

## Chapter C - Democratic Reform

The Jury Team has pulled together and reviewed the various ideas for Democratic Reform which have been suggested by charities, think-tanks and parliamentary and government bodies over the last twenty years. It has incorporated these into a series of Proposals in each area which will make the political system more responsive and give back the balance of power to the electorate. It will create an English Parliament and seek to equalise the powers held locally by each of the four devolved nations. It will reform the House of Commons by reducing the number of MPs by a third and introducing proportional representation. It will enable the holding of a referendum on a particular subject if requested by 5% of the electorate. It will reduce the "health and safety" culture and the "nanny state" by introducing a "no-fault" compensation scheme for claims against public bodies.

The current party political system has turned the United Kingdom's Parliament and Government into the creatures of a small and increasingly distant group of oligarchical politicians. The UK political system has lost the respect of its citizens. This is evidenced by:

- the low turnout at elections:
  - only two-fifths of registered electors voted at both of the 2001 and 2005 general elections and only three-fifths of registered electors voted at each
  - only one-third of registered electors voted at the 2009 European Parliamentary election
- continuing criticism of MPs' lifestyles, of Government initiatives and of the delivery of public services

The arrogance that has developed in the traditional party cultures has led to personal behaviours and attitudes on issues such as expenses and conflicts of interest which would be unacceptable in any other walk of life. Politicians are seen as more interested in winning elections than in improving the lot of the people or the state of the nation. Many manipulate rather than respect their electorate. MPs are now largely in Parliament as their primary career rather than to provide objective oversight of the Government. The House of Commons has generally been reduced to a talking shop by the party whipping system and overwhelmingly accepts the Government's proposals with little scrutiny.

The Government is run by ministers appointed for party political reasons who have little background in their subject or in management and are anyway moved elsewhere before they can implement their proposals.

Westminster and Whitehall have distinct functions:

- **Westminster:** Parliament decides on whether to agree to a proposed new law and holds the government to account for its actions in administering the law

Prime Minister Gladstone made clear the function of Westminster when he said to the House of Commons:

*"Your business is not to govern the country, but it is, if you think fit, to call to account those who do govern it."*

- **Whitehall:** Government administers the existing laws and as necessary can propose new laws to Parliament.

Unfortunately these two sets of activities have become blurred and have merged in the modern UK Constitution (unlike in the US which essentially adopted our 1780 Constitution with its then separation of powers, although replacing a hereditary head of state with an elected one). The legislature, our Parliament, and the executive, our Government, are now both run by the Prime Minister who commands his or her majority in Parliament though the whips and the administration of existing laws by Government though the ministers. His or her appointments of both whips and ministers are made in the interests of the governing party and not of the people of the United Kingdom. There are no proper checks and balances against the actions of these appointees either in Parliament or in the major departments of state.

Our "first past the post" (FPTP) Westminster election system inevitably leads to the dominance of an oligarchy of only two major parties in which an increasingly small number of individuals have the media access to dominate politics. Career MPs become chained to the platform of their chosen party for their advancement. The biographies of many of the front bench members of the main political parties are

almost indistinguishable on their well-trodden path from college to party worker to Westminster and they hope eventually to Whitehall. Their entire working life requires obedience to their party leadership who promulgate changing policies with some of which they may well strongly disagree. The majority of MPs have had little association with their constituencies before they are elected.

The active membership of political parties has dropped to less than 1% of the UK population. John Major wrote in 2003: *"At the grass roots, our political parties are shrinking in membership from mass movements to the size of special interest groups. The broad mass of the nation is detached from politics. Many feel a distaste for it. All the party machines are moribund, near-bankrupt, unrepresentative and ill-equipped to enthuse the electorate."*

Jackie Ashley, daughter of a Labour MP, said in 2003: *"You cannot have a Parliamentary system based on political parties if across most of the country they have ceased to exist."*

General elections using the FPTP system lead to substantial differences between the share of votes and share of seats for different political parties and therefore do not lead to a Parliament reflecting the will of the people. Parliament should also represent the population as well as possible in terms of gender, ethnicity and occupational experience. However in Parliament women currently have only about 40% of their proper representation. Similarly ethnic minorities have only about 30% of what would be required to reflect the ethnicity of the population as a whole. The inability of the party political system to provide sufficient women or ethnic minority candidates means that those groups have a strong argument in denying the legitimacy of Parliament.

