



Lord Speaker



Report of the Lord Speaker's committee on the size of the House

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Summary

The challenge

The Lord Speaker tasked us with exploring methods for reducing the size of the House of Lords. From the start we took the view that any reduction in the number of members must not be undone by a reversion to the persistent historic tendency of the House to increase in size. We have therefore designed a system which will keep a reduced membership within a fixed cap for as long as the House remains an appointed chamber, while also allowing it to be refreshed and rebalanced in line with general election results over time. We recognise that there are differing views about how the House should be constituted, but it is clear to us that there is widespread agreement on the urgency of addressing its size.

Recognising the difficulties normally faced by bills relating to the House of Lords, we are proposing a system which can be implemented without legislation. This will require a working agreement between the parties and a willingness by existing members voluntarily to take the steps needed to achieve the target reduction in the size of the House: we do not propose term limits or compulsory retirement for existing members. We hope that the certainty of a fair and transparent system for determining the future membership of the House will catalyse these first steps.

Our approach

In the light of our consultation and the debates which preceded it, we believe that the weight of opinion favours setting the cap on the size of the House at 600 members—a reduction in the existing membership of more than one quarter, and lower than the current size of the House of Commons.

In achieving this target, it is necessary to balance the equally important goals of reducing the size of the House in a reasonable timeframe, and ensuring that the membership can be appropriately refreshed and rebalanced.

We therefore propose that until the target of 600 is reached there should be a guiding principle of “two-out, one-in”, whereby one half of all departures (retirements and deaths) from the House as a whole would be earmarked for reducing its size, and the other half allocated to new appointments distributed between the groups on a fair basis. Once the target had been reached, all vacancies arising would be allocated to new appointments—a “one-out, one-in” system.

In order to meet the aim of reducing the size of the House in a reasonable timeframe, it will be necessary to increase the rate of departures from the House. The extent to which the rate is increased—a matter for the House to decide—will determine how long it takes to reach the target of 600 under the “two-out, one-in” system. In deciding the rate, it will also be necessary to agree the basis on which future members should be appointed, in order that the current and the new systems can be interwoven in a way which works effectively.

A House of 600

After the initial reduction to 600, maintaining a cap on the size of the House would require the number of new members joining to be limited to the number of vacancies arising. In order to ensure a predictable and consistent number of vacancies which would enable the House to be refreshed and rebalanced, we recommend that all new members should serve a non-renewable fixed term of 15 years. This would be implemented by requiring new members, on joining the House, to sign an undertaking to serve only 15 years and then retire. Failure to adhere to the undertaking would be a breach of the Code of Conduct.

New life peers would continue to be appointed by the monarch on the advice of the Prime Minister. Our proposals would only work, though, if the Prime Minister (and her successors) undertook to appoint no more new members than there were vacancies, and to do so in the proportions implied by our recommendations.

New political appointments would be shared between the parties in line with the results of the preceding general election, defined as the average of a party's percentage share of Commons seats and its percentage share of the national vote. No party would be permitted to take an absolute majority of political seats in the House. Any party which had won seats or a significant share of the national vote would be granted some new appointments in the ensuing parliament, even if they had done much worse than in previous elections.

Since new members would serve fixed terms of 15 years, the result of this formula is that the composition of the House would reflect the election results over the preceding 15 years.

Crossbench appointments would not be connected to election results, but as a group Crossbenchers would make up the same proportion of the House as at present. They would be appointed by the House of Lords Appointments Commission (HOLAC), with the following exceptions. We propose that prime ministers should retain the right to appoint Crossbench peers, but that the maximum number should be 10 every five years rather than 10 each parliament. We also propose that Supreme Court Justices should automatically be made life peers on appointment to the Court, and granted a seven year fixed term in the House upon retirement from the bench.

Unless Parliament legislates to end the by-elections, our proposed system for new peers would treat life peers and hereditary peers in exactly the same way: they would be required to retire after 15 years. The only difference between them is that the life peers would be appointed and the hereditary peers selected through a by-election. Similarly, in the absence of legislation, the number of Bishops would be unaffected.

If the by-election system continued unamended in a smaller House, the number of hereditary peers would make up a larger proportion of the membership. More importantly, because they would occupy 51 and 30 of the Conservative and Crossbench slots respectively, those two groups in particular would have fewer spaces to allocate to life peers than they would if the by-elections ceased. The House, and perhaps more pertinently the Government, will need to consider whether such a situation is sustainable. Any change would require legislation, which could only realistically reach the statute book if it had Government support.

We propose that there should be one round of appointments and by-elections each year to fill all vacancies which have arisen, probably around the start of the session. HOLAC should oversee the allocation of vacancies between parties.

Evolution to a House of 600

If our proposals above are accepted, the next step is for the groups to agree (a) the aggregate rate of departures of existing members and (b) how those departures should be shared between the groups.

It is clear that the historic rate of departures will need to increase, but at the same time it is necessary to ensure sufficient continuity in the House and fairness to existing members. Having considered a number of different options, we propose a rate that would see the House reaching its target size of 600 in about 11 years. This would, in our view, strike the best balance between the competing priorities while also allowing a profile of departures which would enable the new fixed-term membership system to work effectively.

The table below sets out our proposals, based on the membership excluding Bishops (800). By way of comparison, in the five years to the end of 2016 the equivalent reduction in the membership through retirement and death was 125.

Table 1: Proposed aggregate reduction to House of 600 (figures correct at 1 Oct 2017)

Target date	1 Oct 2017	2017–2022	2022–2027	2027–2032	2032–2037	2037–2042	2042–2047
Departures of existing peers		150	250	200	150	50	0
Retirements of fixed-term peers		0	0	0	75	125	174
New appointments		75	125	174	225	175	174
Net change in size of House		-75	-125	-26	0	0	0
Total peers	800	725	600	574	574	574	574
Size of House	826*	751	626	600	600	600	600

* Includes two vacant Bishops' seats

The first five years show a slower rate of departures than for subsequent years, with members who are ready to retire able to do so and others being given time to reflect and make any necessary adjustments to their plans. There is a more ambitious rate in the following five years, reflecting both the increasing age and service of existing members and the need to accelerate the number of new appointments to ensure a smooth flow of vacancies in the future. From 2032, departures of existing members are supplemented by the first retirements of fixed-term members and, by 2042, all serving peers would be on a 15 year fixed term.

Once the House has agreed the overall rate of reduction, it will be necessary to agree how the aggregate target departures should be divided between the groups. We believe that the only fair way of doing this is on an “equal contribution” basis, whereby each group would be required to persuade the same proportion of its 2017 membership, adjusted for the number of deaths, to retire each year. In return for meeting its targets, each political party would receive a share of the available appointments based on how it fared in the last general election. The Crossbenchers would receive one appointment for

every two departures. A group which fell short of its targets would face a corresponding reduction in its appointments.

The system outlined above would result in some political rebalancing of the House during the reduction phase. This is because, although the number of departures contributed annually by each group would be the same in proportional terms, the apportionment of new appointments between the parties would be calculated on the basis of the last general election result.

If our proposals are accepted, they will reduce the size of the House of Lords and maintain a cap of 600 members into the future. In doing so, they will provide sufficient turnover of members to refresh the House and rebalance it in line with general elections over time, while also guaranteeing a sizeable fixed proportion of independent Crossbench peers. We hope that members will unite around our scheme and thereby secure a fair, streamlined House for as long as it remains an appointed body.

We commend this report to the House.

The Lord Speaker's committee

On 5 December 2016, following a debate in which 61 members took part, the House agreed a motion in the name of Lord Cormack that its size “should be reduced, and methods should be explored by which this could be achieved”.

The Lord Speaker announced on 20 December that he was setting up this committee to conduct such an exploration, with the following membership.

- Lord Beith (Liberal Democrat)
- Baroness Browning (Conservative)
- Lord Burns (Chairman; Crossbench)
- Baroness Crawley (Labour)
- Baroness Taylor of Bolton (Labour)
- Lord Wakeham (Conservative)

An associated written statement by the Senior Deputy Speaker on the same day added that we should look at methods “commensurate with [the House’s] current role and functions” and identify “practical and politically viable options that might lead to progress on this issue”. We were required to analyse the implications of those options and to “set out any outstanding questions that may need to be answered in order for any proposals to command broad consensus across the House”.

The committee first met on 16 January 2017 and launched a consultation document on 25 January (see www.parliament.uk/size-of-house-committee). In total 62 members of the House and many members of the public and organisations made submissions; we are grateful to them all. Having considered the submissions, the committee invited a cross-section of members of the House and others to discuss their views in person. In total the committee met 22 times.

