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**Next Steps in Lords Reform:  
Response to the September  
2003 White Paper**

**by Meg Russell and Robert Hazell**

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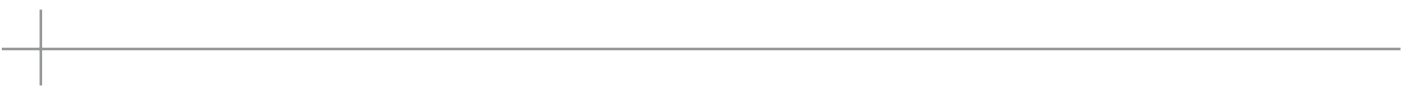
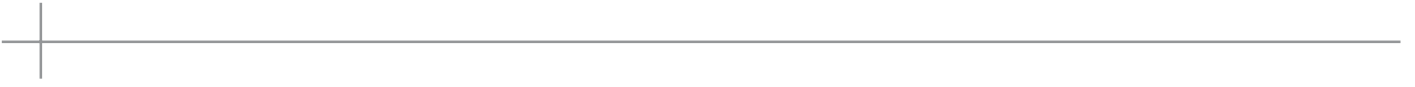
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## *Summary of conclusions and recommendations*

- The proposal to maintain the link between membership of the upper house and the peerage is surprising, given the government's previous rejection of this approach. Maintaining the link is potentially both confusing and damaging to the House, whilst there is no good argument for its retention. (Paras 5–10)
- Removing the hereditary peers will deprive the House of almost half its most active crossbench members. If the government wants to maintain an active independent presence in the House, serious efforts will need to be made to counteract this loss. This implies appointment of a sizeable new group of crossbench members, with an immediate emphasis on appointing those who will play an active part in proceedings. (Paras 12–16)
- One of the paper's most dangerous suggestions is that party balance in the chamber could take account of shares of House of Commons seats as well as general election votes cast. Even a modest implementation of this proposal threatens to send the size of the House spiralling out of control, and could see effective control handed to the governing—or even opposition—party. With party balance based on vote shares, it will already be hard to keep the size of the House within the proposed 600 member limit. Any formula including share of seats would make the proposals unworkable. (Paras 19–31)
- The commitment to retain a sizeable independent group in the House is welcome. However, these members are always likely to vote less, and probably attend less, than political members. To retain the independent element at its current level would demand that independents made up 25% (rather than the 20% proposed) of appointees. (Para 33)
- The government is right to emphasise the importance of improving representativeness amongst the upper house members. This should include gender and ethnic balance, and crucially regional balance and balance of expertise, to enable the chamber to do its job effectively. However, these objectives cannot be reached if the Appointments Commission controls only the independent members. The commission need not have power to choose representatives of the political parties, but must be able to direct them about the overall balances required and to vet and reject lists of nominees submitted if they do not meet representativeness criteria. (Paras 35–40)
- The proposal to put the Appointments Commission on a statutory footing, allowing its objectives to be set out, is welcome. So too is the proposal that it be accountable to parliament. However, this will need handling carefully, and it is desirable that the commission reports either to an existent committee, or new committee with additional duties, as in practice the role of monitoring its work will be small. Its accountability beyond parliament is also important. (Paras 42–47)
- If the Appointments Commission is made accountable to parliament, parliament must have full responsibility for appointing its members from the start. Members should be appointed on rolling fixed terms, as was done with the Electoral Commission. The chair is a high profile post and should be recruited separately. Independent commissioners should be drawn from outside parliament, and none should be eligible for membership of the House until 10 years after they have left the commission. (Paras 49–52)
- The proposal that various groups continue to be appointed to the chamber directly by the Prime Minister undermines the Appointments Commission, and will make its job of maintaining balance and size limits in the house more difficult. As far as possible the Appointments Commission should have sole control over appointments to the house, and all

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members should be considered on their merits. Such an arrangement would be easier if the peerage link were broken. (Paras 54–55)

- The suggestion that members of the upper house could renounce their peerages and immediately stand for the House of Commons is potentially very damaging. As the Royal Commission proposed, there should be a bar on members standing as MPs until at least 10 years after they have left the chamber. This difficulty could however usually be avoided if members were appointed for fixed 15 year terms rather than for life. This would also help with managing size and party balance. (Paras 57–60)

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# Response to the White Paper

## Introduction

1 This document is a response to the white paper *Constitutional Reform: Next Steps for the House of Lords* issued by the Department for Constitutional Affairs in September 2003.<sup>1</sup>

2 This white paper marks the latest attempt since 1997 to reach agreement about the long term future of the UK's upper house. Over that period there have been a number of important developments, and an even greater number of proposals for future reform:

- In autumn 1998 the government issued its first white paper on Lords reform,<sup>2</sup> alongside the House of Lords Bill which set out to remove the hereditary peers from the chamber. With one amendment, which allowed 92 hereditary peers to remain in the House, the bill passed into law in 1999 and the majority of hereditaries left the chamber.
- At the same time the government set up the Royal Commission on the Reform of the House of Lords, which was required to make recommendations for a second stage of reform. Its report was published in January 2000.<sup>3</sup> It proposed that the powers and functions of the chamber remain largely unchanged, but that its composition be reformed to one which was largely appointed by a statutory appointments commission, with between 12% and 35% of the house directly elected, and all members serving 15 year terms.
- The government also announced in the 1998 white paper that it would set up a new House of Lords Appointments Commission which would have responsibility

for selecting non-party peers. This commission was established in 2000 under the chairmanship of Lord Stevenson, and made one batch of appointments in April 2001. The commission has no say in the appointment of political peers, and this rests in the hands of the Prime Minister.

- The Labour Party's 2001 election manifesto broadly accepted the conclusions of the Royal Commission, and promised to implement them 'in the most effective way possible' in order to create a 'more representative and democratic' upper house.<sup>4</sup> In November 2001 a second white paper was published, proposing a 20% elected/80% appointed house, with a preference for elections on general election day, and members serving one or two House of Commons terms.<sup>5</sup>
- The response to this white paper, both inside and outside parliament, was poor.<sup>6</sup> As well as being attacked for the relatively small number of elected members, it was criticised by members of the Royal Commission for diverging from some of their principles, for example on independence of appointments and on long parliamentary terms. During the consultation period on the 2001 white paper a detailed report was published by the House of Commons Select Committee on Public Administration, proposing a 60% elected House.<sup>7</sup>
- Following this reception, the proposals in the white paper were effectively withdrawn. In May 2002 the government announced the establishment of a joint committee of both houses of parliament, which would be asked to bring forward a range of options for the reform of the chamber, to

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<sup>1</sup> CP 14/03.

<sup>2</sup> *Modernising Parliament: Reforming the House of Lords*, Cabinet Office, Cm 4183, 1998.

<sup>3</sup> *A House for the Future*, Royal Commission on the Reform of the House of Lords, Cm 4534, 2000. Alongside its report the Royal Commission published a CD including all submissions it had received.

<sup>4</sup> *Ambitions for Britain*, Labour Party, 2001, p. 35.

<sup>5</sup> *The House of Lords: Completing the Reform*, Lord Chancellor's Department, Cm 5291, 2001.

<sup>6</sup> See *The House of Lords: Completing the Reform—Analysis of Consultation Responses*, Lord Chancellor's Department, April 2002.

<sup>7</sup> *The Second Chamber: Continuing the Reform, Fifth Report of Session 2001–02*, Public Administration Select Committee, HC 494-I, 2002.

be subject to free parliamentary votes. The Joint Committee reported in December 2002, proposing seven options for debate.<sup>8</sup> The principle to be decided was the proportion of second chamber members that should be elected, and the options provided for a 0%, 20%, 40%, 50%, 60%, 80% or 100% elected House. The parliamentary votes were held on 4 February 2003. In the House of Commons all seven options were rejected, with the most popular option being 80% elected.<sup>9</sup> In the House of Lords the only option to pass was an all appointed House.

