



HOUSE OF LORDS

Library Note

Debate on 12 December: Reducing the Size of the House of Lords

This Library Note provides background reading for the debate to be held on Thursday, 12 December 2013 to:

“take note of the case for reducing the size of the House of Lords”

The Library Note contains information and statistics on the size of the House of Lords and the changing membership patterns over the last 20 years. The Note summarises some of the concerns over the present and possible future size of the House. The Note includes discussion of some of the proposals that have been put forward to reduce or manage the size of the House, including by the Leader’s Group on Members Leaving the House, the House of Commons Political and Constitutional Reform Select Committee and through Bills currently before Parliament.

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I. Introduction

As stated in the recent memorandum produced by the Clerk of the Parliaments, David Beamish, the “‘size of the House’ may be interpreted in two ways: it can refer simply to the number of Members eligible to participate in proceedings, or it can refer to those Members who do in practice attend sittings. Measures to remove from membership those Members who play no significant part will reduce the size of the House in the first sense but will have no impact on crowding in the Chamber, pressure on facilities or costs”.¹ This Note summarises information and proposals relating to both these definitions. In particular, part two contains statistics on the size of the House and its average attendance; part three considers some of the concerns over the present and projected size of the House; and part four outlines some of the recent proposals put forward to limit numbers and participation. First, however, this Note covers some of the factors that already exist that can impact upon the House’s “absolute membership” and its “actual membership”.

The absolute membership of the House includes all Members that may, at a point, exercise their right to sit in the House. The only way a Member can cease being considered part of the absolute membership is through death or, as of 2011, by taking voluntary retirement.² However, as noted in the Clerk of the Parliament’s memorandum, only three Members have taken advantage of the voluntary retirement scheme at the time of writing.³ Also, in practice, there is nothing to stop a Member changing their mind about their retirement if they so wished, as they would continue to receive a Writ of Summons in each new parliament.

The actual membership of the House excludes Members who have taken leave of absence or who are currently disqualified from sitting. In most cases, Members are disqualified from sitting due to holding a particular judicial post or as a Member of the European Parliament.⁴ Leave of absence was recently strengthened (upon recommendation of the Leader’s Group on Members Leaving the House)⁵ so that the Clerk of the Parliaments will now write to Peers at the beginning of a new session if they have only attended infrequently during the previous session inviting them to apply for a leave of absence.⁶ Members who do not respond within three months will now be granted leave of absence. Although both these measures preclude a Member from immediately participating in sittings of the House, they would only (in theory) be temporary exclusions. For example, Members on leave of absence may apply to return to the House following a three month notice period and those disqualified for holding a particular office are able to participate in the House once their position has been relinquished.

¹ [Memorandum submitted by David Beamish, Clerk of the Parliaments](#), to the House of Commons Political and Constitutional Reform Select Committee, June 2013, para 4.

² House of Lords, [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#), 2013, paras 1.32–7.

³ [Memorandum submitted by David Beamish, Clerk of the Parliaments](#), to the House of Commons Political and Constitutional Reform Select Committee, June 2013, para 11.

⁴ House of Lords, [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#), 2013, para 1.02.

⁵ Leader’s Group on Members Leaving the House, [Members Leaving the House](#), 13 January 2011, HL Paper 83 of session 2010–11, para 26.

⁶ House of Lords, [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#), 2013, paras 1.27–31.

In terms of joining the House, there are four main avenues to becoming a Member in the House of Lords:⁷

- Peers recommended by the House of Lords Appointments Commission⁸
- Prime Ministerial appointments (including non-party political appointments, resignation honours, dissolution honours, ministerial appointments and lists of new working peers)⁹
- Appointment to the Chamber as a Bishop or Archbishop¹⁰
- Election (through a by-election process) to replace a deceased excepted hereditary Peer¹¹

However, in terms of the size of the House, the latter two have little effect, as all appointments in this manner are on the basis that they are replacing a Member who has left. For example, there are currently 26 seats available in the House for Bishops or Archbishops, consisting of five automatic seats (reserved for the Archbishops of Canterbury and York and the Bishops of London, Durham and Winchester) and 21 seats granted on the basis of seniority.¹² When a vacancy arises in one of the 21 seats (eg through retirement or death) it is replaced by the most senior Bishop from outside the House. Bishops are required to retire at 70. In addition, following the House of Lords Act 1999, 92 hereditary Peers are also granted a seat in the House of Lords.¹³ Two of these seats are conferred upon the Earl Marshal and the Lord Great Chamberlain. When one of the other seats becomes available (through the death of one of the current incumbents), the Member is replaced following a by-election.

2. Information and Statistics on the Size of the House of Lords

As at 2 December 2013, there were 781 Members eligible to sit in the House of Lords (the “actual membership”). This included 670 Life Peers, 88 “excepted hereditary” Peers and 23 Bishops.¹⁴ There were also 54 Members “ineligible” to sit, taking the overall potential size of the membership (the “absolute membership”) to 835.¹⁵ Ineligible Members include those disqualified from sitting due to holding a specified office (eg certain judicial positions and Members of the European Parliament) and those on leave of absence. At the time of writing there were nine Members disqualified from sitting due to holding a particular office and 45 members on leave of absence.