The committee was advised by Dr Chris Ballinger (Exeter College, Oxford), Sir David Beamish KCB (former Clerk of the Parliaments), Mr Peter Milledge CB (former Counsel to the Chairman of Committees) and Professor Meg Russell (Director, Constitution Unit, University College London). Legal advice was provided by Mr James Cooper (Counsel to the Chairman of Committees). We thank them for their wise counsel.

The committee staff were Tom Wilson (Clerk), Russell Taylor (Policy Analyst) and Rita Cohen (Committee Assistant).



Chapter 1: The challenge

An effective second chamber

1. The House of Lords plays an integral role in the UK's constitution, complementing the work of the House of Commons while respecting its primacy as the elected chamber. The Lords provides detailed scrutiny of both bills and statutory instruments, ensuring that legislation is carefully vetted through the lens of its members' experience and expertise. This is important because for a number of reasons legislation often emerges from the House of Commons without all of its provisions having received detailed examination. Members of the Lords also provide valuable scrutiny of the Government's activities and key matters of public policy through debates, questions and the House's widely-renowned and consensual select committees.
2. The House's effectiveness is intrinsically linked to, among other things, three key features of its membership which are of relevance to this committee's task.
 - (a) Since the House of Lords Act 1999 excluded most hereditary peers, no single party has had an overall majority of members, or even a political majority (a majority of all peers affiliated to political parties)—although in the 2010–15 Parliament the two coalition parties together had a political majority.
 - (b) There are significant numbers of independent, non-partisan Crossbench peers, who vote issue-by-issue rather than following a party whip.
 - (c) Members taking a party whip exercise a greater degree of personal independence than is the case in the House of Commons.
3. These three features mean that, unlike in the Commons where majority administrations win almost all votes, the Government must try to win over Lords members on all sides with strong arguments and frequent concessions. Governments over the years have learned how to do this effectively. The House nonetheless regularly asks the Government to think again by defeating them in the division lobbies.
4. Yet the House accepts the primacy of the elected House of Commons: if the Commons stands firm on an issue, then the Lords rarely persists. Governments get their legislation. It follows that, unlike in the Commons where each party's precise numbers matter enormously during knife-edge votes, the party breakdown in the Lords is more about the prevailing views of the House.
5. In many ways, then, the House of Lords functions well. But there is a problem: the absence of a cap on its size. In this report we examine the best ways of addressing that problem without losing the strengths of the current House. In doing so, we seek only to provide a solution which can endure for as long as the House of Lords remains an appointed chamber.

The problem: an ever-growing House

6. The United Kingdom is unique among democratic countries in having a legislative chamber with members who are appointed for life and with no cap on their numbers. Throughout history there has been a tendency for the size of the House

of Lords to increase, with the single exception (in modern times) of the reduction brought about by the exclusion of the hereditary peers under the House of Lords Act 1999. When the House was made up of hereditary peers, new appointments exceeded the peerages that became extinct. Since the Life Peerages Act 1958, the appointment rate has tended to exceed the death rate (plus, latterly, the retirement rate) across the duration of a parliament, as shown in the graph below. The number of life peers who are current members of the House is roughly half the total number of life peers ever created.

Figure 1: Total Membership at end of each session since 1951–52



7. Regardless of the debate about the merits of an appointed versus an elected House, which is beyond our remit, it is clear that a House which inexorably increases in size is unsustainable. Without some kind of mechanism to cap the membership, the House's proceedings and facilities will come under additional strain, its costs will increase and its reputation will deteriorate.
8. Although some of them have acted with restraint, there are at least five reasons why Prime Ministers have an incentive to appoint peers in numbers which will sustain the relentless growth in the size of the House:
 - to rebalance the membership of the House following a change in government in the hope of reducing the number of defeats on legislation;
 - to refresh the membership of the House;
 - to appoint people with expertise to ministerial office;
 - to reward retiring senior MPs, advisers and supporters; and
 - to recognise certain individuals of distinction.
9. In terms of post-election rebalancing, there has never been a clear convention and practice has varied. While Prime Ministers have generally appointed peers across all parties, they have tended to appoint significantly more to their own benches

than to other groups. This has put upward pressure on the size of the Chamber as governments have changed. The effect on the political balance of the House is only really visible over the last 18 years, as the Conservatives greatly outnumbered Labour before the House of Lords Act 1999. Appointments after Labour came to power in 1997 gradually rebalanced the House, but they did not become the largest party until 2006. The Conservatives regained that position in 2014.

10. The size of the House on 1 October 2017 was 824, comprising 800 peers and 24 Bishops (a further two Bishops' seats are currently vacant). Of these, 799 are eligible to attend, while the remaining 25 are on leave of absence or disqualified as a serving judge or Member of the European Parliament (MEP). Since 1997, appointments have averaged 35 per year with an average age at introduction of 58. If appointments continue at that rate, and the average life expectancy of new members is 25 years from introduction, then eventually the number of life peers will settle at about 875 which, together with 92 hereditary peers and 26 Bishops, would give a total membership of nearly 1,000. In reality, because of increasing life expectancy and the desire of Prime Ministers to rebalance the party composition, this number would continue rising. This would be unacceptable to members of the House and the general public alike, and result in an increasingly costly and inefficient chamber.

How to address the problem

11. We have been asked to identify “practical and politically viable options” that will enable the House to resolve the problem of an ever-growing membership. Ideally an agreed way forward would be set out in legislation, providing the certainty that is desirable when making important constitutional reforms. While we do not rule this out as an option for the future, we are conscious that history has shown repeatedly that it is extraordinarily difficult to pass any legislation relating to the House of Lords—even the narrow and largely uncontroversial provisions of the House of Lords Reform Act 2014 and the House of Lords (Expulsion and Suspension) Act 2015. Attempting to put a new system on a statutory footing would most likely open up matters beyond our remit and risk making the best the enemy of the good.
12. **In order to meet our remit of producing “practical and politically viable” proposals, we have devised a system which the House can implement effectively without legislation. What we envisage is rooted in a proposed understanding between the Government and the parties, underpinned by the willingness of members to bring about change using the inherent powers of the House and the provisions of the 2014 and 2015 Acts. Implementation of our proposals would be the clearest possible demonstration of the House’s determination to address its problems head-on.**



Chapter 2: Our approach

Aims

13. Our aim from the start has been to design a process which would not only see the membership fall to an agreed level but—almost more importantly—keep it at that level for as long as the House remains an appointed chamber. It would be pointless to make a one-off reduction in the numbers only for the historic growth in the membership immediately to resume. Indeed, without the certainty of a fixed cap and an accepted and fair system of appointments for the future, existing members may understandably be reluctant to take the steps needed if the size of the House is to be reduced in the first place.
14. There is no scientific way of calculating the ideal level of a cap. In line with the weight of opinion among consultees and others, we propose a cap of 600. The figure could be higher, but it seemed to us that the momentum in the House behind this initiative required a reduction in the membership of at least that magnitude, and that there was a widespread feeling that the Lords should be no larger than the Commons. Equally the cap could be lower, but perhaps not much lower if the House is to maintain its current activity levels. Continuing to allow members to undertake careers and activities outside politics is necessary if they are to maintain and update their expertise and apply it to their parliamentary work—a key strength of the House.
15. We have taken the view that, in reaching and then maintaining a cap of 600, there must be sufficient turnover of members to allow the membership to be refreshed and for changes in the political views of the country to be reflected in the composition of the House. At the same time, it is important both to maintain a measure of the continuity and stability which are of such value to the current House, and to treat members fairly—especially existing members who may have arranged their affairs on the basis of membership for life. We do not propose term limits or compulsory retirement for existing members.
16. **We have set out to devise a process which would lead to a House with a fixed cap of 600 members while retaining the strengths of the current House. In doing so, we have borne in mind the need to refresh and rebalance the House without losing the value of experience.**
17. During the reduction phase, these aims are especially difficult to meet because the “vacancies” in the House created by retirement and death cannot be used purely to achieve turnover of members—a proportion of them must be earmarked for achieving a permanent net reduction in the size of the House. A number of our consultees and other contributors to the debate have proposed a “two-out, one-in” system or something similar, whereby two departures from the House would be needed for one new appointment until the House reached the target size. Having considered this system alongside several other options, we are satisfied that it provides the best balance between the priorities set out above. As well as meeting our objectives, it is easy to understand as it neatly allocates half of the departures from the House to reducing the numbers, and half to refreshing and rebalancing the membership.