The UK now has an unbalanced democratic system. There has been devolution to Scotland, Wales and Northern Ireland but the English electorate only has the Westminster Parliament where many MPs are not elected by the English electorate. In addition some English focussed government departments are run by ministers from outside England. The House of Lords reviews English Bills passed by the House of Commons but not those passed in Scotland, Wales and Northern Ireland. There needs to be a wider and more stable devolution settlement.

Another area where people are very concerned about their relationship with the state is in "health and safety" issues. There is a widespread view that public bodies enforce a "nanny state" and are more worried about avoiding any criticism if occasionally things go wrong than they are about making sure that the public gets the best service.

In her introduction to the Power Inquiry report Baroness Helena Kennedy stated: *"The politicians have no idea of the extent of the alienation that is out there"*

Given the very poor public perception of our democratic system and its many publicised failings, the Jury Team has researched a wide range of sources which over the last few years have looked at the governance of the UK including:

- Electoral Reform Society
- Hansard Society
- Power Inquiry
- Better Government Initiative
- Democratic Audit
- Unlock Democracy/Charter 88
- Open Democracy/Our Kingdom
- Electoral Commission
- Committee on Standards in Public Life (Nolan)
- House of Commons Home Affairs Select Committee
- House of Commons Public Administration Select Committee
- House of Lords Constitution Select Committee
- Hayden Phillips Report on Party Funding

The Jury Team believes that even in a single five year Parliamentary term it will be able greatly to increase democracy and to introduce a better framework of governance for Parliament. This will then provide a robust framework of governance for whichever MPs might be elected in the Parliamentary term from 2015.

## **11. Setting up an English Parliament to decide matters that relate solely to England (English electorate).**

England has been a unified country for more than 1000 years. England and Wales were united by the Acts of Union (1536-43), which gave Welsh representatives the right to attend the English Parliament. The Union of Scotland with England and Wales in 1707 saw the creation of the United Kingdom of Great Britain. The Act of Union with Ireland in 1801 created the United Kingdom of Great Britain and Ireland. The United Kingdom cultivated an inclusive identity that was symbolised by the institutions of the Union Flag, Parliament and the Monarchy.

With the demise of the British Empire, after World War II British identity meant less than it once had. The glue that bound the Union together became weaker and in Scotland and Wales the expression of national identity and a desire for self-government became stronger. The SNP had its first MP elected in 1945 and Plaid Cymru in 1966.

Referendums were held in 1979 in relation to devolution in Scotland and Wales, but devolution was not passed in either nation. Following the Labour Party's return to Government in 1997, White Papers were published again setting out proposals for devolution. Referendums were again held in Scotland and Wales in 1997 and won, very narrowly in the case of Wales. As part of its Peace Process, Northern Ireland was given an Assembly with devolved powers, including the right to enact primary legislation.

The parliamentary problems resulting from devolution were most famously described by Tam Dalyell, Labour MP for the Scottish constituency of West Lothian, in 1977 during the House of Commons debate on the referendums then proposed. He asked: *"For how long will English constituencies and English Honourable members tolerate... at least 119 Honourable Members from Scotland, Wales and Northern Ireland exercising an important, and probably often decisive, effect on English politics while they themselves have no say in the same matters in Scotland, Wales and Northern Ireland?"* He illustrated his point by pointing out the absurdity of a Westminster Member of Parliament for West Lothian being able to vote on matters affecting Blackburn, Lancashire but not Blackburn, West Lothian in his own constituency. This has become known as the West Lothian Question and current arrangements still do not satisfactorily answer it.

In addition English legislation, determined by The House of Commons, unlike that devolved to Scotland, Wales or Northern Ireland, is also subject to consideration and amendment by the House of Lords, whose members include many who do not have the credentials to represent English interests. This situation has been described as "The English Question".

An essential part of the solutions to the problems outlined above is an English Parliament with a mandate to represent the interests of the whole of England. A parliament and executive will allow the people of England to allocate resources in a way that best meets their needs. A constitutional convention, as was used for Scottish and Welsh devolution, will advise on the details of this.

The devolution of powers over English legislation to an English Parliament will ensure that all parts of the United Kingdom receive equal treatment. It will provide a full answer to the West Lothian and English Questions, satisfy the growing sense of unfairness in England, and resolve the constitutional anomalies that have unbalanced the Union. It will be a major step in constitutional development but it has not yet been endorsed by any of the three traditional political parties.

