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**United Kingdom of Great Britain and Northern
Ireland***

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I. General information

A. Demographic, economic, social and cultural characteristics of the State

1. Background statistical information on the United Kingdom, using the most up-to-date figures available, is as follows:

United Kingdom¹

Population

Size²	61,792,000
Growth on previous year³	0.60%
Density⁴ (people per sq km)	255
Number of men per 100 women⁵	96.68
Ethnic groups⁶	White 92.1%, Mixed 1.2%, All Asian or Asian British 4.0%, Black or Black British 2.0%, Chinese 0.4%, Other ethnic groups 0.4% (April 2001).
Percentage of population under 16⁷	19%
Percentage of population over 65⁸	16% (65 and over)
Percentage of population in urban areas⁹	79.7% (April 2001)
Religion¹⁰	Christian 71.8%, No religion 15.1%, Not stated 7.8%, Muslim 2.8%, Hindu 1.0%, Sikh 0.6%, Jewish 0.5%, Buddhist 0.3%, Any other religion 0.3% (April 2001).

¹ Figures are for 2009 or mid-2008 unless otherwise stated.

² *Mid-2009 population estimates*, Office for National Statistics.

³ *Mid-2009 population estimates*, Office for National Statistics.

⁴ *Mid-2009 population estimates*, Office for National Statistics.

⁵ *Mid-2009 population estimates*, Office for National Statistics.

⁶ *Census*, April 2001, Office for National Statistics. More recent “experimental” figures released by the Office of National Statistics give the following breakdown of the population of England in mid-2007: White (88.2%), Mixed (1.7%), Asian or Asian British (5.7%), Black or Black British (2.8%), Chinese (0.8%), Other (0.7%).

⁷ *Mid-2009 population estimates*, Office for National Statistics.

⁸ *Mid-2009 population estimates*, Office for National Statistics.

⁹ *Census*, April 2001, Office for National Statistics, using 2004 Urban/Rural classifications. Note that this figure is for England and Wales only.

¹⁰ *Census*, April 2001, Office for National Statistics. Note that this figure is for Great Britain (England, Wales and Scotland) only.

Population

Infant mortality rate¹¹ – number of deaths of children aged under 1 year per 1,000 live births	4.7 (UK 2008 figure)
Birth rate¹²	794,383 live births in 2008 (12.9 per 1,000 of population)
Death rate¹³ – per 1,000 population	9.4 (2008)
Males	9.2
Females	9.7
Life expectancy¹⁴ – years at birth	
Men	77.4
Women	81.6
Total Fertility rate¹⁵ – children per woman	1.90 (2007) 1.96 (2008)
Average household size¹⁶	2.4 people per household
GDP¹⁷	£1.3 trillion
GDP per head	£20,980 (2009)
Inflation¹⁸	3.2% (June 2010)
Government deficit/surplus¹⁹	-£159.2 billion (equivalent to 11.4% of GDP 2009)
Government debt²⁰	£950.4 billion (equivalent to 68.1% of GDP) 2009
Employment rate²¹	72.3% (28.984 million) (March–May 2010)
Adult literacy²²	99.0% (2009)

¹¹ Population Trends 138 (2009), Office of National Statistics. This is based on registrations rather than occurrences.

¹² Annual Abstract of Statistics publication, 2010 edition, Office of National Statistics.

¹³ Annual Abstract of Statistics publication, 2010 edition, Office of National Statistics. Figures are for England and Wales only.

¹⁴ Population Trends 138 (2009), Office of National Statistics.

¹⁵ Annual Abstract of Statistics publication, 2010 edition, Office of National Statistics. Table 2.2 Total Fertility Rate is the number of children that would be born to a woman if current patterns of fertility persisted throughout her childbearing life.

¹⁶ Average household size in GB=2.4 people in 2009 (Q2, LFS) – sourced from Social Trends 40 (2009) Chapter 2.

¹⁷ UK GDP for 2010, Office for National Statistics.

¹⁸ Consumer Price Index (CPI). Office for National Statistics, July 2010.

¹⁹ UK Government Debt and Deficit, Office for National Statistics, March 2010.

²⁰ UK Government Debt and Deficit, Office for National Statistics, March 2010.

²¹ Labour Market Statistics, Office for National Statistics, July 2010.

Indicators on the political system

<i>Indicator</i>	<i>Value</i>
Number of recognised political parties at the national level	121 political parties (plus independent candidates) ²³
Proportion of the population eligible to vote	78.8% (approximate). ²⁴
Proportion of non-citizen population registered to vote	Not available for parliamentary electors ²⁵
Number of complaints about the conduct of elections registered, by type of alleged irregularity	2 petitions were issued challenging results at the 2010 General Election ²⁶
Vote compared to seats at 2010 General Election	Conservatives 36.1% and 306 seats (47%), Labour 29.0% and 258 seats (40%), Liberal Democrats 23.0% and 57 seats (9%), others 11.9% and 29 seats (4%).
Percentage of women in Parliament	143 Female MPs elected – 22% of all MPs ²⁷
Proportions of national and sub-national elections held on time (within the schedule laid out by law)	All elections (100%)
Average voter turnouts in the national and sub-national elections by devolved administrations	Westminster: 65.1% (2010), 61.4% (2005), 59.4% (2001), 71.4% (1997) Northern Ireland Assembly: 62.3% (2007), 63.1% (2003), 68.8% (1998) ²⁸ Scottish Parliament: 52.4% (2007), 49.4% (2003), 58.2% (1999) ²⁹ Welsh Assembly: 43.5% (2007), 38.2%

²² CIA World Factbook, 5 March 2009.

²³ Number of parties that stood at the 2010 General Election, not counting independent candidates, candidates who gave no description, and the Speaker.

²⁴ This figure is obtained from the estimated UK population aged 18 or over as of 1st December 2009, which was 48.7 million. The total UK population was 61.8 million. Please note this only gives a rough estimate of the proportion eligible to vote: the Franchise in the UK is that British Citizens, Irish Citizens resident in the UK and Commonwealth Citizens legally resident in the UK, who have attained the age of 18 can vote in all elections. EU nationals, resident in the UK, can vote in European Parliament and local elections but not in General Elections. The registered Parliamentary electorate as of 6th May 2010 was 45.6 million.

²⁵ See *House of Commons Debate 16 January 2008 c1298-9Written Parliamentary Question*. British citizens, Irish citizens resident in the UK and Commonwealth citizens legally resident in the UK who have attained the age of 18 can vote in General Elections. Voter registration information separately identifying Irish and Commonwealth citizens is not collected centrally.

²⁶ http://www.electoralcommission.org.uk/_data/assets/pdf_file/0010/100702/Report-on-the-administration-of-the-2010-UK-general-election.pdf~page=34.

²⁷ At 2010 General Election.

²⁸ Turnout at the last three Northern Ireland Assembly elections.

²⁹ Turnout at last three Scottish Parliament elections. These elections use the Additional Member System for electing members, thus include both a constituency and a regional ballot. The turnout figure recorded above is the higher of the turnout figures for the constituency and regional ballots.

<i>Indicator</i>	<i>Value</i>
	(2003), 46.3% (1999) ³⁰ .

Indicators on crime and the administration of justice in England and Wales

<i>Indicators</i>	<i>Value</i>
Percentage of crimes committed, classified as violent crimes	22% (approximately 1/5 of all crime) ³¹
Trends in violent crime from 1995 to 2007/08³²	- 41%
Percentage of serious violence against the person³³	2% of total violence against the person offences
Persons at the most risk of violence³⁴	Young men (aged 16-24) Full-time students Unemployed people
Number of violent crimes³⁵ recorded 2007/08³⁶	2,164,000
Violent Crimes 2007/2008³⁷:	
• with injury	• 1,261,000
• without injury	• 903,000
Number of recorded crimes – all offences 2007/2008³⁸	• 4,950,700
Total sexual offences committed 2007/08 ³⁹	• 53,500
Number of recorded rape offences 2007/08⁴⁰:	
• Rape of female	• 11,684
• Rape of male	• 1,006

³⁰ Turnout at the last three National Assembly for Wales elections. These elections use the Additional Member System for electing members. The turnout figure recorded above is the higher of the turnout figures for the constituency and regional ballots

³¹ British Crime Survey 2007/08. Note these figures are only for England and Wales.

³² 'Crime in England and Wales 2007/08: A Summary of the Main Figures' (Home Office) – figures based on trends in the British Crime Survey.

³³ Figures for England and Wales 2007/08 – British Crime Survey.

³⁴ British Crime Survey 2007/08; listed in 'Crime in England and Wales 2007/08: A Summary of the Main Figures' published by the Home Office.

³⁵ British Crime Survey Violence includes wounding, robbery, assault with minor injury and assault with no injury.

³⁶ Figures for England and Wales 2007/08 – British Crime Survey

³⁷ Figures for England and Wales 2007/08 – British Crime Survey

³⁸ 2007/2008. As recorded by the Home Office as Crime Statistics for England and Wales: <http://www.homeoffice.gov.uk/rds/pdfs08/hosb0708.pdf> Figure shown is crime recorded by the police.

³⁹ 2007/2008. As recorded by the Home Office as Crime Statistics for England and Wales: <http://www.homeoffice.gov.uk/rds/pdfs08/hosb0708.pdf>

⁴⁰ 2007/2008. As recorded by the Home Office as Crime Statistics for England and Wales: <http://www.homeoffice.gov.uk/rds/pdfs08/hosb0708.pdf>

<i>Indicators</i>	<i>Value</i>
Detection of crime – by method of detection ⁴¹	
• Sanction Detections ⁴²	• 1,373,056
• Non-Sanction Detections	• 868
• All detections	• 1,373,933
Average Prison Population (2009) ⁴³	• 82,075
Number of prisoners, by sex: ⁴⁴	
• Male	• 77,812
• Female	• 4,263
Deaths in police custody: ⁴⁵	
• Number of deaths in police custody or otherwise (1999/2000)	• 70
• % change from 1999/2000	• + 4%
Cause of death in police custody ⁴⁶ :	
• intoxicated by alcohol or controlled drugs	• 30
• resulted from motorcycle or car crashes	• 24
• resulted from deliberate self harm	• 14
Applications for Criminal Legal Aid (2005/06) ⁴⁷ :	
• number received by the Crown Court Service ⁴⁸	• 20,975
• number granted by the Crown Court Service	• 20,741
• number received by the Magistrates Court Service ⁴⁹	• 572,965
• number granted by the Magistrates Court Service	• 532,008
Number of suspects provided with advice or assistance at police stations (2009/10) ⁵⁰	• 853,086
Expenditure on Criminal legal aid for ⁵¹ :	
• 2000/01	• 872
• 2001/02	• 982
• 2002/03	• 1,096
• 2003/04	• 1,179

⁴¹ 2007/2008. As recorded by the Home Office as Crime Statistics for England and Wales only.

⁴² Sanction detections are offences cleared up through a formal sanction, such as a police charge or summons to appear in court or giving a caution.

⁴³ Prison Population, January 2009 Ministry of Justice (England and Wales only)
<http://www.justice.gov.uk/docs/population-in-custody-january09.pdf>

⁴⁴ Prison Population, January 2009 Ministry of Justice (England and Wales only)
<http://www.justice.gov.uk/docs/population-in-custody-january09.pdf>

⁴⁵ Figures taken from 'Death in Police Custody: Statistics for England and Wales, April 1999 to March 2000'. <http://www.homeoffice.gov.uk/rds/pdfs/deaths2000.pdf>

⁴⁶ Figures taken from 'Death in Police Custody: Statistics for England and Wales, April 1999 to March 2000'. <http://www.homeoffice.gov.uk/rds/pdfs/deaths2000.pdf>

⁴⁷ Based on figures of applications to the court. Official Report (Hansard) 27th February 2007: Column 1252W

⁴⁸ Based on the calendar year 2007. Source: HMCS CREST System

⁴⁹ Based on 2007-08 financial year. Source: Legal Services Commission

⁵⁰ [http://www.legalservices.gov.uk/docs/about_us_main/LSC_AR_FINAL_\(web\)_-_0575.pdf](http://www.legalservices.gov.uk/docs/about_us_main/LSC_AR_FINAL_(web)_-_0575.pdf)

⁵¹ Figures in £ millions.

<i>Indicators</i>	<i>Value</i>
• 2004/05	• 1,192
• 2005/06	• 1,197

B. Constitutional, political and legal structure

1. Government

2. The system of parliamentary government in the United Kingdom is not based on a codified written constitution, but is the result of a gradual evolution spanning several centuries. The essence of the system today, as it has been for more than two centuries, is that by convention the political leaders of the executive are members of the legislature and are accountable to an elected assembly, the House of Commons (part of the Westminster Parliament), which presently comprises members from constituencies in England, Scotland, Wales and Northern Ireland. The Government's tenure of office depends on the support of a majority in the House of Commons, where it has to meet informed and public criticism by an Official Opposition.

3. The Westminster Parliament is made up of three elements – the Queen and the two houses of Parliament (the House of Lords and the elected House of Commons) – which are outwardly separate. They are constituted on different principles and they meet together only on occasions of symbolic significance such as a coronation, or the State opening of Parliament when the Commons are summoned by the Queen to the House of Lords. As a law-making organ of State, however, Parliament is a corporate body and with certain exceptions (see below) cannot legislate without the concurrence of all its parts.

4. *The Parliament Act 1911* fixed the maximum life of a Parliament at five years, although a Parliament may be dissolved and a general election held before the expiry of the full term. Because it is not subject to the type of legal restraints imposed on the legislatures of countries with formal written constitutions, Parliament is free to legislate as it pleases: to make, unmake, or alter any law.

(a) The Crown and Parliament

5. Constitutionally, the legal existence of Parliament depends upon the exercise of the royal prerogative (broadly speaking, the collection of residual powers left in the hands of the Crown). However, the powers of the Crown in connection with Parliament are subject to limitation and change by legislative process and are always exercised through and on the advice of ministers responsible to Parliament.

6. As the temporal "governor" of the established Church of England, the Queen, on the advice of the Prime Minister, appoints the archbishops and bishops, some of whom, as "Lords Spiritual", form part of the House of Lords. As the "fountain of honour", she confers peerages (on the recommendation of the Prime Minister who usually seeks the views of others); thus the "Lords Temporal", who form the remainder of the upper House, have likewise been created by royal prerogative and their numbers may be increased at any time.

7. Parliament is summoned by royal proclamation, and is prorogued (discontinued until the next session) and dissolved by the Queen. At the beginning of each new session the Queen opens Parliament. At the opening ceremony the Queen addresses the assembled Lords and Commons; the Queen's speech is drafted by her ministers and outlines the Government's broad policies and proposed legislative programme for the session.

