

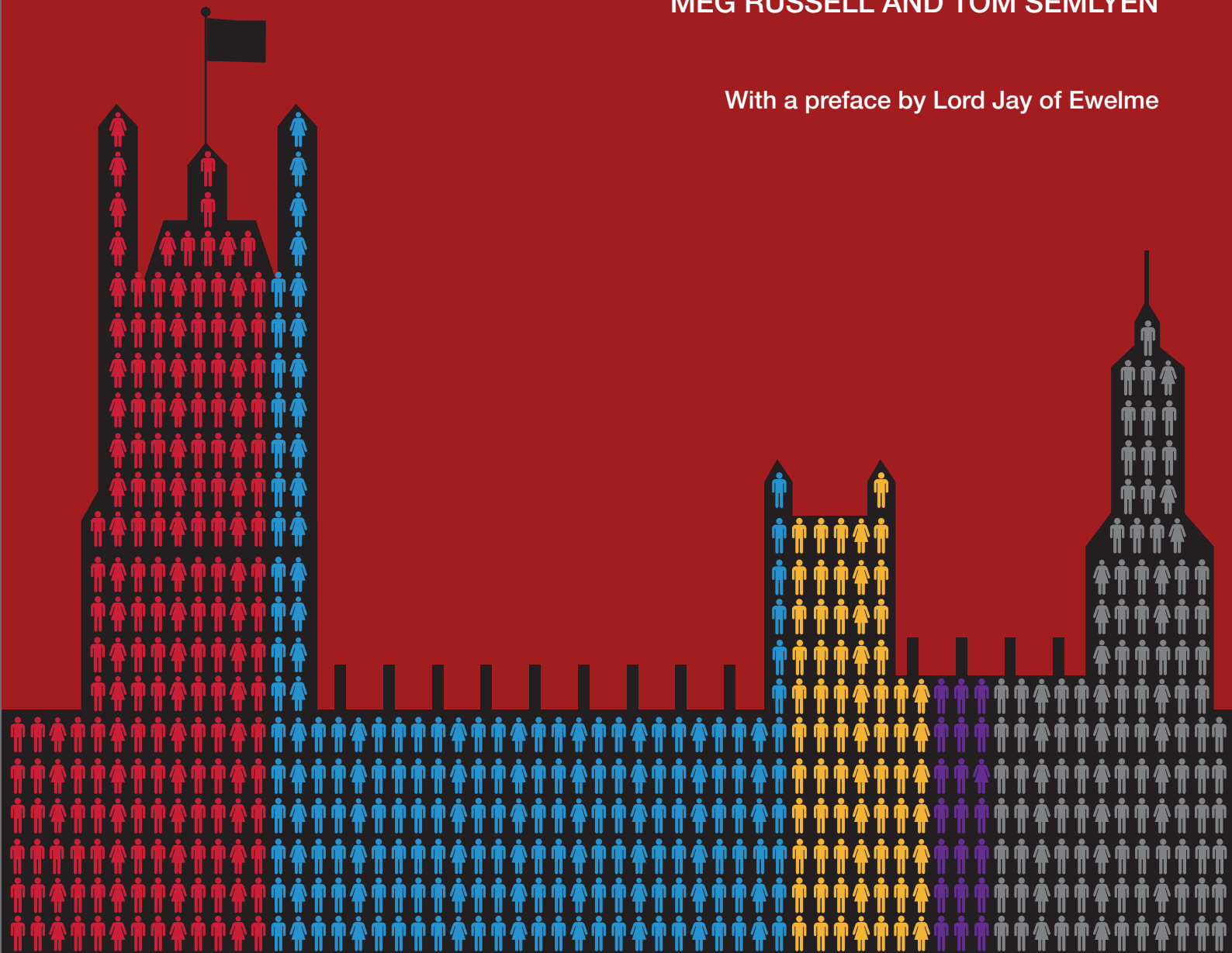


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ENOUGH IS ENOUGH REGULATING PRIME MINISTERIAL APPOINTMENTS TO THE LORDS

MEG RUSSELL AND TOM SEMLYEN

With a preface by Lord Jay of Ewelme



Enough is enough

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Preface by Lord Jay of Ewelme

There is widespread agreement that a second chamber is a necessary part of the British constitution – to examine and improve draft legislation, to hold ministers to account and to conduct enquiries into current issues. There is widespread agreement too that the House of Lords performs these functions well, but urgently needs reform if it is to continue to do so.

The present system of appointments, by which each newly elected government seeks to right the balance created by the appointments of its predecessor, leads to a remorseless ratchet upwards in the size of the House of Lords – already the largest parliamentary chamber in the world outside the People’s Republic of China – to the point at which it is increasingly unsustainable. Worse still, our political system, which has managed successfully over the last 300 years to adapt to changing circumstances, now seems, at least as far as the Lords is concerned, unable to do so.

Meg Russell’s expertise on the Lords and Lords reform is well established, and widely respected. There are various models for reform: elected or appointed or a mixture of the two; or a reflection in some way of the federal system to which, following the Scottish referendum, we seem inexorably to be moving. In every case, a reformed House of Lords must be substantially smaller than at present. But how to achieve this, and persuade the political parties that the new system is fair, is complex and needs proper analysis.

This report from Meg Russell and Tom Semlyen provides detailed, objective analysis of the short-term options available to control the size of the House of Lords, and argues persuasively that immediate action is needed to regulate the present system by which members are appointed. If the growing clamour for a constitutional convention to consider the implications of devolution for the United Kingdom wins the day, it will inevitably be some time before longer-term Lords reforms are agreed. Meanwhile there are dangers that the valued functions of the Lords are undermined by the numbers entering the chamber.

Many have previously proposed that, for so long as appointments continue, a formula is needed for fair allocation of seats between the parties. But a detailed analysis of the various formulae available has not previously been conducted. By doing this work, Meg Russell and Tom Semlyen make an important contribution. Their report’s recommendations should be taken seriously by all those who want to protect the ability of our parliament to function efficiently and effectively. With the 2015 general election rapidly approaching, and the possibility of further appointments, these matters need urgent attention.

Executive summary

- Large-scale House of Lords reform has long been on the political agenda, but there has been no further progress since Labour's removal of most hereditary peers in 1999. That reform strengthened the chamber, but the level of recent appointments risk weakening it again. In the 15 years since 1999 the Lords has grown in size by one third: from 666 members to 850. Even if large-scale reform is pursued by the next government post-May 2015 it will take time, and there will meanwhile be pressure for further appointments. This report takes no position on large-scale reform, but seeks short-term solutions to this immediate problem.
- Currently there is no regulation of prime ministerial appointments at all (except vetting for propriety), and prime ministers can thus choose both how many peers to create, and the party balance between them. Successive premiers have used this power to advantage their own side through appointments, which creates a ratchet effect upwards on the size of the chamber. It also demonstrates how party balance in the Lords can be readily manipulated.
- The only small-scale reform since 1999 has been agreement of the Steel/Byles bill (now the House of Lords Reform Act 2014), which allows members to retire. But retirement alone is inadequate to deal with the chamber's worsening size problems. It is widely recognised that an agreed formula for sharing out new appointments between the parties is needed. Various formulae have been suggested in the past, but their effects have not previously been tested.
- This report contributes to the debate by testing the workability of the three main formulae previously proposed. We do this for different electoral conditions – using scenarios of large, medium or small fluctuations in party support over three elections 2015-25.
- Our analysis confirms that the formula in the 2010 coalition agreement of achieving proportionality across the chamber in relation to general election vote shares is unworkable and unsustainable. It would require the chamber to grow post-2015 to between 941 and 1340 members. By 2025, numbers would be between 1354 and 2207. A different formula is needed.
- We also test the formula in earlier versions of the Steel bill to give the winning party a 3% lead over its main rival after each election. This better contains the size of the chamber, but only by denying renewal to non-governing parties. Allowing renewal removes its size advantages.
- The third formula is the most sustainable. This bases each new round of appointments on general election vote shares (rather than using these to balance the chamber as a whole), with 20% for Crossbenchers. It results in a relatively stable membership, and allows the size of the chamber to be managed down over time. Applying this formula on a 'one-in-two-out' basis over 10 years would enable the Lords to shrink by roughly 100 members. Higher shrinkage could almost certainly be achieved in practice through coupling with voluntary retirements.
- We suggest two specific additions to this formula. First, it should operate alongside an agreed size cap, probably of 550 or 600 members – with numbers managed down to this level, and thereafter maintained. Second, there should be a threshold to exclude extremist parties such as the BNP. Additionally, the formula could be adjusted to guarantee the governing party at least equality with the main opposition – which increases size, but only slightly.
- Having identified a sustainable formula, it is for the political parties to agree the way forward. It would simply be irresponsible for any future Prime Minister to continue with the status quo, and post-May 2015 a new approach to Lords appointments is essential. The parties should be pressed to immediately hand the House of Lords Appointments Commission the power to police the new formula and size cap. If such changes are not made, more radical options exist, such as the House of Lords refusing introductions to new members.

Key conclusions and recommendations

- The House of Lords is too important for its membership any longer to be left to prime ministerial whim. The chamber's growth in size in recent years demonstrates that unregulated prime ministerial appointments are no longer sustainable. A more regulated and defensible system is needed, with immediate effect.
- Historically Lords reform has proceeded in small steps, and the most recent such step was introduction of retirement in 2014. But reforming how members depart the chamber without regulating how they arrive is doomed to be ineffective; without a transparent formula for sharing future appointments between the parties (and Crossbenchers) most peers will not retire for fear of weakening their group. The next urgent small-scale reform is thus regulating the way into the chamber and limiting prime ministerial patronage powers. This requires a clear formula for sharing seats between the parties, and a maximum agreed size for the chamber.
- A workable formula must meet three criteria: providing transparent fairness between the parties (and Crossbenchers); allowing the size of the chamber to be controlled (and ideally managed down); and allowing all main groups in the chamber adequate renewal.
- Our detailed analysis of different election scenarios shows clearly that a formula based on seeking to achieve proportionality in the chamber is unworkable and has an unsustainable ratchet effect. A formula based purely on advantage for the winning party, in contrast, has arbitrary effects on third and minor parties. The most workable formula is one based on proportionality within each new round of appointments. This can allow the size of the chamber to be managed downwards, and can be adjusted if desired to ensure that the winning party is not disadvantaged (by guaranteeing equalisation after each election).
- If a maximum size for the chamber were set at 550 or 600, it seems plausible to achieve this in the next 5-10 years by adopting such a formula, combined with the explicit encouragement of retirements. If peers are assured that future appointments will be sustainable they might well be persuaded, in return, to pursue large-scale retirement schemes more vigorously.
- As the Political and Constitutional Reform Committee (2013) pointed out, there is an urgent need for a sustainable formula for future Lords appointments by May 2015 – and we have now set out what this formula should be. Parties will no doubt remain committed in principle to large-scale Lords reform, but until such time as that is achieved it would simply be irresponsible for any future Prime Minister to continue with the status quo.
- The House of Lords Appointments Commission should police the new system, inviting nominations from the parties as vacancies in the Lords occur. Crucially, no legislation is needed in order to effect this change – all the Commission needs is a new direction from the Prime Minister to extend its role.
- David Cameron and Ed Miliband should both be urged – by those inside and outside parliament – to commit to a new approach to Lords appointments from May 2015. That is, for the incoming prime minister to give additional power to the House of Lords Appointments Commission as set out above.
- Democracy and constitutional reform pressure groups have a responsibility to hold the party leaders to account on this matter – they should not turn a blind eye to

unregulated prime ministerial patronage, no matter their views on larger-scale Lords reform.

- If the incoming government does not adopt a new approach to House of Lords appointments, the chamber itself may wish to act. One option is clearly a Private Member's Bill, but that would take some time. Another option which remains available is for the Lords to refuse introduction of new members until a fair and sustainable formula for future appointments is agreed.
- Whether or not the incoming government adopts a new approach to House of Lords appointments, the House of Lords Appointments Commission should begin to produce regular statistics on the pattern of Lords appointments and how these compare to the kind of sustainable formula set out in this report.

Introduction

In recent years controversies over appointments to the House of Lords have frequently hit the headlines. Prime Minister David Cameron's round of appointments in August 2014, when an additional 22 peers were created, was just the latest in a long line of similar media storms – the last having occurred exactly a year earlier, in August 2013.¹ Had the Prime Minister not conveniently timed both of these sets of appointments during the summer recess, questions would doubtless have been raised about them in parliament. Since 2010 peers in particular have expressed growing concern over the rate of appointment to their chamber, and this has been echoed by the Commons Political and Constitutional Reform Committee (2013), in particular. Such concerns are admittedly not wholly new – Tony Blair's peerage creations often attracted criticism, and similar arguments have flared up even in previous centuries.² But under the 2010 coalition such arguments, and particularly concern about the growing size of the Lords, have reached new proportions. There is an increasing sense that unregulated prime ministerial appointments have become both indefensible and unsustainable.

One solution is of course large-scale Lords reform – for example to replace the appointed chamber with one that is elected. However, repeated attempts at this by successive governments have failed. Most recently the coalition's House of Lords Reform Bill, championed by Nick Clegg, was withdrawn in 2012. Major reform remains on the political agenda, and is likely to be promised by the parties in their 2015 manifestos. Pressures for greater devolution following the Scottish independence referendum of September 2014 have given renewed life to these debates. But even if the government elected in 2015 proceeds with a Lords reform bill, and even in the event that it succeeds, any change will inevitably take time. Notably, it took more than two years from the 2010 election for the coalition's bill to be published, let alone agreed. In the meantime Lords appointments will continue.

Our own recent research has shown how the post-1999 House of Lords became influential on policy, and in turn on the culture of British politics; other respected commentators agree.³ The removal of most hereditary peers gave the chamber a new confidence, partly because it became more fairly balanced between the parties. This was good for the Lords, and strengthened parliament as a whole. But precisely because the chamber now matters more, party leaders are keener to appoint to it. Ironically, these unregulated appointments risk significantly weakening the chamber. There are now three interrelated concerns. First, the chamber's growing size; second, potential manipulation of its membership to meet party-political ends; and third, the resultant reputational damage to the Lords. Yet there are serious political obstacles to finding a solution. All political parties are notionally committed to further Lords reform, so view the current situation as 'temporary', and in the meantime all tend to view Lords appointments in terms of their own short-term interests. But the longer we wait for large-scale reform (and we have arguably already been waiting over 100 years), the more serious and urgent the day-to-day problems created by unregulated appointments to the Lords become.

Following the collapse of the coalition's bill in 2012, the Political and Constitutional Reform Committee (PCRC) sought to concentrate minds on the immediate priorities for small-scale reform, through its inquiry *Lords Reform: What Next?* It urged acceptance of the private member's bill promoted by Dan Byles MP and Lord Steel of Aikwood, which provided for retirements from the Lords. This has since become the House of Lords Reform Act 2014. But the committee recognised that such a change tackled only one small part of the problem. Its report concluded that 'the most contentious of all the issues' needing resolution, 'but also the most crucial' is how Lords appointments are shared out between the political parties (Political and Constitutional Reform Committee 2013: 3). Like several other committees before it, the PCRC hence strongly recommended that the parties should reach agreement on a formula to govern future

appointments, but stopped short of suggesting what such a formula should be. No further progress has subsequently been made.⁴

The purpose of this report is to explore the options for an appointment formula, and to make concrete recommendations, in order to encourage progress on this increasingly urgent matter. The report takes no position on large-scale Lords reform, arguing that an appointments formula is needed in the short term whether or not such reform proceeds. Various formulae for sharing out seats in the Lords have been put forward in the past. Most recently, the 2010 coalition agreement suggested that the overall party balance in the chamber should be brought into line with general election vote shares - which has been widely criticised for implying an unsustainable growth in size.⁵ The coalition has thankfully not stuck to this pledge, but its underlying logic has nonetheless influenced the large numbers of recent appointments. Alternative formulae for sharing out party seats have been proposed in the context of Lords reform – appearing for example in party manifestos, government white papers, parliamentary committee reports and earlier versions of the Steel bill. But to date, no detailed analysis has been conducted on the likely effects of these alternative schemes. Such analysis is not straightforward, as the precise effects of different formulae depend on unknown factors such as future general election results. Yet some estimates are needed in order to determine what formula the parties should now adopt.

The primary purpose of this report is thus to test the effect of different formulae for appointments to the Lords under different electoral conditions. We identify three main options, based on a review of past formulae proposed. Each is tested across a cycle of three elections (in 2015, 2020 and 2025). Results obviously depend on the outcome of these elections, so we also test three different scenarios – of large, medium and small fluctuations in party support over time. This modelling process shows that only one of the three formulae adequately meets the basic criteria of transparency and fairness between the parties, sufficient renewal on all party benches, and managing the chamber's size. This allows us to make a clear recommendation to the parties about what needs to be done.

The main body of the report is structured in six sections. First we spell out in more detail the current problems concerning House of Lords appointments. Next we review the various formulae that have appeared in past proposals for Lords reform. After this we briefly set out our methods and assumptions. The central section of the report then considers the likely effects of these three formulae across different election scenarios. We follow this by considering some small adjustments to the chosen formula to make it more workable in practice. Finally in the closing section we set out our concrete recommendations for change.

In summary, we argue that it is time for unregulated prime ministerial appointments to the Lords to end. The House of Lords now plays an important part in British politics, and in the scrutiny of government legislation, and its membership can no longer properly be left to prime ministerial whim. Instead both the number of new appointments, and the balance between the parties among new appointees, should be regulated. New appointments should be governed by a transparent formula based on proportionality across each new group of appointees, with a guaranteed 20% for independent Crossbenchers. The size of the chamber and the operation of the formula should both be regulated by the House of Lords Appointments Commission. This would not prevent party leaders (including the Prime Minister) from choosing who their appointees are, but it would ensure fairness between the various groups in the chamber and stop its size getting further out of control. Indeed, as we demonstrate, the proposed formula could allow numbers in the chamber to be managed down to a more acceptable level – if further reform stalls once again. It is ultimately for the parties (and particularly the governing party) to make decisions on adopting an appointments formula. But if they fail to do so, there may be other means of making progress – as indicated in the conclusions to the report.