The Westminster Parliament will continue to be concerned with issues such as the constitution, foreign policy, defence, international development, security, taxation and social security, company law, employment legislation, energy, transport and human rights and responsibilities. In the longer term it is envisaged that the activities and scope of each of the devolved administrations in England, Scotland, Wales and Northern Ireland will be similar with the Westminster Parliament only having a direct say in those matters best decided on a UK basis.

This policy has strong electoral support with 60% of people in England being in favour and only 20% against. Interestingly people in Scotland are also supportive by a margin of 41% to 23%.

## **12. Clarify the status of Scotland within the United Kingdom (Scottish electorate).**

The Kingdom of Scotland was unified in 843. In 1296 Edward I of England conquered parts of it but there remained massive resistance to English rule and Scotland became independent again after the Battle of Bannockburn in 1314 and the subsequent signing of the Treaty of Edinburgh-Northampton in 1328. Almost 300 years later the crowns of England and Scotland were united with the accession of James VI to the English throne in 1603 but Scotland remained an independent realm until 1707 and the Treaty of Union. This was deeply unpopular in Scotland and England and the Scottish treaty signatories had to sign in secret because of rioting in Edinburgh.

The Scottish National Party (SNP) was formed in 1934 after the merger of the National Party of Scotland and Scottish Party. The SNP first won a parliamentary seat at the Motherwell by-election in 1945 but lost the seat at the general election three months later. The SNP had their second MP in 1967 when Winnie Ewing surprisingly won the Hamilton by-election. This led to Edward Heath's 1968 Declaration of Perth, supporting some form of Scottish devolution, and to Harold Wilson's 1969 setting up of the Kilbrandon Commission.

The discovery of North Sea oil reinforced the debate over Scottish independence and the SNP organised a successful campaign entitled *"It's Scotland's oil"* which led to seven SNP MPs being elected in the February 1974 general election. In the subsequent October 1974 election the SNP gained eleven seats with over 30% of the vote. As a result, in 1978 the Labour government arranged for a referendum on Scottish devolution which was defeated. The 1997 referendum to form a Scottish Parliament was passed by 74% of those who voted (45% of the electorate).

In September 2009 the Scottish Government announced detailed proposals to hold a referendum on Scottish independence during 2010. The First Minister, Alex Salmond MSP, said: *"It is time for the people of Scotland to have their say. Not everyone will agree with our vision for the future, we know that. But the people of Scotland must be heard. This parliament should not stand in their way - let the people speak."* However the SNP does not have a majority in the Scottish Parliament and the other parties represented are expected to defeat the referendum proposal.

In November 2009 IPSOS/Mori conducted a poll to ask the Scottish electorate their views on independence and this showed only minority support for the policy. The results were summarised as follows: *"One in five Scots say that they will vote for independence in a referendum (20%). Substantially more will either prefer the status quo (32%) or greater powers for the Parliament (46%). Important to this division of opinion is the stance of SNP supporters. They are divided between wanting more powers for the Parliament (43%) and wanting full independence (49%). None of the other parties has significant numbers supporting the independence option (the highest being Labour, at 8%)."*

The poll also showed that a clear majority of Scots would prefer to see a Labour government after the next general election. When asked: *"The UK General Election next year is likely to result in either a Conservative or Labour government in Westminster. Regardless of how you intend to vote, which do you think will be best for Scotland, a Conservative government in Westminster, or a Labour Government?"*, 61% of Scots wanted a Labour Government and only 24% a Conservative government. 73% of Liberal Democrat supporters want to see a Labour government, as do 58% of SNP supporters. A Conservative win in the 2010 general election would therefore be likely to increase support for Scottish independence.

The holding of a referendum on independence is popular. When asked by IPSOS/Mori: *"The Scottish Government has proposed a referendum on Scotland's constitutional future. Which of the following statements comes closest to your own view about the referendum?"*, 75% said it should be held "as soon as possible" (25%) or "within a few years" (50%). Only 20% did not want a referendum on this issue (with 5% "Don't Know").

The Jury Team therefore proposes that there should be a referendum to clarify the position of Scotland as the uncertainty is hurting investment and diverting substantial political resources away from economic and social development.