8. The Sovereign's assent is required before any legislation can take effect: Royal Assent to bills is now usually declared to Parliament by the speakers of the two houses. The Sovereign has the right to be consulted, the right to encourage and the right to warn, but the right to veto legislation has long since fallen into disuse.

(b) Parliamentary sessions

9. The life of a Parliament is divided into sessions. Each session usually lasts for one year and is usually terminated by prorogation, although it may be terminated by dissolution. During a session either house may adjourn itself, on its own motion, to whichever date it pleases.

10. Prorogation at the close of a session is usually effected by an announcement on behalf of the Queen made in the House of Lords to both houses, and operates until a fixed date. The date appointed may be deferred or brought forward by subsequent proclamation. The effect of a prorogation is at once to terminate nearly all parliamentary business. This means that all public bills not completed in the session lapse, and have to be reintroduced in the next session unless they are to be abandoned or an agreement has been reached for the bill to be 'carried over' to the next session.

11. Currently Parliament is usually dissolved by proclamation either at the end of its five-year term or when the Prime Minister requests a dissolution before the terminal date. In modern practice, the unbroken continuity of Parliament is assured by the fact that the same proclamation which dissolves the existing Parliament orders the issue of writs for the election of a new one and announces the date on which the new Parliament is to meet.

12. An adjournment does not affect uncompleted business. The reassembly of Parliament can be accelerated (if the adjournment was intended to last for more than 14 days) by royal proclamation, or at short notice, if the public interest demands it, by powers conferred by each house on its speaker.

(c) Devolution

13. In the United Kingdom, devolved government was introduced following simple majority referendums in Wales and Scotland in September 1997 and in Northern Ireland⁵² in May 1998. A referendum on a directly elected Mayor for London and Greater London Assembly also took place in May 1998. In 1999, the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly took on their full powers - as set out in each respective Act of Parliament - followed by the London Assembly in May 2000. The purpose of devolution is to decentralise power: to enable executive decision-making on matters (such as health, education and the environment) that have been transferred to the devolved legislatures and administrations. The UK Parliament remains sovereign and retains the right to legislate on all matters. As a consequence of devolution, the UK Parliament has recognised that in devolved matters, it is for the devolved parliament and assemblies to legislate in relation to matters within their own competence, although it retains the right to legislate if it wishes. The UK Parliament has however, retained control of issues including foreign affairs, defence and national security, macro-economic and fiscal matters.

14. Following the *Scotland Act 1998*, the Scottish Parliament was established with 129 members elected every four years on the Additional Member System of proportional representation.

⁵² Following the Belfast Agreement in April 1998

15. The Scottish Parliament operates broadly on the Westminster model, electing a First Minister who heads an Executive (the Scottish Government). The Scottish Parliament and Executive have responsibility for most aspects of domestic, economic and social policy. Matters which are "reserved" to the UK Parliament and as such, the responsibility of the UK Government, are listed in the *Scotland Act 1998*. All matters not listed are considered to be devolved. The Scottish Parliament is funded by a block grant from the UK Government.

16. Following the *Government of Wales Act 1998*, the National Assembly for Wales was established with 60 members, 40 elected on the 'first past the post' system and 20 regional members elected by the Additional Member System of proportional representation. (The *Government of Wales Act 2006* ended dual candidacy for Assembly elections, whereby candidates could stand under both systems.)

17. Under the *Government of Wales Act 1998*, the National Assembly for Wales did not have the power to make primary legislation, but was given extensive executive powers and could make secondary legislation (i.e. orders and regulations). Its responsibilities were not as wide as those of the Scottish Parliament (the UK Government retained responsibility for the police and the legal system). The *Government of Wales Act 2006* formally separated the National Assembly as a legislature and the Welsh Assembly Government as an executive along the lines of the Westminster model. The Welsh Government carries out the executive functions which had been given to the original National Assembly. As a result of the 2006 Act, the new National Assembly had the power to pass legislation (known as Assembly Measures) on specific matters which are devolved to it within the "fields" where the Welsh Ministers have functions. Following a 'yes' result in a referendum on enhanced law-making powers, held in March 2011, the Assembly assumed powers to pass laws in all the devolved areas as set out in the 2006 Act. Parliament remains responsible for legislating in areas which are non-devolved. The Assembly is funded by a block grant and has no powers of taxation.

18. The Belfast Agreement opened the way for the devolution of power to Northern Ireland through the *Northern Ireland Act 1998*. An Assembly of 108 members with a range of legislative and executive powers was established and power was devolved in December 1999.

19. The Northern Ireland Executive comprises a First Minister and deputy First Minister, and 11 Ministers, all allocated in proportion to party strengths represented in the Assembly under the d'Hondt system, except for the Justice Minister who is directly elected by the Assembly. The Northern Ireland devolution settlement, provided for in the Northern Ireland Act 1998, establishes three categories of legislative competence. "Excepted" matters (listed at Schedule 2 to the Act) are matters of national importance which remain the responsibility of the UK Government and on which legislation can only be taken forward at Westminster. "Reserved" matters (at Schedule 3 to the Act) are UK-wide issues on which the Assembly may legislate, but only with the consent of the Secretary of State. "Transferred" (or "devolved") matters (anything not listed in Schedules 2 and 3) are those matters on which the Assembly has full legislative competence. Transferred matters in Northern Ireland include agriculture, education, housing, employment, health and, since April 2010, policing and justice matters.

(d) The European Community

20. The United Kingdom acceded to the European Community in 1973, applying the Treaty of Rome by the *European Communities Act 1972*. Special parliamentary procedures keep members of both Houses of the Westminster Parliament informed about developments within the European Union. These take the form of parliamentary scrutiny of EU legislative proposals whereby the Government deposits new EU proposals in Parliament accompanied

by explanatory memoranda (which cover, for example, the principle of subsidiarity, the legal basis of the proposals and their impact on fundamental rights, as well as broader policy and financial implications for the UK).

(e) The composition of Parliament

21. The two-chamber system is an integral part of British parliamentary government. The House of Lords (the upper house) and the House of Commons (the lower house) sit separately and are constituted on entirely different principles. The process of legislation involves both houses.

22. Since the beginning of Parliament, the balance of power between the two houses has undergone a complete change. The continuous process of development and adaptation has been greatly accelerated during the past 75 years or so. In modern practice the centre of parliamentary power is in the popularly elected House of Commons, but until the twentieth century the Lords' power of veto over measures proposed by the Commons was, theoretically, unlimited. Under the *Parliament Acts 1911* and *1949* certain bills may become law without the consent of the Lords. The 1911 Act imposed restrictions on the Lords' right to delay bills dealing exclusively with expenditure or taxation and limited their power to reject other legislation. Under the 1911 Act the Lords were limited to delaying bills for two years. This was reduced to one year by the 1949 Act.

23. These limitations to the powers of the House of Lords are based on the belief that the principal legislative function of the modern House of Lords is revision, and that its purpose is to complement the House of Commons, not to rival it.

(f) House of Commons

24. The House of Commons is a representative assembly elected by universal adult suffrage, and consists of men and women (members of Parliament, "MPs") from a diverse range of backgrounds. There are presently 650 seats in the House of Commons representing the United Kingdom as a whole; this will be reduced to 600 at the scheduled 2015 general election.

25. Members of the House of Commons hold their seats during the life of a Parliament. They are elected either at a general election, which takes place after a Parliament has been dissolved and a new one summoned by the Sovereign, or at a by-election, which is held when a vacancy occurs in the House as a result of the death, disqualification otherwise.

(g) House of Lords

26. The House of Lords currently has seven hundred and thirty-eight members.⁵³ The *House of Lords Act 1999* reformed the composition of the chamber by providing for the removal of the sitting and voting rights of most hereditary peers. As a result of this evolution, those holding the majority of seats in the House of Lords are now 'life-peers'; individuals who are appointed under the *Life Peerages Act 1958*. Life Peers hold approximately 600 seats. In addition, ninety-two hereditary peers currently remain and twenty-six Archbishops or Bishops of the established Church of England also hold seats.

27. The *Constitutional Reform Act 2005* eliminated the judicial function of the House of Lords by providing for a Supreme Court of England and Wales. The Supreme Court took over the House of Lords role in October 2009 as the final court of appeal for all matters in

⁵³ November 2010: <http://www.parliament.uk/mps-lords-and-offices/lords/lords-by-type-and-party/>

the whole of the United Kingdom except Scotland. The High Court of Judiciary will remain the Supreme Court for criminal matters in Scotland.

28. The Government has published a White paper and a draft Bill setting out its proposals for a wholly or mainly elected upper chamber on the basis of proportional representation.

(h) Parliamentary elections

29. The law relating to Parliamentary elections is primarily contained in the Representation of the People Acts. Under their provisions election to the House of Commons is decided by secret ballot. British citizens, citizens of other Commonwealth countries and citizens of the Irish Republic resident in the United Kingdom are entitled to vote provided they are aged 18 years or over and not legally disqualified from voting. Persons not entitled to vote in a Parliamentary election include: peers who are members of the House of Lords; convicted offenders detained in custody; and anyone convicted within the previous five years of corrupt or illegal election practices. In most cases, to be able to vote in the constituency where they reside an elector must be registered to vote with the relevant local authority. In Great Britain the electoral register is compiled by local electoral registration officers who conduct an annual canvass of households in the local authority area for which they are responsible. In addition, under “rolling registration” arrangements introduced in 2000, individuals may apply at other times to have their names added to the electoral register. This caters for individuals who move house during the course of the year. Under more recent changes to electoral law, prior to an election, eligible persons may now register to vote up until 11 days before polling day throughout the UK.

30. A different system of voter registration exists in Northern Ireland where individual (rather than household) registration has been in place since 2002. The Government has announced that Individual Electoral Registration will be implemented in Great Britain in 2014 and on 30 June 2011 published a White Paper and draft legislation setting out the proposals for implementation which will be subject to pre-legislative scrutiny. In Northern Ireland, individual registration means that in order to register, every eligible elector must complete their own registration form and provide their signature, date of birth and national insurance number. The Chief Electoral Officer for Northern Ireland may check entries on the register with other public authorities and against the Department for Work and Pensions database to ensure that they are correct. This system of individual registration was originally introduced to address perceptions of electoral fraud and it has contributed significantly to ensuring a high level of accuracy in the register. Therefore in 2006 the requirement for an annual canvass in Northern Ireland was removed.

31. Voting is not compulsory. Electors may vote in person at polling stations especially established for the purpose. Alternatively, electors may apply for a postal vote or appoint a proxy to vote on their behalf.

32. The system of voting used is the “first past the post” system: in each constituency, the candidate that receives the highest number of votes is elected. On 22 July 2010, the Coalition Government presented the Parliamentary Voting System and Constituencies (PVSC) Bill which received Royal Assent on 16 February 2011. The PVSC Act made provision for a UK referendum on the voting system for parliamentary elections which was held on 5 May 2011. Voters were asked whether the alternative vote system should be used instead of the first past the post system to elect MPs to the House of Commons. The outcome of the referendum favoured retention of the existing system over the introduction of the alternative vote.

33. At Parliamentary elections, the United Kingdom is divided into geographical areas known as constituencies, each with one member in the House of Commons.

34. The Parliamentary Voting System and Constituencies Act, which received Royal Assent on 16 February 2011 creates new rules for the redistribution of seats which will require 600 constituencies in the Commons rather than the current 650. The rules will give priority to numerical equality as a principle, in that there will be a uniform electoral quota for UK constituencies number of seats are not to vary by more than 5 per cent from the quota, with some limited exceptions. The Parliamentary Boundary Commissions are to conduct a review by the end of September 2013 with subsequent reviews every five years.

35. Any person who is a British citizen, a qualifying citizen of another Commonwealth country or a citizen of the Irish Republic, who has reached the age of 18 and is not otherwise disqualified may stand as a candidate at a Parliamentary election. Those disqualified from standing as a candidate include: undischarged bankrupts; persons sentenced to more than one year's imprisonment while detained; peers who are members of the House of Lords; a person convicted of or reported to an election court for corrupt or illegal practice (the disqualification lasts for 5 years for the former and 3 years for the latter) and those precluded under the House of Commons Disqualification Act 1975 - for instance, holders of judicial office, civil servants, members of the regular armed forces or the police service, or British members of the legislature of any country or territory outside the Commonwealth. A candidate usually belongs to one of the main national political parties, although smaller parties or groupings also nominate candidates, and individuals may stand without party support as "Independent" candidates. A candidate's nomination for election must be signed by two electors as proposer and seconder, and by eight other electors registered in the constituency.

(i) The Party System

36. The existence in the United Kingdom of organized political parties, each laying its own policies before the electorate, has led to well-developed political groupings in Parliament.

37. Since 1945 the Conservative Party and the Labour Party have each won nine of the eighteen general elections, and the great majority of members of the House of Commons have represented one or other of these two parties. Following the general election of May 2010 a coalition Government was formed by the Conservative and Liberal Democrat parties.

(j) Government and Opposition

38. The leader of the party which wins the most seats (but not necessarily the most votes) at a general election, or which has the support of a majority of members in the House of Commons, is by constitutional convention invited by the Sovereign to form a government and is appointed Prime Minister. On occasions when no party succeeds in winning an overall majority of seats, a coalition or minority government may be formed.

39. The Prime Minister chooses a team of ministers, including a Cabinet of about 20 members, whom he recommends to the Sovereign for appointment as Ministers of the Crown. Together they form Her Majesty's Government.

40. The party with the next largest number of seats is officially recognised as "Her Majesty's Opposition" (or "the Official Opposition"), with its own leader and its own "shadow cabinet", whose members act as spokesmen on the subjects for which government ministers have responsibility. Members of any other parties and any independent MPs who have been elected support or oppose the Government according to their own party policies or their own views.

41. The Government has the major share in controlling and arranging the business of the two houses. As the initiator of policy, it indicates which action it wishes Parliament to take,

and explains and defends its position in public debate. Most present-day Governments can usually count on the voting strength of their supporters in the House of Commons and, depending on the size of their overall majority, can thus secure the passage of their legislation substantially in the form that they originally proposed. This is the result of the growth of party discipline, and has strengthened the hand of the Government, but it has also increased the importance of the Opposition. The greater part of the work of exerting pressure through criticism now falls on the Opposition, which is expected and given the opportunity, according to the practice of both houses, to develop its own position in Parliament and state its own views.

