the rule of law, such as justice and education, have been devolved to some, or all, of the devolved governments. In these devolved policy matters, given that our role is not to scrutinise the devolved governments, we have focused on those issues where the UK Government has responsibility. Nonetheless, where appropriate, we have drawn on examples and lessons from the experience in the devolved nations to inform our work.

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21 Constitution Committee, Annual evidence session with the President and Deputy President of the Supreme Court, 4 June 2025, Q 7 (Lord Reed of Allermuir).

22 Q 153 (Anne Applebaum)

23 *Ibid.*

24 For example, we did not define it in our first report when we identified it as a tenet of the constitution (Constitution Committee, *Reviewing the Constitution: Terms of Reference and Method of Working* (1st Report, Session 2001–02, HL Paper 11)), nor was it defined in the Constitutional Reform Act 2005.

12. We began our inquiry in March 2025. Since then, we have held 14 evidence sessions and received 115 written submissions in response to our call for evidence.[25] In addition, we engaged with schools and teachers and held a series of private roundtables with practising legal professionals from across the country.[26] We are grateful to all those who submitted their views and to those who took the time to come and speak to us.

25 Constitution Committee, *Call for Evidence*, March 2025

26 Constitution Committee, *Rule of law inquiry school engagement summary note*, September 2025; Constitution Committee, *Rule of law - roundtables summary*, September 2025

CHAPTER 2: WHAT IS THE RULE OF LAW?

Defining the rule of law

13. The rule of law is a foundational constitutional principle. It harks back to A.V Dicey's seminal work *Introduction to the Study of the Law of the Constitution*[27] and, before that, to Magna Carta and the Bill of Rights 1689 following the Glorious Revolution.[28] This Committee recognised its status as one of the five basic tenets of the UK constitution in its first report.[29] Its constitutional importance is further recognised in part 1 of the Constitutional Reform Act of 2005, which begins: "[t]his Act does not adversely affect the existing constitutional principle of the rule of law".[30] However, neither document attempts to define what is meant by 'the rule of law'. Indeed, as this Committee said in its 2005 report on the Constitutional Reform Act, the rule of law "is a concept that constitutional scholars and parliamentarians have found notoriously difficult to define".[31]

14. More recently, in our 2023 report, *The roles of the Lord Chancellor and the law officers*, we said that "there is no concise, enduring and conclusive definition of the concept".[32] That the concept continues to be difficult to define was evident at a House of Lords debate on the rule of law in November 2024. Much of this debate centred around differing conceptions of the rule of law, illustrating that, as one participant explained, it "defies a simple definition that is universally applicable".[33] Similarly, over the course of this inquiry, we heard that the rule of law has "no single agreed and universal definition"[34], is a "nebulous"[35] and "elusive concept"[36], and is "the site of deep normative disagreement"[37].

15. Nonetheless, several academics, lawyers, politicians, and international organisations have attempted to define the rule of law. Lord Bingham of Cornhill's definition, initially set out in a 2006 lecture and then discussed at greater length in his 2010 book, *The Rule of Law,* is widely used. He argued that the rule of law means "that all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly and prospectively promulgated and publicly administered in the courts"[38]. He further argued that the rule of law consists of eight principles:

    (1) The law must be accessible and so far as possible intelligible, clear and predictable.

27 Dicey A.V., *Introduction to the Study of the Law of the Constitution,* 8th edition (London: Macmillan, 1915), originally published in 1885.
28 Magna Carta 1215; Bill of Rights 1689
29 Constitution Committee, *Reviewing the Constitution: Terms of Reference and Method of Working* (1st Report, Session 2001–02, HL Paper 11), para 21
30 Constitutional Reform Act 2005, sections 1, 3 and 17
31 Constitution Committee, *Constitutional Reform Act 2005* (5th Report, Session 2005–06, HL Paper 47), para 42
32 Constitution Committee, *The roles of the Lord Chancellor and the Law Officers* (9th Report, Session 2022–23, HL Paper 118), para 41
33 HL Deb, 26 November 2024, col 653
34 Written evidence from Dr Mark Ryan (ROL0003)
35 Written evidence from Leeds Law School (ROL0063)
36 Written evidence from Linklaters LLP (ROL0017)
37 Written evidence from Professor Aziz Z. Huq (ROL0026)
38 Tom Bingham, The Rule of Law (London: Allen Lane, 2010)

(2) Questions of legal right and liability should ordinarily be resolved by application of the law and not the exercise of discretion.

(3) The laws of the land should apply equally to all, save to the extent that objective differences justify differentiation.

(4) Ministers and public officers at all levels must exercise the powers conferred on them in good faith, fairly, for the purpose for which the powers were conferred, without exceeding the limits of such powers and not unreasonably.

(5) The law must afford adequate protection of fundamental human rights.

(6) Means must be provided for resolving, without prohibitive cost or inordinate delay, bona fide civil disputes which the parties themselves are unable to resolve.

(7) The adjudicative procedures provided by the state should be fair.

(8) The rule of law requires compliance by the state with its obligations in international law as in national law.[39]

16. Lord Bingham's definition has been very influential. However, it has not been universally adopted, and there are many alternative definitions that differ from Bingham's in various ways. Two we heard about during this inquiry were that of the Venice Commission of the Council of Europe, which formally adopted a definition of the rule of law in 2011 and included six necessary elements (legality, legal certainty, prohibiting arbitrary power, access to justice before independent courts, respect for human rights and equality before the law).[40] And, the World Justice Project, established in 2006, which centres its definition on the four principles of accountability, just law, open government and accessible and impartial justice.[41] Both organisations use their definitions to form the basis of projects which assess the strength of the rule of law in a given country.

17. Witnesses to our inquiry sought to build on Bingham's definition and proposed their own interpretations of the rule of law. The Rt Hon Lord Reed of Allermuir, President of the UK Supreme Court, suggested that the rule of law "means the protection of everyone in our society against interferences with their rights without lawful authority".[42] For Shameem Ahmad, CEO of the Public Law Project, the rule of law is "the antithesis of the arbitrary use of power".[43] This was supported by Professor Adam Tomkins, John Millar Professor of Public Law, University of Glasgow, who defined the rule of law as simply "the idea of government according to law"[44],

18. Baroness Hale of Richmond, former President of the Supreme Court, argued that the rule of law means a society "governed by rules" not "by the whim or individual decisions of a person or persons"[45]. Similarly, Lord Sumption, former Supreme Court Justice, said that the rule of law is "a body of principles without which we cannot exist as a society because, in their

39 *Ibid.*
40 Written evidence from the Venice Commission of the Council of Europe (ROL0019)
41 World Justice Project, *What is the Rule of Law?* [accessed on 5 September 2025]
42 Written evidence from the Supreme Court (ROL0100)
43 Q 54 (Shameem Ahmad)
44 Q 1 (Professor Adam Tomkins)
45 Q 18 (Baroness Hale of Richmond)

absence, human relations are nothing more than a contest in the deployment of power".[46] For Sir Stephen Laws KC, Senior Fellow at Policy Exchange and former First Parliamentary Counsel, the rule of law is more about culture. It exists if there is "a culture of respect for the law and … that culture is shared by agents of the state".[47]

19. For some of our witnesses, the rule of law is a "political ideal".[48] Anne Applebaum argued that "the rule of law means that the law is something that exists separately from politics".[49] Professor Adam Tomkins described it as "an aspiration to which we should always aspire but which we should never expect that we can necessarily reach, a bit like the idea of equality or of liberty".[50] In this view, the rule of law is not something that is either present or not within a state, but something to which adherence sits on a spectrum.[51] This idea is reflected in the World Justice Project's annual 'Rule of Law Index', which assesses adherence to the rule of law across 142 countries and jurisdictions, providing each country with a score between 0 and 1 to measure changes to rule of law adherence over time.[52]

Thin and thick

20. Some witnesses framed the debate over the definition of the rule of law as being between two different understandings of the rule of law - 'thin' and 'thick'.[53] These understandings are also sometimes described as 'formal' or 'procedural' and 'substantive'.

21. 'Thin' conceptions of the rule of law often focus on the ideal of government in accordance with laws, and on several formal and procedural elements of those laws, without prescribing what the content of law should be.[54] This understanding demands that the law displays certain characteristics—that it is, for example, clear, accessible, stable and prospective.[55] To facilitate the fair enforcement of that law it then requires certain procedural elements—for example, the accessibility of courts, an independent judiciary, and the availability of judicial review.[56]

22. By contrast, those who adopt a 'thick' conception of the rule of law argue that it also requires the promotion, and protection, of values such as equality, justice and democracy in order to protect from "rule *by* law" (as opposed to the rule *of* law), in which the law is "an instrument of government action"

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46 Q 18 (Lord Sumption)
47 Q 33 (Sir Stephen Laws)
48 Q 1 (Professor Jeff King)
49 Q 150 (Anne Applebaum)
50 Q 2 (Professor Adam Tomkins)
51 Written evidence from the Public Law Project (ROL0015)
52 Written evidence from the World Justice Project (ROL0011)
53 For example, QQ 150 (Mark Lewis), 3 (Professor Jeff King, Dr Jan van Zyl Smit), written evidence from the Public Law Project (ROL0015), Linklaters LLP (ROL0017), Professor David Dyzenhaus (ROL0045), The Society of Conservative Lawyers (ROL0046), Professor John Tasioulas (ROL0049), Professor Graham Gee (ROL0065), The Law Society of England and Wales (ROL0066), Angelo Ryu (ROL0076), Dr Patrick O'Brien and Dr Ben Yong (ROL0006), Faculty of Advocates (ROL0012), and Institute for Constitutional and Democratic Research (ROL0086)
54 Written evidence from the Public Law Project (ROL0015), Professor John Tasioulas (ROL0049), Professor Graham Gee (ROL0065), Angelo Ryu (ROL0076), and James Milton (ROL0009)
55 Written evidence from the University of Worcester's Constitutions, Rights and Justice Research Group (ROL0040), David Dyzenhaus (ROL0045), Society of Conservative Lawyers (ROL0046), and Professor Graham Gee (ROL0065)
56 Written evidence from the Society of Conservative Lawyers (ROL0046), and Angelo Ryu (ROL0076)

and "what people who have political power say it should be".[57] In practice, this debate is evidenced in disagreement over whether Lord Bingham's fifth and eighth principles, which refer to protection of fundamental human rights and compliance with international law obligations, are essential components of the rule of law.[58] Definitions at the 'thicker' end of the spectrum are more likely to include those principles along with the greater potential for law to regulate or otherwise curtail the exercise of powers by governmental decision makers. [59]

23. Whether the 'thick' or the 'thin' understanding of the rule of law is the correct one is a lively debate in academic and political circles. However, several of our witnesses suggested that the distinction is "academic jargon that has been created by commentators for commentators to write about" and is not a helpful way of thinking about the rule of law.[60] The debate often takes place in " legalistic" terms, thus making the rule of law appear complex and removed from the daily lives of individual citizens.[61] This debate also obscures significant agreement about the rule of law. Despite variations in emphasis, the Law Society of England and Wales said that the different definitions of the rule of law "coalesce around the same central principles", which are power exercised according to law, fair and impartial courts, clear and accessible law, suggesting that there is a "broadly shared understanding of what it means and requires at its core".[62]

24. We heard from witnesses throughout our inquiry that the rule of law is not well understood by the public.[63] It is a term that many people, especially young people, rarely come across and would struggle to explain.[64] This could be because "the term itself may appear abstract, and many may find it difficult to relate to their everyday life".[65] Nonetheless, despite 'the rule of law' as a term being unfamiliar to many people, the concepts surrounding the rule of law are much more familiar. As Stephanie Needleman, Legal Director at JUSTICE, told us, "people may not understand the term 'rule of law' but they have a sense of what it means".[66] This was echoed by the Law Society of Northern Ireland, who said that "[w]hen explained, many will understand the concepts around the rule of law".[67] In particular, people have a strong sense of equality and fair treatment before the law as being a vital part of our society. This came through strongly in our engagement event with schools, where we found that most of the young people we heard from did not recognise the rule of law as a term, but they had an instinctive understanding of the key values of equality and fairness.[68]

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57 Written evidence from the Faculty of Advocates (ROL0012), Q 150 (Anne Applebaum)
58 Written evidence from David Dyzenhaus (ROL0045), Society of Conservative Lawyers (ROL0046), Lord Stewart of Dirleton KC (ROL0096), Linklaters LLP (ROL0017)
59 Written evidence from the Faculty of Advocates (ROL0012) and Policy Exchange (ROL0077); Attorney General's Office, *Attorney General's 2024 Bingham Lecture on the rule of law*, October 2024
60 QQ 3 (Professor Adam Tomkins), and 23 (Baroness Hale of Richmond); Written evidence from James Milton (ROL0009)
61 Q 5 (Professor Adam Tomkins)
62 Written evidence from the Law Society of England and Wales (ROL0066), Q 3 (Professor Jeff King)
63 Written evidence from the Constitution Society (ROL0054), and JUSTICE (ROL0103). For other examples, see written evidence from Dr Mark Ryan (ROL0003), Zana Juppenlatz (ROL0047), and Institute for Constitutional and Democratic Research (ROL0086).
64 Q 102 (Ashley Hodges)
65 Written evidence from the Law Society of Northern Ireland (ROL0032)
66 Q 54 (Stephanie Needleman)
67 Written evidence from the Law Society of Northern Ireland (ROL0032)
68 Constitution Committee, Rule of law inquiry school engagement summary note, 9 September 2025

25. **There is a high degree of shared understanding of what the rule of law is and what it requires both in the UK and internationally. Debates around the definition of the rule of law, particularly between the 'thin' and 'thick' conceptions, obscure widespread agreement about the core meaning of the rule of law.**

26. **Everyone has a role to play in upholding the rule of law. Therefore, it is important that we understand what a society that displays the rule of law looks like in practice, and what it means in relation to our everyday lives. The various definitions of the rule of law coalesce around five core components: acting within the law, equality before the law, judicial independence, legal certainty and access to justice.**

27. **In practice, this means that a rule of law culture is one in which everyone:**

    - **acts within the law and can rely on other people, including those in positions of power, to do the same, and, if not, to be held to account;**
    - **is treated fairly before the law;**
    - **has the benefit of independent judges who resolve disputes and decide questions of law without bias or external influence;**
    - **is able to find out what the law is, and how it applies to them; and**
    - **is able to access a fair and effective system in which they can obtain justice, resolve disputes, and protect their rights.**

The importance of the rule of law

28. Living in a society with a strong rule of law culture brings significant benefits. An individual's rights will be protected against infringement by the arbitrary exercise of power; people will enjoy the benefit of a fair trial if taken to court; they can trust that they will be treated fairly under the law; and individuals and businesses can settle disputes in a fair way.[69]

Functioning and well-ordered society

29. We heard that the rule of law is understood by many members of the public as "preventing social chaos".[70] It enables the functioning of a stable society, by providing a predictable framework of rules that everyone, including the state, can be trusted to comply with.[71] Ashley Hodges, Chief Executive of Young Citizens, emphasised that, even though most of us rarely interact with the justice system, we nevertheless "all come into contact with the law every day".[72] As Baroness Hale put it, "the existence of the rule of law impacts everyday life for everybody all the time", for example, "if you go into a shop and buy something but it is defective, you can take it back; or, if you enter into an agreement to pay for something, you pay because you know that there

69 Q 54 (Stephanie Needleman), written evidence from CILEX (ROL0013), and the Bingham Centre for the Rule of Law (ROL0081)
70 Written evidence from the Law Society of England and Wales (ROL0066)
71 Q 54 (Stephanie Needleman), written evidence from TheCityUK (ROL0024), Law Society of England and Wales (ROL0066), Bingham Centre for the Rule of Law (ROL0081), and supplementary written evidence from Rt Hon James Wolffe KC FRSE (ROL0112)
72 Q 104 (Ashley Hodges)

is a justice system that will make you pay".[73] Therefore, without the rule of law, Lord Sumption suggested that "we are not actually a society at all, but simply a fight for the more effective deployment of force".[74] The rule of law could be described as a "culture of lawfulness", which is undermined, as the then Lord Chancellor noted, when there "is a sense that someone came in, robbed a shop, walked out and nothing happened".[75]

30. **The rule of law is owned by everyone in society. It is a fundamental constitutional principle. It has impacts on our everyday lives. It ensures civil order and underpins the functioning of a successful and peaceful society.**

The economy

31. Witnesses told us that the legal stability provided by the rule of law facilitates a successful economy, where companies are confidently able to do business and can thrive.[76] The UK Government told us that the rule of law "underpins commerce, allowing different partners to operate based on trust that their commitments will be upheld and that disagreements will be resolved fairly".[77] Not only are business activities able to take place smoothly, but an effective justice system provides the benefit of a productive workforce. The Rt Hon Baroness Carr of Walton-on-the-Hill, Lady Chief Justice of England and Wales, illustrated this, saying: "[i]f family disputes are resolved quickly, the children will be happier. They will be healthier. They will be less likely to commit crime and more likely to get jobs. Their parents are likely to be working better and more productively at work".[78]

32. We were also told that a country with a strong reputation for the rule of law will attract international investment and be an attractive place to do business, thus underpinning strong economic growth.[79] We heard that the UK's international reputation for the rule of law is "fundamental" to its success as an international financial and professional services centre.[80] Businesses across the world "choose to conduct their business under the laws of England and Wales because they trust that they will be treated fairly, and they will get a fair hearing", which is "an enormous competitive advantage" for the UK.[81]

33. This is supported by a successful legal services sector, which, in itself, contributes significantly to the UK economy. As the Lady Chief Justice noted, the UK has "the second largest legal sector in the world".[82] TheCityUK's 2024 legal services report found that in 2023, the sector contributed £37

73 Q 26 (Baroness Hale of Richmond)
74 Q 21 (Lord Sumption)
75 QQ 102 (Ashley Hodges), 190 (Shabana Mahmood)
76 Written evidence from Dr Joelle Grogan and Professor Laurent Pech (ROL0085), Linklaters LLP (ROL0017), Charles Clark (ROL0010), World Justice Project (ROL0011), and JUSTICE (ROL0103)
77 Written evidence from the UK Government (ROL0104)
78 Q 1 (Baroness Carr of Walton-on-the-Hill)
79 Written evidence from TheCityUK (ROL0024), Law Society of Northern Ireland (ROL0032), Sir Robin Knowles CBE and Lord Thomas of Cwmgiedd (ROL0062), Law Society of England and Wales (ROL0066), Dr Joelle Grogan and Professor Laurent Pech (ROL0085), and The Supreme Court (ROL0100)
80 Q 1 (Baroness Carr of Walton-on-the-Hill), written evidence from TheCityUK (ROL0024), Charles Clark (ROL0010), and Dr Joelle Grogan and Professor Laurent Pech (ROL0085)
81 Written evidence from Bren Albiston and Stephen Hockman KC (ROL0052), and Charles Clark (ROL0010)
82 Q 1 (Baroness Carr of Walton-on-the-Hill)

billion to the UK economy. It also employed nearly 370,000 people across the country in 2022.[83] Its success is supported by a strong global reputation, supported by the international work of the judiciary, up to and including the Supreme Court, which means that many international commercial contracts use English law and the English and Welsh jurisdiction for dispute resolution.[84] For example, in 2019, £250 billion in global mergers and acquisitions activity used English law.[85]

34. **The rule of law underpins business and trade by providing an ordered society and the legal stability necessary to maximise economic potential and drive growth. The UK enjoys significant economic benefits stemming from its international reputation for upholding the rule of law, which means that our law and legal jurisdiction is widely utilised. It makes the UK an attractive place to do business and in which to invest, which supports a thriving legal sector.**

Democracy

35. Several witnesses argued that the rule of law is vital for a successful democracy. Professor Jeff King, Professor of Law at University College London, said that this is the case in both a "grand sense" and a "mundane sense".[86] Firstly, "the rule of law is the canary in the coalmine of democracy", such that when the rule of law is eroded, democracy is also threatened.[87] Anne Applebaum agreed, arguing that when a democracy is being threatened, "the rule of law is one of the first things that a would-be autocrat or strongman leader seeks to undermine, because it is one of the things that puts a constraint on executive power".[88]

36. Secondly, the rule of law facilitates a democracy in a practical sense. It ensures that free and fair elections can take place and that the laws made by a democratically-elected legislature can be implemented. Witnesses told us that the rule of law also places significant checks on government power, preventing the arbitrary exercise of power and ensuring that those in power can be held to account.[89] In this way, we were told, the rule of law is "a fundamental anti-authoritarian ideal".[90] This would suggest that the rule of law and democracy go hand in hand.

37. It was noted that the rule of law can, and has, existed without democracy. As Lord Sumption explained, "we had the rule of law for centuries in England before we had anything like democracy".[91] Nonetheless, in the modern world, the two are closely intertwined. Anne Applebaum suggested that it is "theoretically" possible to have the rule of law without democracy, but that in practice "it is very hard to maintain", as central to the rule of law are

83 Written evidence from TheCityUK (ROL0024) and Q 1 (Baroness Carr of Walton-on-the-Hill)
84 Written evidence from The Social Market Foundation (ROL0051), Sir Robin Knowles CBE and Lord Thomas of Cwmgiedd (ROL0062), Law Society of England and Wales (ROL0066), Charles Clark (ROL0010), and City of London Corporation (ROL0090), Q 10 (Lord Hodge and Lord Reed of Allermuir)
85 Written evidence from The Social Market Foundation (ROL0051)
86 Q 9 (Professor Jeff King)
87 QQ 9 (Professor Jeff King), and 155 (Anne Applebaum)
88 Q 155 (Anne Applebaum)
89 Q 9 (Professor Jeff King), Q 155 (Anne Applebaum), written evidence from Public Law Project (ROL0015), Law Society of England and Wales (ROL0066), Dr Patrick O'Brien and Dr Ben Yong (ROL0006), and Institute for Constitutional and Democratic Research (ROL0086)
90 Written evidence from Dr Patrick O'Brien and Dr Ben Yong (ROL0006)
91 Q 21 (Lord Sumption)

constraints on executive power. Therefore, dictatorships that want to reap the economic benefits of a rule of law society are actually only displaying "a semblance of the rule of law".[92]

38. **In the modern world, a successful democracy is underpinned by the rule of law. The rule of law ensures that governments can be held to account and that individuals and organisations can access justice, independently of the whims of a government. A weak rule of law culture would provide space for democracy to be challenged. Therefore, the future of our democracy relies on us protecting the rule of law against challenge.**

39. **We should not be complacent about the rule of law. It is of vital importance to our society and our everyday lives, and we should protect and nurture it.**

40. ***The Government should assess how its policies serve to uphold this vital constitutional principle and ensure that the importance of the rule of law is emphasised throughout the policy making process.***

92 Q 155 (Anne Applebaum)

CHAPTER 3: FAIRNESS AND ACTING WITHIN THE LAW

41. The first two elements that we identify as necessary for the creation and maintenance of a rule of law culture are, that everyone acts within the law and can rely on other people, including those in positions of power, to do the same, and that everyone is treated fairly by the law. This chapter explores these two principles together because they are closely related.

42. Firstly, we consider the importance of individuals acting within the law and how trust that others will do the same is supported by a strong rule of law culture, which is itself underpinned by perceptions of fairness. Secondly, we consider the processes that are in place to ensure that the Government acts within the law, and how it can be held to account for not doing so.

Individuals acting within the law

43. A strong rule of law culture is one in which individuals choose to act within the law, knowing that they would face consequences for not doing so. They can trust that other people will also obey the law, and that the law is applied fairly across society. These assumptions underpin the social contract and a stable and harmonious society.

44. Jeff King framed this as "the presumption is that public and private persons do not break the law under the rule of law".[93] Acknowledging the role of civil disobedience, which we have not considered in detail during this inquiry, he noted that:

> "The way [the] issue of not giving effect to bad law is dealt with theoretically is that you recognise the category of civil disobedience. If you wish to not abide by the law, you need to disagree in a way that is open and clear, non-violent, and you accept legal proceedings that might convict you of any applicable offence. Then we take account of the reasons for disobedience in the sentencing process."[94]

Equality and fairness

45. Fairness before the law is one of the five key elements that we have identified as forming part of the rule of law. It requires that everyone, regardless of wealth or status, is granted the benefit of their legal rights, is responsible for adhering to their legal obligations, and is held to account for breaching them.[95] Any difference in the application of the law is for legitimate reasons only and based on objective differences.[96] Shameem Ahmad, CEO of the Public Law Project, said that this was her "favourite component" of the rule of law, as it "brings to life the law for marginalised individuals and makes sure that the law is not only accurate but just".[97]

46. This component of the rule of law is the one that, we heard, members of the public are most familiar with. Chris Nelson emphasised that the British public "have a sense of fairness", which, if "they believe it has been undermined,

93 Q 15 (Jeff King)
94 *Ibid.*
95 Q 54 (Shameem Ahmad), written evidence from Leeds Law School (ROL0063), Sir Jeffrey Jowell KCMG KC (ROL0099), CILEX (ROL0013), the Faculty of Advocates (ROL0012), and Lord Stewart of Dirleton KC (ROL0096)
96 Q 54 (Shameem Ahmad), written evidence from Leeds Law School (ROL0063)
97 Q 54 (Shameem Ahmad)

they will be outraged".[98] And in their written evidence, JUSTICE told us that:

> "there is a strong public sentiment about the rule of law, particularly when it comes to perceptions of fairness and justice. Public reactions to high-profile instances, such as Horizon/Post Office Workers scandal, Partygate, the Hillsborough disaster, and the Grenfell Tower tragedy, demonstrate a deep-rooted belief in the importance of accountability and fairness. In each case, the public's demand for justice and the proper application of the law reflected a broader understanding of the rule of law as an essential mechanism to ensure that no one is above the law, regardless of their position or status".[99]

47. Fairness before the law is a fundamental component of the rule of law, but equally as important for the ongoing existence of a strong rule of law culture is the *perception* that everyone is to be treated fairly by the law. We heard that there is "a growing perception that those in power are not held to the same standards".[100] This is linked to declining trust and confidence in institutions that have a responsibility for upholding the rule of law, such as Government, Parliament, the courts, and law enforcement.[101] As Chris Nelson, the Police and Crime Commissioner for Gloucestershire Constabulary, told us, there "is declining faith in the establishment and in institutions, and a loss of trust generally".[102] This was echoed by the Attorney General, who said that we "are living in an age of great distrust of institutions".[103]

48. Several witnesses used the example of the COVID-19 pandemic to show how public confidence in the fairness of the law has been shaken and resulted in "the feeling of 'one rule for them, one rule for us'".[104] Lord Sumption explained that people were "exercised" about 'partygate', precisely because it challenged the idea that "the law, particularly the criminal law, should apply in exactly the same way to Ministers and civil servants in Downing Street as it does to any other citizen".[105] Ultimately, government ministers being fined for their actions that breached the rules is, in fact, evidence that they are treated by the law in the same way as other people.[106] In doing so, this "absolutely shows the strength of the rule of law in the UK".[107] However, as Stephanie Needleman explained, there was, nonetheless, a sense of "unjustness and unfairness" surrounding the fact "that parties went on in the first place, as if the rules did not apply to them".[108] This illustrates the importance of perception, as much as the reality, for shaping public confidence in equality before the law.