⁷ Constitution Unit, [House Full: Time to Get a Grip on Lords Appointments](#), April 2011, pp 12–14.

⁸ House of Lords Library, [House of Lords Appointments Commission](#), 9 May 2012, LLN 2012/016.

⁹ Constitution Unit, [House Full: Time to Get a Grip on Lords Appointments](#), April 2011, pp 12–13.

¹⁰ House of Lords Library, [House of Lords: Religious Representation](#), 25 November 2011, LLN 2011/036.

¹¹ Meg Russell, *The Contemporary House of Lords*, 2013, pp 72–3.

¹² House of Lords Library, [House of Lords: Religious Representation](#), 25 November 2011, LLN 2011/036, page 1.

¹³ House of Lords, [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#), 2013, paras 1.03–6.

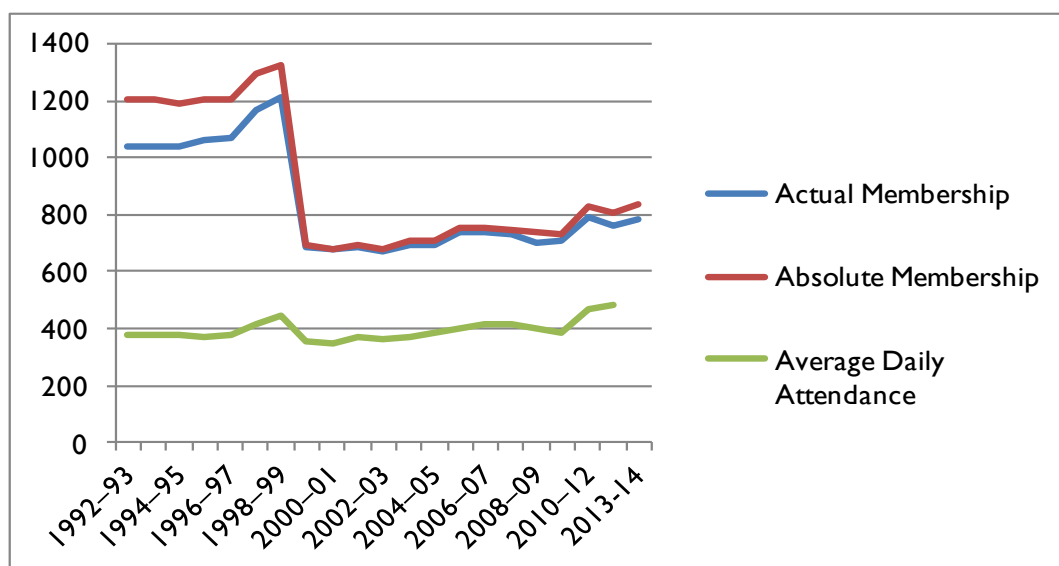
¹⁴ Parliament website, [‘Lords by Party, Type of Peerage and Gender’](#), accessed 2 December 2013.

¹⁵ Parliament website, [‘Ineligible Members of the House of Lords’](#), accessed 2 December 2013.

The following table shows the number of Members eligible to sit in the House of Lords alongside party affiliation:¹⁶

Party/Group	Life Peers	Hereditary Peers	Bishops (Lords Spiritual)	Total
Bishops	0	0	23	23
Conservative	173	49		222
Crossbench	151	30		181
Labour	216	4		220
Liberal Democrat	95	4		99
Non-affiliated	22	0		22
Other parties	13	1		14
Total	670	88	23	781

The average attendance of the House, alongside actual membership and absolute membership figures, can be seen in the following graph representing the changes in membership over the last 20 years (the full table containing this information is available in the Appendix to this Note):¹⁷



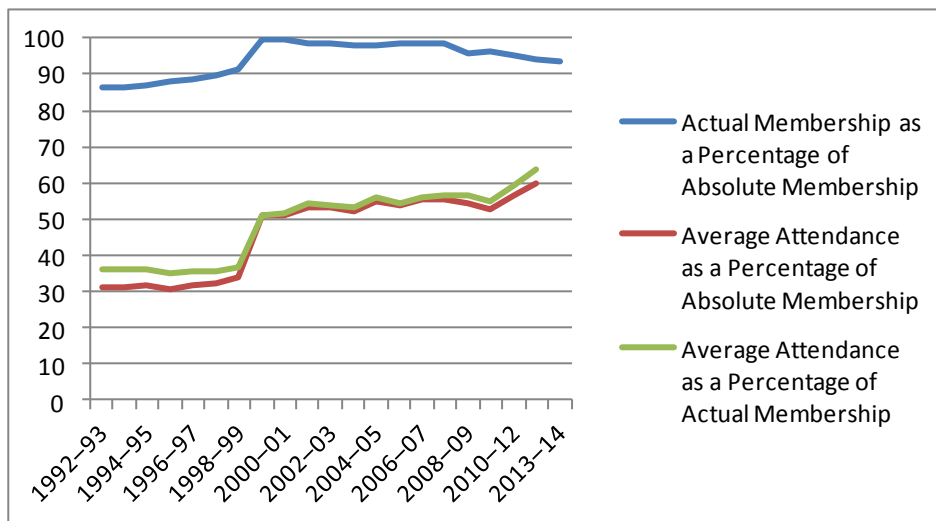
The graph shows that up to the House of Lords Act 1999 (which removed a large proportion of the hereditary Peers¹⁸), the actual and absolute membership of the House of Lords was over 1000. The average daily attendance at this time ranged between 350 and 450. Following the reduction in membership that resulted from the 1999 Act, the last decade has seen a general increase in the membership of the House—both in actual and in absolute terms. In addition, the average daily attendance recorded in the last two sessions (figures are not yet available for the current session) were at their highest for the last 20 years.

