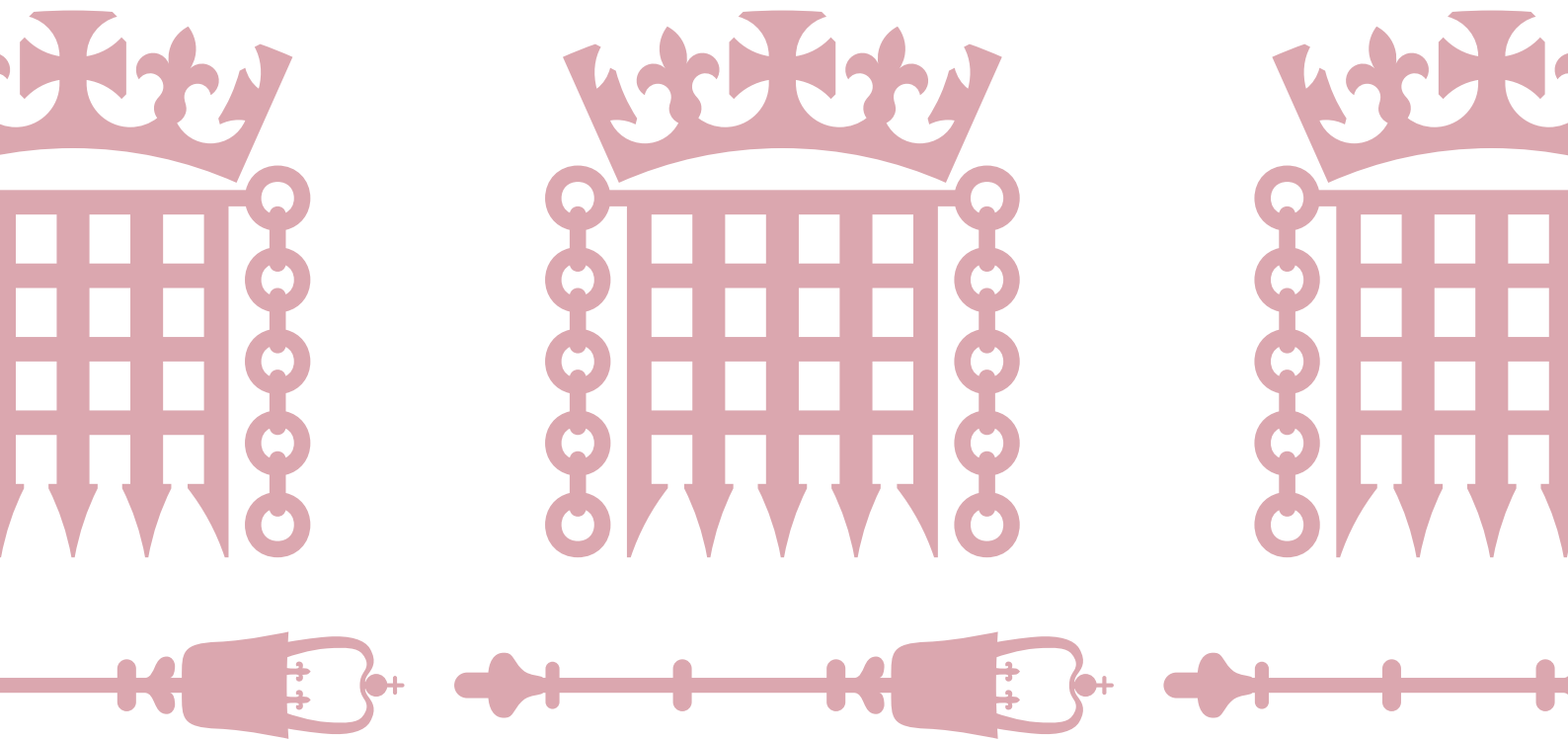


Lord Speaker



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

Published on 17 July 2023

Introduction

1. This is the fifth report of the Lord Speaker's committee on the size of the House since our establishment in 2016. In our first report, we described how the House of Lords could be reduced in size in a sustainable and fair way using its powers of self-regulation rather than legislation, pending any more fundamental reform. The proposals were debated in the House and received overwhelming support from members, which they continue to enjoy.
2. The key elements of our proposals were as follows.
 - (a) Cap on the size of the House of 600 members.
 - (b) Reduction to 600 members over a decade, under a 'two-out, one-in' formula.
 - (c) Fixed terms of 15 years for new members to generate sufficient turnover.
 - (d) A fair allocation of appointments reflecting the most recent general election results.
3. Prime Minister Theresa May responded positively to the report, and in the first two years of the scheme good progress was made in reducing the size of the House. However, Prime Minister Boris Johnson showed no interest in the issue of the size of the House. While the number of departures from the House continued to be broadly in line with our benchmarks, the number of appointments far exceeded them and they were granted predominantly to members of his own party.
4. In recent months, there have been further developments which have brought the appointments system into question. Most notably, there was considerable controversy over the size and composition of Prime Minister Boris Johnson's resignation list, with over half of initial nominees not being approved by the House of Lords Appointments Commission (HOLAC). There is also concern that, because the Conservatives now have so many more members than Labour, the next Labour Prime Minister will appoint a large number of new peers in order to get the Government's business through the House (though this has been denied by the Labour leadership).
5. In the House of Commons, meanwhile, the Commons Public Administration and Constitutional Affairs Committee has launched a new, wide-ranging inquiry into the House of Lords. It will cover the appointments process, the role of HOLAC, the size of the House (including a possible cap and term limits) and related issues.