49. **The core values that are central to our rule of law culture are those of equality, fairness and justice. If these values are not present (or are *perceived* not to be present) in our society, then the rule of law culture is liable to be degraded and to break down. Therefore, for**

98 Q 139 (Chris Nelson)
99 Written evidence from JUSTICE (ROL0103)
100 Written evidence from Dr David Gibbs-Kneller (ROL0005)
101 Written evidence from James Milton (ROL0009)
102 Q 133 (Chris Nelson)
103 Q 202 (Lord Hermer)
104 Q 54 (Shameem Ahmad)
105 Q 32 (Lord Sumption)
106 Q 54 (Stephanie Needleman)
107 *Ibid.*
108 *Ibid.*

people to trust that the rule of law is working, they need to feel that everyone, including public figures, is seeking to act within the law, and that those who do not will face the appropriate consequences.

50. **Confidence in the rule of law is challenged by perceptions of disrespect for the law, particularly when this is seen within those institutions that play a role in upholding the rule of law, such as Government, Parliament, the courts, and law enforcement.**

The effect of law-breaking on a rule of law culture

51. Public confidence in the existence of the rule of law is currently being challenged by a sense that consequence-free law-breaking is become more common. While headline figures show that there has been a significant decrease in crime rates over recent decades, we heard that certain crimes, such as "shoplifting, car theft, cycle theft, house burglaries, low-level drug dealing", have increased over the last few years, and have become more visible.[109] This sentiment is reflected in media reporting and data included therein. One recent survey suggested that 29% of UK adults have been victims of phone theft, up from 17% in 2023.[110] Another survey claimed that 24% of the population had witnessed shoplifting taking place in the 12 months to March 2025.[111]

52. The increased volume and visibility of these crimes go hand in hand with low levels of confidence in the police to deal with them. In the March 2025 Crime Survey for England and Wales, 67% of people said that they had confidence in their local police, a drop from 76% in the 2015 survey.[112] There is a strong media and public narrative that claims that crimes such as shop theft, bike and car theft, and burglary have effectively been "decriminalised" due to police inaction.[113] Survey data from April 2024 found that only 26% of people said that they believe that the police would arrest and prosecute someone if they were burgled, and just 7% said they believed that a pickpocket would be caught.[114] In 2024, the House of Lords Justice and Home Affairs Committee conducted an inquiry into shop theft which found that it is an underreported crime which is not being effectively tackled, and that there is a widespread perception that shop theft is not treated seriously by the police. They argued that this "risks undermining confidence in the police and wider criminal justice system".[115]

53. The prominence of everyday law-breaking, alongside a low level of confidence that the perpetrators will be prosecuted through the criminal justice system, directly challenges a rule of law culture. The Rt Hon Shabana Mahmood

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109 QQ 134–138 (Chris Nelson) - for example: Policing Insight, *Most has fallen by 90% in 30 years - so why does the public think it's increased*, 23 May 2024; Office for National Statistics, *Crime in England and Wales: year ending March 2025*, 24 July 2025

110 The Times, *Nearly one in three UK adults have had their phone stolen*, 28 May 2025

111 British Retail Consortium, One in four witness shoplifting, 13 March 2025

112 Office for National Statistics, *Perception and experience of police and criminal justice system, England and Wales: year ending March 2025*, 19 August 2025

113 For example: BBC News, *Bike thefts at stations 'decriminalised'*, 2 October 2025; Daily Mail, *The suburb where burglary is 'decriminalised': Residents living in worst neighbourhood for unsolved burglaries reveal they 'never see' bobbies - amid fury at police failure to tackle burglaries across the country*, 5 March 2024; The Guardian, *'Some steal to order': on the frontline of UK shoplifting epidemic*, 30 January 2025 and the Telegraph, *Car theft in London 'decriminalised' as Met fails to solve nine in 10 cases*, 3 January 2025

114 The Times, *Less than half of the public trust police to solve crimes*, 21 April 2024

115 Correspondence, *Chair of the House of Lords Justice and Home Affairs Committee to the Minister for Policing Crime and Fire Prevention*, 4 November 2024

MP, the then Lord Chancellor, illustrated the effect that unaddressed low-level crime can have:

> "for people who follow the rules, who do not litter in the public space, who are not hanging around doing street drinking, who are not then going in and nicking vodka bottles off the shelves in the shops and then nothing happens, that says that you can get away with breaking our rules, that these offences might have been decriminalised or that there is impunity. I think that is very debilitating for public confidence".[116]

54. The Faculty of Advocates agreed that this risks making parts of the population "disaffected with the rule of law because … they see the law being flouted to their detriment and the social contract being broken".[117] Similarly, Lord Reed said that if "individuals cease to believe that their society is effectively regulated by law, then the rule of law is liable to break down".[118] These ideas are not new. The "broken windows theory" suggests that visible signs of crime such as antisocial behaviour, vandalism and fare evasion encourage further crime and disorder and damage a culture of lawfulness.[119] Chris Nelson shared a similar sentiment, suggesting that shop theft can act as a "gateway crime" with perpetrators moving on to commit further crimes when their experience with shop theft is "easy".[120]

55. Despite the detrimental impact of these crimes on a rule of law culture, we heard that there are significant challenges for the police in tackling them. Serena Kennedy, then Chief Constable of Merseyside Police, noted, for example, that police officers are now spending 35% more time on each incident due to the scale and complexity of information that they are required to record.[121] She also emphasised that the police are constantly dealing with lots of different types of crime, including those that are less visible to the public (such as "serious and organised crime, complex crime, terrorism crimes"), but which they nonetheless have a duty to address.[122] This can result in a "difficult balancing act" between priorities.[123] Furthermore, trust and confidence in the police can be impacted by their implementation of complex, and potentially unpopular, government policy, such as in relation to non-crime hate incidents, which Chris Nelson said were "annoying the heck out of the British public and making them angry with the poor police officers who are simply trying to enforce the law".[124]

56. **It is vital for the maintenance of a rule of law culture that everyone takes personal responsibility to act lawfully, and that they are held to account if they do break the law. Prominent examples of people flouting the law without facing any consequences damage belief in the rule of law and, in turn, risk the breakdown of ordered society. The increasing prominence of petty crime evident in recent years is, therefore, an insidious threat to the rule of law.**

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116 Q 192 (Shabana Mahmood)
117 Written evidence from the Faculty of Advocates (ROL0012)
118 Written evidence from Lord Reed of Allermuir, the President of the Supreme Court (ROL0100)
119 The Atlantic, *Broken Windows*, March 1982
120 Q 139 (Chris Nelson)
121 Q 139 (Serena Kennedy)
122 *Ibid.*
123 *Ibid.*
124 Q 140 (Chris Nelson)

57. **Trust and confidence in the police have declined as a result of their perceived underperformance in addressing the most visible crime. This is having a detrimental impact on the public's faith in the rule of law. *The role that policing plays in building and maintaining respect for the rule of law must be recognised and supported by the Government.***

Inequality before the law?

58. Trust and confidence in rule of law institutions, such as the police, are also affected by a sense that "'these institutions are not here to protect people like me'", which arises from evidence, or perceptions, of unfair treatment.[125] This perception has been supported by recent reports into the police, such as Baroness Casey's 2023 review into the Metropolitan Police Service, which found evidence of "institutional racism, misogyny and homophobia in the Met".[126] Stephanie Needleman similarly told us that there is evidence of "overpolicing and the disproportionate use of force against black communities". By way of example, she explained that "in the year ending March 2023 individuals perceived as black had force used against them by the police at a rate three times higher than for those perceived as white".[127] The effect of this perception of unfair treatment is that trust in institutions can vary across demographics.[128] Serena Kennedy acknowledged that "trust and confidence is lower in communities from ethnic-minority backgrounds" and explained that the police is "working incredibly hard to make sure that we are improving trust and confidence in those communities that feel there is bias and disproportionality in the system".[129]

59. Furthermore, perceptions of 'two-tier policing' and 'two-tier justice' have gained prominence over the past year and have become part of the media and political conversation about policing.[130] These terms are used to suggest that the police is overly lenient towards protesters of progressive causes and racial minority protesters and is unduly harsh towards those on the right of the political spectrum.[131] We heard from witnesses that the idea of a 'two-tier' criminal justice system has resonated with the public.[132] Frances Gibb, journalist and former Legal Editor at the Times, cautioned that these "sound like slogans, but people really are worried that that is in existence", and that it is important to take these concerns seriously because the "public perception about whether the Government are upholding the rule of law is as important as the reality".[133] Chris Nelson expressed concern that these "accusations and perceptions undermine neutrality and the impartiality of the police".[134] Frances Gibb described how the charge of 'two-tier justice' was used, for example to describe the swift processing of the summer 2024 rioters through the criminal justice system.[135] The House of Commons Home

125 Written evidence from James Milton (ROL0009)
126 Baroness Casey Review, *Final Report: An independent review into the standards of behaviour and internal culture of the Metropolitan Police Service*, March 2023; written evidence from James Milton (ROL0009)
127 Q 60 (Stephanie Needleman)
128 Written evidence from James Milton (ROL0009)
129 Q 141 (Serena Kennedy)
130 Q 133 (Chris Nelson)
131 See, for example, LSE, The truth about "two-tier policing", 15 August 2024; Sky News, UK riots: What does 'two-tier' policing mean – and does it exist?', 6 August 2024
132 QQ 100 (Frances Gibb), 133 (Chris Nelson)
133 Q 100 (Frances Gibb)
134 Q 133 (Chris Nelson)
135 Q 100 (Frances Gibb)

Affairs Committee recently published a report into the police response to the disorder in the summer of 2024, and concluded that the police response to the violence was "entirely appropriate" and that there was no evidence of 'two-tier policing'. [136]

60. **Perceptions of bias and discrimination within the police are corrosive to a rule of law culture in that they undermine the public's confidence that they will be treated fairly before the law. *The Government must take strong and visible action to tackle evidence of bias and discrimination within the police.***

61. **The language used in political and media debate about the operation of the police can have a detrimental impact on the rule of law which, at times, may be unfounded. *The Government should firmly refute unsubstantiated attacks on the integrity of the police in a timely manner, and it should be made clear to the public that the police serve to enforce the laws made by Parliament.***

Government acting within the law

62. Acting within the law is, as much as it is for individuals and private organisations, also a responsibility of the Government and its ministers.[137] The rule of law requires that executive power is not unlimited, but is instead exercised within a framework of laws and prescribed and limited powers.[138] As JUSTICE described, "it is essential that any Government recognises it is not above the law by virtue of having been elected to power".[139] This protects citizens against the arbitrary exercise of power, thus safeguarding their legal rights and allowing them to conduct their lives with certainty.[140] The importance of the legality of government action was well described in a 1928 dissenting opinion by Louis Brandeis, Associate Justice of the US Supreme Court, in which he wrote: if "the Government becomes a law breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy".[141]

63. There are certain ministers that have particular responsibility for maintaining the rule of law, namely the Lord Chancellor and the Law Officers, but there is a broader responsibility on all government ministers to uphold the law.[142] This is reflected in the Ministerial Code which states that it "should be read against the background of the overarching duty on ministers to comply with the law, including international law and treaty obligations".[143] It also places the expectation on ministers that they consider the legal implications of their decisions by consulting the Law Officers "in good time before the government is committed to critical decisions involving legal considerations".[144]

136 Home Affairs Committee, *Police response to the 2024 summer disorder* (2nd Report, Session 2024–25, HC Paper 381), para 75
137 Written evidence from the UK Government (ROL0104)
138 *Ibid.*
139 Written evidence from JUSTICE (ROL0103)
140 Written evidence from the UK Government (ROL0104)
141 U.S Supreme Court, *Olmstead v United States*, 277 U.S.438, June 4, 1928
142 QQ 195 (Lord Hermer), 178 (Shabana Mahmood), written evidence from the UK Government (ROL0104), and the Public Law Project (ROL0015)
143 Cabinet Office, *Ministerial Code*, November 2024
144 *Ibid.*

International law

64. As reflected in the current version of the Ministerial Code, the Government considers that the responsibility of ministers to act within the law extends to international law.[145] Whether compliance with international law is a requirement of the rule of law is, however, not a settled issue. We received evidence illustrating significant debate over whether the rule of law requires compliance with international law as it does with domestic law.[146]

65. One view suggests that while compliance with international obligations may be desirable for a number of reasons, not least for upholding the UK's reputation as a reliable international partner and for supporting a rules-based international order, it is not a necessary component of the rule of law.[147] As Lord Reed argued, "it is not necessary to pack all those values into the concept of the rule of law", as this risks bringing the rule of law into conflict with parliamentary sovereignty and ultimately devaluing the rule of law.[148] International law has a different status to domestic law because:

> "[o]bligations in international treaties are binding on the UK as a matter of international law when ministers sign and ratify them. But as a matter of domestic law, those obligations only become part of our domestic law when given legal force by Parliament incorporating them in a statute."[149]

In other words, only incorporation by statute will indicate Parliament's intention that treaty obligations are to be given effect in domestic law.[150]

66. By contrast, the argument for inclusion of international law within the rule of law "follows from the idea that the state has to adhere to its valid legal obligations" regardless of the source of those obligations.[151] In other words, if the rule of law requires "compliance with rules, it makes no particular difference whether those rules are domestic or international".[152] On this view, the state's treaty obligations are binding, even in the absence of legislation giving them domestic effect.

67. Baroness Hale told us that "treaties are contracts and … you should abide by your contractual obligations", unless you have "really good reasons" to depart from them.[153] Professor Adam Tomkins similarly argued that governments must abide by their international treaty obligations, "but not everything that is said in international law is part of our obligations".[154] We also heard that there may be legitimate debate over the interpretation and requirements of

145 *Ibid.*; the 2024 update to the ministerial code reinserted an explicit reference to international law and treaty obligations as part of Ministers' overarching duty to comply with the law. Prior to that update, the relevant part of the ministerial code read as follows: "The Ministerial Code should be read against the background of the overarching duty on Ministers to comply with the law and to protect the integrity of public life." Q 195 (Lord Hermer)

146 Evidence broadly sympathetic to the inclusion of international law within the rule of law was received from, for example, Professor David Dyzenhaus (ROL0045);Q 7 (Jan van Zyl Smit); JUSTICE (ROL0103); Amnesty International and the Immigration Law Practitioners' Association (ROL0034). The contrary position was advocated in evidence from, for example, Lord Verdirame (ROL0082); the Society of Conservative Lawyers (ROL0046); Policy Exchange (ROL0055).

147 Q 5 (Lord Reed of Allermuir)

148 *Ibid.*

149 Graham Gee (ROL0065) See, the Human Rights Act 1998 for an example of legislative incorporation.

150 This is because the UK has what is known as a dualist system.

151 Q 7 (Professor Jeff King)

152 Q 54 (Stephanie Needleman)

153 Q 20 (Baroness Hale of Richmond)

154 Q 7 (Professor Adam Tomkins)

international law; the specifics of customary international law, for instance, may be more uncertain as they are contingent on "what states do", such that any changes in state practice may then change customary international law.[155]

68. While the relationship between international legal obligations and the rule of law is contested and complex—particularly in relation to customary international law—this does not displace the general position that a state's international obligations ought to be adhered to. As we concluded in our 2023 report, *The roles of the Lord Chancellor and the law officers*, a "treaty, once agreed, binds the state. It is the responsibility of the Government, as the state's international representative, to ensure that agreements entered into internationally are respected".[156]

69. **All government ministers have a responsibility to uphold the rule of law and to seek to ensure that their policies and decisions are compliant with the law. This includes compliance with the state's international obligations.**

The Lord Chancellor

70. The Lord Chancellor has an "apex" responsibility with regards to the rule of law.[157] This is because they have a statutory responsibility, contained within the Constitutional Reform Act 2005.[158] Upon taking office, Lord Chancellors swear an oath in which they commit to "respect the rule of law, defend the independence of the judiciary" and "ensure the provision of resources for the efficient and effective support of the courts".[159]

71. As a result, the Lord Chancellor has a leadership role within government in relation to the rule of law.[160] Last year, the Rt Hon Lord Gove, former minister and MP, told us that in his time as Lord Chancellor he "was very conscious of having sworn an oath in that role", and that he felt he had a responsibility to remind other ministers of their responsibility to uphold the rule of law.[161] This reflects our 2023 conclusion that the "Lord Chancellor should fulfil a wider, cross-departmental, role in defending the rule of law and educating his or her colleagues on its importance".[162]

72. **The Lord Chancellor has explicit responsibility amongst government ministers to uphold the rule of law, because of the responsibilities of the office and the oath set out within the Constitutional Reform Act 2005. This responsibility extends to taking on a leadership role within the Cabinet, educating and reminding other ministers about the importance of the rule of law.**

155 Q 20 (Baroness Hale of Richmond), Q 20 (Lord Sumption)
156 Constitution Committee, *The roles of the Lord Chancellor and the Law Officers* (9th Report, Session 2022–23, HL Paper 118), para 59
157 Q 195 (Lord Hermer)
158 Constitutional Reform Act 2005, sections 1, 3 and 17
159 *Ibid.*
160 Written evidence from the Law Society of England and Wales (ROL0066)
161 Constitution Committee, Inquiry into executive oversight and responsibility for the UK constitution, 28 November 2024, Q 67 (Michael Gove)
162 Constitution Committee, *The roles of the Lord Chancellor and the Law Officers* (9th Report, Session 2022–23, HL Paper 118), para 102

The Law Officers

73. Within the UK Government, the Law Officers consist of the Attorney General (who also acts as the Advocate General for Northern Ireland), the Solicitor General, and the Advocate General for Scotland. In July 2024, for the first time, the Attorney General and Solicitor General included within their oath upon taking office a commitment to "respect the rule of law".[163] This followed our 2023 recommendation that the Law Officers' oath be updated to do so.[164]

74. The role of the Law Officers is to act as the "principal legal advisers to Government on litigation and policy".[165] They are supported in this by government lawyers, whose role is discussed further below. The Attorney General described this as a "distinct role in upholding the rule of law", by which they ensure "that ministers receive advice to allow them to make decisions that are lawful".[166] He emphasised that, as Attorney General, he is involved in the policy-making process, but only "to advise decision-makers and to provide them with the best detailed legal advice that we can, so that they can make fully informed decisions".[167]

75. The Attorney General is the most senior of the Law Officers. The current Attorney General, Lord Hermer, attends Cabinet.[168] He also sits on several cabinet committees, including the National Security Council, Union and Constitution, and Parliamentary Business and Legislation committees.[169] We heard that the ministerial status of the Law Officers gives their legal advice "particular weight" in Cabinet, and their view is accepted as authoritative.[170] As a result, Dr Conor Casey, Senior Lecturer in Public Law, University of Surrey School of Law and Senior Fellow, Policy Exchange's Judicial Power Project, argued that there is, in effect, a constitutional convention such that, when the Law Officers advise that a course of action is unlawful in domestic law and has no respectable legal argument, the Government will not proceed with that action.[171]

76. The Law Officers' convention means that, as described in the Ministerial Code, the "fact that the Law Officers have advised or have not advised, and the content of their advice, must not be disclosed outside government without their authority".[172] The convention ensures that ministers can receive "full, frank and confidential" legal advice from the Law Officers. It seeks to ensure that ministers can obtain legal advice confidentially and that they, therefore, are able to fully consider the legal implications of a policy before pursuing it.[173] James Wolffe KC, former Lord Advocate of Scotland, argued that the presumption of non-publication of legal advice is a "strength", because it

163 Q 194 (Lord Hermer)
164 Constitution Committee, *The roles of the Lord Chancellor and the Law Officers* (9th Report, Session 2022–23, HL Paper 118), para 268
165 Written evidence from the UK Government (ROL0104)
166 Q 195 (Lord Hermer)
167 Q 203 (Lord Hermer)
168 UK Parliament, *His Majesty's Government: The Cabinet*, [accessed 11 September 2025]
169 Cabinet Office, *List of Cabinet Committees and their membership*, October 2024
170 Written evidence from Dr Conor Casey (ROL0055)
171 *Ibid.*
172 Cabinet Office, *Ministerial Code*, November 2024, para 5.14
173 House of Commons Library, *"I'm afraid if I told you that…": The law officers' convention*, Insight, February 2025

means that the policy minister has to take full responsibility for the policy and cannot say "'I'm only doing it because the lawyers told me'".[174]

77. As well as providing legal advice, the Law Officers also provide leadership, both within and outside of Government, on the rule of law.[175] Echoing the findings in our 2023 report, *The roles of the Lord Chancellor and the Law Officers*, the Attorney General told us that, since the Constitutional Reform Act 2005, by which the Lord Chancellor was no longer required to be a lawyer, the Attorney General has taken on an additional responsibility to promote the rule of law.[176] Since taking on the role of Attorney General, Lord Hermer delivered the Bingham Lecture in October 2024, in which he argued for the "restoration of our reputation as a country that upholds the rule of law at every turn".[177] He also established a 'Rule of Law Unit' within his department, which is focusing on how to communicate to the public about the rule of law in an accessible way.[178] The Attorney General stressed that this unit has only been operational for a short period of time, but said that he would welcome an opportunity to speak to the Committee in the future about its work.[179]

78. **The Law Officers are the authoritative source of legal advice within Government. They ensure that the Government acts within the law in their policies, actions and decisions. The Law Officers, particularly the Attorney General, should also display leadership, both within and outside of Government, on the rule of law. This should be used to embed considerations of legality within the policy-making process, as well as to communicate to the public the Government's commitment to the law.**

79. ***We invite the Attorney General to speak to us in 2026 in order to update us on the work that he, and his department, is doing to promote the rule of law, including the work of the Rule of Law Unit.***

Government lawyers

80. Lawyers across Government, including in the Government Legal Department, support the work of the Law Officers in advising on legal issues. They "help ensure that concern for law is deeply integrated into the policymaking and lawmaking process" by providing advice on the everyday decisions made by government departments.[180] We heard that government lawyers take a "risk management-based approach" to legal advice, such that they advise on the constraints associated with statute, regulations, common law and constitutional conventions, but also offer advice on how to mitigate legal risk.[181] The work of the Law Officers is also supported by independent members of the Bar, who advise the Government and appear on its behalf in courts and tribunals.

174 Q 123 (James Wolffe)
175 Written evidence from the Law Society of England and Wales (ROL0066)
176 Q 195 (Lord Hermer), Constitution Committee, *The roles of the Lord Chancellor and the Law Officers* (9th Report, Session 2022–23, HL Paper 118), paras 128–134
177 Attorney General's Office, *Attorney General's 2024 Bingham Lecture on the rule of law*, October 2024
178 Attorney General's Office, *Report and Business Plan 2024–2026*, 21 May 2025
179 Q 203 (Lord Hermer)
180 Written evidence from Dr Conor Casey (ROL0055)
181 *Ibid.*

81. The work of government lawyers is guided by the *Attorney General's Legal Risk Guidance*. Most legal questions cannot be answered with a straightforward assessment of whether a course of action is lawful or unlawful, and there will instead be an element of risk involved. The Legal Risk Guidance provides government lawyers with guidance on how to advise ministers on this risk.[182] In our 2023 report, *The roles of the Lord Chancellor and the Law Officers,* we considered the Legal Risk Guidance that was then in force. In introducing that guidance, the then Attorney General, Suella Braverman KC MP, said that "government lawyers are too cautious in their advice and this has hampered ministerial policy objectives needlessly".[183] To address this view of government lawyers as blockers, the guidance sought to make it clear that even where there were no 'respectable legal arguments' for a policy, this was not automatically an obstacle to that policy being pursued. Instead, lawyers should escalate the issue and present solutions to ministers.[184]

82. In that report, we considered the threshold of a 'respectable legal argument' contained within the Legal Risk Guidance. We concluded that:

> "While the 'respectable legal argument' threshold may be justified in some circumstances of genuine legal uncertainty we are concerned that the threshold as currently set out in the guidance could sometimes be used purely for the convenience of the Government. Public confidence in the Government's commitment to the rule of law demands that any threshold is meaningful and aligns with an ethos of genuinely seeking to comply with the law."[185]

83. The Legal Risk Guidance has since been updated by the Attorney General, promising to "raise the standards for calibrating legality".[186] His guidance states that lawyers must advise that a proposed course of action is unlawful if there is no "tenable legal argument" that could be presented to a court if the action was legally challenged. A "tenable legal argument" is one that a lawyer could properly advance in line with their professional obligations.[187] We heard that the updated guidance is "much more explicit that relying on a merely 'tenable' argument should be a last resort and expressly recognises that lawyers must advise that a course is unlawful if that is their professional assessment".[188] In such instances, or if there is a particularly challenging legal issue at hand, the matter may be escalated to a more senior lawyer or the Law Officers to take a judgement.[189]

84. Dr Casey argued that the new legal risk guidance represents a "substantive change".[190] For example, the new guidance says that it "may not be appropriate

182 Sir Jonathan Jones KCB KC(Hon), *What does the new legal risk guidance for government lawyers mean?*, Institute for Government, November 2024

183 Tevye Markson, *Attorney general accuses 'overcautious' government lawyers of 'hampering ministers'*, *Civil Service World*, August 2022

184 Tevye Markson, *Attorney general accuses 'overcautious' government lawyers of 'hampering ministers'*, *Civil Service World*, August 2022; Sr Conor Casey and Dr Yuan Yi Zhu, *From the Rule of Law to the Rule of Lawyers?*, Policy Exchange, 2024; Sir Jonathan Jones KCB KC(Hon), *What does the new legal risk guidance for government lawyers mean?*, Institute for Government, November 2024

185 Constitution Committee, *The roles of the Lord Chancellor and the Law Officers* (9th Report, Session 2022–23, HL Paper 118), para 148

186 Attorney General's Office, *Attorney General's 2024 Bingham Lecture on the rule of law*, October 2024

187 Attorney General's Office, *Guidance: Attorney General's Guidance on Legal Risk*, November 2024, para 8

188 Written evidence from the Law Society of England and Wales (ROL0066)

189 Written evidence from Dr Conor Casey (ROL0055)

190 *Ibid.*

in some cases" for a minister to proceed with a policy underpinned by a tenable legal argument "in situations where the fundamental rights of individuals are significantly undermined, particularly where the proposed policy or action is unlikely to be challenged before a court or otherwise subject to judicial scrutiny".[191] Dr Casey said this formulation confuses the proper relationship between ministers and government lawyers by inviting lawyers to tell ministers that they should not take a "legally sound" decision because they think it is "morally unsound".[192] By contrast, the Law Society welcomed the guidance as strengthening standards which had been weakened by previous iterations of the guidance and Jonathan Jones KC, former Treasury Solicitor, also supported the guidance and its move away from "treating lawyers as risk-averse blockers".[193]

85. **Most of the everyday legal advice within Government is produced by government lawyers supported by external counsel, with only the most complex issues being advised on by the Law Officers themselves. This approach ensures that consideration of legality is embedded in the policy-making process at all levels.**

86. **We welcome the recent changes to the Legal Risk Guidance which change the tone away from presenting the law and government lawyers as blockers to government action. Government lawyers are a vital part of ensuring that the Government acts in accordance with the law and they should be empowered to advise when, in their assessment, a course of action is unlawful if that is their assessment.**

Devolution

87. Within the UK Government, the Government Legal Department and the Law Officers provide legal advice to ensure that the Government acts according to law. That set-up, and process of providing legal advice, is replicated in the devolved governments, each of which has their own law officers and legal departments. It is worth noting that the powers and political status of each administration's law officers differ according to the specific devolution settlement.[194]

88. For example, within the Scottish Government, the Ministerial Code includes an "overarching duty" to comply with the law, requiring ministers to "ensure that their decisions are informed by appropriate analysis of the legal considerations and that the legal implications of any course of action are considered at the earliest opportunity". In addition, "briefing to Ministers should be informed by appropriate advice on the legal considerations".[195] The Scottish Law Officers—the Lord Advocate and the Solicitor General—are ministers in the Scottish Government, although, unlike in the UK Government, they do not have party-political affiliation.[196] The Ministerial

191 Attorney General's Office, *Guidance: Attorney General's Guidance on Legal Risk*, November 2024, para 20

192 Written evidence from Dr Conor Casey (ROL0055)

193 Written evidence from the Law Society of England and Wales (ROL0066); Sir Jonathan Jones KC, *What does the new legal risk guidance for the government mean?*, Institute for Government, 7 November 2024.

