

**How does devolution work in London?**

After the Greater London Authority Act (1999) new institutions were set up to enable to enable devolution in London.

**The London Assembly**

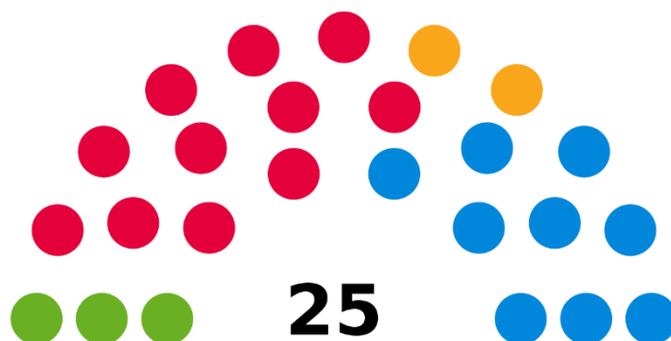
The **London Assembly** is made up of 25 AMs (Assembly Members). It is based at City Hall.

The voting system used for the London Assembly is the Additional Member System. Therefore, Members of the London Assembly are chosen via two voting systems:

14 AMs (56%) are chosen from single-member constituencies using the First Past The Post System

11 AMs (44%) are chosen via the Party List System

The current make-up of the London Assembly is:



**Labour – 11**

**Conservative – 9**

**Green – 3**

**Liberal Democrat – 2**

**The Greater London Authority**

The **Greater London Authority** is made up the London Assembly and a **directly elected** Mayor of London. Since May 2016 the Mayor of London has been Sadiq Khan.

<u>Years</u>	<u>Assembly</u>	<u>Mayor</u>
2000-2004	No Majority (Labour and Conservatives Joint Largest Party)	Ken Livingstone (Independent)
2004-2008	No Majority (Conservatives Largest Party)	Ken Livingstone (Labour)
2008-2012	No Majority (Conservatives Largest Party)	Boris Johnson (Conservative)
2012-2016	No Majority (Labour Largest Party)	Boris Johnson (Conservative)
2016-Present	No Majority (Labour Largest Party)	Sadiq Khan (Labour)

### What are the devolved powers of the Greater London Authority?

The Greater London Authority Act (1999) gave the Greater London Authority power, at least in part, over the following areas:

- Transport
- Policing
- Fire and Rescue
- Development
- Strategic Planning

The [Greater London Authority Act \(2007\)](#) extended the powers of the Greater London Authority to include:

- Climate Change Policy
- Waste Management
- Greater Housing Powers

### Examples of policies that are different from London to the rest of England

**Transport** – Drinking alcohol has been banned on transport in London, but is legal in the rest of the United Kingdom.

**Transport** – London has a congestion charge that is dependent on the type of vehicle being driven.

**Climate Change** – In October 2017 a T-Charge (Toxicity Charge) was introduced. It charged a £10 fine for older cars being operated in the Congestion Charge zone.

### Has Devolution in London been successful?

There are differing views over whether devolution in London has been successful:

#### Arguments in favour:

- Mayoral elections have been competitive with high-turnouts compared to other new institutions.
- The model has been adopted in new combined authorities.
- Mayors have been innovative with policies they have created, for example with the congestion charge.
- The electoral system means that Assembly Members are broadly representative of the wishes of the electorate.

#### Arguments against:

- The lack of majorities in the Assembly leaves it difficult to fully scrutinise the Mayor of London.
- Turnout is still low compared to the national devolved territories.
- The Mayor can easily be overruled by central government. His biggest power is the power of persuasion.
- TfL, one of the major responsibilities of the Mayor of London, has been close to bankruptcy. In October 2019, it was in 11.175bn of debt.

## How does devolution work across the rest of England?

London is not the only region of England in which devolution has been suggested or implemented. Devolution has been extended significantly across England. There are a number of different ways that further devolution has been implemented.

### Regional Devolution

One of the ideas for further devolution in England is the devolution of powers to different regions of the UK. In 2009, a set of informal regions of England were defined as per the map below.