3 This is the context in which the current white paper has been written. In the absence of agreement over the composition of a fully reformed upper house, the government now proposes to proceed with more minor reforms to 'establish the House on a stable basis'.<sup>10</sup> The white paper proposes a bill to remove the remaining 92 hereditary peers, and put the appointments process on a statutory footing. It proposes that the balance of appointments between the parties should be statutorily linked to the result of the last general election. Beyond this it seeks responses on a range of issues, including the makeup and accountability of the appointments commission, the representativeness of appointees, the size of the house, and the right for members to give up their seats. It proposes that upper house members should continue to be peers who hold their positions for life.

4 Given the debates that have gone before, some of the government's proposals are controversial. However, the spirit of this response is a constructive one, seeking to examine how the government's current stated objectives can be implemented most effectively. The Constitution Unit has in the past published a large number of documents on the wider issues in the House of Lords reform debate. These are listed in Appendix 2.

## *The Link to the Peerage*

5 Although the white paper proposes a significant reform of the appointments process, in some other important respects it is very conservative. In particular it proposes retention of life membership of the House, and also assumes that the link between the peerage and membership of the upper house will continue. These proposals are all the more puzzling given the government's previous position.

6 The 2001 white paper said:

*The Government proposes that membership of the House of Lords should cease to be connected to the peerage. As the Royal Commission emphasises, membership of the Lords should constitute a commitment to active engagement in the life of Parliament rather than the acceptance of an honour. At present the two purposes of a life peerage are muddled, with some members regarding the title as a necessary (but not always welcome) route to a seat in Parliament, while others accept peerages essentially as an honour (with any Parliamentary contribution being ancillary to the title).<sup>11</sup>*

7 The Royal Commission had gone even further in its criticism of the link, suggesting that:

*It is already the case that most hereditary peers are no longer members of the second chamber. It would be anachronistic and confusing to perpetuate the automatic link between membership of the second chamber and the possession of a peerage.<sup>12</sup>*

8 There is little need to add to these eloquent and succinct arguments, which were also echoed by the Public Administration Committee and other groups. As the Constitution Unit asked in its first report on Lords reform in 1996, 'is membership of the House of Lords a job or an honour?'<sup>13</sup>

<sup>8</sup> *Joint Committee on House of Lords Reform—First Report*, HC 171, 2002.

<sup>9</sup> For an analysis of these votes see I. McLean, A. Spirling and M. Russell 'None of the above: The UK House of Commons votes on reforming the House of Lords', *Political Quarterly*, vol. 74, no. 3, July 2003, pp.298-310.

<sup>10</sup> White paper, p. 15.

<sup>11</sup> Lord Chancellor's Department, para 78.

<sup>12</sup> Royal Commission, para 18.4.

<sup>13</sup> *Reform of the House of Lords*, Constitution Unit briefing, 1996.



9 The relationship between the peerage and membership of the Lords is two-way, reflected in the two difficulties that the previous white paper identified in maintaining the link. First, all upper house members must be life peers—but some members may want to sit in the upper house and not wish to accept a title. Although their numbers may be few, it is unnecessary for them to be faced with this dilemma. Second, and more importantly, all life peers are entitled to sit in the upper house—but honours may often be given to people who will not play an active part there. Even in a house of part time members, it is undesirable and misleading for largely or wholly inactive members to swell the chamber's size. It will make the already difficult job of the House of Lords Appointments Commission in maintaining balance and controlling the numbers in the house (as discussed below) far more difficult.

10 The proposal to leave the link to the peerage unchanged is connected to some of the other problematic proposals in the white paper. Maintaining the link implies that members will continue to be given seats for life (this difficulty is discussed in paras 57–60). Allowing all new peers to sit in the upper house will weaken the Appointments Commission by denying it control over all members appointed (see paras 57–60). Additionally, with hereditary peers outside the House but life peers inside, the status of both the peerage and the upper house becomes confusing, with the House of Lords continuing to appear a chamber of privilege. There seem to be no strong arguments, meanwhile, for maintaining the peerage link. For example, breaking the connection to membership of the House of Lords has no immediate implications for the continuance of the peerage itself.

**11 The proposal to maintain the link between membership of the upper house and the peerage is surprising, given the government's previous rejection of this approach. Maintaining the link is potentially both confusing and damaging to the House, whilst there is no good argument for its retention.**

## *Removing the Hereditaries*

12 One of the central proposals in the paper is to remove the right of the remaining 92 hereditary peers to sit and vote in the chamber. There has been much political comment about the propriety of the government taking this step now.<sup>14</sup> This is because understanding in 1999, when the compromise was agreed over the passage of the House of Lords Bill, was that this remaining group of hereditaries would continue to sit in the chamber until its final reform was complete.<sup>15</sup> Since the government is saying that the latest proposals are simply a further interim package on the road to full reform, removal of the hereditaries at this stage is seen by many as a breach of trust. It will significantly increase the government's difficulties in implementing the remainder of the package.

13 If the removal of these 92 members goes ahead there will be some significant consequences for the functioning of the house. Most obviously the Conservative Shadow Leader of the House, and nine other members of the Conservative front bench, are hereditary peers. Two members of the Liberal Democrat front bench also sit as hereditary peers. The over-representation of the hereditary peers on the frontbenches may initially seem surprising, but is less so when one considers that the 10% of hereditaries elected to remain in the House were amongst the most able and active of this group.

14 The opposition parties' loss of active hereditaries can doubtless be managed. Those on the front bench may be replaced by other active members of the House, and their overall loss can be compensated over time by appointment of new life members (indeed some current hereditary members might be amongst those offered life peerages). A bigger and less visible problem however applies to the largely independent crossbenchers. Here some explicit adjustments to the government's plans will be needed to ensure that the independent presence in the House does not suffer as a result of the hereditaries' removal.

15 The presence of crossbenchers in the House is a valued feature that the government

<sup>14</sup> See House of Lords Hansard, 18 September 2003.

<sup>15</sup> For an account of how the 92 hereditary peers came to survive the 1999 reform see Donald Shell (2000), 'Labour and the House of Lords: A Case Study in Parliamentary Reform', *Parliamentary Affairs* 52(4): 429-441.

*Table 1: Voting record of hereditary crossbenchers*

	Participation in whipped votes 1999–2002
Monson, L.	54.5%
Allenby of Megiddo, V.	47.3%
Palmer, L.	42.6%
Craigavon, V.	39.6%
Darcy de Knayth, B.	38.4%
Strange, B.	35.4%
Brabazon of Tara, L	33.5%
Tenby, V.	32.2%
Ampthill, L.	30.9%
Hylton, L.	29.2%
Saltoun of Abernethy, Ly.	28.7%
Greenway, L.	25.7%
Walpole, L.	20.8%
Bledisloe, V.	20.5%
Chorley, L	20.5%
Listowel, E.	19.8%
Erroll, E.	19.3%
Sandwich, E.	18.8%
Slim, V.	17.8%
Brookeborough, V.	15.1%
Northbourne, L.	14.6%
Bridges, L.	14.4%
Mar, C.	14.4%
St John of Bletso, L.	13.9%
Colville of Culross, V.	13.1%
Cobbold, L.	7.4%
Moran, L.	6.7%
Freyberg, L.	5.2%
Baldwin of Bewdley, E.	2.5%
Waverley, V.	2.0%
Rosslyn, E.	0.5%
Cholmondeley, M.*	0.0%

\* Note that the Marquess of Cholmondeley is a hereditary royal office holder, sitting as the Lord Great Chamberlain

and most other groups giving detailed consideration to Lords reform have aspired to keep. These members enhance the independent ethos of the house, ensure that policy must be argued on its merits rather than simply depending on whipping, and are likely to appeal to an electorate less loyal to political parties than in the past.<sup>16</sup> The current white paper echoes the sentiments of the Royal Commission, which were also repeated in the 2001 white paper and the Public Administration Committee's report, that a roughly 20% independent presence should be retained in the House after its reform. There are currently 179 crossbench peers in a chamber of 671, so these members make up 27% of the House.<sup>17</sup> However, the participation of these members is significantly lower than these figures might suggest. Many crossbenchers have important professional roles outside the House and their ability to attend is limited. Additionally, all independent members operate without a party whip and must decide themselves whether to attend and how to vote on each issue on a case-by-case basis. As a consequence of these factors the attendance record of crossbenchers is below that for other groups, and their voting record is lower still. Of the 193 crossbenchers who sat in the House during the three sessions 1999-2000, 2000-01 and 2001-02, 138 (72%) took part in fewer than one in ten divisions.<sup>18</sup>

16 Further analysis shows that the hereditaries are amongst the most active of the crossbenchers. The participation of all hereditary crossbenchers in whipped votes from 1999-2002 is given in Table 1. This shows that 25 of the hereditary crossbenchers are in the group participating in more than 10% of votes. Over the same period, this group included just 30 other crossbenchers. Whilst the eviction of the hereditaries might appear to have a limited impact—removing just 33 out of the 179 crossbenchers—it will in fact remove almost half of those members who in practice participate in

votes. This is clearly a matter of concern to those who want to maintain a significant independent presence in the House. It also raises questions about future independent appointments.