6. Against this background of a renewed focus on the membership of the House of Lords, and our awareness that the parties will be in the process of drafting their manifestos for the next general election, we concluded that now was an opportune moment to publish a further report. This report not only provides an update on the departure and appointment statistics, but also draws wider lessons from the experience of the last six years and suggests how the key elements of our proposals might best be implemented.

The numbers

Progress on departures against benchmark

7. We have reviewed the departure and appointment figures as they stood at the end of June 2023. The overall number of actual departures has exceeded the benchmark for the period to June 2022 but is some way short of the benchmark for June 2023, as shown in the table below. Similarly, the actual number of Conservative, Labour and Crossbench departures lies somewhere between their June 2022 and June 2023 benchmarks. The departure figures for the Liberal Democrats have been below our benchmark. Nonetheless, if our proposals for appointments had been followed as closely as those for departures, the size of the House would now be much smaller, and the reputation of the House would be correspondingly stronger.

Group	Retirements	Deaths	Total departures	Benchmark 2022	Benchmark 2023
Con	41	16	57	48	64
Lab	21	27	48	38	51
LD	6	7	13	18	24
XB	30	15	45	35	47
Other	9	3	12	11	14
TOTAL	107	68	175	150	200

New members

8. Based on this number of actual departures, the 'two out, one in' formula would have allowed for 88 new members. In reality, there have been 168 new members. The table below shows how many new members each group has had, against the number they would have received if 88 new members had been allocated year by year based on the most recent election results.

Group	New members	Benchmark	Variance
Con	88	33	+55
Lab	26	24	+2
LD	1	4	-3
XB	37	20	+17
Other	16	7	+9
TOTAL	168	88	+80

Analysis

9. Since the departure benchmarks have nearly been met, while the number of appointments has been almost twice the size of our suggested benchmark, there has effectively been a 'one-out, one-in' outcome rather than 'two-out, one-in' as we proposed. The result is that the House has broadly stayed the same size instead of shrinking significantly. If our proposals for appointments had been followed there would be 80 fewer members than there are today.

