2.3 Constitutional Reform Since 1997 and Debates on Further Reform

Total Marks

EDEXCEL 9PL0 · about 65 minutes · Write-in edition

Name: _____ Date: ____ / ____ / _____

Answer ALL questions. For levels-marked questions, write a well-structured, developed response using accurate political knowledge, named Acts and examples, and precise terminology. At least two answers (the source-based question and the final essay) must be written in full sentences. Spend about 65 minutes on this paper.

1 State the year the Freedom of Information Act received Royal Assent and one obligation it places on public authorities in the UK after 2005.

(Total for Question 1 is 2 marks)

2 Source material: Two short extracts on reform. Extract A, from a political commentator in 2018: 'Devolution after 1999 has created durable, democratically accountable assemblies but has left unresolved tensions in the Union, notably asymmetric powers that fuel calls for Scottish independence and for clearer English arrangements.' Extract B, from a parliamentary report in 2020: 'Moves to codify aspects of the constitution could clarify the status of rights and the limits of executive power, but codification risks transferring political disputes into legal contests and may entrench contested arrangements without democratic consent.' Using these sources, evaluate the view that constitutional reform since 1997 has both strengthened and complicated the UK constitution.

(Total for Question 2 is 30 marks)

3 Evaluate the view that the UK constitution is in need of further reform, focusing on issues such as codification, House of Lords reform and English governance. Your answer should make a clear judgement.

(Total for Question 3 is 30 marks)

4 Explain two arguments in favour of adopting a codified, written constitution for the UK, as presented in reform debates since 1997.

(Total for Question 4 is 4 marks)

Mark scheme · 2.3 Constitutional Reform Since 1997 and Debates on Further Reform

Question 1

2000 cao	**B1**
identifies an obligation, e.g. to respond to requests for recorded information unless an exemption applies	**B1**

Answer: The Freedom of Information Act received Royal Assent in 2000, and it requires public authorities to respond to requests for recorded information and to publish certain classes of information proactively, subject to listed exemptions.

Question 2

Level 1 Basic use of the sources and limited knowledge of post-1997 reforms, with little analysis or evaluation. Points are descriptive and may rely on assertion.	**1-6**
Level 2 Clear use of the sources to identify ways reforms have strengthened and complicated the constitution, with some development; analysis may be partial and evaluation limited.	**7-12**
Level 3 Good use of both sources combined with accurate knowledge of reforms; explains how specific reforms both strengthened aspects of the constitution and created complications, with developed analysis and some evaluation.	**13-18**
Level 4 Detailed and well-substantiated analysis driven by the sources, integrating a range of examples and considering counterarguments; evaluation weighs the sources' claims and reaches a reasoned judgement.	**19-24**
Level 5 Sophisticated evaluation closely linked to the extracts, demonstrating wide and accurate knowledge of reforms since 1997, nuanced analysis of strengthening versus complication, clear engagement with the sources' limitations, and a convincing, balanced judgement.	**25-30**

Indicative content:

- Extract A supports the view that devolution strengthened democratic accountability in Scotland, Wales and Northern Ireland by creating elected legislatures responsible for domestic policy; examples include the Scottish Parliament from 1999 and the Senedd's increasing powers.
- Extract A highlights complications: asymmetric devolution has led to tensions such as the West Lothian question and fuelled Scottish independence debates after 2014, showing reforms can destabilise the relationship between the UK centre and the nations.
- Extract B suggests codification could clarify rights and limits on the executive, strengthening legal protection for rights and making constitutional rules more accessible, with the Human Rights Act 1998 as a partial move toward clearer rights protection.
- Extract B warns codification risks politicising courts and entrenching contested arrangements; examples: judicial review of prorogation in Miller/Cherry showed courts can constrain the executive but also intensify political-legal conflict.
- Other reforms that strengthened the constitution: the Constitutional Reform Act 2005 clarified judicial independence and created the Supreme Court, and the Freedom of Information Act increased transparency and accountability.
- Other complications include the House of Lords Act 1999 which altered legitimacy debates about the second chamber without completing reform, and the Fixed-term Parliaments Act 2011 which aimed to stabilise election timing but created rigidities later reversed in 2022, illustrating unintended consequences.
- Use of evidence: evaluate how specific examples support or qualify the sources, e.g. devolution improved democratic engagement in devolved areas but created political fragmentation; HRA provides rights protection but relies on parliamentary implementation and is subject to political contest.
- Consider counterarguments: strong institutional reforms may have strengthened the rule of law and accountability overall, and complications can reflect a maturing, plural constitution rather than weakness.
- Balanced judgement: conclude whether the net effect is more strengthening or more complication, or that both outcomes coexist and require different remedies such as intergovernmental mechanisms, clearer statutory frameworks or selective codification.