### 13. Giving the Welsh Assembly equivalent powers to the Scottish Parliament (Welsh electorate).

After 1066 the Normans gradually established control over parts of Wales. The death of Llywelyn the Last in 1282 allowed Edward I to conquer the only remaining independent Welsh kingdom but dissent continued with the final significant revolt being the Glyndŵr Rising of 1400–1415. Henry VIII had Welsh blood and passed the Laws in Wales Acts in 1536-43 to incorporate Wales fully into his Kingdom.

Plaid Cymru was founded to campaign for an independent Wales in 1925. A key progress point was Gwynfor Evans' victory in the 1966 Carmarthen Westminster by election. However in the 1979 referendum, only 12% of the Welsh electorate voted to set up a directly elected forum with four times as many against. In the 1980s, the closure of mines and heavy industry brought social dislocation and a succession of non-Welsh Conservative Secretaries of State for Wales was seen as evidence of a 'democratic deficit'. In the 1992 general election, Plaid Cymru won four seats. In the 1997 referendum the proposed Assembly won a very narrow majority by only 50.3% to 49.7%, a majority of less than 7,000 votes in over a million.

Initially the Welsh Assembly had no powers to initiate primary legislation. In July 2002, the Assembly established a cross party commission, with Lord Richard (former leader of the House of Lords) as chair, to review this. The Richard Commission reported in 2004 and recommended that the Assembly should have more power to legislate in certain areas. In response the UK Government, in its *Better Governance for Wales* White Paper, rejected many of the Richard Commission's recommendations which led to significant criticism.

The Government of Wales Act 2006 did however somewhat increase the powers of the Assembly, allowing it to pass legislation on such matters as health, education, social services and local government. The Act was heavily criticised by Plaid Cymru for not providing a fully-fledged Parliament but did make provision for a referendum on increasing the Assembly's powers to the level of the Scottish Parliament's if two-thirds of assembly members voted in favour of holding a referendum.

Important examples of where Assembly powers have been used to create significant differences in Wales from other areas in the UK include the abolition of NHS prescription charges, reductions in charges for university tuition for Welsh resident students at Welsh universities and the introduction of a flat rate of contribution towards charges for residential care.

The 2006 Act also allows the powers of the Assembly to be extended by a mechanism known as a Legislative Competence Order (LCO) if the extension is approved by the Assembly and the Westminster Parliament and is then implemented by an Order in Council. This effectively adds the area to those already introduced by the Act as a measure which is legally binding and can be enforced by the courts. So far there have been LCOs for Education and training, Vulnerable children, Domiciliary care, Red meat industry and Carers.

This is however a somewhat cumbersome approach. The argument that the Assembly's powers should be extended to be broadly similar to those of the Scottish Parliament was strongly supported by the All Wales Convention which was established as a key part of the coalition deal which formed the Labour-Plaid Cymru Welsh Assembly Government pact in mid-2007. The 130-page report, compiled by chairman Sir Emyr Jones Parry, former UK Ambassador to the United Nations, and his committee, said a "great fog" surrounded the public understanding of the current system of transferring power on a step-by-step basis from Westminster to Cardiff.

The document suggests the Assembly should decide on whether or not to hold another referendum by June 2010 - to allow the poll to be held before the next Assembly election. Sir Emyr said: "*What we found was that the current arrangements for giving the Assembly law-making powers... were seen as cumbersome and slow. Having the powers all at once offers distinct advantages and can only be obtained through a 'yes' vote in a referendum.*"

A 2008 survey of Members of the Welsh Assembly found that 90% were convinced the Assembly was ready for an increase in powers, with 82% calling for the same law-making capabilities enjoyed by politicians in Scotland. The polling undertaken by the All Wales Convention indicated 47% of people will vote 'yes' in a referendum and 37% 'no'.

#### **14. Reducing the number of MPs by a third (from 650 to 433).**

The House of Commons cost £234.6 million during 2008-9 and employed an average of 1,741 full-time equivalent people. These include around 300 in the catering department who provided 1,599,873 meals to MPs and their staff. The average subsidy on all catering was 45%, i.e. catering is provided for only just more than half of the real cost, an expense to the taxpayer of £6.1 million per year.

In addition the 646 MPs in 2008-9 had their own staff of 2,875 people, an average of 4.5 staff per MP. The total cost of the MPs themselves and their staff and allowances was £169.0 million. Together with the cost of the House of Commons of £234.6 million, this is a total of £403.6 million which means that each of the 646 MPs costs an average of £624,692. In contrast the House of Lords only cost £103.9 million in 2008-9.