(k) Parliamentary Control of the Executive

42. Control of the Government is exercised finally by the ability of the House of Commons to force the Government to resign, by passing a resolution of “no confidence”; or by rejecting a proposal which the Government considers so vital to its policy that it has made it a matter of confidence; or ultimately by refusing to vote the money required for the public service. The House of Lords also performs an important role as a revising chambers, carefully scrutiny legislation and proposals put forward by the Government.

43. The Fixed-term Parliaments Bill is expected to receive Royal Assent before the end of the year. In summary, the Bill will provide for five-year fixed-terms, with general election scheduled to be held on the first Thursday in May every five years (the next scheduled election being 7th May 2015). The Bill will provide that Parliament can only be dissolved early if at least two thirds of MPs vote for dissolution or if a Government is unable to secure the confidence of the House of Commons within 14 days of a no-confidence vote. The House of Commons will still have the power to pass a vote of no confidence in the Government, with a simple majority. This important part of the way the Commons holds the Government to account will be enshrined in law. Fixed-terms will mean that Governments can no longer decide the timing of elections in order to suit their own political ends and will provide greater certainty as the public will know when general elections are scheduled to take place.

44. As a representative of the ordinary citizen, an MP may challenge the policy put forward by a minister: (i) during a debate on a particular bill, when he or she may object to its broad principles at the second reading or, as regularly happens, may put forward amendments at committee stage; (ii) through the institution of parliamentary questions and answers; (iii) during adjournment debates; (iv) during the debates, on “Opposition days”; or (v) during debates scheduled by the Backbench Business Committee, which controls the allocation of time for most non-government business. In addition, the expenditure, administration and policy of the principal government departments is closely scrutinised by parliamentary committees.

(l) Question Time

45. Question Time in the House of Commons is regarded as the best means of eliciting information (to which members might not otherwise have access) about the Government’s intentions, as well as the most effective way of airing, and possibly securing some redress of, grievances brought to the notice of MPs by their constituents. Ministers may also make public statements by submitting a Written Ministerial Statement or making oral statements to Parliament, both of which may trigger a debate.

46. The conventions governing admissible questions have been derived from decisions taken by successive speakers in relation to individual questions. Practice and procedure of Question Time is also reviewed from time to time by the House of Commons Select Committee on procedure.

(m) Non-governmental organisations

47. A number of human rights non-governmental organisations operate in the UK. For tax purposes, non-governmental organisations mainly take the form of a charity. There is no unified system under which charities are governed in the UK. The operation of charities in England and Wales, Scotland and Northern Ireland are each governed by different law.

48. Being defined as a charity in the UK results in a number of tax benefits. In general, UK charities can claim tax relief from most income or gains and also on profits from some activities. Furthermore, charities are also entitled to claim tax repayments on income received on which tax has already been paid.

49. In England and Wales, bodies wishing to benefit from “charitable” status must be registered as “charities”, a process overseen by the Charity Commission. Apart from a number of exceptions, the registration procedures must take place in accordance with the *Charities Act 1993* (as amended by the *Charities Act 2006*).

50. In Scotland, the operation of charities is also overseen by a supervisory body: the Office of the Scottish Charity Regulator. In order for the body concerned to be deemed “charitable”, it must comply with the provisions laid down by the *Charities and Trustee Investment (Scotland) Act 2005* and then be registered in the Scottish Charity Register.

51. In Northern Ireland, the law relating to charities is distinctly different because charities do not have to undertake compulsory registration. They mainly carry out their functions under the *Charities Act (Northern Ireland) 1964* and the *Charities Act (Northern Ireland) Order 1987*. The operation of charities is overseen by the Department for Social Development.⁵⁴

2. The Law**(a) Administration**

52. The UK does not have a unified judicial system, excepting a small number of UK wide tribunals.⁵⁵ The judicial branch of state in each of the UK jurisdictions (England and Wales, Scotland and Northern Ireland) is independent of the executive. The Supreme Court of the United Kingdom is the highest court of appeal for civil cases in the UK, and criminal cases from England, Wales and Northern Ireland. The most senior judicial appointments are made by Her Majesty the Queen on the recommendation of the Prime Minister. The Lord Chief Justice of England and Wales is independently appointed by a special panel convened by the Judicial Appointments Commission of England and Wales. Most other judicial appointments are made by Her Majesty the Queen on the recommendation of the relevant Minister (following selection by the respective judicial appointments commissions in each jurisdiction).

(i) England and Wales

53. In the *Constitutional Reform Act 2005*, judicial independence in England and Wales was set out in legislation for the first time. This Act replaced the Lord Chancellor as head of the judiciary in England and Wales with the Lord Chief Justice of England and Wales, who also holds office as the President of the Courts of England and Wales.

⁵⁴ www.dsdni.gov.uk

⁵⁵ The Asylum and Immigration Tribunal’s jurisdiction covers the whole of the UK. England, Scotland and Wales have a single Employment Tribunal System.

54. The Act also established a new UK Supreme Court; imposed a statutory duty on the Government to safeguard the independence of the judiciary; established the Judicial Appointments Commission (JAC); and established the Judicial Appointments and Conduct Ombudsman (JACO).

55. Although the Act did not abolish the role of Lord Chancellor, the transfer of his judicial functions to the Lord Chief Justice reinforces intentions to preserve the independence of the judiciary in the UK. As head of the judiciary, the Lord Chief Justice has some 400 statutory responsibilities,⁵⁶ central to which are the deployment of the judiciary, the allocation of work to and training of the judiciary and acting as representative of judicial opinion to the executive and legislator.

56. The Judicial Appointments Commission consists of fifteen individuals, twelve of whom (including the Chairman) are appointed for a term of five years by open competition. Alongside having responsibility for recommendations for the appointments of judicial office holders, the JAC also has the remit to have regard for the diversity of those eligible for appointment to the judiciary in England and Wales.

57. The Office for Judicial Complaints (OJC) under joint responsibility of both the Lord Chancellor and the Lord Chief of Justice ensures that all complaints about the conduct of individual members of the judiciary in England and Wales are dealt with fairly and that judicial discipline is consistent and effective. The OJC is an associated office in the Ministry of Justice; the Central Government Department responsible for support of the judiciary in England and Wales. Working separately to the OJC, the Judicial Appointments and Conduct Ombudsman (JACO) has the responsibility for dealing with complaints about the appointment of members of the judiciary or of the handling of judicial discipline or conduct. Although the OJC and the JACO are associated offices of the Ministry of Justice they work completely autonomously of both the judiciary and the Government.

58. There are about 1,448⁵⁷ full-time (salaried) judges in England and Wales. In addition to these full-time judges, there are about 1,233⁵⁸ recorders. These are practising lawyers sitting on a part-time (fee-paid) basis in the Crown Court and county courts. Some lawyers also sit from time to time as Deputy High Court Judges, and others sit part-time in the county court as Deputy District Judges. There are also approximately 30,000 magistrates who sit in magistrates' courts. These are ordinary citizens who give up some of their time to administer local justice (without remuneration). They usually sit in benches of three with a legally qualified clerk to advise them on points of law. Thus, a notable feature of the administration of justice is that a small number of professional judges are supplemented by a large number of magistrates who dispose of the vast majority of minor criminal trials.

59. It is a cardinal principle that, in the exercise of their judicial function, all judges are completely independent. It is inevitable and proper that the law, and the operation of the law in the courts, should be scrutinised by Parliament and the executive. However, it is a generally accepted convention that members of Parliament and politicians should not criticise particular judicial decisions, albeit that Parliament has the power to reverse their general effects by legislation. As Parliament and the executive are not expected to interfere in the judicial sphere, so judges are expected to distance themselves from politics. Full-time judges are disqualified from being members of the House of Commons, and Lords of

⁵⁶ Set out in Constitutional Reform Act 2005.

⁵⁷ Figures relate to judges in the Court system. Taken from; 'Statistics – Monthly Judicial Statistics Overview' (April 2008) produced by the Judiciary of England and Wales.

⁵⁸ <http://www.judiciary.gov.uk/publications-and-reports/statistics/judges/judicial-statistics>.

Appeal in Ordinary and other senior judges who are members of the House of Lords do not usually take part in its proceedings except when they relate to legal matters. Under the *Constitutional Reform Act 2005*, the judges of the Supreme Court will be barred from sitting or voting in the House of Lords, in a committee of that house, or in a joint committee of both houses.

60. The Attorney General and the Solicitor General are the Government's principal advisers on English law, and represent the Crown in appropriate domestic and international cases. They are senior barristers, elected members of the House of Commons, and hold ministerial posts. The Attorney General also holds the position of Advocate General for Northern Ireland because, since devolution of policing and justice in April 2010, Northern Ireland now has its own Attorney General. As well as exercising various civil law functions, the Attorney General has final responsibility for enforcing the criminal law: the Director of Public Prosecutions (see paragraph 604 below) is subject to the Attorney General's superintendence. The Attorney General is concerned with instituting and prosecuting certain types of criminal proceedings, but must exercise an independent discretion and must not be influenced by government colleagues. The Solicitor General is, in effect, the deputy of the Attorney General.

(ii) *Scotland*

61. The Scottish legal system is separate from that of the rest of the United Kingdom. Most aspects of it are devolved to the Scottish Parliament under the Scotland Act 1998. Accordingly, the Scottish Government (the executive arm of devolved government in Scotland) is responsible for civil and criminal law and justice, criminal justice, social work services, police, prisons, courts administration, legal aid and liaison with the legal profession in Scotland.

62. *The Judiciary and Courts (Scotland) Act 2008* made significant changes to the legal system in Scotland. It created a statutory guarantee of judicial independence; it put the judicial appointments system on a statutory footing; it made the Lord President (the most senior judge in Scotland) the Head of the Scottish judiciary and as such responsible for the efficient disposal of the business of the Scottish courts; and it established the Scottish Court Service as a non-Ministerial Department, chaired by the Lord President of the Court of Session, with a principal function of providing the property, staff and other resources necessary for the running of the courts.

63. The High Court of Justiciary is Scotland's supreme criminal court and is presided over by the Lord Justice General and the Lord Justice Clerk, who usually sit as chairpersons in the courts of criminal appeal. The High Court also sits as a court of first instance in serious criminal matters. The Court of Session determines important civil matters at first instance and on appeal. The same judges sit in the High Court and the Court of Session. The next level is the sheriff court, which functions as an intermediate level court in criminal business and deals with all civil business below the level of the Court of Session. Low level criminal matters are adjudicated on by justices of the peace (lay judges) in the Justice of the Peace Court.

64. Judges and sheriffs are appointed by the Queen on the advice of the First Minister (on recommendation of the independent Judicial Appointments Board for Scotland). Justices of the Peace are appointed on behalf of and in the name of the Queen by the Scottish Ministers.

65. The Lord Advocate is the chief legal adviser to the Scottish Government. He or she is the chief legal officer of the Government and the Crown on civil and criminal law in Scotland, except reserved matters. He or she is also responsible for the provision of Scottish legal advice to the UK Government.

66. The Lord Advocate is the head of the system of prosecution and investigation of deaths in Scotland and acts independently in this role from the other Scottish Ministers and any other person. This independence is enshrined in law. The Solicitor General is the Lord Advocate's deputy. The Crown office and Procurator Fiscal Service forms the prosecution service in Scotland. Procurators Fiscal are subject in their duties to the instruction of the Lord Advocate.

(iii) *Northern Ireland*

67. In Northern Ireland, responsibility for Policing and Justice (including courts) was devolved to the Northern Ireland Assembly on 12th April 2010. The Northern Ireland Minister for Justice is responsible for the substantive criminal law and policing matters in Northern Ireland and discharges his responsibilities through the Northern Ireland Department of Justice. The Northern Ireland Courts and Tribunals Service is responsible for the administration of the courts and a number of tribunals in Northern Ireland. There are 67 full time and two part time members of the judiciary across the various judicial tiers and about 224 Lay Magistrates. Panels of deputy judges are also assigned to court hearings as business needs arise. In addition, there are presently 5 salaried tribunal office holders and approximately 320 fee paid tribunal members.

68. The Northern Ireland Judicial Appointments Commission is sponsored by the Office of the First and Deputy First Ministers. The Commission is an independent public body which selects and recommends candidates for appointment to judicial office in Northern Ireland. The Commission also makes appointments to some judicial offices (such as tribunal judiciary and deputy judges). All appointments are made solely on the basis of merit. However, the Commission is however also under a duty to have a programme of action to ensure so far as reasonably practicable that those appointed to judicial office are reflective of the community in Northern Ireland and that the pool of candidates for judicial office is also reflective of the community. The Lord Chief Justice of Northern Ireland is the Chair of the Commission.

69. The Judicial Appointments Ombudsman is an independent public office holder who is responsible for investigating complaints into the judicial appointment process. This office was created under the Constitutional Reform Act 2005 and is sponsored by the Courts and Tribunals Service.

70. The *Constitutional Reform Act 2005* appointed the Lord Chief Justice of Northern Ireland as head of the judiciary in Northern Ireland and further underpinned judicial independence. As head of the judiciary, the Lord Chief Justice has numerous statutory responsibilities including responsibility for the deployment of the judiciary, their training and guidance, and judicial discipline. He is also responsible for representing the views of the judiciary to Parliament, the Northern Ireland Assembly and Ministers generally.

71. The Attorney General for Northern Ireland was appointed by the First and Deputy First Minister on the devolution of responsibility for justice matters to the Northern Ireland Assembly in April 2010. He is the chief legal adviser to the Northern Ireland Executive. The Attorney General for England and Wales also has some responsibilities as Advocate General for Northern Ireland.

(b) **The criminal law**

72. In England and Wales the initial decision to begin criminal proceedings in minor offences lies with the police; otherwise the decision to bring a criminal charge lies with the independent Crown Prosecution Service. In Scotland public prosecutors (procurators fiscal) decide whether or not to initiate proceedings, in Northern Ireland it is the Director of Public Prosecutions. In England and Wales (and exceptionally in Scotland) a private person may

institute criminal proceedings. Crown Prosecutors in England and Wales can issue conditional cautions in certain types of cases. Police may issue simple cautions, and in Scotland the procurator fiscal has a number of alternatives to prosecution, including warnings and referrals to the Social Services Department.

73. In April 1988 the Serious Fraud Office, a government department, was established to investigate and prosecute the most serious and complex cases of fraud in England, Wales and Northern Ireland. A similar unit, the Crown Office Fraud and Specialist Services Unit, investigates such cases in Scotland.