18. **We propose that until the target of 600 is reached there should be guiding principle of “two-out, one-in”, whereby one half of all departures (retirements and deaths) from the House as a whole should be earmarked for reducing its size, and the other half allocated to new appointments distributed between the groups on a fair and transparent basis. Once the target of 600 had been reached, all vacancies arising would be allocated to new appointments—a “one-out, one-in” system.**
19. **The speed with which the target of 600 can be met using a “two-out, one-in” system clearly depends on the rate at which existing members leave the House. Before deciding on that rate, it is necessary first to identify the basis on which new members should join the House, so that the current and future systems can be interwoven effectively. We return to the question of the departure rate in Chapter 4.**

Exclusions

Hereditary peers

20. Currently, under the House of Lords Act 1999, each of the 90 elected hereditary members of the House must be replaced through a by-election when they die or retire, and this system can only be changed through further primary legislation. We have therefore sought to ensure that all of our proposals can work even if the by-elections continue, with hereditary peers being treated in exactly the same way as life peers.
21. In the absence of legislation, the hereditary peers will make up a larger proportion of a smaller House, with a particularly significant impact on the Conservatives and Crossbenchers. The House, and perhaps more pertinently the Government, will need to consider whether such a situation is sustainable. Any change would require legislation, which could only realistically reach the statute book if it had Government support.

Royal office-holders

22. The two other hereditary peers who are members of the House are Royal office-holders: the Earl Marshal (The Duke of Norfolk) and the Lord Great Chamberlain (The Marquess of Cholmondeley). They are subject to different provisions from the other hereditary peers and are not intended to be covered by any of the proposals in this report.

Archbishops and Bishops

23. Similarly, the number of Lords Spiritual (26 Archbishops and Bishops, who must retire from their posts at the age of 70) could only be reduced through primary legislation. Accordingly we make no proposals in respect of the Lords Spiritual, while noting that like hereditary peers they will make up a larger proportion of a smaller House.

Other types of peerage

24. While this report considers only peerages which currently entail membership of the House of Lords under various statutes, we have thought about whether there would be merit in providing for peerages which would not entail membership of the House. Such peerages might for example be suitable for individuals of distinction who

are thought to deserve an honour at that level but who cannot be accommodated within the cap on the size of the House, or who do not wish to become a legislator.

25. While this report is not the place to set out how this might happen, we have been advised that the monarch is empowered to appoint life peers other than under the Life Peerages Act 1958. Peers appointed in this way would not be entitled to a seat in the House of Lords. We would encourage the Government to pursue this option in tandem with our main proposals.



Chapter 3: A House of 600

26. Maintaining a cap on the size of the House requires the number of peers joining the House to be limited to the number of vacancies arising. In this Chapter we consider how, following the initial cut in the membership to 600, the House can be assured of enough vacancies within the cap on a sufficiently regular basis to allow for an appropriate rate of refreshment and rebalancing. This Chapter covers only future members, not existing members.

The current system

27. If the present system were to be maintained, only deaths, voluntary retirements and exits under other statutory provisions would reduce the size of the House and create space for new appointments within a fixed cap. But the number and rate of such departures is unpredictable and the breakdown between the parties is arbitrary. This would make it difficult to reflect electoral trends fairly, and to refresh the membership, without pressure to increase the size of the House.
28. A number of alternative systems have been proposed to us for determining which members should leave the House when. They boil down to four broad models.
- Fixed-term membership
 - Retirement age
 - Removing the members with the lowest attendance/participation rates
 - Selection of members within parties after elections
29. **After carefully considering all of the options, we decided to recommend a fixed-term membership system.** We concluded that the other three options all had fundamental flaws. The advantages and disadvantages of those three options are explored in Appendix I. In the remainder of this Chapter, we consider how a fixed-term system might look, and how it might be implemented in the absence of legislation.

Our proposal: fixed-term membership

30. Under a fixed-term system, new members of the House—not existing members—would be required to retire after a fixed number of years' service. The main strengths of this system are that it would:
- provide a predictable and consistent number of departures and thus vacancies;
 - affect all parties and members equally;
 - avoid discrimination on the basis of age;
 - give members the certainty they need to plan their futures; and
 - bring the House in line with legislatures around the globe, as well as best practice in the private and public sectors.

31. The disadvantages of a fixed-term system are that it would:
 - require members to retire at the end of their terms with no regard to the value they might otherwise continue to bring to the House;
 - cause a degree of continuity in the House to be lost; and
 - provide a disincentive for prospective members to accept appointment to the House at a relatively young age.
32. These disadvantages might be mitigated to some extent if the system allowed extensions or reappointments after the expiry of the term. But this would create a new disadvantage by undermining the independence of members: in our view, they should be able to fulfil their duties to the best of their abilities without having to consider what course of action would be most likely to lead to their reselection. This is in line with certain public appointments which are made on a single, non-renewable term basis to ensure complete independence.
33. While any exceptions to a bar on extensions and reappointments should be minimised, it might be desirable to allow serving ministers (within the cap set by the Ministerial and Other Salaries Act 1975) whose fixed term was due to expire to see out their governmental period of office. Lords office-holders with fixed-term appointments could be treated similarly.
34. In practice some members would die or retire before the completion of their terms. In such cases, the resulting vacancies should be allocated in the same way as vacancies which arise on completion of a fixed term (see below).
35. **We recommend the introduction of a single, non-renewable fixed term for new members only.**
36. We now turn to the length of the term for new members. It is our view that any fixed term should be of a duration which:
 - allows for the accumulation of experience and continuity in the House;
 - provides a sufficient rate of refreshment of the membership;
 - enables an acceptable pace of rebalancing to reflect the political opinions of the country;
 - makes membership of the House an appealing option; and
 - is broadly acceptable to the general public.
37. In our view, the term lengths which would best meet these criteria are 15 or 20 years. The arguments between the two are finely balanced. Both options would strike a reasonable balance between continuity and refreshment of the membership, with an annual turnover of 40 members (15 year terms) or 30 members (20 year terms). And while 20 year terms may be more appealing to prospective members, this is balanced by the likelihood that 15 year terms would be more acceptable to the general public.
38. The main difference between the two options lies in the impact on the political balance of the House. While both options would provide a longer-term political

perspective and gentler shifts in membership than in the House of Commons, 15 year terms would entail much less of a time lag than 20 year terms in reflecting changes in political opinion across the country. A party which took power would therefore see its numbers in the Lords rise faster under 15 year terms.

39. **The exact length of the fixed term is in our view a second order question. However, on balance the committee favours terms of 15 years, and we use this option throughout the remainder of the report.**

Leave of absence and disqualification

40. In our view leave of absence should be retained. This would allow both existing and new members to take time away from the House without neglecting their parliamentary duties, for example to pursue a career or for personal reasons. New members' terms would continue to run down while they were away.
41. **We recommend that existing and new members should be able to take leave of absence. Members on leave of absence would still count towards the capped membership of 600.**
42. As we have noted above, the House benefits from allowing members to undertake careers and activities outside politics because it enables them to maintain and update their expertise. While leave of absence would allow members to do this, fixed-term members would "lose" some of their 15 years in the House and their groups would have a reduced membership for that period. In order to make it more feasible (personally and politically) for fixed-term members who want to update their expertise outside the House to do so, we have considered whether they should be allowed to "pause" their terms for a fixed period, with their groups filling the vacancies created.
43. This would be possible if members were to agree with their party leadership (for party members) or HOLAC (for Crossbenchers) that they would be allocated one of their group's future appointments when they wished to return. In the interests of simplicity and fairness, it is desirable to allow the pause to last for a fixed period; we suggest five years. For any member who did not then return at the end of the fixed period, their term would start to run down once more.
44. **We recommend that fixed-term members should be able to pause their terms for a single five year period under an Extended Leave of Absence (ELA) scheme.**
45. **Fixed-term members who are disqualified on the grounds of bankruptcy should not be able to pause their terms during the disqualification: their terms would continue to run down.**

Implementing a fixed-term system

46. The most effective way to implement a fixed term system would be to amend the Life Peerages Act 1958. As set out above, though, the committee is seeking a scheme which is capable of implementation by non-statutory means.
47. Since the passage of the House of Lords Reform Act 2014, it has been possible for members to retire from the House formally and permanently, while retaining their titles and access to the facilities of the House. There would thus be a straightforward

way for fixed-term members to leave the House at the end of their terms. Under the House of Lords (Expulsion and Suspension) Act 2015, the House also has the power to suspend or expel members for misconduct. These two changes, in combination with the standing orders of the House and the Code of Conduct, offer us a way forward as follows.

