



Unlock Democracy's Evidence to the Constitution Committee Inquiry on Referendums in the UK's Constitutional Experience

About Us

Unlock Democracy (incorporating Charter 88) is the UK's leading campaign for democracy, rights and freedoms. A grassroots movement, we are owned and run by our members. In particular, we campaign for fair, open and honest elections, stronger parliament and accountable government, and a written constitution. We want to bring power closer to the people and create a culture of informed political interest and responsibility.

1. What are the strengths and weaknesses of the referendum as a democratic and constitutional tool?

The strengths and weaknesses of referendums are essentially the same as the strengths and weaknesses of elections. Indeed Unlock Democracy believes that referendums should be considered as single issue elections.

The strengths of referendums are:

They strengthen popular sovereignty by giving people a say and allowing voters to mandate change.

Referendums are one of the few ways in which under our current constitutional settlement Acts of Parliament can be entrenched. This is not to say that the Acts are codified, just that if a measure has been endorsed in a referendum it would not be politically possible to repeal it without a further referendum. This is particularly significant as it ensures that constitutional changes, such as devolution, have some time to establish themselves rather than being subject to an immediate repeal if there was a change of government.

Where there are effective public education campaigns referendums can create high levels of support for significant changes to the way we are governed. They create a public space for political discourse about important issues so that once the referendum is concluded there is often a degree of consensus about the outcome. This can be seen in the significantly different levels of support for the European Union in countries where there are referendums on the treaties compared to the UK where the public have no direct say on further European integration. The 2009 Eurobarometer survey found that while only 30% of UK respondents thought that membership of the EU is a good thing 65% of Danish respondents and 72% Irish respondents thought that their country's membership of the EU was a good thing.¹ Whilst referendums are by no means the only factor that influences public attitudes

¹ Standard Eurobarometer 72 Autumn 2009 http://ec.europa.eu/public_opinion/archives/eb/eb72/eb72_en.htm see country factsheets for detailed data on individual countries

towards Europe they are a significant factor because they enable there to be a genuinely national debate about contentious issues.

Referendums are popular with the public as they are seen as a fair way of resolving difficult or significant decisions. David Drew MP conducted a survey of his Stroud constituency on constitutional reform and found that 75% of his constituents agreed that governments should make greater use of referendums with many respondents saying that they felt referendums were “real democracy”². This is particularly significant when looked at in the context of the Hansard Society’s Audit of Democratic Engagement which found that 85% of respondents felt they had little or no influence on decision making at a national level. Referendums are on way of giving the public a say on significant national issues and by triggering public education campaigns referendums can help to counteract the prevailing sense of cynicism and powerlessness.

The weaknesses of referendums are that:

They can lead to the simplification of very complex and nuanced issues. This is both because of the need to make them understandable to a population that may have little or no knowledge of the subject being decided. The need for a clear simple question, usually with a yes or no answer inevitably simplifies issues.

Voters may not understand what they are being asked and misinterpret the question or they may use a referendum to vote on other issues such as the popularity of the government.

If the public education campaign is not properly resourced or is seen to be biased the referendum campaign is unlikely to have a positive effect on political engagement and may even increase disillusionment with the political process.

As mentioned above these criticisms could equally be applied to elections and to public involvement in decision making more generally. Certainly in the context of elections these are weaknesses that are accommodated and seen as being outweighed by the benefits of democracy. Unlock Democracy recommends that these weaknesses do not prevent referendums from being an important element in the UK’s political system.

2. What assessment would you make of the UK’s experience of referendums? What positive or negative features of this experience would you highlight?

Referendums have been used relatively rarely in the UK, particularly before 1997. There have been nine UK wide or regional referendums held since 1973 for a full list see the appendix. They have been on issues of significant constitutional changes that needed the buy in of the whole community, such as national sovereignty or about the transfer of powers to different levels of governance within the UK. Some

² Up for Debate report capturing the views of the Stroud constituency on constitutional reform conducted by David Drew MP

of the have been UK wide referendums while others, notably those on devolution have been held in specific parts of the UK.