(i) *England and Wales*

74. The Crown Prosecution Service (CPS) was established in England and Wales by the *Prosecution of Offences Act 1985*. The Director of Public Prosecutions is the head of the Service, which is responsible for the prosecution of most criminal offences in magistrates' courts and the Crown Court. The Director of Public Prosecutions is answerable to Parliament for the Service through the Attorney General. CPS lawyers prosecute cases in the magistrates' and some cases in the Crown courts. The CPS also briefs barristers from the private bar to appear in the Crown Court on its behalf. Although most cases are dealt with in the regional area where they arise, some cases are dealt with by the Serious Crime Division; these include cases of national importance, exceptional difficulty, or great public concern, and those which require that suggestions of local influence be avoided. Such cases might include terrorist offences, breaches of the Official Secrets Acts, corruption cases, and some prosecutions of police officers. Allegations of torture and deaths in custody come within the remit of the Central Casework Divisions.

(ii) *Scotland*

75. In Scotland, the Lord Advocate is the head of the system of criminal prosecution, and investigations of deaths. The Procurator Fiscal Service is the prosecution service in Scotland. Procurators Fiscal are subject in their duties to the instructions of the Lord Advocate. Prosecution is undertaken in the local sheriff and Justice of the Peace courts by Procurators Fiscal. Prosecution in the High court is undertaken by the Lord Advocate, Solicitor General and the advocate deputies who are collectively known as Crown Counsel.

76. Under the *Criminal Procedure (Scotland) Act 1995* a procurator fiscal may make a conditional offer of a fixed penalty to an alleged offender in respect of certain minor offences as an alternative to prosecution: the offender is not obliged to accept an offer but if he or she does so the prosecution loses the right to prosecute. The procurator fiscal can also issue other alternatives to prosecution, such as a Fiscal Compensation Order, and a warning letter.

(iii) *Northern Ireland*

77. The Criminal Justice System of Northern Ireland comprises seven organisations, each of which take responsibility for various areas of criminal justice including the prison service, the probation service, the police, youth justice, the court service and the public prosecution service.

78. The Public Prosecution Service for Northern Ireland (PPS) is the prosecuting authority for Northern Ireland. It is independent from the police and from Government. Whereas police are responsible for the investigation of criminal cases, the PPS makes prosecution decisions in all cases and has responsibility for the presentation of cases in court. PPS also provides prosecutorial advice to police upon request, and authorises charges.

79. The PPS is headed by the Director of Public Prosecutions. There is also a Deputy Director. Both these posts are public appointments made by the Attorney General for Northern Ireland. A new post has recently been created as a consequence of the devolution of policing and justice in April 2010. The new arrangements are that the Director's relationship with the Attorney General for Northern Ireland is one of consultation, the Director having full independence in matters pertaining to individual cases or policy. The Director is accountable to the Northern Ireland Assembly regarding finance and administration.

(c) **The criminal courts**

(i) *England and Wales*

80. In England and Wales, criminal offences may be grouped into three categories. Firstly, offences triable only on indictment - the very serious offences such as murder, manslaughter, rape and robbery - are tried only by the Crown Court presided over by a judge sitting with a jury. Secondly, summary offences - the least serious offences and the vast majority of criminal cases - are tried by unpaid magistrates or paid district judges sitting without a jury. The third category consists of offences such as theft, burglary or malicious wounding (known as "either way" offences) which can be tried either by magistrates or by the Crown Court depending on the circumstances of each case and the wishes of the defendant.

81. The Crown Court deals with trials of the more serious cases, the sentencing of offenders committed for sentence by magistrates' courts, and appeals from magistrates' courts. It sits at about 78 centres. All contested trials take place before a judge who might be a High Court judge circuit judge or a recorder, and a jury of twelve people.

82. Magistrates' courts deal with summary offences, and with "either way" offences which they consider suitable and where the defendant consents to summary trial. Magistrates' courts also send indictable-only cases to the Crown Court, and commit for trial those either-way offences which they decide should be tried in the Crown Court, or where the defendant elects Crown Court trial. Where a defendant in an "either way" case has been convicted in the magistrates' court (either on a plea of guilty or after a summary trial) the magistrates' court may decide to commit him or her to the Crown Court for sentence.

83. In addition, District Judges (Magistrates Courts), of whom there are about 136, deal with the more complex or sensitive cases. These judges are required to have at least seven years experience practice as a Solicitor or Barrister and an additional two years fee-paid experience.

84. People under 18 who are charged with a criminal offence are generally dealt with in youth courts.⁵⁹ These are specially constituted magistrates' courts which either sit apart from other courts or are held at a different time. Only limited categories of people may be present and media reports must not identify any young person appearing either as a defendant or a witness. Where a young person under 18 is charged jointly with someone of 18 or over, the case is heard in an ordinary magistrates' court or the Crown Court. If the young person is found guilty, the court may transfer to a youth court for sentence unless satisfied that it is undesirable to do so.

⁵⁹ Except in cases in which a person under 18 is being tried as an adult, or being jointly tried with an adult or alternatively if it is a rape or manslaughter case.

85. A person convicted by a magistrates' court may appeal to the Crown Court against the sentence imposed if he has pleaded guilty, or against the conviction or sentence imposed if he has not pleaded guilty. Where the appeal is on a point of law or jurisdiction, either the prosecutor or the defendant may appeal from the magistrates' court to the High Court. Appeals from the Crown Court, either against conviction or against sentence, are made to the Court of Appeal (Criminal Division). The Supreme Court, [which consists of 11 Lords of Appeal in Ordinary (the Law Lords)] is the final appeal court for all cases, from either the High Court or the Court of Appeal. Before a case can go to the Supreme Court, the court hearing the previous appeal must certify that it involves a point of law of general public importance, and either that court or the Supreme Court must grant leave for the appeal to be heard.

86. Where a person has been tried on indictment and acquitted (whether on the whole indictment or some counts only), the Attorney General may refer to the Court of Appeal for its opinion on any point of law which arose in the case. Before giving its opinion on the point referred, the Court must hear argument by or on behalf of the Attorney General. The person acquitted also has the right to have counsel to present argument on his behalf. Whatever the opinion expressed by the Court of Appeal, the original acquittal is unaffected. By making a reference, the Attorney General may obtain a ruling which will assist the prosecution in future cases, but he cannot ask the court to set aside the acquittal of the particular accused whose case gave rise to the reference. The point may also be referred to the House of Lords if it appears to the Court of Appeal that it ought to be considered by the Law Lords.

87. The Attorney General may also refer a case to the Court of Appeal if it appears to him that the sentence passed by the judge in the Crown Court was unduly lenient or illegal. His power applies to indictable only offences and certain specified "either way" offences sentenced in the Crown Court. The Court of Appeal must give leave to refer the sentence. The Court of Appeal may quash any sentence and replace it with a greater or lesser sentence which is deemed appropriate for the case, provided that this would have been within the power of the Crown Court judge who imposed the original sentence. In general the double jeopardy rule means that once a person has been acquitted of an offence they cannot be prosecuted a second time. However, under Part 10 of the *Criminal Justice Act 2003*, it is now possible for re-trials to take place in respect of certain very serious offences, where the Court of Appeal finds that there is new and compelling evidence, which has come to light since the acquittal.

(ii) *Scotland*

88. In Scotland the High Court of Justiciary tries all serious crimes such as murder, treason and rape; the Sheriff Court is concerned with less serious offences and the Justice of the peace court with minor offences. Criminal cases are heard either under solemn procedure, when proceedings are taken on indictment and the judge sits with a jury of 15 members, or under summary procedure, when the judge sits without a jury. All cases in the High Court and the more serious ones in sheriff courts are tried by a judge and jury. Summary procedure is used in the less serious cases in the sheriff courts, and in all cases in the district courts. Maximum sentencing powers vary.

89. In Scotland, children under 16 who have committed an offence or offences or are for any other reasons specified in statute considered to need compulsory measures of care or protection would normally be brought before a children's hearing. The hearing comprises three members drawn from a panel of volunteers who have been appointed by the Secretary of State. Both sexes must be represented at each hearing. Following a hearing, the child or parents may appeal against any decision, but must do so within 21 days. This appeal is also brought before a sheriff. A small number of children who have committed serious crimes

may still be dealt with in the adult criminal justice system and currently a pilot Youth Court scheme is being run to deal with persistent young offenders.

90. Scotland's six sheriffdoms are further divided into sheriff court districts, each of which has one or more sheriffs, who are the judges of the court. The High Court of Justiciary, Scotland's supreme criminal court, is both a trial and an appeal court. Any of the following judges is entitled to try cases in the High Court: the Lord Justice General (the head of the court), the Lord Justice Clerk (the judge next in seniority) or one of the Lord Commissioners of Justiciary.

91. All appeals are dealt with by the High Court. In both solemn and summary procedure, an appeal may be brought against conviction, or sentence, or both. The Court may authorize a retrial if it sets aside a conviction. There is no further appeal to the House of Lords. In summary proceedings the prosecutor may appeal on a point of law against acquittal or sentence. The Lord Advocate may seek the opinion of the High Court on a point of law which has arisen in a case where a person tried on indictment is acquitted. The acquittal in the original case is not affected.

(iii) *Northern Ireland*

92. The structure of Northern Ireland courts is broadly similar to that in England and Wales. The day-to-day work of dealing summarily with minor cases is carried out by magistrates' courts presided over by a full-time, legally qualified person, termed a District Judge (Magistrates' Court).

93. The Crown Court deals with criminal trials on indictment. It is served by High Court and county court judges. Proceedings are generally heard before a single judge, and all contested cases, (other than those which have been certified by the Director of Public Prosecutions as being suitable for non-jury trial), take place before a jury.

94. Children under 18 are dealt with by the Youth Court consisting of a District Judge (Magistrates' Court) and two lay members (at least one of whom must be female) who are specially trained in youth justice matters. As in England and Wales, reporting restrictions apply to cases in the Youth Court preventing the publication of the offender's name or picture. Appeals from magistrates' courts (including youth courts) are heard by the county court.

95. During the period of sectarian violence and Terrorism from the 1970s, the hearing of cases arising under emergency legislation by a judge sitting without a jury ("the Diplock system") became necessary because jurors were being intimidated. The Diplock system was repealed on 31 July 2007 and replaced with a new system of non-jury trial under the *Justice and Security (Northern Ireland) Act 2007*. The new system focuses on the circumstances of the offence, not the offence itself, and requires an assessment of the risk that the administration of justice might be impaired. There is now a presumption for jury trial in all cases subject to the Director of Public Prosecution's decision to certify cases as being suitable for non-jury trial.

96. Appeals from the Crown Court against conviction or sentence are heard by the Northern Ireland Court of Appeal. Procedures for a further appeal to the Supreme Court are similar to those in England and Wales.

3. Criminal proceedings

(a) Trial

97. Criminal trials in the United Kingdom take the form of a contest between the prosecution and the defence. Since the law presumes the innocence of an accused person

until guilt has been proved, the prosecution is not granted any advantage, apparent or real, over the defence. A defendant (in Scotland, called an accused) has the right to employ a legal adviser and may be granted legal aid from public funds. If remanded in custody, the person may be visited by a legal adviser to ensure a properly prepared defence.

98. In England and Wales the prosecution has a statutory duty to disclose to the defence in advance of the trial the evidence on which it intends to prosecute the charges, and also any relevant exculpatory material. In Crown Court cases the defence must then provide a statement setting out the nature of the accused's defence. This statement is voluntary in magistrates' courts. The prosecution is under a continuing duty, in particular following receipt of a defence statement, to keep under review the question of whether there is any previously relevant undisclosed material in its possession. Additionally before the trial the accused is required to provide details of witnesses that he intends to call.

99. In England, Wales and Northern Ireland during the preparation of the case, with the exception of minor charges, the prosecution, with the exception of minor charges, is required either automatically or on request to disclose to the defence all evidence against the accused on which the prosecution propose to rely. In addition, the prosecution is required to disclose any material not previously seen by the accused that may undermine the prosecution's case or assist the case of the accused. However present law permits certain unused material to be withheld if a court rules that there is a stronger public interest in preserving confidentiality (and disclosure is not necessary for a fair trial).

100. Since the case of *Sinclair v HMA* in 2005, the Crown has been obliged to disclose the police statements of witnesses to the defence. The Crown now has an obligation to disclose all material information for or against an accused to the defence.

101. The defence or prosecution may suggest that the defendant's mental state renders him or her unfit to be tried. If the judge decides that this is so, the defendant is admitted to a specified hospital. Additionally in England and Wales certain vulnerable defendants may, if the court agrees, give evidence as a witness, via a live link.

102. In England and Wales, all people, whatever their age are competent to act as witnesses, unless they cannot understand questions asked of them in court or cannot answer them in a way that can be understood, with, if necessary, the assistance of any special measures directed by the court.

103. Children (under 18 years) and adults with a physical or mental disorder or impairment or learning disability, are automatically eligible for one or more measures to assist them give evidence in court. These measures include giving evidence by live, link, screened from the defendant in the courtroom, video recorded statement, clearing the public gallery (sex offences and in cases of intimidation), removing court wigs and gowns and assistance with communication through communication aids or an intermediary.

(b) Jury

104. In jury trials the judge decides questions of law, sums up the evidence for the jury and instructs the jury on the relevant law, and discharges the accused or passes sentence. Only the jury decides whether the defendant is guilty or not guilty. In England, Wales and Northern Ireland, if the jury cannot reach a unanimous verdict, the judge may direct it to bring in a majority verdict provided that, in the normal jury of 12 people, there are not more than two dissentients. In Scotland, where the jury consists of 15 people, the verdict may be reached by a simple majority, but no person may be convicted without corroborated evidence. If the jury returns a verdict of "not guilty", (or, in Scotland "not proven", which is an alternative verdict of acquittal), the prosecution has no right of appeal and the defendant cannot be tried again for the same offence. In the event of a "guilty" verdict, the defendant has a right of appeal to the appropriate court.

105. A jury is completely independent of the judiciary. Any attempt to interfere with a jury once it is sworn in is punishable under the *Contempt of Court Act 1981*.

106. The prosecution and defence have a right to challenge potential jurors by giving reasons where they believe an individual juror is likely to be biased. There is no automatic right of challenge without giving a reason. In addition, the prosecution can also exercise the right to request stand-by of a juror, or the judge can use his discretionary powers to discharge a juror should the circumstances warrant that. The *Criminal Justice (Scotland) Act 1995* abolished the right of peremptory challenge in Scotland.

107. People between the ages of 18 and 70 whose names appear on the electoral register and who have lived in the UK for a continuous period of at least five years since the age of 13, are liable for jury service, unless they are ineligible or excused. Persons ineligible for jury service include: those who have been sentenced in the UK to five years or more of imprisonment; those who have been sentenced in the previous ten years to a term of imprisonment, detention or youth custody, have received a suspended sentence or have been subject to a community order; and if they are regularly receiving treatment by a medical practitioner or are resident in a hospital or similar institution for any form of mental disorder.