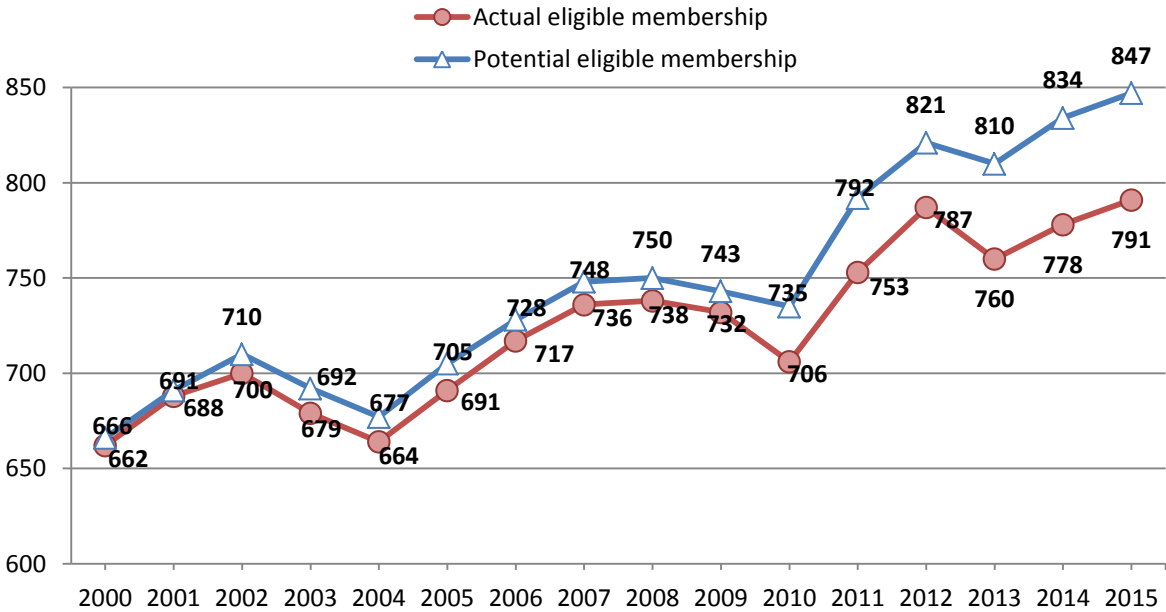
The problem

Currently the Prime Minister has absolute discretion to decide how many members of the Lords should be appointed, when, and how each new batch of appointments should be balanced between the parties (and independent Crossbenchers). This unregulated power gives the executive a remarkable degree of control over the composition of parliament. It also creates various practical problems. The most visible, and most widely commented upon since 2010, is the chamber’s growth in size. Connected to this is a second problem: that the Prime Minister can potentially manipulate Lords numbers to create a more favourable environment for the government. These two problems, plus the publicity around each batch of new appointments, create a third problem: reputational damage to the chamber. But there is also a fourth problem, of political intractability. We summarise each of these four problems here, before turning to our analysis of what can and should be done.

The size of the Lords

The House of Lords’ growing size has attracted particular attention since 2010. Annual figures for the chamber’s size since most hereditary peers were removed in November 1999 are shown in Figure 1. Immediately after that reform, in January 2000, 666 peers were potentially eligible to attend. Of these, 662 had an immediate right to do so (the difference between these two figures – which has grown substantially over time – is discussed below). Since then there has been a general trend upwards in Lords membership, which has been particularly sharp post-2010. During the periods of Blair and Brown government 1999-2010 the chamber’s potential eligible membership increased to 735: an increase of 69 members in just over 10 years (i.e. roughly seven members per year). Post-2010, up to start of January 2015, the chamber’s potential eligible membership grew by a further 112 in just four and a half years (i.e. roughly 25 members per year). This left the number of potentially eligible members at 847 – i.e. 181 members higher than in 1999. Over 15 years the size of the chamber has thus grown by nearly one third.

Figure 1: House of Lords membership 2000 –2015

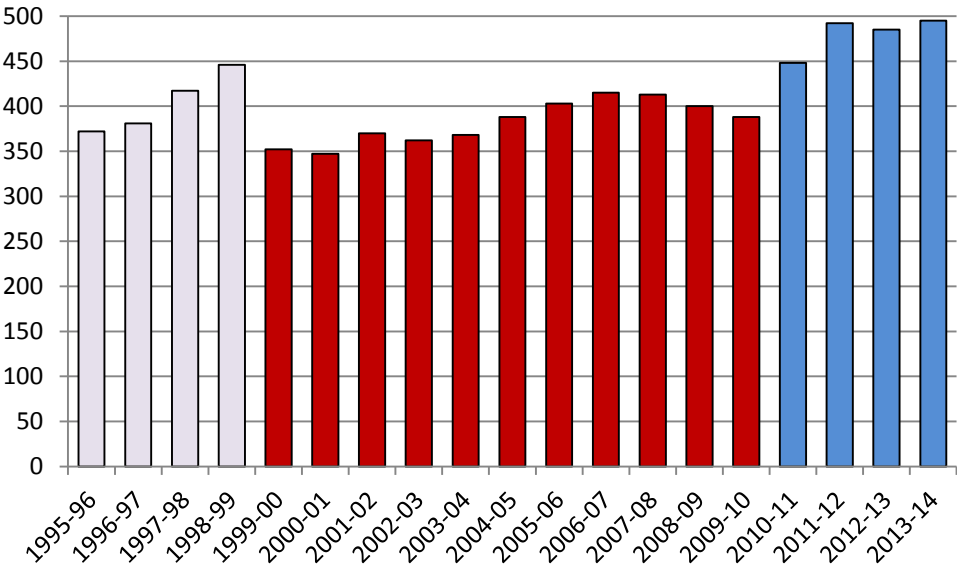


Source: Figures published by House of Lords Information Office in January each year
 For a longer view of the number of life peers, see Appendix 1

House of Lords membership figures are complex, and subject to constant change. Growth created by newly appointed members is, at least to some extent, offset by deaths among existing members. As membership is for life many peers are elderly, and there were over 200 deaths in the period December 1999 - January 2010 (i.e. roughly 20 per year). The overall appointment rate was thus far higher than that indicated above. Peers who are in poor health are increasingly encouraged to take ‘leave of absence’ – voluntarily withdrawing from attendance on a temporary basis. This accounts for most of the difference in Figure 1 between ‘actual eligible membership’ and ‘potential eligible membership’. By January 2015 there were 47 peers on leave of absence, plus an additional eight temporarily disqualified (e.g. as holders of high judicial office), and one suspended. The chamber’s actual eligible membership was thus 791. But this figure is not directly comparable with the 662-member total in January 2000. Since leave of absence has been more explicitly encouraged in recent years, many more at the earlier point attended only rarely.

Change in the size of the actual, active House is perhaps better reflected in Figure 2 – which shows the chamber’s average daily attendance since the 1995-96 session. Attendance increased over the period 1999-2010, from 352 members on average in 1999-2000 to 388 members in 2009-10 (having reached a peak of 415 members in 2006-07). It then rose sharply in 2010-11, to 448, and by 2013-14 had reached 495. In the 2014-15 session it will inevitably have increased further. This general upward trend is striking in itself, but it is particularly notable that average daily attendance now significantly exceeds that in the pre-1999 chamber, despite over 650 hereditary peers having been excluded.⁶ The working Lords is now far bigger than it has ever been, and has increased by around 150 members in the 15 years 1999-2014.

Figure 2: Average daily attendance in the Lords 1995-96 - 2013-14 sessions



Source: Vollmer (2012) to 2010, updated to 2014 using House of Lords annual reports

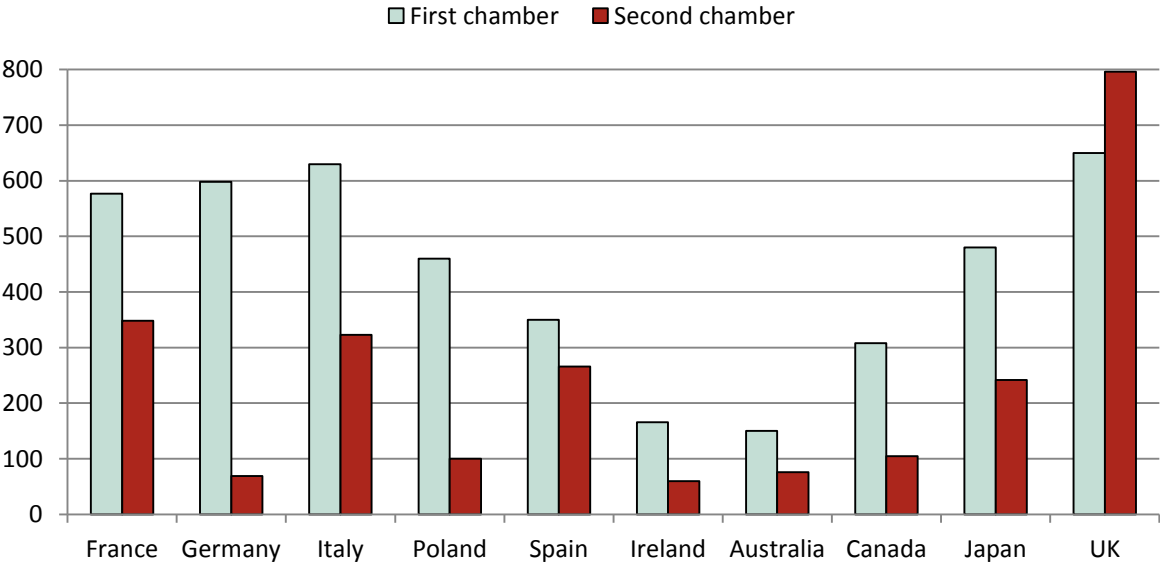
The growing size of the chamber post-2010 has led to increasing concerns being expressed, particularly by peers, about the practical consequences. Following David Cameron’s second large round of peerage creations in early 2011, the Constitution Unit published a report entitled *House Full: Time to Get a Grip on House of Lords Appointments*, signed by various senior figures from across the political spectrum (Russell et al. 2011). This attracted significant media attention.⁷ The report noted that ‘the addition of 117 new peers in less than a year is unprecedented in recent times, and has had negative effects on the functioning of the chamber. Any further increase in size risks rendering the House of Lords completely unable to do its job’ (ibid: 3). In particular the authors

drew attention to the increasing cost of the Lords, pressure on the chamber’s administration (e.g. office and library space), and far greater competition among members for debating time.

Similar concerns have been aired repeatedly, and with increasing urgency. Most notably, on 28 February 2013 the Lords debated a motion, proposed by Lord Steel of Aikwood, that the chamber should deny an introduction to any new peers until a retirement scheme had been brought into effect. This proposal was not pressed to a vote, but members overwhelmingly agreed (by 217 votes to 45) an amendment to the motion that ‘restraint should be exercised by all concerned in the recommendation of new appointments to the House’. Shortly beforehand, the Lord Speaker Baroness D’Souza had suggested publicly that ‘[i]f we don’t reform and shrink our numbers, the Lords will collapse under its own weight’, citing increasingly ‘unruly’ and ‘raucous’ debates, meaning that ‘the Lords is in danger of becoming less effective’.⁸ In 2014 she reiterated those claims, citing reports of ‘more jostling and bullying for seats and opportunities to be heard at question time’, and debates ‘coming under increasing time pressure as more and more members wish to speak, all to the detriment of our ability to hold the government to account’. She added that ‘costs will rise. We cannot therefore ignore the problem’.⁹ Another debate on the chamber’s size on 6 January 2015 attracted comments from former Conservative Chief Whip Lord Cope of Berkeley that ‘[m]ost if not all of us regret the consequences of the great increase in the number of active Members... we all agree that the House cannot go on growing as it has been doing’.¹⁰

The Lords is an unusual chamber, where members are unsalaried, and some contribute only on a part-time basis. But comparisons with other parliaments are nonetheless instructive. Figure 3 shows the size of first and second chambers in various established parliamentary (rather than presidential) democracies – in Europe plus Australia, Canada and Japan. Several national parliaments in Europe have first chambers of a comparable size to the House of Commons: 577 in France, 598 in Germany, 630 in Italy and 460 in Poland. But in all cases the second chamber is far smaller than the House of Lords. Indeed, according to the Inter-Parliamentary Union database, among the world’s 76 bicameral nations the Lords is the only second chamber to be larger than its respective first chamber.¹¹ It is the largest second chamber in the world by a long way – the next largest being the French Sénat at 348, and Italian Senate at 323. As is often noted, the Lords is the second largest parliamentary chamber in the world, overshadowed only by the 3000-member Chinese People’s Congress.¹²

Figure 3: Size of first and second chambers in 10 established democracies



Source: Inter-Parliamentary Union Parline database, accessed 18 August 2014

Political balance in the Lords

The House of Lords came to play a more important part in British politics post-1999, due to its transformation from a chamber dominated by Conservative peers to one far more balanced between the parties. Despite prior expectations that the removal of hundreds of Conservative legislators would weaken parliament against a Labour government (see quotations in Russell 2010), the reform gave the Lords a new sense of legitimacy and confidence. Although Labour was stronger in the chamber than it had previously been, it was always easily outnumbered by the other two parties. In addition independent Crossbenchers and other non-aligned peers potentially held the balance of power.

Table 1 shows the same membership figures that appeared in Figure 1, broken down by political party. We see that in 2000 the Conservatives remained the largest party, and Labour had only 181 seats out of 662 (27.3%). But Labour gradually gained strength, overtaking the Conservatives in 2006. By January 2010, there were 22 more Labour than Conservative peers (though at 211 seats out of 706, Labour still represented just 29.9% of the chamber). Appointments by the coalition have explicitly sought to redress this balance, and by 2014 the Conservatives were again the largest party. Tony Blair also created large numbers of Liberal Democrat peers, and that pattern has subsequently been maintained. Since January 2000 the number of Liberal Democrat peers has almost doubled. Following David Cameron's various rounds of appointments, by January 2015 the coalition parties jointly had 334 Lords seats out of 791 (42%)

Table 1: House of Lords membership by party, 2000 - 2015

Year	Conservative	Labour	Lib Dem	Other	Total
2000	232	181	54	195	662
2001	231	199	62	196	688
2002	221	200	65	214	700
2003	215	188	65	211	679
2004	210	181	64	209	664
2005	202	201	68	220	691
2006	205	208	74	230	717
2007	206	211	78	241	736
2008	202	216	78	242	738
2009	198	216	72	246	732
2010	189	211	72	234	706
2011	204	233	83	233	753
2012	218	239	91	239	787
2013	212	224	90	234	760
2014	221	220	99	248	778
2015	229	216	105	241	791

Source: Figures published by House of Lords Information Office in January each year. Excludes peers on leave of absence, disqualified and suspended.

One of the factors driving membership growth is the understandable desire by party leaders (particularly the Prime Minister) to strengthen their own party. As the Lords has come to matter more in policy terms, this has become an increasing priority. But there is also an established convention that the Prime Minister appoints from other parties as well as his/her own, and that the Crossbench group should be maintained. This is a positive characteristic of the British system (compared for example to Canada, where Senate appointments are wholly partisan). But it means

that if the Prime Minister wants to gain an advantage for their party they must appoint even greater numbers of peers.

Although there is a clear convention of appointing across the party spectrum, there has never been an explicit formula for how appointments between the parties are shared out. Table 2 shows the pattern of peerage appointments by party for each Prime Minister since the Life Peerages Act passed in 1958. Three things are notable from this table. First, all prime ministers have appointed from across the political spectrum. Second, all prime ministers with the exception of Heath have nonetheless appointed more peers from their own party than from the main opposition party, and indeed more than for the two opposition parties combined.¹³ So these elements are nothing new. But the third notable feature is the change post-2010: not only has David Cameron appointed to the Lords at a faster rate than any of his predecessors (see ‘average per year’ column), but his appointees have also been far more tilted to the government side. In total, 62% of appointments have been to the governing party benches. Among new party peers 75% went to the government side – a higher proportion than for any Prime Minister since Callaghan (see ‘party % govt party’ column). This is clearly in part due to there being two parties in government – the proportion of Conservatives appointed among party peers was 47%. But Cameron has also appointed relatively few Crossbench/other peers: just 13%, compared to 26% under Blair, 20% under Thatcher and 40% under Callaghan.

Table 2: Peerage creations 1958-2015, by Prime Minister and party of peer at appointment

	Con- servative	Labour	Liberal/ SDP/ Lib Dem	Cross- bench /other	Total new peers*	Average per year	Party % govt party	Total % govt party
Macmillan (Con) 1958-63	29	20	-	35	84	16	59%	36%
Douglas-Home (Con) 1963-64	11	9	-	6	26	26	55%	42%
Wilson (Lab) 1964-70	20	62	6	53	141	25	70%	44%
Heath (Con) 1970-74	8	9	2	26	45	12	42%	18%
Wilson (Lab) 1974-76	22	39	6	13	80	38	58%	49%
Callaghan (Lab) 1976-79	5	29	1	23	58	19	83%	50%
Thatcher (Con) 1979-90	98	56	10	41	205	18	60%	48%
Major (Con) 1990-97	75	40	17	28	160	25	57%	47%
Blair (Lab) 1997-2007	62	162	54	96	374	37	58%	43%
Brown (Lab) 2007-2010	4	11	2	17	34	12	65%	32%
Cameron (Con/LD) 2010-15	76	47	40	24	187	40	75%	62%

Source: Macmillan – Major: Brocklehurst (2008); Blair – Cameron: Brocklehurst (2013), updated with appointments to 31 December 2014. Excludes bishops, and ‘law lords’ appointed under the Appellate Jurisdiction Act 1876.

*For details of the effects of these appointments on the overall number of life peers see Appendix 1.

The present situation is deeply unsatisfactory. The Prime Minister can in theory appoint whatever number of people to the Lords he wants, with whatever balance he wants between the parties. He can use this power to significantly reduce resistance in the chamber to government bills. Indeed he could potentially even appoint enough peers to give himself a majority in the chamber. Peerage creations have thankfully not been abused in this way, and the convention of appointing from both government and non-government parties is a valuable and important part of the system. But prime ministers still disproportionately appoint to the government side, and David Cameron has strongly done so – despite the 2010 coalition already being better represented in the Lords than Labour ever was post-1997. This constant desire by governments to seek party advantage has an upward ratchet effect on the size of the House of Lords, which has had particularly serious consequences under the coalition. Should the 2015 general election bring a change of government, Labour might enter office wanting to enhance its Lords numbers again, which could have disastrous effects. There is hence an urgent need to find a more sustainable way forward.

The reputation of the Lords

The primary problems are the previous two: the unsustainable growth in the size of the chamber, and the connected lack of clarity about how seats should be allocated between the parties. These in themselves are serious enough, as they directly affect the ability of the House of Lords to do its job. But they also contribute to a third problem, by damaging the chamber's reputation. This potentially weakens the Lords further still.