Where referendums have been used to endorse devolution to Scotland, Wales, Northern Ireland and London they have effectively entrenched these changes in governance. Whilst they could be repealed by a simple majority in Parliament, it is inconceivable that this could be done without a further referendum. Equally when in 1997 the Labour Government wanted to introduce devolution to Scotland and Wales this would have been politically impossible without referendums even though constitutionally they had the power to enact the necessary changes.

The key lesson from the UK experience that Unlock Democracy would seek to highlight is the damaging impact of thresholds. This will be explored in more detail in question 8 but thresholds can negate the positive, educational impact of referendums. One of the reasons for holding referendums is to have a debate about a contentious issue and to reach a consensus that the community can unite behind. If the result is dependent on a certain level of turnout than those who wish to oppose the referendum do not need to engage with the debate and make their case to voters, they merely have to convince people to stay at home. This sets a dangerous precedent for democratic engagement. There is also a risk that people who have participated in the campaign and secure a majority but do not meet the turnout threshold will feel cheated and that political engagement is ineffectual.

The question of the public education campaign is also very significant. There have been very limited attempts at this in the UK and we should learn from the experience in New Zealand during the two referendum campaigns on electoral reform.

3. How does, and how should, the referendum relate to the UK's system of parliamentary democracy?

There is no reason why referendums cannot be used effectively with a parliamentary system of government as demonstrated by the Republic of Ireland and New Zealand, which both have parliamentary systems and use referendums in certain specified circumstances. Referendums can either be used at a pre-legislative stage to indicate public support for a proposal, as with the referendum in Northern Ireland on the Good Friday Agreement, or to endorse changes made in Acts of Parliament as was the case with the devolution referendums.

Unlock Democracy would like to UK to move towards having a codified constitution that sets out what government may and may not do in our name. However it is possible to set out when referendums should be initiated by government without going as far as codifying the constitution.

Unlock Democracy believes that referendums are an important tool in involving the public in decision making and that while they should not be used frequently they have an important role to play. This inquiry is looking at primarily at the use of government initiated referendums. Unlock Democracy also believes that it should also be possible for citizens to initiate referendums in certain circumstances. This is explored in more detail in question 8.

4. Is it possible or desirable to define which issues should be subject to a referendum?

It is both possible and desirable to define which issues should be subject to a referendum.

Unlike many other countries the UK does not have a written constitution or a referendum law that sets out when referendums have to take place. This means that there are no mandatory referendums only optional referendums. The weakness of optional referendums is that they are generally more politicised as the government itself determines whether the issue should be put to a referendum and when it is put to a referendum. The controversy over whether there should have been a referendum on the Lisbon Treaty is a good example of this. Equally in some US states, the state legislature has been perceived as using referendums held on the same day as other elections for political purposes such as mobilising certain sections of the electorate to come out and vote³. This perception that referendums can be used to manipulate voters is not helpful.

Unlock Democracy therefore believes that situations when the government must initiate referendums should be clearly set out. This would depoliticise referendums and help to give the public a clearer sense of how they are governed.

Government initiated referendums should be held on significant issues such as constitutional changes and should not be held frequently. If referendums are held too frequently there is a danger that turnout will decrease and the legitimacy of the referendums could be undermined.

There are two ways that the UK could define what issues must be subject to a referendum without moving to a written constitution. The first would be to pass a Referendums Act which lists all the acts of parliament or clauses of acts that cannot be repealed or amended without a referendum. The second is to amend the key acts themselves so that they cannot be repealed or amended without a referendum. The first option would be clearer and easier for the public to understand and would therefore be our preference.

5. Should “constitutional issues” be subject to a referendum? If so, how should “constitutional issues” be defined?

Yes as outlined above in answer to question 4 constitutional issues should be subject to a referendum.

Defining constitutional issues can be contentious in itself, particularly as the UK does not have a codified constitution. Rather our constitution consists of statutes, court judgements, treaties as well as parliamentary conventions and royal prerogatives.