¹⁶ Parliament website, '[Lords by Party, Type of Peerage and Gender](#)', accessed 2 December 2013.

¹⁷ Source: HL Library.

¹⁸ House of Lords Library, [The Weatherill Amendment: Elected Hereditary Peers](#), 23 October 2009, LLN 2009/008.

The next graph presents average attendance figures as a percentage of actual or absolute membership and actual membership as a percentage of absolute membership (again, a full table is available in the Appendix to this Note):¹⁹



The figures demonstrate that average attendance, as a percentage of actual and absolute membership, has increased over the last 20 years. Not only did this figure increase fairly substantially following the House of Lords Act 1999, but it has also increased since then from the low 50s to around 60 percent (both as a percentage of actual and absolute membership). In addition, the percentage of Members forming the actual membership rose by over 10 percent between 1992 and 2008, and has since declined slightly over the past four sessions. This would indicate that, as a percentage, there are now more Members who are “ineligible” to sit in the House of Lords than there were around five years ago.

So far, in the 2013–14 session, there have been 39 new Members of the House of Lords (including Lord Thomas of Cwmgiedd, who is immediately ineligible to sit due to his judicial office as a Lord Chief Justice²⁰), and eleven Members who have ceased being permanent Members of the House (this included ten Members who have passed away, and one who has taken voluntary retirement).²¹ The average age of these new Members was 57 and the average age of those that ceased to be a Member was 82.²² The average age for the House as a whole is 70.

¹⁹ Source: HL Library.

²⁰ House of Lords, *Companion to the Standing Orders and Guide to the Proceedings of the House of Lords*, 2013, para 1.02.

²¹ Source: HL Library.

²² Source: HL Library.

The following table details Members joining or leaving (either through death or voluntary resignation) the absolute membership of the House of Lords since 2000 (not including Bishops).²³

Year	Members Joining the House	Members Leaving the House
2000	42	17
2001	45	25
2002	3	19
2003	5	21
2004	51	24
2005	45	21
2006	37	17
2007	20	18
2008	11	18
2009	11	19
2010	82	24
2011	47	13
2012	4	21
2013 ²⁴	39	11
Total	442	268

This table does not include Members who took leave of absence or became disqualified from sitting (or vice versa), as it only includes Members joining or leaving the absolute membership of the House.

Further information on the composition and work of the House can be found in the following Lords Library Notes:

- [House of Lords: Profile of Membership](#), 30 October 2013, LLN 2013/030 (contains information such as length of membership and age ranges of Members)
- [House of Lords: Party and Group Strengths and Voting](#), 27 June 2012, LLN 2012/026 (includes tables detailing the changing party balance in the House dating back to 1984)
- [Peerage Creations Since 1997](#), 12 June 2012, LLN 2012/023 (lists appointments to the House of Lords since 1997 and details the appointments under each Prime Minister)
- [Work of the House of Lords: Statistics](#), 16 March 2012, LLN 2012/009 (includes membership numbers dating back to 1911)

3. Concerns over the Size of the House of Lords

The announcement on 1 August 2013 of 30 new Members²⁵ prompted expressions of concern about the increasing size of the House of Lords from both within the House and beyond.²⁶ For

²³ Source: HL Library.

²⁴ Information taken up to 2 December 2013.

²⁵ Prime Minister's Office, ['Working Peerages Announced'](#), 1 August 2013.

example, on 19 November 2013 Lord Foulkes of Cumnock (Labour), tabled a question asking the Government what representations they had received about the increase in the size of the House of Lords.²⁷ Asking the question on behalf of Lord Foulkes, Lord Dubs (Labour), argued that “there is virtually no support on the Benches behind [the Minister]—or anywhere else in the House—for further increases in the size of this House”.²⁸ Responding for the Government, Lord Hill of Oareford, the Leader of the House of Lords, stated that it was important to “keep refreshing the House with new and young membership” and that the majority of the representations that the Government had received on the subject lent support to further increases.²⁹

Lord Laming (Crossbench), defended the work of the House, stating that “whatever the issues may be, it is important to recognise that this House holds the Government to account to a very high standard, scrutinises legislation to a great degree and promotes debates that are of great concern to our fellow citizens. The House actually functions well”.³⁰ Also, in relation to fears of overcrowding, Baroness Seccombe (Conservative) noted that the average daily attendance was 450, and suggested that, compared to the House of Commons, the House of Lords was “rather well served in the ratio of seat to Peer”.³¹ However, Lord Steel of Aikwood (Liberal Democrat) raised the possibility of introducing provisions for permanent retirement or exclusion of Members, as set out in the Private Member’s Bill sponsored by Dan Byles (Conservative MP for North Warwickshire), [House of Lords Reform \(No 2\) Bill 2013–14 \[HL Bill 15\]](#).³² Lord Hill of Oareford responded:

I shall certainly keep an eye on progress. The whole House will share my gratitude to my noble friend Lord Steel for his persistence in taking forward these issues. Therefore I am pleased, as I know he will be, that, following representations from a number of people, not least himself, the Government’s position has moved to one of support for the Private Member’s Bill sponsored by Dan Byles. The whole House will welcome that. It will deliver the benefits to which my noble friend referred.³³

This Bill, and its provisions, will be discussed further in part four of this Note.