194 A detailed summary of the different powers and status of the law officers within the devolved administrations can be found in Dr Conor McCormick, Graeme Cowie, *Law officers: a constitutional and functional overview*, HC Library 08919, 14 February 2025

195 Scottish Government, *Scottish Ministerial Code: 2024 Edition*, December 2024; written evidence from James Wolffe KC (ROL0112)

196 Written evidence from James Wolffe KC (ROL0112)

Code states that it is their role "to ensure that the Government acts lawfully at all times", and there is a "general principle that the Law Officers must be consulted in good time before the Government is committed to significant decisions involving legal considerations". James Wolffe explained that, as Lord Advocate, his role was as "the ultimate arbiter for the Government on questions of law".[197]

89. The Lord Advocate has a further responsibility to consider whether bills passed by the Scottish Parliament are within its legislative competence before they can receive Royal Assent.[198] If they consider that a bill is not, they must refer it to the Supreme Court to take a view. The Scottish Law Officers have rarely referred a bill to the Supreme Court at that stage, but we were told that that "is unsurprising given the internal analysis of competence which should have taken place during the preparation of a Government Bill".[199] The UK Law Officers also review the bill at this stage and can refer it to the Supreme Court, which they have done with the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill, the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, and the European Charter of Local Self-Government (Incorporation) (Scotland) Bill.[200] James Wolffe argued that such disagreements over the boundaries of legislative competence are to be expected in a system such as the UK's which has two tiers of legislature, and that such disagreements are arguably a demonstration of the rule of law functioning: "it is right that, ultimately, it gets to be resolved in the one place where it can be authoritatively resolved—and that is in court".[201]

90. John Larkin described to us how, whilst Attorney General for Northern Ireland, he established a network of law officers of the devolved nations and the Crown Dependencies, which met occasionally to discuss "issues of common concern".[202] James Wolffe participated in this network as Lord Advocate and told us that it "was an extremely valuable opportunity for those of us in the unique role of Law Officer to meet and exchange views on issues of common interest".[203]

91. Intergovernmental engagement also takes place between the UK Government and the devolved administrations. This involves routine engagement between corresponding departments, so, for example, there is regular engagement between the Office of the Advocate General for Scotland within the UK Government, and the Lord Advocate's Legal Secretariat.[204] In addition, intergovernmental engagement takes place on specific policies and legislation as appropriate.[205] Mick Antoniw argued that this is important "because the ability to develop good and effective law is dependent on proper engagement", and the then Lord Chancellor explained that "collaboration at the earliest opportunity is the best way to head off disagreements".[206] We discussed the

197 Written evidence from James Wolffe KC (ROL0112)
198 *Ibid.*
199 *Ibid.*
200 *Ibid.*
201 Q 121 (James Wolffe)
202 Q 117 (John Larkin)
203 Q 117 (James Wolffe), written evidence from James Wolffe KC (ROL0112)
204 Written evidence from James Wolffe KC (ROL0112)
205 Q 193 (Shabana Mahmood)
206 QQ 143 (Antoniw), 193 (Shabana Mahmood)

effectiveness of the intergovernmental framework in greater detail in our *Governance of the Union* report published last year.[207]

92. **The devolved Law Officers are the authoritative source of legal advice for the devolved administrations and are supported in this role by government lawyers. This model mirrors that in the UK Government, although the specific responsibility of each Law Officer varies depending on the devolution settlement. *The Attorney General and counterparts in the devolved administrations should co-operate to ensure the rule of law remains a central focus for all Governments and that it is promoted effectively across the UK.***

Judicial review

93. The rule of law requires that governments act within the law, and that they can be held to account for unlawful acts by an independent judiciary.[208] Judicial review is "the procedure by which people or organisations can apply to ask the Administrative court or Upper Tribunal to review decisions of a public body and the court decides if they are lawful".[209]

94. In general, judicial review focuses on the way in which a decision is made rather than the substance of a decision.[210] The three main grounds for judicial review are illegality (there was no legal power to make a decision), procedural impropriety (proper procedure was not followed, which might include bias) and irrationality (no reasonable person, acting reasonably, would have made the decision).[211] If a court finds that a public body has acted unlawfully, it can issue a range of remedies including quashing or preventing an unlawful act, requiring specific action or making a declaration as to the respective rights of the parties. Where it can be shown that the decision would have remained the same if the public body had acted lawfully, the court has discretion to allow the decision to stand. Of the 2,955 applications for Judicial Review in England and Wales in 2024 where an outcome is known, 483 received permission to proceed to a hearing and, of those, 50 were found in favour of the claimant.[212]

95. Judicial review acts as a backstop by providing a means through which the lawfulness of government actions can be tested. However, the possibility of judicial review also plays a wider role in influencing the legality of government action. As Stephanie Needleman explained, "[y]ou do not need to go to court to see its impact in ensuring that the Government's decision-making is compliant with the law".[213] That is, judicial review "creates a culture in which the Government know that they will be challenged if they act unlawfully".[214] This culture is evident in the Government's *The Judge Over Your Shoulder* guidance, which is guidance for civil servants to help them navigate administrative law and judicial review.[215] In doing so, it seeks

207 Constitution Committee, *Governance of the Union: Consultation, Co-operation and Legislative consent* (1st Report, Session 2024–25, HL Paper 13)
208 Written evidence from the UK Government (ROL0104), Q 54 (Stephanie Needleman)
209 Government Legal Department, *The Judge Over Your Shoulder*, 2022
210 Courts and Tribunal Judiciary, *Judicial review*, [accessed on 4 November 2025]
211 Institute For Government, *Judicial review*, 18 December 2019
212 Ministry of Justice, *Judicial Review Interactive Data Tool*, [accessed on 4 November 2025]
213 Q 54 (Stephanie Needleman)
214 *Ibid.*
215 Government Legal Department, *The Judge Over Your Shoulder*, 2022

to promote good government decision-making and reduce the risk of those decisions being challenged in court.[216]

96. Whilst the lawfulness of government decisions being challenged through judicial review is not an uncommon occurrence, Dr Cormacain argued that this "is not the system breaking down, this is the system working".[217] James Wolffe agreed with this sentiment.[218] In the context of legal challenges to Scottish Government decisions and legislation passed by the Scottish Parliament, he said: "[t]hat is the rule of law in action" and that it "does not … reflect any failure of the legal analysis being applied within government that serious legal questions ultimately end up in court and have to be determined by the court".[219] He continued to say that legal challenges, even successful legal challenges, are to be expected, because the legal questions that the Law Officers are sought to advise on are "rarely, if ever, straightforward", most often relating to issues that have not yet been tested in the courts and which are the subject of legal debate.[220] In this context, he argued that the role of the Law Officers is not "to take the most conservative view of the legal position", which would excessively restrict policy-making, but "to make the right legal judgment call".[221]

97. The judicial review process involves the courts assessing the lawfulness of the activity of bodies exercising a public function, doing so by reference to statute or common law; and in this way the courts are themselves subject to the rule of law.[222] Nonetheless, we heard that there is an "increasing tendency" by government ministers to frame judicial review "as an obstacle to, and being in tension with, government effectiveness, efficiency and the public interest".[223] A recent announcement regarding the use of the judicial review process for major infrastructure projects was cited as an example of this tendency. The Government has committed to introducing primary legislation on this topic, and in its written evidence to us characterise such decisions as "political choices that can be made without affecting this Government's overriding commitment to the rule of law".[224] Nonetheless, the Public Law Project raised concerns regarding the statement, in particular the Government's description of claimants as "blockers getting in the way" and its characterisation of certain challenges as "cynical legal cases lodged purely to cause delay".[225] The PLP noted that vexatious actions or other misuses of legal proceedings can already be prevented, and argued that this rhetoric—"pitting the rule of law against government effectiveness"—damages the public perception of judicial review, and the role of the rule of law more broadly.[226]

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216 Bingham Centre for the Rule of Law, *The UK's The Judge Over Your Shoulder: A Model for Kenya?*, April 2016
217 Written evidence from Dr Ronan Cormacain (ROL0101)
218 Q 121 (James Wolffe)
219 Written evidence from James Wolffe KC (ROL0112)
220 *Ibid.*
221 *Ibid.*
222 Supreme Court, *R (on the application of Privacy International) v Investigatory Powers Tribunal and others*, UKSC 22, 15 May 2019
223 Written evidence from the Public Law Project (ROL0015)
224 Written evidence from the UK Government (ROL0104) and Prime Minister's Office, *Prime Minister clears path to get Britain building*, January 2025
225 Prime Minister's Office, *Prime Minister clears path to get Britain building*, January 2025
226 Written evidence from the Public Law Project (ROL0015)

98. **The power to hold the Government to account for breaches of the law is a vital part of the rule of law. The existence of the judicial review process also contributes to a culture of lawfulness and safeguards the rule of law, as the possibility of judicial review encourages the Government to act in accordance with legal advice.**

99. ***The Government should refrain from presenting the judicial review process as a blocker to government action, as this risks undermining the rule of law culture which the Government has committed to upholding. Where the Government considers the law to have become overly complex or otherwise to be unreasonably inhibiting action it can raise these concerns and ask Parliament to legislate but should do so without calling the process of judicial review or the decisions of the judiciary into question.***

CHAPTER 4: JUDICIAL INDEPENDENCE

100. Judicial independence occupies a central position in the UK constitutional order, and has long been recognised in statute and case law.[227] Independent judges, who decide questions of law free from bias or external influence, ensure that people's legal rights can be protected against undue pressure from public opinion or the wishes of government.[228] This facilitates fair legal processes and upholds that legal disputes will be resolved in a fair trial conducted according to law. It also ensures that those in power can be held to account through processes such as judicial review, further facilitating the rule of law ideal of preventing the arbitrary exercise of power.[229]

101. The Guide to Judicial Conduct directs that three principles—independence, impartiality, and integrity—should guide judicial conduct. It defines judicial independence as two-fold: firstly, that the "judiciary must be seen to be independent of the legislative and executive arms of government both as individuals and as a whole", and secondly, that "a judicial office holder be, and be seen to be, independent of all sources of power or influence in society, including the media and commercial interests".[230] This includes a need to manage conflicts of interest appropriately and recuse oneself or disclose information as necessary.[231]

102. In evidence to this inquiry, the Lady Chief Justice of England and Wales, Lady Chief Justice of Northern Ireland, and Lord President of the Court of Session of Scotland articulated what they understand by judicial independence and its importance for the rule of law:

> "The rule of law requires that a member of the public must be able to go into court and know that the person sitting in judgment is neutral, not on one side or the other, and will apply impartially the law that is relevant to the facts of the case. In order to perform this vital role, judges must be independent and be seen as independent: free from the influence of government, central and local; of public and parliamentary opinion; of political parties and pressure groups; of the media; and of their own colleagues. They must not allow anybody or anything to deflect them from deciding cases on anything other than their legal and factual merits."[232]

103. They also argued that maintaining judicial independence is not just the responsibility of the judiciary, but also falls on parliamentarians and members of the Government, who should be careful when discussing cases currently before the courts and should defend judges from "hostile comments" in order

227 See for instance: Act of Settlement 1700; Senior Courts Act 1981, s.92; Privy Council, *Millar v Procurator Fiscal (Scotland)*, [2001] UKPC D4, 24 July 2001, para [80] (Lord Clyde): "Judicial independence is of fundamental constitutional importance. It is an indispensable condition for the preservation of the rule of law."

228 Written evidence from the Law Society of Scotland (ROL0115) and Leeds Law School, Leeds Beckett University (ROL0063)

229 Written evidence from the UK Government (ROL0104) and Dr Joelle Grogan and Professor Laurent Pech (ROL0085)

230 Courts and Tribunals Judiciary, *Guide to Judicial Conduct - Revised July 2023*, July 27 2023, and written evidence from Dr Klearchos Kyriakides (ROL0092)

231 Courts and Tribunals Judiciary, *Guide to Judicial Conduct - Revised July 2023*, July 27 2023

232 Written evidence from Baroness Carr (Lady Chief Justice of England and Wales at Judiciary of England and Wales), Dame Siobhan Keegan (Lady Chief Justice of Northern Ireland at Judiciary of Northern Ireland), and Lord Pentland (Lord President of the Court of Session at Judiciary of Scotland) (ROL0027)

to "lead by example".[233] This joint responsibility is reflected in s.3(1) of the Constitutional Reform Act 2005 which provides that "[t]he Lord Chancellor, other Ministers of the Crown and all with responsibility for matters relating to the judiciary or otherwise to the administration of justice must uphold the continued independence of the judiciary."[234]

104. **Judicial independence requires both that judges are independent of bias and external influence, and that they are seen to be independent. This underpins a rule of law culture in which people trust that everyone is treated equally by the law, and that those in power can be held to account through the courts. Maintaining the independence of the judiciary is a shared responsibility of the judiciary, Government and Parliament. Ministers, especially the Lord Chancellor, should be particularly mindful of their statutory responsibility, contained within the Constitutional Reform Act 2005, to uphold the independence of the judiciary.**

Judicial independence, politicians and the media

105. Professor Cheryl Thomas KC, Professor of Judicial Studies at UCL Faculty of Laws, runs the UK-wide Judicial Attitude Survey, a study of the working lives of judges that consistently achieves a response rate of above 90% of all serving salaried judges. The most recent survey was conducted in 2024. Professor Thomas argued that there are clear warning signs that indicate when judicial independence is being challenged. These include, for example:

- attacks on the judiciary in the media;
- attacks on the judiciary by politicians;
- loss of respect for the judiciary by government;
- judicial perceptions of threats to their independence; and
- personal safety concerns for judges.[235]

106. Professor Thomas also argued that the results from the Judicial Attitude Survey over the last decade reveal the existence of these warning signs and are, therefore, "strong indicators that the rule of law is under increasing stress in the UK".[236] For example, in the 2024 survey, 87% of judges who responded were concerned about loss of respect for the judiciary by the government, 80% about attacks on the judiciary in the media, and 73% about personal safety for judges.[237] These sentiments reflect evidence that we heard from others that there has "been a steady erosion of respect for the rule of law in public discourse", which has included attacks on judges and their rulings, as well as negative rhetoric about the judiciary.[238]

233 *Ibid.*
234 Written evidence from the UK Government (ROL0104), the Constitution Society (ROL0054), Constitutional Reform Act 2005, sections 1, 3 and 17
235 Written evidence from Professor Cheryl Thomas (ROL0060)
236 *Ibid.*
237 *Ibid.*
238 Written evidence from JUSTICE (ROL0103), the Constitution Society (ROL0054), the Bar Council (ROL0095) and the Law Society of Northern Ireland (ROL0032)

Attacks on judges and the judiciary

107. Courts often decide controversial or high-profile cases, and it is inevitable that some people will agree with those decisions and others will not. Lord Reed said, of the Supreme Court, that "given the nature of the work we do, there is inevitably controversy about some of our decisions", but added that "it is perfectly proper in a democracy [that there] will be different views, and people are free to express them".[239] The Lady Chief Justice expressed a similar sentiment, arguing that public debate is an important part of open justice, by which justice is administered in public and everything said in court can be reported on.[240] Similarly, Frances Gibb argued that "rulings are fair game and people are entitled to comment on them".[241] The judiciary, as with any other state institution, should not be immune from scrutiny or criticism.[242] In fact, it could be argued that identifying poor judicial decision-making and drawing it to the attention of the public is safeguarding the rule of law.[243] The then Lord Chancellor, the Rt Hon Shabana Mahmood, described this as "an aspect of judicial accountability", recognising further that the appeals process, by its very existence, acknowledges that not all judicial decisions will be right.[244]

108. However, others noted that it was important to "distinguish attacks on judges from attacks on rulings".[245] The then Lord Chancellor argued that it "is one thing to criticise a decision but another thing entirely to bring a judge's integrity into question". This is because on "taking office, judges swear to apply the law without fear or favour" and they "leave their personal views at the [courtroom] door", but to attack judges for their decisions casts "aspersions on the independence of individual judges, believing that they are based on their political views and that they will make biased decisions".[246] We also criticised this tendency in our 2023 report, *The roles of the Lord Chancellor and the Law Officers*, when we concluded that "[w]hile criticism of the content of a judgment is acceptable, targeted personal criticism which unfairly impugns a judge's impartiality or inflames public sentiment against the judiciary is not".[247] Where there are concerns with the conduct of individual judges, the Judicial Conduct Investigations Office, an independent statutory office, can investigate allegations of misconduct of individual judges.[248]

109. The Lady Chief Justice described newspaper articles "about 'outrageous judicial overreach', 'lefty', 'liberal', 'outrageous' judges and 'crazy' decisions"

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239 Constitution Committee, Annual evidence session with the President and Deputy President of the Supreme Court, 4 June 2025, Q 7 (Lord Reed of Allermuir),

240 Constitution Committee, Annual evidence session with the Lady Chief Justice, 26 February 2025, Q2 (Baroness Carr of Walton-on-the-Hill); Courts and Tribunals Judiciary, *Chapter 8: Open Justice*, 1 January 2025

241 Q 86 (Frances Gibb)

242 Written evidence from Baroness Carr (Lady Chief Justice of England and Wales at Judiciary of England and Wales), Dame Siobhan Keegan (Lady Chief Justice of Northern Ireland at Judiciary of Northern Ireland), and Lord Pentland (Lord President of the Court of Session at Judiciary of Scotland) (ROL0027), Dr Joelle Grogan and Professor Laurent Pech (ROL0085), Public Law Project (ROL0015), David Allen Green (ROL0107) and Professor Graham Gee (ROL0065)

243 Written evidence from Kapil Summan (ROL0108)

244 QQ 176–190 (Shabana Mahmood)

245 Q 86 (Frances Gibb)

246 Q 190 (Shabana Mahmood)

247 Constitution Committee, *The roles of the Lord Chancellor and the Law Officers* (9th Report, Session 2022–23, HL Paper 118) para 121

248 Judicial Conducts Investigations Office, *About us* [Accessed on 17 October 2025]

as examples of unacceptable personal attacks on judges.[249] Frances Gibb described how "[e]very so often, you get an eruption - often in the tabloid press - against judges".[250] These attacks often involve charges that judges are "interfering in politics" when their decisions are alleged to conflict with a particular political agenda.[251] This unnecessarily casts doubt on their impartiality, by providing the impression that they are overstepping their role and encroaching on the role of the Government or Parliament to make political decisions.[252] However, judges are enforcing the law as decided by Parliament and if "the law is wrong, it is Parliament's prerogative to change it".[253] Whilst there are examples of the media criticising individual judges throughout history[254], Frances Gibb noted that the negative discourse around judges "may have slightly worsened" in recent years and definitely had with regards to immigration cases.[255]

110. Witnesses also told us that attacks on judges could have the effect of "vilifying the judiciary as an institution", thus having an impact on the rule of law by damaging trust and confidence in the independence of the judiciary.[256] This is significant because, not only does the judiciary need to be independent, but it needs to be seen to be independent.[257] The rule of law and the legitimacy of the justice system requires that people trust that it will protect their rights as much as anyone else's. As Stephanie Needleman put it: "[i]f people think that the judiciary is biased and represents only a certain perspective or group of people within the country, why would they follow a particular court order?"[258] To counteract this, we heard that ministers and parliamentarians must "act in a less adversarial fashion towards the judiciary", develop a culture of respect for the judiciary, and "confront anti-judiciary rhetoric head-on".[259]

111. Furthermore, we were told that attacks on judges, including increasingly "hostile and inflammatory" rhetoric, has a direct impact on their safety.[260] We heard that there has been a significant increase in the online abuse of judges, described by the Lady Chief Justice as a "febrile social media abuse environment", some of which has translated into direct threats to their physical safety.[261] Judges have been subject to threats, harassment and intimidation

249 Constitution Committee, Annual evidence session with the Lady Chief Justice, 26 February 2025, Q 3 (Baroness Carr of Walton-on-the-Hill)
250 Q 87 (Frances Gibb)
251 Written evidence from JUSTICE (ROL0103) and the Institute for Constitutional and Democratic Research (ROL0086)
252 *Ibid.*
253 Constitution Committee, Annual evidence session with the Lady Chief Justice, 26 February 2025, Q 2 (Baroness Carr of Walton-on-the-Hill)
254 For example, The Times, *Judgment on Lord Goddard*, 8 June 1971
255 Q 86 (Frances Gibb)
256 Q 66 (Stephanie Needleman); written evidence from the Bar Council (ROL0095), Dr Joelle Grogan and Professor Laurent Pech (ROL0085) and the Supreme Court (ROL0100)
257 Written evidence from Baroness Carr (Lady Chief Justice of England and Wales at Judiciary of England and Wales), Dame Siobhan Keegan (Lady Chief Justice of Northern Ireland at Judiciary of Northern Ireland), and Lord Pentland (Lord President of the Court of Session at Judiciary of Scotland) (ROL0027)
258 Q 66 (Stephanie Needleman)
259 Written evidence from the Constitution Society (ROL0054) and Dr Joelle Grogan and Professor Laurent Pech (ROL0085)
260 Written evidence from the Law Society of England and Wales (ROL0066)
261 Constitution Committee, Annual evidence session with the Lady Chief Justice, 26 February 2025, Q 4 (Baroness Carr of Walton-on-the-Hill); Written evidence from Baroness Carr (Lady Chief Justice of England and Wales at Judiciary of England and Wales), Dame Siobhan Keegan (Lady Chief Justice of Northern Ireland at Judiciary of Northern Ireland), and Lord Pentland (Lord President of the Court of Session at Judiciary of Scotland) (ROL0027)

for "simply carrying out their professional duties".[262] These threats can be attempts to intimidate, influence or pressure judges into reaching particular decisions.[263] Even for very experienced or senior judges, such threats can lead them into worrying "[w]hat impact might their decision have on their family, or what is going to be out on social media the next day?".[264] In the face of these pressures, the Lady Chief Justice has spoken about the need for judges to have "moral courage", by which they need to be able to withstand "pressure, covert or overt, direct or indirect" to, at times, make decisions—on the basis of law—that will be unpopular.[265] This bravery is more difficult to maintain when judges are fearful for their, and their family's, physical safety.

112. **A culture of hostility towards the judiciary has been allowed to develop in recent years because of inappropriate, and often inaccurate, public criticism by politicians and journalists, accompanied by inadequate defence from government ministers.**

113. **Discussion and debate about court judgments and the law underpinning them, is a normal part of open justice and should be encouraged in a democracy. However, this must be distinguished from personal attacks on individual judges or on the judiciary as an institution. Such attacks are unjustified. They risk judicial independence by placing pressure on judges to decide cases in accordance with a particular set of views as well as undermining public confidence in the impartiality and integrity of the judiciary.**

114. ***Politicians and the media should refrain from publicly criticising judges, in general or individually, even when disagreeing with specific judgments or the law that underpins them. This needs to be accompanied by ministers, particularly the Lord Chancellor, willing to speak out in defence of the judiciary when it comes under attack.***

Inaccuracy and misinformation

115. The Lady Chief Justice raised particular concern about criticism of judges that stems from inaccurate reporting "based on a misunderstanding of the facts, reasoning or outcome of a case".[266] For example, the Lady Chief Justice regarded comments made at PMQs in relation to a judgment concerning the settlement of a Palestinian family in the UK as being "wholly wrong"[267] and had sought to correct the record during her annual press conference.[268] The Lady Chief Justice argued that misleading criticism such as this is

262 Written evidence from the Law Society of Northern Ireland (ROL0032)
263 Written evidence from Baroness Carr (Lady Chief Justice of England and Wales at Judiciary of England and Wales), Dame Siobhan Keegan (Lady Chief Justice of Northern Ireland at Judiciary of Northern Ireland), and Lord Pentland (Lord President of the Court of Session at Judiciary of Scotland) (ROL0027) and Dr Joelle Grogan and Professor Laurent Pech (ROL0085)
264 Constitution Committee, Annual evidence session with the Lady Chief Justice, 26 February 2025, Q 4 (Baroness Carr of Walton-on-the-Hill)
265 Lady Chief Justice, *Kalisher lecture 2024*, 19 March 2024; written evidence from Dr Martha Gayoye (ROL0084)
266 Written evidence from Baroness Carr (Lady Chief Justice of England and Wales at Judiciary of England and Wales), Dame Siobhan Keegan (Lady Chief Justice of Northern Ireland at Judiciary of Northern Ireland), and Lord Pentland (Lord President of the Court of Session at Judiciary of Scotland) (ROL0027)
267 Constitution Committee, Annual evidence session with the Lady Chief Justice, 26 February 2025, Q 2 (Baroness Carr of Walton-on-the-Hill)
268 Courts and Tribunals Judiciary, *Lady Chief Justice's annual press conference 2025*, 19 February 2025

particularly dangerous because judges are unable to speak publicly to defend their decisions.[269]

116. Misinformation about court judgments is particularly prevalent on social media. Joshua Rozenberg KC (Hon), legal commentator and journalist, told us that "the mainstream media is less influential in some ways than it was … The days when people got their opinions from leaders in the Times or any other paper have gone".[270] Lord Reed warned about "the growth of misinformation about the law, lawyers and courts on social media platforms, at a time of growing reliance on social media as a source of news and opinions".[271] This is particularly dangerous because, as Anne Applebaum described, social media has had the effect of dividing "us into not just groups of people who disagree or have different opinions, but people who have very different factual definitions and understandings of the world".[272] This makes misinformation spread on social media, including about judges and their judgments, particularly difficult to counteract.