48. **New life peers should be offered their peerages by the Prime Minister on the understanding that they will retire after 15 years in the House. Standing orders should be amended to require hereditary peers wishing to stand in a by-election to declare that, if elected, they will retire after 15 years' service in the House.**
49. **The Code of Conduct should be amended so that all new life peers and new hereditary members would be required, on joining the House, to sign an undertaking to retire after 15 years' service. The Code of Conduct should also state that a failure to abide by the undertaking to retire would constitute a breach of the Code in itself.**
50. **In the unlikely event that a member failed to abide by their undertaking to retire, the sanctions available to the House would include suspension or expulsion under the 2015 Act.**
51. **For the avoidance of doubt, we do not believe that it would be appropriate to use the Code of Conduct and the 2015 Act to suspend or expel existing members after they have reached, say, a certain age or length of service, because they did not give any undertaking to retire when they were introduced to the House.**
52. This proposed mechanism would constitute a major change to the way in which the House operates. We therefore took advice from James Cooper, Counsel to the Chairman of Committees in the House of Lords, on whether it would be legally and constitutionally watertight. Mr Cooper's opinion was that, on balance, our proposals would be compliant with the 2015 Act, which is broadly drawn, and that in any case the whole matter falls within the "exclusive cognisance" of the House of Lords. Exclusive cognisance is the House's right to be sole judge of the lawfulness of its own proceedings: such proceedings may not be questioned or second-guessed by the courts. The legal advice is reproduced in full in Appendix 2.

The mechanism of appointment

53. In line with our assumption that legislation is unlikely in the near future, we are not proposing any change to the current mechanism for appointing new life peers: by the monarch on the advice of the Prime Minister under the Life Peerages Act 1958. **Maintaining the current mechanism of appointment means that the success of our proposals hinges on Prime Ministers undertaking to appoint no more new members than there are vacancies, and to do so in the party proportions implied by the system proposed.**
54. Unless Parliament and the Government decide to legislate, excepted hereditary peers who retire or die will continue to be replaced through by-elections. These by-elections would, as at present, select somebody of the same group affiliation as the departing peer, and the filling of the vacancy would count towards the group's quota of peers for the year as calculated by the formula described below.

55. In order to minimise disruption, **we propose that there should be one round of appointments and by-elections each year to fill all vacancies which have arisen** (whether through leave of absence, retirement or death) over the preceding 12 months. This would apply to both party and Crossbench peers. It may make sense for the annual round to take place early in each session or at another time by agreement between the party leaders. Provision would need to be made in the House's Standing Orders.
56. There would be no other appointments or by-elections during the year, even if this would mean some places remaining unfilled for nearly 12 months. An exception could be made where the Prime Minister wished to appoint an individual to the House of Lords in order to become a minister; this might happen at any point in the year, with the party allocation at the next round of appointments being reduced accordingly.

Political appointments

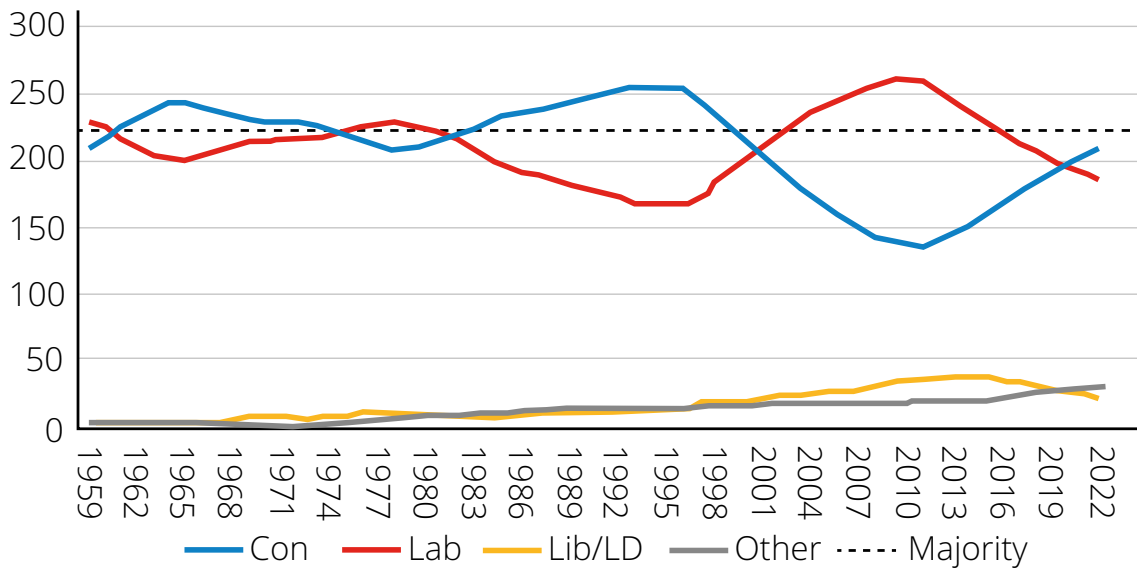
The formula

57. In order that the inflow of new members to the House should reflect changing political opinion across the country, it makes sense to link the allocation of seats between the parties to general election results. With new members serving fixed terms of 15 years, such a link would cause the overall composition of the House to reflect the election results over the preceding 15 years. This would provide the stability desirable in a second chamber and avoid challenging the primacy of the Commons.
58. There are two distinct measures of how parties have fared in general elections: the first is the number of seats won in the House of Commons, and the second is the percentage share of the national vote.
59. In this section we consider the pros and cons of these measures, and model them against the results of post-war general elections. For the purpose of this modelling exercise we have fixed the total number of party seats at 450. The dotted line on the graphs shows the number of seats required for a political majority (a majority of seats held by political parties).

Seats only

60. Using the percentage share of House of Commons seats would be in line with our first-past-the-post electoral system, but a key point of having two chambers is that they should be different. We do not think the House of Lords should replicate the following features of the Commons membership which are associated with first-past-the-post.
- (a) Volatility in party representation in the House
 - (b) Frequent political majorities
 - (c) Few seats for parties which have a significant share of the national vote but dominate in few if any constituencies (e.g. Greens, Liberal Democrats, UKIP)
61. The graph below shows how these three features would have arisen if appointments to the House of Lords had historically been based on each party's percentage share of seats in the House of Commons.

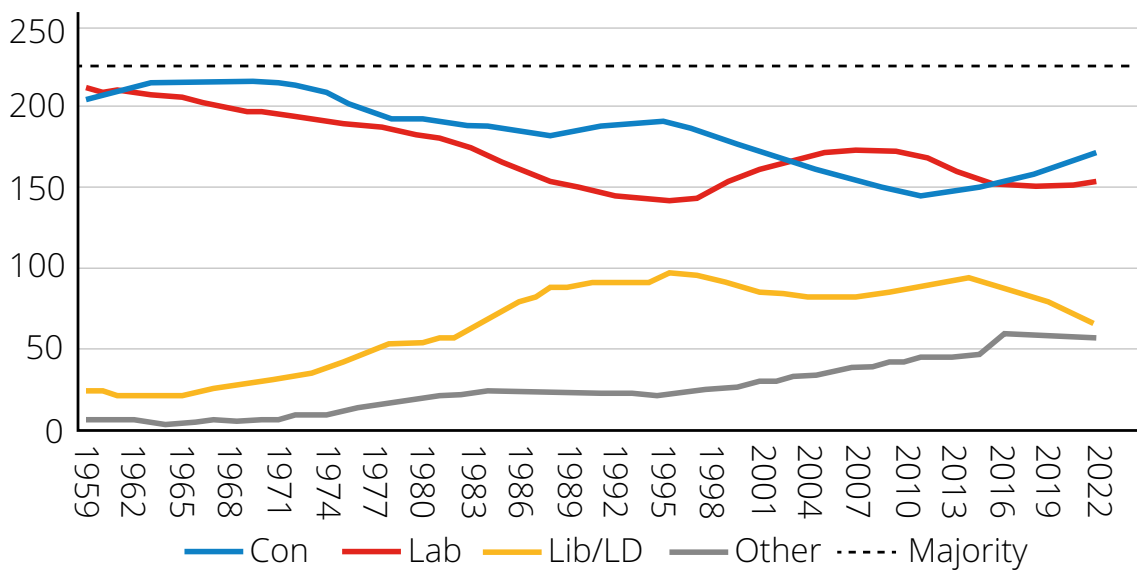
Figure 2: Appointments based on % share of Commons seats



Vote share only

62. Conversely, using the percentage share of the national vote would be more proportional and distinctive from the Commons. But arguably it would be too far removed from the reality of majority government and would make it difficult for ruling parties to assert themselves in the Lords, as illustrated in the graph below. It may also be deemed unfair to those parties which by their very nature would only ever stand in one part of the country, such as the Scottish National Party (although they currently choose to have no members of the House of Lords), Plaid Cymru and the main parties in Northern Ireland.