(c) The investigation of deaths

108. In England, Wales and Northern Ireland, coroners investigate violent and unnatural deaths or sudden deaths where the cause is unknown. Deaths may be reported to the local coroner (who is either medically or legally qualified, or both) by doctors, the police, the registrar, public authorities or members of the public. If the death is sudden and the cause unknown, the coroner need not hold an inquest if, after a post-mortem examination has been made, he or she is satisfied that the death was due to natural causes. Where there is reason to believe that the deceased died a violent or unnatural death, or if they died in prison or in other specified circumstances, the coroner must hold an inquest, and it is the duty of the coroner's court to establish how, when and where the deceased died. A coroner may sit alone or, in certain circumstances, with a jury. Neither the coroner nor the coroner's jury may express any opinion on questions of criminal and civil liability, which fall to other courts to determine.

109. In Scotland the local procurator fiscal investigates all sudden and suspicious, accidental, unexpected and unexplained deaths, and may report the findings to the Crown Office for Crown Counsel's instructions in relation to further investigations and whether criminal proceedings should be instigated or whether a fatal accident inquiry should be instructed. Under the Fatal Accident and Sudden Deaths Inquiry (Scotland) Act 1976 a fatal accident inquiry, which is a public inquiry held at the request of the Procurator Fiscal before the sheriff must be held in cases where the deceased died whilst in legal custody. In a minority of cases a fatal accident inquiry may be held before the sheriff. For certain categories (such as deaths in custody) a fatal accident inquiry is mandatory. In addition, the Lord Advocate has discretion to instruct an inquiry in the public interest in cases where the circumstances give rise to public concern.

(d) The civil law

110. The main subdivisions of the civil law of England, Wales and Northern Ireland are: family law, the law of property, the law of contract and the law of torts (covering injuries suffered by one person at the hands of another irrespective of any contact between them and including concepts such as negligence, defamation and trespass). Other branches of the civil law include constitutional and administrative law (particularly concerned with the use of executive power), industrial, maritime and ecclesiastical law. Scottish civil law has its own, largely comparable, branches.

111. Unified procedural rules for the County Court and High Court, the ‘Civil Procedure Rules’, to ensure that the Courts deal with cases justly, were introduced in 1999. The Civil Justice Council was also established to oversee and co-ordinate the modernisation of the Civil Justice System in England and Wales. Its main role is to review the system constantly and reform it accordingly.

(e) **The civil courts**

(i) *England and Wales*

112. In England and Wales, civil cases may be heard in Magistrates’ courts, county courts and the senior courts up to the Supreme Court.

113. The Civil jurisdiction of Magistrates’ courts is limited. It includes certain family law proceedings, nuisances under public health legislation and the recovery of taxes. It also acts as an appellate court in respect of decisions taken by local licensing committees to license public houses, betting shops and clubs.

114. The jurisdiction of the county courts covers actions founded upon contract and tort (with minor exceptions), trust and mortgage cases and actions for the recovery of land. Cases involving claims exceeding set limits may be tried in a county court by consent of the parties or, in certain circumstances, on transfer from the High Court.

115. Other matters dealt with by the county courts include hire purchase, the Rent Acts, disputes between landlord and tenant, and adoption cases. Divorce cases are determined in those courts designated as divorce county courts and, outside London, bankruptcies are dealt with in certain county courts. The courts also deal with complaints of race and sex discrimination. Where small claims are concerned (especially those involving consumers), there are simplified procedures.

116. The High Court of Justice is divided into the Chancery Division, the Queen’s Bench Division and the Family Division. Its jurisdiction is both original and appellate and covers civil and some criminal cases. Particular types of work are assigned to each division. The Family Division is concerned with all jurisdiction affecting the family, including that relating to adoption and guardianship. The Chancery Division deals with the interpretation of wills and the administration of estates. Maritime and commercial law are the responsibility of admiralty and commercial courts of the Queen’s Bench Division.

117. In England and Wales, the Family Division of the High Court hears appeals in matrimonial, adoption and guardianship proceedings heard by magistrates’ courts. Appeals from the High Court and county courts are heard in the Court of Appeal (Civil Division), consisting of the Master of the Rolls and 35 Lords Justice of Appeal, and may go on to the Supreme Court, the final court of appeal in civil and criminal cases, presided over by 12 independently appointed judges known as justices of the Supreme Court.

(ii) *Scotland*

118. The main civil courts in Scotland are the sheriff courts and the Court of Session. The civil jurisdiction of the sheriff court extends to most kinds of action and is normally unlimited by the scale of the case, the sheriff having a jurisdiction in virtually all matters of civil law and all types of procedure with the exception of certain statutory appeals and applications to the Court of Session. Much of the work is done by the sheriff, against whose decision an appeal may be made to the sheriff-principal or directly to the Court of Session. The sheriff also hears a number of statutory appeals and applications such as appeals from the decisions of Licensing Boards.

119. The Court of Session sits only in Edinburgh, and in general has jurisdiction to deal with all kinds of action. The main exception is an action exclusive to the sheriff court, where the value claimed is less than a set amount. The Court of Session has a number of special procedures for particular types of action notably commercial cases and actions for damages for personal injuries and death. It has exclusive jurisdiction in certain international cases, notably under international conventions dealing with child abduction and custody. Appeals in civil cases can be taken from the Inner House to the UK Supreme Court, which is the final civil court of appeal for Scotland.

120. The Scottish Land Court is a special court which deals exclusively with matters concerning agriculture. Its chairman has the status and tenure of a judge of the Court of Session and its other members are lay specialists in agriculture. Appeals in civil cases can be taken from the Inner House to the UK Supreme Court, which is the final civil court of appeal for Scotland.

(iii) *Northern Ireland*

121. Minor civil cases in Northern Ireland are dealt with in county courts, though magistrates' courts also deal with certain classes of civil cases. The superior civil law court is the High Court from which an appeal may be made to the Court of Appeal. These two courts, together with the Crown Court, comprise the Court of Judicature of Northern Ireland and their practice and procedure are similar to those in England and Wales. The UK Supreme Court is the final civil appeal court.

(f) Civil proceedings

(i) *England and Wales*

122. In England and Wales civil proceedings are instituted by the aggrieved person, who is referred to as the "claimant". No preliminary inquiry on the authenticity of the grievance is required. The usual way to commence civil proceedings, in both the High Court and the County Court, is by issuing a document known as the "claim form. The early stages of civil proceedings are dominated by the exchange of formal statements of case by the respective parties.

123. Civil proceedings can usually be abandoned or ended by compromise at any time. Actions brought to court are usually tried by a judge without a jury. However, subject to the court's agreement there is a right to trial by jury in actions involving claims for deceit, libel, slander, malicious prosecution and false imprisonment. The jury decides questions of fact and damages awarded to the injured party. Verdicts should normally be unanimous, but if a jury cannot agree then majority verdicts may be accepted.

124. If a party refuses to comply with a judgment or order of court, a range of enforcement procedures are available. Where the judgment is for a sum of money, the most common method of enforcement is either by seizure of the debtor's goods or by an attachment of earnings order. If the judgment takes the form of an injunction, a refusal to obey the injunction may result in imprisonment for contempt of court. Normally the court orders the costs of an action to be paid by the losing party, but in small claims parties are normally expected to pay their own costs, though they can usually recover court fees from the loser. This reflects the fact that small claims procedures are designed so that parties can deal with matters without using lawyers.

(ii) *Scotland*

125. In Scotland, civil proceedings in the Court of Session or ordinary actions in the sheriff court are initiated by serving the defender with a summons. A defender who intends

to contest the action must inform the court; if he or she does not appear, the court grants a decree in absence in favour of the pursuer. For ordinary actions in the sheriff court the case is initiated by initial writ, and the defender has to lodge a notice of intention to defend and thereafter submit defences followed by an options hearing. In family actions the parties attend the options hearing, and the court can send cases for mediation. After the options hearing, cases go to debate on legal issues or proof.

126. In summary causes (involving actions of value from £750 to £1,500) in the sheriff court the statement of claim is incorporated in the summons. The procedure is designed to enable most actions to be carried through without the parties involved having to appear in court. Normally they (or their representative) need appear only when an action is defended. These summary causes proceed on a fixed timetable and involve minimum written pleading and cover certain classes of payment action and actions for repossession of heritable property.

127. A small claims procedure was introduced into Scotland in 1988, which provides for all cases of up to £750 to be initiated in a form similar to that available for summary cause. Where the pursuer in the action does not have legal representation, the court will assist in completing and serving the summons. Although similar to summary cause, the procedure in small claims is designed to be very informal, and the court is encouraged to adopt less strict rules of procedure and evidence at proof. Legal aid is not available for small claims, and the expenses are strictly limited.

(iii) *Northern Ireland*

128. Proceedings in Northern Ireland are similar to those in England and Wales. County court proceedings are commenced by a civil bill served on the defendant. Judgements of civil courts are enforceable through a centralised procedure administered by the Enforcement of Judgments Office.

(g) **Restrictive Practices Court**

129. The Restrictive Practices Court is a specialised United Kingdom court which deals with monopolies and restrictive trade practices. It comprises five judges and up to ten other people with expertise in industry, commerce or public life.

(h) **The Tribunals Service**

130. Tribunals deal with a wide range of disputes, mostly between individuals and the state, and were traditionally sponsored by the same government department whose decisions they were reviewing. The need to reform the Tribunals system was first set out in Sir Andrew Leggatt's review '*Tribunals for Users - One System, One Service*'. The Government accepted his proposals and the Tribunals Service, formed out of over 16 existing tribunals, was created on 3 April 2006 as an executive agency of the Ministry of Justice (MoJ). It reflected the most radical change to this part of the justice system for 50 years.

131. The *Tribunals, Courts and Enforcement Act 2007*, created a First-tier Tribunal and an Upper Tribunal on 3 November 2008. The First-tier Tribunal is the first instance tribunal for most jurisdictions. The Upper Tribunal mainly, but not exclusively, reviews and decides appeals from the First-tier Tribunal. It also has the power to deal with judicial review work delegated from the High Court and Court of Session. Both Tribunals are administered by the Tribunals Service.

132. Both the First-tier Tribunal and Upper Tribunal are divided into chambers grouping together jurisdictions dealing with like subjects or where individual panels need the same

types of members. Because the structure is flexible, in the future, if Parliament decides to create a new appeal right or jurisdiction, it will not be necessary to create a new tribunal to administer it.

133. The first phase of the Act's implementation was completed in November 2008. The new system created two tiers (layers) of Tribunal; a First-tier Tribunal and an Upper Tribunal. Within each tier, separate "chambers" were established to deal with similar types of appeals as follows:

Upper Tribunal

- *Administrative Appeals Chamber*

First-tier Tribunal

- *Social Entitlement Chamber*
- *Health, Education and Social Care Chamber*
- *War Pensions and Armed Forces Compensation Chamber*

134. The responsibilities of the Senior President of Tribunals include responsibility for representing the views of the tribunal judiciary to Ministers, Parliament and for training, guidance and welfare. In addition, the Lord Chief Justice has delegated to the Senior President certain of his powers under the *Constitutional Reform Act 2005*, particularly in relation to judicial discipline of most tribunal judges and members.

(i) The Administrative Justice and Tribunals Council

135. The Administrative Justice and Tribunals Council (AJTC) is an advisory non-departmental public body. It is the successor body to the Council on Tribunals. In addition to taking on the Council of Tribunals' previous role in respect of tribunals and inquiries, it keeps under review the administrative justice system as a whole with a view to making it accessible, fair and efficient. It also advises Ministers and the Senior President on the development of the new system and refers proposals for change to them. The AJTC seeks to ensure that the relationships between the courts, tribunals, ombudsmen and alternative dispute resolution providers reflect the needs of users. The AJTC has a statutory seat on the Tribunal Procedure Committee ensuring it is at the centre of the rule making process for tribunals.

(j) Prisons, Probation, Parole

136. In England and Wales, the commissioning and delivery of adult offender management services in custody and the community in England and Wales is the responsibility of the National Offender Management Service (NOMS) Agency (an executive agency of the Ministry of Justice).

137. In Scotland, responsibility for prisons lies with the Scottish Prison Service, an Executive Agency of the Scottish Government. Primary responsibility for probation and post-release services in Scotland lies with local authorities.

138. In England and Wales, the Secretary of State for Justice appoints to each prison establishment an Independent Monitoring Board representing the local community, to provide an independent view on the standards of fairness and humanity with which those placed in custody are treated and on the range and adequacy of the programmes preparing them for release. The Board inform the Secretary of State of any concerns they have, and report annually to the Secretary of State on how well the prison has met the standards and requirements placed on it and what impact these have had on those in its custody. In Scotland, equivalent activities are conducted by visiting committees for each establishment.

139. Prisons in England and Wales are subject to inspection by Her Majesty's Chief Inspector of Prisons who is appointed by the Queen and reports directly to the Secretary of State. The effectiveness of probation work in England and Wales is inspected by Her Majesty's Chief Inspector of Probation, who is appointed by, and reports directly to the Secretary of State. In Scotland, prisons are inspected by HM Prisons Inspectorate for Scotland and criminal justice social work services are inspected by the Social Work Inspection Agency, an independent Government Agency.

140. In England and Wales, the Secretary of State for Justice also appoints the Prisons and Probation Ombudsman. The Ombudsman's role is to investigate and make recommendation relating to individual complaints from prisoners, offenders under probation supervision, and immigration detainees. The Ombudsman is also responsible for investigating any deaths occurring in prisons, approved premises and immigration detention facilities. They report annually to the Secretary of State.

141. A special Parole Board advises the Secretary of State for Justice on the release of prisoners on licence.

142. In Scotland, complaints by prisoners that have not been resolved through the Scottish Prison Service's complaints procedure are investigated by the independent Scottish Prisons Complaints Commission. Complaints about criminal justice social work services such as parole can be considered by the independent Scottish Public Services Ombudsman.

(k) Prisoners' Health

143. Responsibility for commissioning prison health services in the publicly-run prisons in England lies with the NHS Primary Care Trusts (PCTs). Proposals to replace Primary Care Trusts, with an independent NHS Commissioning Board as set out in the Department of Health's 2010 White Paper consultation exercise for the NHS.

144. In Scotland, medical services in establishments managed by the Scottish Prison Service are provided under a national contract. It is a condition of this contract that all doctors providing services are suitably qualified for prison work and registered with the General Medical Council. All doctors are required to undertake induction training and continuing professional development, and undertake specific prison training, including suicide risk management. Ethical and moral issues are included in the training and learning strategy for prison nursing staff.