**17 Removing the hereditary peers will deprive the House of almost half its most active crossbench members. If the government wants to maintain an active independent presence in the House, serious efforts will need to be made to counteract this loss. This implies appointment of a sizeable new group of crossbench members, with an immediate emphasis on appointing those who will play an active part in proceedings.**<sup>19</sup>

18 In practice, one likely outcome may be that many of the active crossbench hereditaries are given life peerages. This would help address the short term issue. But it illustrates the challenge for the future of ensuring that the crossbench group remains a serious presence in the House.

### *Party Balance and the Size of the House*

19 The main problem with the appointments process at present is the extent of Prime Ministerial patronage. The Prime Minister of the day can decide the number of peers appointed, the party balance between them, and the overall size of the House. This provides considerable scope for manipulation. Although these powers have tended to be used with some caution, the arrangement has nonetheless disproportionately benefited the governing party.<sup>20</sup> The government's proposal that this form of patronage is to end, to be replaced by a more transparent and equitable system, is thus to be applauded. However, the proposals in the paper will require careful thought in order to be workable.

<sup>16</sup> For example just 6.1% say that they are a 'strong' supporter of a party in 2000, compared to 23.7% in 1983. Park, A. et al (2001). *British Social Attitudes*, Sage; British Election Study 1983.

<sup>17</sup> Figures correct at 20 October 2003. These include the 12 Law Lords, who are set to leave the House. Current figures are at <http://www.publications.parliament.uk/pa/ld/ldinfo/ldanal.htm>.

<sup>18</sup> This and the figures that follow draw on research for the Constitution Unit carried out by Maria Sciara, to whom we are grateful.

<sup>19</sup> Of the 15 members appointed by the Stevenson Commission in 2001, six have participated in less than 10% of votes since their appointment.

<sup>20</sup> Margaret Thatcher, for example, appointed 98 Conservative life peers and only 56 Labour life peers during her premiership, despite the overwhelming preponderance of Conservatives amongst the many hundreds of hereditary peers sitting in the chamber at that time. Source: House of Commons Library.

20 To introduce transparency and ensure a greater equity of seats between the parties in the upper house, the government proposes to give the new appointments commission a statutory responsibility to ensure that ‘the representation of the political parties should have regard to the outcome of the previous general election’.<sup>21</sup> This is a good starting point, and reminiscent of the proposal by the Royal Commission that ‘One of the tasks of the Appointments Commission...should be to achieve or maintain an overall balance among all those members affiliated to political parties...which matches the distribution of votes between the parties at the most recent general election’.<sup>22</sup> The white paper goes on to suggest that ‘the Appointments Commission’s first priority should be given to ensuring that as soon as reasonable, given the *status quo*, the governing party has more seats than the main opposition party’.<sup>23</sup> However, it states clearly that ‘the Government of the day should not have an overall majority in the House’.<sup>24</sup>

21 The white paper also emphasises the importance of keeping the overall size of the House manageable. It notes that the House of Lords, at around 700 members, is one of the largest parliamentary chambers in the world. The Royal Commission proposed a chamber of around 550, and the Joint Committee a chamber of around 600, but these figures were widely criticised for being too high.<sup>25</sup> The Public Administration Committee proposed a membership of 350, which would be more in line with the pattern overseas, where all second chambers of parliament are smaller than their respective first chambers.<sup>26</sup> Arguably an appointed house where many members attend part time needs to be larger than this—the average attendance in the House of Lords in 2002 was only 370, despite its large membership.<sup>27</sup> However, it is also likely that over time—with the balance between the parties so close—pressures to attend will grow. The white paper is sensitive to concerns

about the size of the House, in that it asks whether there should be a statutory cap on the number of members. However, its own proposal is relatively modest. It suggests that ‘The Government should aim to ensure that the House does not grow beyond its present size and reduces in numbers over time to no more than 600’, proposing that this target is reached within a decade.<sup>28</sup>

22 There is a potential conflict between rebalancing the House after every general election and keeping its size manageable. If there are big swings in public opinion between elections, large numbers of members representing the new governing party will need to be added. And if the governing party changes again at the next election, this will require addition of further political members from the new governing party, whilst the existing members maintain their seats. Achieving balance thus puts a constant upward pressure on numbers. This was a criticism levelled at the Wakeham commission’s proposals, which recommended that upper house members should sit for 15 year terms. It becomes an even greater problem if, as the white paper suggests, members continue to retain their seats for life.

23 A greater difficulty is introduced by the government’s suggestion that the rebalancing of the House might go further than simply taking account of votes cast at general elections (as the Wakeham Commission proposed). One of the most important questions in the white paper concerns whether party balance should be based only on votes cast, or whether ‘some regard [c]ould also be given to the number of seats won by each party’.<sup>29</sup> It is not clear precisely what is meant by this proposal. Basing share of seats in the Lords on share of seats in the Commons would result in a chamber that too closely mirrored the lower house, and where the government might have a majority—two scenarios that the government (rightly) has always said it

<sup>21</sup> Para 41.

<sup>22</sup> Royal Commission, recommendation 70.

<sup>23</sup> Para 41.

<sup>24</sup> Para 41.

<sup>25</sup> See debate in the House of Commons on 21 January 2003.

<sup>26</sup> See M. Russell, *Reforming the House of Lords: Lessons from Overseas*, Oxford University Press, 2000. The smaller size of upper houses is generally cited as a positive asset that improves their culture and efficiency.

<sup>27</sup> *Annual Report 2002-2003*, House of Lords, 2003.

<sup>28</sup> Para 52.

<sup>29</sup> Para 41.

**Table 2: Assumptions about vote and seat shares used for modelling**

Year	Share of votes				Share of seats				Average votes/seats				Based on
	Lab	Con	LD	Oth	Lab	Con	LD	Oth	Lab	Con	LD	Oth	
2001	41	32	18	9	62	25	8	4	51.5	28.5	13	6.5	Actual result
2005	34	42	18	6	42	52	3	3	38	47	10.5	4.5	1992 election
2009	31	42	22	5	35	58	3	4	33	50	12.5	4.5	1987 election
2013	42	34	18	6	52	42	3	3	47	38	10.5	4.5	1992 reversed

wants to avoid. We assume therefore that the government is only considering some compromise between vote shares and seat shares. For the purposes of what follows we consider the consequences of using an average between the two.<sup>30</sup> Even discounting the other difficulties caused by this proposal (discussed below) it should be immediately clear that it heightens the difficulties of maintaining party balance whilst keeping the size of the chamber under control, as fluctuations in seats between elections are often greater than fluctuations in votes.

24 To illustrate how these conflicting objectives could develop in practice, we have run four possible scenarios, based on a fairly typical situation across four general elections. These are not intended to represent predictions of future election results, but are merely illustrative of what could happen across several elections as political balance changes. We use the real data from the 2001 election but then show the next election being won narrowly by the Conservatives (using 1992 data), the election after that consolidating the Conservative majority (using 1987 data), and Labour narrowly winning back control (again using 1992 data) at the election after that.<sup>31</sup> Although these results may not be immediately in prospect, they are fairly typical of the pattern over the last 50 years.