A supplementary question from Lord Hunt of Kings Heath (Labour) highlighted concerns over the principle of increasing the membership of the House of Lords through appointing new Members in an attempt to represent the main political parties’ share of votes from the previous general election.³⁴ In response, Lord Hill of Oareford, stated that the Government were showing restraint in the amount of Members appointed to the House, but that, “in terms of the future, I cannot give any different undertaking from that which I am sure all my predecessors would have given: namely, that patronage rests in the hands of the Prime Minister. However I shall certainly ensure, as I continually do, that the views of your Lordships’ House are brought before all those who are concerned with these decisions”.³⁵

²⁶ See for example ‘[A Crowded, Expensive and Inefficient House](#)’, *Telegraph*, 1 August 2013; or ‘[Unreformed House of Lords Getting Larger All the Time](#)’, *Guardian*, 1 August 2013.

²⁷ HL *Hansard*, 19 November 2013, [cols 849–52](#).

²⁸ *ibid*, [col 850](#).

²⁹ *ibid*, [cols 849–50](#).

³⁰ *ibid*, [col 851](#).

³¹ *ibid*.

³² *ibid*.

³³ *ibid*, [col 850](#).

³⁴ *ibid*

³⁵ *ibid*, [col 851](#).

In the 2010 Coalition Agreement, the Government set out their intention to reform the House of Lords.³⁶ However, in the interim, the agreement stated that “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”. This principle was criticised in April 2011 by a report published by the Constitution Unit.³⁷ Written by Meg Russell, and supported by a selection of Members of Parliament from all three main political parties, the *House Full* report stated that “there are particular concerns about the coalition’s stated objective of achieving proportionality between the parties in the House of Lords in relation to general election vote shares: putting this promise into effect would require a minimum of 269 additional Peers to be appointed, taking the size of the chamber to 1062”.³⁸ In view of the anticipated need to “rebalance” the House after each general election, which could see further increases in the size of the House in the absence of any mechanism to remove Members, Meg Russell described the pursuit of proportionality as “unrealistic”.³⁹ As such, she called for the objective to be dropped and for there to be a moratorium on new appointments.⁴⁰

Meg Russell reasserted these concerns on 1 August 2013 in a press release following the announcement of the new Members.⁴¹ In addition, the release contained some recommendations for reform of the system, namely:

- Introducing an absolute size cap for the House of Lords
- Requiring the Prime Minister to appoint on a ‘one in, one out’ basis (or a ‘one in, two out’ basis if the Chamber is to ever reduce in size)
- Agreeing a written formula for party balance among appointments (probably based on general election vote shares)
- Giving new power to the independent House of Lords Appointments Commission to police the system

The *House Full* report also outlined three potential problems associated with the growing membership.⁴² First, it suggested the growing membership would increase pressure on the House’s limited resources, including office space, facilities and the availability of space in the House of Lords Chamber. Second, it would create potential difficulties arising from the increased amount of Members wishing to contribute to the business of the House, but are unable to do so. And third, it could result in possible changes to the culture of the House: “the fact that so many Members have entered the Chamber so quickly has had a separate and negative impact upon its culture. In the past, Members of the House of Lords have been added only gradually, and become socialised in the Chamber’s practices and conventions. Most obviously, the Chamber is known for having a non-partisan ethos, and a courteous atmosphere. It has been widely noted—in the media as well as within parliament itself—that the influx of a large number of new Members, including many former MPs, has resulted in changed behaviour. This was particularly evident over the Parliamentary Voting System and Constituencies Bill, which was significantly delayed in the House of Lords”.⁴³

³⁶ HM Government, [The Coalition: Our Programme for Government](#), May 2010, p 27.

³⁷ Constitution Unit, [House Full: Time to Get a Grip on Lords Appointments](#), April 2011.

³⁸ *ibid*, p 3.

³⁹ *ibid*, p 11.

⁴⁰ *ibid*, p 3.

⁴¹ Constitution Unit press release, ‘[Lords Appointments Urgently Need Regulation](#)’, 1 August 2013.

⁴² Constitution Unit, [House Full: Time to Get a Grip on Lords Appointments](#), April 2011, p 9.