117. **The spread of misinformation and disinformation about the judiciary on social media poses a growing challenge to the rule of law. The provision of accessible and accurate information by both the news media and public institutions is important in addressing these dangers and maintaining a strong rule of law culture.**

Communication by the courts

118. During our inquiry, it was suggested that the courts need to improve their communication with the public in order to counter misunderstandings about the role of judges and misinformation about specific judgments.[273] In relation to the spread of misleading information on social media, Frances Gibb cautioned that you "cannot put the genie back in the bottle", and instead the answer is to have "judges and other commentators speak out to explain things if there is misunderstanding—that is the answer to correcting false impressions."[274] Similarly, David Allen Green, solicitor and legal commentator, argued that "[t]he best way to combat misinformation is provide good information—that is to keep on providing direct free public access to legal information."[275]

119. As a result of the principle of open justice, a significant amount of information about the work of the courts is publicly available. For example, judgments are now available online, and "a great deal of work has been done by the judiciary to simplify the language of its judgments and make them more accessible".[276] Nonetheless, judgments often remain long and technical. Press summaries may also be produced and can be beneficial for explaining the key points of a judgment, both to journalists to support accurate reporting, and to the wider

269 Constitution Committee, Annual evidence session with the Lady Chief Justice, 26 February 2025, Q 2 (Baroness Carr of Walton-on-the-Hill); Written evidence from Baroness Carr (Lady Chief Justice of England and Wales at Judiciary of England and Wales), Dame Siobhan Keegan (Lady Chief Justice of Northern Ireland at Judiciary of Northern Ireland), and Lord Pentland (Lord President of the Court of Session at Judiciary of Scotland) (ROL0027)
270 Q 79 (Joshua Rozenberg)
271 Written evidence from Lord Reed of Allermuir, the President of the Supreme Court (ROL0100)
272 Q 154 (Anne Applebaum)
273 Q 84 (Frances Gibb)
274 Q 80 (Frances Gibb)
275 Written evidence from David Allen Green (ROL0107)
276 Q 82 (Joshua Rozenberg); Q 111 (Daniel Scrase)

public.[277] However, they are not available for all cases. As the Lady Chief Justice explained:

> "I have the luxury of being able to provide a press summary for all judgments that I deliver, because I am not doing 10 cases a day, five days a week. In the real world, without extra resources, the normal judge delivering a large number of decisions at high speed under enormous pressure is not going to have time to produce an accurate press summary."[278]

120. Lord Sumption suggested that openness had been proved to be effective when the Supreme Court heard the *Miller I* case.[279] When the Divisional Court heard the case, it had prompted the infamous 'Enemies of the People' headline. However, when the Supreme Court "arrived at roughly the same conclusion", it did not receive the same response. Lord Sumption said:

> "I am convinced that the main reason for that is that the proceedings of the Supreme Court are livestreamed, so that it was open to anybody to tune in and listen to what was going on, and a very large number of people did. When they did that, they found that this was not, as many of my fellow citizens supposed, an argument about the rights and wrongs of leaving the European Union. If you tuned in at a random moment, you would find people discussing cases about leaseholds in 1916 being broken by the Government and so on. The overall impression that you would have got was that this was a serious argument about legal and constitutional principle."[280]

121. However, the President and Deputy President of the Supreme Court expressed reservations about the courts having a more proactive approach to explaining their judgments. Lord Reed wrote that it "is particularly important that misinformation on social media should be countered, given its potential influence; but that task is beyond the capacity of the courts."[281] Instead, he argued that the court should "do all it can to assist the media and politicians to understand what we have and how valuable it is, as they are much more influential than we can hope to be in affecting public opinion."[282] Similarly, the Rt Hon Lord Hodge, Deputy President of the Supreme Court, told us that "[t]he Court has to be very careful not to enter what is seen as a political fray. I urge caution in the Court doing more than they do with the three steps—the judgment, the press release and the hand-down speech—otherwise we would be seen as advocating."[283] Instead, Lord Hodge argued that: "If people want to find the answers, we have given it to them."[284]

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277 Constitution Committee, Annual evidence session with the President and Deputy President of the Supreme Court, 4 June 2025, Q 8 (Lord Hodge); Q 92 (Frances Gibb)

278 Constitution Committee, Annual evidence session with the Lady Chief Justice, 26 February 2025, Q 5 (Baroness Carr of Walton-on-the-Hill)

279 Supreme Court, *R (on the application of Miller and another) (Respondents) v Secretary of State for Exiting the European Union (Appellant)*, [2017] UKSC 5, 24 January 2017

280 Q 30 (Lord Sumption)

281 Written evidence from the Supreme Court (ROL0100)

282 Constitution Committee, Annual evidence session with the President and Deputy President of the Supreme Court, 4 June 2025, Q 7 (Lord Reed of Allermuir)

283 Constitution Committee, Annual evidence session with the President and Deputy President of the Supreme Court, 4 June 2025, Q 8 (Lord Hodge)

284 Constitution Committee, Annual evidence session with the President and Deputy President of the Supreme Court, 4 June 2025, Q 8 (Lord Hodge)

122. **Making judgments clear and accessible increases public confidence in a fair and effective judiciary and is therefore crucial to a strong rule of law culture.** ***Judgments should be easily accessible online, and short, accurate summaries should be produced in as many cases as possible.***

123. ***The Government should work with His Majesty's Courts and Tribunals Service to ensure that the necessary resources and expertise are available to better communicate judicial decisions. The judiciary can take an active role in communicating with the public without engaging in argument, particularly in countering misleading narratives about the courts and their judgments. This includes proactively publishing press summaries and using social media to communicate with new audiences and provide accessible information about the courts. Explaining judgments, and countering disinformation about them, is not political nor is it advocacy, but is instead an important part of open justice.***

The legal profession

124. Negative rhetoric and attacks are not limited to judges and are also experienced by the legal profession more broadly. Lawyers are sometimes criticised as pursuing political agendas through the courts and attacks on lawyers can also wrongly conflate lawyers with the causes of their clients.[285]

125. This rhetoric can undermine public trust in lawyers and in the justice system as a whole.[286] We heard from lawyers that, as with judges, the impact of increasing distrust of the profession has been the experience of threats, physical intimidation and, in the most serious circumstances, physical attacks.[287] For example, in August 2024, during the period of civil unrest which was exacerbated by misleading narratives on social media, 39 law firms and advice centres were targeted.[288] The Law Society was emphatic that lawyers "should be free to do their jobs without fear of attack".[289]

126. We heard that distrust of the legal profession, whilst accelerated by negative rhetoric in the media and by politicians, is also exacerbated by "frustrations due to massive inequalities and lack of access to legal advice".[290] In essence, the difficulties in accessing legal advice and representation, and ultimately justice, challenges the idea that lawyers are acting in the public interest.[291]

127. Trust in the legal profession has also been undermined by high-profile examples of unethical practice. As Professor Robert Barrington, Centre for the Study of Corruption at the University of Sussex, argued, lawyers are fundamental to upholding the rule of law, but this requires them to act in an ethical manner and for the public to trust that they are doing so.[292] Acting ethically requires lawyers to act in the public interest and to uphold the rule of law.[293]

285 Q 61 (Stephanie Needleman); Written evidence from the Public Law Project (ROL0015), the Bar Council (ROL0095) and the Law Society of Northern Ireland (ROL0032)
286 Written evidence from the Law Society of England and Wales (ROL0066)
287 Constitution Committee, *Summary note: roundtables with legal professionals*
288 Written evidence from the Law Society of England and Wales (ROL0066)
289 *Ibid.*
290 Constitution Committee, *Summary note: roundtables with legal professionals*, 9 September 2025
291 *Ibid.*
292 Written evidence from the Centre for the Study of Corruption, University of Sussex (ROL0071)
293 *Ibid.*

128. One such high-profile event that has damaged trust in the legal profession and its ethics is the Post Office Horizon Scandal.[294] Professor Richard Moorhead, Professor of Law and Professional Ethics, University of Exeter, gave a lecture in May 2024 where he was scathing about the role of lawyers in the scandal. He argued that their role reveals a professional orthodoxy that values "deliberate concealment, a lack of candour, the retelling of half-truths, and the massaging of risk" to "suit the interests of clients stretched beyond propriety".[295] The Legal Services Board, which is the oversight regulator for legal services in England and Wales, told us that they have identified several activities that fall short of ethical standards.[296] This includes: the misuse of non-disclosure agreements to conceal wrongdoing; the use of strategic lawsuits against public participation (SLAPPs)[297] to stifle lawful scrutiny; misleading the court by distorting evidence or misrepresenting facts; and "creative compliance" to circumvent the intended purpose of the law.[298]

129. Since early 2022, and in part in response to these high-profile ethical concerns, the Legal Services Board has undertaken research to understand why poor ethical conduct was occurring. They suggested that the approach of legal professionals is shaped by education, training and their workplace experiences and that these behaviours are commonly caused by:

- a disproportionate focus on preserving client interests to the detriment of duties to the court, the rule of law and the administration of justice;
- a lack of empowerment and support to enable individual lawyers to maintain their professional ethical duties in the face of commercial pressures and powerful clients, especially for those working in-house; and,
- a lack of understanding and/or due regard to the significance of what upholding professional ethical duties means in practice, and how to prioritise different duties when they come into conflict with each other - for example, duties to the client, the court and the administration of justice.[299]

130. As part of this research, the Legal Services Board found that:

> "beyond standards set through codes of conduct and guidance, there is limited bespoke education and training and regulatory support, both at the point of qualification and throughout an authorised person's career, to help them specifically identify and understand how to apply their professional ethical duties and/or get support if they need it to maintain them."[300]

294 Constitution Committee, *Summary note: roundtables with legal professionals*, 9 September 2025; written evidence from the Legal Services Board (ROL0028)
295 Richard Moorhead, *The Post Office and their lawyers: an extraordinary orthodoxy*, 29 May 2024
296 Written evidence from the Legal Services Board (ROL0028)
297 SLAPPs are "legal actions, often libel suits, brought by wealthy and powerful individuals or bodies to intimidate, silence and financially burden journalists, campaigners and publishers reporting on matters of public interest" (Supplementary written evidence from Frances Gibb (ROL0111). Frances Gibb warned that the use of SLAPPs is a growing problem. She told us that the Coalition Against SLAPPs in Europe (CASE) reported a rise from one case in the UK in 2018 to 29 in 2022, and that the Solicitors Regulation Authority was investigating 40 SLAPPs cases in early 2024.
298 Written evidence from the Legal Services Board (ROL0028)
299 *Ibid.*
300 *Ibid.*

131. Concern about the ethical training of lawyers was echoed by Professor Moorhead in his lecture, the lawyers participating in our engagement session and other witnesses.[301] Solicitors have an obligation to understand their ethical obligations as set out by the Solicitors Regulation Authority, and the Bar Standards Board requires those it regulates to uphold ten core duties encompassing ethical practice.[302] Advice, guidance and training on how to fulfil these obligations is available from various sources including regulators and the Law Society, but is not obligatory. Attendees at our roundtables agreed that a culture of ethical practice is very important in the legal profession, but were concerned that, following qualification, there is "almost no ethical training in our profession and there is no mandated requirement for ongoing ethics training".[303] In addition, such training in legal ethics as there is has not been updated to reflect modern concerns. One participant noted that "we're still working on the basis of an ethical system which was set up in the 70s and hasn't been properly revised and reviewed" since then.[304]

132. **Trust in the broader legal profession, including solicitors, barristers, chartered legal executives and paralegals, is important for a strong rule of law culture and politicians should seek to avoid contributing to unjustified criticism of legal professionals. Nonetheless, whilst some factors influencing public perception of legal professions are outside of their control, public trust in the ethical conduct of lawyers has undoubtedly been shaken in recent years by instances of poor conduct.**

133. ***The ethical training of lawyers should be reviewed and strengthened by the relevant professional bodies. Lawyers should receive dedicated ethical training throughout their career.***

301 Richard Moorhead, *The Post Office and their lawyers: an extraordinary orthodoxy*, 29 May 2024; Constitution Committee, *Summary note: roundtables with legal professionals*, 9 September 2025; written evidence from The Centre for the Study of Corruption, University of Sussex (ROL0071), Dr Liz Curran, Associate Professor of Law, Nottingham Trent University (ROL0007)

302 Solicitors Regulation Authority, *Integrity and ethics*, 23 November 2020, Bar Standard Board, *The Core Duties*, March 2022

303 Constitution Committee, *Summary note: roundtables with legal professionals*, 9 September 2025; written evidence from the Legal Services Board (ROL0028)

304 Constitution Committee, *Summary note: roundtables with legal professionals*, 9 September 2025

CHAPTER 5: LEGAL CERTAINTY AND ACCESSIBILITY

134. Law provides the framework of rights and obligations within which governments and organisations, as well as people in their personal and professional lives, should operate. These are then enforced by independent judges in the courts. However, the rule of law speaks to the quality of law as well as its authority—not all law is necessarily compliant with the rule of law simply by virtue of being law. Law that contributes to a rule of law culture should demonstrate what is often described as legal certainty. This means that people should be able to find out what the law is that applies to them at any given time, and then they should reasonably be able to comply with it.[305]

135. The UK Parliament legislates for all areas of the UK, although legislating on devolved matters is governed by the Sewel convention.[306] The Senedd, Scottish Parliament and Northern Ireland Assembly can legislate for Wales, Scotland and Northern Ireland respectively in devolved (or transferred) matters only. The UK has three legal jurisdictions: England and Wales, Scotland, and Northern Ireland. Each legal jurisdiction also has its own system of common law, which is not made by Parliament but is instead declared by judges, deriving from custom or tradition, or, in Scotland, the legacy of a civilian legal tradition. Together, legislation and the common law, which also embraces the royal prerogative, makes up 'the law' within the UK. Given the separation of powers between Parliament and the judiciary, this chapter will focus primarily on legislation.

136. Dr Ronan Cormacain, consultant legislative counsel, told us that when assessing whether legislation is compliant with rule of law principles, a useful distinction can be made between the form and substance of legislation. The form refers to how legislation is drafted, structured and presented, whilst the substance refers to the policy content of the law.[307] We have deployed this helpful distinction in this chapter.

The form of legislation

137. We heard from witnesses to our inquiry that, to achieve legal certainty, the form of legislation should display certain characteristics. In particular, legislation should be clear, accessible, prospective, predictable, possible to obey, and not in conflict with other legislation.[308] These can be further explained as:

- **Clear**—the law should be understandable, so that those subject to the law know what is expected of them.
- **Accessible**—the law should be publicly available, so that those subject to the law can find it.

305 See, for example: Written evidence from Amnesty International and Immigration Law Practitioners' Association (ROL0034), the Society of Labour Lawyers (ROL0037), Bren Albiston and Stephen Hockman KC (ROL0052), the Constitution Society (ROL0054), Leeds Law School at Leeds Beckett University (ROL0063), James Milton (ROL0009), Malcolm Ramsey (ROL0053), the Bar Council (ROL0095), Lord Stewart of Dirleton KC (ROL0096), and the Supreme Court (ROL0100)

306 Also known as legislative consent, the Sewel convention is that the UK Parliament will not normally legislate on a matter within devolved competence without the relevant devolved legislature having passed a legislative consent motion.

307 Q 33 (Dr Ronan Cormacain)

308 See, for example: Written evidence from Rt Hon James Wolffe KC (ROL0112) and the Supreme Court (ROL0100) and Q 35 (Sir Stephen Laws)

- **Prospective**—the law should not normally apply retroactively. It should apply only to later behaviour and situations and not to those which predate it. In particular, in a criminal context, a person should not be guilty of an offence for an action that was legal at the time of commission.
- **Predictable**—the law should be relatively constant and stable over time, so that it does not change so frequently as to make compliance impossible in practical terms.
- **Possible to obey**—the law should not impose obligations that are in practical terms impossible to comply with.
- **Not in conflict with other legislation**—the law should not contain provisions inconsistent with others, either in the same piece of legislation or across the statute book, making one or other impossible to comply with.

138. The Office of Parliamentary Counsel is a team of government lawyers within the Cabinet Office responsible for drafting legislation. They draft all government bills, whilst the drafting of secondary legislation often takes place at department level. In drafting bills, parliamentary counsel seek to produce 'good law', which they define as law that is necessary, clear, coherent, effective, and accessible.[309] This closely reflects the rule of law requirements of form that we have identified in our inquiry, and suggests that government lawyers should have legal certainty in mind when drafting.

139. Within Government, the Parliamentary Business and Legislation Cabinet Committee considers the delivery of the Government's legislative programme and scrutinises Bills before their introduction to the House.[310] The Attorney General is a member of that Committee and assured us that its members are in agreement about "the need to ensure the highest standards possible when it comes to legislation".[311] Beyond the Committee, Law Officers provide formal legal advice in relation to legislation including during the preparation of legal memorandums, on issues of particular difficulty such as retrospectivity, early commencement, devolution and on the vires of secondary legislation.[312]

140. **Legislation that is compliant with the rule of law typically displays certain characteristics. It is clear, accessible, prospective, predictable, possible to obey, and consistent with other legislation. *Legislative drafters and the Government should seek to ensure that Bills meet these requirements.***

141. **Despite the formal processes in place within Government for legislation to be scrutinised ahead of its introduction to Parliament, which includes the involvement of the Law Officers, we have raised a**

309 Written evidence from the UK Government (ROL0104); 'good law' is discussed at further length in the Committee's 2017 report, *The Legislative Process: Preparing Legislation for Parliament*.
310 Cabinet Office, *Guide to Making Legislation 2025, 10 September 2025*
311 QQ 194 and 204 (Lord Hermer)
312 Cabinet Office, *Guide to Making Legislation 2025, 10 September 2025*; Written evidence from Dr Conor Casey (ROL0055)

number of concerns with the clarity of legislation, including during this parliamentary session.[313]

142. Witnesses repeatedly raised issues regarding the clarity and accessibility of the law made by Parliament.[314] In many instances, legislation is difficult to navigate, for practitioners and lay people alike, on account of its complexity. This problem is compounded by the volume of law itself. Primary and secondary legislation can be found on the legislation.gov.uk website which is managed and updated by the National Archives. Whilst online provision has improved its accessibility, applicable law can nonetheless be difficult to both locate and comprehend.[315] Dr Cormacain sought to illustrate this using the analogy of a library. He said:

> "it is no good to simply say, 'All the law is available on legislation.gov.uk. It is there for the citizen. You can look it all up'. That is like telling someone, 'There is a library over there but no catalogue'. You would have no way of knowing which book you need to find to answer your question."[316]

143. He further explained why law is increasingly complex, saying: "[w]e make primary legislation and then we make secondary legislation under it. Then we also make lots of codes and guidance under that".[317] However, on legislation.gov.uk, "you will not be able to track down all that contextually relevant information that would assist you in knowing what the law is".[318] This was echoed by Dr Ruth Fox, Director of the Hansard Society, who described how legislation often requires individuals or organisations to have regard to guidance, but that this guidance is often very difficult to find. She said, it "is not necessarily deliberately hidden away but [it is] difficult to locate online and not linked up with other aspects of the legislation to which it applies".[319]

144. A further complication is that legislation is not the only source of law. As a participant in our engagement session with lawyers told us, "our law is an incredibly complex system because it's both legislation and case law, and the case law is always changing and it's very difficult to access".[320] Case law allows legislation "to live and breathe", by clarifying its meaning in specific circumstances that are not always anticipated by the legislation itself.[321] In turn, subsequent legislation can also seek to "correct" decisions made by case law.[322] Therefore, whilst "the common law is not as accessible as statute law", an understanding of both is required to fully understand the law on any particular issue.[323] As noted above, this complexity is exacerbated by secondary legislation and by the growing tendency to augment statute by way of codes of practice and legislative guidance made by ministers or

313 For example, in our report on the Sentencing Guidelines (Pre-Sentence Reports) Bill, we concluded that "The Bill's 'non-exhaustive list' of 'personal characteristics' is insufficiently clear and introduces unnecessary legislative uncertainty in relation to the potential reach of the Bill." Sentencing Guidelines (Pre-sentence Reports) Bill, clause 6 [Bill 8 (2025–25)]

314 See, for example: Q 35 (Dr Ruth Fox and Dr Ronan Cormacain), , Written evidence from the Faculty of Advocates (ROL0012), Linklaters LLP (ROL0017) and Mr James Palmer (ROL0097)

315 Written evidence from the Faculty of Advocates (ROL0012) and Dr Martha Gayoye (ROL0084)

316 Q 36 (Dr Ronan Cormacain)

317 *Ibid.*

318 *Ibid.*

319 Q 44 (Dr Ruth Fox)

320 Constitution Committee, *Summary note: roundtables with legal professionals*, 9 September 2025

321 *Ibid.*

322 *Ibid.*

323 Q 36 (Sir Stephen Laws)

others. This adds an additional layer of complexity since it is not always clear what is binding law and what is merely advisory or suggested guidance. This undoubtedly introduces complexity in identifying what the law is, especially for the ordinary citizen.

145. **In the UK, whole areas of the law can be increasingly impenetrable with serious issues regarding clarity and accessibility. It is challenging for individuals and businesses, even with professional help, to identify the law that applies to them and to understand the implications of that. This undermines a rule of law culture in which people should be aware of their legal obligations in order to comply with them.**

146. ***The Government should explore options available for enhancing the functionality of legislation.gov.uk to improve accessibility. It should be easier for users to find all the relevant legislation in a subject area and to identify the relationships between different pieces of primary and secondary legislation as well as associated codes of practice and guidance. It should also be possible to easily access the appropriate legislative framework from relevant pages on other government websites.***

147. These difficulties have been compounded as the volume and complexity of the law has increased significantly in recent decades, making it more difficult for those subject to the law to know what is expected of them.[324] To illustrate the complexity of the law, Shameem Ahmad provided an example of a piece of legal advice that she had produced for a client in relation to a contract change. To produce the advice, she had had to consult "European legislation, primary legislation, secondary legislation, guidance, code, example contracts and cases related to relevant provisions in each of those".[325]

148. A participant in our roundtables with lawyers described how this complexity is compounded by frequent changes in the law. They said, referring specifically to immigration law, that "things get really, really complicated very quickly because the immigration legislation changes all the time … I'm an advisor and I'm struggling to keep up. I don't know how non-lawyers keep up with it."[326] Large organisations are likely to have the resources to be able to keep up to date with changes in the law and to update their guidance and training materials accordingly. However, smaller organisations find this much more difficult and find the associated costs prohibitive.[327] These issues were described in the written evidence we received from Linklaters LLP, which said:

> "Major law firms have entire departments to keep their lawyers up to date. Legal publishers employ teams of lawyers to update and cross reference their online resources. Major banks, utilities and other business organisations devote considerable resources to tracking the regulations to which they are subject. This is indicative of a significant problem: individuals and smaller business organisations are at a considerable disadvantage when it comes to understanding, let alone abiding by, the legal framework; and even the largest organisations find it increasingly difficult to keep up with what is expected of them, let alone to place

324 Constitution Committee, *Summary note: roundtables with legal professionals*, 9 September 2025
325 Q 46 (Shameem Ahmad)
326 Constitution Committee, *Summary note: roundtables with legal professionals*, 9 September 2025
327 *Ibid.*

themselves in a position where they have a realistic prospect of achieving the level of compliance that is increasingly demanded."[328]

149. The Cabinet Office's *Guide to Making Legislation* contains explicit reference to considering whether new legislation is necessary to achieve a Department's goals, noting that parliamentary time is limited and it is possible that administrative means, secondary legislation or a legislative reform order could be used instead.[329] Nonetheless, witnesses expressed concern at the tendency for governments to legislate in order to demonstrate that they are tackling a problem, without considering whether that legislation is really necessary and without assessing if it exacerbates legal complexity.[330] Stephanie Needleman provided the example of behavioural control orders, arguing that "every time a particular harm arises, the reaction is to impose one of these orders", resulting in a "really confusing and complex system" where different behavioural control orders overlap with each other and it is difficult to assess if certain behaviour will result in an individual being subject to one of these orders.[331] Similarly, she argued that the new offence of assaulting a retail worker, contained in the Crime and Policing Bill, was "completely unnecessary" because assault was "already an offence and it being against a retail worker is already an aggravating factor".[332] John Larkin described duties in the Northern Ireland Act 1998 for the Executive Committee to create certain strategies, such as in relation to the Irish language or poverty, as further examples of this tendency, because "[n]o child is given a pair of shoes by the creation of an anti-poverty strategy".[333] Accordingly, Dr Cormacain argued that "legislative restraint" is needed.[334]

150. **Performative, overly complicated and unnecessary legislation weakens the rule of law.** ***The Cabinet Office Guide to Making Legislation states that new legislative proposals should be assessed for their necessity, including a review of existing law and consideration of alternative means of achieving the policy outcome. The outcome of this assessment should be included in a bill's explanatory memorandum to support legislative scrutiny.***

151. In complex areas of the law, reform or consolidation can provide a means for simplification. The work is often done by the Law Commission, which keeps the law of England and Wales under review and recommends specific reforms where needed.[335] Dr Cormacain described an example of where consolidation had been used. He said the "Companies Act 2006 consolidated lots of legislation. It also codified the common law, which we could not find everywhere, and put it into one or two sections in that Act", which he described as being "very helpful".[336] However, he cautioned that a rapid pace of legislative change, in which the law is constantly changing, limits the utility of consolidation by making it "null and void" almost immediately, suggesting that it would need to be accompanied by legislative restraint to be most effective.[337] Moreover, Dr Fox told us that, in recent years, an

328 Written evidence from Linklaters LLP (ROL0017)
329 Cabinet Office, *Guide to Making Legislation 2025, 10 September 2025*
330 Q 56 (Shameem Ahmad)
331 Q 62 (Stephanie Needleman)
332 *Ibid.*
333 Q 118 (John Larkin)
334 Q 36 (Dr Ronan Cormacain)
335 Law Commission, *About us*
336 Q 54 (Dr Ronan Cormacain)
337 *Ibid.*