We then tested the following scenarios, which are suggested by the white paper:

- a. Share of seats between the parties in the upper house is based on **share of votes cast**, with the priority given to **maintaining party balance**, and secondary consideration given to managing the size of the chamber.
- b. Share of seats between the parties in the upper house is based on **both share of votes cast and share of seats won** (taking an average of the two), with the priority given to **maintaining party balance**, and secondary consideration given to managing the size of the chamber.
- c. Share of seats between the parties in the upper house is based on **share of votes cast**, with the priority given to **managing the size of the chamber**, and secondary consideration given to maintaining party balance.
- d. Share of seats between the parties in the upper house is based on **both share of votes cast and share of seats won** (taking an average of the two), with the priority given to **managing the size of the chamber**, and secondary consideration given to maintaining party balance.

25 Although size is given greater importance than party balance in scenarios 3 and 4 we have in all cases assumed that the first thing the ap-

<sup>30</sup> Thus, for example, if the governing party won 60% of seats on 40% of the vote, this compromise option would give them 50% of party seats in the upper house. If the third party won 10% of seats on 20% of votes, the compromise would give them 15%, etc.

<sup>31</sup> Various criticisms may be levelled at these projections. For example it is widely argued that the electoral system is now biased against the Conservatives and that swings in votes to them will not result in such large swings in number of seats as applied at past elections. Many also predict greater vote shares in the future for the Liberal Democrats, which may translate into greater numbers of seats, so use of past data may tend to underestimate their shares of both votes and seats. However, given the impossibility of modelling these outcomes accurately, we have stuck for simplicity to actual election results.

pointments commission does after the election—as the white paper proposes—is make appointments to ensure that the governing party has a majority over the main opposition party. For simplicity we have assumed that these are made in year one after the election.

26 The results of the detailed calculations are shown in Appendix 1.<sup>32</sup> These demonstrate immediately the conflict between the two objectives of maintaining party balance whilst keeping the size of the House down. In scenarios 1 and 2, illustrated in tables A1 and A2, party balance in the House is maintained, but its size rises inexorably in order to keep up with changes in the party of government. In tables A3 and A4, illustrating scenarios 3 and 4, the size of the House is kept at broadly 600, but there are always years in which party balance cannot be maintained.

27 The tables also demonstrate very starkly the difficulty introduced by attempting to take account of share of seats in the House of Commons, rather than simply using share of votes cast. In table A2 where the priority is given to maintaining party balance according to this formula, the size of the House rises annually to reach a breathtaking 1,150 members within only 11 years. In table A4 where the same formula is used but the priority is given to keeping the size of the House down, it is not possible to achieve the correct party balance within any of these 11 years. Attempting to match this formula results in the governing party not being able to gain a majority over the opposition without breaching the 600 member limit on two occasions, the second time by over 50 members. Indeed use of this formula creates in some respects a lose/lose situation. Where a party is in power for only one term it is not possible within the size limits to provide its due share of upper house seats within its period in office. Where a party is in power for more than one term this becomes more possible (though in our scenarios is still not wholly achieved after two terms). However, this makes it virtually impossible for the balance to be reversed if the government changes, without seri-

ously breaching limits on size. In brief, a formula that takes into account share of House of Commons seats will simply result in an upper house where the party balance lags behind that in the Commons, or numbers climb uncontrollably, or both.

28 Further illustration of this is provided by scenario 3, which is the only one that even approximately works—as illustrated in table A3. Here primary importance is given to keeping the size of the House down, with attempts made to achieve party balance on the basis of general election vote shares. Both objectives can more or less be met. Party balance is fully correct around one third of the time. The 600 member limit is breached twice but in both cases the size of the House drops below its limit again within a year. However, even in this scenario there are difficulties. Apart from some disproportionality the main problem is that opposition parties can rarely, if ever, be given seats. The representation of the two main parties results from the members they are given to rebalance after election wins, and in periods of opposition must be allowed to fall. Hence when one party holds office for two terms, the other may be denied new upper house seats for eight or nine years. This is the price which is paid for keeping the size of the House in check whilst ensuring the governing party has more seats than the opposition.

29 The difficulty of managing these two objectives even when party balance is based on vote shares (which fluctuate by only around 10% for each party) helps illustrate the impossibility of managing a system where party balance takes account of share of Commons seats (which in contrast fluctuate by up to 27% in our illustrative years). However, in case there is any remaining doubt about the feasibility of such a system, it also has two other obvious problems.

30 First, such an arrangement denies seats to minor parties in a way that seems wholly unjustified in a parliament which is already dominated by the Conservatives and Labour. In the current House the Liberal Democrats have 59 seats,

<sup>32</sup> The notes in the appendix describe what rules we have followed in carrying out these calculations, and describe the results themselves in more detail. The assumptions we have made will tend to underestimate, if anything, the upward pressures on the size of the house. For example, we assume that no further appointments are made before the process begins, whereas in fact there will be pressures to award life peerages to some departing hereditary peers. We have also suggested that immediate appointment of new independent members is essential, but these have not been included in the figures.

and there are only eight seats held by other minor parties (six Ulster Unionists, and one Plaid Cymru, who sit on the crossbenches, and one Green, who sits in the 'other' group). To reflect vote shares, the minor parties would have closer to 37 seats, and the Liberal Democrats 73. However, an arrangement which took into account House of Commons seats (on the compromise formula used above) would give the minor parties only 19 additional seats and the Liberal Democrats none. It would also result in difficult questions with respect to representation of parties like the Greens, which are not represented in the House of Commons at all.

31 The second problem with this system is related. The government have repeatedly stated their commitment that no party should have an overall majority in the upper house, and this has been endorsed by the opposition parties, the Royal Commission, the Public Administration Committee and the Joint Committee. However, an arrangement that took into account seats in the House of Commons could give the governing party an overall majority amongst the party representatives in the upper house on occasion. Table 2 above shows that even a compromise formula based on the 1987 or 2001 result would give the governing party 50+% of party seats in the upper house. Given that the independent crossbenchers tend to vote rarely (see paras 14–16 above), this could give an effective voting majority to the governing party, which is against the spirit, if not the letter, of the proposals made by the government and all of these other groups. Worse still, when the governing party changed, this would run the risk of creating an upper house where the opposition party had an effective voting majority. If, as has been forecast, it was often difficult to rebalance the House quickly due to constraints on size, this would be a dangerous situation that could result in legislative gridlock. The only sure way to avoid it is to base party balance on votes cast, which are far less subject to fluctuation, and which do not (or at least have not since 1935) given an overall majority to the governing party.

**32 One of the paper's most dangerous suggestions is that party balance in the chamber could take account of shares of House of Commons seats as well as general election votes cast. Even a modest implementation of this proposal threatens to send the size of the House spiralling out of control, and could see effective control handed**

**to the governing—or even opposition—party. With party balance based on vote shares, it will already be hard to keep the size of the House within the proposed 600 member limit. Any formula including share of seats would make the proposals unworkable.**

33 The white paper also asks whether it is correct that independent members should constitute 20% of appointments. This proposal is in keeping with proposals from most other groups that have given thought to House of Lords reform (aside from those that have proposed a wholly elected House). The independent crossbenchers are a valued group in the House, and if it is not to be 100% elected, they should be retained. The crossbenchers currently make up 27% of the membership of the House. However, as pointed out in paragraph above, their attendance record, and particularly their voting record, mean that this crude figure exaggerates their role in the House. As also noted above, the removal of the hereditary peers threatens to remove some of the most active members of the crossbenches. If the house is not to include an elected element, as most previous reform packages have assumed, there are attractions in maintaining a higher level of independent members. To keep this at current proportions would require a minimum of 25% rather than 20%.