This total cost for the Commons of £403.6 million is more than double the £184.4 million it cost in 1995-6 and more than treble the £122.9 million it cost in 1990-1.

<u>£m</u>	<u>Commons</u>	<u>MPs</u>	<u>Total</u>	<u>%1990-1</u>
1990-1	70.5	52.4	122.9	100.0%
1995-6	112.2	72.1	184.4	150.0%
2008-9	234.6	169.0	403.6	328.3%

This means that the real cost (after inflation) of both MPs and Commons administration has more than doubled since 1990-1.

During the 2008-9 session the House of Commons met for just 149 days (similar to the 146 days of 2006-7 and 153 days in 2007-8), an average of less than three days per week. The average session on those 149 days was just 7 hours 37 minutes. The total sitting time was therefore 1,135 hours. With the total cost of £403.6 million this means the cost of the Commons was about £2.7 million per sitting day or £355,000 per sitting hour.

Assuming that an English Parliament is approved in a referendum as outlined above, this will mean that the work pressure on the 533 English MPs to be elected in 2010 for the Westminster Parliament will be much reduced as many of the responsibilities of most concern to constituents will be dealt with by the English Parliament. A similar reduction in relation to Westminster MPs occurred when Scottish devolution was introduced and there was a reduction from 72 to 59 MPs. Scotland, Wales and Northern Ireland have devolved elected representatives with 129 MSPs in Scotland (73 constituency and 56 regional), 108 MLAs in Northern Ireland and 60 AM/ACs in Wales.

The UK has smaller constituencies than many countries with an average population of 94,000 (94K) per seat, the same as Italy. However Spain has 129K, Australia 133K and Germany 134K.

David Cameron suggested a reduction in the number of Westminster MPs as reported by Nicholas Watt of the Guardian in January 2009: *"David Cameron will remove more than 60 MPs as part of a Tory plan to make parliament work more efficiently. Cameron tells today's Financial Times: "I think the House of Commons could do the job that it does with 10% fewer MPs without any trouble at all... I believe in having seats that are the same size all across the country."* However the detail of his proposals showed that the Conservatives wanted to concentrate the reductions in Labour areas.

Significantly greater reductions than 10% are possible. The UK's largest constituency is the Isle of Wight with a 2007 population of 139,482 (electorate of 108,253 in 2005), a similar size to the constituencies in Spain, Australia and Germany. There seems no reason why each MP's constituency should not be similar in size to that of the Isle of Wight which appears to operate satisfactorily (even before the reduction of duties arising from the creation of an English Parliament). If all constituencies were the same size as the Isle of Wight then there will only need to be 433 MPs.

This is closely in line with the actual 420 seating places in the House of Commons and will therefore largely allow each MP to have their own seat. Legislation will be introduced for the Boundary Commissions in each of the four nations of the UK to recast the constituencies in time for the general election in 2015.

With each MP costing an average of more than £600,000 the proposed reduction in the number of Westminster MPs will give a cost saving of over £130 million. The public strongly support this proposal with 58% of the electorate in favour and 17% against.

**15. Changing the voting system for election to the House of Commons to direct proportional representation (i.e. where seats are awarded in direct proportion to the total votes cast in the country as a whole).**

General elections using the current first-past-the-post system lead to substantial differences between the share of votes and share of seats and therefore do not lead to a Parliament reflecting the will of the people. Major parties normally do better in terms of seats and minor parties worse. Similarly there are geographical distortions with, for example, the largest number of voters in England supporting the Conservative Party in the 2005 general election but with Labour getting 90 more English seats.

Proportional representation is used in about 75 countries for their national elections, including Austria, Denmark, Finland, Germany, Holland, Ireland, Japan, New Zealand, Portugal, Spain, Sweden and Switzerland.

Bishop Desmond Tutu wrote in 1994: *"The system of proportional representation ensures that virtually every constituency in the country will have a hearing in the national and provincial legislatures."* In December 2009 Austin Mitchell, Labour MP for Great Grimsby, said in a Westminster Hall debate: *"I want to put the case for proportional representation.... I urge that those issues, particularly proportional representation, be put to the people in a referendum, which will allow them - not us - to decide whether they want them."*

In all the UK election process decisions made since 1997, such as for the devolved assemblies, mayor-led local authorities and European Parliamentary contests, proportional representation is used in order to give a fairer result and to allow minor parties to be represented.