(l) Pardons

145. The Secretary of State for Justice is responsible for advising the Queen on whether in England and Wales there are exceptional grounds for exercising the royal prerogative of mercy, such as in the absence of a court-based remedy, to pardon a person convicted of an offence, or to remit all or part of a penalty imposed by a court.

146. The Cabinet Secretary for Justice in the Scottish Government has similar responsibilities in Scotland. The Minister of Justice in the Northern Ireland Executive deals with applications for the exercise of the Royal Prerogative of Mercy in relation to non-terrorist offences in Northern Ireland, and the Secretary of State for Northern Ireland deals with applications arising from terrorism-related offences.

II. General legal framework within which human rights are protected

A. Acceptance of international human rights norms

147. The UK has ratified the following major United Nations human rights instruments;
- The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
 - The International Covenant on Civil and Political Rights (ICCPR)
 - The International Covenant on Economic, Social and Cultural Rights (ICESCR)
 - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
 - Convention on the Rights of the Child (CRC)
 - Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
 - Convention on the Rights of Persons with Disabilities (CRPD)
148. It has also ratified Optional Protocols to CAT, CEDAW, CRC and the CRPD.
149. The UK's Universal Periodic Review took place in April 2008.
150. The United Kingdom is also party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which entered into force in the UK on 1 February 1989 and the European Convention on Human Rights (ECHR), which the UK ratified in 1951.
151. International treaties ratified by the United Kingdom are not usually directly incorporated into UK law. In general, the UK complies with its international obligations by enacting or amending domestic legislation to ensure compatibility with its treaty obligations. The Government normally takes such measures as are necessary, following normal parliamentary procedures, before it becomes a party to the treaty. The United Kingdom will not ratify a treaty unless the Government is satisfied that domestic law and practice enable it to comply. In the case of the European Convention on Human Rights, this approach was followed initially from signature of this Convention in 1951 until 2000 with the coming into force of the Human Rights Act 1998. The Act gives further effect in the UK law to the rights in the Convention, and makes the Convention rights directly enforceable in UK courts.
152. The derogations, reservations and declarations that the UK has in place with regards to these international instruments are summarised on the website of the United Nations Treaties Collection⁶⁰.

Convention against Torture

153. The UK's obligation under Article 4 of the Convention against Torture, to make torture a criminal offence in its domestic legislation, is given effect by s.134 of the *Criminal Justice Act 1988*. Section 134 makes torture, wherever committed, by anyone of any nationality, a criminal offence. The first prosecution under Section 134 of the *Criminal*

⁶⁰ <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>

Justice Act, giving effect in the UK to Article 7 of the Convention, was brought to a conclusion in July 2005, with the conviction of the former Afghan warlord, Faryadi Zardad.

B. Legal framework for the protection of human rights at a national level

1. The European Convention on Human Rights and the Human Rights Act

154. The UK does not have a written Constitution as part of its national law. People in the UK have long enjoyed a strong tradition of individual liberties but it has not always been easy to say precisely what was involved – or what to do when unwritten liberties conflict with other laws.

155. The European Convention on Human Rights (ECHR), which the UK ratified in 1951, enshrines fundamental civil and political rights. Although the UK was bound to comply with its obligations under the ECHR as a matter of international law from ratification, the ECHR was not directly incorporated into UK law and Convention rights were not directly enforceable before UK courts. The UK Government introduced the Human Rights Act 1998 (“the Act”) to give further effect to the rights in the ECHR. This Act came into force on 2 October 2000.

156. The Act enables victims of a breach of Convention rights to complain directly to a UK court and receive a remedy including damages if a breach is found. It ensures that Convention rights, and the supporting judgments of the European Court of Human Rights, are fully available to UK courts. It also ensures that Parliament has to reflect carefully, in considering proposed legislation, on the difficult question of where the balance lies between the individual’s rights and the needs of the wider community. The key principle of the Act is that wherever possible there should be compatibility with Convention rights and it provides a clear legal statement of their basic rights and fundamental freedoms.

157. The Act requires our courts to respect laws passed by Parliament. However, it allows a higher court to declare that a law cannot be given a meaning compatible with the Convention rights. Parliament can then decide whether and how to amend the law. In this way, the Act balances the rights and responsibilities of the law-making and judicial parts of our Constitution, leaving the final word to the democratic process.

158. The Act represents a major shift in the UK political and legal system works. Before the Act, UK law did not spell out that public authorities and courts had to respect ECHR rights; and the courts would only look at the ECHR in exceptional cases, for example if UK legislation was unclear.

159. The Act means all core public authorities (such as central and local government, the army, the police etc) must ensure that everything they do is compatible with Convention rights unless an Act of Parliament makes that impossible.

160. The *Human Rights Act* works in three main ways. First, it requires all legislation to be interpreted and given effect as far as possible compatibly with the Convention rights. Where it is not possible to do so, a court may quash or disapply subordinate legislation (such as Regulations or Orders) or, if it is a higher court, make a declaration of incompatibility in relation to primary legislation. This triggers a power that allows a Minister to make a remedial order to amend the legislation to bring it into line with the Convention rights.

161. To date, on every occasion when the courts have declared legislation to be incompatible with the Convention rights (and where this has not been overturned on appeal), the Government has either referred the incompatibility to Parliament to achieve a legislative remedy or is preparing to do so.

162. Second, it makes it unlawful for a public authority to act incompatibly with the Convention rights and allows for a case to be brought in a UK court or tribunal against the authority if it does so. However, a public authority will not have acted unlawfully under the Act if as the result of a provision of primary legislation (such as another Act of Parliament) it could not have acted differently.

163. The Courts will look, with “anxious scrutiny”, to see if the interference with the right in question was really necessary to achieve one or more of the stated aims recognised by the Convention. If the answer is no, the Courts will find that the public authority has acted unlawfully. The Courts will not, however, simply replace the decision maker’s view with their own, and so their role is still one of “review” rather than a full redetermination of the original decision. It is just that the nature of the review is now more intensive.

164. Third, UK courts and tribunals must take account of Convention rights in all cases that come before them. This means, for example, that they must develop the common law compatibly with the Convention rights. They must take account of Strasbourg caselaw. For example, the *Human Rights Act* has been relied on to determine cases involving the competing interests of privacy and freedom of expression.

165. The *Human Rights Act* also imposes a duty on Government Ministers when introducing new legislation. Under the Act, the Minister in charge of any proposed primary legislation has to give a statement to Parliament about the compatibility of the Bill’s provisions with the Convention rights. This ensures that the Government considers the impact of the legislation on human rights before the Bill is debated in Parliament, and assists Parliament in its task of scrutiny.

166. In the explanatory notes accompanying the Bill, the Government also draws attention to the main human rights issues arising from the Bill. In the course of going through Parliament, most Bills are considered by the Joint Parliamentary Committee on Human Rights, which may make proposals on how a Bill can be made more consistent with the Convention or with other human rights instruments.

167. Since 2000, only once has a Bill been presented to Parliament with a statement that it could not be certified as being compatible with the Convention rights. This was the Bill that became the *Communications Act 2003*, which dealt with restrictions on funding for political advertising. This approach was supported at the time by the Joint Parliamentary Committee on Human Rights and was endorsed by Parliament, which passed the legislation. The legislation has subsequently been tested in the High Court and the House of Lords and has been upheld. The specific case will be considered by the European Court of Human Rights.

168. Section 1(2) of the Act provides that Convention rights take effect in domestic law subject to any designated derogation or reservation. Under Article 15 of the Convention, the UK has the right to derogate from its obligations in exceptional and prescribed circumstances. Section 14 of the Human Rights Act preserves this right of derogation in domestic law to ensure consistency with the UK’s derogations under international law. Similarly, under Article 57 of the Convention, the UK has the right in prescribed circumstances to enter a reservation in relation to its Convention obligations. Section 15 of the Act ensures that these reservations apply to domestic law to ensure consistency with the UK’s reservations under international law. At present, the UK has entered one reservation to the Convention, this being Article 2 of the First Protocol. Section 15 expressly maintains this reservation and invests the Secretary of State with power to designate further reservations from the Convention which the UK may enter in the future.

169. The Human Rights Act applies to the Devolved Administrations and legislatures as public authorities, but they are also subject to additional legal requirements to comply with the ECHR. *The Scotland Act 1998*, which created the Scottish Parliament and the Scottish

Executive, requires the Scottish Ministers to act in compliance with the ECHR rights and provides that any acts by them that contravene the ECHR are ultra vires. It also provides that any legislation passed by the Scottish Parliament that is incompatible with the ECHR would be outwith the Parliament's legislative competence and thus invalid. This allows domestic courts to strike down any Scottish legislation that is not in compliance with ECHR. The *Northern Ireland Act*, which created the Northern Ireland Assembly, similarly requires Northern Irish Ministers to act in compliance with the ECHR rights and deems law contravening the rights contained in the ECHR to be ultra vires.⁶¹ A similar provision applies to the Welsh Assembly under the Government of Wales Act 1998.

170. The 1998 Belfast Agreement tasked the Northern Ireland Human Rights Commission with advising the Secretary of State for Northern Ireland on "the scope for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights, to reflect the particular circumstances of Northern Ireland". Following the October 2006 St Andrews Agreement, a Bill of Rights Forum was established to assist this process. On 31 March 2008 the Forum presented recommendations to the Northern Ireland Human Rights Commission who, having considered the Forum's report, presented its advice to Government on 10 December 2008. On 30 November 2009, the then Government launched a consultation on "A Bill of Rights for Northern Ireland: Next Steps" which ended on 31 March 2010. This revealed deep divisions and a lack of agreement on the way forward. The current Government will engage with the Northern Ireland Executive, political parties in Northern Ireland and others on how best to reach the necessary consensus to resolve this issue finally.

171. Following the General Election of May 2010, the Government made the following commitment: we will establish a Commission to investigate the creation of a British Bill of Rights that incorporates and builds on all our obligations under the European Convention on Human Rights, ensures that these rights continue to be enshrined in British law, and protects and extends British liberties. We will seek to promote a better understanding of the true scope of these obligations and liberties.

172. The United Kingdom Ministry of Justice has policy responsibility for the proposed Commission. Decisions on precise timing, scope and membership of the Commission will be made in due course.

2. Rights of Children and Young Persons (Wales) Measure 2011

173. The Rights of Children and Young Persons Measure received Royal Assent in March 2011. The Measure imposes a duty upon the Welsh Ministers and the First Minister to have due regard to the rights and obligations in the United Nations Convention on the Rights of the Child (UNCRC) and its Optional Protocols, when making policy decisions of a strategic nature.

174. The Measure will require the Welsh Ministers to prepare a children's scheme and to produce reports about compliance with the duty to have due regard to the UNCRC and its Optional Protocols, along with promoting understanding of the UNCRC and amending legislation to give better effect to the UNCRC and its Optional Protocols.

175. The Measure aims to embed the principles of the United Nations Convention on the Rights of the Child into law on behalf of Welsh children.

⁶¹ s.6(2)(c) Northern Ireland Act 1998.

3. The Freedom Bill

176. The Government has also made a commitment to introduce a Freedom Bill. This Bill is expected to include provisions to introduce safeguards against the mis-use of counter-terrorism legislation, to further regulate Closed-circuit television, and adopt new protections for a national DNA database. The Bill is expected to be introduced into Parliament by 2011.

4. Legal assistance, compensation and rehabilitation

(a) Legal aid

177. In all three jurisdictions of the UK there is a comprehensive system whereby a person in need of legal advice or representation in court may receive financial assistance out of public funds. These schemes are referred to as “Legal Aid” and are fundamental to the realisation of each individual’s legal rights. Legal aid is aimed at those on low and modest incomes and may be granted in full, or subject to financial contribution by the individual. If legal aid is granted, the case is conducted in the normal way, except that no money passes between the individual and their solicitor: all payments are made through the legal aid fund. Ministerial responsibility for legal aid in England and Wales rests with the Lord Chancellor and with Scottish Ministers in Scotland.

178. In England and Wales, the Legal Services Commission administers legal aid, which falls under the two distinct heads of the Community Legal Service (for civil cases) and the Criminal Defence Service.

179. Under the Community Legal Service, a network of contracted organisations provide civil legal services. The rules relating to the provision of civil legal aid are principally set out in the Access to Justice Act 1999 and the Funding Code created under that Act. An individual will only be granted financial assistance if their case is within the scope of the scheme and passes the means and merits tests. In addition to face-to-face legal assistance the Legal Services Commission runs a helpline that provides free, confidential and independent legal advice.

180. The Criminal Defence Service provides criminal legal aid to assist individuals who are under investigation or facing criminal charges. Eligibility for criminal legal aid will be determined firstly by the court in which the case is being heard. In the Magistrates’ Court, a defendant will only qualify if they pass a financial means test and satisfy the “interests of justice” test. In the Crown Court, defendants awaiting trial automatically satisfy the “interests of justice” test. While all defendants qualify for legal aid, they are subject to a means test and may be required to contribute towards the costs of their case from income and /or capital. Defendants who have made contributions and are then subsequently acquitted will have those contributions refunded with interest.

181. Legal aid is currently the subject of a range of reforms, being debated in Parliament under the auspices of the Legal Aid, Sentencing and Punishment of Offenders Bill. The Bill will abolish the Legal Services Commission, with a new agency being created outside of the Bill to administer legal aid in future. The Bill will also serve to narrow the range of cases that legal aid will be available for, prioritising those areas where people’s life or liberty is at stake, where they are at risk of serious physical harm, or immediate loss of home, or where their children may be taken into care.

182. In Scotland legal aid is managed by the Legal Aid Board. The Board provides legal advice and assistance and deciding who should receive financial assistance. As in England and Wales, the scheme is divided under two heads; Civil Legal Assistance and Criminal Legal Assistance. To be eligible for civil legal aid an individual must qualify financially, have a legal basis for their case, and must not have financial assistance available elsewhere.

To be eligible for criminal legal aid an individual must demonstrate that their income and capital are within the current financial limits set by Parliament.

183. In Northern Ireland, the provision of legal aid is the responsibility of the Northern Ireland Legal Services Commission. Eligibility for legal aid in civil or criminal matters is determined by a means and merits test.

184. If a person feels that their rights under the European Convention on Human Rights have been violated and intend to bring their case before the European Court of Human Rights there are number of schemes available to provide them with legal advice and assistance. Under the legal help scheme, a person may be assisted by an experienced solicitor or legal advisor in the preliminary stages of their application. If the European Court of Human Rights in Strasbourg declares an application admissible, an applicant may get financial assistance directly from Strasbourg. Eligibility is determined on the basis of whether or not an applicant would be eligible for domestic legal aid.