**34 The commitment to retain a sizeable independent group in the House is welcome. However, these members are always likely to vote less, and probably attend less, than political members. To retain the independent element at its current level would demand that independents made up 25% (rather than the 20% proposed) of appointees.**

### ***Making the House more Representative***

35 The white paper asks what should be done to ensure that the upper house is more representative of society. Representativeness is an issue which many groups considering Lords reform have felt important, and it was given particular emphasis by the Royal Commission. It was one of the five 'desirable qualities' identified by the Joint Committee on House of Lords reform, which nicely summarised the current position:

**Table 3: Gender balance of appointments since 1997**

	Women	Men	Total	% Women
Labour	23	88	111	21%
Conservative	5	36	41	12%
Liberal Democrat	12	24	36	33%
Crossbench	11	42	53	21%
Other	1	3	4	25%
<b>Total</b>	<b>52</b>	<b>193</b>	<b>245</b>	<b>21%</b>

*...of the desirable qualities we have listed, the present House is weakest in respect of representativeness. It is overwhelmingly male (84 per cent). It includes few young members (the average age is almost 68). It has a disproportionate number of members from the south-east and too few from the English regions. And, although more representative of ethnic minorities than the House of Commons (over 20 members), it still falls short of properly representing the UK's ethnic diversity.<sup>33</sup>*

36 The white paper also emphasises the importance of this issue for the effective functioning of the house. It states that 'The objective is to secure a House which is properly representative by nation or region, by age, by gender, by ethnic origin, in relation to disability and by faith'.<sup>34</sup>

37 In the past the government has cited the ability to create a more representative house, particularly in terms of gender, as one of the benefits of appointment as opposed to election.<sup>35</sup> However, in order to get the most out of such a system, it is necessary to be aware of the facts. Table 3 shows all the appointments to the House of Lords since Labour came to power in 1997. This shows that only one in five new appointees have been women. Amongst new Conservative Party peers only one in nine have been women. Although Labour has achieved a proportion of 21% of women amongst new appointees to its own benches, this compares unfavourably with the House of Commons, where 28% of new Labour entrants since 1997 have been women.

38 Although gender is the most visible indicator of diversity in the house, there are many other important factors, as the white paper states. Balancing expertise in the chamber is essential to its ability to do its job effectively, and other characteristics such as regional and ethnic balance are important to maintaining public support. These factors are less measurable than gender, as they rely to a large extent on self definition. But, for example, the Campaign for the English Regions has estimated that 41% of peers come from London and the South East, compared to the 26% that the chamber should contain on the basis of population.<sup>36</sup>

39 The Royal Commission recognised these facts, and proposed a strong system to ensure that diversity was achieved. They recommended that 'in making appointments the Appointments Commission should be required to ensure that members of the second chamber are broadly representative of British society on a range of stated dimensions. They should possess a variety of expertise and experience and various specific qualities appropriate to the role and functions of the reformed second chamber'.<sup>37</sup> Specifically they proposed that it 'should be made a statutory duty to ensure that a minimum of 30% of new members of the second chamber should be women, and a minimum of 30% men, with the aim of making steady progress towards gender balance in the chamber as a whole'.<sup>38</sup> The arrangements to achieve balance of expertise, region, ethnicity and faith would not be so formal-

<sup>33</sup> Joint Committee First Report, para 32.

<sup>34</sup> Para 49.

<sup>35</sup> See 1998 white paper, page 45.

<sup>36</sup> Figures provided by Andrew Holden.

<sup>37</sup> Royal Commission, recommendation 70.

<sup>38</sup> Royal Commission, recommendation 70.



ised, but would be a core part of the commission's role.

40 The suggestion in the white paper that the Appointments Commission might have responsibility for maintaining balance amongst the 20% of independent members of the house, but not amongst the party political members, falls pathetically short of this standard. If the commission is to be charged with securing a House which is properly representative, and maintains a healthy spread of expertise, it will simply not be able to do this on the basis of controlling appointments of only one fifth of the chamber. This is recognised in the white paper.<sup>39</sup> The figures above with respect to gender, however, illustrate what happens when this matter is left to the parties. The answer to the paper's question on whether the same requirements for balance should be applied to the political parties must thus be an emphatic yes. This does not require that the Appointments Commission is given complete control of political appointees (as the Royal Commission had suggested). It should be issued with firm, perhaps statutory, guidance about the need to maintain balance on a range of dimensions. Within these broad guidelines, and given the balance in the house at the time, it should then be able to direct the political parties about the overall balances which it is seeking when new appointments are made. Although the political parties would no doubt generally be able to meet the broad criteria laid down, the commission's sanction should be that it could reject lists of nominees which fail to observe those balances and ask for new lists to be submitted.

**41 The government is right to emphasise the importance of improving representativeness amongst the upper house members. This should include gender and ethnic balance, and crucially regional balance and balance of expertise, to enable the chamber to do its job effectively. However, these objectives cannot be reached if the Appointments Commission controls only the independent members. The commission need not have power to choose representatives of the political parties, but must be able to direct them about the overall balances required and to vet and reject lists of nominees submitted if they do not meet representativeness criteria.**

## *Accountability of the Appointments Commission*

42 The white paper proposes that a statutory Appointments Commission is established. The new commission will be an important constitutional watchdog so putting it on a statutory basis is an important step forward. This will give it a firm foundation to ensure its independence, and defining its composition, powers and functions will force issues to be addressed which were not properly resolved when the non-statutory commission chaired by Lord Stevenson was established. That commission got off to a shaky start in terms of the press treatment of its first list of appointments. It is vital for the statutory Appointments Commission to make a fresh start.

43 The white paper asks whether the Appointments Commission should be accountable to parliament or to ministers, and if to parliament, whether this should be solely to the Lords or to both chambers. As it points out, one of the best comparators may be the Electoral Commission, established in 2001, whose accountability is to parliament. Similar questions are currently being asked about the accountability of the proposed new Judicial Appointments Commission, announced in July 2003.

44 It is desirable to create parliamentary accountability for the new Appointments Commission. However, the detail of these arrangements will need to be carefully thought through. Some lessons can be learnt from the experience of the Electoral Commission, though the two are quite different bodies. The Appointments Commission will be far smaller than the Electoral Commission in terms of staff and budget, and will have a far more tightly defined role. In practice it will probably make appointments no more than annually, and in some years may make no appointments at all. Aside from accounting for its small budget, the main issues on which it will be examined are its ability to keep the size of the chamber in check, and its success in achieving balance between the parties and in terms of expertise in the chamber, region, gender, ethnicity and other criteria. On these matters it should be expected to submit an annual report and budget for scrutiny and approval by parliament, and a five year future plan, as does the Electoral Commission. Reporting on these matters to members of the

<sup>39</sup> Para 56.

House of Lords would be valuable, as upper house members will be aware of how the House is functioning and of any obvious gaps, particularly in its expertise.

45 The term ‘accountability to parliament’ is, however, not as straightforward as it seems. The commission would be unlikely to be properly managed if it was simply accountable to one or both of the chambers as a whole. In practice it will need to be managed by a parliamentary committee, whose smaller size and greater expertise will provide better scrutiny. The Electoral Commission reports to a special committee of the House of Commons chaired by the Speaker, whose members in turn report to the House.

46 Whilst it might appear obvious that a similar arrangement should be established for the Appointments Commission, this is not necessarily the case. Given its smaller size and workload, a committee to which it accounted would have far less work to do than the Speaker’s Committee on the Electoral Commission, and if it met only rarely, in practice it might not function effectively as a group. It might therefore be more appropriate for the commission to report to a permanent committee dealing also with other matters. It has, for example, been suggested that the new Judicial Appointments Commission reports to the Constitution Committee of the House of Lords. This would be one possibility. But it might be considered more desirable for the task to be carried out by a joint committee of both Houses, and no suitable joint committee currently exists. In this case a new joint committee should be created to monitor both of these bodies. One option would be to expand the current Speaker’s Committee into a joint committee, thus including the oversight of the Electoral Commission as well. However it was constituted, such a committee might take on oversight of other constitutional watchdogs over time.