⁴³ *ibid*

Similar concerns over the future size of the House of Lords were expressed in a recent report by the Electoral Reform Society.⁴⁴ Describing prospective growth in the House as “unsustainable”, the report estimated that the number of Members of the House of Lords could reach 1,000 by the end of the current parliament, and, based on a June 2013 poll of the public’s voting intentions, could lead to a figure of nearly 2,000 Peers in the 2015 parliament if the current objective of achieving political proportionality was to be maintained.⁴⁵ On these estimates, the authors stated that the Peer to MP ratio could reach 3:1 (as indicated in the following table):⁴⁶

Year	House of Commons size	House of Lords size	Total size of Parliament	MPs as a percentage of Parliament	Peers as a percentage of Parliament
2013	650	759	1409	46	54
2015	650	970	1620	40	60
2015 onwards	650	1946	2596	25	75

The paper also stated that the House of Lords was currently the largest second chamber in the world, and that it could soon be rivalling China’s National People’s Congress as the largest parliamentary chamber outright.⁴⁷

Other issues that have been raised concerning the size of the House of Lords relate to its reputation, and to the potential financial implications of its increasing membership. For example, on 13 January 2011, the Leader’s Group on Members Leaving the House of Lords published its final report on the issue of the House’s membership.⁴⁸ In addition to concerns over the difficulties of conducting business effectively and the increased pressure on resources (which the Group also predicted could lead to greater financial costs), the report stated that “hitherto the administration has contained costs by means of efficiency improvements, but rising numbers of active Members will inevitably eventually have consequences either for standards of service or for costs”.⁴⁹ Turning to reputational risk, the report stressed that “the standing of the House as a serious parliamentary forum is compromised by its apparently unchecked growth and by a lack of understanding of the reasons for further new appointments”.⁵⁰ The report, and its recommendations, were debated on 28 February 2013,⁵¹ and will be discussed further in part four of this Note.

4. Recent Proposals Regarding the Size of the House of Lords

Introduced in the House of Commons in June 2012, the Government’s [House of Lords Reform Bill](#) included provisions to reduce the size of the House of Lords to around 450. This would have been made up of 360 elected Members, 90 appointed Members, up to twelve Lords Spiritual (Bishops) and any further Members that may arise through ministerial appointments. The Bill would also have placed limits on the length of membership, with Members (whether

⁴⁴ Electoral Reform Society, [The Super-sized Second Chamber: The Future of the Unreformed House of Lords](#), June 2013.

⁴⁵ *ibid*, [p.1](#).

⁴⁶ *ibid*, [p.6](#).

⁴⁷ *ibid*, [p.1](#).

⁴⁸ Leader’s Group on Members Leaving the House, [Members Leaving the House](#), 13 January 2011, HL Paper 83 of session 2010–11.

⁴⁹ *ibid*, [para 17](#).

⁵⁰ *ibid*, [para 15](#).

⁵¹ HL *Hansard*, 28 February 2013, [cols 1165–85](#).

appointed, elected or ministerial) only able to serve three electoral terms. The Bill received its second reading in the House of Commons on 9 and 10 July 2012,⁵² but was withdrawn in September 2012 before reaching committee stage.⁵³

4.1 Proposals Currently Before Parliament

There are currently three Bills before Parliament relating to the membership of the House of Lords. The first of these, the [House of Lords Reform Bill \[HL\] 2013–14 \[HL Bill 23\]](#), was introduced by Baroness Hayman (Crossbench) and given its first reading in the House of Lords on 15 May 2013. This Bill would grant Members the opportunity to “permanently retire” (with no chance of rescission), would end the by-election process to replace hereditary Peers, and would allow the permanent removal of Members who did not attend for an entire session (unless on leave of absence or if the session was less than six months long) or who had committed a serious criminal offence. The Bill would also confer upon the House of Lords Appointments Commission sole responsibility for appointing Members, therefore ending Prime Ministerial patronage. The Bill contains a range of provisions governing how the Commission should utilise these powers, including a requirement to monitor party affiliation in the House of Lords. For example, clause 13 of the Bill includes the following provisions:

(2)(a) not less than twenty percent of the membership of the House of Lords shall consist of Members who are independent of any registered political party;

(b) no one party, nor a coalition of parties forming a Government, shall have a majority of Members in the House of Lords;

(c) 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, but the majority of that party over the official Opposition shall normally be no greater than three percent of the total membership of the House of Lords.

The second Bill is the [House of Lords Reform \(No 2\) Bill 2013–14 \[HL Bill 15\]](#), a private member’s bill sponsored by Dan Byles (Conservative MP for North Warwickshire). Introducing his Bill at second reading on 18 October 2013, Dan Byles suggested that it garnered cross-party support and referred to previous attempts by Lord Steel of Aikwood (Liberal Democrat) to pass a similar Bill:⁵⁴

As Lord Steel stated when he introduced the first of his five private members’ bills on this subject, some six years ago, the years of debate about the long-term reform of the House of Lords have obscured the need for effective, immediate, yet modest, reform. Today, I hope that we can all set aside any differences we may have on long-term, substantial reform of the House of Lords and instead focus on delivering the very modest reform that this Bill delivers—although modest, it is overdue and increasingly necessary. It is important, too, that the House notes that this Bill has broad cross-party

⁵² HC *Hansard*, 9 July 2012, [cols 24–132](#); and HC *Hansard*, 10 July 2012, [cols 188–278](#).

⁵³ BBC News. ‘[Nick Clegg Confirms Lords Reforms Have Been Officially Withdrawn](#)’, 3 September 2012.