Figure 3: Appointments based on % share of national vote

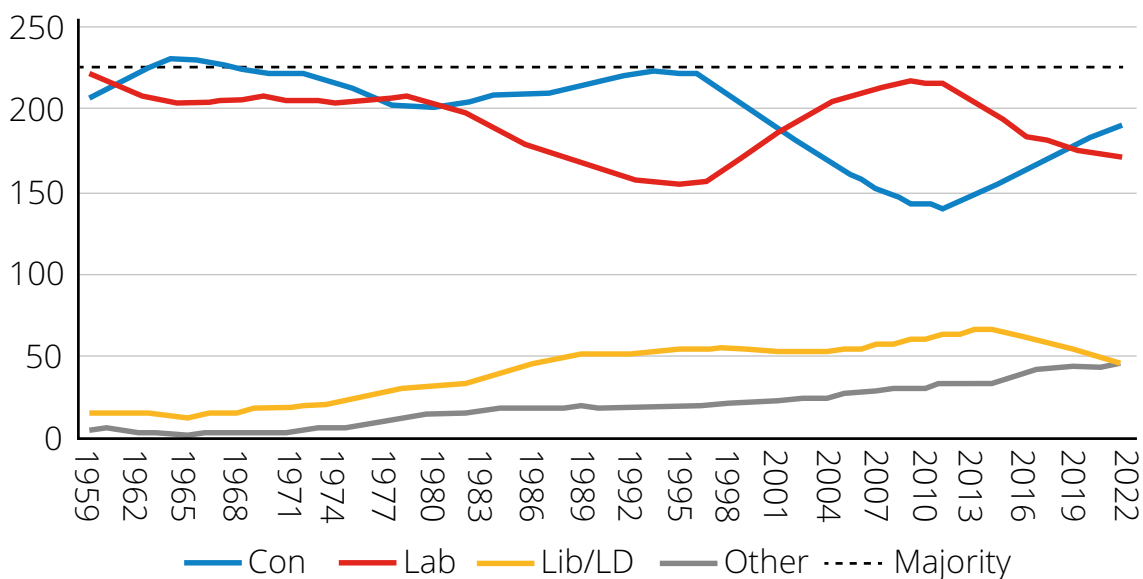


A third option

63. A third option is to combine the two measures by taking an average (mean) of the percentages of seats and votes won by each party at the most recent election. As indicated by the graph below, this would draw on the strengths and mitigate the

weaknesses of the other two systems. In principle this system could also be applied to the smaller political parties.

Figure 4: Appointments based on average of seats and vote share



64. As the graph shows, there is still a small risk that a party could just about secure a political majority under this system (in this model it would have been the Conservatives for several years in the 1960s). We show in Appendix 5 how this risk would be averted. The Appendix also sets out how defections, non-participating parties, and party splits would be accommodated.
65. We also considered how a House historically composed using this model would have compared to the House as it was actually composed. The model would have given the parties a very similar proportion of the life peer membership compared to what actually happened. But the difference is that it would have done so without constantly inflating the size of the House. The results of our modelling are illustrated in Appendix 3.
66. **We recommend that vacancies during a parliament should be allocated to each of the parties according to an average (mean) of their percentage share of the seats in the House of Commons and their percentage share of the national vote at the most recent general election.**

Crossbenchers

67. The Crossbench element of the House is one of its main and most distinctive strengths. Nearly all reform initiatives since 1998, as well as the overwhelming weight of opinion amongst our consultees, have settled on a minimum Crossbench element of 20 per cent (120 peers in a House of 600).
68. Currently, when members currently disqualified because they hold a judicial office are included, Crossbenchers comprise 187 of 800 peers (i.e. not including the Bishops) which is 23.38%. This proportion in a House of 574 peers (i.e. 600 minus 26 Bishops) would give them 134 members (rounded down to the nearest whole number).

69. New Crossbench members would, like party peers, serve a fixed term of 15 years. Departing hereditary Crossbenchers would, like their party political equivalents, continue to be replaced via by-elections.
70. **We recommend that Crossbench members should in future comprise the same proportion of the House as they do at present. In a House of 600, this would give them 134 members.**
71. New appointments to the Crossbenches would mostly be made by the House of Lords Appointments Commission (HOLAC), as at present. But we have also considered Prime Ministerial appointments to the Crossbenches and the position of retiring Justices of the UK Supreme Court.
72. Prime Ministers may appoint peers to the Crossbenches. Tony Blair (in 2005) and David Cameron (in 2014) pledged not to make more than 10 such appointments in each parliament. As far as we know, this arrangement still stands. Parliaments can vary in length, though, so the arrangement might sit better with our proposed system of fixed terms if the number were to be 10 over a particular number of years rather than over a parliament.
73. There is also the question of which categories of individual are intended to be eligible for such appointments. In a written statement made on 26 June 2014, Mr Cameron reported that he was “extending the criteria for these recommendations to ensure they can properly encompass a range of individuals with a proven track record of public service, not solely public servants on retirement”. It would be useful to have further details.
74. **We propose no change to the agreement allowing prime ministers to appoint Crossbench peers, but we recommend that the maximum should be 10 every five years rather than every parliament, and that there should be greater clarity about who is eligible for such appointments.**
75. It is important that the House has up-to-date legal expertise in the form of retired judges and other senior lawyers. Since the advent of the Supreme Court, new Justices (unlike the Law Lords who preceded them) have not been made members of the House of Lords and so have no automatic way of lending their expertise to the House following retirement. This means that there will be no guaranteed flow of retired senior judges into the House in the future. HOLAC can take into account the House's need for senior legal figures when making appointments, but it may be invidious for them to choose between retired senior judges.
76. An option would be to appoint all Justices as members of the House of Lords when they join the Supreme Court, with their introduction to the House taking place after their retirement from the bench (so they would not count towards the cap of 600 until they were actually eligible to sit in the House). The problem is that this could lead to retired Justices taking up a significant proportion of the Crossbench seats. If the average number of Justices retiring from the Court each year was 1.5, as history broadly suggests, and they all served a 15 year term in the House, then retired Justices could fill over 20 of the Crossbench places at any one time. This is excessive. It would be possible to reduce this number by restricting retired Justices to a shorter term, which might be set at seven years. Shorter terms might also be seen as an acknowledgement that judges would be joining the House at a greater age (70) than most peers.

77. **We propose that all Supreme Court Justices should be made life peers on appointment to the Court, but that they should not be introduced to the House until they retire as a judge. On introduction to the House, they should be required to make an undertaking to retire after a reduced term which might be set at seven years.**

Impact of hereditary peers

78. When an elected hereditary peer retires or dies, a by-election is held to choose a replacement hereditary peer who must (in some cases by law, in others by convention) be of the same group affiliation as the original peer at the time of his or her election. The original group affiliations of the 90 elected hereditary peers are set out in the table below.

Table 2: Excepted hereditary peers by original group affiliation

Group	Original number of hereditary peers
Conservative	51
Crossbench	30
Labour	4
Liberal Democrat	5
TOTAL	90

79. If the by-election system continued unamended in a smaller House, the number of seats reserved for hereditary peers would remain the same and they would accordingly make up a larger proportion of the membership. More importantly, because they would continue to occupy 51 and 30 of the Conservative and Crossbench slots respectively, those two groups in particular would have fewer spaces to allocate to life peers under any agreed system than they would if the by-elections ceased.

Oversight

80. We propose that HOLAC, in addition to its role in Crossbench nominations and leave of absence, should provide light-touch oversight in two respects.
81. First, we propose that **HOLAC should oversee the technical allocation of vacancies between the parties.** It would maintain the figures and make the calculations about the number of seats to which each party would be entitled each year, and provide assurance to the Prime Minister and Lord Speaker about the party breakdown of appointments. HOLAC would also be able to mediate between the parties in the event of any disputes or the emergence of unexpected loopholes or anomalies after an election.
82. Second, we recommend enhancing the way in which HOLAC scrutinises party and prime ministerial nominations for the peerage. At present, HOLAC only checks such nominees for propriety. **We suggest that the Prime Minister may wish to task HOLAC with ensuring that all nominees are aware, before they accept a peerage, of what being an active member of the House of Lords entails.** This would be a light-touch process and HOLAC would have no additional powers to veto or otherwise question nominations.



Chapter 4: Evolution to a House of 600

83. In Chapter 3 we set out our proposals for maintaining a cap on the size of the House in the future for as long as it remains an appointed chamber, while also allowing the membership to be refreshed fairly and transparently. In this Chapter, we consider how best to manage the evolution from the current system to the proposed new system. The numbers used in this Chapter were correct as of 1 October 2017, but there may be a case for choosing a more meaningful starting point (e.g. the date of the 2017 general election).