47 It will also be necessary to consider the accountability of the commission beyond parliament. It is vital to balance the strong independence which is conferred upon constitutional watchdogs with a high degree of transparency and oversight by other watchdogs. The Appointments Commission should be subject to the Freedom of Information Act, and so come under the jurisdiction of the Information Commissioner

in terms of its handling of individual requests for information, and the quality of its publication scheme. It should also come within the jurisdiction of the Parliamentary Ombudsman, and its decisions should be subject to judicial review. In its own policies and procedures it should follow the Code of Practice of the Commissioner for Public Appointments, and be able to seek her advice.

**48 The proposal to put the Appointments Commission on a statutory footing, allowing its objectives to be set out, is welcome. So too is the proposal that it be accountable to parliament. However, this will need handling carefully, and it is desirable that the commission reports either to an existent committee, or new committee with additional duties, as in practice the role of monitoring its work will be small. Its accountability beyond parliament is also important.**

### *Membership of the Appointments Commission*

49 The white paper suggests that the Appointments Commission comprises eight or nine members, including one representative each of the three main parties and of the crossbenchers. It asks whether the chair of the commission should be chosen from among its members or appointed separately. Given that the chair will in practice be the public face of the commission (as Lord Stevenson is of the current commission) this is an important appointment, and it thus seems appropriate to recruit this as a specific post.

50 It is proposed that the political parties and crossbenchers should be able to nominate commissioners who are already members of the House. This seems a reasonable suggestion to ensure that the commission has a good understanding of the House (although this would also be provided, to an extent, by its parliamentary accountability). The white paper asks whether other independent members should also be able to be members of the House as ‘leading candidates for membership of the Commission outside the House are also likely to be among their leading candidates for membership of the House’.<sup>40</sup> This concern seems exaggerated. No one has suggested it will be difficult to find inde-

<sup>40</sup> Para 36.

pendent members of the Judicial Appointments Commission. The role of independent members in both cases is the same: to prevent appointments being restricted to a charmed circle. On the Lords Appointments Commission they must be independent in two senses—being free from party influence, and not members of the Westminster club. The second form of independence is equally important: the independent members are there to ensure that the process does not become too incestuous or inward-looking, and that the Lords (or MPs) on the commission do not simply appoint successors in their own image. In a connected point the white paper asks whether there should be a period after which former members of the commission should be ineligible to be members of the House. To avoid allegations of ‘cronyism’ this seems necessary, and a suitable period might be 10 years.

51 There are many other points about the appointment of the Appointments Commission on which the paper does not seek views, but which are important. One relates to term lengths for members of the commission. Will the party and crossbench nominees serve for the duration of a parliament, or for a fixed term? For the effective operation of the Appointments Commission it would be better to serve for a fixed term. And to ensure continuity of experience there should be rolling rotation, rather than having all the members retire at once. As was done with the Electoral Commission, that means appointing the initial members on staggered terms. We would suggest that once the commission has reached a steady state with rolling rotation, new members should be appointed for a single four year term, with no renewal. That would require it to recruit two new members each year, who could be one party/cross bench nominee, and one independent member. In the case of the Electoral Commission the governing statute is silent about reappointment and the procedure for subsequent appointments. There should not be a similar lacuna left in relation to the Appointments Commission.

52 The white paper proposes that the party and crossbench members of the Appointments Commission are nominated by their groups, whilst the independent members are ‘to be recruited through an open selection process according to Nolan principles’.<sup>41</sup> If parliament is re-

sponsible for overseeing the commission (see above), the relevant parliamentary committee should normally take charge of the appointments process. In the case of the Electoral Commission, despite the role of the Speaker’s Committee, this did not happen with the first round of appointments. Here the initial members were selected by the Home Office, with a panel chaired by the Permanent Secretary, using PriceWaterhouseCoopers to do the recruitment. That may have been necessary to get the Electoral Commission up and running as soon as possible before the 2001 general election, but it was an unfortunate precedent. The logic of parliamentary accountability would require parliament to manage the whole process, rather than delegating the function to the executive. It would involve parliament in placing the advertisements, parliament deciding whether to engage search consultants, parliament conducting the interviews. That may raise questions about parliament’s capacity to handle the process (and require early decisions about what body within parliament will in practice be responsible), but it is better to face those questions rather than allow the executive to do the initial recruitment and selection by default.

**53 If the Appointments Commission is made accountable to parliament, parliament must have full responsibility for appointing its members from the start. Members should be appointed on rolling fixed terms, as was done with the Electoral Commission. The chair is a high profile post and should be recruited separately. Independent commissioners should be drawn from outside parliament, and none should be eligible for membership of the House until 10 years after they have left the commission.**

### *Ex officio and Other Members*

54 The white paper proposes that there should be some categories of upper house member who should continue to be appointed directly by the Prime Minister. These would include up to five members per parliament to serve as ministers, and retired archbishops, Cabinet Secretaries, Chiefs of the Defence staff, House of Commons Speakers and members of the Supreme Court. Whilst it is proposed that the independent members amongst these groups

<sup>41</sup> Para 34.

would not 'count against' the 20% of independent members to be chosen by the Appointments Commission, these proposals do raise other problems. In particular they worsen the already considerable difficulties that the commission will face in keeping the chamber within its size limit, and will thus reduce its latitude for maintaining balance in the house. Second, they maintain a seemingly unnecessary element of Prime Ministerial patronage, which undermines the status of the commission as the gatekeeper to the chamber. With the possible exception of the ministerial appointees, it is not clear why these members should not be subject to approval by the commission, as many of them would clearly be strong candidates for membership of the chamber in their own right and through the normal route.

55 One reason why this difficulty may have arisen is the proposal to retain the link to the peerage (discussed above). In some cases it may be that there is a desire to honour retired office holders, even if they are not going to play an active role in the upper house. This again emphasises the benefits of breaking the link between the peerage and the chamber. If this were done the Prime Minister could continue to offer honours, leaving the Appointments Commission to consider candidates separately for membership of the upper house on the basis of the contribution they would bring to its work.

**56 The proposal that various groups continue to be appointed to the chamber directly by the Prime Minister undermines the Appointments Commission, and will make its job of maintaining balance and size limits in the house more difficult. As far as possible the Appointments Commission should have sole control over appointments to the house, and all members should be considered on their merits. Such an arrangement would be easier if the peerage link were broken.**

### *Life Membership and the Ability to Retire*

57 The white paper draws attention to the difficulty of life peers being unable to renounce their peerages, and thus being unable to leave the chamber and, if they wish, stand for election

to the House of Commons. This may indeed be a problem with the current system in some cases. However, the government's proposed solution is not the way to deal with it.

58 The paper specifically proposes to 'give life peers the option of renouncing their peerages and so become eligible to vote in national elections and to stand for election as MPs'.<sup>42</sup> This raises the potential spectre (perhaps not immediately, but over time) of ambitious upper house members entering the chamber young and using it as a launch pad for a career in the House of Commons. It is a deeply worrying suggestion that would create enormous potential damage to the culture of the chamber, which traditionally has an ethos that is more independent and less party controlled than the lower house. At its worst, this situation could become like that in Ireland, where failed candidates for the lower house frequently stand for the Senate, and then spend their time there focussing on winning back their lower house seats at the next election.<sup>43</sup>

59 To avoid such difficulties the Royal Commission proposed that those leaving the upper house should be disqualified from standing for the House of Commons for ten years after their term expires. This was an important and valuable suggestion, which the government should adopt if it wants to provide for members to leave the upper house.

60 The difficulty outlined by the government of course results largely from its proposal that membership of the chamber continues to depend on holding a life peerage. As pointed out elsewhere in this paper, this is an unnecessary and, indeed, undesirable proposal. The dilemma faced by upper house members wanting to stand down would be largely removed if appointment was for a fixed term, such as the 15 years proposed by the Royal Commission. If this were the case members could be expected to serve their full terms, barring exceptional circumstances. Introducing fixed terms would also help in the difficulties of managing the size and party balance of the house. Terms shorter than 15 years (which the Royal Commission proposed should be renewable) would however not be desirable,

<sup>42</sup> Para 71.

<sup>43</sup> See M. Russell, *Reforming the House of Lords: Lessons from Overseas*, Oxford University Press, 2000.