185. In a number of urban areas, law centres provide legal advice and representation which may be free depending on means. Law centres, which are financed from various sources, often including local government authorities, usually employ full-time salaried lawyers; but many also have community workers. Much of their time is devoted to housing, employment, social security and immigration problems. Free advice is also available in Citizens Advice Bureaux, consumer and housing advice centres and in specialist advice centres run by various voluntary organisations. The Refugee Legal Centre and the Immigration Advisory Service, both of which receive government funding, provide free advice and assistance to asylum seekers, and the Immigration Advisory Service also provides free advice and assistance to persons with immigration rights of appeal.

(b) Victims of crime

186. The courts may order an offender, on conviction, to pay compensation to the victim for personal injury, loss or damage resulting from an offence. In England and Wales the courts are obliged to consider compensation in every appropriate case and to give reasons where no compensation is awarded. Compensation for a victim must come ahead of a fine if the court is considering both, and the recovery of amounts awarded in compensation must be put ahead of recovery of fines.

187. Where the Crown Prosecution Service declines to prosecute, victims may prosecute privately in England and Wales, but in practice seldom do so. Victims may also sue for damages in the civil courts. Court procedure has been simplified so that persons without legal knowledge can bring small claims for loss or damage.

188. Victims of any nationality who suffer injury as a result of violent crime in England, Wales or Scotland may apply for compensation from public funds under the Criminal Injuries Compensation Scheme. Compensation is based on a tariff of awards, and payments range from £1,000 to £500,000 for the most seriously injured victim.

189. Separate arrangements exist in Northern Ireland, where compensation can in certain circumstances be paid from public funds for criminal injuries, and for malicious damage to property, including the resulting loss of profits.

190. There are three organisations in the UK that provide generic support to victims of crime: Victim Support - which covers England and Wales - Victim Support Scotland and Victim Support Northern Ireland. These receive funding from the Government.

191. In June 1996 the Government published a new Victim's Charter which was subsequently made a statutory requirement through the Victims Code of Practice in April 2006. Victims now have the legal right to a high quality of service from the criminal justice agencies. The code also tells victims how to complain if they do not receive a high quality

of service. The introduction of the Witness Charter gave witnesses a similar, but non-statutory, set of standards of service. A separate Code of Practice for victims of crime has been published in Northern Ireland, which sets out the standards of service which victims should receive during their contact with the NI criminal justice system and how to make a complaint. All victims of reported crime are given a "Victims of crime" leaflet which gives practical advice about what to do in the aftermath of a crime. It explains simply the police and court processes, how to apply for compensation and what further help is available.

(c) Compensation for wrongful conviction

192. Cases of alleged wrongful conviction are investigated and considered by the Criminal Cases Review Commission (CCRC).⁶²

193. Under *section 133 of Criminal Justice Act 1988*, a person convicted of a criminal offence which has been quashed by the appeal court following an out of time appeal or following a reference by the CCRC, can apply to the Secretary of State for payment of compensation. If the person concerned has died, his or her personal representative may submit an application.

194. In determining whether compensation should be paid under the 1988 Act, the Secretary of State will consider whether the decision of the appeal court to quash the conviction or the grant of a pardon, was due to new or newly discovered facts showing beyond reasonable doubt that there was a miscarriage of justice. In reaching a decision on whether compensation is payable the Secretary of State will also take into account whether the previous non-disclosure of the new fact was wholly or partly attributable to the person applying for compensation.

195. If the Secretary of State considers that payment of compensation is justified under the *Criminal Justice Act 1988*, the amount is determined under that legislation by an independent assessor.

5. National Machinery for the implementation of human rights

(a) Joint Committee on Human Rights

196. As an aid to oversight of progress on the promotion and protection of human rights in the United Kingdom, a specialist Parliamentary Committee – the Joint Committee on Human Rights – undertakes inquiries on human rights issues and reports its findings and recommendations to Parliament.

197. The Committee consists of twelve members appointed from all parties and from both Houses of Parliament. The Committee scrutinises all Government Bills and selects those with significant human rights implications for further examination. Although it cannot take up individual cases, the Committee looks at Government action to deal with judgments of the UK courts and the European Court of Human Rights where breaches of human rights have been found. As part of this work, the Committee looks at how the Government has used remedial orders to amend legislation following a finding by the Courts of an incompatibility with the Convention rights.

(b) Human Rights Commissions

198. There are three independent national human rights commissions in the United Kingdom: the Commission for Equality and Human Rights (EHRC), the Northern Ireland

⁶² Established by the Criminal Appeal Act 1995, and became operational in 1997.

Human Rights Commission (NIHRC) and the Scottish Human Rights Commission (SHRC). All are publicly funded, but are independent of Government.

199. The EHRC was established on 1 October 2007. Its remit is to champion equality and human rights for all, working to eliminate discrimination, reduce inequality, protect human rights, and build good relations between communities, ensuring that everyone has a fair chance to participate in society. Its remit extends to England and Wales and Scotland. The EHRC brings together the work of Great Britain's three previous equality commissions (for racial equality, gender equality, and the rights of disabled people) and also takes on responsibility for new strands of discrimination law (age, sexual orientation and religion or belief), as well as human rights. It has powers to enforce equality legislation, and has a mandate to encourage compliance with the HRA.

200. The NIHRC is an independent statutory body set up in 1999. Its role is to promote awareness of the importance of human rights in Northern Ireland, to review existing law and practice, and to advise Government on what steps need to be taken to protect human rights in Northern Ireland. It is able to conduct investigations, to assist individuals when they are bringing court proceedings, and to bring court proceedings itself.

201. The Scottish Human Rights Commission (SHRC) was created by The Scottish Commission for Human Rights Act 2006, and formed in 2008. The SHRC's main purpose is to promote human rights and to encourage best practice in relation to human rights (its remit does not extend to equality legislation, as that is outside the Scottish Parliament's remit). It is also able to review and recommend changes to Scots law and to the policies and practices of Scottish public authorities. It has legal powers to obtain information and enter places of detention, and is able to intervene in legal proceedings in human rights cases.

(c) The Children's Commissioner

202. The UK has established an independent Children's Commissioner in each of the UK jurisdictions. The remit of the Children's Commissioner for Wales, the Commissioner for Children and Young People for Northern Ireland, and Scotland's Commissioner for Children and Young People, is to safeguard and promote children's rights.

203. This is different to the current function of the Children's Commissioner for England, whose role is to promote awareness of the views and interests of children in England. However, following an independent review of the Children's Commissioner for England, the Government has accepted, in principle, all its recommendations. As well as giving the Children's Commissioner greater independence, it will also amend the Children's Commissioners remit so that it too focuses on promoting and protecting the rights of children, in line with the UNCRC.

(d) Data Protection and Freedom of Information

204. The *Freedom of Information Act 2000* (FOIA), which came into force in January 2005, gives anyone the right to access information held by public authorities. The FOIA applies to recorded information held by public authorities in England, Wales and Northern Ireland. Scotland has its own equivalent legislation: the *Freedom of Information (Scotland) Act 2002*.

205. The public sector outside central Government bodies receives at least 87,000 FOI requests per year. In 2009, central Government received over 40,000 FOI and EIR requests. In 2009, 58% of resolvable requests to central Government were met in full. A further 23% were withheld in full. If a requester is not content with a public authority's decision on access to information, they can ask the public authority to conduct an internal review. If they are still not satisfied, they may complain to the independent Information Commissioner, and subsequently to the independent Information Tribunal.

206. The Government is committed to ensuring that information sharing is undertaken in a secure and controlled manner, recognising that legal and process controls must be in place to ensure that information is not shared inappropriately or disproportionately.

207. The processing of personal data is regulated by the *Data Protection Act 1998* (DPA), which came into force in March 2000 (replacing the Data Protection Act 1984). Under the DPA organisations and individuals must comply with data protection principles. These principles include ensuring that data processing is fair and lawful; that data is processed only for specified and lawful purposes; and that data is accurate.

208. The Information Commissioner is an independent supervisory authority responsible for the enforcement of legislation relating to freedom of information and data protection. The Information Commissioner's Office also promotes good practice on access to official information and the protection of personal information by ruling on eligible complaints, providing information and guidance to individuals and organisations, and taking appropriate action when the law is broken.

(e) Complaints against the Executive

209. Members of the public who believe that they have been treated unjustly as a result of maladministration can have their complaints investigated by the office of the Parliamentary Commissioner for Administration (PCA) - often referred to as the "Ombudsman" - established by the *Parliamentary Commissioner Act 1967*.

210. The PCA can investigate actions taken "in the exercise of administrative functions" by or on behalf of the departments of central Government. A complaint must be taken initially to a Member of Parliament who will decide whether to refer it to the PCA. The PCA is independent of Government, and reports to a committee of the House of Commons. Its reports are published.

211. A number of other "Ombudsmen" have also been established, for local government, for the National Health Service and the Legal Services Ombudsman.

212. There are separate independent ombudsmen for Scotland, for Wales and for Northern Ireland. Under the *Scottish Public Services Ombudsman Act 2002*, the Scottish Government is legally required to co-operate with investigations by the Ombudsman and to make reports available for scrutiny. The *Public Services Ombudsman (Wales) Act 2005* established the Public Services Ombudsman for Wales to provide an independent and impartial investigation into alleged malpractice in the administration of public services in Wales. The *Parliamentary Commissioner Act (NI) 1969* (superseded by the *Ombudsman (NI) Order 1996*) provides for an Ombudsman to oversee the work of Northern Ireland government departments. The *Commissioner for Complaints Act (NI) 1969* (superseded by the *Commissioner for Complaints (NI) Order 1996*) provides for similar oversight of the wider public sector in Northern Ireland.

(f) Police Complaints

213. In England and Wales, complaints against the police are dealt with by the Independent Police Complaints Commission (IPCC), which came into operation on 1 April 2004, replacing the former Police Complaints Authority.

214. The IPCC has responsibility for ensuring that there are adequate arrangements in place for dealing with complaints or allegations of misconduct by any police officer or member of police staff. It also has authority to carry out independent investigations into complaints in more serious incidents. The IPCC was created to ensure greater confidence in the complaints system, and to promote respect for the human rights of individuals by ensuring that complaints could be independently investigated.

215. In 2008-09 the IPCC received 31,259 complaints (an increase of 8% over 2007-08). These comprised 53,534 allegations, of which 18,137 (36%) were investigated (by the police and by the IPCC combined). Of the completed investigations, 1,810 (10%) were substantiated.

216. In Scotland, complaints against the police are dealt with in the first instance by the police force concerned. If a complainant is not satisfied with how that complaint has been dealt with he or she can refer the matter to the Police Complaints Commissioner for Scotland (PCCS), whose post was established by the *Police, Public Order and Criminal Justice (Scotland) Act 2006*. In 2007/08, the Commissioner received 325 enquiries and in 2008/09 375 enquiries were received.

217. The *Police (Northern Ireland) Act 1998* established the Police Ombudsman for Northern Ireland, an independent body charged with investigating complaints about the police. The Ombudsman has independent control of the police complaints system and all complaints about the police must be referred to his office. Where the Ombudsman believes a criminal offence has been committed he passes the outcome of his investigations, with recommendations, to the Director of Public Prosecutions for his consideration. Where it is believed a disciplinary offence has been committed the matter is referred with recommendations to the Chief Constable or Policing Board, depending on the seniority of the officer. In the 9 years since the office was established, almost 30,242 complaints have been dealt with (as at 31 March 2010).

C. Framework within which human rights are promoted at a national level

1. The role of national parliament and human rights institutions

218. Nationally, the Human Rights Commissions have a key role to play in the promotion and protection of human rights throughout the UK; this being one of their central responsibilities. Equally, the Joint Committee on Human Rights (JCHR) also acts as a key contributor. By scrutinising the work of Government and consequently, holding the executive to account they provide a competent system of checks and balances. Furthermore, the JCHR also ensures that there is positive progression in promotion of human rights generally.

2. Judicial, legal and official training and education in human rights

219. The passage of the *Human Rights Act 1998* required a major training programme for all those working in the legal system. Although the Act was approved by Parliament in 1998, it was not brought into force until October 2000, in order to allow time for legal professionals to be re-trained.

220. Between January and October 2000, the Judicial Studies Board co-ordinated training in the *Human Rights Act* for all judges. Training was by seminars, consisting of introductory lectures, case studies and plenary sessions. Speakers included Sir Nicholas Bratza, the UK judge on the European Court of Human Rights, and Judge Luzius Wildhaber, previously President of the European Court of Human Rights.

221. From September 1999 onwards, training along similar lines was provided for magistrates' legal advisers – justices' clerks and court clerks – with a refresher day in the early autumn of 2000, immediately ahead of the implementation of the Act. Training for magistrates was then organised and delivered by the legal advisers.

222. The Bar Council of Great Britain provided formal training in human rights for some 6,000 barristers. The Crown Prosecution Service provided three days training for all

prosecutors, and issued a manual of guidance to its staff listing all relevant European cases, with legal updates on new case law every fortnight.

223. Education on human rights was integrated into the curriculum for the Qualifying Law Degree in all UK universities, and also pervades the vocational courses for barristers and solicitors.

224. Nevertheless, in its 2006 *Review of the Implementation of the Human Rights Act*, the Government recognised that there was widespread misunderstanding of the Act amongst officials working in the public sector, and the review recommended an urgent programme of training and awareness raising to ensure a correct understanding of and application of the Human Rights Act. As a result, the Ministry of Justice has distributed over 118,000 copies of a handbook, *Human Rights: Human Lives*, to other Government departments, their sponsored bodies, and other organisations in the wider public sector. The handbooks are intended to improve the understanding of and the operation of domestic human rights policy particularly, but not exclusively, among public authorities. For the general public and non-experts, there are two main publications available: *Human Rights Act – an Introduction* and a third edition of the well received, *A Guide to the Human Rights Act 1998*. Each of these publications is available on-line, as well as in hard-copy format which will be supplied on request.

225. Nominated senior officials within Government Departments have provided leadership to mainstreaming human rights within their Departments and sponsored bodies through a Senior Human Rights Champions network. This network continues to meet every three months and provides an opportunity for departments to share expertise, information and good practice. Through sharing good practices the Ministry of Justice is providing leadership to other Government Departments in taking forward their training and other initiatives to ensure that the human rights framework is being used both within their department and by their sponsored bodies.