"interesting development" has been that governments have not acted upon Law Commission recommendations for consolidation, such as in relation to electoral law.[338]

152. ***Where the Law Commission proposes consolidation activity, or other opportunities to simplify existing legislation, the Government should seek to make legislative time available for this.***

Delegated powers

153. Several witnesses expressed concern at the "excessive" delegation of power to government ministers, which they argued has become an increasing problem in recent years and has hindered effective parliamentary scrutiny.[339] This includes concern at the increase in Henry VIII powers, which enable a minister, by secondary legislation, to amend an Act of Parliament.[340]

154. Delegated powers are an important, and necessary, part of the legislative process. When created for appropriate purposes, they allow Parliament to focus its time and effort on scrutinising important policy decisions in primary legislation, leaving the technical detail of implementation to secondary legislation.[341] Concern arises when delegated powers are increasingly being created and subsequently used to make policy that should more appropriately be made by primary legislation. It is also the case that bills can be so replete with delegated powers that the legislation takes on merely 'skeletal' form, leaving most of the legislative decision-making to ministers.[342] As the Attorney General explained in his Bingham Lecture in November 2024:

> "Secondary legislation has an indispensable role to play in a modern, regulated society. There is no suggestion that Government should not take or exercise delegated powers. However, excessive reliance on delegated powers, Henry VIII clauses, or skeleton legislation, upsets the proper balance between Parliament and the executive. This not only strikes at … rule of law values … but also at the cardinal principles of accessibility and legal certainty."[343]

155. Secondary legislation made using delegated powers is subject to significantly less scrutiny than primary legislation.[344] We heard complaints that instruments subject to affirmative approval by Parliament may receive comparatively short debate, and those to which the negative procedure applies, which make up the majority of statutory instruments, may not be debated at all.[345] The limited opportunity for scrutiny makes it difficult for parliamentarians to identify rule of law concerns within secondary legislation. It is also difficult to resolve these issues if they are identified, as it is not possible to amend

338 Q 54 (Dr Ruth Fox)
339 Written evidence from Sir Stephen Laws (ROL0106), Written evidence from the Public Law Project (ROL0015), Bren Albiston and Stephen Hockman KC (ROL0052)
340 Constitution Committee, *Legislative standards of the Constitution Committee: 2017–2024*, 6 May 2025 paras 68-70
341 Constitution Committee, *The Legislative Process: The Delegation of Powers* (16th Report, Session 2017–2019, HL Paper 225)
342 In our report, *The Legislative Process: The Delegation of Powers*, we concluded that skeleton bills "inhibit parliamentary scrutiny and it is difficult to envisage any circumstances in which their use is acceptable".
343 Rt Hon Lord Hermer KC, *Attorney General's 2024 Lecture on the rule of law*, 15 October 2024
344 Written evidence from University of Leeds, School of Law (ROL0048), Dr Ruth Fox, and Bren Albiston and Stephen Hockman KC (ROL0052)
345 Written evidence from JUSTICE (ROL0103)

secondary legislation or for the House of Lords to invite the Commons to think again when a disagreement exists.[346] The Secondary Legislation Scrutiny Committee has also recently raised concerns about "deficient" Explanatory Memorandums accompanying statutory instruments, which are "missing key information or are simply incorrect".[347] We heard that in consequence Parliament is "prevented from doing [its] job of holding the government to account and scrutinising legislation".[348] These concerns are even greater for codes of practice, guidance, and other forms of "disguised legislation" which can have a similar effect to law, but receive little to no parliamentary oversight or scrutiny. Alongside the Delegated Powers and Regulatory Reform Committee and the Secondary Legislation Scrutiny Committee, we have long argued that using guidance in this way should be avoided.[349]

156. There is a risk that limited scrutiny results in secondary legislation being made with rule of law issues that have not been resolved during the parliamentary process. Stephanie Needleman argued that the *UNISON*[350] case is an example of this in practice. In this case, the Supreme Court decided that the Employment Tribunals and the Employment Appeal Tribunal Fees Order 2013 was unlawful because it set employment tribunal fees at a level which had the practical effect of preventing access to justice.[351] Stephanie Needleman suggested that "the lack of scrutiny perhaps contributed to the level at which those fees were set being extraordinarily high".[352] However, Sir Stephen Laws KC, former First Parliamentary Counsel, argued that "when a statutory instrument does something really important that people care about, it will get plenty of scrutiny", and suggested that the order at the centre of the UNISON case was an example of this. He noted that the regulations had been "closely scrutinised", particularly by the House of Commons Justice Committee, but noted that the "parliamentary scrutiny was aborted by the Supreme Court decision".[353]

157. Not only is there a risk that excessively broad delegated powers limit Parliament's ability to scrutinise legislation for its rule of law implications, but the use of these powers can also create rule of law issues in themselves.[354] When delegated powers are broad or vaguely worded, they introduce discretion into the lawmaking process by giving ministers significant powers which they can exercise with minimal scrutiny.[355] This can introduce

346 Q 64 (Stephanie Needleman), Written evidence from JUSTICE (ROL0103)
347 Secondary Legislation Scrutiny Committee, *Interim Report on the Work of the Committee in Session 2024–26* (35th Report, Session 2024–26, HL Paper 174) and Strathclyde Review, Secondary legislation and the primary of the House of Commons, December 2015
348 Written evidence from University of Leeds, School of Law (ROL0048)
349 Committee, *Legislative standards of the Constitution Committee: 2017–2024,* 6 May 2025 and Secondary Legislation Scrutiny Committee, *Government by Diktat: A call to return power to Parliament* (20th Report, Session 2021–22, HL Paper 205) and Delegated Powers and Regulatory Reform Committee, *Democracy Denied? The urgent need to rebalance power between Parliament and the Executive* (12th Report, Session 2021–22, HL paper 106)
350 Supreme Court, *R (on the application of UNISON)(Appellant) v Lord Chancellor (Respondent),* [2017] UKSC 51, 26 July 2017
351 *Ibid.*
352 Q 64 (Stephanie Needleman)
353 Q 49 (Sir Stephen Laws)
354 Written evidence from the Public Law Project (ROL0015)
355 Constitution Committee, *The Legislative Process: The Delegation of Powers* (16th Report, Session 2017–2019, HL Paper 225) para 41 and written evidence from the Public Law Project (ROL0015), the Institute for Constitutional and Democratic Research (ROL0086) and Dr Ronan Cormacain (ROL0101)

uncertainty and unpredictability into the law, not least because the limited scrutiny, debate and amendment that secondary legislation receives means that ambiguous or unclear drafting is unlikely to be rectified.[356] Uncertainty is a particular issue with skeleton bills (those which set out the principles for a policy but leave the detail as to how it will operate in reality to be filled in later by ministers through delegated powers), which we have previously described as the "extreme end of the spectrum of legislative uncertainty", as well as with Henry VIII powers.[357] The excessive use of delegated powers, and failure to circumscribe these appropriately, challenges the rule of law principle that government power should be exercised according to law and not arbitrarily or by discretion.

158. An example given of where secondary legislation has effectively been used to exercise discretion with minimal scrutiny was the Public Order Act 1986 (Serious Disruption to the Life of the Community) Regulations 2023. These regulations were used to define the meaning of 'serious disruption' within the Police, Crime, Sentencing and Courts Act 2022 as 'more than minor' disturbance, thus impacting the threshold at which police can impose conditions on a protest.[358] This was significant because Parliament had previously rejected the proposal to define 'serious disruption' as 'more than minor' during the passage of the Public Order Act 2023, considering the definition to be too broad. Even so, the Government used a delegated power contained within the 2022 Act to introduce this definition, which was later deemed unlawful by the courts.[359]

159. We were told that to mitigate the risks around limited scrutiny and legislative uncertainty, delegated powers, especially Henry VIII powers, need to be fully justified and clearly and narrowly drafted.[360] The Government told us that they have added a new 'delegated powers toolkit' to the Guide to Making Legislation, which is a guidance document for bill teams taking primary legislation through Parliament. They explained that this new toolkit "seeks to tackle excessive use of delegated powers by putting greater focus on the justification for their use and requiring more careful consideration of appropriate safeguards".[361] The toolkit provides civil servants with guidance on the following issues:

    - What is the right balance between primary and secondary legislation?
    - What is the proper role for delegated powers?
    - Where will delegated powers not generally be justifiable?

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356 Written evidence from the Public Law Project (ROL0015) and Bren Albiston and Stephen Hockman KC (ROL0052)

357 Constitution Committee, *The Legislative Process: The Delegation of Powers* (16th Report, Session 2017–2019, HL Paper 225) para 51; written evidence from the Bar Council (ROL0095) and Bren Albiston and Stephen Hockman KC (ROL0052)

358 Written evidence from University of Leeds, School of Law (ROL0048), JUSTICE (ROL0103), Secondary Legislation Scrutiny Committee, *38th Report of Session 2022–23* (38th Report, Session 2022–23, HL Paper 189) paras 11–25

359 Written evidence from University of Leeds, School of Law (ROL0048), and JUSTICE (ROL0103) and Court of Appeal (Civil Division), *Liberty v Secretary of State for the Home Department*, [2025] EWCA Civ 571, 2 May 2025

360 Written evidence from Amnesty International UK and the Immigration Law Practitioners' Association (ROL0034), and the Law Society of England and Wales (ROL0066)

361 Written evidence from the UK Government (ROL0104)

- In what circumstances may it be appropriate to take powers that enable primary legislation to be amended (so called 'Henry VIII' powers)?
- What alternatives should be considered when deciding whether to take a delegated power?
- What safeguards should be considered when it has been decided to take a delegated power?[362]

160. **The granting of delegated powers to ministers and their subsequent use to make secondary legislation is a normal, and appropriate, part of the legislative process. However, given that secondary legislation is subject to more limited parliamentary scrutiny than primary legislation, if excessive powers are granted to ministers, there is a risk that the executive will use this considerable discretion to evade appropriate scrutiny and make policy changes without adequate parliamentary oversight. This risks violating the fundamental rule of law principles that government power should be exercised according to law and not arbitrarily or by discretion and that this should be enforceable.**

161. ***The Government should not introduce bills with broad or vaguely worded delegated powers that leave considerable discretion to ministers, nor should delegated powers enable major policy changes. Skeleton legislation should be avoided.***

162. ***We welcome the Government's new 'delegated powers toolkit' in the 'Guide to Making Legislation'. We recommend that bill teams consult this, alongside the delegated powers section of our 'Legislative standards of the Constitution Committee: 2017–2024' and the work of the Delegated Powers and Regulatory Reform Committee when beginning the process of drafting legislation.***

Substance of legislation

163. In addition to its form, the substance, or content, of legislation can have rule of law consequences. As Lord Reed told us: the "fact that something is permitted by legislation does not necessarily mean that it is compatible with the rule of law".[363] Legislation could, for example, be used to prevent access to the courts, restrict the independence of judges, or allow for the arbitrary exercise of power.[364] The doctrine of parliamentary sovereignty means that Parliament can make any law. It is not bound by its predecessors, nor can primary legislation be struck down by the courts. Therefore, even though the rule of law is a foundational constitutional principle, Parliament can pass legislation that directly challenges it. This is because, as Professor King explained, "[u]nder this constitution we give effect to the legislative supremacy of Parliament as the supreme constitutional principle".[365]

164. Several witnesses argued that ouster clauses are an example of the substance of legislation challenging the rule of law. Ouster clauses are provisions which seek to prevent the courts from adjudicating on a decision in certain

362 Cabinet Office, *Guide to making legislation*, 10 September 2025
363 Constitution Committee, Annual evidence session with the President and Deputy President of the Supreme Court, 4 June 2025, Q 2 (Lord Reed)
364 Written evidence from Dr Ronan Cormacain (ROL0101)
365 Q 10 (Professor Jeff King)

circumstances in which they would otherwise have done so.[366] They have, in recent years, been included in several pieces of legislation, including, the Dissolution and Calling of Parliament Act 2022, the Illegal Migration Act 2023, and the Safety of Rwanda (Asylum and Immigration) Act 2024.[367] However, we heard that ouster clauses "are a direct affront to the rule of law and the principle of access to justice".[368] This is because, in removing the ability of the courts to determine whether or not the Government has acted lawfully, it creates the space for the Government to break the law.[369] This is in direct opposition to the core rule of law ideals that there should be government according to law and that recourse to the courts should be available to enforce this.[370]

165. Nonetheless, Professor King argued that despite being "unambiguously a threat to the rule of law", the courts should give these clauses effect in order to respect parliamentary sovereignty.[371] The courts have accepted Parliament's authority to legislate in this way in a series of recent cases.[372] Indeed, in a number of cases concerning s.2 of the Judicial Review and Courts Act 2022—a partial ouster clause, which preserves judicial review in only certain limited circumstances, such as in relation to bad faith decisions or a breach of the principles of natural justice—the courts have accepted Parliament's authority to legislate to oust the courts' jurisdiction.[373] Nonetheless, witnesses to this inquiry, and this Committee in the past, have been clear that the risk of undermining the rule of law, and the importance of access to justice, means that Parliament should avoid resorting to ouster clauses unless absolutely necessary.[374]

166. A further example given of Parliament legislating to challenge the rule of law was the passage of the Post Office (Horizon System) Offences Act 2024. Dr Fox argued that this Act was a clear illustration of the fact that "Parliament can legislate contrary to the rule of law … if there is the political will and support to do so".[375] This Act quashed, on a blanket basis, the convictions of sub-postmasters relating to the Horizon scandal. In so doing, it intervened

366 Constitution Committee, *Legislative standards of the Constitution Committee: 2017–2024*, 6 May 2025, para 76; Joint Committee on Human Rights, *Judicial Review and Courts Bill* (10th Report, Session 2021–2022, HC 884, HL120) paras 42–48

367 Constitution Committee, *Dissolution and Calling of Parliament Bill* (8th Report, Session 2021–22, HL Paper 100); Constitution Committee, *Illegal Migration Bill* (16th Report, Session 2022–23, HL Paper 200); Constitution Committee, *Safety of Rwanda (Asylum and Immigration) Bill* (3rd Report, Session 2023–24, HL Paper 63)

368 Written evidence from University of Leeds, School of Law (ROL0048). See also, for example: Q 10 (Professor Jeff King), Q 26 (Baroness Hale of Richmond), written evidence from The Constitution Society (ROL0054), Institution for Constitutional and Democratic Research (ROL0086) and Dr Ronan Cormacain (ROL0101)

369 Q 26 (Baroness Hale of Richmond)

370 Written evidence from the University of Worcester's Constitutions, Rights and Justice Research Group (ROL0040) and Dr Ronan Cormacain (ROL0101)

371 Q 10 (Professor Jeff King)

372 See, for example: High Court, R (Oceana) v Upper Tribunal, [2023] EWHC 791, 4 April 2023; Court of Appeal, R (LA (Albania)) v Upper Tribunal, [2023] EWCA Civ 1337, 16 November 2023; High Court, R (Karim) v Upper Tribunal, [2024] EWHC 1368 (Admin), 6 June 2024.

373 Q 10 (Professor Jeff King), written evidence from Dr Ronan Cormacain (ROL0101), Constitution Committee, *Judicial Review and Courts Bill* (12th Report, Session 2021–22, HL Paper 160)

374 Written evidence from University of Leeds, School of Law (ROL0048), the Law Society of England and Wales (ROL0066) and Constitution Committee, *Legislative standards of the Constitution Committee: 2017–2024*, 6 May 2025

375 Q 49 (Dr Ruth Fox)

directly in the judicial process to reverse verdicts reached by courts.[376] In our report on that Bill, we said:

> "Parliament is legislatively supreme, but that does not mean that it can, with constitutional propriety, assert that supremacy to undermine other constitutional values, in particular the rule of law. Put another way, under our constitution it is impossible for Parliament to behave unlawfully since its lawful power is unlimited, but it can behave unconstitutionally."[377]

167. Therefore, when Parliament passes legislation that purports to undermine rule of law principles, it is acting unconstitutionally. However, as Parliament would be exercising its power to do so, given its legislative supremacy, the only remedies are political in nature. How this operates was described by Sir Stephen Laws: parliamentarians "behave like good chaps because it is politically damaging not to … As long as it is politically damaging not to respect the rule of law, people will respect it".[378] Without a political culture that respects the rule of law, parliamentary sovereignty can be used to undermine it. For this reason, Professor Tomkins said that parliamentary sovereignty "is a great power and it needs to be exercised with great responsibility".[379] Similarly, Professor Richard Ekins KC (Hon), Head of Policy Exchange's Judicial Power Project, said that the rule of law requires "Parliament to exercise its vast legislative power with care",[380] and the Institute for Constitutional and Democratic Research said that the rule of law "only survives so long as Parliament exercises self-restraint".[381]

168. However, Lord Reed cautioned against viewing parliamentary sovereignty and the rule of law as constitutional principles that necessarily conflict. He said they "are twin pillars of our constitution rather than principles in conflict with one another". He argued that parliamentary sovereignty provides for the rule of law by creating the legal framework through which power is exercised, whilst the courts ensure that the laws created by Parliament are enforced. He said that "[b]y interpreting and applying the legislation that Parliament passes, the judiciary support and enforce the sovereignty of Parliament".[382]

169. **Parliamentary sovereignty is the central principle of the UK constitution. It means that Parliament has the power to pass any law. However, with authority comes responsibility, and it is incumbent upon Parliament when making law to be mindful of the importance of the rule of law, and that to undermine it would be unconstitutional.**

Legislative scrutiny

170. Since the rule of law speaks to the quality of law as well as its authority, Parliament also has a positive role in upholding the principle when scrutinising and passing draft legislation. If it appears that draft legislation is inconsistent with, or a threat to, the rule of law it is for Parliament to identify and remedy

376 Constitution Committee, *Post Office (Horizon System) Offences Bill* (6th Report, Session 2023–24, HL Paper 126), para 12
377 *Ibid.* para 13
378 Q 47 (Sir Stephen Laws)
379 Q 11 (Professor Adam Tomkins)
380 Written evidence from Professor Richard Ekins (ROL0077)
381 Written evidence from the Institute for Constitutional and Democratic Research (ROL0086)
382 Written evidence from The Supreme Court (ROL0100)

errant provisions before they become law.[383] This is a responsibility of both Houses of Parliament and their committees.

171. This Committee, for example, examines the constitutional implications of all public bills coming before the House of Lords, and we report to the House when we identify constitutional issues, including in relation to the rule of law.[384] Other committees, including the Delegated Powers and Regulatory Reform Committee and the Joint Committee on Human Rights, also undertake important legislative scrutiny work in this regard.[385] Civil society organisations, such as think tanks, can also play an important role in drawing parliamentarians' attention to rule of law issues during the passage of legislation.[386] For example, the Bingham Centre for the Rule of Law regularly publishes its analysis on bills that have rule of law implications.[387]

172. A number of witnesses argued that parliamentary scrutiny of legislation for its rule of law implications is effective.[388] Dr Fox provided as an example the passage of the Retained EU Law (Revocation and Reform) Act 2023, during which a rule of law issue was identified in relation to a proposed sunset clause. This clause set a date beyond which most retained EU law would no longer have effect in UK law. This was identified as a concern from the perspective of legal certainty by parliamentarians because it was unclear whether or not ministers had been able to identify all relevant retained EU law.[389] As a result of political pressure, this clause was removed during passage of the bill.[390] Similarly, an example we heard of effective legislative scrutiny in the Scottish Parliament was of the Regulation of Legal Services (Scotland) Bill, which sought to give the Scottish Government powers over the regulation of solicitors and advocates. As a result of significant concern over the effect that this would have on the independence of the legal profession in Scotland, the provision was removed from the Bill.[391]

173. However, others suggested that rule of law scrutiny of legislation is not always effective. It can be hindered by legislative practices, such as the fast-tracking of bills or the use of placeholder clauses, both of which have become increasingly common in relation to government bills, limiting the opportunity for detailed and rigorous parliamentary scrutiny.[392] The quality of scrutiny can also be affected by the volume and complexity of legislation, and the level of party control.[393] One piece of legislation passed by Parliament that was frequently referred to in evidence as undermining the rule of law was the

383 Written evidence from The Supreme Court (ROL0100) and the UCL Constitution Unit (ROL0102)
384 Constitution Committee, *Reviewing the Constitution: Terms of Reference and Method of Working* (1st Report, Session 2000–2001, HL Paper 11), paras 11; examples can be found in: Constitution Committee, *Legislative standards of the Constitution Committee: 2017–2024*, 6 May 2025
385 Q 16 (Professor Jeff King)
386 Q 52 (Dr Ruth Fox), supplementary written evidence from Ronan Cormacain (ROL0101)
387 *Ibid.* Bingham Centre bill analysis can be found here: https://binghamcentre.biicl.org/publications
388 QQ 48 (Sir Stephen Laws) and 53 (Dr Ronan Cormacain)
389 Q 53 (Dr Ruth Fox)
390 *Ibid.*
391 Written evidence from the Faculty of Advocates (ROL0012) and the Law Society of Scotland (ROL0115)
392 Written evidence from the UCL Constitution Unit (ROL0102), the Bar Council (ROL0095) and Amnesty International UK and the Immigration Law Practitioners' Association (ROL0034), Q 42 (Dr Ruth Fox); Constitution Committee, *Nationality and Borders Bill* (11th Report, Session 2021–22, HL Paper 149); Constitution Committee, *Corporate Insolvency and Governance Bill* (7th Report, Session 2019–21, HL Paper 76)
393 Written evidence from Amnesty International UK and the Immigration Law Practitioners' Association (ROL0034)

Illegal Migration Act 2023.[394] A group of academics from the University of Leeds told us that this Act is problematic for several reasons, including that it includes retrospective provisions, permits arbitrariness in executive decision making, and includes several ouster clauses restricting judicial oversight.[395]

174. Professor Meg Russell and Lisa James, UCL Constitution Unit, argued that "[g]overnments should refrain from asking Parliament to act in ways … which may erode the rule of law" and "Parliament must be willing to stand up to a Government which asks it to do so".[396] This requires a culture of respect for the rule of law amongst parliamentarians, which Dr Cormacain suggested does not currently exist.[397] He argued that there "needs to be a change in political culture", so that when rule of law issues are identified, such as by select committees, this will have "a major impact on whether an Act passes".[398] The Bar Council endorsed the view of the Bingham Centre that such a culture could be developed by making greater use of explicit references to the rule of law in parliamentary debates, as this would highlight its relevance to a broad array of policy areas.[399]

175. Creating such a political culture would require increased understanding of the rule of law amongst parliamentarians, both what it means as a constitutional principle and the benefits that upholding it brings to our society.[400] Frances Gibb told us that, in a recent series of interviews she conducted with judges, they "said that politicians had a very poor understanding of the justice system, the constitutional principles underlying it, and the relations between the Executive and the judiciary".[401] This sentiment was echoed by others who agreed that there "is a widespread lack of understanding of the rule of law" among politicians.[402] JUSTICE suggested that this is largely down to poor public legal education, exacerbated by the fact that parliamentarians do not receive any mandatory introductory training introducing them to concepts such as the rule of law and their role in upholding them.[403]

176. Several initiatives have been developed in recent years to help improve parliamentarians' understanding of the rule of law and its component parts, such as the justice system. Following the 2024 general election, a leaflet and video, prepared by the Supreme Court, Lady Chief Justice of England and Wales, Lord President of Scotland, and the Lady Chief Justice of Northern Ireland, were shared with all new and returning MPs. This explained the relationship between the courts and Parliament, as well as how the legal system works.[404] In addition, JUSTICE circulated its 'Law for Lawmakers' guide to MPs, which explains key legal and constitutional principles.[405]

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394 Written evidence from Amnesty International UK and the Immigration Law Practitioners' Association (ROL0034), and University of Leeds, School of Law (ROL0048)
395 Written evidence from University of Leeds, School of Law (ROL0048)
396 Written evidence from the UCL Constitution Unit (ROL0102)
397 Written evidence from Dr Ronan Cormacain (ROL0101)
398 *Ibid.*
399 Written evidence from the Bar Council (ROL0095)
400 Written evidence from James Wolffe KC (ROL0112), JUSTICE (ROL0103) and The Constitution Society (ROL0054)
401 Q 83 (Frances Gibb)
402 Written evidence from JUSTICE (ROL0103)
403 *Ibid.*
404 Written evidence from the Lady Chief Justice of England and Wales (ROL0075); Constitution Committee, Annual evidence session with the President and Deputy President of the Supreme Court, 4 June 2025, Q 5 (Lord Reed of Allermuir) and Q 88 (Frances Gibb)
405 Written evidence from JUSTICE (ROL0103)

177. **One of the most important ways in which Parliament upholds the rule of law is through identifying and resolving rule of law issues as part of its legislative scrutiny function. Parliamentary committees provide vital assistance in this work. *To assist Parliament, and its Committees, to effectively scrutinise legislation, the Government should routinely publish Keeling Schedules for Bills laid before the House.*** [406]

178. **The Constitution Committee scrutinises all Government bills for their constitutional implications, which includes rule of law implications.**[407] **In doing so, we aim to assist the House in its legislative scrutiny and draw attention to rule of law issues. When undertaking this scrutiny, we ask the following questions:**

- **Is the bill necessary? Do all the provisions in this bill require legislation, or could the policy aims be achieved by other means?**
- **Are the bill's aims clear? Are all of the provisions of the bill free from ambiguity and uncertainty?**
- **Does the bill impose obligations which are contradictory, or impossible to comply with?**
- **Is guidance needed to interpret this legislation? If so, is the guidance set out in a way that makes it sufficiently distinct from delegated legislation?**
- **Does this bill include any retrospective provisions? If so, are they adequately justified by exceptional circumstances?**
- **Does the bill in any way violate the separation of powers between Parliament, the Government and the judiciary?**
- **Will the bill impact inappropriately upon the distinct area of operation belonging to the courts?**
- **Does the bill limit access to justice or compromise the independence of the judiciary?**
- **Are powers granted to ministers by this bill appropriate and accompanied by adequate safeguards?**
- **Are delegated powers clear and limited in their reach, avoiding without specific justification the power to amend primary legislation or create criminal offences?**
- **Does the bill properly respect the boundaries of devolved competence?**

179. ***When drafting legislation, the Government should consider the same questions about legislative standards as this committee considers***

406 A Keeling Schedule is a document which shows how existing legislation would look if proposed amendments within a Bill were applied to it.

407 A document compiling the legislative standards expressed in the Committee's reports published between the beginning of the 2017–19 session and December 2024 can be found on the Committee's website. Constitution Committee, *Legislative standards of the Constitution Committee: 2017–2024*, 6 May 2025

when scrutinising bills. Parliamentarians and committees should also have regard to these questions when scrutinising legislation and when considering any implications it might have for the rule of law.