Rate of reduction

84. The “two-out, one-in” approach would require about 450 departures during the period of adjustment to a House of 600, with half of the vacated seats allocated to reducing the size of the membership and the other half to new appointments. The speed with which this could happen would depend upon the rate at which existing members departed through retirement or death.
85. We do not propose term limits or compulsory retirement for existing members, and it is necessary to ensure sufficient continuity in the House and fairness to all, but it is clear that the historic rate of retirement will need to increase. Having considered a number of different options, we propose a rate that would see the House reaching its target size of 600 in about 11 years. This would, in our view, strike the best balance between the competing priorities while also allowing a profile of departures which would enable the new fixed-term membership system to work effectively.
86. The table below sets out our proposals, based on the current membership excluding Bishops (800). By way of comparison, in the five years to the end of 2016 the equivalent reduction in the membership through retirement and death was 125. It is likely that the House would undershoot (or even overshoot) the departure targets in some years, but the “two-out, one-in” target could adjust accordingly.

Table 3: Model for reducing the overall size of the House

	1 Oct 2017	2017– 2022	2022– 2027	2027– 2032	2032– 2037	2037– 2042	2042– 2047
Departures of existing peers in period		150	250	200	150	50	0
Departures of new peers in period		0	0	0	75	125	174
New appointments in period		75	125	174	225	175	174
Net change in peers in period		-75	-125	-26	0	0	0
Members at end of period (excl. Bishops)	800	725	600	574	574	574	574
Total size of House at end of period	826*	751	626	600	600	600	600

* Includes two vacant Bishops' seats

87. The relatively gentle start (150 departures in the first five years) reflects the need to give plenty of notice to members who might be suitable candidates for retirement. There is a more ambitious target of 250 departures in the second five year period, reflecting both the fact that existing members will be older and will have served for longer, and the need to ensure that there is space to appoint enough new members on fixed terms to provide sufficient vacancies 15 years later. A further 200 existing members would depart between 2027 and 2032.
88. After this point, departures of existing members are supplemented by the first retirements of fixed-term members. Between 2032 and 2037, 150 existing members and 75 fixed-term members would depart. In the final five years of the transition, the remaining existing members would depart. By 2042, all serving peers would be on a 15 year fixed term.
89. **The rate of retirement in our proposals, which we believe to be feasible, would enable the House to reach the target figure of 600 in about 11 years. The House could alternatively opt for a faster or slower pace. In considering the most appropriate target retirement rate, the House will wish to bear in mind the knock-on effects on the future flow of retirements and appointments, which would in turn influence the speed of changes in the political balance of the House.**

How to reduce the membership equitably

90. We now consider how the main groups (Conservative, Labour, Liberal Democrat and Crossbench) can be treated equitably within the model we have proposed in a way which is fair to existing members.
91. Members on leave of absence or disqualified are treated the same as active members, and are included in their group's numbers.

Principle

92. In the years of debate over how to reduce the size of the House of Lords, many contributors have suggested that existing members might be required to leave the House in line with a "one-size-fits-all" rule based on age, tenure or attendance level.
93. While all of these suggestions have their advantages, they all carry the same disadvantage if applied rigidly: they would affect each of the parties differently and therefore change the political balance of the House arbitrarily, given the appointments system we have proposed in Chapter 3. The main reason that using age and tenure would have a differential effect at any given time is that there have historically tended to be waves of appointments to one particular party when that party is in power, and those members then tend to reach a given age range or length of service at around the same time. Using attendance would also have a differential effect because of its relationship to factors such as members' ages, outside interests and careers, and distance from London.
94. We believe that the only fair way of doing this is on an "equal contribution" basis, whereby each group would be required to persuade the same proportion of its 2017 membership, adjusted for the number of deaths, to retire each year. This "equal contribution" system would continue at a steady pace until eventually all existing peers had left the House through retirement or death.

95. In return for meeting its annual target each group would be entitled to a share of available appointments under the formula in Chapter 3. A group falling short of its targets would face a corresponding reduction in new appointments. A group which managed to exceed its targets would be granted a corresponding increase in its new appointments. In other words, groups which did not meet, or exceeded, their annual reduction targets would be subject to compensatory rates of appointments so that their net total of members would, at the end of the year, be the same as it would have been had they met their targets. Any undershoots or overshoots would have a knock-on effect on whether the “two-out, one-in” model would be adhered to that year, but over the longer term the impact would be insignificant.
96. **We recommend that each of the main groups should reduce its number of existing members by the same percentage at the same rate—a system of “equal contribution”.**
97. **In return for meeting its annual reduction targets, any party which had won seats in the Commons and/or a significant share of the national vote would be entitled to a certain number of new appointments during the ensuing parliament. No party would ever be expected to reduce its numbers faster than the equal contribution rate, regardless of how badly it might have fared in an election. It is only a party’s share of new appointments which would vary.**
98. The table below shows how the equal contribution system would look if applied to the aggregate rate of reduction posited above.

Table 4: Target departures among existing members

Party	Numbers at 1 Oct 17 (as percentage of four main groups)	TARGET DEPARTURES					
		By 2022	By 2027	By 2032	By 2037	By 2042	By 2047
Con	258 (34%)	48	81	64	48	17	0
Lab	204 (27%)	38	64	51	38	13	0
LD	101 (13%)	18	32	25	19	7	0
Crossbench	187 (25%)*	35	58	47	35	12	0
Total	750 (100%)	139	235	187	140	49	0

* Includes those currently disqualified because they hold a judicial office

99. The smaller parties are unsuitable for the equal contribution process because their numbers are too low: even if “fractions” of members were carried over from year to year, their representation in the House would decline too slowly. It will therefore be necessary to devise a different way of determining the pattern of retirement for members of those parties which is consistent with the core principles of the scheme. New appointments would be dependent upon adherence to whatever retirement scheme was agreed.
100. An equal contribution system would also be unsuitable for non-affiliated members (those who sit with neither a political party nor the Crossbenchers) because they are unconnected individuals with no group identity and they do not have a convenor who could be responsible for meeting targets. Those non-affiliated members

who are temporarily detached from their groups because they are undertaking a recognised public appointment (inside or outside the House) might ask to be included informally in their original group's numbers. Otherwise we would expect the departure rate of non-affiliated peers to mirror the rate observed by the four main groups. In considering how best to secure this outcome, the House will also need to make certain that there would be no perverse incentives for members to leave their groups and join the ranks of the non-affiliated peers.

101. **Our remit required us to highlight any outstanding questions that would need to be answered if our proposals were to command broad consensus. One such question is how and when (1) existing members of the smaller parties and (2) existing non-affiliated members might be expected to retire from the House. There are several possibilities, such as retirement on the basis of time served, but it will only be possible to make a final decision once the House has agreed the details of the core scheme.**

Practicalities

102. It would only be possible to force existing members to retire by passing legislation, which in our view is not currently an option, and in any case our aim is to establish a consensual and positive process.
103. **In the absence of legislation, the necessary retirements will be voluntary: the system will only work if the group leaderships and members buy into it. The process will have the greatest chance of success if it operates through persuasion rather than coercion.**
104. We do not propose to prescribe how the groups should meet their targets, because that is a matter for them. We do however suggest that there is merit in considering relative length of service and age of members within the group, or a combination of the two, when deciding which of them might be encouraged to retire each year. Another factor which might be kept in mind is the contribution levels of members. Although we do not support the use of age limits or contribution levels for new members, they may have a part to play for existing members during the reduction phase.
105. In Appendix 4 we show, for each group, how the required number of retirements in Table 4 would look when compared to the number of members who have reached (a) 20 years' service and (b) a combined age and length of service of 100 years. These tables show that, even before deaths are taken into account, most parties' proposed retirement targets are generally smaller than or equal to the number of their members who have passed these thresholds.
106. **In considering which members might be persuaded to retire each year, the groups may wish to bear in mind their length of service, possibly combined with their age.**
107. We note that the Crossbenchers are not a whipped group and that their Convenor is more of a representative than a leader, who is therefore not in a strong position to persuade members to retire. While we do not anticipate many problems, he or she may need assistance from the wider House in order to meet the proposed

number of Crossbench retirements. This help might include support from the Lord Speaker or the Leader of the House.

108. **We hope that this voluntary retirement system will be successful. If it proves necessary, however, the House could consider more draconian measures such as denial of financial support, which is within the House's existing powers and does not require legislation.**

Conclusion

109. **If our proposals are accepted, they will reduce the size of the House of Lords and maintain a cap of 600 members into the future. In doing so, they will provide sufficient turnover of members to refresh the House and rebalance it in line with general elections over time, while also guaranteeing a sizeable fixed proportion of independent Crossbench peers. We hope that members will unite around our scheme and thereby secure a fair and streamlined House for as long as it remains an appointed body.**

Appendix 1: Alternatives to a fixed-term system

Alternative proposals

1. In Chapter 3 we recommended the introduction of a fixed-term membership system. In this Appendix we consider the advantages and disadvantages of the other three broad proposals for creating vacancies: retirement age, attendance requirements and reselection after each election.