An analysis of media mentions of the House of Lords 1999-2012 showed that – contrary perhaps to expectations – the chamber was often presented positively (see Russell 2013: chapter 9). But positive stories were those that focused on the chamber's work, rather than on questions of how its members are chosen. So for example the Lords was frequently praised for its careful scrutiny of government legislation, the quality of its debates, and its defence of principles such as civil liberties. Negative stories tended to be those focused for example on appointments, or Lords expenses. In particular there was a large negative spike caused by stories about the latter in 2009.

This analysis ended on 30 April 2012. But anecdotal evidence suggests that the number of negative stories about the Lords has continued to rise. In particular, each new round of appointments has been accompanied by media coverage about the growing size of the Lords, and the extent of the Prime Minister's 'cronyism'. The Lord Speaker's own article in *The Times* in 2013 was headed 'We're in danger of becoming a place of ridicule'.¹⁴ And that does seem to be a serious risk. The round of appointments in summer 2014 was greeted with headlines such as 'This House of Cronies discredits our politics' (*Daily Mail*, 4 August 2014), 'House of Lords fury as David Cameron packs unelected chamber with Tory donors and cronies' (*Daily Mirror*, 8 August 2014), 'PM risks "cronyism" charge with peerage for donor' (*Independent*, 7 August 2014) and 'Cameron accused of "degrading" Parliament as he is set to hand out peerages to up to 20 party political cronies' (*Daily Mail*, 3 August 2014). Such headlines damage the reputation of the House of Lords, and in doing so further weaken its ability to operate effectively. They are also, of course, potentially damaging for the Prime Minister and for the wider reputation of politics.

Complexity and political intractability

The growing size of the Lords, the ability to manipulate its partisan balance, and the reputational damage that can result are all serious problems. Yet they consistently fail to get dealt with, due to the difficult political environment in which the House of Lords exists. In particular, plans to reform the chamber have never been far from the government's agenda in the period since 1999. After the supposedly 'first stage' of reform the Labour government published three separate white papers dedicated to plans for the next stage, in 2001, 2003 and 2008.¹⁵ Lords reform subsequently formed part of the Brown government's Constitutional Reform and Governance Bill – though these elements were dropped before the bill was passed in 2010. The coalition then published a further white paper, alongside a draft bill, in 2011.¹⁶ This was followed by a final bill, which was formally introduced but then dropped in 2012. Throughout the same period there were numerous other initiatives on Lords reform, including a Royal Commission, and reports from various parliamentary committees.¹⁷ (A full summary of these initiatives can be found in chapter 10 of Russell 2013).

Hence the post-1999 House of Lords has tended to be seen as in a 'transitional' state pending the next stage of reform, and the question of managing Lords appointments has not been taken particularly seriously – at least until recently – as a result. If 'wholesale' Lords reform is just around the corner, after all, the current arrangements might soon be swept away and replaced. Political parties have thus tended to view Lords appointments only through their own short-term interests, while campaign groups have focused on the ultimate goal of large-scale reform, and rarely commented on the need for smaller-scale more interim changes. But developments over the

past 15 years, and indeed over the preceding century and more, suggest that we cannot simply assume big reform is coming. Despite the string of white papers and alternative proposals since 1999, actual reform has remained elusive. This is in line with the longer history of the Lords. It is small, relatively incremental reforms (such as those in 1999, and before that in 1958, 1963, 1949 and 1911) that tend to happen, while larger-scale proposals tend to fail.¹⁸

The latest large-scale reform proposals to collapse were those in the bill sponsored by Nick Clegg in 2011-12. When this was withdrawn, as a consequence of inadequate support from either Conservative backbenchers or the Labour opposition, attention did shift to smaller-scale more achievable reforms. During this period the House of Commons Political and Constitutional Reform Committee (PCRC) issued two reports in an attempt to keep up momentum for the most urgent changes. The first, published before the collapse of the Clegg bill, noted that (Political and Constitutional Reform Committee 2011: 4):

Governments have envisaged radical reform of the composition of the upper House for over a century, without seeing these plans reach complete fruition. The current Government no doubt intends that its proposals will be an exception to this trend, but it needs to ensure that the country is not left with a bloated, dysfunctional upper House if radical reform were to stall.

Predicting the possible collapse of the coalition's proposals, the committee concluded that 'those proposing radical reform need also to address other incremental, urgent reforms that would improve the functioning of the existing House of Lords' and that the 'current, effectively untrammelled, process for making party-political appointments to the House of Lords... threatens that House's effective functioning ... [and] is a pressing issue that cannot wait four years to be resolved' (ibid: 7).

The set of smaller-scale reforms which have attracted most attention in recent years have been those proposed in Private Members' Bills by Lord Steel of Aikwood. Lord Steel proposed similar bills in every session from 2006-07 to 2009-10.¹⁹ These initially sought both to allow retirement from the chamber, and provide some regulation of appointments. Steel ultimately trimmed these ambitions to deal only with retirement and expulsion in the 2010-12 version of his bill. After the government's Lords reform bill was withdrawn, the PCRC sought to maintain momentum by launching an inquiry entitled 'Lords reform: what next?', gathering evidence from a range of witnesses. One of the committee's main conclusions was that the 'Steel bill', by now being promoted by Dan Byles MP in the Commons (and later sponsored by Lord Steel when it reached the Lords), should be supported. This bill went on to become the House of Lords Reform Act 2014. But the PCRC emphasised – as indicated below – that it was only a partial solution to the urgent problems facing the Lords.

So what is to be done?

In terms of small-scale reform, more political energy to date has gone into allowing peers to retire than to addressing the problems with appointments. That is, attention has focused primarily on the way *out* of the House of Lords rather than the way *in*. Some clearly hope that retirements will allow the size of the chamber to shrink. For example Baroness D'Souza's article headed 'We have far too many peers' continued by suggesting that 'a humane cull is required', and 'timely retirement is now a public duty'.²⁰ The debate in January 2015 considered options for organised large-scale retirements, including the proposal from a Labour Peers' Working Group (2014) that members should be encouraged to retire at the end of the parliament in which they turn 80.²¹

But it is widely accepted by those who have studied the detail that retirements from the chamber are, by themselves, unlikely to have much effect on its size. The voluntary retirement scheme for

peers introduced in 2011 was taken up by only three members, and to date only five further members have made use of the provisions in the 2014 Act. While retirement may be part of a solution, it is unfortunately unlikely to have much effect at all until the way *in* to the chamber is regulated.

The question of retirement from the chamber was considered in detail by a group convened by the Leader of the House of Lords, chaired by Conservative peer Lord Hunt of Wirral, which reported in 2011. This group emphasised that retirement provisions were necessary, but not sufficient – and indeed that introducing retirement without greater regulation of appointments to the Lords could prove ineffective. As the Leader’s Group on Members Leaving the House (2011: 12) emphasised in its report:

One of the obstacles for anyone contemplating an end to their participation in the work of the House, whether at present by Leave of Absence or in future, potentially, by retirement, is the uncertain consequence for the balance of parties and groups in the House. Since there is no pre-determined size for the House, and no generally-accepted understanding of the proportions in which each party and group should be represented, a member contemplating retirement could have no firm expectation that a new member of their party or group would be appointed to take their place. A member might therefore be reluctant to take advantage of such provisions for fear that their party or group would be weakened, and there is certainly no incentive for party managers to encourage their members to retire.

It therefore urged ‘that the party leaders and the Convenor [of the Crossbench peers] should develop a new understanding, in the light of the recent change of Government, about the proportion of seats in the current House on which it would be appropriate for each party or group to rely’ (ibid). The need for a more sustainable basis for Lords appointments was echoed three months later in the Constitution Unit’s *House Full* report (Russell et al. 2011), which emphasised the need to ‘get a grip on Lords appointments’.

In considering the new context after the collapse of the Clegg bill, and in line with its previous comments, the Political and Constitutional Reform Committee (2013: 3) joined these calls, suggesting that:

... the scope for establishing a consensus about the principles which should determine the relative numerical strengths of the different party groups in the House of Lords, and for codifying such principles... is perhaps the most contentious of all the issues considered as part of the inquiry, but also the most crucial. We call upon the Government and political parties in the Lords to set out their positions on this matter and to engage in dialogue with a view to establishing a consensus before the next General Election.

In December 2013 former chair of the Lords Constitution Committee Professor the Lord Norton of Louth made the same case, urging that ‘there should be a protocol, a formula, on the balance between the parties in order to prevent another escalation in membership’.²²

However the government’s reply to the PCRC effectively dismissed its proposal, commenting that (Political and Constitutional Reform Committee 2014: 5):

The Government remains committed to comprehensive reform of the House of Lords. However, in the absence of wider reforms which would reduce the size of the House, the Government remains of the view that the correct approach to party-political nominations is that set out in the Programme for Government [i.e. the coalition agreement].

This ‘approach’ is the first of the three formulae that we test below – finding it to be neither what the government has implemented, nor sustainable as a way forward. But the Political and

Constitutional Reform Committee had not proposed a specific alternative formula which the parties might be pressed to adopt.

Notably there was nothing new about the PCRC proposals; they were wholly consistent with the conclusions of select committees in the previous parliament. In its report on *Propriety and Peerages* the House of Commons Public Administration Select Committee (2007: 60) had noted that:

Experience shows that the failure to find consensus on a comprehensive reform package can prevent progress on the running repairs that are needed now. We recommend that the next stage of Lords reform should not wait for a consensus on elections.

The committee went on to suggest that (ibid, 63):

Provision should be made to ensure that the Prime Minister no longer determines the size of the House of Lords and the party balance of the nominated element. The size and the proportion of non-partisan members may be determined in statute, but the party balance should be variable along with the prevailing mood of the nation. A formula should be devised, as the Government suggests. This formula should then be administered by the [House of Lords] Appointments Commission.

Although the committee's preferred mode of implementation was through statute, it noted that the Prime Minister could voluntarily give up these powers to the Appointments Commission at any point, without the need for a bill. Nonetheless, no action followed.

What has been consistently lacking to date is any detailed analysis of how different formulae for sharing appointments to the Lords between the parties (and crucially also the Crossbenchers) would work in practice. That is the gap that our report seeks to fill. As the Political and Constitutional Reform Committee has stated, it is urgent that this matter is addressed before the looming general election, if numbers are not to get further out of hand. In seeking a formula, and particularly when considering the available options closely, it becomes clear that there are three fundamental criteria that such a formula must meet:

- First and foremost, it must be transparent and based on a clear principle of fairness between the parties, and between them and independent Crossbenchers.
- Second, it must allow the size of the House of Lords to be kept under control. Indeed, given the current problems, it should ideally allow the size of the chamber to fall, and in future to be kept within agreed limits.
- Third, and slightly in tension with the second point, though consistent with the first, the formula must ensure that all main groups in the chamber have sufficient membership renewal to continue to function effectively (the importance of this point becomes clear when considering formula 2, below).

In the next section we review the main formulae that have been proposed in the past, and then go on to test their effects against these criteria. In doing so, we seek to present workable proposals that the parties can consider and the government should adopt. Having pointed out the clearest way forward, we hope that those campaigning for change – both inside and outside parliament – will be able to coalesce around these proposals.

Past formulae proposed for appointments to the Lords

As indicated above, various formulae have been suggested for the allocation of seats between parties in the House of Lords, particularly in the context of proposals for Lords reform. A close examination of the most serious proposals suggests that they can be grouped into three broad categories: proportionality across the chamber, government as largest grouping with no overall majority, and proportionality across each new batch of appointments. We discuss each of these briefly in turn.

Formula 1: Proportionality across the whole chamber

The first formula seeks to match the party composition of the House of Lords with the share of votes won in elections. This formula was expressed in the coalition's 'Programme for Government' (HM Government 2010: 27), as follows:

In the interim [i.e. before the proposed move to an elected chamber], Lords appointments will be made with the objective of creating a second chamber that is reflective of the share of the vote secured by the political parties in the last general election.

It is this formula in particular that has come in for recent criticism. The *House Full* report, which included calculations of the number of new peerage appointments that it would imply for the 2010 parliament, concluded that it was 'unrealistic', 'foolish and unsustainable' (Russell et al. 2011: 11). To rebalance the chamber in line with the 2010 general election would have required appointment of at least 269 additional peers, taking the size of the chamber to well over 1000.²³ These would have included 24 UKIP and 16 BNP peers. Thankfully, despite an unprecedented number of new appointments 2010-14, the coalition has not applied this formula to anywhere near its full extent. The chamber is hence still not proportional to 2010 vote shares. Nonetheless, a report by the Electoral Reform Society (2013) projected the possible effects of applying the formula after the 2015 election, suggesting that the size of the Lords could quickly reach nearly 2000 members.

Perhaps surprisingly, the Royal Commission on the Reform of the House of Lords (2000: 137) had also recommended that:

...the overall balance between the political parties in the second chamber should reflect the share of votes cast for each party at the previous general election. This will be achieved by appointing party-affiliated members to the various party groups in the numbers required to produce the appropriate balance.

But the Royal Commission's thoughtful report also recognised the problems that too rigid an application of this formula might cause for the size of the chamber. It thus suggested that the 'Appointments Commission must be given considerable leeway in deciding how quickly to rebalance the new House and how arithmetically precise any rebalancing needs to be' (ibid). The government white paper published in response to the Royal Commission's report came to a similar conclusion, recommending a process ensuring that the chamber's 'political membership comes fairly closely to reflect [the political parties'] share of the votes at the preceding General Election' (Lord Chancellor's Department 2001: 25).

Whether the problem of growing numbers could be adequately dealt with through loose interpretation of the formula was not fully addressed in either the Royal Commission report or the white paper and is open to doubt. But it was, in any case, to be applied in very different circumstances to those presently prevailing. As the Royal Commission report (2000: 137) noted,

the task of the Appointments Commission (which under its model would be fully responsible for all appointments) would:

... be made easier by the fact that our other recommendations should ensure a sufficiently high turnover of members to enable the Commission to engage in these essential “rebalancing” exercises without, in the great majority of circumstances, having to appoint an unduly large number of new members.

This was because the Royal Commission envisaged members appointed (or elected, in the case of a minority) to serve fixed 12-15 year terms. One third of members would hence depart after each election, creating a large number of vacancies. This is clearly a very different situation to one where peers continue to be appointed for life. The government’s 2001 white paper anticipated even shorter terms, of perhaps 10 years, but nonetheless emphasised that flexibility over the formula would be needed. Hence its comment that ministers were ‘inclined to add a rider to the general requirement to achieve balance so that the first duty on the Appointments Commission would be to achieve a lead for the governing party over its main Opposition’ (Lord Chancellor's Department 2001: 31). This brings us closer to the central principle of the second formula.

Formula 2: Government as largest grouping with no overall majority

The second group of formulae prioritise the need for the governing party to have the largest number of peers, while also generally conceding that no party should have an overall majority in the chamber. The government’s 2003 white paper, which set out principles for an all-appointed chamber in the absence of agreement on the Royal Commission’s proposals, used this formula. It stated that ‘the Government of the day should not have an overall majority in the House’, but proposed 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’ (Department for Constitutional Affairs 2003: 39 - italics in original).

A similar principle appeared in Lord Steel’s initial four, ultimately unsuccessful, House of Lords reform bills (these ambitions were later dropped, and the bill reached the statute book in 2014 containing more limited provisions, allowing for retirement and expulsion of non-attendees and serious criminals). The first two of these bills (in 2006-07 and 2007-08) proposed that ‘no one party shall have a majority of members in the House’ and that ‘the Government of the day shall be entitled to have a larger number of members than the official Opposition’. They also went further, to propose that ‘the Government majority over the Opposition shall be no greater than three per cent of the total membership of the House’ (House of Lords 2007: 3).

Steel’s later two bills (in 2008-09 and 2010-12) left this formula essentially the same, but updated it to allow for coalition government, stating that ‘the Government of the day (*or in the event of a coalition of parties forming a Government, the largest party in the coalition*) shall be entitled to have a larger number of members than the official Opposition’ (House of Lords 2008: 4; 2010: 4, emphasis added). A similar formulation appeared in the proposals for small-scale Lords reform published by a working group of Labour peers in 2014. This report proposed that ‘in future, no one political party or governing combination of parties should seek a majority in the House of Lords’ (Labour Peers’ Working Group 2014: 24).

However, such proposals lead to the question of how the term ‘majority’ is interpreted. If it applies across the whole chamber, including Crossbenchers, bishops, etc, it may be feasible in most circumstances to ensure that a coalition could not gain more than 50% of seats. Assuming that these non-party peers continue to occupy around 25% of seats, it would require that no coalition holds more than two-thirds of party seats. This is manageable in terms of Labour/Lib Dem or Conservative/Lib Dem coalitions, and might only be breached in the case of a ‘grand

coalition' (i.e. in the unlikely event of a Conservative/Labour deal). But the 'no overall majority' principle is also often cited as applying only among party peers (since Crossbenchers and others vote less frequently). Under this interpretation it is impossible to see how a coalition could reliably be prevented from having a majority, since a division of seats between three main parties is always likely to see two parties jointly controlling more than 50%. In interpreting this formula below, we therefore focus on the lead for the winning party rather than seeking to guarantee no overall majority for possible coalitions.

Formula 3: Proportionality across appointments

An alternative principle is for each round of new Lords appointments to reflect the proportion of votes at the previous election, rather than applying this principle (as in the first formula above) across all members of the chamber. Hence, for example, if the Conservatives had won 40% of the vote in the previous election, and Labour 30%, both parties would get this share of any new appointments to the Lords, until the next election. So if peers were appointed in batches, for every 10 new party peers the Conservatives would get four and Labour three.

A formula of this kind has been proposed by a number of different groups. The Labour Party manifesto in 1997, for example, can be interpreted in this way: '[o]ur objective will be to ensure that over time party appointees as life peers more accurately reflect the proportion of votes cast at the previous general election' (Labour Party 1997: 32-33). This could, of course, also be interpreted in terms of the first formula above – and in practice Labour followed neither of these formulae reliably, as discussed below.