⁵⁴ Lord Steel of Aikwood’s most recent Bill on the House of Lords was the [House of Lords \(Cessation of Membership\) Bill \[HL\] 2012–13](#). This Bill passed its Lords stages last session, but did not receive a date for second reading in the House of Commons. Further information on Lord Steel’s Bills can be found in the House of Lords Library Note, [Lord Steel of Aikwood’s Private Member’s Bills on House of Lords Reform](#), 11 May 2012, LLN 2012/017.

support. It has broad support across both Houses of Parliament, in the media and across the country [...]

It is fair to say that that Lord Steel's Bills did contain some controversial features: the establishment of a statutory appointments commission and an end to the by-elections for hereditary Peers. My Bill does not reintroduce those proposals, and instead contains three core elements, all of which have already been agreed by the House of Lords during the passage of Lord Steel's most recent Bill. First, my Bill provides for the [permanent] retirement or resignation of Peers who are Members of the House of Lords; secondly, it provides that those Peers who do not attend should cease to be Members of the House; and, finally, it provides that those Members convicted of a serious offence should also cease to be Members.⁵⁵

At the time of writing, neither of these Bills had a date set for the next stage of proceedings.

The third Bill is the [House of Lords \(Maximum Membership\) Bill 2013–14](#), a 'Presentation Bill'⁵⁶ which received its first reading on 24 June 2013. Sponsored by Christopher Chope (Conservative MP for Christchurch), this Bill would limit the number of Members of the House of Lords entitled to vote to 650, would introduce a compulsory retirement system to achieve this figure (based on seniority) and set a cap (at 45) on the number of new Members that could be appointed up to 1 June 2015. This Bill is currently scheduled to receive its second reading in the House of Commons on 17 January 2014.

4.2 Other Proposals and Debates

House of Commons Political and Constitutional Reform Select Committee

A number of the provisions in Baroness Hayman's House of Lords Reform Bill were specifically welcomed by the House of Commons Political and Constitutional Reform Select Committee in its recent report, *House of Lords Reform: What Next?*⁵⁷ In particular, the report drew attention to the provisions to end the by-election process to replace hereditary Peers, the provisions to remove Members who had been convicted of a serious criminal offence and to those to exclude Members who did not attend the House. For example, regarding the latter of these, the report stated:

It is clear that there is broad support for tackling the issue of persistent non-attendance. Members of the House of Lords should be, and should be seen to be, actively engaging in the work of the House. Where this does not occur, action must be taken. In crafting an appropriate scheme on non-attendance, care must be taken to ensure that it does not penalise those who face ill health or a temporary change in circumstances or those whose ongoing work outside the House enables them to enhance the Lords' scrutiny function. There are a variety of ways in which nonattendance can be defined but the formulation contained in Baroness Hayman's Bill on House of Lords Reform, which states that Peers who do not attend during a session would cease to be Members of the

⁵⁵ HC *Hansard*, 18 October 2013, [cols 1001–2](#).

⁵⁶ Parliament website, [Presentation Bills](#), accessed 9 December 2013.

⁵⁷ House of Commons Political and Constitutional Reform Select Committee, [House of Lords Reform: What Next?](#), 17 October 2013, HC 251 of session 2013–14.

House at the end of the session, with the exception of those with an authorised leave of absence, appears to us to be broadly along the right lines.⁵⁸

In addition, the report believed that the proposals to end the replacement of hereditary Peers carried “significant support” and “would also serve to reduce the reputational risk to the House” which, it suggested, resulted from the practice.⁵⁹ However, the Committee recognised that this change was unlikely to have a significant impact on the current size of the House. The Committee cited similar reasons for its recommendations regarding the removal of Members convicted of a serious criminal offence.⁶⁰

Regarding the proposals to strengthen the role and remit of the House of Lords Appointments Commission, the Committee suggested that, although they supported the proposals, these would be “best discussed in the context of wider reform of the House of Lords”.⁶¹ However, the Committee noted that many of the submissions it had received appeared to support the strengthening of the Commission’s role.

The Committee also rejected ideas to place a moratorium on appointments or to implement a voluntary retirement age.⁶² It suggested that both of these measures could have a negative impact on the House due to the potential loss of expertise available from new or experienced Members. In addition, the Committee suggested that more thought should be given to a non-statutory scheme of fixed appointments (whereby nominees would give an assurance to retire after serving a certain number of years) and the strengthening of the leave of absence and voluntary retirement schemes. When discussing the voluntary retirement scheme, the Committee considered the appropriateness of providing financial incentives, but suggested that it carried “little support” due to the potential public reaction.⁶³ Instead, the Committee preferred the idea that voluntary retirement could be accompanied by some form of ceremony recognising the Members work within the House.⁶⁴ The Committee also stressed the importance of cross-party co-ordination to ensure Members could be encouraged to retire without feeling it would damage their party’s representation in the House. Commenting further on the importance of addressing the issue of party strengths within the House, the report concluded that:

Agreement on how to determine the relative numerical strengths of the different party groups in the Lords would not only be a valuable end in itself, it would also pave the way for the implementation of the majority of the other small-scale reforms we have discussed in this report. Of all the issues we have discussed it has the most potential to have a positive impact on the size of the House. Inevitably, it is also the most contentious. We have referred in this Report to various suggestions as to how this could be approached. However, the reality is that it is up to the party groups to engage in dialogue with a view to reaching an agreement on the next step forward. We recommend that in its response to this Report, the Government sets out its position on this issue. We also encourage the individual party groups and Crossbenchers to provide

⁵⁸ *ibid*, [para 27](#).