Retirement age

2. The first alternative proposal is a compulsory retirement age whereby members might be required to leave at the end of the session or parliament in which they reach a certain age.
3. Such a system could have the following advantageous effects:
 - bringing peers closer in line with judges and Bishops, who have a retirement age (which in the case of Bishops applies to both their ecclesiastical and parliamentary roles);
 - allowing members to plan their futures with certainty; and
 - making a positive impact upon any public or media perception that the age profile of the House is too high.
4. On the other hand, society as a whole is moving away from retirement ages, so it may look strange for the legislature to introduce one. Part of the reason for the wider move away from retirement ages is that they are somewhat arbitrary and do not take any account of mental or physical fitness; and that would be true in the House, where some older members continue to make important contributions.
5. There are also two practical disadvantages to a retirement age. First, compulsory retirement is likely to have an uneven impact on the different groups, depending on when and at what age members have been appointed. This would make it harder to rebalance the House without increasing its size. Second, it would provide a perverse incentive for groups to appoint members at a young age, which would result in members serving long terms and suppress the necessary refreshing and rebalancing of the House. It would also by definition provide a disincentive to appoint older members, thereby depriving the House of the experience they can bring.

Attendance or participation rates

6. Another alternative proposal is to use attendance or participation rates to determine who should leave the House to create the necessary scope for refreshment and rebalancing.
7. The advantages of this system are that it would reward those who have worked hard for the House, and secure an active membership for the foreseeable future, which might in turn improve the public perception of the House.
8. One problem with using attendance rates is that they do not distinguish between those members who attend frequently and genuinely work hard, and those members who turn up but do not participate much in proceedings. Measuring

participation rather than attendance is difficult, because there are so many different kinds of parliamentary work and much—indeed most—of it takes place away from the public eye, for example reading, researching, meeting other members and stakeholders, and speechwriting.

9. Relying on attendance and/or participation rates also has practical disadvantages. Like a retirement age, it would have an uneven impact on the different groups due to the different circumstances of members (e.g. age, outside interests, distance from London etc.), with a particularly severe effect on the Crossbenchers, many of whom choose to attend only when they wish to participate in business related to their area of expertise and when time allows. It would also create an incentive for more members to attend and participate when they would not otherwise have planned to, thus putting pressure on the conduct of business in the House and increasing the cost to the taxpayer.
10. Nonetheless, we do believe that it is important for members to attend and participate in the future—all the more so when the House is smaller. We suggest in paragraph 82 that the House of Lords Appointments Commission might play a role in ensuring that all nominees are aware, before they accept a peerage, of what being an active member of the House of Lords entails.

Reselection after each election

11. The final alternative proposal is for all members nominally to leave the House at the dissolution of a parliament, and after the election for each party to select a given number of members from the pool of candidates in line with a formula based on the election result. The selected candidates would serve as members of the House for that parliament, while the other candidates would presumably remain in the pool with the option of standing again after the following election. A variation of this proposal is to restrict the right to vote to certain members, with the others able to participate in all other respects.
12. The obvious means of selecting the members would be an internal election process within the parties along the lines of that already used to select excepted hereditary peers following the House of Lords Act 1999.
13. The potential advantages of this system are that it is less arbitrary than some alternatives, and it would allow the members of the House for each parliament to be selected by people who have experience of their strengths and weaknesses. It would also be high profile, maximising the chances that the media and the public would take note of the House making difficult choices to secure a smaller membership.
14. There are however a number of serious disadvantages to this system.
 - It would seek to model the House rigidly on the last general election result, marking a huge shift from past practice where the balance of numbers in the House has adjusted more gradually in response to political change. If such a shift were contemplated, it would arguably make more sense for members to be elected by the general public rather than by politicians.
 - It might favour party loyalists and assiduous voters at the expense of members more willing to question or challenge their own parties, especially

if the whips had a ticket or slate of recommended members constituting what one consultee referred to as “the clubbable, the companionable and the compliant”.

- It would also be a disruptive process, potentially causing permanent damage to the ethos and stability of the House, while still giving the impression of constituting a self-perpetuating oligarchy. This disruption would be exacerbated by short parliaments (such as the 2015–2017 Parliament).
 - Some good candidates might be deterred from accepting appointment to the House with this degree of uncertainty.
 - A different mechanism would be needed for refreshing the Crossbenches, whose quota in the House would be fixed and unaffected by general elections.
15. In conclusion, we consider that the flaws in each of these three broad proposals make them inferior to a fixed-term system.

Appendix 2: Legal advice on fixed terms and the 2015 Act

My view on the balance of probabilities is that, if new members made a formal undertaking to serve for a limited period of time before retiring under the House of Lords Reform Act 2014, Standing Orders could make provision for the House by resolution to suspend or expel someone for breach of the undertaking.

The House of Lords (Expulsion and Suspension) Act 2015 was deliberately vague on the nature of the conduct required, a point repeatedly made by Sir George Young [as he then was, when he took the bill through the House of Commons] and others. Even on the assumption that “conduct” in the 2015 Act means misconduct, the argument would be that reneging on an explicit promise to serve a limited term would be tantamount to misconduct notwithstanding the entitlement of a peer to receive writs of summons to attend, sit and vote (for example under the Life Peerages Act 1958). Interestingly, Mr Christopher Chope MP said that (without his amendments) the 2015 Act might be a Trojan Horse for reducing the numbers of the Upper House. At Commons Report stage he said:

“However, if the Bill were passed, any Standing Orders passed by their lordships requiring Members not to stay on beyond the age of, for instance, 70 or 75, could mean that a Member who refused to give up their seat would be the subject of the sanctions specified in the Bill, namely expulsion or suspension.”

The arguments against the proposal are: (a) that it amounts to converting the power to retire conferred by the 2014 Act into a duty to retire; (b) that it amounts to peers contracting out of their existing rights to receive writs of summons to attend, sit and vote (including statutory rights under the Life Peerages Act 1958).

However, since this is ultimately a matter of exclusive cognisance, these arguments are ones that would merely inform whether Standing Orders ought to be changed or whether the House would actually resolve to suspend or expel someone who breached the requirements of the Standing Orders.

James Cooper
Counsel to the Chairman of Committees

Appendix 3: Historic modelling

This Appendix models our proposal for 15 year fixed terms against general election results back to 1945, demonstrating how the parties would have fared if appointments to the Lords had been based on an average of their share of Commons seats and their share of the national vote. It also compares these model figures with what actually happened, although only as far back as 2001 because in the previous parliaments the numbers were dominated by the very large number of Conservative hereditary peers (most of whom were excluded under the House of Lords Act 1999).

Historic modelling

The model below is calculated on the basis (for modelling purposes) of 450 political members (i.e. a House of 600 excluding 150 Crossbenchers and Bishops) but due to rounding the figures do not always add up to 450 exactly. The table begins in 1959 rather than 1945 because the nominal starting point of zero members in 1945 means that it would take 15 years to build up to a House of 450 political peers.

Table: Historic number of members in each party if committee's proposals had been in place

Election	Con	Lab	Lib/LD	Other	Total
October 1959	207	221	15	5	448
October 1964	230	204	13	2	449
March 1966	229	204	14	3	450
June 1970	222	206	18	3	449
February 1974	216	204	22	7	449
October 1974	212	205	24	8	449
May 1979	200	205	31	14	450
June 1983	207	191	36	17	451
June 1987	210	173	47	19	449
April 1992	221	158	52	18	449
May 1997	216	158	56	20	450
June 2001	187	186	53	23	449
May 2005	162	207	55	27	451
May 2010	142	215	61	31	449
May 2015	157	191	65	37	450
June 2017	167	182	60	42	451

Historic model v actual numbers

The graphs below compare the proportion of the House made up by each party (a) under our model and (b) in real life. The "actual" numbers deliberately exclude the hereditary peers, because in order to compare like with like it is necessary to use the appointments actually made by the Prime Minister (i.e. the ones in her gift—new life peers, not existing hereditary peers chosen by the House of Lords) versus the total number appointed under our proposed formula (which does not differentiate between life and hereditary peers).