The Public Administration Select Committee put forward a similar suggestion in its report in 2002, which proposed a mixed elected/appointed chamber (hence the reference to second chamber elections, rather than general elections as the starting point). This stated that 'the Appointments Commission should decide the proportions, basing them on the share of the vote won by each party in the second chamber elections' (Public Administration Select Committee 2002: 32). The Labour government, in its third white paper following the 1999 reform, also proposed this formula, stating that it was 'envisaged that the Statutory Appointments Commission would have to take account of the balance of the parties at the last General Election and appoint party-political members in line with the proportion of votes cast' (Cabinet Office 2007: 42). The following year two Conservative MPs – Andrew Tyrie and Sir George Young (2009: 18) – proposed something very similar, noting that:

The question of which party nominees are chosen is separate from that of party balance within the chamber. This must be addressed through consultation between the political parties. This should work on the principles of bringing the balance of party appointees into rough parity with the share of votes cast at the previous election.

Finally, the *House Full* report identified this as the most feasible formula. The report noted that it would 'clearly not deliver instant proportionality', but 'would ensure that the balance moved in the right direction, was relatively stable, and that all groups were regularly renewed' (Russell et al. 2011: 20).

Which if any of these formulae has been applied in recent years?

It should be clear from the previous discussion that none of these formulae has been consistently applied by prime ministers in making appointments to the House of Lords. Blair did not seek to achieve proportionality across the chamber, as indicated by the fact that Labour did not become the largest party until 2006. The Liberal Democrats also remained underrepresented compared to their general election vote shares (for example holding 15% of seats in January 2006 – see Table 1

– compared to their 22% vote share in 2005). By definition Blair did not follow formula 2 either, as it was nine years before Labour became the largest party. But neither did he follow a pattern of proportionality across new appointments; as shown in Table 2, a majority of party peers appointed during his premiership were Labour.

David Cameron has also not followed any formula consistently, despite his coalition pledge. He did work more quickly than Blair to make the Conservatives the largest party, as required by formula 2, but even this was not achieved immediately. The balance of party seats in the chamber still falls well short of the proportionality required by formula 1. But like Blair, Cameron has not maintained proportionality among new appointees, instead favouring governing parties. Indeed, he would probably argue that this had become necessary, to counterbalance the pro-Labour bias in Blair and Brown's appointments.

Hence although some relatively clear principles for appointment to the Lords have previously been set out, none has been consistently followed. To improve transparency and fairness, and to provide guidance for future prime ministers, far greater clarity about the principles governing appointments is needed, and needed urgently.

Choosing between the formulae

The three formulae above represent three different principles for distributing appointments to the House of Lords. The first and the third make vote shares between the parties the determining factor; the second prioritises the winner of the greatest number of Commons seats. The choice between these formulae is thus partly a question of which principle is considered the most important. Just as in choosing between electoral systems, there may be competing arguments about what kind of 'fairness' should apply (Blau 2004). But there is also an essential question of which of the formulae is workable in practical terms. We suggested above that an appointments formula must meet three essential criteria: delivering fairness between the parties in a transparent way, allowing the size of the chamber to remain under control (and ideally to shrink from its present state), and allowing all parties some regular renewal. To test which formula best meets these criteria requires them to be specified more exactly, and considered against some realistic future election scenarios. We describe these more detailed methodological decisions in the next section of the report, before testing the three formulae against each other.

Methods and assumptions

There are a number of fundamental challenges involved in attempting to model the effects of different appointments formulae. Most obviously, it is impossible to know, or predict with any certainty, future election results; the best we can do is construct some plausible future scenarios. Also, in relation to the chamber itself, it is impossible to know how many members will depart, as a result of deaths or (following the House of Lords Reform Act 2014) taking the opportunity to retire. We also have to make a number of assumptions about how the formulae – which have often been stated in quite vague terms – should be applied in practice.

Starting point

Our figures are calculated from August 2014, when the last substantial round of Lords appointments was made (they therefore exclude the four Crossbench appointments in October 2014). The ‘current’ membership column in the tables that follow hence relates to that time, though subsequent change has been minimal. The tables thus assume nine months of attrition before the May 2015 general election.

Elections

In order to test the formulae we use three different election ‘scenarios’, each of which is composed of three elections with predicted results for 2015, 2020 and 2025 (thus we assume stable five-year terms). We calculate the effect of these three scenarios until immediately after the election in 2025. Within each scenario individual election results are based as much as possible on either current polling or recent elections. The scenarios – summarised in Table 3 – are deliberately designed to provide different amounts of variation from one election to the next. Scenario 1 is the most challenging, as it has the highest variation in terms of party support over time. Scenario 2 has a more moderate amount of variation, and scenario 3 the lowest. The individual election results used in each scenario (labelled A – F) are summarised below the table, and specified in greater detail in Appendix 2.

Table 3: The three election scenarios across three elections

Scenario	2015	2020	2025
1: Large variation in party support	Labour/Lib Dem coalition (A)	Conservative big win (B)	Labour win (C)
2: Medium variation in party support	Labour narrow win (D)	Conservative narrow win (E)	Labour/Lib Dem coalition (A)
3: Small variation in party support	Conservative narrow win (E)	Conservative/Lib Dem coalition (F)	Labour/Lib Dem coalition (A)

These scenarios are composed of different combinations of six different sets of election results:

- Election A – Labour/Lib Dem coalition: based on recent polling, including quite strong support for UKIP and reduced support for the Lib Dems.
- Election B – Conservative big win: loosely based on reversing the 2001 election results, with the Conservatives beating Labour; UKIP moderate support and Lib Dems lower than 2010 (this last feature also applies, with small amendments, in C – F).
- Election C – Labour win – loosely based on the 2005 election results but with Labour and the Conservatives slightly further apart.

- Election D – Labour narrow win: based largely on A, but with Labour increase at the expense of the Conservatives.
- Election E – Conservative narrow win: loosely based on the 2010 election results with a Conservative gain at the expense of the Lib Dems.
- Election F – Conservative/Lib Dem coalition: based on 2010 election results.

Formulae

We have constructed three detailed formulae to test based on the broad definitions in the previous section. The first is relatively rigid in terms of its effects on the size of the chamber. The second and third formulae allow more flexibility, so in these cases we include a second variant designed to mitigate problems of size and the need for party renewal.

1) *Proportionality across the whole chamber*

- Summary: appointments made to create a chamber whose political composition reflects the share of the vote at the previous general election.
- Number of appointments: the minimum necessary in order to achieve the above result. In practice this means that at least one party's membership doesn't change in order for the correct proportions to be produced by increasing numbers on other benches.
- Rounds of appointments: one after each election.
- Crossbenchers: 20% across the whole chamber (the group begins at just under 23%, but numbers are renewed to prevent them from dropping below 20%).

2) *Government as largest grouping with no overall majority*

- Summary: appointments made to make the party that won the most seats in the previous general election the largest party, giving them a 3% lead over the party that finished second.
- Number of appointments (2a): the minimum in order to achieve the above result (in practice this requires appointments only to the largest party).
- Rounds of appointments (2a): one after each election.
- Number of appointments (2b): because 2a does not allow for any renewal of non-governing parties, we run a variant using a 'two-out, one-in' rule, meaning that for every two peers a party has lost, one is replaced. We apply this renewal between elections.
- Rounds of appointments (2b): five in total – one after each election, plus mid-term 2015-20 and 2020-25.
- Crossbenchers: as for formula 1 above.

3) *Proportionality across appointments*

- Summary: new appointments made in proportion to the share of votes among parties at the previous general election.
- Number of appointments (3a): keeps numbers constant throughout, so new members compensate for attrition on a 'one-out, one-in' rule. E.g. we estimate that around 15 members will have left the House in the year before the first election, hence 15 members are appointed.
- Number of appointments (3b): since number of appointments is flexible under this formula, we apply a variant using a 'two-out, one-in' rule, allowing the size of the chamber to shrink.
- Rounds of appointments: as for formula 2b above.
- Crossbenchers: 20% of each round of new appointments.

Attrition rate

Until the passage of the recent Byles/Steel bill (now the House of Lords Reform Act 2014), the only way most peers could depart the chamber was through death.²⁴ It is unclear how many members will now take the option of permanently retiring, but (as discussed above) few members are likely to do so until a transparent formula for making new appointments has been agreed. We thus assume that the new provisions have no effect on the attrition rate among currently active peers, and base our figures only on historic data for deaths. Some may consider this to be an unduly pessimistic assumption; but if anything our projections for the size of the chamber (at least under formulae 1 and 2) are likely to prove optimistic. This is because we use the 796 active peers at August 2014 as a starting point, disregarding the 54 peers temporarily excluded. Insofar as the retirement provisions are used, they are most likely to apply among these 54 peers, in terms of those on leave of absence due to poor health. Others among these peers – particularly those disqualified as holders of other offices – may well return to the chamber.

To calculate the attrition rate due to deaths we use data on the deaths of peers over the last 15 years. This gives an annual attrition rate of 2.7% for the whole House (meaning that on average just under 3 in every 100 peers die every year). We apply this figure uniformly to all of the different groups in the chamber. Of course, in the real world the different demographics of the parties – most obviously in terms of age – lead to different rates. Hence until recently the Conservatives had older peers on average than other parties and higher numbers of deaths. But since 2010 numerous younger Conservative peers have been appointed, and the average age among Labour peers is rising. As we are modelling developments over the next 11 years, and demographics change, a uniform attrition rate seems the most reasonable assumption. Again, our attrition rate may prove if anything to be optimistic in terms of effect on the size of the chamber, since peers appointed in recent years have tended to be on average rather younger.

Other assumptions

Size of the chamber

Our starting point for all of the formulae is that the House should remain at its current size, or shrink, while appointing sufficient peers to satisfy the formula. The first formula (proportionality across the chamber) does not allow this criterion to be met. The second and third formulae allow shrinkage, and we have thus tried different variants (as described above) to help meet other criteria.

Minor parties

We have made a number of assumptions concerning minor parties (with the exception of UKIP which – due to its current position in the polls – we treat as more ‘major’):

- In order to simplify matters, we assume that the vote shares of the minor parties are stable throughout – these are based on results at the 2010 general election.
- Again in the interests of simplicity, we have assumed that all parties are given seats – this is not currently the case with the SNP or Sinn Fein (who would presently decline such seats if given).
- We include a relatively large number of minor parties, as formula 1 requires proportionality over such a large number of members that, if applied strictly, it requires seats to be given to various parties not currently represented in the Lords. However we have eliminated very small parties (receiving less than 30,000 votes at the 2010 general election).

Non-party peers

We also make two assumptions about non-party peers:

- As indicated above, we have assumed an allocation of seats to independent Crossbenchers of 20%, in line with most recent proposals for Lords reform.²⁵ We interpret this differently for

formula 3 to formulae 1 and 2, as this bases proportionality on new appointments rather than the chamber as a whole. However, over time, 20% of appointments will clearly broadly maintain a 20% balance in the chamber.

- There are, of course, other non-party members in the House, most obviously the bishops who have a fixed number of 26 seats, and various other non-affiliated peers who do not represent a recognised party (currently numbering 20). Alongside the assumption of a minimum of 20% Crossbenchers, we thus include a permanent presence of 50 members (26 bishops and 24 non-aligned) in our figures.

Effects of the formulae

This section of the report considers the likely effects of the three different appointment formulae on the size and party balance of the House of Lords over the next three general elections, using the election scenarios indicated above. Detailed results are shown in the tables, and the following discussion summarises the main points.

Formula 1: Proportionality across the whole chamber

As indicated above, this formula seeks to achieve proportionality across the chamber as a whole – as suggested in the 2010 coalition agreement. To apply the formula, the first step is identifying after each election the party which is most overrepresented in the chamber (once the formula has begun operating, this is the party that has just experienced the largest decrease in vote share). Given that no peers automatically depart, the only way of achieving balance is to increase the numbers for other parties until proportionality is reached. This has a strong upward ratchet effect. A quirk of this formula is that it is often the smaller parties (in our examples below, the Lib Dems and UKIP) that drive the biggest changes – since these parties are likely to see the biggest fluctuations in their support.

Scenario 1

Our scenario with the largest variation in election results unsurprisingly leads to the largest influx of new members over the three elections under this formula. Based on recent polling, in 2015 the Lib Dems drop to 10% of the vote, requiring a major rebalancing because they start out with 18.6% of peers. The Conservatives and Labour are also overrepresented at the outset, but their numbers in the chamber must nonetheless grow in order to achieve proportionality, as this requires both parties to have more than three times the number of peers as the Lib Dems. UKIP is the most underrepresented party, and to be brought into line with its projected 15% of the vote (using Liberal Democrat peers as a starting point) requires 151 new UKIP peers. In turn, smaller parties such as the BNP (20), SNP (17), Greens (9) and others all need additional seats to catch up.²⁶ Collectively, 467 new party peers are needed in 2015 alone, plus an additional 92 Crossbenchers to maintain that group at 20%: i.e. 559 in all. Already the size of the chamber has reached 1340.

In the 2020 election Labour and UKIP both see a 6% drop in vote shares, while the Conservatives and Liberal Democrats increase their vote. In other words, the very parties that had just gained the largest number of seats in the Lords find themselves overrepresented, requiring large numbers of new peers for all parties except UKIP. This leads to the largest influx of members across any formula or scenario: a further 747 peers (including Crossbenchers). In 2025 the Conservatives drop 10%, but the numbers involved in rebalancing the chamber are fewer (in both absolute and relative terms) than the previous two elections – at 525. In all, over 1800 peers are added to the Lords in just over 10 years, leading to a chamber of more than 2200 members after the 2025 election (even allowing for deaths). These include 33 peers representing the BNP. Such an outcome is clearly deeply undesirable.

Scenario 2

The previous scenario of course includes the greatest extent of electoral change. Scenario 2 is more modest, but nonetheless leads to a substantial growth in size. The first two adjustments in 2015 and 2020 are driven first by a decline in Conservative votes (resulting in a narrow Labour win), and then a decline in Labour vote share (resulting in a narrow Conservative win). But – at least compared to the previous scenario – the numbers involved are relatively small: 160 new peers in each case. In 2025, however, the Lib Dem vote declines (despite that party entering coalition with Labour), which requires a large upsurge in numbers. Because the Conservatives

need more than three times the number of Lib Dem peers 96 new Conservatives are added; consequently Labour's relatively modest recovery by five points requires 165 new Labour peers. In total, 484 peers are added after the 2025 election, bringing the size of the chamber (once deaths are accounted for) to 1354. While more modest than the change under scenario 1, this is still a size increase of more than 50% across three elections

Scenario 3

Despite being the scenario with the smallest variation in election results, the numbers added in scenario 3 are actually bigger than in the previous case. In 2015 the Conservatives win narrowly, leaving Labour and the Liberal Democrats overrepresented, while UKIP also gains 9% of the vote. In order to deal with the Labour overrepresentation, 182 new party peers (and 202 peers overall) are needed. In 2020 there is very little change, with just a 2% drop in Conservative support, and 45 new peers (largely for Labour and the Lib Dems). In 2025, however, we see a very large increase in numbers – due, as in the first scenario, to an 8% drop in Lib Dem support pushing up the other parties. Again the Conservatives and Labour both need to have three times as many peers as the Lib Dems, requiring 191 Labour appointments and 139 new Conservatives. To keep up, most other parties also get a handful of new peers, while the 6% increase in the popular vote for UKIP requires it to gain over 100 peers. In all, the 2025 election requires 592 new peers to be added, bringing the size of the chamber (once deaths are accounted for) to almost 1400. Again this is a deeply undesirable outcome, which occurs even despite the relatively small size of electoral fluctuations over the period.

These simulations further demonstrate – as has already been shown elsewhere (Electoral Reform Society 2013; Russell et al. 2011) – the potentially disastrous consequences of a strict proportionality formula applied across the whole chamber. Large influxes of new peers are required after every election in order to counterbalance the overrepresentation of whichever party has just seen the largest fall in votes. Once one party gets a large increase in numbers, other groups also have to grow. Any change in vote share requires further additions at the next election – sometimes to counteract the very appointments which have only recently been made – even if the fluctuations have been quite small. Although this formula has not actually been applied by the coalition 2010-14, appointments in recent years show that even a loose application of this logic has a strong upward ratchet effect. A different logic thus needs to be found.