⁵⁹ *ibid*, [para 19](#).

⁶⁰ *ibid*, [paras 57–60](#).

⁶¹ *ibid*, [para 66](#).

⁶² *ibid*, [pp 35–6](#).

⁶³ *ibid*, [para 49](#).

⁶⁴ *ibid*, [para 50](#).

their views in writing to us with a view to making progress on this issue before the next general election.⁶⁵

Leader’s Group on Members Leaving the House

Chaired by Lord Hunt of Wirral (Conservative), the Leader’s Group on Members Leaving the House published its final report on 13 January 2011.⁶⁶ Two of the report’s recommendations, the introduction of an informal voluntary retirement scheme and the strengthening of the leave of absence system, have already been implemented.⁶⁷ Additional proposals considered by the report included compulsory retirement⁶⁸ (which the Committee rejected in favour of voluntary retirement and the strengthening of the leave of absence system) and the introduction of “associate” Members: “it has been suggested that a new category of associate Member should be created, to which Members might opt to belong. The advantage of such a scheme is that it would reduce the overall size of the House, whilst keeping available the expertise of those who have had long experience of the House and have played a significant part in public life but now wish to reduce the scale of their involvement. It could complement a provision for voluntary retirement, providing a potentially attractive option for those who are unable to make a full commitment to the work of the House”.⁶⁹ The Group envisaged that such Members could have more limited options for participation, such as an exclusion from legislative debates or Chamber debates, and could be encouraged to perform more work within select committees or all-party parliamentary groups.⁷⁰ Although the Group acknowledged that the proposals could not be implemented quickly, and would require legislation, it did view it as a viable option to complement voluntary retirement and assist in reducing the numbers in the House.

A further proposal considered by the Group was that of providing financial provisions to Members who wish to retire.⁷¹ The Group agreed that it would be “inappropriate for a reduction in the number of Members to occasion any additional cost on the taxpayer”,⁷² but stressed its view that such a proposal could actually represent an overall saving:

We recommend that a reduction in the number of Members of the House should result in an overall saving to the taxpayer. We recommend that the possibility of offering a modest pension, or payment on retirement, to those who have played an active part in the work of the House over a number of years, should be investigated in detail, though on condition that this should come from within the existing budget for the House and should incur no additional public expenditure. We further recommend that any such payment should be available only to those who choose voluntary retirement within a limited period after its introduction.⁷³

The Group also addressed the future introduction of new Members, stating that “whilst we cannot recommend that there should be a moratorium on new appointments to the House—

⁶⁵ *ibid*, [para 81](#).

⁶⁶ Leader’s Group on Members Leaving the House, [Members Leaving the House](#), 13 January 2011, HL Paper 83 of session 2010–11.

⁶⁷ [Memorandum submitted by David Beamish, Clerk of the Parliaments](#), to the House of Commons Political and Constitutional Reform Select Committee, June 2013, paras 11–12.

⁶⁸ Leader’s Group on Members Leaving the House, [Members Leaving the House](#), 13 January 2011, HL Paper 83 of session 2010–11, p 16.

⁶⁹ *ibid*, [para 37](#).

⁷⁰ *ibid*, [para 38–9](#).

⁷¹ *ibid*, [paras 44–8](#).

⁷² *ibid*, [para 44](#).

⁷³ *ibid*, [para 47](#).

since, while the purpose of the House is to provide expertise, we must ensure that expertise is refreshed and kept up to date—we do urge that restraint should be exercised by all concerned in the recommendation of new appointments to the House, until such time as debate over the size of membership is conclusively determined”.⁷⁴ This formed paragraph 67 of the report as discussed in the following motions.

On 28 February 2013, the report was debated under a motion tabled by Lord Steel of Aikwood (Liberal Democrat).⁷⁵ The tabled motion called for no introduction of new Members to take place until the recommendation in paragraph 67 of the report had been followed.⁷⁶ An amendment to the motion, tabled by Lord Hunt of Kings Heath (Labour), instead called for the House to “affirm” the recommendations in paragraph 67, and for the Government to support (and legislate for) proposals to allow permanent retirement, to exclude Members who did not attend during a session (except in circumstances of short sessions or when on leave of absence) and to exclude those Members who had committed a serious criminal offence.⁷⁷ Speaking to his amendment, Lord Hunt of Kings Heath stressed the “need to make progress on incremental, sensible changes to your Lordships’ House. I detect a real consensus for some progress to be made today”.⁷⁸ However, he also expressed his belief that it was important to stop short of banning new appointments. The amendment was supported by Lord Steel,⁷⁹ and also by Baroness Hayman (Crossbench) who stated that “the elements in the amendment in the name of the noble Lord, Lord Hunt, provide a minimum basis for us to take forward some of the changes that are need in your Lordships’ House. It will not radically reduce the numbers but, having been deeply involved with these issues for some time, I believe that not having a legislative base on which to build the House’s consensus—as I hope it will develop—on retirement is a terrible impediment to going forward”.⁸⁰

