

The future of referendums: what role should they play and how should they be conducted?



Two decades have passed since there was last a serious consideration of how the UK uses referendums. For this reason, the Constitution Unit established the Independent Commission on Referendums to examine whether and how the way in which referendums are regulated in the UK should be changed. Alan Renwick (University College London) explains its terms of reference.

The referendum is now entrenched as a part of the UK's political system. The principle that a referendum is needed before some fundamental constitutional changes – notably in relation to sovereignty – are made has become well established. It seems likely that politicians will continue from time to time to find it useful to manage conflicts by proposing to put certain decisions to the people.

Yet, crucially important though referendums are, there has been little concerted thinking of late about how they should be conducted. Two inquiries carried out in the 1990s – by the UCL Constitution Unit's [Nairne Commission](#) and by the [Committee on Standards in Public Life](#) – led to the creation of some basic rules, laid down in the [Political Parties, Elections and Referendums Act 2000](#). But these rules were always incomplete: for example, they say nothing about who is entitled to vote in a referendum. They are also now two decades old. Much has changed in the intervening years – not least through the rise of the internet and social media. Four major referendums have also been held in that period – on Welsh devolution (2011), the Westminster voting system (2011), Scottish independence (2014), and EU membership (2016) – from which lessons can be learned. Many observers have been dismayed by the conduct of those referendums, whether they agreed with the results or not. A careful review of whether we could do better is therefore overdue.



Graffiti in Edinburgh, 2013. Photo: [Patrick Down](#) via a [CC-BY-NC 2.0 licence](#)

That is the task of the [Independent Commission on Referendums](#), established by the Constitution Unit last autumn to examine the role and conduct of referendums in the UK and consider what changes might be desirable. Comprising twelve eminent individuals with diverse perspectives on referendums, including current and former parliamentarians, journalists, regulators, and academics, the Commission is due to report this summer. It is keen to hear as many views as possible, it is holding seminars in all of the UK's capital cities. The [Edinburgh seminar](#) is the next in this series, co-hosted with the Royal Society of Edinburgh next Monday.

The questions being considered by the Commission include the following:

- What role should referendums play in democracy in the UK? Should they be held more or less frequently than they are at present, or do we have the balance about right? On what sorts of issues are referendums desirable or even necessary? Are there issues on which referendums ought not to be held?
- How should referendums fit into the wider decision-making process? Should referendums come at the start of the process – on a broad principle the detail of which is yet to be worked out – or only at the end – on a precise proposal that has already been written up in law? If referendums of the former type are sometimes needed, what can be done to give voters clarity on what the options mean? What should happen if voters support change, but the outcome that is delivered is very different from what was promised?
- What can be done to ensure that the referendum campaign is fair between competing perspectives? Should the ban on using public funds to support one side of the debate – which currently applies only in the final four weeks before a vote – be extended to the whole campaign period? Do rules on campaign funding and expenditure adequately ensure a level playing field?
- Should any changes be made to help voters find the information that they want from sources that they trust? Would it be advisable to seek to ban false or misleading statements by campaigners, as some have suggested? Should neutral public information materials be provided? Are there ways to bring public deliberation into referendum processes, so that voters get a chance to hear and think through the arguments in depth?
- How should the rules around referendums be adapted to fit the age of social media? Should the regulation of content on Facebook and other providers be strengthened? Can the rules around online advertising be enhanced to prevent hidden ‘microtargeting’ of voters? Is it possible to protect the integrity of referendum processes against the interventions of malign international actors?
- How should the outcome of a referendum be determined? Should a simple majority of voters always be sufficient to determine the result, irrespective of the size of that majority or the level of turnout? Or should there sometimes be higher thresholds, so that historic changes can be made only when it is clear they reflect – to use a phrase from Scottish politics in the 1990s – the voters’ ‘settled will’?

The Independent Commission on Referendums has not yet finally determined its answers to any of these questions. But it has some emerging ideas. We are keen to share these with audience members at the seminar next week and to explore what people make of them. We look forward to a lively discussion.

This post originally appeared on the blog of the Centre on Constitutional Change and is reposted with permission. It represents the views of the author and not those of the Brexit blog, nor the LSE.

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