Formula 1: Scenario 1

		E1: Labour/Lib Dem coalition (A)				E2: Conservative big win (B)			E3: Labour win (C)					
		Current membership		After election 1 - 2015			After election 2 - 2020			After election 3 - 2025			Total peers added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers	
Labour	219	38.7	135	350	34.2	114	419	28.2	256	621	36.2	505	27.6	
Conservative	231	40.8	113	339	33.2	317	613	41.3	0	535	31.2	430	23.5	
Lib Dems	105	18.6	0	103	10.1	120	209	14.1	128	310	18.1	248	13.5	
UKIP	3	0.5	151	154	15.1	0	135	9.1	3	121	7.1	154	8.4	
Green	1	0.2	9	10	1.0	6	15	1.0	4	17	1.0	19	1.0	
BNP	0	0.0	20	20	2.0	11	28	1.9	8	33	1.9	39	2.1	
Respect	0	0.0	1	1	0.1	1	1	0.1	0	2	0.1	2	0.1	
English Democrats	0	0.0	2	2	0.2	1	3	0.2	1	3	0.2	4	0.2	
SNP	0	0.0	17	17	1.7	10	25	1.7	7	29	1.7	34	1.9	
Plaid Cymru	2	0.4	4	6	0.6	4	9	0.6	3	10	0.6	11	0.6	
DUP	3	0.5	3	6	0.6	4	9	0.6	3	10	0.6	10	0.5	
Alliance party	0	0.0	1	1	0.1	1	1	0.1	0	2	0.1	2	0.1	
Sinn Fein	0	0.0	6	6	0.6	4	9	0.6	3	10	0.6	13	0.7	
SDLP	0	0.0	4	4	0.4	2	6	0.4	2	7	0.4	8	0.4	
UUP	2	0.4	1	3	0.3	2	4	0.3	1	5	0.3	4	0.2	
Total party peers	566		467	1022		597	1486		419	1715		1483		
Crossbench	180	22.6	92	268	20.0	150	384	20.0	106	442	20.0	348	19.0	
Bishops and others	50	6.3	-	50	3.7	-	50	2.6	-	50	2.3	-	-	
Grand total	796		559	1340		747	1920		525	2207		1831		

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 1: Scenario 2

			E1: Labour narrow win (D)			E2: Conservative narrow win (E)			E3: Labour/Lib Dem coalition (A)				
Current membership			After election 1 - 2015			After election 2 - 2020			After election 3 - 2025			Total added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers
Labour	219	38.7	33	248	35.3	0	216	29.2	165	353	34.2	198	24.6
Conservative	231	40.8	0	226	32.1	86	283	38.3	96	343	33.2	182	22.6
Lib Dems	105	18.6	3	106	15.1	27	119	16.1	0	104	10.1	30	3.7
UKIP	3	0.5	68	71	10.1	5	67	9.1	97	156	15.1	170	21.1
Green	1	0.2	6	7	1.0	1	7	0.9	4	10	1.0	11	1.4
BNP	0	0.0	13	13	1.8	2	14	1.9	7	20	1.9	22	2.7
Respect	0	0.0	1	1	0.1	0	1	0.1	0	1	0.1	1	0.1
English Democrats	0	0.0	1	1	0.1	0	1	0.1	1	2	0.2	2	0.2
SNP	0	0.0	12	12	1.7	2	13	1.8	7	18	1.7	21	2.6
Plaid Cymru	2	0.4	2	4	0.6	1	4	0.5	2	6	0.6	5	0.6
DUP	3	0.5	1	4	0.6	1	4	0.5	2	6	0.6	4	0.5
Alliance party	0	0.0	1	1	0.1	0	1	0.1	0	1	0.1	1	0.1
Sinn Fein	0	0.0	4	4	0.6	1	4	0.5	2	6	0.6	7	0.9
SDLP	0	0.0	3	3	0.4	1	3	0.4	2	4	0.4	6	0.7
UUP	2	0.4	0	2	0.3	0	2	0.3	1	3	0.3	1	0.1
Total party peers	566		148	703		127	739		386	1033		661	
Crossbench	180	22.6	12	188	20.0	33	198	20.1	98	271	20.0	143	17.8
Bishops and others	50	6.3	-	50	5.3	-	50	5.1	-	50	3.7	-	-
Grand total	796		160	941		160	987		484	1354		804	

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 1: Scenario 3

		E1: Conservative narrow win (E)			E2: Conservative/Lib Dem coalition (F)			E3: Labour/Lib Dem coalition (A)					
Current membership		After election 1 - 2015			After election 2 - 2020			After election 3 - 2025			Total added		
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers
Labour	219	38.7	0	215	29.3	10	198	29.2	191	364	34.3	201	24.0
Conservative	231	40.8	55	281	38.2	0	245	36.1	139	353	33.2	194	23.1
Lib Dems	105	18.6	16	118	16.1	19	123	18.1	0	107	10.1	35	4.2
UKIP	3	0.5	64	67	9.1	3	61	9.0	107	160	15.1	174	20.7
Green	1	0.2	6	7	1.0	0	7	1.0	5	11	1.0	11	1.3
BNP	0	0.0	14	14	1.9	1	13	1.9	9	20	1.9	24	2.9
Respect	0	0.0	1	1	0.1	0	1	0.1	0	1	0.1	1	0.1
English Democrats	0	0.0	1	1	0.1	0	1	0.1	1	2	0.2	2	0.2
SNP	0	0.0	13	13	1.8	1	12	1.8	8	18	1.7	22	2.6
Plaid Cymru	2	0.4	2	4	0.5	0	4	0.6	3	6	0.6	5	0.6
DUP	3	0.5	2	4	0.5	0	4	0.6	3	6	0.6	5	0.6
Alliance party	0	0.0	1	1	0.1	0	1	0.1	0	1	0.1	1	0.1
Sinn Fein	0	0.0	4	4	0.5	0	4	0.6	3	6	0.6	7	0.8
SDLP	0	0.0	3	3	0.4	0	3	0.4	2	4	0.4	5	0.6
UUP	2	0.4	0	2	0.3	0	2	0.3	1	3	0.3	1	0.1
Total party peers	566		182	735		34	679		472	1062		688	
Crossbench	180	22.6	20	197	20.1	11	182	20.0	120	278	20.0	151	18.0
Bishops and others	50	6.3	-	50	5.1	-	50	5.5	-	50	3.6	-	-
Grand total	796		202	982		45	911		592	1390		839	

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 2: Government as largest grouping with no overall majority

In this formula vote shares are not accounted for, and what matters is instead simply which party wins the election. If the formula is run without membership renewal (2a) only Labour and the Conservatives are affected as one of them is always the largest party. Without any other form of renewal, the gap between the top two parties and the rest in terms of seats in the chamber therefore increases. Partly for this reason, we rerun the formula with a party renewal option (2b), below.

Formula 2a: without renewal

Scenario 1 and 2

The first two scenarios give exactly the same results due to having the same combination of winning parties: Labour-Conservative-Labour. As the double election winner Labour ends with just over 5% more seats and 13 more members than it started with – the party’s gains just exceeding its attrition in membership over time. In contrast the Conservatives drop just under 1% in terms of seat share, and lose 20 members over the 3 elections. The Lib Dems are the obvious main losers among the parties, dropping 3.8% in terms of seat share, and declining from 105 to 78 members. The number of Crossbenchers also declines from 180 to 145 (though still remaining marginally above 20%), with the overall size of the chamber shrinking by just over 70 members to 723.

Scenario 3

The third scenario represents smaller electoral change, with two Conservative wins in a row, followed by a Labour win. Because what matters using this formula is the winning party, the second Conservative win has little effect on numbers. The Conservatives begin the period as the largest party, and gain just 12 members to give them a 3% lead over Labour in 2015, followed by a single additional member in 2020 to maintain their lead. Labour needs 38 new peers in 2025 to gain a 3% lead over the Conservatives but nonetheless fewer members are added overall under this scenario. Because of the reduced numbers being added, the Lib Dems decline less in relative terms than under scenarios 1 and 2, losing only around 2% of their original seat share, though still declining from 105 to 78. The decline in overall numbers in the chamber is greater than that under scenario 1 or 2, with a shrinkage to 651 members by 2025.

This formula therefore appears to be able to deliver one form of fairness between the parties – in terms of respecting which is the largest after each election – while allowing the size of the chamber to gradually decline (especially if electoral fluctuations are small). But it suffers from a fundamental problem, in terms of the lack of renewal for parties beyond the big two. The Steel bill formula offers no guidance about seat shares for other groups. We have built in 20% protection for Crossbenchers, but it is unclear what to do with minor parties. Although it is unlikely that it was ever intended this way, a strict application of the formula in all three scenarios thus sees the Liberal Democrats and smaller parties get no renewal at all, and there is no guaranteed mechanism for renewal in the future. All things being equal, numbers in these groups would simply decline until they disappeared altogether. Given the desire to provide fairness across *all* parties, as well as to maintain a 20% Crossbench presence, applying the formula in this minimalistic way is clearly unworkable. In scenario 3, where there is little electoral change, even Labour has no renewal for 10 years. So while the decline in numbers in the chamber under this formula may look attractive, it comes at far too high a price: for this reason we test an adaptation, allowing each party one replacement peer for every two peers lost.

Formula 2b: with renewal (one-in-two-out)

Scenario 1 and 2

Allowing renewal on a one-in-two-out basis wipes out the shrinkage in the chamber's size under these two scenarios. Because even non-winning parties gain seats, the number of seats awarded to the winning party needs to be higher in order to guarantee it a 3% lead over its rival. Hence while the number of peers (36 for Labour) added after the 2015 election is identical, the addition of 24 peers to fill vacancies in 2017 means that the number of Conservative peers appointed after that party's election win in 2020 needs to be marginally bigger (47 rather than 44), with 39 peers appointed in 2022, and 45 further Labour peers (rather than 42 under formula 2a) added in 2025, alongside 10 Crossbenchers to maintain that group at 20%. Hence the number of new members added overall is 220, rather than the 133 under formula 2a, resulting in the size of the chamber rising very marginally from 796 to 804 members over the whole period. Due to having been the largest party in two out of three elections, Labour ends up with 40 more peers than at the start, while Conservative numbers are broadly stable, and the number of Lib Dems declines from 105 to 88. The number of Crossbenchers also declines, from 180 to 161 (but unlike the Liberal Democrats this group's overall share of seats is protected, at 20%).

Scenario 3

In this scenario the party fortunes are reversed, due to the Conservatives winning two elections. As in formula 2a, just 12 Conservative peers are created in 2015. In 2017 all three parties get some renewal, and the second Conservative win in 2020 requires a single peer (to maintain the party's 3% lead). In 2022 there is a renewal of 35 peers, and in 2025 Labour's win results in that party gaining 42 new peers. The overall numbers in the chamber do decline from 796 to 730 by 2025 (compared to the 651 in formula 2a), but this is wholly dependent on the small electoral fluctuations, and also arguably does not provide sufficient renewal for non-governing parties.

In conclusion, building in some renewal removes the worst effects of this formula in terms of declining numbers for non-governing parties, but once this is done there is no guarantee that the chamber can decline in size. Equally importantly, over a longer period non-governing parties will still gradually tend to zero. The formula essentially only protects the largest parties, offering no guidance as to how smaller parties should be maintained. One option could be to manage decline using a one-in-two-out principle for existing small parties for a certain number of years, and then switch to a one-in-one-out principle for these groups. But that would essentially be an arbitrary rule, not linked in any way to these parties' popularity. It would also leave these groups vulnerable in the event of uneven attrition rates, and provide no guidance if new minor parties emerged. It is clearly preferable, therefore, to have a rule which is based on explicit fairness to all parties and groups.

Formula 2a: Scenario 1 and 2

		E1: Labour/Lib Dem coalition (A) / Labour narrow win (D)			E2: Conservative big win (B) / Conservative narrow win (E)			E3: Labour win (C) / Labour/Lib Dem coalition (A)						
		Current membership		After election 1 - 2015			After election 2 - 2020			After election 3 - 2025			Total added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers	
Labour	219	38.7	36	251	42.5	0	219	39.0	42	232	43.9	78	58.6	
Conservative	231	40.8	0	226	38.2	44	242	43.1	0	211	40.0	44	33.1	
Lib Dems	105	18.6	0	103	17.4	0	90	16.0	0	78	14.8	0	0.0	
UKIP	3	0.5	0	3	0.5	0	3	0.5	0	2	0.4	0	0.0	
Green	1	0.2	0	1	0.2	0	1	0.2	0	1	0.2	0	0.0	
BNP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Respect	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
English Democrats	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
SNP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Plaid Cymru	2	0.4	0	2	0.3	0	2	0.4	0	1	0.2	0	0.0	
DUP	3	0.5	0	3	0.5	0	3	0.5	0	2	0.4	0	0.0	
Alliance party	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Sinn Fein	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
SDLP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
UUP	2	0.4	0	2	0.3	0	2	0.4	0	1	0.2	0	0.0	
Total party peers	566		36	591		44	562		42	528		122		
Crossbench	180	22.6	0	176	21.5	0	154	20.1	11	145	20.1	11	8.3	
Bishops and others	50	6.3	-	50	6.1	-	50	6.5	-	50	6.9	-	-	
Grand total	796		36	817		44	766		53	723		133		

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 2a: Scenario 3

		E1: Conservative narrow win (E)				E2: Conservative/Lib Dem coalition (F)				E3: Labour/Lib Dem coalition (A)				
		Current membership		After election 1 - 2015		After election 2 - 2020			After election 3 - 2025			Total added		
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers	
Labour	219	38.7	0	215	37.9	0	187	37.7	38	201	43.0	38	74.5	
Conservative	231	40.8	12	238	42.0	1	208	41.9	0	181	38.8	13	25.5	
Lib Dems	105	18.6	0	103	18.2	0	90	18.1	0	78	16.7	0	0.0	
UKIP	3	0.5	0	3	0.5	0	3	0.6	0	2	0.4	0	0.0	
Green	1	0.2	0	1	0.2	0	1	0.2	0	1	0.2	0	0.0	
BNP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Respect	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
English Democrats	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
SNP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Plaid Cymru	2	0.4	0	2	0.4	0	2	0.4	0	1	0.2	0	0.0	
DUP	3	0.5	0	3	0.5	0	3	0.6	0	2	0.4	0	0.0	
Alliance party	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Sinn Fein	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
SDLP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
UUP	2	0.4	0	2	0.4	0	2	0.4	0	1	0.2	0	0.0	
Total party peers	566		12	567		1	496		38	467		51		
Crossbench	180	22.6	0	176	22.2	0	154	22.0	0	134	20.6	0	0.0	
Bishops and others	50	6.3	-	50	6.3	-	50	7.1	-	50	7.7	-	-	
Grand total	796		12	793		1	700		38	651		51		

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 2b: Scenario 1 and 2

			E1: Labour/Lib Dem coalition (A) / Labour narrow win (D)						E2: Conservative big win (B) / Conservative narrow win (E)						E3: Labour win (C) / Labour/Lib Dem coalition (A)				
Current membership			After election 1 - 2015			MTR - 2017			After election 2 - 2020			MTR - 2022			After election 2 - 2025			Total added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers
Labour	219	38.7	36	251	42	10	245	42.4	0	229	229	16	229	39.1	45	259	43.7	107	48.6
Conservative	231	40.8	0	226	38	10	221	38.2	47	253	300	16	251	42.9	0	235	39.6	73	33.2
Lib Dems	105	18.6	0	103	17	4	101	17.5	0	94	94	6	94	16.1	0	88	14.8	10	4.5
UKIP	3	0.5	0	3	1	0	3	0.5	0	3	3	1	3	0.5	0	3	0.5	1	0.5
Green	1	0.2	0	1	0	0	1	0.2	0	1	1	0	1	0.2	0	1	0.2	0	0.0
BNP	0	0.0	0	0	0	0	0	0.0	0	0	0	0	0	0.0	0	0	0.0	0	0.0
Respect	0	0.0	0	0	0	0	0	0.0	0	0	0	0	0	0.0	0	0	0.0	0	0.0
English Democrats	0	0.0	0	0	0	0	0	0.0	0	0	0	0	0	0.0	0	0	0.0	0	0.0
SNP	0	0.0	0	0	0	0	0	0.0	0	0	0	0	0	0.0	0	0	0.0	0	0.0
Plaid Cymru	2	0.4	0	2	0	0	2	0.3	0	2	2	0	2	0.3	0	2	0.3	0	0.0
DUP	3	0.5	0	3	1	0	3	0.5	0	3	3	0	3	0.5	0	3	0.5	0	0.0
Alliance party	0	0.0	0	0	0	0	0	0.0	0	0	0	0	0	0.0	0	0	0.0	0	0.0
Sinn Fein	0	0.0	0	0	0	0	0	0.0	0	0	0	0	0	0.0	0	0	0.0	0	0.0
SDLP	0	0.0	0	0	0	0	0	0.0	0	0	0	0	0	0.0	0	0	0.0	0	0.0
UUP	2	0.4	0	2	0	0	2	0.3	0	2	2	0	2	0.3	0	2	0.3	0	0.0
Total party peers	566		36	591		24	578		47	587	634	39	585		45	593		191	
Crossbench	180	22.6	0	176	21.5	8	172	21.5	0	161	20.2	11	161	20.2	10	161	20.0	29	13.2
Bishops and others	50	6.3	-	50	6.1	-	50	6.3	-	50	6	-	50	6.3	-	50	6.2	-	-
Grand total	796		36	817		32	800		47	798		50	796		55	804	26	220	

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 2b: Scenario 3

			E1: Conservative narrow win (E)						E2: Conservative/Lib Dem coalition (F)						E3: Labour/Lib Dem coalition (A)				
Current membership			After election 1 - 2015			MTR - 2017			After election 2 - 2020			MTR - 2022			After election 2 - 2025			Total added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers
Labour	219	38.7	0	215	37.9	9	210	37.8	0	196	37.8	13	196	37.8	42	226	42.7	64	48.5
Conservative	231	40.8	12	238	42.0	10	233	42.0	1	218	42.0	15	218	42.0	0	204	38.6	38	28.8
Lib Dems	105	18.6	0	103	18.2	4	101	18.2	0	94	18.1	6	94	18.1	0	88	16.6	10	7.6
UKIP	3	0.5	0	3	0.5	0	3	0.5	0	3	0.6	0	3	0.6	0	3	0.6	0	0.0
Green	1	0.2	0	1	0.2	0	1	0.2	0	1	0.2	0	1	0.2	0	1	0.2	0	0.0
BNP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
Respect	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
English Democrats	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
SNP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
Plaid Cymru	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	0.0
DUP	3	0.5	0	3	0.5	0	3	0.5	0	3	0.6	1	3	0.6	0	3	0.6	1	0.8
Alliance party	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
Sinn Fein	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
SDLP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
UUP	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	0.0
Total party peers	566		12	567		23	555		1	519	100	35	519		42	529		113	
Crossbench	180	22.6	0	176	22.2	8	172	22.1	0	161	22	11	161	22.1	0	151	20.7	19	14.4
Bishops and others	50	6.3	-	50	6.3	-	50	6.4	-	50	7	-	50	6.8	-	50	6.8	-	-
Grand total	796		12	793		31	777		1	730		46	730		42	730	28	132	

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 3: Proportionality across appointments

The third formula potentially supplies the kind of sustainable guarantees unavailable in formula 2. Like the first formula it is based on proportionality for all parties, plus 20% of seats for Crossbenchers. But unlike the first formula it has no built in ratchet: instead applying proportionality only to each batch of new appointments, rather than across the chamber as a whole. This has the obvious benefit that the number of new peers appointed remains flexible, and can be adjusted in order to manage the size of the chamber. As a starting point we demonstrate this formula while holding the current size of the chamber constant. That is, by operating a one-in-one-out principle across the chamber as a whole, with replacement seats allocated between the parties proportionately. This demonstrates how the system would work in a steady state, and particularly the effect that this would have on shares between the parties. But because the current size of the chamber is universally acknowledged as too high, we then demonstrate the effects using a similar one-in-two-out principle. This could operate in the short term, until a size cap is reached.

In terms of seat shares, the overall effect of this formula is that the proportion of members for each party remains fairly stable, only changing gradually over time. The results also vary relatively little between the different election scenarios. In all three scenarios the minor parties and UKIP gradually gain a slightly higher proportion of seats, at the cost of the main parties. But this effect is really very small.