Proposals were put forward by the Labour Government to devolve powers to the different regions of England. Three different reasons were originally considered for regional devolution:

- North East England
- North West England
- Yorkshire and the Humber

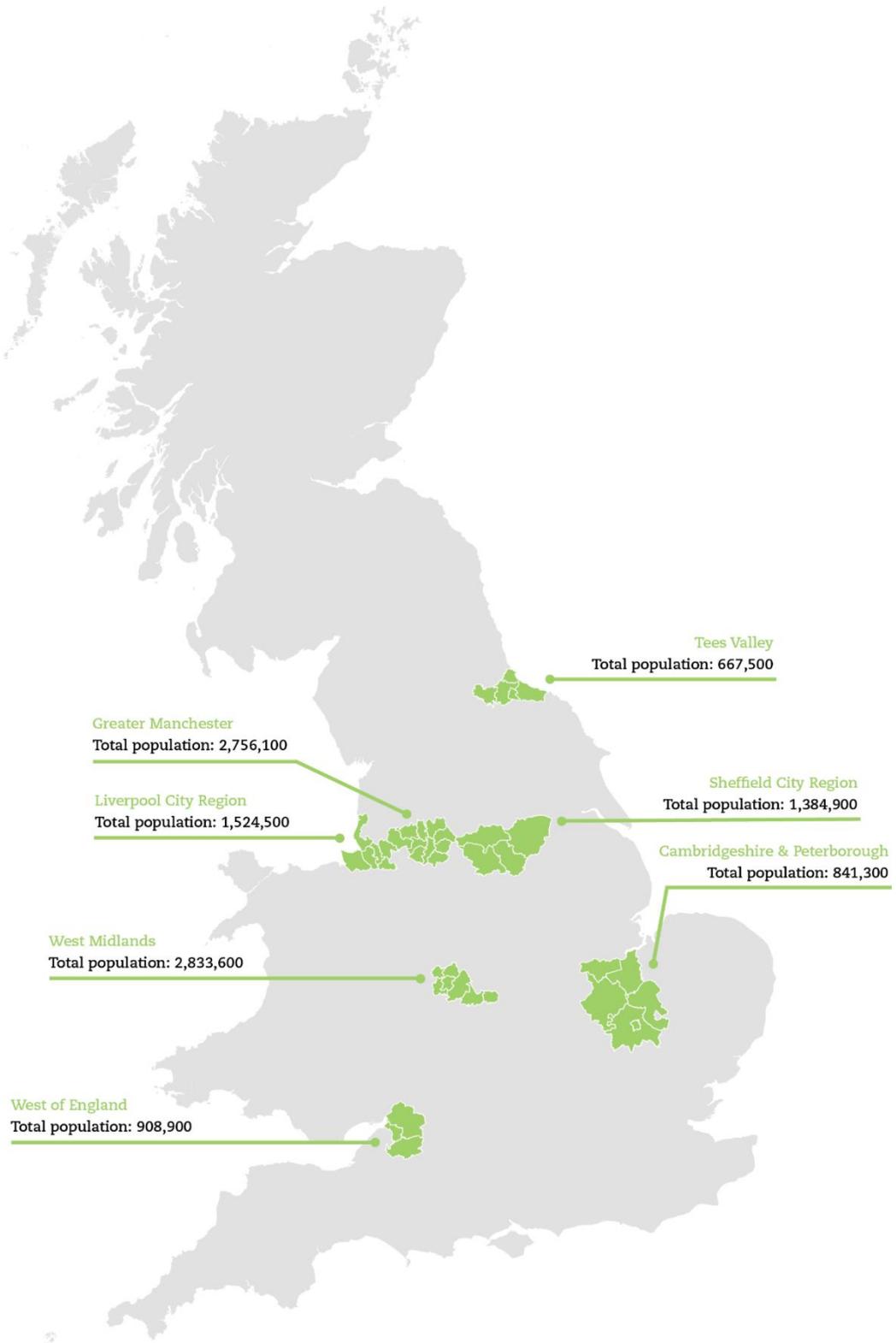
The decision as to whether devolution should take place was left to the people of the regions, through referendums. The first referendum was held in the North-East in 2004. It resulted in 77% of the regions voters choosing not to accept more devolved powers. After this decisive result the Labour Government decided to hold no more referendums on further devolved powers.

### Directly Elected Metro Mayors

Following the model of London, since the year 2000 16 metropolitan areas now have directly elected mayors. These are often known as **Metro-Mayors**. This model is different from devolution to London. This is because new legislative assemblies are not set up, the metro-mayors are a new level of government on top of the traditional local authorities that have existed. Often, they are heads of multiple **local authorities** and have become a **combined authority**.