10. Moreover, the preponderance of Conservative appointments has altered the balance of the House in the Government's favour to a greater extent than would have been the case under our formula, based on the general election results of 2017 and 2019.
11. We note that some of the excess appointments over the last few years can be attributed to events which arose from the turbulent political climate, most obviously a short parliament and several changes of prime minister, involving dissolution and resignation lists. We suspect that the House would be even larger than it is now if the main governing party had changed during this period (something which has happened only twice in the last 26 years) because changes in government lead to 'leap-frogging', whereby the incoming party feels the need to appoint new members to its benches in order to strengthen its numbers and get its business through.
12. Under the committee's proposals for a cap and fair appointments system, leap-frogging would not be an issue because the appointments formula would dictate the number and allocation of new appointments. There could be temporary flexibility in the cap for an incoming government, if necessary, and for the appointment of ministers to the House (for example, the government could have an 'advance' on the new members it is due).

Lessons learned

13. We now consider the lessons of the last six years and their impact on our proposals.

Sequencing

14. The committee's original proposals had two elements: first, the task of reducing the House to 600 members ('the transition'); and second, a system for maintaining a cap on the size of the House while also ensuring sufficient turnover, using fixed terms, and allocating new appointments in a way which fairly reflects each party's electoral fortunes over time ('the steady state').
15. The committee has already accepted that its original timetable for the transition to a House of 600 was too slow and vulnerable to political events, and suggested how it might be shortened. But one of the lessons of the last few years is that there is little point in going through a difficult period of reducing the size of the House if the progress is likely to be undone by excessive new appointments subsequently, particularly if those appointments are not fairly balanced between the parties in the way proposed by the committee.
16. Instead, it may be more effective to seek to secure a limit on the size of the House and a fair way of allocating appointments before endeavouring to reduce the size of the House or introduce term limits for appointments. Ideally this would be achieved through legislation, but since this is unlikely to be a government priority there could be a formal agreement between the main party leaders for the time being. This would ensure that retirements would not be cancelled out through excess future appointments, thus encouraging more members to take retirement with confidence.

Hereditary peers

17. In our previous report we concluded that "the time has come to abolish by-elections to replace departing hereditary peers", noting that "the preponderance

of Conservatives and Crossbenchers amongst the hereditary peers distorts the balance of the House, and this distortion would only be exacerbated in a House of 600 members”.

18. That preponderance is marked: of the 90 hereditary peers, 75 of them are subject to a fixed allocation between the groups. The other 15 hereditary peers are elected by the whole House, but there is an understanding that the current allocation between the groups will be maintained. Taking that into account, the totals (which under the current legislation would remain unchanged no matter how small the House became, and regardless of the electoral successes of the respective parties) are as follows.
 - Conservative – 51
 - Crossbench – 30
 - Labour – 4
 - Liberal Democrat – 5
19. There are other substantial objections. First, nearly all hereditary peers – and 100 per cent of the current 90 – are men. This skews the gender balance of the House and is impossible to justify in a modern legislature.
20. Second, hereditary peers elected to the House are not subject to any propriety checks. By contrast, all life peers are vetted by HOLAC, and some are screened out. This difference of treatment in a House of peers is unjustifiable.
21. We thus reiterate our firm conviction that the House of Lords Act 1999 must be amended as soon as possible to discontinue the hereditary peer by-elections. Our sentiments are very widely shared across the House: a series of private members' bills to abolish the by-elections have received strong support and only failed due to determined filibustering by a small number of members and an absence of Government support. With Government support, this small but important reform would be readily achievable.

Crossbenches

22. The system for appointing Crossbench members – one of the most distinct and valuable elements of the House – is now a muddle. The regime introduced by Prime Minister Tony Blair involved HOLAC appointing most of the Crossbench peers and the Prime Minister making up to 10 non-HOLAC Crossbench appointments per parliament. This is no longer observed. Instead, there has been a much greater number of prime ministerial appointments of Crossbench and unaffiliated peers, while HOLAC has been limited to a maximum of two or three appointments per year, with none at all in five of the last 10 years. While HOLAC appointed 59 peers in its first 11 years, it has only been granted 15 appointments in the subsequent 11 years.
23. HOLAC's aim is to appoint individuals who “will add to the breadth of experience and expertise that already exists within the House of Lords, and also help ensure the House fully represents diversity within our country”. It puts considerable effort into selecting and vetting the people who can best meet the needs of the House and show a willingness to participate regularly. HOLAC's vital task cannot be achieved

with the small number of appointments seen over the last 11 years. Prime Ministers need to revert to a maximum of 10 non-HOLAC Crossbench appointments per parliament, and increase the number of members which they allow HOLAC to appoint.