Formula 3a: one-in-one-out

Scenario 1

At the start of the period it is estimated that 15 vacancies will be available, to be filled immediately after the 2015 election. A constant principle is that 20% of vacancies go to Crossbenchers, which leaves 12 seats for the parties at this round. As the Conservatives and Labour win a similar share of seats in 2015 (33% and 34% respectively), each is allocated one third of the total new seats, or four seats each. Based on vote shares, the Liberal Democrats get one seat, UKIP two seats and one seat should go to a minor party. In this instance the seat is allocated to the BNP as the most underrepresented minor party (n.b. the undesirability of allocating seats to the BNP, and the option of thresholds to deal with this, is discussed in the next section).²⁷ Under this formula balance is achieved as far as possible *between* the minor parties through allocations across time. At the mid-term review in 2017 a further 48 seats are available, which are allocated in the same proportions as in 2015 (10 Crossbench, 13 each to Labour and Conservative, 4 Lib Dem, 6 UKIP and 2 to minor parties – this time the DUP and SNP). This pattern is repeated with 49 seats in 2020 (reflecting the new election result, with the Conservatives and Liberal Democrats getting a relatively higher proportion, and Labour and UKIP relatively fewer), 50 seats in 2022 on the same basis, and 49 seats in 2025 (this time with Labour allocated a slightly higher proportion than the Conservatives due to its recent election win). Over the three elections, with the renewal of members balancing out the natural attrition rate, the Conservatives retain a 2.8% lead over Labour, with the Lib Dems losing 1.4% and UKIP gaining seats to take a 3.1% share of party seats, while minor parties see a slight increase from 1.5% to 2.8%. The Crossbench share in the chamber falls marginally from 22.6% to 21.6%.

Scenario 2

In the second scenario the number of seats to be allocated at each point is obviously identical to scenario 1, with the proportions allocated to each group differing slightly in line with election results. For example in 2015 the Lib Dems are allocated two of the 15 seats available, and UKIP just one, due to the relative strength of those parties. In 2020 and 2022 the Conservatives get marginally fewer new members (30 rather than 32 across the two allocations) due to their smaller

vote share at the 2020 election. Likewise in 2025 Labour gets just one seat fewer and the Conservatives one seat more than in the previous scenario. Over the three elections the Conservatives end up with a slightly reduced 2.3% lead over Labour, and the Lib Dems lose 1% of their seats. UKIP end up with a larger share of the party seats: 3.3%. The results for the Crossbenchers and minor parties across the period are the same as in scenario 1.

Scenario 3

Under this scenario the Conservatives do better (winning two elections out of three), though the overall degree of change is less. The Conservatives are thus subject to a slightly more generous allocation in 2015 and 2017, while continuing to be the largest beneficiaries of new seats in 2020 and 2022. But – as in all three scenarios – all parties (including minor parties) get some renewal, and overall proportions change relatively little over time. By the end of the period the gap between Labour and the Conservatives is marginally greater than the other two scenarios, with the latter having a lead of just over 3% over Labour. The Lib Dems lose 0.7%, and UKIP end up with 3.1% of the total party seats. Again, the results for the Crossbenchers and minor parties across the period are the same as in scenario 1.

Formula 3b: one-in-two-out

Scenario 1

The key difference in formula 3b is that only half the number of seats is available at each renewal point. The proportion of seats allocated to each party remains the same. The key change between the two versions is thus obviously in the size of the chamber: by 2025 it has reduced from 796 to 695 members. There is also slight variation in terms of overall party allocations. In particular, with fewer seats to allocate at each round there are fewer allocated to the smallest parties. Parties not currently represented (most notably the BNP) therefore get less reward, and the overall change in share between the parties is smaller. Hence in this scenario the Conservatives end up with a 2.5% a lead over Labour (compared to 2.8% under formula 3a), with the Lib Dems losing 0.8% (1.4%) and UKIP taking a 2% share (3.1%) of party seats, while minor parties take 2.2% (2.8%). The Crossbench share in the chamber falls to 21.9% (21.6%).

Scenario 2

Likewise there is a very small change in party shares under this version of the formula and this scenario compared to formula 3a, with the primary difference being to the size of the chamber. At the end of the period the Conservatives have 40% of party peers, Labour 37.9%, Liberal Democrats 17.8%, UKIP 2%, with the remainder shared between minor parties. Crossbenchers have 21.9% of total seats.

Scenario 3

Despite the difference in election outcomes, the result at each election and the final result by 2025 is very similar here to in the previous two cases: the size of the chamber is 695, the Conservatives have 40.2% of party seats, Labour 37.5%, Lib Dems 18.1%, UKIP 2%, and minor parties collectively 2.2%. Crossbenchers again have 21.9% of seats in the chamber.

Compared to the other two formulae, formula 3 is shown to be flexible enough to meet the necessary criteria. It allows all party (and non-party) benches to be renewed on a regular basis, provides a transparent form of fairness between the parties, and can also be adapted to guarantee a reduction in numbers over time. We first demonstrated it using a one-in-one-out principle: i.e. with the chamber in a steady state, but other principles can be used. Under a one-in-two-out principle (and using the assumptions about attrition set out earlier, which may not be wholly

reliable of course) a reduction in size of roughly 100 members is achieved in the 11 years to 2025. It would also be possible to apply this formula with a more stringent requirement for size reduction – for example applying a one-in-three-out principle. The effects of this are relatively easy to calculate: since attrition over the period is just over 200, a one-in-three-out principle would allow roughly 70 members to be added over 11 years, resulting in a reduction by around 135 members, from 796 to 660. A one-in-four-out principle would result in approximately 50 vacancies and a reduction of closer to 150, and so on. But there is obviously a point at which the level of renewal could be considered inadequate. Importantly, however, a major benefit of this formula is that with all parties guaranteed an equitable share of new appointments, existing members might be more inclined to take voluntary retirement. This would increase the rate of attrition, allowing the size of the chamber to reduce more rapidly. In practice, it would be desirable to manage the size of the chamber down to a pre-agreed size, and then operate a one-in-one-out principle thereafter.

Some concerns may nonetheless be raised about this formula. First, the endpoint in terms of party balance is determined to a significant extent by the starting point. Currently the Conservatives are the largest party in the Lords, and it is notable that even under scenarios 1 and 2, where Labour wins two of the next three elections, this remains the case. Second, concerns may legitimately be raised about the guaranteed representation of some small parties such as the BNP. Before turning to our recommendations, we therefore consider ways in which this preferred formula may be fine tuned to improve its results.

Formula 3a: Scenario 1

		E1: Labour /Lib Dem coalition (A)							E2: Conservative big win (B)						E3: Labour win (C)					
		Current membership		After election 1 - 2015			MTR - 2017			After election 2 - 2020			MTR - 2022			After election 3 - 2025			Total added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers	
Labour	219	38.7	4	219	38.6	13	219	38.5	11	215	37.7	11	212	37.1	14	212	36.9	53	25.1	
Conservative	231	40.8	4	230	40.6	13	229	40.2	16	229	40.2	16	231	40.4	12	228	39.7	61	28.9	
Lib Dems	105	18.6	1	104	18.3	4	101	17.8	5	100	17.5	5	99	17.3	7	99	17.2	22	10.4	
UKIP	3	0.5	2	5	0.9	6	10	1.8	4	13	2.3	4	16	2.8	3	18	3.1	19	9.0	
Green	1	0.2	0	1	0.2	0	1	0.2	1	2	0.4	1	2	0.3	0	2	0.3	2	0.9	
BNP	0	0.0	1	1	0.2	0	1	0.2	1	2	0.4	0	2	0.3	1	3	0.5	3	1.4	
Respect	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
English Democrats	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
SNP	0	0.0	0	0	0.0	1	1	0.2	0	1	0.2	1	2	0.3	1	3	0.5	3	1.4	
Plaid Cymru	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	1	2	0.3	0	2	0.3	1	0.5	
DUP	3	0.5	0	3	0.5	1	3	0.5	0	3	0.5	0	3	0.5	0	3	0.5	1	0.5	
Alliance party	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Sinn Fein	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	0	1	0.2	0	1	0.2	1	0.5	
SDLP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	1	0.5	
UUP	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	1	2	0.3	0	2	0.3	1	0.5	
Total party peers	566		12	567		38	569		39	570		40	572		39	574		168		
Crossbench	180	22.6	3	179	22.5	10	177	22.2	10	176	22.1	10	174	21.9	10	172	21.6	43	20.4	
Bishops and others	50	6.3	-	50	6.3	-	50	6.3	-	50	6.3	-	50	6.3	-	50	6.3	-	-	
Grand total	796		15	796		48	796		49	796		50	796		49	796		211		

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 3a: Scenario 2

		E1: Labour narrow win (D)							E2: Conservative narrow win (E)						E3: Labour/Lib Dem coalition (A)				
		Current membership		After election 1 - 2015			MTR - 2017		After election 2 - 2020			MTR - 2022			After election 3 - 2025			Total added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers
Labour	219	38.7	4	219	38.6	14	219	38.5	11	215	37.7	11	213	37.2	13	212	36.9	53	25.1
Conservative	231	40.8	4	230	40.6	12	228	40.1	15	228	40.0	15	228	39.9	13	225	39.2	59	28.0
Lib Dems	105	18.6	2	105	18.5	6	104	18.3	6	103	18.1	6	103	18.0	4	101	17.6	24	11.4
UKIP	3	0.5	1	4	0.7	4	8	1.4	4	11	1.9	4	14	2.4	6	19	3.3	19	9.0
Green	1	0.2	0	1	0.2	0	1	0.2	1	2	0.4	1	2	0.3	0	2	0.3	2	0.9
BNP	0	0.0	1	1	0.2	0	1	0.2	1	2	0.4	0	2	0.3	1	3	0.5	3	1.4
Respect	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
English Democrats	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
SNP	0	0.0	0	0	0.0	1	1	0.2	0	1	0.2	1	2	0.3	1	3	0.5	3	1.4
Plaid Cymru	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	1	2	0.3	0	2	0.3	1	0.5
DUP	3	0.5	0	3	0.5	1	3	0.5	0	3	0.5	0	3	0.5	0	3	0.5	1	0.5
Alliance party	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
Sinn Fein	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	0	1	0.2	0	1	0.2	1	0.5
SDLP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	1	0.5
UUP	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	1	2	0.3	0	2	0.3	1	0.5
Total party peers	566		12	567		38	569		39	570		40	572		39	574		168	
Crossbench	180	22.6	3	179	22.5	10	177	22.2	10	176	22.1	10	174	21.9	10	172	21.6	43	20.4
Bishops and others	50	6.3	-	50	6.3	-	50	6.3	-	50	6.3	-	50	6.3	-	50	6.3	-	-
Grand total	796		15	796		48	796		49	796		50	796		49	796		211	

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 3a: Scenario 3

		E1: Conservative narrow win (E)							E2: Conservative/Lib Dem coalition (F)						E3: Labour/Lib Dem coalition (A)					
		Current membership		After election 1 - 2015			MTR - 2017			After election 2 - 2020			MTR - 2022			After election 3 - 2025			Total added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers	
Labour	219	38.7	3	218	38.4	11	216	38.0	11	213	37.4	11	210	36.7	13	209	36.4	49	23.2	
Conservative	231	40.8	5	231	40.7	15	232	40.8	14	230	40.4	14	230	40.2	13	227	39.5	61	28.9	
Lib Dems	105	18.6	2	105	18.5	6	104	18.3	7	104	18.2	7	105	18.4	4	103	17.9	26	12.3	
UKIP	3	0.5	1	4	0.7	4	7	1.2	4	10	1.8	4	13	2.3	6	18	3.1	19	9.0	
Green	1	0.2	0	1	0.2	0	1	0.2	1	2	0.4	1	2	0.3	0	2	0.3	2	0.9	
BNP	0	0.0	1	1	0.2	0	1	0.2	1	2	0.4	0	2	0.3	1	3	0.5	3	1.4	
Respect	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
English Democrats	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
SNP	0	0.0	0	0	0.0	1	1	0.2	0	1	0.2	1	2	0.3	1	3	0.5	3	1.4	
Plaid Cymru	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	1	2	0.3	0	2	0.3	1	0.5	
DUP	3	0.5	0	3	0.5	1	3	0.5	0	3	0.5	0	3	0.5	0	3	0.5	1	0.5	
Alliance party	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Sinn Fein	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	0	1	0.2	0	1	0.2	1	0.5	
SDLP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	1	0.5	
UUP	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	1	2	0.3	0	2	0.3	1	0.5	
Total party peers	566		12	567		38	569		39	570		40	572		39	574		168		
Crossbench	180	22.6	3	179	22.5	10	177	22.2	10	176	22.1	10	174	21.9	10	172	21.6	43	20.4	
Bishops and others	50	6.3	-	50	6.3	-	50	6.3	-	50	6.3	-	50	6.3	-	50	6.3	-	-	
Grand total	796		15	796		48	796		49	796		50	796		49	796		211		

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 3b: Scenario 1

		Election 1: Labour /Lib Dem coalition (A)							Election 2: Conservative big win (B)						Election 3: Labour win (C)					
		Current membership		After election 1 - 2015			MTR - 2017			After election 2 - 2020			MTR - 2022			After election 3 - 2025			Total added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers	
Labour	219	38.7	2	217	38.7	7	209	38.4	5	200	38.0	5	192	37.8	7	186	37.7	26	25.5	
Conservative	231	40.8	2	228	40.6	6	220	40.4	7	213	40.5	7	206	40.6	6	198	40.2	28	27.5	
Lib Dems	105	18.6	0	103	18.4	2	99	18.2	3	95	18.1	3	91	17.9	3	88	17.8	11	10.8	
UKIP	3	0.5	1	4	0.7	3	7	1.3	2	8	1.5	2	9	1.8	1	10	2.0	9	8.8	
Green	1	0.2	0	1	0.2	1	1	0.2	0	1	0.2	0	1	0.2	0	1	0.2	1	1.0	
BNP	0	0.0	1	1	0.2	0	1	0.2	1	1	0.2	0	1	0.2	0	1	0.2	2	2.0	
Respect	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
English Democrats	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
SNP	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	0	1	0.2	0	1	0.2	1	1.0	
Plaid Cymru	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	1	2	0.4	0	2	0.4	1	1.0	
DUP	3	0.5	0	3	0.5	0	3	0.6	0	3	0.6	0	3	0.6	1	3	0.6	1	1.0	
Alliance party	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Sinn Fein	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	1	1.0	
SDLP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
UUP	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	0.0	
Total party peers	566		6	561		19	544		19	526		18	508		19	493		81		
Crossbench	180	22.6	2	178	22.6	5	171	22.4	5	164	22.2	5	158	22.1	4	152	21.9	21	20.6	
Bishops and others	50	6.3	-	50	6.3	-	50	6.5	-	50	6.8	-	50	7.0	-	50	7.2	-	-	
Grand total	796		8	789		24	765		24	740		23	716		23	695		102		

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 3b: Scenario 2

		Election 1: Labour narrow win (D)							Election 2: Conservative narrow win (E)						Election 3: Labour/Lib Dem coalition (A)					
		Current membership		After election 1 - 2015			MTR - 2017			After election 2 - 2020			MTR - 2022			After election 3 - 2025			Total added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers	
Labour	219	38.7	2	217	38.7	7	209	38.6	5	201	38.2	5	193	37.9	6	187	37.9	25	24.5	
Conservative	231	40.8	2	228	40.6	6	219	40.4	7	212	40.3	7	205	40.3	6	197	40.0	28	27.5	
Lib Dems	105	18.6	1	104	18.5	3	100	18.5	3	96	18.3	3	93	18.3	2	88	17.8	12	11.8	
UKIP	3	0.5	0	3	0.5	2	5	0.9	2	7	1.3	2	8	1.6	3	10	2.0	9	8.8	
Green	1	0.2	0	1	0.2	1	1	0.2	0	1	0.2	0	1	0.2	0	1	0.2	1	1.0	
BNP	0	0.0	1	1	0.2	0	1	0.2	1	1	0.2	0	1	0.2	0	1	0.2	2	2.0	
Respect	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
English Democrats	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
SNP	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	0	1	0.2	0	1	0.2	1	1.0	
Plaid Cymru	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	1	2	0.4	0	2	0.4	1	1.0	
DUP	3	0.5	0	3	0.5	0	3	0.6	0	3	0.6	0	3	0.6	1	3	0.6	1	1.0	
Alliance party	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Sinn Fein	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	1	1.0	
SDLP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
UUP	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	0.0	
Total party peers	566		6	561		19	542		19	526		18	509		19	493		81		
Crossbench	180	22.6	2	178	22.6	5	171	22.4	5	164	22.2	5	158	22.0	4	152	21.9	21	20.6	
Bishops and others	50	6.3	-	50	6.3	-	50	6.6	-	50	6.8	-	50	7.0	-	50	7.2	-	-	
Grand total	796		8	789		24	763		24	740		23	717		23	695		102		

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 3b: Scenario 3

			Election 1: Conservative narrow win (E)						Election 2: Conservative/Lib Dem coalition (F)						Election 3: Labour/Lib Dem coalition (A)				
Current membership			After election 1 - 2015			MTR - 2017			After election 2 - 2020			MTR - 2022			After election 3 - 2025			Total added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers
Labour	219	38.7	2	216	38.5	6	208	38.3	5	199	37.9	5	192	37.6	6	185	37.5	24	23.5
Conservative	231	40.8	2	229	40.8	7	221	40.7	7	213	40.6	7	206	40.4	6	198	40.2	29	28.4
Lib Dems	105	18.6	1	104	18.5	3	100	18.4	3	97	18.5	3	94	18.4	2	89	18.1	12	11.8
UKIP	3	0.5	0	3	0.5	2	5	0.9	2	6	1.1	2	8	1.6	3	10	2.0	9	8.8
Green	1	0.2	0	1	0.2	1	1	0.2	0	1	0.2	0	1	0.2	0	1	0.2	1	1.0
BNP	0	0.0	1	1	0.2	0	1	0.2	1	1	0.2	0	1	0.2	0	1	0.2	2	2.0
Respect	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
English Democrats	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
SNP	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	0	1	0.2	0	1	0.2	1	1.0
Plaid Cymru	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	1	2	0.4	0	2	0.4	1	1.0
DUP	3	0.5	0	3	0.5	0	3	0.6	0	3	0.6	0	3	0.6	1	3	0.6	1	1.0
Alliance party	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
Sinn Fein	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	1	1.0
SDLP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
UUP	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	0.0
Total party peers	566		6	561		19	543		19	525		18	510		19	493		81	
Crossbench	180	22.6	2	178	22.6	5	171	22.4	5	164	22.2	5	158	22.0	4	152	21.9	21	20.6
Bishops and others	50	6.3	-	50	6.3	-	50	6.5	-	50	6.8	-	50	7.0	-	50	7.2	-	-
Grand total	796		8	789		24	764		24	739		23	718		23	695		102	

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Fine tuning the preferred formula: a size cap, thresholds and start points

We have seen that the first formula results in an unsustainable growth in the size of the House of Lords, while the second formula is more manageable in terms of size, but only maintains this at the cost of representation for third and minor parties – which have no guaranteed representation and tend over time to zero. The only formula that meets the requirements of transparent fairness between the parties, adequate renewal on all benches and maintenance of the chamber at an acceptable size is formula 3: i.e. applying a proportionality principle across new appointments (rather than across the chamber as a whole). This formula also allows significant flexibility in terms of managing the size of the Lords; it can readily allow size to reduce over time. Given the guaranteed renewal on all party benches, it may even encourage retirements, allowing size reduction to go further and/or faster. At least until larger-scale Lords reform is achieved, the most desirable option will be to manage the size of the chamber down to an agreed point – probably 550 or 600 members. Thereafter, if further Lords reform has not yet occurred, this formula could be operated on a one-in-one-out basis. A managed process using formula 3, if coupled with voluntary retirements (perhaps on a co-ordinated basis across the parties), might allow this goal to be achieved within 5-10 years.