The duties of metro-mayors are different dependent on where they are and the model that was chosen in that area.

A number of significant metropolitan areas have moved towards this model. They are shown below:



Source: [www.centreforcities.org](http://www.centreforcities.org)

### Powers of Different Metro-Mayors

#### Greater Manchester (Andy Burnham)

Planning  
Housing  
Policing and Fire  
Waste Management  
Skills  
Justice  
Health  
Transport

#### West of England (Dan Morris)

Planning  
Transport  
Adult Education

#### Liverpool City Region (Steve Rotherham)

Transport  
Economic Development  
Regeneration

### Police and Crime Commissioners

In their General Election Manifestos in 2010 both the Conservatives and Liberal Democrats promised to reform the existing police forces across England and Wales. As part of this, they proposed introducing elected **Police and Crime Commissioners** for the Police Forces across the UK. This would mean that they were accountable to local people. Police and Crime Commissioners would be responsible for:

- Long-Term Police Planning
- Funding

Electoral support for Police and Crime Commissioners has been very low. For example, the Essex Police and Crime Commissioner in 2012 was elected with less than 5% of his constituency voting for him.

### Should there be an English Parliament?

Despite an increase in devolution, to many the issue of the West Lothian Question has not been solved. Many people believe that there should be an **English Parliament**, with similar devolved powers to the Scottish Parliament, for example, in order to address that imbalance. However, there has been little support for an English Parliament from the mainstream political parties in the UK. The only major UK political party to openly support an English Parliament is UKIP.

### **Arguments in favour of an English Parliament**

- The establishment of the English Parliament is the only true way to solve the West Lothian Question. It will never be satisfactorily dealt with until there is an English Parliament.
- Opinion polls suggest that people in England are in favour. For example, in 2014 a Comres poll found 62% in favour of an English Parliament.
- An English Parliament could be located outside of London and increase the feeling of connection that English people have with their elected representatives.
- It would help to make sure that English identity is recognised and respected, in the same way that the Scottish Parliament allows Scottish identity to be recognised.
- Without an English Parliament there is an increasing risk to the union of the United Kingdom. Increasingly, there is a sense that a Federal approach might be a better constitutional basis for government in the UK.

### **Arguments opposed to an English Parliament**

- An English Parliament would inevitably mean a move towards a federal system. This would mean powers across the different regions would need to be equalised and not all regions might be capable of possessing this power.
- A whole new level of government would need to be created, with even more politicians. At a time when distrust for politicians is at a high this is not likely to be popular.
- It would be difficult to define the powers of the Westminster Parliament if a new English Parliament came into existence. There would be danger of conflict between the Westminster Parliament and the English Parliament.
- The same powers can be achieved through strengthening ‘English Votes for English Laws’ at Westminster. A new Parliament is not needed.

### **How successful has English Devolution been?**

There are differing arguments as to whether English Devolution has been successful:

#### **For:**

- There seems to be no impetus to reverse the current system and more English devolution is planned.
- It promotes a greater sense of equality across the UK as people believe local issues are being listened to.
- The new system allows experimentation and innovation in law-making. These areas have become legislative laboratories.
- It has extended democracy and created more chances for participation.

#### **Against:**

- Devolution is asymmetric, different regions have very different powers.
- It has not solved the West Lothian Question.
- Britain is ‘sleep-walking’ into becoming a Federal State and English devolution needs to be part of a fundamental constitutional reform.

**How will Brexit impact the UK Constitution?**

Britain's exit from the European Union will be the biggest constitutional change in a generation. There will be a number of political, social and economic consequences of the decision. However, there are also a number of potential implications of this decision for the future of the British constitution:

**Location of Sovereignty** – Although legal sovereignty has always rested with the UK Parliament, in reality, since the accession to the European Union the UK Parliament has not had full **political sovereignty**. Following Brexit, Britain will ultimately no longer be under the jurisdiction of the European Union (as enforced by the European Court of Justice) and will therefore see sovereignty returned.

**Return of Powers** – A number of powers that had previously belonged to the European Union have now returned to Britain. It will need to be decided how these powers will be exercised. Should they be devolved? Will they be part of the Royal Prerogative or will they return to the UK Parliament?