³ The 2006 referendum on the definition of marriage in Virginia was widely perceived as an attempt to mobilise Republican voters and prevent the Democrats gaining the Virginia senate seat which would give them a majority in the Senate. The state had already legislated to prevent gay marriages and civil unions conducted in other states from being recognised in Virginia so there was no confusion about the state's position on the issue. Although the referendum was passed the Republicans were not able to hold on to the senate seat.

This makes defining constitutional issues in the UK context difficult but certainly not impossible.

Unlock Democracy believes that constitutional issues are those that change the contract between the government and the governed. These include, but are not limited to:

- transfers of power from the UK Government to other units of government within the UK or to supra-national bodies such as the Europeans Union;
- Acts of Parliament to do with when elections should be held and entitlements to vote; and
- Acts of Parliament that define the rights of residents of the UK such as the Human Rights Act or any future Bill of Rights and Responsibilities.

Alternatively it could be decided that referendums on constitutional issues would only be required if they were not passed by a super-majority in Parliament. For example in Denmark referendums are held on transfers of power to international or supra-national bodies unless it is passed by a five-sixths majority in the parliament.

6. Is the Political Parties, Elections and Referendums Act 2000 (PPERA) an effective piece of legislation? How, if at all, could it be improved?

To date there has only been one referendum campaign run under the PERA regulations and we do not feel this is enough experience to be able to judge the effectiveness of the legislation.

7. Is the role of the Electoral Commission in regard to referendums, as set out in PERA, appropriate? What assessment would you make of the Electoral Commission's work in relation to referendums?

Unlock Democracy believes that the Electoral Commission should be given responsibility for overseeing local as well as national referendums. There have been 35 local referendums held since 2001 on the issue of whether or not to have directly elected Mayors. These referendums are regulated by the Local Government Act 2000, rather than PERA, and we believe that this is anachronistic. Changes to local government structure are significant constitutional changes and as such should be regulated by an independent body.

One of the criticisms made about the referendum held by Edinburgh City Council in February 2005 on whether or not to introduce congestion charging was that the question was overly complicated and was perceived to be biased⁴. Ideally the body initiating the referendum should not be responsible for drafting the question and while we do not believe that the Electoral Commission should be involved in parish

⁴ See Ferguson, Brian (2004-12-10). "City presses on with 'biased' toll question". Edinburgh Evening News (Johnston Press plc). <http://news.scotsman.com/roadtolls/City-presses-on-with-biased.2586842.jp>.

McEwen, Alan (2005-02-09). "Baffling road-toll vote a shambles, say critics - Hundreds jam helpline as ballot paper causes confusion". Edinburgh Evening News (Johnston Press plc). <http://news.scotsman.com/roadtolls/Baffling-roadtoll-vote-a-shambles.2601778.jp>.

polls; where referendums are used by principal authorities to endorse significant changes, we believe the Electoral Commission should have a role.

8. What comment would you make on key components of a referendum campaign, such as:

- **Whether or not there should be any threshold requirements, for instance in terms of the percentage of the vote required, or the level of turnout required, for a vote to be carried;**

As outlined above Unlock Democracy does not support the use of thresholds in referendums. Whilst we understand the desire to ensure that there is a significant level of support for any changes proposed in the referendum, specifying a quorum does not necessarily lead to high turnout. Experience in Italy has shown that thresholds can encourage non-participation and that this sets a dangerous precedent. Rather than campaigning against a proposal and making a case to voters no campaigns can simply opt out of the process and rely on the threshold to prevent change. This is not conducive to a healthy democracy.

Thresholds can also lead to repeat referendums. For example in Palau seven referendums were held between 1983 and 1990 on the proposed compact of Free Association with the United States. In each referendum there was a simple majority in favour of the proposal but not the 75% required for approval in a referendum. Eventually the constitution was changed to remove the threshold requirement for referendums and the proposal was approved in an eighth referendum in 1993.

- **the wording of the referendum question (including the appropriateness of multi-option questions);**

Simple and clear wording of a referendum question is essential and we believe that the current system under PPERA where the politically neutral Electoral Commission is responsible for determining the wording of the question is the appropriate solution. It is generally simpler and less likely to lead to either spoilt ballot papers or voters misinterpreting the question if the referendum involves one question with and yes/no answer.