Both major traditional parties at Westminster have resisted this for general elections without explicitly explaining why. However it is clear that their real reason for this failure is that they realise that introducing proportional representation at Westminster will lead to both major parties losing a substantial number of their current MPs who, perhaps understandably from their point of view, act as usual like turkeys who do not want to vote for Christmas.

As a key part of its appeal to Liberal Democrat voters, Labour said in its 1997 Manifesto that it would have a referendum on proportional representation. The Manifesto included the explicit pledge *"we are committed to a referendum on the voting system for the House of Commons. An independent commission on voting systems will be appointed early to recommend a proportional alternative to the first past the post system."* The Jenkins Commission was duly appointed and it reported in October 1998. However despite the clear Manifesto pledge no action was taken by the Government on the Jenkins report.

The 2001 Labour Manifesto promised an assessment of the working of the different electoral systems that had been installed in Scotland and Wales and for mayoral elections since 1997. However the Government did nothing substantive towards this. The 2005 Labour Manifesto was even more watered down. It promised to review the existing electoral systems and then vaguely stated that a referendum *"remains the right way to agree any change for Westminster"* but it did not promise actually to hold such a referendum.

With its currently weak electoral position, the Labour Party is again exploring ways of specifically increasing its appeal on Liberal Democrat issues. In February 2010 Gordon Brown announced that MPs would be asked to vote on an Alternative Vote system, subject to an authorising referendum. This is however not a proportional representation system. The Jenkins Commission stated: *"AV on its own suffers from a stark objection. It offers little prospect of a move towards greater proportionality, and in some circumstances, and those the ones which certainly prevailed at the last election and may well do so for at least the next one, it is even less proportional than FPTP."* Gordon Brown also did not explain why people should believe this pledge any more than the same 1997 pledge described above.

Prior to tabling its legislation for proper proportional representation, the Jury Team will set up a commission to review the work of the Jenkins Commission and to recommend the best way in which to implement it, taking into account national and local considerations, experience and voter preferences.

The electorate is strongly supportive of full proportional representation with 55% in favour and only 17% against.

**16. Requiring referendums to be held on any issue, including the recall of an MP, if there is a petition with signatures from 5% of the electorate.**

In addition to referendums being proposed by the Government, the Jury Team believes that referendums should also be called if requested by sufficient members of the electorate, a "Citizens' Initiative". This use of a Citizens' Initiative to implement a referendum is now accepted in about half of the states in the US and both at the canton level and nationally in Switzerland and many other countries.

The Blair Government established procedures for there to be local referendums on having an elected mayor in areas of England and for the first time allowed these to be based on a popular initiative with there having to be such a referendum if one in 20 electors (5%) asked for it. In February 2009 the Conservative Party announced that they would support the idea of referendums at local government level if requested by 5% of the electorate if an increase in council tax broke a certain threshold. However they remain opposed to any similar system at national level.

The Jury Team proposes that the threshold for calling a referendum should be 5% of the electorate, about 2¼ million people for a UK wide referendum, a number which should be achievable for issues of importance to a substantial part of the electorate. The signatures will be validated by the Electoral Commission. The referendum itself will be held on the same day as local government elections (usually each May).

The introduction of referendums to be called by citizens is a significant constitutional change and requires a cautious approach. The Jury Team therefore propose that this will include the proposers getting the agreement of the Electoral Commission to the question which could not:

- be discriminatory among UK citizens
- require significant government expenditure or tax reductions
- demand the breaking of any international treaty obligation (although it could require the UK to negotiate an exit from a treaty)
- lead to the secession of any part of the United Kingdom (this could only be effected through a government referendum)

Again conscious of the need for a cautious approach, in order not to force through a policy against the government by a very small majority, to be successful a Citizens' Initiative will have to get support from 55% of those voting with a turnout of at least 50%. The government will have six months in which to get appropriate implementing legislation through Parliament. If a proposition was not passed, no substantially similar Citizens' Initiative could be put to a referendum for a period of five years.

There is little doubt that Citizens' Initiatives will rekindle interest in politics. They will lead to the formation of a wide range of civil society groups interested in the specific issues.

A particular case of a Citizens' Initiative will be its use to decide whether an MP should be made to face re-election because of their behaviour. In this case 5% of the electorate in the particular constituency will have to sign the required petition and the question as to whether there should be a by-election for the seat will be included on the ballot on the next local government election date. If passed by 55% of those voting with a 50% turnout then a by-election will be held eight weeks later.