**Growth of Statutes** – Since the European Union was formed there have been over 80,000 regulations and directives. When Britain joined the EU (the EEC) in 1973 it accepted that these would automatically become part of British Law. The British Government and Parliament will need to decide which of these need to be codified into British law via Statute and which can be abandoned. This has the potential to be a mammoth task and has led to controversy, as the government has proposed doing this via the so-called **Henry VIII powers**.

### **Henry VIII Powers**

The Henry VIII powers are named after the English King who reigned from 1509-1547. In 1539 the Proclamation of the Crown Act was passed. This gave any proclamation by the King the full force of law. In the post-reformation period, Henry VIII wanted to ensure he could quickly quell any Catholic rebellion in England.

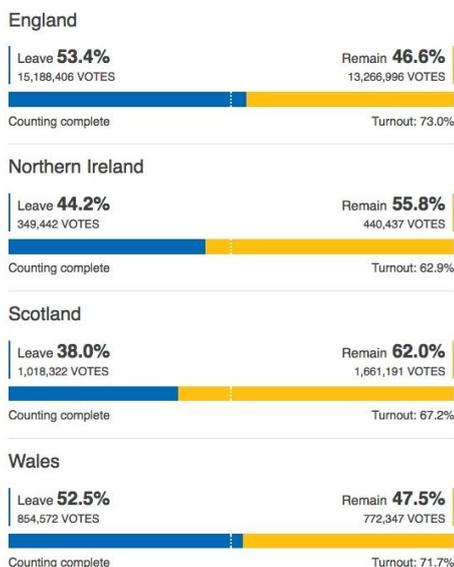
After Britain leaves the European Union its regulations and laws will need to be integrated into UK Law, or disposed of entirely. To do all of this via Statute Law would be a mammoth task and would tie up Parliament for years to come. The Government therefore propose making many of these changes using the so-called Henry VIII Powers – via Statutory Instrument – not via full parliamentary procedures. This would enable it to be done efficiently and quickly. However, it would also mean it could be done without the level of parliamentary scrutiny that many think is necessary.

**Impact on Devolution** – One of the biggest potential impacts of Brexit will be on devolution. Scotland and Northern Ireland clearly voted to remain inside the European Union and will likely want more powers to ensure that it can manage the negative effects that they believe will result from Brexit. Ultimately, it could lead to an even greater push for independence from the constituent parts of the UK.

**What weaknesses has Brexit shown in the constitution?**

The process of trying to deliver Brexit between 2016-2021 showed a number of potential weaknesses of the UK constitution and during this period the constitution was under significant strain. Some examples of these weaknesses were:

- 1. The reliance on conventions** – The UK constitution relies heavily on conventions that are not codified into law. This reliance became very evident over the issue of Article 50. The Government of Theresa May argued that they could trigger Article 50 themselves under the Royal Prerogative. However, others argued that this issue had to be decided by Parliament. Eventually, the government was sued by an activist named Gina Miller and in the case of Miller vs Brexit Secretary the Supreme Court ruled that the issue must be decided by Parliament. Elsewhere, in September 2019 the Prime Minister advised the Queen to prorogue Parliament under the Royal Prerogative. He was widely criticised because it appeared he was attempting to stop debate over Brexit. This issue also went the Supreme Court and in Miller vs Prime Minister the Supreme Court ruled that the prorogation had been unlawful. Had Britain relied less on conventions and had more of the constitution codified it is arguable that the constitutional crisis over Brexit would not have been as severe.
- 2. The clash between representative and direct democracy** – In Brexit an important decision was handed to the population to take (direct democracy). However, the decision they took had to be implemented by MPs. Whilst 52% of the population voted for Brexit, 75% of MPs voted to remain. This meant that they were tasked with delivering something they did not believe in. Whilst most MPs voted to trigger Article 50 there were 144 who voted against it and many MPs who were in favour of a second referendum. This tension between the direct wishes of the population and MPs who were sceptical of Brexit's merits was a significant reason that Brexit took so long to deliver.
- 3. The power of Statutory Instruments** – Statutory Instruments are secondary legislation. Whilst Britain was a member of the EU there were over 80,000 regulations and directives. Post-Brexit, Britain has had to decide which of these to retain and which to remove. It would be impossible to achieve this by primary legislation and so the government have used statutory instruments to achieve this. These statutory instruments do not have the same level of scrutiny in the House of Commons and therefore this has been controversial.
- 4. Government Dominance of the Parliamentary Timetable** – Under Standing Order 14 the Government dominates the parliamentary agenda. This means that the government naturally tries to push things through itself. An issue such as Brexit required a cross-party consensus but the fact that the Government controls the Parliamentary agenda meant this was not sought by Theresa May – at least until it was too late. In fact, if it had not been for the opposition being able to use an emergency standing order Britain may have left the European Union with No Deal.
- 5. The lack of consent from the devolved authorities** – One of the issues with Brexit is that the view of it is very different across the devolved regions:



Despite this lack of consensus, Brexit has been decided without much input from the devolved regions. This has been particularly problematic in Scotland. During the 2014 Scottish Independence Referendum one of the threats made by the Union campaign was that if Scotland left the UK they would have to leave the EU too. However, with Brexit, they have been pulled out of the EU against their will. This will likely made Scottish Independence much more likely in the future.

## Does the UK Constitution need reforming?

Despite the constitutional developments that there have been to the UK constitution, there are a number of areas in which further reform could be possible. In 2014 the UK Parliament's Political and Constitutional Reform Committee called 'A new Magna Carta', named as it is the 800<sup>th</sup> anniversary of Magna Carta's signing. The government has been under pressure for many years from groups such as, [Charter 88](#), who have called for a new 'Constitutional settlement'.

### Charter 88 (Now Unlock Democracy)

Charter 88 was a pressure group who formed in 1988, with their campaign first being publicised by the New Statesman. Their goals were to bring about major constitutional change to the UK. In particular, they highlighted that:

1. There should be a clear and codified Bill of Rights, similar to that which existed in America.
2. The House of Lords should be reformed so that it is not a hereditary chamber
3. There should be increased devolution across the UK
4. There should be a codified constitution, to ensure that all other aims were met.

85,000 people have signed the Charter since 1977. Prominent signatories included playwright Harald Pinter and comedian John Cleese. Charter 88 was supported by the Liberal Democrats.

In 2007 Charter 88 merged with the New Politics Network to form an organisation called 'Unlock Democracy'.

### A New Magna Carta?

2015 was the 800<sup>th</sup> anniversary of the signing of the Magna Carta. This was the impetus for lots of debate about the state of the British constitution.

The House of Commons Political and Constitutional Reform Committee set up a taskforce to report on the state of the British constitution. It is called a 'New Magna Carta'. The views of academics, politicians and ordinary citizens were gathered.

Among other academics, Alan Renwick of the University of Reading has called for a '[constitutional convention](#)' to discuss the state of the constitution. This would involve calling on individual citizens as well as prominent figures to see what their views on the issue are.

A constitutional convention took place in Philadelphia for five months prior to the signing of the Constitution of the United States.

The following areas are places where constitutional reform may still be likely:

### Commons Modernisation

Although there have been major attempts to modernise the House of Commons since the [MPs Expenses Scandal](#) of 2009, not enough has been done on this front. In particular, not enough has been done to regulate lobbying, which David Cameron called the 'next great political scandal'. In addition, changes that are meant to give the electorate more control, like the Recall of MPs Act (2015) have not been robust enough and have not resulted in a dramatic growth in public confidence in MPs.

### Further Lords Reform

Since the House of Lords Act (1999) reform of the **Upper Chamber** has been extremely limited. The **Lords Reform Act (2014)** only introduced minor changes, like allowing Lords to resign.

### **Electoral Reform**

Although the electorate were given a chance to change the electoral system in the 2011 AV Referendum, there is still a belief that First Past the Post is an inherently unfair system.

In the 2015 General Election UKIP won 3.8 million votes (12.6%). They received 1 MP.

In the same election the Liberal Democrats won 2.4 million votes (7.9%). They received 8 MPs.

Many people believe that this level of national disproportionality cannot be tolerated.

In the 2019 General Election it took the following number of votes on average to elect a member of the following party:

38,264 votes on average to elect a Tory MP

50,718 votes on average to elect a Labour MP

865,707 votes on average to elect a Green MP

### **Redrawing Electoral Districts**

The **Boundary Commission** have recommended changes that would move towards equalising parliamentary seats. This review is ongoing, but is working towards a chamber of 600 MPs as opposed to the current 650.