Question 3

Level 1 Basic knowledge of one or two reform issues with little analysis. Limited or no evaluation and no clear judgement.	**1-6**
Level 2 Clear knowledge of relevant reforms and some analysis of arguments for and against further reform. Evaluation is present but may be one-sided or insufficiently supported.	**7-12**
Level 3 Good, accurate deployment of knowledge across codification, Lords reform and English governance, with balanced analysis and developed evaluation; reaches a provisional judgement supported by evidence.	**13-18**

Level 4 Detailed, wide-ranging knowledge and sustained, well-supported analysis of multiple reform options; evaluation addresses consequences and trade-offs and reaches a supported, clear judgement. **19-24**

Level 5 Sophisticated, authoritative knowledge used to construct a nuanced evaluation that compares competing reform proposals, weighs political feasibility and normative aims, anticipates counterarguments, and reaches a persuasive and well-substantiated judgement on whether further reform is needed and which reforms are most justified. **25-30**

Indicative content:

- Arguments that further reform is needed: codification could clarify the distribution of powers, entrench individual rights and make conventions more transparent, addressing ambiguities exposed by disputes such as prorogation and devolution boundary issues.
- Arguments for Lords reform: creating an elected or hybrid second chamber could improve democratic legitimacy and accountability, addressing criticisms that an unelected chamber lacks mandate, while also considering the value of expertise currently held by life peers.
- Arguments about English governance: proposals include a separate English Parliament, regional devolution or permanent procedures like EVEL; these aim to resolve the West Lothian question and ensure English democratic accountability, but each has trade-offs.
- Counterarguments to codification: risks include transferring unresolved political disputes into legal contests, reducing parliamentary sovereignty, and the difficulty of designing an acceptable entrenched text given diverse political views.
- Counterarguments to Lords reform: practical obstacles of size, method of election, and the risk of politicising the chamber; elected second chambers may duplicate Commons politics and reduce the revising function.
- Counterarguments to major English reform: creating an English Parliament could further weaken the Union, while EVEL procedures may be a pragmatic, less disruptive compromise; political will and intergovernmental cooperation are often lacking.
- Political feasibility and incrementalism: realistic reform may require cross-party consensus and public support; some reforms like clearer statutory frameworks or improved intergovernmental bodies may be more achievable and effective than wholesale constitutional overhaul.
- Consider principles: balancing democratic legitimacy, accountability, efficiency and the protection of rights; judge which defects are most pressing and which reforms are proportionate and practicable.
- A reasoned conclusion should reach a clear judgement, for example that some targeted reforms are justified to reduce tensions and improve clarity, while wholesale codification or radical Lords overhaul may be politically risky and could produce unintended consequences.

Question 4

identifies one argument in favour, e.g. increased clarity about rights and institutions **B1**

develops that point, e.g. a written constitution would make the distribution of powers and rights explicit, reducing uncertainty **B1**

identifies a second argument, e.g. stronger protection for individual rights **B1**

develops the second point, e.g. entrenchment could protect rights against transient parliamentary majorities **B1**

Answer: Two arguments in favour are: 1) a written constitution would provide clarity and accessibility by explicitly setting out how institutions, powers and processes operate, reducing ambiguity about conventions and competences; 2) it could better protect rights through entrenchment or clearer judicial review powers, making it harder for a temporary parliamentary majority to overturn core civil liberties.