In order to ensure that each referendum question is properly considered there will be a limit of seven national referendums to be voted on at each local government election date. The Policies described above in Section B and in this Section C will be legislated over the first three years of the next Parliament and will be put to a referendum, seven in May 2011 (or earlier), and four in each of May 2012 and May 2013 (the English Parliament, Welsh Assembly and Scottish status referendums counting as one slot for this purpose). The Government will have the right to propose up to four further referendums annually after that.

The proposed legislation for Citizens' Initiatives will allow up to three of the resulting referendums (assuming that the 5% trigger threshold is reached) also to be held in May 2012, 2013 and annually beyond then. In the event of more than three Citizens' Initiatives reaching the 5% threshold then the three with the greatest number of signatures will be accepted.

This policy is strongly supported by opinion research with 70% thinking it is a good idea and only 15% thinking it is a bad idea.

**17. Encouraging public organisations not to make health and safety decisions because they fear they may be sued by introducing a "no-fault" compensation scheme for all victims and requiring a successful court claim to demonstrate that the organisation acted recklessly.**

Health and safety legislation was originally introduced for the workplace and is designed to enforce the necessary rules by prosecuting an employer criminally liable if the requirements are not met. Although unfortunate incidents still occur, the UK has the best workplace safety record in Europe. In 2006 the UK rate of work-related non-transport fatal injury of 1.3 per hundred thousand workers was about half of the EU average of 2.5.

However in addition to the criminal law, the civil law also plays an important role in health and safety matters. In particular a person who suffers an injury in any sphere can sue the person they believe to be responsible for "tort" which is the form of law that can force someone who is liable for the injuries to pay damages.

However courts may not be the most appropriate place for seeking redress for personal injuries. Tort compensation originally applied to property damage where the replacement value is a market price. However it is much more difficult to quantify the injuries to a person's body and mind and even more difficult to decide on the compensation for pain and suffering.

For the two largest classes of personal injury compensation claims, road accidents (about half) and workplace injuries (about one-third), the cases hardly ever reach court. Settlements are made "in the shadow of the law" by insurance companies with payments approximating the expected award in court. This cuts costs and normally speeds up the payment.

In 1972, New Zealand introduced the first universal no-fault insurance scheme for all accident victims which provides benefit from the government run Accident Compensation Corporation without respect to negligence. In 1973 The Royal Commission on Civil Liability and Compensation for Personal Injury (Pearson Commission) was set up in the UK to see how personal injury claims could be simplified. The Commission reported in 1978 and made recommendations for tort reform but few of its main recommendations were accepted by the government.

One key area is medical injury where the increase in no-win, no-fee actions against the health service has increased the proportion of payouts paid to claimants' lawyers. Success fees and insurance premiums taken out by lawyers to protect against losing the case have been recoverable from the NHS since 2000. The NHS Litigation Authority stated that legal fees accounted for almost half of the £312 million damages claims closed in 2008. Patients' legal costs exceeded the damages that they received in more than one in five cases. The blame orientated basis of tort claims is also not conducive to the culture of openness required by clinical governance and the NHS Plan.

The NHS is however only one of many public bodies which have been greatly influenced by the threat of compensation claims. Health and safety decisions are increasingly not taken in a measured way but because insurers or the bodies themselves do not want to give any opportunity at all for a tort claim to be brought against them. This leads to ridiculous bans such as those on hanging baskets in streets, children playing conkers at school or graduating students throwing their hats in the air. Public bodies are seen as running a "nanny state".

The Jury Team therefore proposes that in relation to all public bodies and bodies operating in the same sphere as public bodies (e.g. private hospitals or independent schools) there should be a no-fault compensation system similar to that operated in New Zealand. It will operate on the same principles as the well-established Criminal Injuries Compensation Board and will provide compensation on a fixed tariff for a particular injury without the need to go to court. This will cover the NHS, schools, universities, local authorities, police, government agencies and similar organisations. People who thought that their award was too low will still have their common law right to go to court but if a public body (or equivalent) were involved they will have to show that the organisation acted recklessly rather than just negligently as currently. This will lead to a substantial reduction in insurance expense and will be paid for from such organisations by a levy per employee which, as a result of the saving in management time and legal costs, will be expected to be substantially less than the current costs.