Key elements of our proposals

24. We have suggested that the reduction in the size of the House to 600 could become a second order priority, to be implemented once a sustainable system of appointments has been embedded. This sustainable system would have three elements:
 - (a) a cap on the size of the House;
 - (b) term limits to allow refreshment and rebalancing of the House; and
 - (c) a fair allocation of new party appointments based on the last election.
25. Any set of proposals for the future must embrace all three of these elements: while some of the details can be changed, any attempt to 'cherry pick' one or two of the elements would render the whole package ineffective. The following paragraphs explain why each of these elements is so important.
26. The **cap on the size of the House** is needed:
 - (a) to encourage party leaders to give more thought to their nominations, as HOLAC has urged, and incentivise them to pick people who will play an active part;
 - (b) to increase the focus of the media and the public on the important work of the House and the effectiveness with which the active membership carries it out; and
 - (c) to prevent 'leap-frogging' when governments change (although, as above, there could be temporary flexibility at the start of a new government's term).
27. The cap does not necessarily have to be 600: it could be higher, at least in the medium term, though we continue to believe that the House of Lords should be smaller than the House of Commons. The key is to secure agreement on a cap and to ensure that it is enforceable.
28. **Fixed terms** are needed to secure sufficient refreshment and adjustment of the party balance amongst the membership, particularly after a change in government. For example, in a House of 600, fixed terms of 15 years would secure a predictable and steady rate of around 40 leavers per year, while 20-year terms would secure about 30 per year. This would provide room for the necessary new appointments.
29. A fair **allocation of regular appointments** between the parties is necessary in order to avoid each new government having to appoint large numbers of new peers in order to have a chance of getting its legislation through the House. Clearly the government should have the largest share of new appointments, but the numbers should not be so skewed that the following government has to respond in kind. The committee suggested that new appointments should be allocated on the basis of an average of each party's share of (a) Commons seats and (b) the national vote at the most recent general election. This would have a gradual impact on the political

balance of the parties, reflecting each party's electoral fortunes over time while also allowing each party to refresh its own membership.

Conclusion

30. If the Labour Party were to form a government after the next general election, they would be in a difficult position in the House of Lords. At present they have 181 members from a House of 824 – not much more than 20 per cent. Even when bishops and Crossbench members are disregarded, Labour has under 30 per cent of peers. The number of Conservative members is 50 per cent higher than the number of Labour members and as a group Labour are now smaller in size than the Crossbench group.
31. As set out above, we have recommended that each year's political appointments should be allocated according to the results of the most recent general election, taking an average of their share of the seats in the Commons and their share of the national vote. On this basis, whether taking the last 15 or the last 20 years, the Labour Party is significantly under-represented. Furthermore, almost one-third of their members are aged 80 or over. The average age of the Labour group is, at 75, more than seven years higher than for the Conservative group.
32. If Labour do enter government, there will be considerable pressure to increase their membership in the House of Lords in order to fill all the necessary frontbench roles and to progress their legislative programme as set out in their manifesto. That is a challenge for the Labour leadership and is not a matter for us, though we have suggested that in these circumstances new governments might be able to bring forward some of the appointments to which they would later become entitled under our proposals.
33. Whatever the political complexion of the next government, it is important that in the future we do not find ourselves again in a position where the main opposition party is considerably under-represented in the House and has a raised age profile reflecting insufficient refreshment. The proposals we made six years ago were in part intended to avoid this situation. A fair balance of appointments, together with the ending of the hereditary peer by-elections, is crucial if we are to have a House which is limited in size and has a fair and effective composition.
34. Whatever the longer-term proposals for the role and composition of the second chamber, dealing with this situation is important. We hope that the leaders of the main parties can be persuaded to recognise the danger that exists in the present arrangements for both the reputation of the House of Lords and its effectiveness in a well-functioning parliamentary system.