

The UK's constitutional safeguards

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Background: At Best for Britain we want to eradicate the frustrations driving extreme narratives and keep the far right out of power not just at the next election but for good. We work to strengthen the health and resilience of the UK's democracy and the country's standing in the wider world. We have a particular interest in the robustness of our democratic institutions and in electoral reform.

Best for Britain has created this evidence submission for the House of Lords Constitution Committee, in response to the [Committee's inquiry on constitutional safeguards](#). The submission provides responses to five topic areas raised by the questions within the inquiry's call for evidence, namely:-

- 1) Is the UK's constitutional democracy under threat? If so, why?
- 2) How could potential threats to the constitution be mitigated?
- 3) What safeguards exist to protect the UK constitution?
- 4) How effective are the UK's constitutional safeguards? Where do the vulnerabilities lie?
- 5) Who are the key guardians of the integrity of the UK's constitution? What formal or informal powers do they have? Who guards the guardians?

Summary

The UK's constitutional safeguards are unusually dependent on convention and self-restraint, and the combination of unlimited parliamentary sovereignty with a disproportionate voting system leaves the constitution more exposed to a determined executive than its reputation for stability suggests. We set out below where we believe the principal vulnerabilities lie and what might be done to address them. We would welcome the opportunity to expand on any of these points in oral evidence.

1. A Constitution Under Threat

We do not suggest that the UK stands on the brink of authoritarian rule, nor that any current party is comparable to the worst movements of the past. However, our constitution is more exposed than its reputation implies. Democratic backsliding in comparable democracies has seldom arrived with tanks; it has arrived incrementally and with electoral legitimacy, through governments that invoke a crisis whether economic, security-related or institutional, and then use lawful means to tilt the playing field in their own favour. Each individual measure can be defended; the cumulative effect is what matters.

Three structural features make the UK unusually exposed:

(a) **No entrenched higher law.** Because Parliament is sovereign, there is no constitutional provision that a government with a majority cannot change by a simple majority vote. The Human Rights Act 1998 could be repealed, judicial review narrowed, the remit of regulators altered, electoral law rewritten and boundaries redrawn, all by ordinary legislation. Some political parties and senior politicians have raised the possibility of taking the UK out of the jurisdiction of the European Court of Human Rights. In most comparable democracies, changes of this kind require special majorities or formal constitutional amendments.

(b) **A voting system that manufactures majorities.** First-past-the-post rewards the geographic concentration and efficiency of a party's vote rather than its overall level of support. It is entirely agnostic about who benefits: it simply amplifies whichever party is best placed to exploit it, and there is no guarantee that this will always be a party committed to constitutional restraint.

(c) **Safeguards resting on convention.** Many of the restraints on the executive are cultural rather than legal or what the constitutional historian Lord Hennessy called the "good chaps"

theory of government¹. Such a system works only for as long as those in office accept that there are things one simply does not do. Boris Johnson's illegal prorogation parliament is a case in point.

These vulnerabilities matter more now than in the recent past because the party system is fragmenting. In February 2026, around 50 leading academics wrote to the Government warning that, in a multi-party age, first-past-the-post is "creating new risks for Britain"². A system designed for two-party competition can now hand near-total power to a party supported by only around a third of voters, whoever that party happens to be.

2. Mitigations

We recommend three complementary measures.

(a) **An independent national commission to stress-test the constitution.** This inquiry is itself a valuable step. A dedicated commission could take the work further, systematically identifying which democratic protections depend solely on convention and which ought to be placed on a statutory or entrenched footing. There is significant cross-party appetite for such a body: an amendment to the Representation of the People Bill, tabled by Alex Sobel MP (who chairs the All-Party Parliamentary Group for Fair Elections) and calling for a National Commission on electoral reform, attracted 166 signatories from eight parties, making it the most-signed amendment of this Parliament³.

(b) **Electoral reform.** A more proportional voting system would remove the single most powerful lever available to any would-be authoritarian: the ability to convert a minority of votes into unchecked majority control. Proportional representation does not keep objectionable or extreme parties out of legislatures because they can and do win seats under it, but it reliably prevents any party from taking total control on the back of partial support, forcing coalition, compromise and broad governing consent. The clearest historical illustration is inter-war Germany, where a proportional system denied the largest party (which never secured a majority of the vote in a free election, peaking at 37.3% in July 1932) the total parliamentary control that a winner-takes-all system could have delivered on the same share of the vote.