However there are some issues that cannot be reduced to this level of simplicity and multi-option referendums can be run effectively with minimal levels of confusion. The referendums on electoral reform in New Zealand held in 1992 and 1993 are good examples of successful multi-option referendums. In these instances there was an initial yes/no question followed by a multi-option question. Where multi-option questions are used the public education campaign takes on an even greater significance and the design of the ballot paper is particularly important.

- **the design of the ballot paper;**

As the Gould Report into the May 2007 elections to the Scottish Parliament found, the design of the ballot paper is critical to whether or not voters understand how to cast their ballots. This is particularly important where there are either different

electoral systems being used, as in the Scottish elections, or where there is a multi-option referendum question.

It is essential that any ballot paper design is tested before it is used as this is one area where the unintended consequences of a change can undermine the legitimacy of an election or potentially change the result of a referendum. It had been assumed that the changes to the ballot paper design in Scotland in 2007 would make it simpler for voters, this was clearly not the case.

- **whether there should be formal, constitutional triggers for referendums;**

Yes as outlined above Unlock Democracy believes that there should be a Referendums Act that sets out when government is required to hold referendums. This is not to say that governments should be unable to hold what are often termed optional referendums on issues, just that the expectation should be that these are rare occurrences. We believe that this is essential both to depoliticise the holding of referendums and so that voters and political parties are clear about the circumstances in which referendums take place. The need for a referendum should not be determined on the basis of a government or political party deciding whether or not they are likely to win the campaign.

- **whether a referendum should be indicative or binding;**

Unlock Democracy believes that the status of the referendum should depend on the stage in the policy formation process that it is held. Specifically a referendum held on a policy proposal before legislation has been passed should be indicative where as a referendum held after legislation has been passed should be binding. As already stated we do not believe that referendums should be used regularly but if the public are to be involved in decision making it is essential that they are listened too. At a pre-legislative stage it is possible for government and/or parliament to take on views expressed during the referendum campaign and alter the proposal accordingly. Also if voters are still unhappy with the proposal they still have representation in the process through their MPs. Therefore the referendum need only be indicative. However once Parliament has already taken a view and passed legislation on a proposal it is essential that the referendum is binding. Asking the public their opinion in a referendum and then ignoring it would be hugely damaging to democracy and participation in the UK.

Also if a referendum is triggered by a constitutional mechanism then the referendum should be binding while if the referendum is triggered by citizens through an initiative process then the referendum should be indicative although in reality it may be that such referendums were politically binding even if not formally so.

However it should be recognised that the distinction between an indicative and referendum may, in reality, not be very important. It is difficult for a democratic government to disregard the result of a referendum even if it is only consultative. This is clearly demonstrated by the referendums in the Netherlands and France in 2005 on the EU Constitutional Treaty. There was no prospect of either government

saying that as the referendums were only consultative they would go ahead and ratify the treaty anyway.

- **whether a referendum should ask broad questions of principle, or refer to specific legislation;**

Again this would depend on the stage at which the referendum is being used. If the referendum is pre-legislative then the referendum should be on broad principle and the government and parliament should work on the details of the proposals. However if, as is the case with the devolution referendums in 1997 the proposals have already been defined and passed by Parliament then the referendum should refer to the legislation or at least to the specific proposals in the legislation.

- **whether a referendum should precede or follow statutory enactment;**

Referendums can be used at either stage it depends on what the government is trying to achieve with the referendum.

- **campaigning organisations and the funding of campaigns;**

There is little UK based evidence to draw on but Unlock Democracy is concerned that it may be possible to bypass the campaign spending restrictions by having a diffuse movement rather than a centralised campaign. Specifically if it is not possible to define either the official yes campaign or the official no campaign, how would spending limits be applied?

- **Public information campaigns and media coverage;**

Unlock Democracy believes that it is essential that if referendums are to be used in the UK then the public information campaigns should be extensive and run independently of government. For us, one of the main advantages of referendums is the opportunity for public education and discourse on a contentious issue. This will not exist without high quality, independent information from a trusted source. This inevitably increases the cost of referendums and the length of the campaign. However we believe that the experience in New Zealand of the two referendums on electoral reform demonstrates that that setting up an independent body to provide information and run the public education process is money well spent and is in effect and investment in democracy.