### **Lowering the Voting Age**

There has been growing support for the idea of lowering the Voting Age to 16. This has particularly been the case since people were able to see the engagement of 16 and 17-year-olds when they were allowed to vote in the Scottish Independence Referendum. Traditionally, Labour support this move whilst the Conservatives oppose it. This is likely for political reasons, as 16 and 17-year olds are more likely to vote for Labour than the Conservatives.

In 2017 a Labour MP Jim McMahon put forward a Private Members Bill to lower the voting age to 16. However, this bill was subject to a number of filibusters by Conservative MPs and time ran out to push the bill to the next stage.

### **Further Devolution**

After Britain has left the European Union it appears inevitable that there will be more changes to the devolution settlements across the United Kingdom. This includes the devolution into the different regions of England.

#### **Labour's Plans for further devolution**

In December 2020 Labour Leader, Keir Starmer, outlined what he called the “boldest devolution project in a generation”. He promised to set up a constitutional commission to offer a ‘positive alternative’ to Scotland in an attempt to stave off Scottish Independence. This constitutional commission would be advised by former Prime Minister, Gordon Brown.

**British Bill of Rights**

After Britain have left the European Union it is likely that the Conservatives will again push for debates to be held on the repeal of the Human Rights Act (1998) and its replacement with a British Bill of Rights.

**Should the UK have a Codified Constitution?**

The ultimate reform to the constitution would be a complete codification. There are a number of arguments for and against this idea:

<b><u>Arguments for a Codified Constitution</u></b>	<b><u>Arguments against a Codified Constitution</u></b>
A codified constitution would remove the need to rely on conventions, which can be dangerous when ignored and result in a constitutional crisis.	At present the British Constitution is incredibly flexible and adaptable. Codification would result in entrenchment, reducing this flexibility.
A codified constitution would allow individuals to understand the government better and know what their own rights and responsibilities are.	Britain's system is based on parliamentary sovereignty. This would be reduced with a codified constitution whereby constitutional sovereignty would take over.
With Brexit, now is the perfect time to codify the constitution. It is better to make the changes in one go than have generations of uncertainty.	Britain's present system allows it to act quickly to changing circumstances. A codified constitution would result in more 'checks and balances' on the government, thereby reducing this.
A successful codification of the Constitution would only need to be completed once. It could then be amended in minor ways in the future.	It would be near impossible to achieve codification which was acceptable to the broad range of political and social interests in the UK. It would inevitably be codified in the way that the current government preferred.
A codified constitution would limit to 'elective dictatorship' that currently exists in the UK. This would mean that the government was more clearly accountable to parliament.	The power of unelected and unaccountable judges would grow in the UK with a codified constitution. This would lead to judges essentially having the power to 'legislate'.
Britain's constitutionally is already being increasingly codified. Full codification is the natural next-stop for the British Constitution.	Codified Constitutions can quickly become arcane and outdated. Things that seem apt now may not be in the future but are difficult to remove.

What are the overall strengths and weaknesses of the UK Constitution?

There are many strengths and weaknesses of the British constitution. These can be summarised as:

Strengths

- Its flexible nature makes it easy to change in evolving circumstances
- As the House of Commons is supreme, democracy is emphasised. The government and parliament is accountable.
- It is one of the oldest constitutions in the world which has provided unrivalled stability. It is an evolutionary rather than revolutionary constitution.
- It ensures that Parliament can act quickly and decisively to deal with problems

Weaknesses

- Many institutions which are widely considered to be arcane (outdated), like the Monarchy and House of Lords continue to exist.
- The government is often considered to be too powerful with far less checks and balances than in other democracies, like the USA.
- There is a lack of separation of powers. These means the government can dominate parliament, what Lord Hailsham called an ‘elective dictatorship’.
- The lack of codification makes the UK constitution difficult for individuals to understand.

**What do you need to know in this section?**

<b><u>Topic</u></b>	<b><u>Have you made Revision Notes?</u></b>	<b><u>Have you revised?</u></b>
The nature of different Constitutions		
The nature of the UK constitution		
The sources of the UK constitution		
The principles of the UK constitution		
How the UK constitution has evolved until 1900		
How the UK constitution changed between 1997-2010		
How the UK constitution has changed since 2010		
What devolution is and why it has come about		
What are the fundamental problems with devolution		
How does devolution work in Scotland, Wales, Northern Ireland and England		
Whether devolution has been successful		
How Brexit will impact the UK constitution		
What further reforms could be made to the UK constitution		
Whether the UK should have a codified constitution		