CHAPTER 6: AN EFFECTIVE JUSTICE SYSTEM

180. The ability to access an effective justice system, through which people can uphold and defend their legal rights, and resolve their legal disputes, is a vital part of the rule of law. When the then Lord Chancellor spoke to us, she illustrated the importance of access to justice, saying:

> "There is no meaningful rule of law if there is no ability for an assertion of legal rights, a protection of legal rights, effective remedy, and access, therefore, to justice in the broadest sense".[408]

Access to legal advice

181. The first step towards accessing justice is accessing legal advice. Legal advice helps an individual, business or organisation, to identify their legal needs, rights, and the options available to them.[409] This provides them with the knowledge they need to successfully navigate the justice system and the earlier this advice is received, the better the outcomes can be.[410]

182. Sir Geoffrey Vos, Master of the Rolls and Head of Civil Justice, provided an illustrative example of a situation in which professional legal advice could assist:

> "When you lose your job, you cannot pay your rent and you lose your home. When you lose your home, you lose your spouse and then you are involved in a cycle of problems, some of which may be legal but many of which will be social. Now, how do you resolve that? You need a lawyer sometimes to find the thread that first needs to be pulled to untangle it."[411]

183. When people have a multifaceted, complex problem, such as that Sir Geoffrey described, advice from a professional is particularly beneficial. We heard that "people arrive [at Citizens Advice] with literally bags or suitcases of letters" that they are too overwhelmed to open and that they are unaware "equates to a legal advice need".[412] They need someone to help them work through their letters to identify their legal needs and give them appropriate advice.[413]

184. Not only is accessing legal advice important, we repeatedly heard that providing legal advice at an early stage allows problems to be addressed before they escalate and end up in court.[414] Early legal advice can reduce pressure on later stages of the justice system and prevent new problems emerging.[415] Sarah Matthews, Senior Strategic Lead for Business Development at Citizens Advice, argued for "a strong, well-funded advice sector that is able to support people at the earliest opportunity to identify those needs, and that alleviates the stress on them and on the court system".[416]

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408 Q 177 (Shabana Mahmood)
409 QQ 56 (Stephanie Needleman), 68 (Sarah Matthews), written evidence from JUSTICE (ROL0103)
410 QQ 56 (Stephanie Needleman), 78 (Kate Pasfield), 68 (Sarah Matthews)
411 Q 165 (Sir Geoffrey Vos)
412 Q 68 (Sarah Matthews)
413 QQ 68 (Sarah Matthews), 70 (Kate Pasfield)
414 Q 68 (Sarah Matthews), Q70 (Kate Pasfield)
415 Q70 (Kate Pasfield)
416 Q 68 (Sarah Matthews)

185. Within the advice sector, there are organisations that provide legal advice free of charge to the client, such as Citizens Advice, Advicenow and law centres.[417] However, we heard that these services are "overwhelmed".[418] JUSTICE told us that the advice sector "struggles with a lack of adequate and sustainable funding, insufficient structural support and issues with recruitment whilst facing unprecedented levels of legal need fuelled in large part by COVID-19 and the cost of living crisis".[419] Nimrod Ben-Cnaan, Head of Policy at the Law Centres Network, provided an example of the scarcity of free advice services. He said:

> "[in] the whole Greater Manchester region, with its 2.8 million residents and 10 local authorities, we have one law centre, and that is the only place where people can get free legal advice on employment law, most of which is not funded by legal aid. The capacity is 3.5 full-time equivalent for 2.8 million people".[420]

186. Sarah Matthews argued that these issues are exacerbated by the fact that "millions of pounds-worth of public money is wasted on funding services that are supposed to be advice but are actually information and signposting services".[421] She suggested that this diverts funding away from advice services, as well as posing the risk that those who have complex needs may not be reaching the advice that they need.[422]

187. We heard this approach contrasted to that taken by the Welsh Government. In Wales, since January 2020, free social welfare advice has been funded through the Single Advice Fund, which provides grant funding to advice organisations, such as Citizens Advice.[423] The Fund funds a national provider of remote advice, as well as six regional providers, who provide both generalist and specialist advice services.[424] According to Sarah Matthews, this approach ensures that the Fund is able to effectively target local need, whilst also ensuring that there is a consistent advice offer across Wales.[425] Mick Antoniw described the Fund as "very much a sticking plaster on the weakness of our current legal aid system", but explained that it had helped many people to access legal advice and thus "sorted out a lot of problems in many of our communities, such as people with debt, family or housing problems".[426]

188. The UK Government told us that the Ministry of Justice has established a Legal Support Strategy Delivery Group, which will develop a long-term strategy for a more "sustainable, efficient and effective legal support system that enables people to resolve their legal problems at an early stage". This will involve £6 million of grant funding to identify how best to provide legal advice for people with social welfare legal problems.[427]

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417 Q 165 (Sir Geoffrey Vos)
418 Q 69 (Sarah Matthews)
419 Written evidence from JUSTICE (ROL0103)
420 Q 79 (Nimrod Ben-Cnaan)
421 Q 69 (Sarah Matthews)
422 *Ibid.*
423 Welsh Government, *Review of the Single Advice Fund*, May 2025
424 Written evidence from the Welsh Government to the Welsh Affairs Committee's inquiry into the Benefits System in Wales (BSW0036); Welsh Government, *Review of the Single Advice Fund*, May 2025
425 Q 69 (Sarah Matthews)
426 Q 145 (Mick Antoniw)
427 Written evidence from the UK Government (ROL0104)

189. **Accessible and affordable legal advice is a key enabler of the rule of law. It ensures that people can understand and enforce their legal rights, thus facilitating effective access to justice. Giving this advice at an early stage can help people to navigate their legal problems before they escalate and take longer to resolve. In so doing, it can relieve pressure on the later stages of the justice system, including the courts.**

190. ***The legal advice sector is under pressure. When taking funding decisions in relation to the provision of legal advice, the Government should take into account the knock-on benefits and cost savings that can be made in the wider justice system.***

Legal aid

191. Legal aid is government-funded legal support for people who are unable to pay for legal advice or representation, subject to certain eligibility criteria. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) made significant changes to the legal aid regime in England and Wales.[428] In relation to criminal legal aid, LASPO made changes to the remuneration of legal aid lawyers and the eligibility criteria, as well as removing some matters from the scope of legal aid.[429] However, the most significant changes were in relation to civil legal aid.[430] The Act has been described as involving "dramatic" and "steep" reductions in scope and spending.[431] The 2021 Independent Review of Criminal Legal Aid found that, in real terms, "fees have declined by about one third from 2008, and many fees have remained the same for 25 years".[432] LASPO removed from the scope of legal aid most cases involving welfare benefits, including in relation to issues such as housing, debt, welfare benefits, and employment.[433] Research commissioned by the Law Society shows that, in England and Wales, only individuals living in "deep poverty" are now eligible for full legal aid.[434] As a result, millions of people are estimated to fall into what has been called the 'justice gap', where they do not qualify for legal aid, but they cannot afford to pay privately for legal representation, the costs of which can be "prohibitive".[435]

192. Furthermore, within the provision of legal aid there are difficulties in recruiting and retaining staff, in large part due to the pay being especially low in comparison to similar work in other areas of law.[436] As the Legal Aid Practitioners Group told the Justice Committee in 2021, the appeal of choosing a career in legal aid is "wholly outweighed by any common sense approach to having a viable career".[437] Attracting and retaining staff is a particular challenge in relation to supervisors, as pay does not progress in line with seniority and experience.[438] We also heard that low pay is coupled

428 Legal Aid, Sentencing and Punishment of Offenders Act 2012, Part 1
429 House of Commons Library, *Legal Aid: the review of LASPO Part 1*, Number 43720, May 2020
430 *Ibid.*
431 Written evidence from JUSTICE (ROL0103), and the Bingham Centre for the Rule of Law (ROL0081)
432 Sir Christopher Bellamy, *Independent Review of Criminal Legal Aid*, 29 November 2021
433 Justice Committee, *The Future of Legal Aid* (3rd Report, Session 2021–22, HC Paper 70)
434 Written evidence from the Law Society of England and Wales (ROL0066)
435 Written evidence from Liverpool John Moores University (ROL0029), Dr Martha Gayoye (ROL0084), James Palmer (ROL0097), Leeds Law School (ROL0063), and University of Leeds, School of Law (ROL0048)
436 QQ 71-74 (Nimrod Ben-Cnaan and Kate Pasfield)
437 Justice Committee, *The Future of Legal Aid* (3rd Report, Session 2021–22, HC Paper 53)
438 Q 74 (Kate Pasfield) and written evidence from JUSTICE (ROL0103)

with significant amounts of necessary but unpaid work as a result of the system's complexity and bureaucracy.[439]

193. These challenges mean that it is often not sustainable for firms to undertake legal aid work, and the number of legal aid providers has gradually declined.[440] This has led to 'legal aid deserts', areas of the country (particularly rural and coastal areas) which have no legal aid providers. Other areas have 'legal aid droughts', in that they have a small number of legal aid providers, but these are in high demand and do not always have the availability to take on new work.[441] According to the Law Society of England and Wales, the percentage of people who are unable to access a legal aid provider in their area for housing issues is 44%, rising to 63% for immigration, 71% for community care, 85% for welfare benefit issues and 90% for education issues.[442]

194. These impacts are evidenced by increasing numbers of 'litigants in person' as people have to represent themselves in court. For example, in private family law cases between July and September 2024, the proportion of disposals where neither party had legal representation was 38%.[443] Where an individual acts as a litigant in person, this may result in an "inequality of arms … in which one side will have a lawyer and the other side will not", which "puts huge burdens on the judge to try to even that out without appearing unfair to the unrepresented party".[444] Dealing with litigants in person also places significant pressure on the courts and their users by reducing the efficiency with which cases can be heard. Their cases become more complex and take longer to deal with as they lack professional knowledge or experience of the courts and so require further time and explanation to navigate the court proceedings.[445]

195. The high costs involved in accessing legal advice and representation, coupled with the limited availability of legal aid, is a significant threat to the rule of law.[446] Mick Antoniw described the effect of these two factors as being that "complete sections of our society and communities have, in effect, no real access to the law. They are disempowered as far as the law is concerned".[447] If individuals are unable to access legal advice and representation, they are much less likely to be able to access justice, enforce their legal rights, and benefit from the law.[448] They may also, if the situation is particularly severe, choose to seek alternatives to the legal system.[449]

196. The Government told us that they recognise "the important role that legal aid plays in helping people access justice" and, to this end, they have recently

439 Q 74 (Kate Pasfield)
440 Written evidence from the Law Society of England and Wales (ROL0066)
441 Q 68 (Kate Pasfield) and written evidence from JUSTICE (ROL0103)
442 Written evidence from the Law Society of England and Wales (ROL0066)
443 Written evidence from the University of Worcester's Constitutions, Rights and Justice Research Group (ROL0040)
444 Q 19 (Baroness Hale of Richmond)
445 Constitution Committee, Annual evidence session with the President and Deputy President of the Supreme Court, 4 June 2025, Q 6 (Lord Reed of Allermuir), written evidence from the University of Worcester's Constitutions, Rights and Justice Research Group (ROL0040), JUSTICE (ROL0103), and the Bar Council (ROL0095)
446 Written evidence from University of Leeds, School of Law (ROL0048)
447 Q 145 (Mick Antoniw)
448 Written evidence from University of Leeds, School of Law (ROL0048), Public Law Project (ROL0015), and Dr Jo Wilding (ROL0031)
449 Q 145 (Mick Antoniw)

conducted reviews into both criminal and civil legal aid.[450] For criminal legal aid solicitors, this has resulted in two fee uplifts, in November and December 2024, amounting to a 24% increase in fees overall—the first such increase in 25 years.[451] In July 2025, the Government announced an uplift in civil legal aid fees in the areas of housing and debt and immigration and asylum. Once implemented, this will involve an increase to legal aid fees in these categories by 24% outside of London and 30% in London.[452] Civil fees were frozen in 1996 and then reduced by 10% between October 2011 and February 2012.[453] Nimrod Ben-Cnaan told us that this fees uplift is "very welcome", but that the state of the legal aid sector is so "dire", that significant investment is needed urgently to prevent the sector declining further. Similarly, Dr Jo Wilding, Associate Professor in Law, University of Sussex, argued that any proposal to increase fees needs to properly consider the cost required to retain staff to ensure the sustainability of the legal aid sector.[454]

197. In this chapter, we focus on the justice system in England and Wales, as justice, and with it the legal system, is devolved to the Scottish Parliament and the Northern Ireland Assembly. We heard that both jurisdictions have a legal aid system that is "means-tested, uncapped and demand-led", and that neither were subject to the changes included in LASPO.[455] As a result, Scotland and Northern Ireland are not facing exactly the same issues as it comes to accessing legal advice and representation through legal aid. Nonetheless, James Wolffe said, "I think everybody in Scotland agrees that the legal aid system needs reform".[456] We heard that many parts of the country are very remote from legal aid provision, with much of it, particularly in social welfare law, concentrated in Glasgow.[457] In addition, Scottish legal aid firms are experiencing a "brain drain", particularly of newly qualified solicitors, to public sector legal departments which can offer a much higher starting salary.[458] In Northern Ireland, problems include "underfunding, delayed payments, a failure to review fees, outdated eligibility thresholds, increased bureaucracy".[459] There is limited provision in immigration and social welfare law, as low legal aid fees mean that "firms simply cannot afford a lawyer to do the work".[460] Therefore, John Larkin KC, former Attorney General for Northern Ireland, argued that significant reform of the legal aid costs regime is needed in Northern Ireland.[461]

198. **High costs to access legal advice and representation can deprive large sections of the population of their legal rights and alienate them from the rule of law. It risks a situation where justice is available only to those who can afford it, undermining public confidence in the reality of equal access to justice. This is inimical to a rule of law culture.**

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450 Written evidence from the UK Government (ROL0104)
451 Ministry of Justice, *Millions invested in legal aid to boost access to justice and keep streets safe*, December 2024; written evidence from the UK Government (ROL0104) The Law Society, *Criminal legal aid*, 18 July 2025
452 Ministry of Justice, *Civil legal aid: Towards a sustainable future*, July 2025, CP 1333
453 National Audit Office, *Government's management of legal aid*, 9 February 2024
454 Written evidence from Dr Jo Wilding (ROL0031)
455 Q 123 (John Larkin)
456 Q 123 (James Wolffe)
457 Written evidence from Dr Jo Wilding (ROL0031)
458 *Ibid.*
459 Written evidence from the Law Society of Northern Ireland (ROL0032)
460 Written evidence from Dr Jo Wilding (ROL0031)
461 Q 123 (John Larkin)

199. **Under the current legal aid regime in England and Wales, there are people who are both unable to access legal aid and unable to afford to pay for legal services privately. This is an unacceptable barrier to accessing justice.**

200. **The challenges facing legal aid providers are both systemic and significant. *Whilst we welcome the recent increases in legal aid fees, the Government needs to adopt a more innovative approach to reform the legal aid and advice system. This should include reviewing the scope of legal aid with a particular recognition of the role that early legal advice from lawyers and advice organisations can play in de-escalating disputes and resolving matters before they reach the courts. It should also involve, as discussed later in the chapter, technological solutions.***

Access to the courts

201. A crucial part of the rule of law is that, where necessary, people should be able to access the courts to obtain justice, resolve disputes, and protect their rights. However, we repeatedly heard that there has been an issue of "underinvestment" in the justice system over many years, which has had significant negative effects on its operation.[462] These effects are widespread. For example, lack of investment in court buildings means that some are in a "very dire state", with accessibility issues, security problems, and low-quality facilities and in some cases these issues have led to closure.[463] The closure of local courts has made it more difficult for some people, particularly in rural areas, to get to court when they need to.[464] The judicial workforce has been found to struggle with low morale and high workloads.[465]

202. This "underinvestment" has also contributed to, and exacerbated, the significant issue of delays and backlogs.[466] The criminal justice statistics for the period April to June 2025 show that the backlog in the Crown Court reached a series high of 78,329 open cases at the end of June 2025, which is an increase of 10% on the previous year. 26% of these cases (19,164) have been outstanding for over a year. The statistics also show that the backlog in the magistrates' court increased 25% on the previous year, to 361,027 open cases.[467]

203. We heard that the delays within the civil and criminal justice systems are damaging to a rule of law culture and "corrosive of people's trust in the court system".[468] Whilst waiting to access the civil courts to settle their disputes, individuals and businesses endure a period of significant uncertainty, which makes them less productive.[469] Victims, witnesses and defendants in the criminal justice system may suffer mental and physical health problems, or impacts on their employment, finances and relationships.[470] Delays also create

462 QQ 56 (Shameem Ahmad), 146 (Mick Antoniw), written evidence from the Public Law Project (ROL0015), Law Society of England and Wales (ROL0066), and JUSTICE (ROL0103)
463 Q 146 (Mick Antoniw), written evidence from Sir Geoffrey Vos (ROL0113)
464 Q 146 (Mick Antoniw)
465 Written evidence from the Bar Council (ROL0095)
466 Q 56 (Stephanie Needleman)
467 Ministry of Justice, *Criminal court statistics quarterly: April to June 2025*, 25 September 2025
468 Q 98 (Frances Gibb)
469 Written evidence from the Bingham Centre for the Rule of Law (ROL0081), and Sir Geoffrey Vos (ROL0113)
470 Written evidence from the Bingham Centre for the Rule of Law (ROL0081)

practical barriers to people accessing justice.[471] For example, participants may choose to withdraw from proceedings because of the strain, victims' and witnesses' recollection of evidence declines over time, or people may choose not to bring valid cases in the first place.[472]

204. Sir Brian Leveson has been appointed by the Government to consider "how the criminal courts could be reformed to ensure cases are dealt with proportionately, in light of the current pressures on the Crown Court" and "how they could operate as efficiently as possible".[473] The first part of Sir Brian's review was published in July 2025. In this report, he concluded that criminal justice is in "crisis", and that delays within the system are causing a "host of problems", including:

> "devastating impacts on the lives of victims and witnesses, a number of whom may withdraw from proceedings; defendants left in limbo for years; and knock-on effects on the rest of the justice system, such as a rising remand population taking up scarce prison spaces".

205. The interim report concluded that the delays faced by the criminal courts are caused by the interaction between several different factors. For example, long-term funding constraints have resulted in lower court availability, a backlog in necessary maintenance, and a smaller and less experienced workforce. In addition, there has been a significant increase in the number of cases entering the Crown Court since 2019, whilst the COVID-19 pandemic and industrial action by criminal barristers exacerbated these pressures. The report made a number of recommendations, of which the headlines included reducing the number of trials which are eligible to be heard by the Crown Court; creating a new 'Crown Court Bench Division', where cases would be heard by a judge and two magistrates; and allowing judge-only trials for certain complex cases, such as fraud. The second part of the review is expected to be published later in the year.[474]

206. **Justice delayed is, often, justice denied. Delays in the justice system directly undermine access to justice, having significant negative impacts on all those involved and discouraging people from pursuing their legal rights. The existing delays in the justice system in England and Wales, particularly in the criminal courts, are having a detrimental impact on access to justice.**

207. **We welcome the efforts of the Leveson review into the criminal courts and look forward to the publication of the second part. We anticipate that the Government will engage seriously with the conclusions and recommendations contained within that review, and look forward to the Government response.**

208. Whilst much of the narrative about backlogs, and the Leveson Review, focuses on the criminal courts, the civil justice statistics for the period January to March 2025 show that the mean time taken for small claims to go to trial was 49.8 weeks, and 74.7 weeks for multi/intermediate/fast tracks claims. Whilst these are both improvements on the same period the previous

471 Written evidence from the Bar Council (ROL0095), Law Society of England and Wales (ROL0066), and JUSTICE (ROL0103)
472 National Audit Office, *Reducing the backlog in the Crown Court*, March 2025
473 Ministry of Justice, *Independent Review of the Criminal Courts: Part 1*, July 2025
474 *Ibid.*

year (1.5 and 7.2 weeks faster respectively), the time taken for cases to go to trial remains high.[475] Sir Geoffrey Vos told us that more than 90% of civil cases in the County Court are resolved before a final hearing, but described the situation for those that do reach the courtroom as a "patchy picture".[476] There are "major delays" in the county courts in London and parts of the south-east, in large part due to difficulties recruiting district judges in those areas where the cost-of-living is expensive.[477] He explained that, for several years, there have been vacancies for 70 full-time salaried district judges in these areas, and that they therefore make heavy use of fee-paid deputy district judges, who "tend (through no fault of their own) to be less experienced and, therefore, less efficient".[478] There are also significant delays within the Civil National Business Centre in Northampton, which remains heavily paper-based and is very slow to send out paper files for small claims and fast-track civil cases to the appropriate county court. Nonetheless, Sir Geoffrey suggested that most county courts across England and Wales are, for the most part, operating efficiently.[479]

209. Sir Geoffrey told us that "the state's provision of an efficient, quick and economical dispute resolution process is a cornerstone of the rule of law", as people will eventually turn to other means of resolving their disputes, including threats and violence, if delays mean that they are not able to access a justice system that will resolve their disputes in a timely manner. However, he suggested that the civil justice system, whilst currently "too slow", is nevertheless functioning well, and that delays are not yet of a severity at which they are an impediment to the rule of law.[480]

210. ***Delays and backlogs in civil justice need to be urgently addressed by the Government in order to maintain public confidence in the justice system and to safeguard timely access to justice. A continuing failure to address these issues would be a significant threat to the rule of law in this country.***

Alternative dispute resolution

211. Access to justice does not always require access to a court, and, in many instances, particularly within civil and family law, alternative dispute resolution mechanisms, such as mediation or arbitration, may be appropriate. There are many opportunities for alternative dispute resolution to take place throughout the civil justice process:

- Before cases enter the court system, disputes may be resolved through ombudsmen, private company internal complaints systems or online systems, such as the Official Injury Portal.[481]

- Through civil automatic referral to mediation, every small claim below £10,000 is automatically referred to mediation.[482] If no resolution is

475 Ministry of Justice, *Civil Justice Statistics Quarterly: January to March 2025*, June 2025
476 Q 161 (Sir Geoffrey Vos), written evidence from Sir Geoffrey Vos (ROL0113)
477 *Ibid.*
478 *Ibid.*
479 *Ibid.*
480 Q 161 (Sir Geoffrey Vos)
481 Q 167 (Sir Geoffrey Vos), written evidence from Sir Geoffrey Vos (ROL0113)
482 *Ibid.*

reached, some courts will then order a half-hour dispute resolution hearing where a judge will examine the facts.[483]

- In a recent case, *Churchill v Merthyr Tydfil County Borough Council,*[484], it was decided that the court could order a party to go to mediation. As a result, so-called 'Churchill orders' are now made in the High Court and county courts, by which a judge can require parties to go to mediation, if one or more of the parties has not properly engaged in alternative dispute resolution processes up to that point.[485]

212. Sir Geoffrey has been supportive of, and is beginning to implement, a pre-court 'Digital Justice System', which would join up all public and private pre-court dispute resolution providers, alongside legal advice providers, into one system. Sir Geoffrey argues that this system would allow more disputes to be resolved before they even enter the court system, thus reducing the time and cost burden of dispute resolution as well as reducing pressure on the courts.[486] Alternative dispute resolution mechanisms can provide an effective way through disputes, which may be "entrenched", without having to go through the full court process.[487] As Baroness Hale described, using the example of family law, sometimes a third party is needed simply "to give sensible advice, calm things down, do a negotiation between often very emotionally upset people and achieve an agreement between them".[488] If the case went to court it would take longer and be more "fraught".[489]

213. Nonetheless, despite the use of alternative dispute resolution being increasingly encouraged within the civil justice system, there are times when access to a court is more appropriate.[490] There may be an inherent power imbalance in some relationships, such as between a landlord and their tenant, an individual and their local authority, or employer and employee. When a dispute arises, the stronger party may place pressure on the other to mediate and resolve the dispute without going to court. They are also more likely to have access to legal advice. In these instances, there is a risk that the weaker party forgoes their legal rights and accepts an unfair solution.[491] Stephanie Needleman told us: "it is not true access to justice to accept a settlement just because … it is what happens to be on offer and they do not have the resources or knowledge to carry on the dispute to the next stage".[492] Similarly, alternative dispute resolution does not produce a decision on whether the law has been broken or provide an opportunity to test the evidence, so may not be desirable in all situations.[493]

214. **Timely, efficient, and cost-effective justice should always be available through the courts for those who need it. Nonetheless, the increased use of alternative dispute resolution within the civil justice system is a**

483 Q 167 (Sir Geoffrey Vos)
484 Court of Appeal (Civil Division), *James Churchill v Merthyr Tydfil County Borough Council* [2023] EWCA Civ 1416
485 Q 166 (Sir Geoffrey Vos), written evidence from Sir Geoffrey Vos (ROL0113)
486 QQ 159 - 169 (Sir Geoffrey Vos), written evidence from Sir Geoffrey Vos (ROL0113)
487 Q 164 (Sir Geoffrey Vos)
488 Q 31 (Baroness Hale of Richmond)
489 *Ibid.*
490 Q 56 (Stephanie Needleman)
491 Q 167 (Sir Geoffrey Vos)
492 Q 56 (Stephanie Needleman)
493 Q 77 (Nimrod Ben-Cnaan and Kate Pasfield)

positive step. It is a time- and cost-efficient way of resolving disputes, and it reduces pressure on the courts.