Nonetheless, as identified above, the preferred formula presents two relatively small problems.

The first problem, which is fairly easy to deal with if desired, is that it awards more seats to minor parties than has been traditional in the Lords (though far, far fewer than would have occurred under formula 1). In the case of parties such as the Greens and Plaid Cymru this may not be seen as problematic (and indeed many would see it as desirable and fair). But the admission of BNP members into the Lords, when that party has no representation in the House of Commons, would be widely seen as undesirable.²⁸ This suggests a minor adjustment to the formula, as applies in many electoral systems, to include some kind of threshold for representation. There are two simple means by which such a threshold could be applied. Neither have any implications for the size of the chamber, only for party balance.

The first would be to simply limit new appointments during any parliament to those parties that hold seats in the Commons. A rule that a party must hold at least one Commons seat would clearly exclude the BNP. Likewise, among those parties listed in our tables, but which won at least 30,000 votes in 2010, it would currently exclude both the English Democrats and the Ulster Unionist Party (though for the latter, which has won Commons seats in the past, this lack of entitlement might well prove temporary). The position of both UKIP and Respect is more ambiguous, as these parties owe their Commons representation solely to by-election victories. These could well be excluded, requiring seats to have been won at a general election (though UKIP is widely expected to win seats in 2015, and any party doing so would clearly immediately become eligible). A more stringent version of this requirement could also be applied, demanding that a party hold two or three Commons seats before being eligible for peerages. Either would presently exclude the Greens, and the Northern Ireland Alliance party, among those allocated seats in the tables above.

An alternative approach, commonly applied in electoral systems, would be to base a threshold on election vote shares. A threshold of 5% is not unusual – this applies for example for elections to the German parliament.²⁹ Such a threshold if applied uniformly can have an unfair effect on parties that contest elections in only one area (e.g. Plaid Cymru is unlikely ever to achieve a 5%

UK vote share, given that less than 3% of the UK population resides in Wales). For this reason, thresholds are often applied only to the area(s) where a party actually contests seats. If a flexible 5% threshold of this kind was applied to entitlement to Lords appointments, Plaid Cymru and the SNP would have entitlement in Wales and Scotland respectively (though the latter might choose not to use it), and all the mainstream Northern Irish parties would also have entitlement, including the UUP which failed to win a Commons seat in 2010. With respect to those parties contesting seats across the whole of the UK, only Labour, Conservatives and Liberal Democrats would qualify on the basis of 2010 vote shares (UKIP's 2010 vote share was 3.1%, the BNP's 1.9% and the Greens' 1.0%).³⁰ This of course may well change in future elections. Indeed if the system became entrenched there would be some possibility of tactical voting by minor party supporters in order to qualify for representation in the Lords.

A second problem created by this formula – also fairly easily dealt with if required, though it does have some implications for size – is that it gives a slight advantage to the party (or parties) which are most strongly represented at the outset, because thereafter the number of appointments going to the two main parties is very similar. Although over several election cycles the balance will tend to level out, scenarios 1 and 2 (applying the formula in either variation 3a or 3b above) show that the current advantage of the Conservatives as the largest party is not eliminated even after two elections where Labour has had the largest vote share. This formula does not explicitly aspire (as do formulae 1 and 2) to make the winning party the largest in the Lords; but nonetheless this inbuilt Conservative majority seems somewhat arbitrary. The most obvious solution would be to level up numbers between the two main parties at the outset, before starting to apply the formula. This could be done just once (in 2015), or could even be introduced as an adjustment to the formula after each election, thus integrating some of the logic in formula 2. The latter approach obviously has some knock-on effect for the size of the chamber, but in practice this proves not to be very great.

In the final set of tables below, we demonstrate the effects of these changes, in what we treat as formula 3c. This again applies a one-in-two-out principle, as in formula 3b. Two sets of effects are visible. First, by applying the threshold of one seat in the House of Commons, the allocations previously given to the BNP are instead given to other minor parties. While excluding BNP representatives from membership, this otherwise has a relatively minor effect on small party representation. Second, we show the 'maximal' adjustment in terms of equalisation, by equalising for each governing party after each election. The biggest change occurs in scenarios 1 and 2, where Labour is given additional top-up seats in 2015, increasing the overall number of appointments (once Crossbenchers have been maintained at 20%) from 8 to 22. Labour again gets a small additional top up after the election in 2025, increasing this intake from 23 to 25 in scenario 1 and 26 in scenario 2. In scenario 3, where the Conservatives are the 2015 winners, no immediate top up is required (as this party is already the largest), but Labour again gets a top up in 2025. (In principle top ups for the Conservatives are of course also possible, but prove not to be necessary over this period under any of the three scenarios due to the party's existing lead.) The overall effects on size of the chamber are fairly small, even under this quite generous equalisation principle – taking it from 695 (formula 3b) to between 712 and 716. If a more minimal equalisation principle were applied – perhaps only in 2015 – the effect would be even smaller. This first equalisation might even be achieved by seeking retirements, rather than making new appointments, in which case it would have no growth effect at all. Alternatively, obviously, the formula could be adjusted only by adding thresholds, again with no growth effect.

Formula 3c: Scenario 1

		Election 1: Labour/Lib Dem coalition (A)							Election 2: Conservative big win (B)						Election 3: Labour win (C)					
		Current membership		After election 1 - 2015			MTR - 2017			After election 2 - 2020			MTR - 2022			After election 3 - 2025			Total added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers	
Labour	219	38.7	13	228	39.9	7	220	39.7	5	212	39.4	5	203	39.0	9	200	39.2	39	32.8	
Conservative	231	40.8	2	228	39.9	6	219	39.5	7	213	39.6	7	206	39.6	6	200	39.2	28	23.5	
Lib Dems	105	18.6	0	103	18.0	2	99	17.9	3	95	17.7	3	91	17.5	4	89	17.5	12	10.1	
UKIP	3	0.5	1	4	0.7	3	7	1.3	2	8	1.5	2	9	1.7	0	9	1.8	8	6.7	
Green	1	0.2	0	1	0.2	1	1	0.2	0	1	0.2	0	1	0.2	1	2	0.4	2	1.7	
BNP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Respect	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
English Democrats	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
SNP	0	0.0	1	1	0.2	0	1	0.2	1	2	0.4	0	2	0.4	0	2	0.4	2	1.7	
Plaid Cymru	2	0.4	0	2	0.3	0	2	0.4	1	2	0.4	0	2	0.4	0	2	0.4	1	0.8	
DUP	3	0.5	0	3	0.5	0	3	0.5	0	3	0.6	1	3	0.6	0	3	0.6	1	0.8	
Alliance party	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Sinn Fein	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	0	1	0.2	1	0.8	
SDLP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
UUP	2	0.4	0	2	0.3	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	0.0	
Total party peers	566		17	572		19	554		19	538		19	520		20	510		94		
Crossbench	180	22.6	5	181	22.5	5	174	22.4	5	167	22.1	5	160	21.9	5	156	21.8	25	21.0	
Bishops and others	50	6.3	-	50	6.2	-	50	6.4	-	50	6.6	-	50	6.8	-	50	7.0	-	-	
Grand total	796		22	803		24	778		24	755		24	730		25	716		119		

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 3c: Scenario 2

		Election 1: Labour narrow win (D)							Election 2: Conservative narrow win (E)						Election 3: Labour/Lib Dem coalition (A)					
		Current membership		After election 1 - 2015			MTR - 2017			After election 2 - 2020			MTR - 2022			After election 3 - 2025			Total added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers	
Labour	219	38.7	13	228	39.9	7	220	39.8	6	213	39.7	6	205	39.3	9	202	39.6	41	34.2	
Conservative	231	40.8	2	228	39.9	6	219	39.6	8	214	39.9	8	208	39.9	6	202	39.6	30	25.0	
Lib Dems	105	18.6	1	104	18.2	3	100	18.1	3	96	17.9	3	93	17.9	2	88	17.3	12	10.0	
UKIP	3	0.5	0	3	0.5	2	5	0.9	0	4	0.7	0	4	0.8	3	6	1.2	5	4.2	
Green	1	0.2	0	1	0.2	1	1	0.2	0	1	0.2	0	1	0.2	1	2	0.4	2	1.7	
BNP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Respect	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
English Democrats	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
SNP	0	0.0	1	1	0.2	0	1	0.2	1	2	0.4	0	2	0.4	0	2	0.4	2	1.7	
Plaid Cymru	2	0.4	0	2	0.3	0	2	0.4	1	2	0.4	0	2	0.4	0	2	0.4	1	0.8	
DUP	3	0.5	0	3	0.5	0	3	0.5	0	3	0.6	1	3	0.6	0	3	0.6	1	0.8	
Alliance party	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
Sinn Fein	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	0	1	0.2	1	0.8	
SDLP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0	
UUP	2	0.4	0	2	0.3	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	0.0	
Total party peers	566		17	572		19	553		19	537		19	521		21	510		95		
Crossbench	180	22.6	5	181	22.5	5	174	22.4	5	167	22.1	5	161	22.0	5	156	21.8	25	20.8	
Bishops and others	50	6.3	-	50	6.2	-	50	6.4	-	50	6.6	-	50	6.8	-	50	7.0	-	-	
Grand total	796		22	803		24	777		24	754		24	732		26	716		120		

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Formula 3c: Scenario 3

			Election 1: Conservative narrow win (E)						Election 2: Conservative/Lib Dem coalition (F)						Election 3: Labour/Lib Dem coalition (A)				
Current membership			After election 1 - 2015			MTR - 2017			After election 2 - 2020			MTR - 2022			After election 3 - 2025			Total added	
Party	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	New peers added	Total peers	% of party peers*	N	% of all peers
Labour	219	38.7	2	216	38.5	6	208	38.2	5	199	37.9	5	192	37.6	19	199	39.3	37	31.1
Conservative	231	40.8	2	229	40.8	8	222	40.8	8	215	41.0	8	208	40.8	6	199	39.3	32	26.9
Lib Dems	105	18.6	1	104	18.5	4	101	18.6	4	99	18.9	4	97	19.0	2	92	18.2	15	12.6
UKIP	3	0.5	0	3	0.5	0	3	0.6	0	2	0.4	0	2	0.4	3	4	0.8	3	2.5
Green	1	0.2	0	1	0.2	1	1	0.2	0	1	0.2	0	1	0.2	1	2	0.4	2	1.7
BNP	0	0.0	0	0	0.0	0	1	0.2	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
Respect	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
English Democrats	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
SNP	0	0.0	1	1	0.2	0	1	0.2	1	2	0.4	0	2	0.4	0	2	0.4	2	1.7
Plaid Cymru	2	0.4	0	2	0.4	0	2	0.4	1	2	0.4	0	2	0.4	0	2	0.4	1	0.8
DUP	3	0.5	0	3	0.5	0	3	0.6	0	3	0.6	1	3	0.6	0	3	0.6	1	0.8
Alliance party	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
Sinn Fein	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	1	1	0.2	0	1	0.2	1	0.8
SDLP	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0	0.0	0	0.0
UUP	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	2	0.4	0	0.0
Total party peers	566		6	561		19	544		19	525		19	510		31	506		94	
Crossbench	180	22.6	2	178	22.6	5	171	22.4	5	164	22.2	5	158	22.0	8	156	21.9	25	21.0
Bishops and others	50	6.3	-	50	6.3	-	50	6.5	-	50	6.8	-	50	7.0	-	50	7.0	-	-
Grand total	796		8	789		24	765		24	739		24	718		39	712		119	

* Percentages for Crossbench and 'bishops and others' are of the total membership of the chamber.

Conclusions and recommendations

House of Lords reform has been much discussed over the past 15 years, but reform itself has remained elusive. Large-scale change is again likely to be promised by the parties in 2015, but this is clearly hard to achieve – historical precedent suggests that it is unlikely. But even if progress towards bigger reform is made in the next parliament, it will take 2-3 years to put into effect. In the meantime there will be pressure for more appointments to the Lords.

The change that removed the hereditary peers in 1999 significantly boosted the chamber, and is now widely accepted to have strengthened parliament. But the party leaders' keenness to appoint to the revived House of Lords ironically risks weakening it, and making parliament both less effective and less respected. Particularly since 2010, increasing concerns have been expressed about the chamber's unsustainable growth in size. In the 15 years since Labour's reform, it has grown by one third – from 666 members to 850. In addition, for so long as the Prime Minister has unregulated appointment powers, he or she can manipulate membership of the Lords for party advantage. This situation both weakens parliament directly, and damages its reputation.

The House of Lords is too important for its membership any longer to be left to prime ministerial whim. The chamber's growth in size in recent years demonstrates that unregulated prime ministerial appointments are no longer sustainable. A more regulated and defensible system is needed, with immediate effect.

Since the failure of the government's bill in 2012 some attention has finally focused on the need for small, incremental reforms to deal with the most urgent problems facing the Lords – at least as a stopgap, until more major reform can be achieved. One important vehicle for these proposals was the private member's bill proposed repeatedly by Lord Steel of Aikwood. Following the collapse of the government's own legislation in 2012, a version of this bill reached the statute book in 2014. But in its slimmed-down form, it dealt only with retirements and expulsions from the Lords, omitting the provisions on regulating appointments that had appeared in previous versions. This has dealt with one urgent problem. Yet it is widely accepted (e.g. Leader's Group on Members Leaving the House 2011; Political and Constitutional Reform Committee 2013) that retirement provisions alone will not resolve the size problems in the House of Lords. **Historically Lords reform has proceeded in small steps, and the most recent such step was introduction of retirement in 2014. But reforming how members depart the chamber without regulating how they arrive is doomed to be ineffective; without a transparent formula for sharing future appointments between the parties (and Crossbenchers) most peers will not retire for fear of weakening their group. The next urgent small-scale reform is thus regulating the way into the chamber and limiting prime ministerial patronage powers. This requires a clear formula for sharing seats between the parties, and a maximum agreed size for the chamber.**

The Political and Constitutional Reform Committee (2013), and others, have recognised the need for a transparent formula for future appointments to the House of Lords. But to date there has been no detailed investigation of the effects of alternative formulae, and no agreement between the parties about which formula should be adopted. The central purpose of this report was to test the effects of different formulae under different electoral conditions, to identify which is the most workable. **A workable formula must meet three criteria: providing transparent fairness between the parties (and Crossbenchers); allowing the size of the chamber to be controlled (and ideally managed down); and allowing all main groups in the chamber adequate renewal.** We tested the effects of three formulae across three different election scenarios. The first formula (as expressed, for example, in the 2010 coalition agreement) seeks to make the membership of the chamber proportional to general election votes. The

second formula (as expressed, for example, in the Steel bills) guarantees a 3% lead to the winning party. The third formula (as expressed, for example, by the government’s white paper of 2007, and the Public Administration Committee) maintains proportionality across new appointments rather than across the chamber as a whole. A summary of the effects of the formulae is shown in Table 4.

Our projections demonstrate important effects. First, as others have previously pointed out (Electoral Reform Society 2013; Russell et al. 2011), the proportionality formula in the 2010 coalition agreement results in a totally unsustainable and undesirable increase in the chamber’s size. Notably the growth in the size of the chamber would have been even worse to date if this formula had been applied to the full. It includes a ratchet effect, where after each election proportionality can only be achieved by increasing numbers further, making it completely impossible to control the chamber’s size. In contrast, a minimal interpretation of the Steel bill formula, by simply giving a 3% advantage to the winning party after each election (and maintaining a 20% share for the Crossbenchers) does not have such negative effects on size, but fails to provide adequate renewal for non-governing parties. An adjustment to allow some renewal (formula 2b, using a one-in-two-out principle) alleviates this problem somewhat, but eliminates the size advantages under some electoral conditions, and still has arbitrary results for third and minor parties.

Table 4: Projection of the effects of the three formulae on size of the chamber in 2015 and – if continued – until 2025, under three election scenarios

Formula	Size range across three scenarios		Comments
	In 2015	In 2025	
1. Proportionality across the chamber	941 – 1340	1354 – 2207	Impossible to control chamber’s size
2a. Lead of 3% for winning party	793 – 817	651 – 723	No renewal for non-governing parties
2b. As in 2a, with renewal for non-governing parties, one-in-two-out	793 – 817	730 – 804	Renewal principle is arbitrary, and size benefit of 2a is lost
3a. Proportionality across new appointments, one-in-one-out	796	796	Fair; party balance remains fairly stable. In size terms, 3b clearly better
3b. As in 3a, using one-in-two-out	789	695	Fair, sustainable. Retirements could speed reduction in size. Minor problems: BNP representation without thresholds; winning party sometimes disadvantaged.
3c. As in 3b, also incorporating thresholds and equalisation for winning party	789 – 803	712 – 716	Fair, sustainable. Thresholds exclude BNP. Disadvantage for winning party eliminated (causing slight increase in size over 3b). Retirements could further speed reduction in size.

In contrast a formula based on proportionality among new appointments encapsulates a clear fairness principle, provides some renewal to all party groups, and allows the size of the chamber to be managed easily. The first application of this formula (3a) simply maintains the chamber at its current size, and shows the effects of a one-in-one-out principle over time, demonstrating that in a steady state the share of seats between the parties remains fairly stable. In the short term, however, a one-in-two-out principle seems more desirable, and would allow the size of the chamber to shrink by roughly 100 members across three elections (based only on attrition due to deaths). But in practice acceptance of this formula for future appointments would probably also encourage retirements from the chamber – allowing numbers to shrink further and faster. The

small disadvantages with this formula are that without thresholds it could allow some representation for extremist parties, and it can leave the winning party weaker than its main rival. But both of these are easily dealt with. In formula 3c we show an adjustment of this formula, incorporating a threshold that requires a party to have won at least one seat in the House of Commons at the previous general election (not visible in the numbers in Table 4, as it has no size effect). We also show the impact on size of a further possible adjustment, guaranteeing equalisation for the winning party.