- **Party political activity;**

Unlock Democracy believes that political parties should be able to campaign for or against referendums. They should be regulated in the same way as other campaigning organisations but they should not be prevented from taking part in the campaign. One of the weaknesses of the first Irish referendum on the Nice Treaty in 2001 was that the governing party, the main supporters of the treaty were not able to take part in the campaign.

- **whether referendums should coincide with other elections or not;**

Referendums should be held at the same time as other elections so as to reduce their costs and to encourage turnout. There is substantial experience worldwide of holding referendums at the same time as other referendums and there is no reason to think that creates unnecessary confusion.

It may not be appropriate for referendums to be combined with general elections, as there is a significant danger of the referendum campaign being drowned out by other issues and of the chance for debate on the referendum question to be lost. However we do not believe these problems would arise if the referendum was held at the same time as European, devolved or local elections. We also already have experience of combining these elections in the UK and so it would be a relatively low risk way forward.

- **the strengths and weaknesses of in-person, postal or electronic forms of voting.**

Unlock Democracy reaffirms its strong opposition to any election which only has a single way of registering a ballot. We believe this would represent an unacceptable barrier to someone trying to exercise their democratic right to vote. We strongly believe there must always be multiple ways to cast a ballot at an election, whether this is a single issue election or a candidate election. We continue to support the concept of postal voting on demand, and recognise Government efforts to put in place electoral safeguards.

There have been pilots of electronic voting in the local elections held in 2002, 2003 and 2007. These pilots have tested a variety of forms of electronic voting, including remote voting via the Internet, telephones, and digital television, as well as the use of mobile electronic voting kiosks and laptops within polling stations.

The Electoral Commission found that four sets of key issues emerged from these pilots, all of which highlight significant limitations with e-voting:

- **Turnout:** The Electoral Commission evaluation report consistently states that the e-voting pilots had little or no impact on turnout. Surveys did reveal that e-voting proved popular among those making use of the facility, however evidence suggests that many e-voters would have voted anyway.
- **Security:** E-voting does continue to raise security questions and the Commission's report highlighted notable security weaknesses in the systems used.
- **Reliability:** While the 2002 and 2003 pilots ran without any significant technical hitches, the more ambitious 2007 pilots witnessed a failure of network connections at two polling stations and a loss of wireless connectivity.
- **Cost:** The Electoral Commission's evaluation of the 2007 pilots estimated that the cost of providing e-voting facilities was £102 for each voter making use of the facility, compared to a cost of £2 per elector for conventional ballots.

We therefore agree with the Electoral Commission which calls for a much stronger regulatory and policy framework should be put in place before further e-voting pilots are contemplated.

Unlock Democracy also shares their view that fundamental weaknesses in our current 19th Century electoral laws need to be rectified as a matter of urgency. We therefore welcome the planned introduction of Individual Voter Registration, something we strongly campaigned for in our Stamp Out Voting Fraud Campaign, however we strongly believe weaknesses remain. If these are not addressed, it is our belief elections will remain open to electoral fraud, resulting in high profile media cases similar to those we have seen in recent years.

That is why we continue to call for two specific measures:

- Increased Ballot Security by asking voters to provide identification when collecting their ballot ensuring both that the person who votes is actually the person on the register and that their vote is counted accurately.
- Strengthening the powers of the Electoral Commission to investigate and police the electoral system. Where the Commission recommends specific changes in the law there should be an obligation for the Government to respond within a specified time frame and if they are not implementing the recommendations, to report to Parliament giving their reasons for not doing so.

These reforms could be easily legislated for and in our view would represent a more effective form of electoral modernisation than e-voting. Following the Electoral Fraud (Northern Ireland) Act 2002, Northern Ireland has both Individual Voter Registration and increased ballot security. In tandem, both have proved to be an accurate way of tackling fraud, whilst eight years on are popular with voters. We look forward to the Government reporting to Parliament the results of their considerations on the practicalities of implementing such a system in the UK.