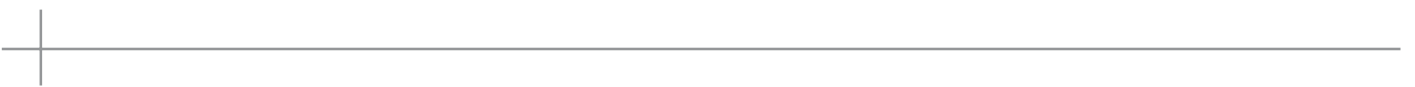
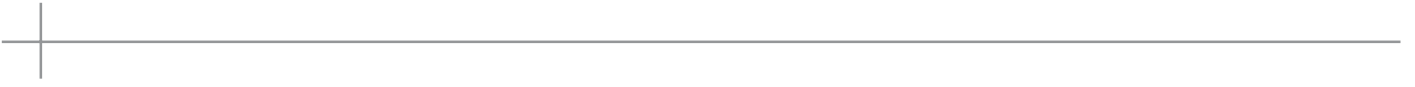
as this too would be likely to damage the independent ethos of the house.

**61 The suggestion that members of the upper house could renounce their peerages and immediately stand for the House of Commons is potentially very damaging. As the Royal Commission proposed, there should be a bar on members standing as MPs until at least 10 years after they have left the chamber. This difficulty could however usually be avoided if members were appointed for fixed 15 year terms rather than for life. This would also help with managing size and party balance.**

### *Conclusion*

62 In this paper we have made various recommendations for how the objectives set down in the white paper could best be met. We conclude that in some areas the implementation of policy has been made more difficult by the conservative nature of the proposals, in comparison to those in the government's 2001 white paper and the report of the Royal Commission.

63 The central proposal in the white paper is the establishment of an Appointments Commission, which will have responsibility for maintaining balance amongst the members of the House, and keeping its size in check. This will be a difficult job. To carry it out effectively the commission must have some sanction to ensure that party nominations meet the requirements of balance, and must be required to report regularly on its work to parliament. We demonstrate that the commission's work will be made impossible if it is required to take account of shares of seats in the House of Commons, as tracking general election vote shares is already extremely challenging. Further problems are caused by the government's proposal that membership of the House continues to depend on holding a life peerage (a suggestion that creates problems around retiring from the House). Finally, more attention needs to be given to maintaining a meaningful independent group in the chamber, particularly as this group will be badly hit by the removal of the remaining hereditary peers.



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# *Appendix 1: Tables illustrating developments of party balance and size*

In all of the tables, the following applies.

## *1. Method*

- a. The principal adjustment to take account of the election result is made in the year of the election in each case, except in 2004, when the main adjustment to accommodate the 2001 result is made. Other than in 2004 (and 2009 where party control does not change) this is done in two stages—first to give the governing party more seats than the main opposition party, and then to give all parties their appropriate share of seats.
- b. Balance of new appointments is based on correcting last year's total figure. This year's figure then results from addition of these appointments and subtraction of deaths.

## *2. Assumptions*

- a. The hereditaries are removed and no further appointments (including giving life peerages to departing hereditaries) are made before the process begins. If more appointments are made before reform, the numbers would clearly be **bigger**.
- b. Deaths are at the current level of roughly 20 per year, proportionate across the parties, with no others leaving the chamber. With the right to leave the chamber numbers might be smaller, but if younger people are appointed death rates will fall, so these may well cancel out.
- c. Number of crossbenchers is allowed to decline to 20% of the total, then is maintained at that level.
- d. To keep numbers down, once the balance in the chamber has been corrected years with no appointments generally follow, even if this means some parties go without appointment for many years. Without this, numbers would be **bigger**.
- e. Parties that are over-represented are not given any new appointees until their numbers fall, even if this means going without new appointments for many years. Without this, numbers would be **bigger**.

## *3. Notes*

- a. 'Oth p.' refers to other parties. In 2003 this group includes the six Ulster Unionists and one Plaid Cymru member who sit on the crossbenches, and the one Green member of the House.
- b. 'Ind' includes all other crossbenchers and members of the current 'other' group (six, excluding the Green).
- c. In the shaded years the balance in the House roughly matches that aspired to by the particular scenario—that is that the three main party groups and the independent group are within 1% of their target share of seats.
- d. In addition to the totals shown in the tables, the House includes the 26 bishops. Thus the actual size of the chamber is **26 bigger than shown**.

Thus for a number of reasons the projections that follow will tend, if anything, to underestimate the pressure on size of the chamber.

**Table A1: Projection based on vote shares, priority given to achieving party balance rather than controlling size**

Year	Appointments					Deaths					Total membership					Total
	Con	Lab	LD	Oth	XB	Con	Lab	LD	Oth	XB	Con	Lab	LD	Oth	XB	
					p.					p.					p.	
2003											160	182	59	8	140	549
2004	0	38	41	38	0	6	6	2	1	5	154	214	88	45	135	636
2005*	61	0	0	0	0	5	6	2	1	6	210	208	86	44	129	677
2006	47	0	24	0	24	6	6	2	1	5	251	202	108	43	148	752
2007	0	0	0	0	0	6	6	2	1	5	245	196	106	42	142	731
2008	0	0	0	0	0	6	6	2	1	5	239	190	104	41	137	711
2009*	18	0	31	0	16	6	5	3	1	5	251	185	132	40	148	756
2010	0	0	0	0	0	6	5	3	1	5	245	180	129	39	143	736
2011	0	0	0	0	0	6	5	3	1	5	239	175	126	38	138	716
2012	0	0	0	0	0	6	5	3	1	5	233	172	123	36	133	696
2013*	0	62	0	0	0	6	5	3	1	5	227	229	120	35	128	739
2014	0	52	0	5	39	6	6	2	1	5	221	275	118	39	162	815

\* Election year. Shaded years indicate when party balance is roughly correct.

### Notes

- In 2004 appointments are made to achieve party balance in the House.
- In 2005 and 2013 political control changes. In these cases the governing party is given a majority over the main opposition party in the first year. The next year the numbers of seats given to all parties are adjusted so that the main opposition party has no more than its rightful share.
- In 2009 the governing party does not change, so appointments move immediately to giving all parties their rightful share of seats.
- The House is therefore fully representative within a year of each election. However, the size of the House exceeds 600 in the first year and by 2014 has exceeded 800.



**Table A2: Projection based on average between vote shares and seats won, priority given to achieving party balance rather than controlling size**

Year	Appointments					Deaths					Total membership					Total
	Con	Lab	LD	Oth	XB	Con	Lab	LD	Oth	XB	Con	Lab	LD	Oth	XB	
				p.					p.					p.		
2003											160	182	59	8	140	549
2004	0	107	13	29	0	6	6	2	1	5	154	283	70	35	135	677
2005*	130	0	0	0	0	5	6	3	1	6	279	277	67	34	129	786
2006	64	0	10	0	35	6	6	2	1	5	337	271	75	33	159	875
2007	0	0	0	0	0	6	6	2	1	5	331	265	73	32	154	855
2008	0	0	0	0	0	6	6	2	1	5	325	259	71	31	149	835
2009*	68	0	27	4	18	6	6	2	1	5	387	253	96	34	162	932
2010	0	0	0	0	0	7	6	2	1	4	380	247	94	33	158	912
2011	0	0	0	0	0	7	6	2	1	4	373	241	92	32	154	892
2012	0	0	0	0	0	7	6	2	1	4	364	235	90	31	150	872
2013*	0	130	0	0	0	7	6	2	1	4	357	359	88	30	146	980
2014	0	82	11	12	85	7	6	2	1	4	350	435	97	41	227	1150

\* Election year. Shaded years indicate when party balance is roughly correct.

**Notes**

- In 2004 appointments are made to achieve party balance in the House.
- In 2005 and 2013 political control changes. In these cases the governing party is given a majority over the main opposition party in the first year. The next year the numbers of seats given to all parties are adjusted so that the main opposition party has no more than its rightful share.
- In 2009 the governing party does not change, so appointments move immediately to giving all parties their rightful share of seats.
- The House is therefore fully representative within a year of each election. However, the size of the House exceeds 600 in year 1 and then grows continually to reach 1,150 by 2014.