¹ Blick & Hennessy, *Good Chaps No More?* (The Constitution Society, 2019): <https://consoc.org.uk/publications/good-chaps-no-more-safeguarding-the-constitution-in-stressful-times-by-andrew-blick-and-peter-hennessy/>

² Unlock Democracy (references the Feb 2026 letter from ~50 academics warning FPTP is "creating new risks"): <https://unlockdemocracy.org.uk/blog/2026/6/3/over-100-mps-sign-amendment-calling-for-electoral-reform>

³ Politics.co.uk: <https://www.politics.co.uk/news/2026/07/08/one-in-four-mps-demand-electoral-reform-commission-in-open-goal-for-burnham/>

(c) **Targeted entrenchment short of full codification.** Meaningful progress does not depend on codifying the whole constitution overnight, though that should not be a taboo. The Committee could instead recommend a set of targeted reforms: placing statutory limits on the prorogation of Parliament; giving the independence and funding of key watchdogs (in particular the Electoral Commission) statutory protection; strengthening select committees; and requiring enhanced parliamentary thresholds for changes to a defined set of core constitutional principles for example judicial independence, the conduct of free and fair elections, and basic rights and liberties.

3. Existing Safeguards

The UK relies on an interlocking network of legal, institutional and conventional safeguards. The principal ones include:

Parliament and scrutiny of the executive through debate, questions, select committees, and the revising role of the House of Lords, which can delay legislation under the Parliament Acts 1911 and 1949.

An independent judiciary and judicial review, which can hold ministers to the limits of their legal powers as in the 2019 Miller / Cherry case, in which the Supreme Court unanimously held the prorogation of Parliament unlawful⁴.

The rule of law and statutory rights, notably the Human Rights Act 1998, the European Convention on Human Rights and the European Court of Human Rights and the European Court of Human Rights.

Independent institutions and regulators including the Electoral Commission, the Comptroller and Auditor General and the National Audit Office, the Information Commissioner and the UK Statistics Authority.

Standards machinery including the Ministerial Code, the Seven Principles of Public Life, the Ethics and Integrity Commission (formerly the Committee on Standards in Public Life), and the Independent Adviser on Ministerial Standards.

Constitutional conventions and culture and the largely unwritten expectations partly captured in the Cabinet Manual (2011) and in the “good chaps” understanding of how office-holders should behave.

⁴ *R (Miller) v The Prime Minister; Cherry v Advocate General for Scotland* [2019] UKSC 41: [https://en.wikipedia.org/wiki/R_\(Miller\)_v_The_Prime_Minister_and_Cherry_v_Advocate_General_for_Scotland](https://en.wikipedia.org/wiki/R_(Miller)_v_The_Prime_Minister_and_Cherry_v_Advocate_General_for_Scotland)

Devolution, a free press and a vibrant civil society, together with the electorate itself.

4. Existing Vulnerabilities

The effectiveness of existing safeguards is uneven, and several share a common weakness because they can be diminished or removed by the very executive they are meant to constrain.

The deepest vulnerability is structural. Because there is no higher law, Parliament, in practice, a government with a working majority and disciplined MPs, sits above almost every other guardian. Lord Hailsham's warning of an "elective dictatorship" captures this point: where the executive reliably controls the legislature, Parliament's check on government becomes political rather than structural.

The Elections Act 2022⁵ gave ministers a new power to set a "strategy and policy statement" to which the Electoral Commission "must have regard". The House of Lords⁶ voted to remove the provision and Lord Judge described it as "repugnant" to the Commission's independence, but the Commons reinstated it, and the Commission itself, alongside international election observers at the 2024 general election, questioned its compatibility with the independence of the elections regulator⁷. The Government maintained that the power does not affect the Commission's operational independence and then subsequently announced that it intended to repeal it in the Representation of the People Bill currently before Parliament⁸. But it illustrates how the independence of a core safeguard can be adjusted by ordinary legislation, and how a change in government can cause significant instability, leaving open the question of whether the next government might reverse this change again.

The European Convention on Human Rights (ECHR)⁹, which the UK was instrumental in creating, guarantees alongside personal rights the right to free and fair elections; the freedom of assembly and association; the right to a fair trial; the right to liberty and security. The Leader of the Opposition has made leaving the ECHR a key plank of her

⁵ Elections Act 2022, s.16 (explanatory notes):

<https://www.legislation.gov.uk/ukpga/2022/37/notes/division/8/index.htm>

⁶ Hansard, House of Lords debate on the Elections Bill, 25 April 2022:

https://hansard.parliament.uk/Lords/2022-04-25/debates/817A82E0-0825-44E9-BD32-0C1CCC9F1180/Elections_Bill#contribution-872886D1-3610-4BF8-87CE-968D250EFAF9

⁷ House of Lords Library, 'The government's strategy and policy statement for the Electoral Commission':

<https://lordslibrary.parliament.uk/the-governments-strategy-and-policy-statement-for-the-electoral-commission-regret-motion/>