215. ***The Government should explore how the uptake of alternative dispute resolution within the civil justice system can be further encouraged.***

Enforcement

216. Receiving a judgment in the courtroom is not the end of the process. As the Lady Chief Justice has said, "without a mechanism to ensure that judgments were implemented … the right of access to a fair trial would be illusory, rather than effective".[494] However, Kate Pasfield, Director of Legal Aid at the Legal Aid Practitioners Group, told us, "it is widely believed to be a problem that you get a judgment in court and you cannot enforce it".[495] This perception is damaging to public confidence in the efficacy of the justice system.[496] No statistics are available as to how many judgments subsequently require enforcement action and Sir Geoffrey advised that the proportion requiring action will vary significantly between the types of claims being discussed. For example, he suggested that boundary dispute orders are normally complied with, but in possession claims enforcement action is common.[497]

217. Sir Geoffrey explained that, whilst the enforcement process in the civil courts is functioning, it is "slower than it should be".[498] For example, in possession claims, where bailiffs are used to evict people from their homes, "the court part of the possession claim is nearly always quicker than getting an appointment for the bailiff to enforce the judgment".[499]

218. Whilst this problem is widely acknowledged, Sir Geoffrey explained that the enforcement system has not been reformed because it has "always been put into the 'too difficult' box" due to complexity. He added that "[w]e have bailiffs in the county courts and bailiffs in the High Court; we have multiple enforcement systems. We have earnings attachments, charging orders and warrants of control, all of which are governed by different, fairly arcane and historic rules".[500] Therefore, he argued that reform will require significant funding, changes in rules, and legislative changes to rationalise enforcement, as well as digitisation of some of the core processes.[501]

219. The Civil Justice Council's working group on enforcement published a report in April 2025 which called for reform of the enforcement system. They assessed that:

> "enforcement of judgments in general is currently performing poorly, with judgment creditors frustrated by delays and ineffectiveness of a disjointed approach, and judgment debtors concerned about the costs incurred in the process of enforcement and the inability to pay".[502]

494 Lady Chief Justice, *Enacting Just and Equal Laws: the Mayflower 400 Lecture*, 29 November 2024
495 Q 79 (Kate Pasfield)
496 Written evidence from Dr Klearchos Kyriakides (ROL0092)
497 Q 171 (Sir Geoffrey Vos)
498 *Ibid.*
499 *Ibid.*
500 *Ibid.*
501 *Ibid.*
502 Civil Justice Council, *Enforcement*, 9 April 2025, para 3.5

220. To address these issues, the working group's report recommended the creation of a single unified digital enforcement court to replace the two-tier regime currently in place between the county court and the High Court. They suggested that this would reduce the complexity in the current system. Further recommendations were proposed to also improve the experience of debtors on the receiving end of the enforcement process, which included simplifying wording on forms and improving digital communication to include clear and un-intimidating language.[503]

221. **Enforcement of judgments is a crucial, though often overlooked, element of justice. A thriving rule of law culture requires that court judgments are effectively enforced, otherwise they are essentially meaningless. Furthermore, people need to trust in enforcement, otherwise they will lose confidence in the ability of the justice system to uphold their legal rights.**

222. **Enforcement in the civil courts is slow and not working as effectively as it should. *We welcome the Civil Justice Council's recent report into the matter, and we urge the Government to carefully consider its findings.***

A role for technology?

223. Witnesses throughout the inquiry were both excited and sceptical about the role that technology could play in improving access to justice and improving court services. With regards to the civil courts, Sir Geoffrey said: "I am concerned to ensure that we digitise as much as we can, because it provides a quicker, more efficient and effective resolution of people's disputes, and at more proportionate cost".[504] Besides, people "expect justice to be delivered in the same way as the other services they use every day: in online banking, shopping and utility bills, to name but a few".[505]

224. Between 2016 and March 2025, His Majesty's Courts and Tribunals Service ran a reform programme which sought to digitise court services.[506] Amongst other things, this programme created new digital platforms to deal with certain types of cases. For example, in the civil courts, it created the Online Civil Money Claims and Damages Claims Online platforms. According to Sir Geoffrey, cases brought through these online systems are resolved much more quickly than cases brought on paper.[507] However, only 23% of county court cases have been digitised by the reform programme. The remainder progress on paper, or on an inefficient mix of paper and various disconnected digital systems.[508] We heard that the variety of case types with different rules and fees makes a "one-size-fits-all system" unlikely to be possible. Nonetheless, Sir Geoffrey wants to digitise all civil cases as "antiquated analogue processes" cause delays and "are not fit for purpose in the 21st century".[509] In September, the then Lord Chancellor also told us that the Government was exploring the option of using artificial intelligence

503 Civil Justice Council, *Enforcement*, 9 April 2025
504 Q 173 (Sir Geoffrey Vos)
505 Q 159 (Sir Geoffrey Vos)
506 HM Courts & Tribunals Service, *Modernising courts and tribunals: benefits of digital services*, March 2025
507 Q 161 (Sir Geoffrey Vos)
508 Q 161 (Sir Geoffrey Vos)
509 Q 160 (Sir Geoffrey Vos), written evidence from Sir Geoffrey Vos (ROL0113)

to provide transcription services in courts, which it is hoped will allow more ready and affordable access to transcripts.[510]

225. Outside the courtroom, Kate Pasfield explained that AI products are being developed to help legal aid providers triage clients ahead of choosing who to take on.[511] For example, a Citizens Advice network is using a system that records meetings, whether over a call or face-to-face, and then automatically populates their data system with the clients' identified needs and actions that have been taken. Whilst this still needs to be checked by a person, it saves time.[512] Additionally, by providing advice remotely, some providers address legal advice need elsewhere in the country.[513] The use of technology in this way can reduce the administrative burden on legal advice providers and help them to assist more people.

226. ***The continued reliance on paper in some parts of the court system contributes to inefficiencies and delays. The digitisation of remaining paper-based processes should be a priority. The creative use of alternative technologies should also be embraced as a contribution to tackling the backlogs and improving the experience of those engaging with the justice system.***

227. ***Technology can, and should, be used to improve administrative functions and ensure that the time of qualified legal advisers is best used to help those who seek their support. The Government should support advice providers to embrace these opportunities.***

228. We also heard about the increased use of technology in public-facing parts of the court process and in the provision of legal advice. Sir Geoffrey was of the view that there "is definitely a role for technology to play in addressing … unmet legal need"[514] and envisaged, for example, the provision of a legal advice chatbot driven by AI, which would be the entry point into the justice system. Those who need further assistance would be transferred to a person for half an hour of legal advice. He said: "I think the best use of legal aid money for civil justice would be to provide such a service".[515] A similar idea has been supported by the Law Society, which has recommended that the Government should create a free AI-powered tool, like the online NHS 111 service, that would help people to understand their legal problems and signpost them to the help they need.[516]

229. Indeed, witnesses suggested that people are already using AI chatbots to seek legal advice as an inevitable result of the challenges involved in accessing legal advice through traditional means.[517] However, we heard that there are significant risks associated with the use of existing AI tools for legal advice. These tools are known to 'hallucinate', meaning that they sometimes return incorrect or fabricated information that appears plausible to the untrained eye.[518] They are also not regulated or controlled for the provision of legal

510 Q 189 (Shabana Mahmood)
511 Q 75 (Kate Pasfield)
512 Q 75 (Sarah Matthews)
513 Q 76 (Kate Pasfield)
514 Q 57 (Stephanie Nedleman)
515 Q 163 (Sir Geoffrey Vos)
516 The Law Society, *Redefining 21st century justice as a vital public service*, June 2025
517 QQ 57 (Stephanie Needleman), 75 (Nimrod Ben-Cnaan); Constitution Committee, *Rule of law - roundtables summary*, September 2025
518 Q 57 (Stephanie Needleman)

advice.[519] There is, therefore, a significant risk that people are given the wrong information that, without legal training, they are unable to identify as such. The provision of inaccurate legal 'advice' may significantly compromise an individual's ability to realise their legal rights.[520]

230. Nonetheless, there is an opportunity in the future for properly regulated, sophisticated AI tools to be an accessible source of legal advice for those who are unable to afford lawyers and who are currently experiencing unmet legal need.[521] In March 2025, a new AI law firm, Garfield AI, was approved by the Solicitors Regulation Authority (SRA). It is an online tool, powered by an AI assistant, that guides claimants through the small claims court process without using a lawyer, and at much lower cost.[522] The CEO of the SRA claimed that this was a "landmark moment", arguing that the "[r]esponsible use of AI by law firms could improve legal services, while making them easier to access and more affordable".[523] A lawyer in our engagement session agreed, arguing that this development illustrates the potential for AI to make "routine matters very accessible … financial and otherwise to the public".[524]

231. Beyond new technology such as AI, we also heard significant concerns about the risk that the increased use of technology in the justice process could lead to the exclusion of vulnerable groups who lack digital skills and access to the internet or mobile devices.[525] Whilst it is possible that new platforms could bring the more efficient service Sir Geoffrey described for those with the skills, we heard that "as the justice process is more online, we will have a greater proportion of people who simply cannot access justice because they cannot access online services".[526] Beyond a general "very high level of digital disadvantage within the population", Kate Pasfield pointed out that some people such as prisoners and people in mental health institutions, who are likely to want access to legal aid services, do not have access to the internet.[527]

232. Sir Geoffrey sought to reassure us that he was "very concerned to make sure that we are not running away with ourselves in digitising stuff and leaving people behind", and that he would ensure that mechanisms will be put in place to assist the digitally disadvantaged.[528] HMCTS has an ongoing 'Vulnerability Action Plan' and in its 2025 guidance, *Modernising courts and tribunals: benefits of digital services*, notes that free digital support is available for "anyone unable or struggling to access our online services".[529] It is difficult to find detailed information as to how this is offered, but it appears

519 Q 57 (Stephanie Needleman), Constitution Committee, *Rule of law - roundtables summary*, September 2025
520 *Ibid.*
521 Q 57 (Stephanie Needleman), written evidence from JUSTICE (ROL0103)
522 See, for example: Suzi Ring, *AI law firm offering £2 legal letters wins 'landmark' approval*, *Financial Times*, 5 May 2025; Dr Corsino San Miguel, *Authorising the Algorithm - what the first AI-drive law firm signals for legal practice*, *Journal: Law Society of Scotland*, 21 May 2025; Solicitors Regulation Authority, *SRA approves first AI-driven law firm*, 6 May 2025; Michael Cross, *SRA approves '£2 letter' AI law firm Garfield*, *The Law Society Gazette*, 6 May 2025
523 Solicitors Regulation Authority, *SRA approves first AI-driven law firm*, 6 May 2025
524 Constitution Committee, *Rule of law - roundtables summary*, September 2025
525 Constitution Committee, *Rule of law - roundtables summary*, September 2025; QQ 58 (Stephanie Needleman), 75 (Kate Pasfield and Nimrod Ben-Cnaan), 112 (Daniel Scrase)
526 Constitution Committee, *Rule of law - roundtables summary*, September 2025
527 Q 75 (Kate Pasfield)
528 Q 173 (Sir Geoffrey Vos), written evidence from Sir Geoffrey Vos (ROL0113)
529 HM Courts & Tribunals Service, *Modernising courts and tribunals: benefits of digital services*, 24 March 2025 and HM Courts & Tribunals Service, *HMCTS Vulnerability Action Plan October 2022 update*, 11 April 2025

to involve the work of the Citizens Advice and Law Centres, alongside We Are Group, which provides support with filling in online forms for nine HMCTS services.[530] Nonetheless, we heard that some of these risks had already materialised in courts and tribunals which conduct hearings remotely, especially when they involve litigants in person. A participant in our roundtables with legal professionals described how they were seeing, in the First-tier Tribunal (Special Educational Needs and Disability) and the Court of Protection, litigants in person relying upon the organisation they were taking to court (often the local authority) to provide them with space and facilities to join the hearing.[531] This raised concerns regarding conflicts of interest.

233. **In their current form, AI chatbots are unregulated for the purpose of providing legal advice and they can provide inaccurate information. However, as AI is becoming more widely used in everyday life and more sophisticated, there will be the opportunity for purpose-built AI tools to make it quicker and easier for people to access legal advice. *The Government and industry bodies should encourage the development of such tools, but ensure that they are accompanied by appropriate safeguards.***

234. **Digitisation and the adoption of new technologies within the legal system should always be accompanied by easily accessible alternative options for those who are unable to access digital systems or struggle to use them. If these adjustments are not provided for, then there is a risk that embracing technology in the justice system will serve to embed existing inequalities. *The Government should continue to work with His Majesty's Courts and Tribunals Service to ensure that all of its functions remain accessible to those without access to online services and that these alternative services are easy to understand and access.***

Public legal education

235. The Attorney General expressed concern at a "real shift" in the attitudes of young people towards our shared values, including the rule of law. He argued that, as a result, there is a need for Government, politicians and civil society "to be out there talking about our shared rule of law heritage", and the "real advantages" it brings to our society.[532] This should use accessible, and not "highfalutin", language. For example:

> "when I go into schools I always try to explain why the rule of law is important by giving the example of the football pitch, where you have two sides. Would you give one side one set of rules while the other side does not have to comply with them at all? Is that fair? Is that a way to have a good match? Do you want a referee who is biased against one side but not another, and is that fair, et cetera? That is to try to distil this into real terms … This is something that lands when we explain it and it is incredibly important."[533]

530 We Are Group, *Digital Support for those who need help with online forms,* [accessed on 4 November 2025]
531 Constitution Committee, *Rule of law - roundtables summary*, September 2025
532 Q 202 (Lord Hermer)
533 *Ibid.*

236. Several witnesses to our inquiry argued for the importance of public legal education in teaching people about the rule of law and why it is important. Ashley Hodges, Chief Executive of Young Citizens, described the rule of law as a "culture of lawfulness" and argued that "public legal education is a cornerstone in how you create that culture".[534] We heard that it is important that public legal education begins at a young age, because "the values, principles and aptitudes you develop as a young person start very early" and so education "has to start early and then continue".[535] Therefore, Baroness Hale argued that it would be a "huge improvement" if schools, including primary schools, taught children the basic principles of the constitution, including about the rule of law and what the courts do.[536]

237. **Public legal education is a key enabler of a rule of law culture. It ensures that people understand the rule of law and how it relates to their lives, helping them to understand its importance and the benefits that it brings them.**

238. Several witnesses further emphasised the importance of public legal education for facilitating the functioning of an effective justice system. We heard that public legal education improves people's knowledge of their legal rights and responsibilities, so that they are able to make informed decisions in different aspects of their lives.[537] It gives them the confidence and skills to navigate the legal system, such that they can vindicate their legal rights in the event that they encounter a legal issue.[538] This includes helping people to recognise when they are facing a legal difficulty and teaching them where they can go to seek legal advice.[539] This is especially important in areas of law that are currently poorly understood by the public, but which they are most likely to encounter, such as housing, employment and immigration law.[540] The Bingham Centre argues that, therefore, public legal education is vital for realising the ideal of a fair justice system, as it spreads throughout society the tools, knowledge and skills that are needed to realise the benefits of the law.[541]

239. We heard that public legal education can be delivered "just in time" or "just in case", meaning that it can be delivered to support individuals with navigating legal issues that they are currently experiencing, or to help them develop knowledge and skills for the future.[542] BPP University's Streetlaw programme delivers "just in time" sessions to adults to help them to navigate issues such as consumer rights, housing, employment, and probate.[543] By contrast, they also deliver a "just in case" session to primary school-aged children called the "Goldilocks trials", which teaches the broad principles of the concept of a jury, guilt and the burden of proof.[544]

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534 Q 102 (Ashley Hodges)
535 Q 104 (Ashley Hodges)
536 Q 24 (Baroness Hale of Richmond)
537 Q 102 (Ashley Hodges), written evidence from BPP University Social Impact Team (ROL0110), and the Bingham Centre for the Rule of Law (ROL0081)
538 Q 102 (Ashley Hodges), written evidence from BPP University Social Impact Team (ROL0110)
539 Written evidence from BPP University Social Impact Team (ROL0110) and the Bar Council (ROL0095)
540 For example, Q 105 (Daniel Scrase), supplementary written evidence from BPP University Social Impact Team (ROL0110), written evidence from the British Institute of Human Rights (ROL0018), and Amnesty International UK and the Immigration Law Practitioners' Association (ROL0034)
541 Written evidence from the Bingham Centre for the Rule of Law (ROL0081)
542 QQ 101 (Daniel Scrase), 72 (Nimrod Ben-Cnaan)
543 Q 101 (Daniel Scrase), written evidence from BPP University Social Impact Team (ROL0110)
544 Q 108 (Daniel Scrase)

240. **Educating people about the law and the justice system provides them with the tools to navigate these issues for themselves, thus ensuring that people across society can all use the law to uphold their legal rights. Effective public legal education can help people to either avoid a legal problem altogether, or to identify that they are facing a legal issue and seek legal advice at an early stage, thus preventing unnecessary escalation of legal issues.**

241. The rule of law is currently part of the national curriculum in England as one of the 'fundamental British values' that schools have a duty to promote.[545] More broadly, primary schools are encouraged to teach students about rules and laws, including why they are required and how they are made.[546] In secondary schools, the Citizenship curriculum covers issues such as the UK's system of government, the role of law and the justice system, and how laws are made.[547] There is also provision in the national curriculum for students to be taught about freedoms and human rights.[548] It is worth noting that the national curriculum is mandatory only for some schools, and not in education settings like academies or independent schools.[549] Education is a devolved matter in Wales, Scotland and Northern Ireland. In Northern Ireland, for example, matters pertinent to the rule of law are taught through 'Learning for Life and Work' in secondary schools, with younger students taught about ideas such as fairness, justice and equality.[550]

242. Public legal education for young people, both in schools and outside of it, is supported by external organisations. Organisations such as the Bingham Centre for the Rule of Law and Young Citizens (formerly known as Citizenship Foundation) produce materials to support teachers in their delivery of citizenship lessons.[551] Others, such as the Street Law programme, directly deliver workshops in schools to teach students about specific areas of the law.[552]

243. Nonetheless, we heard that public legal education could be "improved hugely" and that currently it "is not adequately prioritised" within the curriculum anywhere in the UK.[553] Ashley Hodges told us that where children receive public legal education at school, it is because "individual teachers pursue that despite the education system".[554] As a result, provision is "patchy" and is most likely to be found in "the most able" schools.[555] Expanding this provision would probably be limited by difficulties in ensuring teachers have the appropriate knowledge, especially as it forms such a small part of teacher training, and the dropping of citizenship by some schools when they became academies.[556] According to the Constitution Society, in Scotland and Wales

545 Written evidence from the UK Government (ROL0104)
546 Written evidence from the Constitution Society (ROL0054)
547 Written evidence from the UK Government (ROL0104), the Constitution Society (ROL0054), and the Bingham Centre for the Rule of Law (ROL0081)
548 Written evidence from the Constitution Society (ROL0054)
549 Written evidence from the Constitution Society (ROL0054), and JUSTICE (ROL0103)
550 Written evidence from the Constitution Society (ROL0054)
551 Written evidence from the Bingham Centre for the Rule of Law (ROL0081), Q 104 (Ashley Hodges)
552 Written evidence from BPP University Social Impact Team (ROL0110), and the Law Society of Scotland (ROL0087)
553 Q 56 (Stephanie Needleman), written evidence from JUSTICE (ROL0103), and the Constitution Society (ROL0054)
554 Q 105 (Ashley Hodges)
555 Written evidence from BPP University Social Impact Team (ROL0110), and Dr Liz Curran (ROL0007), Q 108 (Ashley Hodges)
556 Written evidence from the Bingham Centre for the Rule of Law (ROL0081), Q 107 (Ashley Hodges)

"explicit provision for teaching principles associated with the rule of law is even more limited than in England and Northern Ireland".[557] Overall, provision for public legal education is "uneven in extent and quality across the UK".[558]

244. Professor Becky Francis has recently completed a review of the national curriculum and statutory assessment system in England on behalf of the Government.[559] The Government has agreed with the National Curriculum Review's recommendations about the importance of citizenship education throughout the curriculum and to introduce a new statutory requirement to teach citizenship, including the rule of law, in key stages 1 and 2 and "will look for the earliest opportunity to make citizenship a new statutory requirement for key stages 1 and 2".[560] The secondary curriculum is intended to mirror and build on core citizenship topics including law and democracy.[561]

245. **Public legal education needs to begin from a young age and adapt to each stage of an individual's life. We are pleased the Government acknowledged the importance of citizenship education in its response to the Curriculum Review and we welcome the decision to make citizenship education a statutory requirement at key stages 1 and 2.**

246. ***We heard that the delivery of teaching about the rule of law in secondary schools is patchy despite being a statutory requirement. Any changes to the curriculum to increase the provision of citizenship education should be accompanied by suitable support, including training, for teachers and appropriate measures to ensure lessons are being delivered.***

557 Written evidence from the Constitution Society (ROL0054)
558 *Ibid.*
559 HMG, *Curriculum and assessment review*, accessed on [4 November 2025]
560 UK Government, *Government response to the Curriculum and Assessment Review*, November 2025
561 *Ibid*

CONCLUSIONS AND RECOMMENDATIONS

What is the rule of law

1. There is a high degree of shared understanding of what the rule of law is and what it requires both in the UK and internationally. Debates around the definition of the rule of law, particularly between the 'thin' and 'thick' conceptions, obscure widespread agreement about the core meaning of the rule of law. (Paragraph 25)

2. Everyone has a role to play in upholding the rule of law. Therefore, it is important that we understand what a society that displays the rule of law looks like in practice, and what it means in relation to our everyday lives. The various definitions of the rule of law coalesce around five core components: acting within the law, equality before the law, judicial independence, legal certainty and access to justice. (Paragraph 26)

3. In practice, this means that a rule of law culture is one in which everyone:

    - acts within the law and can rely on other people, including those in positions of power, to do the same, and, if not, to be held to account;
    - is treated fairly before the law;
    - has the benefit of independent judges who resolve disputes and decide questions of law without bias or external influence;
    - is able to find out what the law is, and how it applies to them; and
    - is able to access a fair and effective system in which they can obtain justice, resolve disputes, and protect their rights. (Paragraph 27)

4. The rule of law is owned by everyone in society. It is a fundamental constitutional principle. It has impacts on our everyday lives. It ensures civil order and underpins the functioning of a successful and peaceful society. (Paragraph 30)

5. The rule of law underpins business and trade by providing an ordered society and the legal stability necessary to maximise economic potential and drive growth. The UK enjoys significant economic benefits stemming from its international reputation for upholding the rule of law, which means that our law and legal jurisdiction is widely utilised. It makes the UK an attractive place to do business and in which to invest, which supports a thriving legal sector. (Paragraph 34)

6. In the modern world, a successful democracy is underpinned by the rule of law. The rule of law ensures that governments can be held to account and that individuals and organisations can access justice, independently of the whims of a government. A weak rule of law culture would provide space for democracy to be challenged. Therefore, the future of our democracy relies on us protecting the rule of law against challenge. (Paragraph 38)

7. We should not be complacent about the rule of law. It is of vital importance to our society and our everyday lives, and we should protect and nurture it. (Paragraph 39)

8. *The Government should assess how its policies serve to uphold this vital constitutional principle and ensure that the importance of the rule of law is emphasised throughout the policy making process.* (Paragraph 40)

Fairness and acting within the law

9. The core values that are central to our rule of law culture are those of equality, fairness and justice. If these values are not present (or are *perceived* not to be present) in our society, then the rule of law culture is liable to be degraded and to break down. Therefore, for people to trust that the rule of law is working, they need to feel that everyone, including public figures, is seeking to act within the law, and that those who do not will face the appropriate consequences. (Paragraph 49)

10. Confidence in the rule of law is challenged by perceptions of disrespect for the law, particularly when this is seen within those institutions that play a role in upholding the rule of law, such as Government, Parliament, the courts, and law enforcement. (Paragraph 50)

11. It is vital for the maintenance of a rule of law culture that everyone takes personal responsibility to act lawfully, and that they are held to account if they do break the law. Prominent examples of people flouting the law without facing any consequences damage belief in the rule of law and, in turn, risk the breakdown of ordered society. The increasing prominence of petty crime evident in recent years is, therefore, an insidious threat to the rule of law. (Paragraph 56)

12. Trust and confidence in the police have declined as a result of their perceived underperformance in addressing the most visible crime. This is having a detrimental impact on the public's faith in the rule of law. *The role that policing plays in building and maintaining respect for the rule of law must be recognised and supported by the Government.* (Paragraph 57)

13. Perceptions of bias and discrimination within the police are corrosive to a rule of law culture in that they undermine the public's confidence that they will be treated fairly before the law. *The Government must take strong and visible action to tackle evidence of bias and discrimination within the police.* (Paragraph 60)

14. The language used in political and media debate about the operation of the police can have a detrimental impact on the rule of law which, at times, may be unfounded. *The Government should firmly refute unsubstantiated attacks on the integrity of the police in a timely manner, and it should be made clear to the public that the police serve to enforce the laws made by Parliament.* (Paragraph 61)

15. All government ministers have a responsibility to uphold the rule of law and to seek to ensure that their policies and decisions are compliant with the law. This includes compliance with the state's international obligations. (Paragraph 69)

16. The Lord Chancellor has explicit responsibility amongst government ministers to uphold the rule of law, because of the responsibilities of the office and the oath set out within the Constitutional Reform Act 2005. This responsibility extends to taking on a leadership role within the Cabinet, educating and reminding other ministers about the importance of the rule of law. (Paragraph 72)

17. The Law Officers are the authoritative source of legal advice within Government. They ensure that the Government acts within the law in their policies, actions and decisions. The Law Officers, particularly the Attorney General, should also display leadership, both within and outside of Government, on the rule of law. This should be used to embed considerations of legality within the policy-making process, as well as to communicate to the public the Government's commitment to the law. (Paragraph 78)

18. *We invite the Attorney General to speak to us in 2026 in order to update us on the work that he, and his department, is doing to promote the rule of law, including the work of the Rule of Law Unit.* (Paragraph 79)

19. Most of the everyday legal advice within Government is produced by government lawyers supported by external counsel, with only the most complex issues being advised on by the Law Officers themselves. This approach ensures that consideration of legality is embedded in the policy-making process at all levels. (Paragraph 85)

20. We welcome the recent changes to the Legal Risk Guidance which change the tone away from presenting the law and government lawyers as blockers to government action. Government lawyers are a vital part of ensuring that the Government acts in accordance with the law and they should be empowered to advise when, in their assessment, a course of action is unlawful if that is their assessment. (Paragraph 86)

21. The devolved Law Officers are the authoritative source of legal advice for the devolved administrations and are supported in this role by government lawyers. This model mirrors that in the UK Government, although the specific responsibility of each Law Officer varies depending on the devolution settlement. *The Attorney General and counterparts in the devolved administrations should co-operate to ensure the rule of law remains a central focus for all Governments and that it is promoted effectively across the UK.* (Paragraph 92)

22. The power to hold the Government to account for breaches of the law is a vital part of the rule of law. The existence of the judicial review process also contributes to a culture of lawfulness and safeguards the rule of law, as the possibility of judicial review encourages the Government to act in accordance with legal advice. (Paragraph 98)

23. *The Government should refrain from presenting the judicial review process as a blocker to government action, as this risks undermining the rule of law culture which the Government has committed to upholding. Where the Government considers the law to have become overly complex or otherwise to be unreasonably inhibiting action it can raise these concerns and ask Parliament to legislate but should do so without calling the process of judicial review or the decisions of the judiciary into question.* (Paragraph 99)

Judicial independence

24. Judicial independence requires both that judges are independent of bias and external influence, and that they are seen to be independent. This underpins a rule of law culture in which people trust that everyone is treated equally by the law, and that those in power can be held to account through the courts. Maintaining the independence of the judiciary is a shared responsibility of the judiciary, Government and Parliament. Ministers, especially the Lord Chancellor, should be particularly mindful of their statutory responsibility,

contained within the Constitutional Reform Act 2005, to uphold the independence of the judiciary. (Paragraph 104)