**Table A3: Projection based on vote shares, priority given to controlling size rather than achieving party balance**

Year	Appointments					Deaths					Total membership					Total
	Con	Lab	LD	Oth p.	XB	Con	Lab	LD	Oth p.	XB	Con	Lab	LD	Oth p.	XB	
2003											160	182	59	8	140	549
2004	0	12	25	34	0	6	6	2	1	5	154	188	79	40	135	596
2005*	45	0	0	0	0	6	6	2	1	5	193	182	77	39	130	621
2006	0	0	0	0	0	6	6	2	1	5	187	176	75	38	125	601
2007	0	0	0	0	0	6	6	2	1	5	181	170	73	37	120	581
2008	22	0	12	0	5	6	6	2	1	5	197	164	83	36	120	600
2009*	0	0	0	0	0	6	6	2	1	5	191	158	81	35	115	580
2010	15	0	20	0	5	6	6	2	1	5	200	152	99	34	115	600
2011	0	0	0	0	0	6	6	2	1	5	194	146	97	33	110	580
2012	5	0	5	0	10	6	6	2	1	5	193	140	100	32	115	580
2013*	0	54	0	0	0	6	6	2	1	5	187	188	98	31	110	614
2014	0	0	0	0	0	6	6	2	1	5	181	182	96	30	105	594

\* Election year. Shaded years indicate when party balance is roughly correct.

**Notes**

- In 2004 appointments are made to achieve party balance in the House.
- In 2005 and 2013 political control changes. In these cases the governing party is given a majority over the main opposition party in the first year. In subsequent years appointments are made where possible within the 600 member limit to make party balance fairer, starting with the most underrepresented party/group first. No rebalancing proves possible within the first year following the election, due to the number of recent appointments. In 2008 appointments are made to achieve balance. However, after the 2013 election this is not possible and Labour remain significantly underrepresented (37% of the house compared to their vote share of 42%) and the Conservatives significantly overrepresented (37% to their 34%). The independent group is also underrepresented at 18%. Achieving the necessary rebalancing may take some years.
- In 2009 the governing party does not change and so there is no need for an immediate change to membership. No appointments are made as the house is close to capacity, but some rebalancing to reflect vote shares is done the following year.
- The House is roughly representative in four of the eleven years, but there is a significant lag after each election. In order to keep the size of the chamber down, no appointments can ever be made to the opposition party, whichever party is in power.

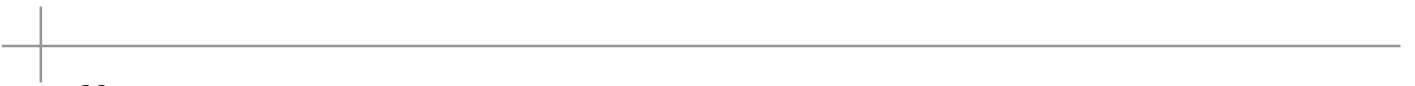
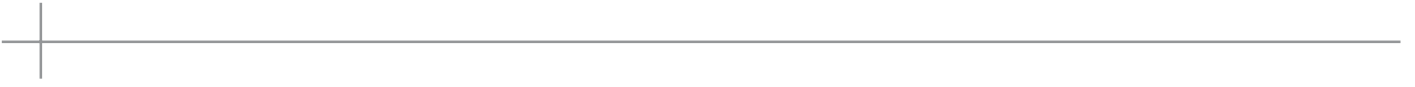
**Table A4: Projection based on average between vote shares and seats won, priority given to controlling size rather than achieving party balance**

Year	Appointments					Deaths					Total membership					Total
	Con	Lab	LD	Oth p.	XB	Con	Lab	LD	Oth p.	XB	Con	Lab	LD	Oth p.	XB	
2003											160	182	59	8	140	549
2004	0	40	0	20	0	6	6	2	1	5	154	216	57	26	135	588
2005*	63	0	0	0	0	6	6	2	1	5	211	210	55	25	130	631
2006	0	0	0	0	0	6	6	2	1	5	205	204	53	24	125	611
2007	0	0	0	0	0	6	6	2	1	5	199	198	51	23	120	591
2008	25	0	0	0	0	6	6	2	1	5	218	192	45	22	115	592
2009*	20	0	2	0	6	6	6	2	1	5	232	186	45	21	116	600
2010	10	0	5	0	5	6	6	2	1	5	236	180	48	20	116	600
2011	10	0	5	0	5	6	6	2	1	5	240	174	51	19	116	600
2012	6	0	9	0	5	6	6	2	1	5	240	168	58	18	116	600
2013*	0	73	0	0	0	6	6	2	1	5	234	235	56	17	111	653
2014	0	0	0	0	0	6	6	2	1	5	228	229	54	16	106	633

\* Election year. Shaded years (of which there are none in this case) indicate when party balance is roughly correct.

### Notes

- In 2004 an attempt is made to get party balance in the House. However, this cannot be achieved.
- In 2005 and 2013 political control changes. In these cases the governing party is given a majority over the main opposition party in the first year. In subsequent years appointments are made where possible within the 600 member limit to make party balance fairer, starting with the most underrepresented party/group first. However, no appointments are possible within the first or second year following either election, due to the number of recent appointments. In 2008 some rebalancing is possible, but this remains short of target (Conservatives on 45% compared to the 47% they should have). After the change of control in 2013 the House is significantly oversized, party balance is far from target (both Labour and the Conservatives have 43%, when Labour should have 47% and Conservatives 38%) and independent members have only 17%. But no rebalancing will be possible for two more years, so balance will almost certainly not be achieved by the next election.
- In 2009 the governing party does not change and so there is no need for a major influx of new members for that party. Some minor rebalancing is done each year to bring balance in the chamber further towards its target. However, after two terms in office this target is never reached—Labour remain overrepresented with 35% of seats compared to their 33% target.
- Using this formula the balance in the House is never close to its target, even with the size of the House breached on two occasions in order simply to make the governing party the largest party.



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## *Appendix 2: Constitution Unit publications on House of Lords reform*

- *Commentary on the White Paper: The House of Lords—Completing the Reform* by Robert Hazell, January 2002, £10.00
- *Conference Papers: The Future of the House of Lords*, April 2000, £5.00
- *Commentary on the Wakeham Report on Reform of the House of Lords* by Meg Russell & Robert Hazell, February 2000, £5.00
- *Reforming the House of Lords: Lessons from Overseas* by Meg Russell, Oxford University Press, January 2000, £18.99, available from The Constitution Unit for £14.00 + p&p
- *The House of Lords: In defence of human rights?* by Aisling Reidy, October 1999. £5.00
- *Representing the Nations and Regions in a new Upper House: Lessons from Overseas* by Meg Russell, July 1999, £5.00
- *A Transitional House of Lords: Balancing the Numbers* by Ben Seyd, June 1999, £5.00
- *Second Chambers as Constitutional Guardians and Protectors of Human Rights* by Aisling Reidy and Meg Russell, June 1999, £5.00
- *Second Chambers: Resolving Deadlock* by Meg Russell, June 1999, £5.00
- *Reforming the Lords: The Role of the Law Lords* by Richard Cornes, June 1999, £5.00
- *Reforming the Lords: The Role of the Bishops* by Janet Lewis-Jones, June 1999, £5.00
- *Second Chambers Overseas: A Summary* by Meg Russell, June 1999, £8.00
- *A Directly Elected Upper House: Lessons from Italy and Australia* by Meg Russell, May 1999, £5.00
- *A Vocational Upper House: Lessons from Ireland* by Meg Russell, February 1999, £5.00
- *An appointed upper house: lessons from Canada* by Meg Russell, November 1998, £5.00
- *Reforming the Lords: A step by step guide* by Ben Seyd & Robert Hazell, January 1998, £5.00
- *Reform of the House of Lords* by Nicole Smith, April 1996, £15 (Briefing £3.00)