226. In March 2007 the Department of Health (DoH) launched *Human Rights in Healthcare - A Framework for Local Action* project. The project aimed to deliver a suite of human rights products that can be used by trusts across the National Health Service (NHS); a series of human rights learning events; and a robust business case for developing human rights-based approaches, and identifying key success factors. In January 2009 DoH published the first NHS Constitution for England,⁶³ which sets out the standards, values and principles that guide the NHS. This includes as a first principle that the NHS provides a comprehensive service, available to all, and that “it has a duty to each and every individual that it serves and must respect their human rights.” This is underpinned by the ‘Handbook to the NHS Constitution’, which explains what human rights legislation means in practice for the NHS.

227. In 2009 a human rights guide was produced for Inspectorate, Regulatory and Ombudsman bodies. The guide highlights that by using a human rights framework in the design, interpretation and application of regulatory and inspection practices, bodies working in the field can benefit from improved coherence and assist in providing for protection of human rights at all levels within their organisation. These organisations have an important role to play in promoting human rights in public services, not only through ensuring that public authorities take account of human rights, but also through providing guidance, disseminating best practice and involving service users in monitoring standards.

228. For training public officials in human rights, the Government launched an e-learning package in March 2008. The electronic training is designed to raise awareness and

⁶³ http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_113613

understanding of human rights and also promote a 'human rights culture' throughout the public sector. The package is composed of a number of case studies, on completion of which an individual will have a greater understanding of the application of human rights to their work. The package is available to all public authorities (and the wider public) through the National School of Government's 'Virtual School' and is promoted widely by the MoJ and the National School of Government.

3. Education in human rights among wider society

229. In July 2008, the Government published a new Key Stage 3 (11 - 14 year olds) resource for teachers in England called *Right Here, Right Now: Teaching Citizenship through Human Rights*. The resource formed part of the Human Rights in Schools project, a partnership between the Ministry of Justice and the British Institute of Human Rights, also involving the Department for Children, Schools and Families, Amnesty International and a number of other governmental and non-governmental organisations. Through its 12 lesson plans, the resource aims to link the concepts of universal human rights with everyday experience, focusing on what human rights mean in practice. Its aim is to bring human rights to life within the classroom, to form the basis of fresh discussion and debate, and to ensure everyone within a school understands their rights and the rights of all those around them. The resource is freely available to download.⁶⁴

230. The Government has taken forward a programme of work to raise awareness of human rights within the UK private sector, and to encourage private sector organisations to adopt a human rights based approach in their activities. The programme has included an initial scoping study to gain an understanding of how UK companies engage with human rights, and the development of an online information portal, including a human rights guide for businesses and mapping of the roles and responsibilities of organisations in the business and human rights arena.

4. Dissemination of human rights instruments nationally

231. There are various methods through which materials relating to international human rights instruments are disseminated throughout the United Kingdom. Those United Nations Instruments signed by the UK, are published by Her Majesty's Stationery Office, (on behalf of the Government), presented to Parliament and made available in libraries and for purchase. Reports concerning compliance with international obligations under United Nations human rights instruments are both prepared and made available to Parliament, interested bodies and members of the public by the Government. Furthermore, the individual Government Department responsible for oversight of implementation (and compliance with) United Nations human rights instruments also lead on their dissemination. The same principle applies in the case of domestic human rights legislation where the leading Department will also be in charge of disseminating the content of the proposals.

232. As a result of their specific remit in the field of human rights at domestic and international level, both the Ministry of Justice and the Foreign and Commonwealth Office have dedicated human rights pages on their websites:

- Ministry of Justice: Human rights: <http://www.justice.gov.uk/about/human-rights.htm>
- Foreign and Commonwealth Office: Government international human rights strategy: <http://www.fco.gov.uk/en/global-issues/human-rights/>

⁶⁴ <http://www.teachernet.gov.uk/teachingandlearning/subjects/citizenship/rhrn/>

5. Partnership with International Organisations and Organised Civil Society:

Non-Governmental Organisations

233. Civil Society Organisations have a key role to play in the protection, promotion and advancement of human rights in the UK. The Government sees benefit in close working relations with them in the formulation of domestic human rights policy and furthermore, consulting these bodies prior to Inter-Governmental meetings. Civil Society Organisations also have a key role to play in the provision of human rights training amongst Government officials and also, in raising public awareness on key human rights issues.

6. Pledges

234. The United Kingdom is deeply committed to the work of the United Nations to increase respect for human rights throughout the world. Accordingly it has pledged to work in partnership with the Human Rights Council to reinforce human rights at the heart of the United Nations; to continue to support United Nations bodies; to work for progress on human rights internationally; and to uphold the highest standards of human rights at home.

7. International initiatives

235. As well as upholding human rights at home, the UK is committed to their promotion and protection internationally. Her Majesty's Government works on human rights around the world through bilateral contacts; membership of international organisations; through development aid and assistance; and in partnership with civil society.

236. Within the United Nations, the UK actively participated in establishing the Human Rights Council as a founding member and is now focused on making the body as effective as possible. In addition, the UK is committed to seeing the United Nations General Assembly's Third Committee deliver results in co-ordination with the work done by other parts of the United Nations human rights framework. An important part of the framework is the valuable work done by the Office of the United Nations High Commissioner for Human Rights (OHCHR). The UK currently gives the OHCHR £2.5 million annually as a voluntary contribution, in addition to our regular budget contribution to the United Nations.

237. The UK co-operates fully with the United Nations human rights mechanisms, and welcomes visits from all Special Procedures. In September 2007, the UK was the main sponsor of an initiative that successfully established a new Special Rapporteur on Contemporary Forms of Slavery.

238. The UK encourages the ratification of United Nations human rights instruments and, through development and other assistance programmes, works to ensure they are successfully implemented. For example, over the past 5 years the UK has lobbied globally to encourage the ratification of the Convention against Torture and its Optional Protocol and has provided practical technical assistance where this was useful. Furthermore, the UK also actively supports the work of Action 2, a United Nations Programme to mainstream, strengthen and streamline United Nations human rights work at country level.

239. In addition to the United Nations, the UK actively engages on a full range of human rights issues with other international and regional organisations, such as the European Union, G8, OSCE, the Commonwealth, the Council of Europe, the World Bank and many others. The UK Government aims to promote the better integration of human rights in the international system as a whole and to ensure that human rights are central to the full range of work done by international bodies.

240. The UK recognises that development and human rights are inter-linked and mutually reinforcing and consequently supports country-led development strategies that integrate

human rights. The Department for International Development works to support partner governments in fulfilling their human rights obligations, and strengthening the ability of people to claim their rights.

241. The UK is committed to developing effective partnerships with other governments. This is achieved through shared commitment to three objectives: poverty reduction and reaching the Millennium Development Goals; respecting human rights and other international obligations; and strengthening financial management and accountability.

242. The UK puts these policies into practice through a range of interventions. For example, on the *right to education*, the UK has committed to prioritise aid spending on programmes to ensure that everyone has access to education.

243. In implementing its commitment to human rights globally, the UK acts in a spirit of consultation, openness and accountability. Through its membership of a wide number of international bodies, and through its global network of overseas embassies, the UK works to support the desire of everyone to realise the full range of their individual human rights.

D. Reporting process at national level

244. The following table identifies the leading Government Department for the reporting process under the six main United Nations instruments ratified by the UK and the Universal Periodic Review (UPR).

<i>United Nations Instrument</i>	<i>Lead Government Department</i>	<i>Co-ordination with Crown Dependencies</i>	<i>Co-ordination with Overseas Territories</i>
ICERD	Communities and Local Government	Ministry of Justice	Foreign and Commonwealth Office
ICCPR	Ministry of Justice	Ministry of Justice	Foreign and Commonwealth Office
ICESCR	Ministry of Justice	Ministry of Justice	Foreign and Commonwealth Office
CEDAW	Government Equality Office	Ministry of Justice	Foreign and Commonwealth Office
CAT	Ministry of Justice	Ministry of Justice	Foreign and Commonwealth Office
CRC	Department for Education	Ministry of Justice	Foreign and Commonwealth Office
CRPD	Department for Works and Pensions	Ministry of Justice	Foreign and Commonwealth Office
UPR	Ministry of Justice	Ministry of Justice	Foreign and Commonwealth Office

245. The United Kingdom reports comprise contributions from across Government. Reports are shared in draft with relevant stakeholders, including non governmental organisations and national human rights bodies, to seek their views, prior to finalising reports and submitting them to the United Nations.

III. Information on non-discrimination and equality and effective remedies

United Kingdom

246. The table below summarises the legislation enacted since 1998 to guarantee equality before the law, equal protection under the law and to prohibit discrimination.

247. One of the main conventions, on which the UK's unwritten constitution operates, is the 'rule of law'. This is the belief that all persons and authorities are equal before the law. Not only does this convention reinforce the concept of checks and balances inherent to any democratic society but also, the idea of legal equality. The operation of this rule, without exception or qualification, indicates that the idea of equality is of great constitutional significance within the UK. Its continuing importance in the UK today is well illustrated by s.1 of the Constitutional Reform Act 2005 which states that:

“This Act does not adversely affect—

- (a) the existing constitutional principle of the rule of law, or
- (b) the Lord Chancellor's existing constitutional role in relation to that principle.”

248. In Great Britain, several pieces of legislation to prohibit discrimination have been enacted over the past 40 years. The first was the *Race Relations Act 1965* (now repealed and replaced by the *Race Relations Act 1976*), followed by the *Equal Pay Act 1970*, and the *Sex Discrimination Act 1975*. The *Disability Discrimination Act* (DDA) was introduced in 1995. Further legislation was introduced in 2003 and 2006 to prohibit discrimination on grounds of sexual orientation, religion or belief and age in employment and vocational training, in order to implement the European Framework Directive. Discrimination on grounds of religion or belief and sexual orientation outside the workplace was prohibited in 2007. All these pieces of legislation were subsequently incorporated into the Equality Act 2010, which was enacted in April 2010 and the majority of whose provisions came into force on 1 October 2010. This means that the previous anti-discrimination laws are now repealed except for a number of provisions which remain in force on a transitional basis.

249. The DDA is the only UK-wide piece of anti-discrimination legislation. Other discrimination law described here applies to Great Britain. Northern Ireland legislation prohibiting discrimination broadly accords with Great Britain's legislation.

250. Great Britain's anti-discrimination legislation in the form of the Equality Act 2010 prohibits direct discrimination, indirect discrimination, victimisation and harassment in employment (and employment-related areas), vocational training (including further and higher education), education in schools and in further and higher education institutions, the provision of goods, facilities and services, private members' clubs, the disposal and management of premises, and the exercise of public functions. One of the two main purposes of the Equality Act 2010 was to streamline and simplify the law, bringing it together and making it more consistent. The other main purpose was to strengthen the law in a number of ways, including more protection for disabled people and for people like carers who might be discriminated against because of their association with an older or disabled person.

251. Amongst other things, the Equality Act 2010 consolidates and expands the existing duty on public authorities to think about the implications of their programmes and policies from the perspective of race, gender and disability. The Act requires public authorities to have due regard to the need to eliminate unlawful discrimination, advance equality of

opportunity and foster good relations in respect of the “protected characteristics” of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. This ‘positive duty’ model requires public authorities proactively to factor equality considerations into the design and delivery of their policies and services, and in their capacity as employers.

252. In Northern Ireland, additional protections have been established to promote equality. The Equality Commission for Northern Ireland (ECNI) was created following the 1998 Belfast Agreement. Its functions include the promotion of equality of opportunity; affirmative action; and good relations between people of different racial groups. The Commission also oversees the effectiveness of anti-discrimination and equality legislation; and the statutory equality duty put in place by section 75 of the *Northern Ireland Act 1998*, including investigatory powers to ensure compliance.

253. The *Government of Wales Act* contains provisions designed to promote equality and protect rights. In particular, Welsh Ministers must make arrangements to ensure that the Welsh Assembly Government operates "with due regard to the principle that there should be equality of opportunity for all people".

Practical Measures

254. *The Equality Act 2006* introduced a number of practical measures aimed at strengthening equality in the UK. The Act not only provided for the establishment of the Commission for Equality and Human Rights but also empowers this body to act as an independent advocate for equality and human rights in the UK.

255. The Coalition Government’s commitment to equality was set out in the Coalition Programme for Government which commits to tearing down barriers to social mobility and equal opportunities. The Government Equalities Office (GEO) has responsibility for the Government’s overall strategy and priorities on equality as they lead on equality policy and legislation. Working across Government, the GEO ensures that equality policy is firmly integrated into the Government’s approach and oversees that it is delivered and implemented effectively.

256. Measures tackling inequality in society has been a high priority on the Government’s agenda and the focus of Government policy has not only been aimed at those disadvantaged by low income. The Government approach is wider, aimed at tackling the combined linked causes (and consequences) of being socially excluded. The Social Exclusion Task Force (SETF) lead on this area, identifying Government priorities, testing solutions and facilitating policy implementation across Government and consequently, from Government into society. Measures taken include schemes focused on community regeneration; programmes aimed specifically at increasing the health and well-being of children in deprived areas; increasing funding and the performance management of poor service; and schemes and incentives focused on getting the disadvantaged back into employment.

Legislative or other measures (with year of adoption)

Main subject area

Human Rights Act 1998	Making the ECHR directly enforceable in domestic courts. Individuals retain the right to appeal to the ECtHR providing they have exhausted all domestic remedies.
Sex Discrimination (election candidates) Act 2002	Fighting discrimination based on gender in the electoral process.
Employment Equality Regulations	Fighting discrimination based on sexual

<i>Legislative or other measures (with year of adoption)</i>	<i>Main subject area</i>
2003 (sexual orientation, religion or belief)	orientation or religion and belief at work.
Civil Partnership Act 2004	Civil recognition of same-gender partnerships.
Employment Relations Act 2004	Protection of employees from dismissals and procedures for industrial action.
Gender Recognition Act 2004	Civil recognition of transsexual people in their acquired gender.
Children Act 2004	Protection of children from abuse
Domestic Violence, Crime and Victims Act 2004	Increased penalties in domestic violence cases and support for the victims
Disability Discrimination Act 2005	Strengthening provisions to fight discrimination of persons with a disability.
Electoral Administration Act 2006	Improving engagement to voting and confidence in the electoral process.
Equality Act 2006	Establishment of the EHRC and promotion of human rights.
Work and Families Act 2006	Fairer balance of rights and responsibilities for employers and employees, particularly in the case of pregnant workers
Employment Equality Regulations 2006	Fighting discrimination based on age at work.
Scottish Commission for Human Rights Act 2006	Establishment of Human Rights Commission in Scotland.
Mental Health Act 1983	Legal framework for caring for people with mental disorders in clearly "defined circumstances."