⁸ House of Commons Library, 'Electoral Commission strategy and policy statement':

<https://commonslibrary.parliament.uk/research-briefings/cbp-10552/>

⁹ Ministry of Justice, 'Human Rights: The UK's international human rights obligations':

<https://www.gov.uk/government/collections/human-rights-the-uks-international-human-rights-obligations>

leadership¹⁰ and potential future election platform, Reform UK has taken a similar position¹¹. Both parties have set their ambitions on this despite the disruption leaving the ECHR would have on the UK's international treaties and reputation, including its obligations under the Good Friday Agreement and the UK-EU Trade and Cooperation Agreement. The willingness amongst contenders for political and electoral power to tear up an independent safeguard of fundamental constitutional rights, even at the risk of damage to peace in Northern Ireland and diplomatic and economic pain, further show the vulnerabilities in the UK's system.

The second vulnerability is dependence on convention. The events surrounding the 2019 prorogation that was subsequently found unlawful, led Lord Hennessy to describe the "good chaps" theory as lying "in shards". When those who hold office no longer feel bound by unwritten rules, the guardrails fail. Rhetorical attacks on judges, attempts to sideline Parliament, and episodes involving the parliamentary standards system have each tested norms that carry little to no statutory backing.

The third vulnerability is the voting system. At the 2024 general election, the governing party won around 63% of the seats on 33.7% of the vote, with a majority of 174 making it the most disproportionate result in British history¹², on the lowest vote share ever recorded for a winning party. Meanwhile, parties with substantial national support won very few seats. By manufacturing majorities in this way, first-past-the-post can hand the keys to largely unchecked power to whichever party is most efficiently placed under the system, regardless of its commitment to constitutional restraint.

5. Guardians and Who Guards Them

The formal guardians include: the courts (through judicial review, though Parliament can narrow or oust their jurisdiction by statute) and the European Court of Human Rights (though a future government could take the UK out of Court's jurisdiction); the House of Lords (revising and delaying, but ultimately subordinate under the Parliament Acts); the Speaker of the House of Commons and the Speaker's Committee on the Electoral Commission; the Electoral Commission (independent, but for now required to have regard to a government statement); the Comptroller and Auditor General; and the devolved legislatures, whose autonomy is protected by the Sewel convention which is, once again, a

¹⁰ The Telegraph, Kemi Badenoch, 09 July 2026, 'The Conservative Party is for serious people, not a retirement home for failed politicians':

<https://www.telegraph.co.uk/news/2026/07/09/the-conservative-party-is-for-serious-people-not-a-retirement/>

¹¹ BBC News, 26 August 2025, 'Farage criticised for Good Friday Agreement proposal':

<https://www.bbc.co.uk/news/articles/cr74kkmkzmpeo>

¹² Miori & Green, 'The Most Disproportionate UK Election', *The Political Quarterly* (2025):

<https://onlinelibrary.wiley.com/doi/10.1111/1467-923X.13504>

convention rather than an enforceable rule. The monarch retains certain reserve powers but, by firm convention, does not deploy them.

The informal guardians include a free press, academia, civil society and, ultimately, the electorate. All matter greatly, but they hold no powers of enforcement.

No institution sits above a government that commands a majority in the Commons. Several guardians are themselves appointed, funded or instructed by the executive: the Independent Adviser on Ministerial Standards, for example, is appointed by the Prime Minister and has historically been unable to launch or conclude investigations on their own authority. The ultimate guarantor of the constitution is the self-restraint of those who hold power. That was a workable arrangement for as long as restraint could be assumed. In a more polarised and fragmented political age, relying on character alone is a gamble and the case for placing core protections on a firmer, legal footing is correspondingly stronger.

6. Recommendations

A confident democracy examines its vulnerabilities before they are exploited, not after. Consequently we urge the Committee to recommend:

1. the establishment of an independent commission to stress-test the UK's constitutional safeguards;
2. that electoral reform be treated as a question of constitutional resilience and not only of fairness;
3. and that the safeguards which presently rest on convention alone be identified and considered for statutory protection.

Annex: What is Best for Britain?

Founded in 2017 by academics, economists, entrepreneurs, and community leaders, [Best for Britain](#) is a network of campaigns and research organisations dedicated to providing the evidence-led answers that fix Britain in an era of declining living standards, low-quality information, and instability caused by the degradation of politics.

Today, we are a team of researchers, data scientists, strategists, and activists driven by a love of our country, and the people that form the nations within it.

We conduct research and polling to help politicians lead debate, not follow it. We design policy for whoever is in government, today or tomorrow. And we give voters the tools to persuade, and hold to account, those in power.