9. How does the referendum relate to other tools such as citizens' initiatives? Should citizens be able to trigger retrospective referendums?

This inquiry has focused on the question of governments initiating referendums. It is equally possible through the use of citizens' initiatives, for citizens to put a question to a referendum. Although the outcome, the referendum campaign, may be the same, the process for triggering a referendum is distinctly different when citizens, rather than governments are involved.

Citizens' initiatives do not always lead to referendums. For example agenda initiative, which was recently endorsed by the Committee on the Reform of the House of Commons, does not lead to a referendum and decision-making rests firmly with the legislature, rather than being held jointly with citizens. Generally speaking an agenda initiative leads to either a committee of the Legislature, or the Legislature as a whole examining the issue, deciding whether it has merit and how if at all it should be taken forward.

Worldwide, Citizen's Initiatives have been increasing in popularity in recent years. Famously, the system forms a central part of the Swiss constitution, but they are an increasingly common feature in the USA, Germany, Italy and elsewhere.

In countries where direct democracy tools such as citizens' initiatives are used, referendums are usually seen as the last resort once all other options to influence a decision or process have been exhausted. As well as initiating debates using agenda initiative it is also possible for citizens to either veto legislation that has already been passed by a government or to initiate legislation. Citizens' initiatives generally start with a petitioning process and the thresholds set for the petition as well as the time allowed to collect the signatures greatly influences how easy or difficult an initiative process is. Unlock Democracy believes that citizens initiatives should be possible but difficult so we would support high thresholds. Also the more influential the initiative process then the higher the threshold should be. For example there should be a significantly lower threshold for agenda initiative, which enables a debate to take place, than for a legislative initiative which could create new law.

Most countries that use these tools also have clear exemptions from initiative processes. Austria, Brazil, Cape Verde and Thailand do not allow agenda initiative to be used for amendments to the constitution while Niger does not allow agenda initiative on devolution. Citizens' Initiatives on financial matters are not permissible in Germany, while even Switzerland prevents initiatives which contravene binding international law. Many countries also prevent the repeal of their Bills of Rights or human rights legislation by citizens' initiative as well as having provisions in their constitutions to prevent initiatives being used for discriminatory purposes. As the UK does not have a codified constitution it would be necessary for any act enabling the introduction of citizens initiatives in the UK to clearly state on which issues initiatives could be used.

It has almost become cliché to describe Switzerland as "the land of the contented loser," but there is considerable evidence to suggest that more direct democracy does contribute directly to the wellbeing of Swiss citizens, as outlined in Richard Layard's book *Happiness*. While each individual Swiss citizen may lose numerous referendums that they feel strongly about, crucially they seem to be content that the system is fair.

Initiatives and Referendums have the potential to draw the sting from some of the most divisive issues Britain has faced in recent years. For example, it is possible that if we had such a system in place a few years ago, that the Hunting with Dogs issue would have been both less divisive and would have taken up less Parliamentary time. Numerous issues, from constitutional reform through to climate change and Britain's place in the EU, have festered for many years in the political background, yet political parties have successfully avoided tackling them on the basis that while people might have strong opinions on the subject, they don't feel strongly enough about them for them to become political issues. Citizens' Initiatives provide an outlet for this sort of issue.

UK citizens already have a right of initiative in a number of cases, although these rights are strictly limited:

- **Local Government Act 1972:** This act spells out a system of Citizen's Initiative, although it is only applicable at a parish level and is non-binding. Just 10 people voting in support at a Parish Council meeting can demand a referendum on an issue, and the District Council is obliged to hold it.
- **Formation of local parishes:** This right was introduced in the Local Government and Rating Act 1997. 250 people, or 10% of electors in the area concerned (whichever is higher) can demand that the Secretary of State allows for the formation of a Parish Council in an area. The Secretary of State can insist on a referendum and can ultimately block it, but 100 new parish councils have been formed since this legislation was introduced. The 2006 Local Government White Paper proposes devolving the Secretary of State's role to the relevant local authority and allows for the creation of parish councils in London.
- **Local Government Act 2000:** 5% of the electors in a local authority can call for a referendum on a change to the method of appointing the authority's executive (e.g. Mayor or cabinet model). A 'yes' vote in such circumstances is legally binding.
- **Scottish Parliament:** while most Parliaments (including the UK's) have a public petitioning system, the Scottish Parliament has been remarkably proactive in promoting its own system. Any member of the public can collect petition signatures online using a Parliament-hosted website (<http://epetitions.scottish.parliament.uk/>). These petitions are considered by the Public Petitions Committee.