Figure A: Conservative life peer proportions v model

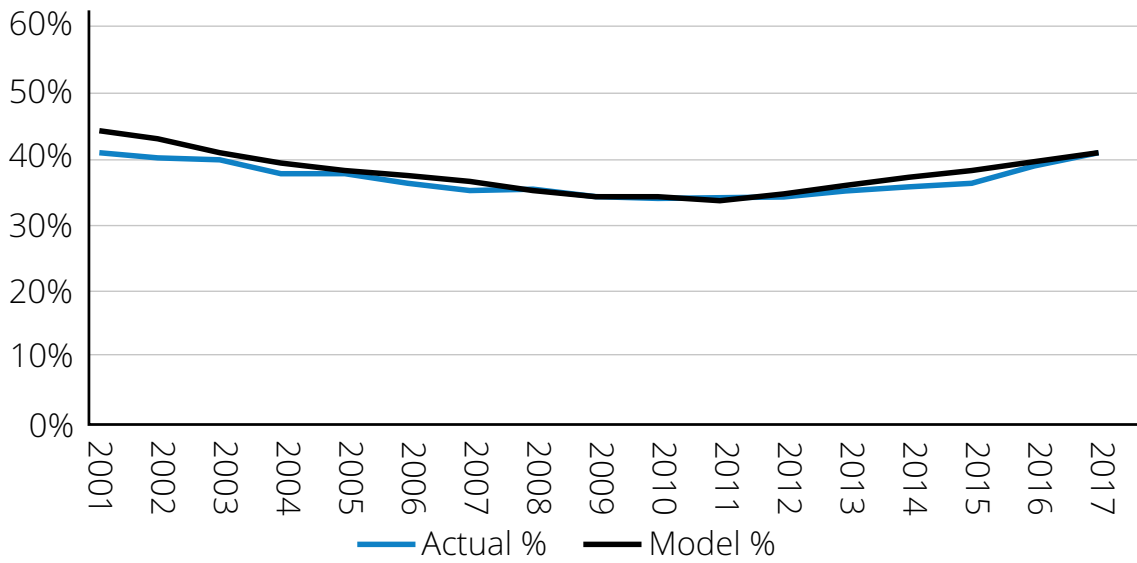


Figure B: Labour life peer proportions v model

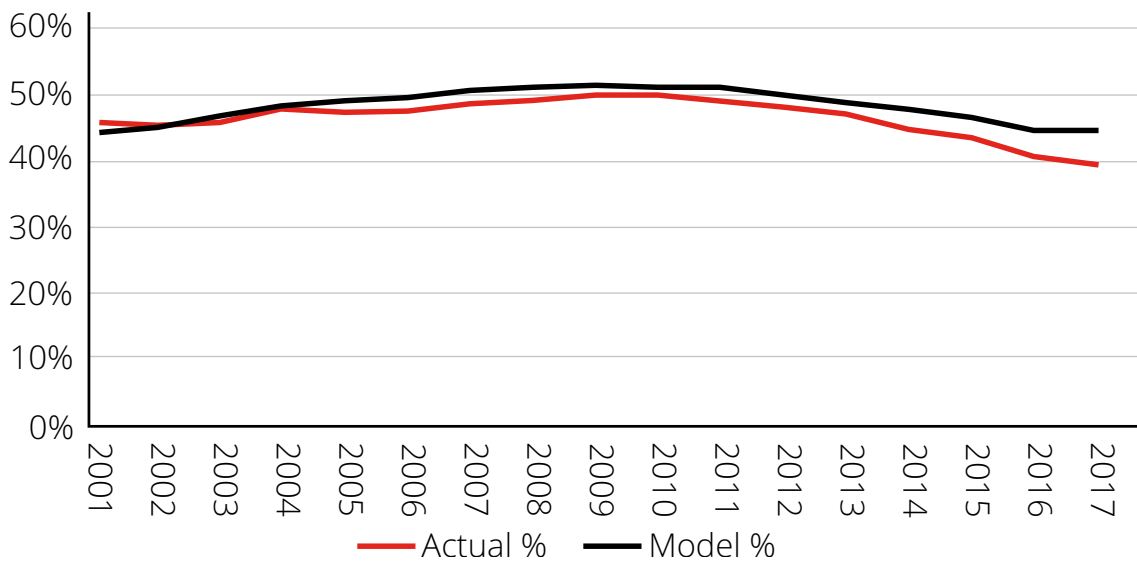
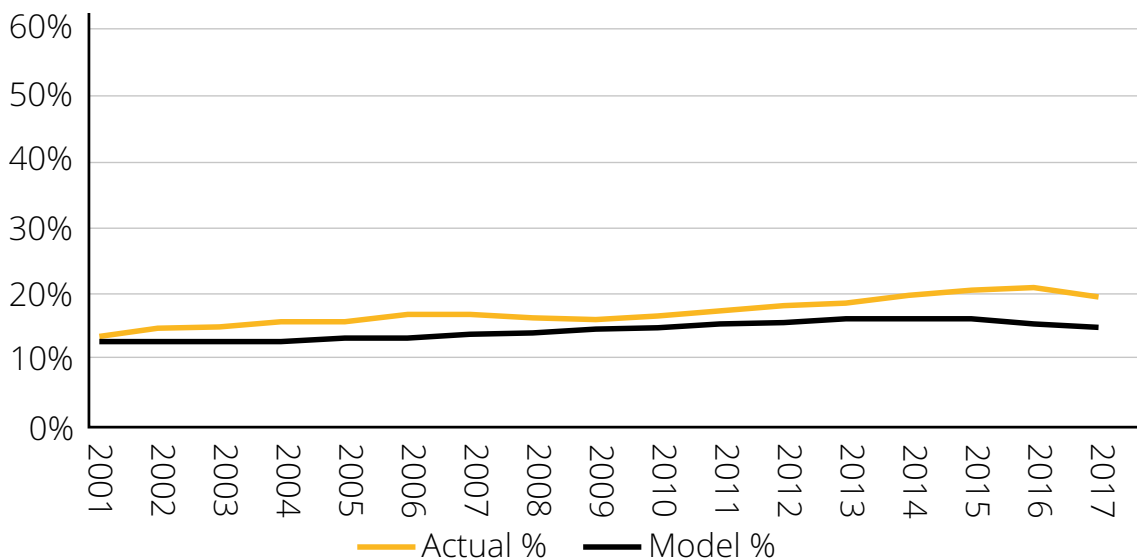


Figure C: Liberal Democrat life peer proportions v model



Appendix 4: Retirements by group v length of service and age

Table A shows the projected cumulative retirements for each group under the proposal in Chapter 4. Tables B and C show when existing members will reach (a) 20 years' service and (b) a combined age and length of service of 100 years. The figures are reported for five year periods, taken from May to May (for example the first period would be up to 1 May 2022).

Table A: Cumulative retirements based on number of seats held on 1 Oct 2017

Party	2017–22	2022–27	2027–32	2032–37	2037–42	2042–47
Conservative	48	129	193	241	258	258
Labour	38	102	153	191	204	204
Lib Dem	18	50	75	94	101	101
Crossbench	35	93	140	175	187	187
Total	139	374	561	701	750	750

Table B: Existing members reaching 20 years' service within date range (cumulative)

Party	2017–22	2022–27	2027–32	2032–37	2037–42	2042–47
Conservative	111	131	178	256	258	258
Labour	106	147	187	204	204	204
Lib Dem	34	49	74	101	101	101
Crossbench	78	125	161	186	187	187
Total	329	452	600	747	750	750

Table C: Existing members reaching age + service of 100 years within date range (cumulative)

Party	2017–22	2022–27	2027–32	2032–37	2037–42	2042–47
Conservative	94	135	174	211	243	255
Labour	84	137	170	196	202	204
Lib Dem	24	45	76	91	98	101
Crossbench	72	115	154	179	186	187
Total	274	432	574	677	729	747

Appendix 5: Unusual circumstances

This Appendix sets out how some unusual circumstances would be handled.

- First, members may defect from one party to another or be expelled from their party. Although this might cause inconvenience to the party whips, the system would in fact be unaffected: members in this position would serve out their terms, and the vacancies ultimately arising from their retirements would be allocated in the same way as other vacancies—in line with the average of seats and votes at the last election.
- Second, parties may for whatever reason refuse to take up their allocation of appointments. They would not be able to reclaim these appointments retrospectively in a subsequent appointment round. The vacancies which had been forgone would remain unfilled for 15 years, before being allocated again in the usual way: the vacancies would not be reallocated to other parties, and the size of the House would therefore dip below 600 for that period.
- Third, a party may split, as with the formation of the Social Democratic Party in 1981. Although this could result in a new party group being recognised, only the party which had won seats and votes at the most recent election would receive any new appointments until the first general election after the split. Following the first election after the split, appointments to each of the parties would be made in the normal way—by reference to the seats and votes they had won.
- Finally, as we have seen from the modelling, it is conceivable that our system might on rare occasions risk giving a party a political majority of the House. In order to prevent this from happening, we propose that a party which was approaching a threshold of half of the total number of party political peers would have its appointments delayed to the extent necessary to prevent the threshold being breached. The delayed appointments could be taken up once the party's numbers had fallen and created sufficient headroom below the threshold. The details would need to be worked out during implementation of our proposals.

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