Our detailed analysis of different election scenarios shows clearly that a formula based on seeking to achieve proportionality in the chamber is unworkable and has an unsustainable ratchet effect. A formula based purely on advantage for the winning party, in contrast, has arbitrary effects on third and minor parties. The most workable formula is one based on proportionality within each new round of appointments. This can allow the size of the chamber to be managed downwards, and can be adjusted if desired to ensure that the winning party is not disadvantaged (by guaranteeing equalisation after each election).

If a maximum size for the chamber were set at 550 or 600, it seems plausible to achieve this in the next 5-10 years by adopting such a formula, combined with the explicit encouragement of retirements. If peers are assured that future appointments will be sustainable they might well be persuaded, in return, to pursue large-scale retirement schemes more vigorously.³¹

Having identified a workable formula, and rejected other proposed formulae as unworkable, the remaining questions are ones of implementation. As indicated earlier in the report, the problem of uncontrolled Lords appointments is becoming increasingly urgent. In particular, if there is a change of government in 2015, any attempt to rebalance numbers on a similar basis to what the coalition has done could prove disastrous. **As the Political and Constitutional Reform Committee (2013) pointed out, there is an urgent need for a sustainable formula for future Lords appointments by May 2015 – and we have now set out what this formula should be. Parties will no doubt remain committed in principle to large-scale Lords reform, but until such time as that is achieved it would simply be irresponsible for any future Prime Minister to continue with the status quo.**

The obvious body to police the new formula and size cap is the House of Lords Appointments Commission. The Commission would calculate the number of vacancies available at each round – illustrated here as being one after each election, and one between elections – and the appropriate number of these to go to each party, using general election vote shares (plus 20% for Crossbenchers). It would then invite nominations from party leaders, which would be subject to the usual propriety checks. Aside from limiting the numbers appointed for each party, this new system need not necessarily encroach on party patronage in other ways.³² **The House of Lords Appointments Commission should police the new system, inviting nominations from the parties as vacancies in the Lords occur. Crucially, no legislation is needed in order to effect this change – all the Commission needs is a new direction from the Prime Minister to extend its role.**

The preferable means of deciding the formula and size cap is by cross-party agreement, but we know that agreement on small-scale Lords reform is difficult, and an election is now looming which makes these matters urgent. It is therefore quite possible that agreement between the parties on such changes will not be forthcoming. Since the Prime Minister alone largely controls the current system of Lords appointments, this primarily becomes a question for the two main

party leaders. **David Cameron and Ed Miliband should both be urged – by those inside and outside parliament – to commit to a new approach to Lords appointments from May 2015. That is, for the incoming prime minister to give additional power to the House of Lords Appointments Commission as set out above.**

We hope that, having provided the evidence about effects of different appointment formulae, support can coalesce around these proposals. Irrespective of whether one supports large-scale Lords reform or not, such short-term changes are clearly urgent. Unfortunately there are few external campaign groups currently focusing on small-scale Lords reform. **Democracy and constitutional reform pressure groups have a responsibility to hold the party leaders to account on this matter – they should not turn a blind eye to unregulated prime ministerial patronage, no matter their views on larger-scale Lords reform.**

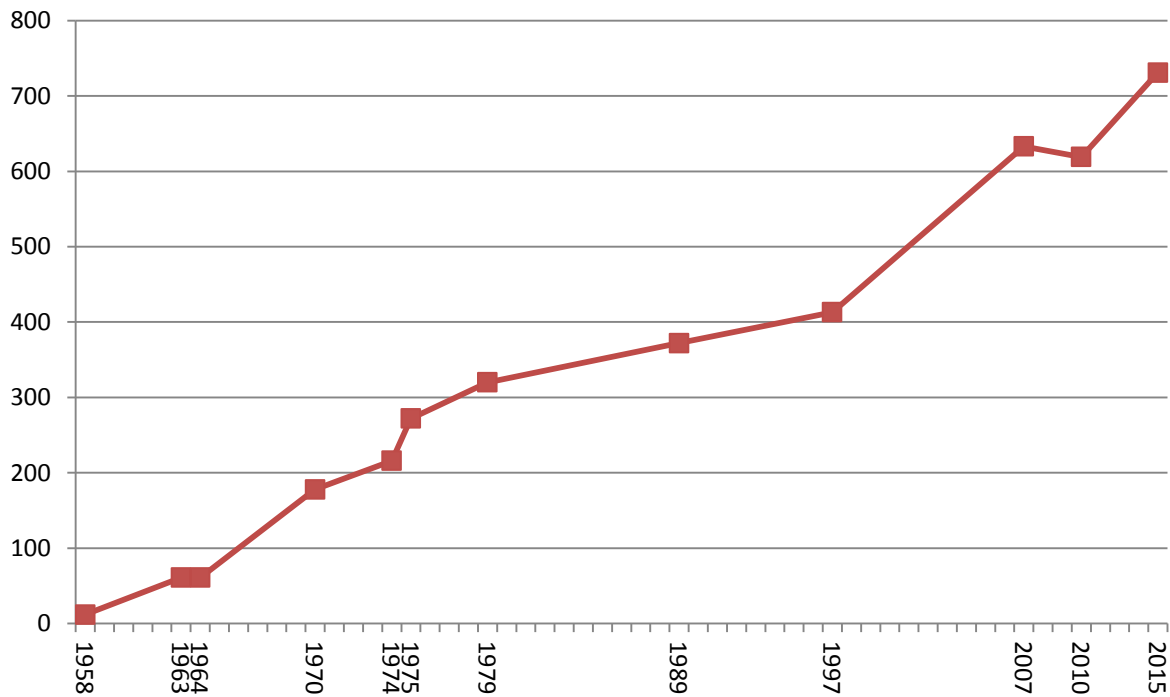
Such options have of course been available to prime ministers for some time, and have not yet been taken up. We hope that publication of this report will help to clarify – both for those in government and those lobbying government – what needs to be done. But in the event that the 2015 government does not take action, there are still other options available. In the extreme, one of these is returning to the kind of action proposed by Lord Steel of Aikwood in the Lords debate on 28 February 2013. **If the incoming government does not adopt a new approach to House of Lords appointments, the chamber itself may wish to act. One option is clearly a Private Member’s Bill, but that would take some time. Another option which remains available is for the Lords to refuse introduction of new members until a fair and sustainable formula for future appointments is agreed.**

Finally, in the face of government inaction there are some changes that could be made by the House of Lords Appointments Commission. Without direction from the Prime Minister the Commission cannot impose limitations on future party political appointments. However, it could do more to increase transparency: by monitoring the pattern of appointments, and publishing projections for the size of the chamber and balance between the parties. **Whether or not the incoming government adopts a new approach to House of Lords appointments, the House of Lords Appointments Commission should begin to produce regular statistics on the pattern of Lords appointments and how these compare to the kind of sustainable formula set out in this report.** It should not fall only to researchers such as ourselves, or to the media, to produce these kinds of projections. This basic information function could reasonably be seen to fall within the House of Lords Appointments Commission’s existing role.

Appendix 1: Number of life peers 1958-2015

It is common when considering the size of the House of Lords to look at the combined number of life peers and hereditary peers together. But such figures mask the precipitous increase in the number of life peers that has taken place since 1958. We therefore supplement the figures in Table 2, on the number of peerage creations by Prime Minister, with this figure showing the total number of life peers at the end of each premiership (and for David Cameron, in January 2015).

Figure 4: Total number of life peers 1958-2015



Source: Figures provided by House of Lords Library, based on the last complete parliamentary session of each premiership. Note that these figures include life peers appointed under the Appellate Jurisdiction Act 1876, as well as under the Life Peerages Act 1958, and include peers on leave of absence or disqualified.

Appendix 2: Elections

As indicated in the main body of the report, we constructed our three different scenarios out of different combinations of six different sets of election results. We tried to base these results as much as possible on reality, in terms of recent polling and recent elections. However, we also had to adjust the numbers for the purposes of the exercise, in order to give us the variations we required to aid modelling of the different formulae. Additionally, the relatively recent shift in the fortunes of the Liberal Democrats and the UK Independence Party (UKIP) has been taken into account in all the election results, and not just those based on current polling.

The election results are here reproduced in full, along with an explanation of the source and adjustments made.

Major parties

In order to simplify matters we chose to only vary results for the four largest current parties: Labour, Conservatives, Liberal Democrat, and UKIP. We constructed different outcomes with Labour and the Conservatives winning by varying amounts, and also forming governing coalitions with the Liberal Democrats.

Election A: Labour/Lib Dem coalition

Party	Vote share	Seats	Source
Labour	34	323	July 2014 poll, ³³ with a slight upward adjustment for the Conservatives, Lib Dems and UKIP.
Conservative	33	278	
Liberal Democrats	10	20	
UKIP	15	2	

Election B: Conservative big win

Party	Vote share	Seats	Source
Labour	28	194	A reversal of the 2001 election with an increase in the winning lead.
Conservative	41	400	
Liberal Democrats	14	28	
UKIP	9	1	

Election C: Labour win

Party	Vote share	Seats	Source
Labour	36	358	The 2005 election results, with a slightly increased lead for Labour.
Conservative	31	202	
Liberal Democrats	18	63	
UKIP	7	0	

Election D: Labour narrow win

Party	Vote share	Seats	Source
Labour	35	330	Based on election A, but with an increased Labour lead, and a Liberal Democrat advance at the expense of UKIP.
Conservative	32	277	
Liberal Democrats	15	14	
UKIP	10	2	

Election E: Conservative narrow win

Party	Vote share	Seats	Source
Labour	29	258	Based largely on the 2010 election results, with a Conservative gain at the expense of the Lib Dems, giving the former an outright (though narrow) majority.
Conservative	38	329	
Liberal Democrats	16	36	
UKIP	9	0	

Election F: Conservative/Lib Dem coalition

Party	Vote share	Seats	Source
Labour	29	269	Based on 2010 election results, but with some Liberal Democrat votes going to UKIP
Conservative	36	317	
Liberal Democrats	18	37	
UKIP	9	0	

Minor parties

Our assumptions have the results for the minor parties remaining the same throughout, replicating the 2010 election results. We exclude very small parties that failed to get 30,000 votes.

Party	Vote share	Seats
Green Party	1.0	1
British National Party (BNP)	1.9	0
Respect	0.1	0
English Democrats	0.2	0
Scottish National Party (SNP)	1.7	6
Plaid Cymru	0.6	3
Democratic Unionist Party	0.6	8
Alliance Party	0.1	1
Sinn Fein	0.6	5
Social Democratic and Labour Party (SDLP)	0.4	3
Ulster Unionist Party*(UUP)	0.3	0

* Note: the UUP actually fought the 2010 election as the Ulster Conservatives and Unionists - New Force: an alliance with the Northern Irish branch of the Conservative party. This alliance has since disbanded.

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¹ For some example headlines see page 14. A further storm occurred in August 2014 when Andrew Green was appointed as a non-party peer, using the Prime Minister's power (as agreed with the House of Lords Appointments Commission) to appoint up to 10 such peers per parliament. The controversy in this case concerned whether Green – a former diplomat but also founder of Migration Watch – fitted the 'public service' background required for these positions. (See for example the *Guardian* 'An Ennoblement Too Far', 22 October 2014, at <http://www.theguardian.com/commentisfree/2014/oct/22/guardian-view-on-lord-green-an-ennoblement-too-far> – accessed 17 December 2014). Despite the seriousness of such questions our report is primarily concerned with more standard party political appointments, and Crossbench appointments via the House of Lords Appointments Commission, so we do not discuss this matter.

² For a discussion of historical controversies over peerage creations – which bear some interesting resemblances to those in the present day – see Russell (2013), chapter 2.

³ See for example Russell (2003; 2010; 2013), Russell and Sciara (2007; 2008); Cowley (2006), King (2007), Shell (2007).

⁴ Indeed, quite the reverse. In its response to the committee, the government reiterated its commitment to the formula set out in the coalition agreement which, as shown below (formula 1), leads to unsustainable growth in the size of the chamber. See Political and Constitutional Reform Committee (2014: 5).

⁵ See in particular Russell et al (2011) and Electoral Reform Society (2013).

⁶ As Vollmer (2012) shows, in the pre-reform period the peak of attendance was 446 in the 1998-99 session. In the early 1980s average daily attendance was below 300, and in the early 1960s was below 200. Russell (2013: 17, 30) also shows steady growth in the overall size of the chamber over a longer period: from 158 in 1661 to 344 in 1801, 613 in 1906, 826 in 1952, 947 in 1986 and 1210 in 1999.

⁷ See <http://www.ucl.ac.uk/constitution-unit/constitution-unit-news/190411> (accessed 17 December 2014).

⁸ Frances D' Souza, 'We're in danger of becoming a place of ridicule', *The Times*, 6 February 2013. At <http://www.thetimes.co.uk/tto/opinion/columnists/article3679201.ece> (accessed 19 August 2014).

⁹ Frances D' Souza, 'We have far too many peers. A humane cull is required', *The Times*, 26 July 2014. At <http://www.thetimes.co.uk/tto/opinion/thunderer/article4158264.ece> (accessed 19 August 2014).

¹⁰ In the words omitted he suggested that '[t]hose consequences of course include: time limits on speeches that curtail debate, making it much more difficult to have a proper debate across the House; the competitive nature of Oral Questions; the pressure on facilities, particularly on days when the House is very full; and, perhaps less obviously but definitely, the weakening through overload of the House's long-appreciated ability to absorb [new members] into its culture of reasoned debate rather than point-scoring, and of cross-party respect, friendship and so on' (House of Lords Hansard, 6 January 2015, column 291-92). Former Conservative Leader of the House Lord Strathclyde likewise noted the 'rising cacophony of Members of the House who are concerned about the ever increasing number of Peers' (ibid: column 274).

¹¹ Inter-Parliamentary Union Parline database, available at: <http://www.ipu.org/parline/parlinesearch.asp> (accessed 19 August 2014).

¹² In fact, according to IPU figures, there are very few parliamentary chambers with more than 600 members. Aside from the Italian first chamber (630) these include only Nepal (601), Cuba (612) and North Korea (687), all of which are unicameral.

¹³ It is perhaps more notable that Conservative prime ministers (with the exception of Heath) did this, given that the Conservatives always far outnumbered Labour among hereditary peers pre-1999.

¹⁴ See note 8.

¹⁵ Lord Chancellor's Department (2001), Department for Constitutional Affairs (2003), Ministry of Justice (2008).

¹⁶ Cabinet Office (2011).

¹⁷ Royal Commission on the Reform of the House of Lords (2000), Public Administration Select Committee (2002), Joint Committee on House of Lords Reform (2002), Joint Committee on the Draft House of Lords Reform Bill (2012).

¹⁸ For a discussion, see chapter 2 of Russell (2013). The story of Harold Wilson's failed reform in 1968 is particularly instructive – as told in more detail in Ballinger (2012), Morgan (1975).

¹⁹ House of Lords Bill [HL] (2006-07); House of Lords Bill [HL] (2007-08); House of Lords Bill [HL] (2008-09); House of Lords Bill [HL] (2010-12); see Rushbrook (2012) for more information on these bills.

²⁰ See note 9.

²¹ House of Lords Hansard, 6 January 2015.

²² House of Lords Hansard, 12 December 2013, column 974.

²³ This number was necessary only to rebalance the party benches; if the Crossbenches were to be replenished proportionately, the number of new peers would be 349, and the overall size of the chamber 1142.

²⁴ The exception is bishops, who retire and are replaced on a 'one-out, one-in' basis. In our models we simply assume that the number of bishops remains constant.

²⁵ For a breakdown of recent proposals see Russell (2013: 262). A 20% share for non-party peers has appeared in all four government white papers published since 1999, and in proposals of others such as the Royal Commission and Public Administration Select Committee.

²⁶ As noted above, one of our simplifying assumptions is to base minor party vote shares on the 2010 general election result. Since then support for the Greens has significantly increased in the polls, and support for the BNP has declined.

²⁷ See note 26.

²⁸ Though – as noted immediately above – the BNP is currently very weak in the polls, so our projections of its representation may be overestimates.

²⁹ As well as a number of other countries, as Downs (2012: 34) makes clear: 'Germany's 5 percent rule is a model emulated by many new democracies and transitioning states'.

³⁰ Some countries do use lower thresholds: for example in Spain the electoral threshold is 3%.

³¹ For example in January 2015 there were 165 peers aged over 80 (of whom 29 were on leave of absence). Alternative means of encouraging retirements – as debated in the Lords on 6 January 2015 – include seeking volunteers in each of the party groups on a proportional basis.

³² Though some further adjustments might be considered desirable. For example the Public Administration Select Committee (2007) suggested that the House of Lords Appointments Commission might encourage the parties to put forward longlists of candidates from whom members could be chosen in order to ensure gender, ethnic, regional and professional balance. This proposal has merits, but is beyond the scope of our report.

³³ July 2014 Ashcroft poll, at <http://lordashcrofthpolls.com/2014/07/ashcroft-national-poll-con-32-lab-34-lib-dem-9-ukip-14-green-6/#more-6295> (accessed 20 August 2014).

Since the last major reform in 1999 (when the majority of hereditary peers departed), large-scale House of Lords reform has rarely been off the political agenda. But very little subsequent progress has been made, and the coalition's proposals dramatically collapsed in 2012. Meanwhile, in the 15 years since 1999 the size of the Lords has grown by a third - from 666 members to around 850. This is clearly unsustainable, and something urgently needs to be done. A recent small-scale change (facilitated by the Steel/Byles bill, now the House of Lords Reform Act 2014) allowed for voluntary retirements, but this alone is unlikely to have much impact. While it creates a way out of the chamber, the bigger problem is the unregulated way in. The Prime Minister can currently appoint unlimited numbers of peers, with no agreed formula for how seats should be shared between the parties. Various parliamentary committees, and others, have argued that such unregulated appointments must end, and a sustainable formula for appointments be found. But to date, no detailed modelling has been done on the effects of different formulae. This report analyses the effects on size and party balance in the Lords of the three main formulae that have been previously proposed. It concludes that the formula currently favoured by the coalition government has disastrous effects on size, but that a more sustainable formula exists - which will even allow the size of the chamber to be managed down. It argues that this formula should be adopted before the May 2015 election for all subsequent appointments. Even if the new government intends to proceed with large-scale Lords reform this is likely to take some time, and it would simply be irresponsible to continue with the current arrangements.

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