Unlock Democracy supports the introduction of citizens' initiatives in the UK for raising issues, vetoing legislation and initiating legislation. However we believe that there should be high thresholds set so that the proposals could not be abused and that there should be a clear list of policy areas that should be exempt from citizens' initiatives so that they cannot be used to resile from international treaty obligations or be used for discriminatory purposes.

10. How would you assess the experience of other countries in relation to the use of the referendum? What positive or negative aspects of international experience would you highlight?

Referendums can be an important tool for involving citizens in decision-making and there is substantial worldwide experience on running successful referendums.

Government initiated referendums have been used since the 1790s and currently about half of all countries have provision for mandatory referendums (ie a referendum that is automatically triggered by a constitution or referendum law.) In countries such as Australia, Denmark, Japan, Switzerland and Venezuela all changes to the constitution have to be approved by a referendum. Some countries such as Spain, Malta, Austria and Peru have referendums for significant amendments to the constitution but not for all changes.

In addition to approving changes in constitutions referendums are commonly used to resolve conflicts between different branches of government, particularly in presidential systems, or they can be used to ratify transfers in national sovereignty. In most political systems where referendums are used the criteria are set out in either a constitution or referendum law. Even in countries where referendums are commonly used there are certain issues that are exempt from referendums, these usually include issues of taxation and public expenditure.

Referendums may be initiated by governments for a variety of reasons and in reality there are usually a combination of factors. For example they may be used to resolve differences within a governing party or coalition, they may be used by a government to show support for a proposal that would otherwise not be able to get through parliament, or they may also be used to demonstrate support for a government or president although this can be a high risk strategy as Charles De Gaulle ultimately found out⁵.

Mandatory referendums are usually restricted to issues that are considered particularly important as holding too many referendums can reduce their political efficacy and may even affect political stability. Italy is a good example of a country where referendums are relatively frequent but concerns about the wording of the questions and a turnout threshold have meant that very few recent referendums have actually been passed. Referendums are also costly in terms of money, time and political attention and the use of such resources needs to be carefully considered.

As with any political engagement tool, whether elections or deliberative exercises, there are examples of good and bad practice. While it is certainly easy to find examples of referendums where the questions have been biased in favour of the government's preferred outcome, or examples where referendums have been used for partisan purposes, this does not mean that the tool itself should be devalued or even abandoned. Rather the UK should take advantage of the best practice from around the world, particularly in the field of public education and use referendums appropriately for the UK context. In Unlock Democracy's view this would be the approval of constitutional changes.

⁵ As President of France Charles De Gaulle used referendums to endorse his leadership on several occasions. However it was the failure of a referendum in 1969 which was inevitably seen as the loss of public support for his presidency that ultimately prompted his resignation.

Appendix

Government Initiated Referendums in the UK since 1973

Year	Referendum	Result
1973	On whether Northern Ireland should remain in the UK or join the Republic of Ireland	Stayed in the UK
1975	On whether the UK should remain part of the European Economic Community	Yes
1979	On the creation of a Scottish Assembly	Yes but the thresholds were not met so the proposal fell
1979	On the creation of a Welsh Assembly	No
1997	On the creation of a Scottish Assembly and whether it should have tax varying powers	Yes to both questions
1997	On whether there should be a Welsh Assembly	Yes
1997	On whether there should be a directly elected Mayor of London and a Greater London Authority	Yes to both questions
1998	On whether the Belfast (Good Friday) Agreement should be ratified	Yes
2004	On the creation of a directly elected regional assembly for the North-East of England	No