25. A culture of hostility towards the judiciary has been allowed to develop in recent years because of inappropriate, and often inaccurate, public criticism by politicians and journalists, accompanied by inadequate defence from government ministers. (Paragraph 112)

26. Discussion and debate about court judgments and the law underpinning them, is a normal part of open justice and should be encouraged in a democracy. However, this must be distinguished from personal attacks on individual judges or on the judiciary as an institution. Such attacks are unjustified. They risk judicial independence by placing pressure on judges to decide cases in accordance with a particular set of views as well as undermining public confidence in the impartiality and integrity of the judiciary. (Paragraph 113)

27. *Politicians and the media should refrain from publicly criticising judges, in general or individually, even when disagreeing with specific judgments or the law that underpins them. This needs to be accompanied by ministers, particularly the Lord Chancellor, willing to speak out in defence of the judiciary when it comes under attack.* (Paragraph 114)

28. The spread of misinformation and disinformation about the judiciary on social media poses a growing challenge to the rule of law. The provision of accessible and accurate information by both the news media and public institutions is important in addressing these dangers and maintaining a strong rule of law culture. (Paragraph 117)

29. Making judgments clear and accessible increases public confidence in a fair and effective judiciary and is therefore crucial to a strong rule of law culture. *Judgments should be easily accessible online, and short, accurate summaries should be produced in as many cases as possible.* (Paragraph 122)

30. *The Government should work with His Majesty's Courts and Tribunals Service to ensure that the necessary resources and expertise are available to better communicate judicial decisions. The judiciary can take an active role in communicating with the public without engaging in argument, particularly in countering misleading narratives about the courts and their judgments. This includes proactively publishing press summaries and using social media to communicate with new audiences and provide accessible information about the courts. Explaining judgments, and countering disinformation about them, is not political nor is it advocacy, but is instead an important part of open justice.* (Paragraph 123)

31. Trust in the broader legal profession, including solicitors, barristers, chartered legal executives and paralegals, is important for a strong rule of law culture and politicians should seek to avoid contributing to unjustified criticism of legal professionals. Nonetheless, whilst some factors influencing public perception of legal professions are outside of their control, public trust in the ethical conduct of lawyers has undoubtedly been shaken in recent years by instances of poor conduct. (Paragraph 132)

32. *The ethical training of lawyers should be reviewed and strengthened by the relevant professional bodies. Lawyers should receive dedicated ethical training throughout their career.* (Paragraph 133)

Legal certainty and accessibility

33. Legislation that is compliant with the rule of law typically displays certain characteristics. It is clear, accessible, prospective, predictable, possible to obey, and consistent with other legislation. *Legislative drafters and the Government should seek to ensure that Bills meet these requirements*. (Paragraph 140)

34. Despite the formal processes in place within Government for legislation to be scrutinised ahead of its introduction to Parliament, which includes the involvement of the Law Officers, we have raised a number of concerns with the clarity of legislation, including during this parliamentary session. (Paragraph 141)

35. In the UK, whole areas of the law can be increasingly impenetrable with serious issues regarding clarity and accessibility. It is challenging for individuals and businesses, even with professional help, to identify the law that applies to them and to understand the implications of that. This undermines a rule of law culture in which people should be aware of their legal obligations in order to comply with them. (Paragraph 145)

36. *The Government should explore options available for enhancing the functionality of legislation.gov.uk to improve accessibility. It should be easier for users to find all the relevant legislation in a subject area and to identify the relationships between different pieces of primary and secondary legislation as well as associated codes of practice and guidance. It should also be possible to easily access the appropriate legislative framework from relevant pages on other government websites.* (Paragraph 146)

37. Performative, overly complicated and unnecessary legislation weakens the rule of law. *The Cabinet Office Guide to Making Legislation states that new legislative proposals should be assessed for their necessity, including a review of existing law and consideration of alternative means of achieving the policy outcome. The outcome of this assessment should be included in a bill's explanatory memorandum to support legislative scrutiny.* (Paragraph 150)

38. *Where the Law Commission proposes consolidation activity, or other opportunities to simplify existing legislation, the Government should seek to make legislative time available for this.* (Paragraph 152)

39. The granting of delegated powers to ministers and their subsequent use to make secondary legislation is a normal, and appropriate, part of the legislative process. However, given that secondary legislation is subject to more limited parliamentary scrutiny than primary legislation, if excessive powers are granted to ministers, there is a risk that the executive will use this considerable discretion to evade appropriate scrutiny and make policy changes without adequate parliamentary oversight. This risks violating the fundamental rule of law principles that government power should be exercised according to law and not arbitrarily or by discretion and that this should be enforceable. (Paragraph 160)

40. *The Government should not introduce bills with broad or vaguely worded delegated powers that leave considerable discretion to ministers, nor should delegated powers enable major policy changes. Skeleton legislation should be avoided.* (Paragraph 161)

41. *We welcome the Government's new 'delegated powers toolkit' in the 'Guide to Making Legislation'. We recommend that bill teams consult this, alongside the delegated powers section of our 'Legislative standards of the Constitution Committee: 2017–*

2024' and the work of the Delegated Powers and Regulatory Reform Committee when beginning the process of drafting legislation. (Paragraph 162)

42. Parliamentary sovereignty is the central principle of the UK constitution. It means that Parliament has the power to pass any law. However, with authority comes responsibility, and it is incumbent upon Parliament when making law to be mindful of the importance of the rule of law, and that to undermine it would be unconstitutional. (Paragraph 169)

43. One of the most important ways in which Parliament upholds the rule of law is through identifying and resolving rule of law issues as part of its legislative scrutiny function. Parliamentary committees provide vital assistance in this work. *To assist Parliament, and its Committees, to effectively scrutinise legislation, the Government should routinely publish Keeling Schedules for Bills laid before the House.* (Paragraph 177)

44. The Constitution Committee scrutinises all Government bills for their constitutional implications, which includes rule of law implications. In doing so, we aim to assist the House in its legislative scrutiny and draw attention to rule of law issues. When undertaking this scrutiny, we ask the following questions:

    - Is the bill necessary? Do all the provisions in this bill require legislation, or could the policy aims be achieved by other means?
    - Are the bill's aims clear? Are all of the provisions of the bill free from ambiguity and uncertainty?
    - Does the bill impose obligations which are contradictory, or impossible to comply with?
    - Is guidance needed to interpret this legislation? If so, is the guidance set out in a way that makes it sufficiently distinct from delegated legislation?
    - Does this bill include any retrospective provisions? If so, are they adequately justified by exceptional circumstances?
    - Does the bill in any way violate the separation of powers between Parliament, the Government and the judiciary?
    - Will the bill impact inappropriately upon the distinct area of operation belonging to the courts?
    - Does the bill limit access to justice or compromise the independence of the judiciary?
    - Are powers granted to ministers by this bill appropriate and accompanied by adequate safeguards?
    - Are delegated powers clear and limited in their reach, avoiding without specific justification the power to amend primary legislation or create criminal offences?
    - Does the bill properly respect the boundaries of devolved competence? (Paragraph 178)

45. *When drafting legislation, the Government should consider the same questions about legislative standards as this committee considers when scrutinising bills. Parliamentarians and committees should also have regard to these questions when scrutinising legislation and when considering any implications it might have for the rule of law.* (Paragraph 179)

An effective justice system

46. Accessible and affordable legal advice is a key enabler of the rule of law. It ensures that people can understand and enforce their legal rights, thus facilitating effective access to justice. Giving this advice at an early stage can help people to navigate their legal problems before they escalate and take longer to resolve. In so doing, it can relieve pressure on the later stages of the justice system, including the courts. (Paragraph 189)

47. *The legal advice sector is under pressure. When taking funding decisions in relation to the provision of legal advice, the Government should take into account the knock-on benefits and cost savings that can be made in the wider justice system.* (Paragraph 190)

48. High costs to access legal advice and representation can deprive large sections of the population of their legal rights and alienate them from the rule of law. It risks a situation where justice is available only to those who can afford it, undermining public confidence in the reality of equal access to justice. This is inimical to a rule of law culture. (Paragraph 198)

49. Under the current legal aid regime in England and Wales, there are people who are both unable to access legal aid and unable to afford to pay for legal services privately. This is an unacceptable barrier to accessing justice. (Paragraph 199)

50. The challenges facing legal aid providers are both systemic and significant. *Whilst we welcome the recent increases in legal aid fees, the Government needs to adopt a more innovative approach to reform the legal aid and advice system. This should include reviewing the scope of legal aid with a particular recognition of the role that early legal advice from lawyers and advice organisations can play in de-escalating disputes and resolving matters before they reach the courts. It should also involve, as discussed later in the chapter, technological solutions.* (Paragraph 200)

51. Justice delayed is, often, justice denied. Delays in the justice system directly undermine access to justice, having significant negative impacts on all those involved and discouraging people from pursuing their legal rights. The existing delays in the justice system in England and Wales, particularly in the criminal courts, are having a detrimental impact on access to justice. (Paragraph 206)

52. We welcome the efforts of the Leveson review into the criminal courts and look forward to the publication of the second part. We anticipate that the Government will engage seriously with the conclusions and recommendations contained within that review, and look forward to the Government response. (Paragraph 207)

53. *Delays and backlogs in civil justice need to be urgently addressed by the Government in order to maintain public confidence in the justice system and to safeguard timely access to justice. A continuing failure to address these issues would be a significant threat to the rule of law in this country.* (Paragraph 210)

54. Timely, efficient, and cost-effective justice should always be available through the courts for those who need it. Nonetheless, the increased use of alternative dispute resolution within the civil justice system is a positive step. It is a time- and cost-efficient way of resolving disputes, and it reduces pressure on the courts. (Paragraph 214)

55. *The Government should explore how the uptake of alternative dispute resolution within the civil justice system can be further encouraged.* (Paragraph 215)

56. Enforcement of judgments is a crucial, though often overlooked, element of justice. A thriving rule of law culture requires that court judgments are effectively enforced, otherwise they are essentially meaningless. Furthermore, people need to trust in enforcement, otherwise they will lose confidence in the ability of the justice system to uphold their legal rights. (Paragraph 221)

57. Enforcement in the civil courts is slow and not working as effectively as it should. *We welcome the Civil Justice Council's recent report into the matter, and we urge the Government to carefully consider its findings.* (Paragraph 222)

58. *The continued reliance on paper in some parts of the court system contributes to inefficiencies and delays. The digitisation of remaining paper-based processes should be a priority. The creative use of alternative technologies should also be embraced as a contribution to tackling the backlogs and improving the experience of those engaging with the justice system.* (Paragraph 226)

59. *Technology can, and should, be used to improve administrative functions and ensure that the time of qualified legal advisers is best used to help those who seek their support. The Government should support advice providers to embrace these opportunities.* (Paragraph 227)

60. In their current form, AI chatbots are unregulated for the purpose of providing legal advice and they can provide inaccurate information. However, as AI is becoming more widely used in everyday life and more sophisticated, there will be the opportunity for purpose-built AI tools to make it quicker and easier for people to access legal advice. *The Government and industry bodies should encourage the development of such tools, but ensure that they are accompanied by appropriate safeguards.* (Paragraph 233)

61. Digitisation and the adoption of new technologies within the legal system should always be accompanied by easily accessible alternative options for those who are unable to access digital systems or struggle to use them. If these adjustments are not provided for, then there is a risk that embracing technology in the justice system will serve to embed existing inequalities. *The Government should continue to work with His Majesty's Courts and Tribunals Service to ensure that all of its functions remain accessible to those without access to online services and that these alternative services are easy to understand and access.* (Paragraph 234)

62. Public legal education is a key enabler of a rule of law culture. It ensures that people understand the rule of law and how it relates to their lives, helping them to understand its importance and the benefits that it brings them. (Paragraph 237)

63. Educating people about the law and the justice system provides them with the tools to navigate these issues for themselves, thus ensuring that people across society can all use the law to uphold their legal rights. Effective public legal education can help people to either avoid a legal problem altogether, or

to identify that they are facing a legal issue and seek legal advice at an early stage, thus preventing unnecessary escalation of legal issues. (Paragraph 240)

64. Public legal education needs to begin from a young age and adapt to each stage of an individual's life. We are pleased the Government acknowledged the importance of citizenship education in its response to the Curriculum Review and we welcome the decision to make citizenship education a statutory requirement at key stages 1 and 2. (Paragraph 245)

65. *We heard that the delivery of teaching about the rule of law in secondary schools is patchy despite being a statutory requirement. Any changes to the curriculum to increase the provision of citizenship education should be accompanied by suitable support, including training, for teachers and appropriate measures to ensure lessons are being delivered.* (Paragraph 246)

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members

Lord Anderson of Ipswich
Baroness Andrews
Lord Beith
Lord Bellamy
Lord Burnett of Maldon
Lord Foulkes of Cumnock
Lord Griffiths of Burry Port
Baroness Hamwee
Baroness Laing of Elderslie
Lord Murphy of Torfaen
Lord Strathclyde (Chair)
Lord Waldegrave of North Hill

Declarations of interest

Lord Anderson of Ipswich
Practising Barrister (King's Counsel)
Baroness Andrews
No relevant interests
Lord Beith
No relevant interests
Lord Bellamy
Door Tenant, Monckton Chambers
Lord Burnett of Maldon
Member of the Supplementary Panel of the Supreme Court of the United Kingdom
Chief Justice of the Astana International Financial Centre Court
Member, Blackstone Chambers
Lord Foulkes of Cumnock
No relevant interests
Lord Griffiths of Burry Port
No relevant interests
Baroness Hamwee
No relevant interests
Baroness Laing of Elderslie
No relevant interests
Lord Murphy of Torfaen
No relevant interests
Lord Strathclyde
No relevant interests
Lord Waldegrave of North Hill
No relevant interests

Specialist Advisers

Professor Stephen Tierney
No relevant interests
Professor Roger Masterman
No relevant interests

APPENDIX 2: LIST OF EVIDENCE AND COMMITTEE ACTIVITY

Evidence is published online at https://committees.parliament.uk/work/8998/rule-of-law/publications/ and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received in alphabetical order.

Anne Applebaum, Journalist, Writer and Historian		QQ 150–158
Amnesty International UK	ROL0034 ROL0093	
Mick Antoniw MS, Member of the Senedd, Senedd Cymru / Welsh Parliament and Former Counsel General		QQ 143–149
Bar Council	ROL0095	
Professor Mauro Barelli, Professor of International Law, City St George's, University of London	ROL0008	
Rupert Barnes	ROL0025	
David Barry	ROL0039	
John Bates, Barrister, Old Square Chambers	ROL0004	
Kai Bethel	ROL0073	
Bingham Centre for the Rule of Law	ROL0081	QQ 1–17, Dr Jan van Zyl Smit, Director
BPP University Social Impact Team	ROL0110	QQ 101–115, Daniel Scrase, Trainee Solicitor
The British Institute of Human Rights	ROL0018	
Ray Brown	ROL0035	
Serene Brown	ROL0094	
Baroness Carr of Walton-on-the-Hill, Lady Chief Justice of England and Wales, Judiciary of England and Wales, Dame Siobhan Keegan, Lady Chief Justice of Northern Ireland, Judiciary of Northern Ireland, and Lord Pentland, Lord President of the Court of Session, Judiciary of Scotland	ROL0027	

Dr Conor Casey, Senior Lecturer in Public Law, University of Surrey School of Law & Senior Fellow, Policy Exchange's Judicial Power Project	ROL0055	
The Centre for the Study of Corruption, University of Sussex	ROL0071	
Cerebra	ROL0033	
The Chartered Institute of Legal Executives (CILEX)	ROL0013	
Citizens Advice Bureau		QQ 68–79, Sarah Matthews, Senior Strategic Lead for Business Development
City of London Corporation	ROL0090	
Charles Clark, Partner Consultant, Linklaters	ROL0010	
The Constitution Society	ROL0054	
Constitutional and Administrative Law Bar Association	ROL0067	
Constitutions, Rights and Justice Research Group (University of Worcester)	ROL0040	
Dr Ronan Cormacain, Consultant Legislative Counsel	ROL0101	QQ 35–54
Dr Robert Craig, Senior Lecturer in Law, University of Bristol	ROL0064	
Dr Liz Curran, Associate Professor of Law, Nottingham Trent University	ROL0007	
David Dyzenhaus, Professor of Law and Philosophy, University of Toronto	ROL0045	
The Faculty of Advocates	ROL0012	
John Finnis KC	ROL0059	
Dr Martha Gayoye, Lecturer in Law, University of Keele	ROL0084	
Professor Graham Gee, Professor of Public Law, University of Sheffield	ROL0065	

Frances Gibb, Journalist and former Legal Editor at the Times	ROL0111	QQ 79–100
Dr David Gibbs-Kneller, Associate Professor in Private Law, University of East Anglia	ROL0005	
David Allen Green	ROL0107	
Raphaël Grenier-Benoit	ROL0080	
Dr Joelle Grogan, Head of Research, UK in a Changing Europe, and Professor Laurent Pech, Dean of the Sutherland School of Law, University College Dublin	ROL0085	
The Rt Hon. the Baroness Hale of Richmond DBE		QQ 18–32
Hansard Society		QQ 35–54, Dr Ruth Fox, Director
Mr Stephen Hockman KC, King's Counsel, Six Pump Court Chambers, and Mr Bren Albiston, Solicitor of the Supreme Court, A City of London law firm	ROL0052	
Louisa Hollely	ROL0074	
Marc Horn	ROL0088	
Stephen Hornsby	ROL0020	
Matthew Hoyle, Barrister	ROL0016	
Professor Aziz Huq, Frank and Bernice J. Greenberg Professor, University of Chicago Law School	ROL0026	
Immigration Law Practitioners' Association (ILPA)	ROL0034	
Institute for Constitutional and Democratic Research	ROL0086	
Sir Jeffrey Jowell KCMG KC	ROL0099	
The Lady Chief Justice of England and Wales, Baroness Carr of Walton-on-the-Hill	ROL0075	
Zana Juppenlatz	ROL0047	
JUSTICE	ROL0103	QQ 54–67, Stephanie Needleman, Legal Director

Serena Kennedy, Chief Constable, Merseyside Police		QQ 133–142
William Keyte	ROL0072	
Professor Jeff King, Professor of Law, University College London		QQ 1–17
Sir Robin Knowles CBE and Lord Thomas of Cwmgiedd	ROL0062	
Dr Klearchos A. Kyriakides, Senior Visiting Fellow, School of Law, Cyprus Campus, University of Lancashire and Tutor, Centre for the Rule of Law & European Values, Cyprus	ROL0092	
John Larkin KC, former Attorney-General for Northern Ireland	ROL0057	QQ 116–126
Law Centres Network		QQ 68–79, Nimrod Ben–Cnaan, Head of Policy
The Law Society of England and Wales	ROL0066	
The Law Society of Northern Ireland	ROL0032	
The Law Society of Scotland	ROL0087 ROL0115	
Leeds Law School, Leeds Beckett University	ROL0063	
Legal Aid Practitioners Group		QQ 68–79, Kate Pasfield, Director of Legal Aid
The Legal Services Board	ROL0028	
Linklaters LLP	ROL0017	
Ben Lotz	ROL0023	
Chris Mader	ROL0022	
James Milton, PhD Candidate and Graduate Lecturer, UCL Faculty of Laws	ROL0009	
National Secular Society	ROL0014	
Chris Nelson, Police and Crime Commissioner for Gloucestershire		QQ 133–142

Dr Patrick O'Brien, Senior Lecturer in Law, Oxford Brookes University, and Dr Ben Yong, Associate Professor in Public Law and Human Rights, Durham University	ROL0006	
James Palmer CBE	ROL0097	
Park Jae Hyeon	ROL0001	
Peacekeepers Foundation	ROL0089	
Lance Peatling	ROL0043	
Policy Exchange	ROL0077 ROL0106	QQ 35–54, Sir Stephen Laws KC, Senior Fellow, Policy Exchange and former First Parliamentary Counsel
Project for the Registration of Children as British Citizens	ROL0093	
Public Law Project	ROL0015	QQ 54–67, Shameem Ahmad, CEO
Daniel Pullin	ROL0079	
Malcolm Ramsay	ROL0053	
Joshua Rozenberg KC (hon), Legal Commentator		QQ 79–100
Dr Mark Ryan, Assistant Professor of Law, Coventry University	ROL0003	
Angelo Ryu	ROL0076	
The University of Leeds, School of Law: Dr Paolo Sandro, Dr Stuart Wallace, Dr James Greenwood-Reeves, and Rebecca Moosavian	ROL0048	
Lord Sandhurst KC, Anthony Speaight KC, Oliver Sells KC and Harry Gillow	ROL0046	
Scottish Human Rights Commission	ROL0030	
Professor Stéphanie Laulhé Shaelou	ROL0083	
Dr Rajiv Shah	ROL0068	
Mrs Debbie Smith	ROL0070	
The Social Market Foundation	ROL0051	
Society of Labour Lawyers	ROL0037	

Lord Stewart of Dirleton KC	ROL0096	
Kapil Summan	ROL0108	
Lord Sumption		QQ 18–32
The Supreme Court (Rt. Hon. Lord Reed, President of the Supreme Court of the United Kingdom)	ROL0100	
Professor John Tasioulas, Professor of Ethics and Legal Philosophy, University of Oxford	ROL0049	
Charles Templer	ROL0021	
TheCityUK	ROL0024	
Professor Cheryl Thomas KC, Professor of Judicial Studies, UCL	ROL0060	
David Todd	ROL0036	
Professor Adam Tomkins, John Millar Professor of Public Law, University of Glasgow		QQ 1–17
UCL Constitution Unit	ROL0102	
UK Collective for Human Rights	ROL0098	
UK Government	ROL0104	QQ 176–193, Rt Hon Shabana Mahmood MP, Lord Chancellor and Secretary of State for Justice QQ 192–210, The Rt Hon. the Lord Hermer KC, Attorney General for England and Wales, Attorney General's Office
The Venice Commission of the Council of Europe	ROL0019	
Lord Verdirame KC	ROL0082	
Rt Hon Sir Geoffrey Vos, Master of the Rolls and Head of Civil Justice	ROL0113	QQ 159–175
Justin R.G. Walker	ROL0056	
Professor Tony Wall, Alison Lui, and Rachel Stalker (Liverpool John Moores University)	ROL0029	
Dr Asanga Welikala	ROL0105	

Dr Jo Wilding, University of Sussex	ROL0031	
Rt Hon James Wolffe KC FRSE, former Lord Advocate of Scotland	ROL0112	QQ 116–126
Irina Woodhead	ROL0109	
World Justice Project	ROL0011 ROL0114	QQ 150–158, Mark Lewis, Chief of Public Sector Partnerships
Young Citizens		QQ 101–115, Ashley Hodges, Chief Executive

Engagement and visit notes

Engagement with schools and young people, summary note
Roundtables with legal professionals, summary note

APPENDIX 3: CALL FOR EVIDENCE

Introduction

The House of Lords Constitution Committee, chaired by Lord Strathclyde, is conducting an inquiry into the rule of law.

The Committee invites interested organisations and individuals to submit written evidence to the inquiry. The deadline for written evidence submissions is 10am on 22 April 2025.

Background

The Constitution Committee, in its first report, published in 2001, produced a list of what it considered to be the five basic tenets of the constitution. The second tenet, following parliamentary sovereignty, was the rule of law. Its importance as a constitutional principle is underscored by the fact that the Constitutional Reform Act 2005 put into statute that the Lord Chancellor, a Cabinet position, has a responsibility to uphold the rule of law.

The current Government has identified upholding the rule of law as one of its key priorities. The Attorney General, Lord Hermer KC, in his swearing-in speech, said that "the rule of law will be the lodestar for this government". He subsequently delivered the Bingham lecture in October 2024, with his lecture titled 'The Rule of Law in an Age of Populism'. In this speech, he argued that the UK needs to rebuild its reputation as a leader in the field of international law and the international rules based order; strengthen Parliament's role in upholding the rule of law; and promote a rule of law culture.

The House of Lords held a debate about the rule of law in November 2024. This debate showed that there continues to be disagreement about what the rule of law means and what it encompasses. In particular, it highlighted a division between advocates of the "thin" and "thick" conceptions of the rule of law.

The World Justice Project has argued that there is a "global rule of law recession", due to the rule of law coming under threat in many countries with, for example, attacks on judges, threats to their independence and the increasingly political administration of justice. Some commentators have suggested that the rule of law has come under threat in the UK too. Indeed, this Committee, in its report on the Safety of Rwanda (Asylum and Immigration) Bill, raised concerns about provisions in the Bill "jeopardising" the rule of law. We raised similar concerns in our reports on the UK Internal Market Bill, the Northern Ireland Protocol Bill and the Illegal Migration Bill.

This inquiry will seek to understand the rule of law as a constitutional principle and as a practical matter, and what the state of the rule of law is in the UK. It will consider the different understandings of the rule of law, both at home and internationally. It will explore how the rule of law as a principle is best put into operation in the different branches of government–Parliament, the judiciary and the executive. This inquiry will also consider the role of education, the media and civic society in creating and maintaining a culture that values the rule of law. Throughout, we hope to also be guided by international perspectives and experiences.

Questions

The Committee welcomes written submissions on any aspect of this topic, and particularly on the following questions. Witnesses are encouraged to include examples. It is not necessary to answer all the questions.

Defining the rule of law

1. What are the components of the rule of law?

    (i) Why is the rule of law an important tenet of the UK constitution?

    (ii) Which factors can be used to assess the health of the rule of law?

    (iii) Is useful assistance to be gained from definitions of the rule of law used by international or supranational organisations, or in the legal systems of other countries?

2. How well is the rule of law understood by politicians and the public?

    (i) Has the rule of law been confused with the rule of lawyers?

The operation of the rule of law

3. What threatens the effective operation of the rule of law in the UK?

4. What is Parliament's role in upholding the rule of law? Is it performing this role well, and how could it be improved?

    (i) How can Parliament improve its legislating to better facilitate the rule of law?

5. What is the Government's role in upholding the rule of law? Is it performing this role well, and how could it be improved?

6. What is the role of the judiciary in upholding the rule of law? Is it performing this role well, and how could it be improved?

7. Is there a role for the public in upholding the rule of law?

    (i) Is there a greater role for education, the media and civic society in promoting the rule of law?

8. How important is the rule of law for the UK's economy and international influence?

9. What threatens the effective operation of the rule of law globally?

    (i) Which countries do you think are leaders in adherence to the rule of law, and why is this the case?

    (ii) How effective is the UK as an advocate for the rule of law on the international stage? How could this be improved?