However, responding for the Government, the Leader of the House of Lords, Lord Hill of Oareford, opposed the amended motion, stating that such measures “should be considered in their proper context as part of a wider reform of the House”.⁸¹ He also referenced the low take-up of the current retirement scheme, questioning how this would be improved by placing the scheme on a statutory basis, and queried the potential effectiveness of excluding certain Members as a solution to concerns about space and pressure on the House’s facilities: “on excluding infrequent attendees, I say that those Peers currently put no pressure on the Benches at Question Time. If pressure is to be reduced, the people who need to retire are those who attend, not those who do not. I agree strongly that criminals should be excluded, but, unless there is a grand conspiracy in the House of which I am currently unaware, the suggested policy would not reduce the number of those currently attending the House”.⁸²

The House voted in favour of Lord Hunt’s amendment by 217 votes to 45.⁸³ The amended motion was subsequently moved and agreed to.⁸⁴

⁷⁴ *ibid*, [para 67](#).

⁷⁵ HL *Hansard*, 28 February 2013, [cols 1165–85](#).

⁷⁶ *ibid*, [col 1165](#).

⁷⁷ *ibid*, [col 1168](#).

⁷⁸ *ibid*, [col 1170](#).

⁷⁹ *ibid*, [col 1165](#).

⁸⁰ *ibid*, [col 1175](#).

⁸¹ *ibid*, [col 1181](#).

⁸² *ibid*.

⁸³ *ibid*, [col 1183](#).

⁸⁴ *ibid*, [col 1185](#).

Memorandum by the Clerk of the Parliaments

In an updated memorandum submitted as written evidence to the House of Commons Political and Constitutional Reform Select Committee, the Clerk of the Parliaments, David Beamish, provided further details on what a number of the proposals to limit the size of the House might involve (such as whether they would require legislation).⁸⁵ For example, the Clerk of the Parliaments stated that proposals as to the permanent exclusion of Members with a serious criminal conviction or for those that did not attend would both require legislation. In addition, he stated that: “it has been suggested to me that the power to suspend Members, exercised seven times since the 2009 report, could be used to exclude Members who fail to attend. Historically, there are many precedents for the House seeking to punish Members for failure to attend, but (perhaps unsurprisingly) there has never been any suggestion that compulsory exclusion was a suitable punishment”.⁸⁶ Despite this, the Clerk of the Parliaments did foresee ways in which the leave of absence scheme could be strengthened further to reduce numbers. In particular, he discussed the scheme being linked to a minimum level of attendance (with exceptions made for valid reasons for absence such as ill health), and suggested that those not attending could be deemed to have “applied for leave of absence”.⁸⁷ However, he also stated that this measure would still only be enforceable as a voluntary measure:

Such leave is, by definition, voluntary—enforced leave of absence, without the option of terminating it, would be tantamount to suspension, as well as being a contradiction in terms. It would therefore be essential that leave granted in such circumstances could be terminated in the normal way, by the Member giving three months’ notice of his or her intention to return to the House. This would allow Members to mend their ways, and return to the House, on the understanding that they would henceforth attend more regularly. On this basis, I believe a strengthened leave of absence scheme would be lawful.⁸⁸

The memorandum also contained further consideration of the Leader’s Group’s proposals regarding financial provision to Members upon retirement.⁸⁹ The Clerk of the Parliaments suggested that the scheme could potentially operate as follows:

- The amount payable to a retiring Member could be based on the number of times they attended the House over a particular period (eg the last year) and set at £300 per attendance (ie around a year’s worth of allowances).
- The scheme could be confined to those over a certain age or who had served a certain amount of time in the House.
- The initial scheme could be time and cost limited (eg Members would only have a limited chance to take advantage of it).
- Informal arrangements could be made between party Whips to ensure that they were all content that the proposed retirements were equally distributed across parties.

⁸⁵ [Memorandum submitted by David Beamish, Clerk of the Parliaments](#), to the House of Commons Political and Constitutional Reform Select Committee, June 2013.

⁸⁶ *ibid*, [para 13](#).

⁸⁷ *ibid*, [paras 38–9](#).

⁸⁸ *ibid*, [para 39](#).

⁸⁹ *ibid*, [paras 21–8](#).

Analysis of the financial impact of such a scheme was provided by the Finance Director of the House of Lords, and included as an Appendix to the memorandum.⁹⁰ Addressing this analysis, the Clerk of the Parliaments stated that “it is clear that such a scheme could pay for itself quickly”.⁹¹ However, the Clerk of the Parliaments acknowledged that, without legislation, any retirements would still only be on a voluntary basis, and that there would be no way of preventing a Member from returning if they changed their mind.⁹² In light of this, the Clerk of the Parliaments suggested that those who had received payment under the scheme could be prevented from claiming allowances or expenses if they returned, or the scheme could be placed on a statutory footing.

Other proposals discussed in the memorandum, included:

- The gradual withdrawal of financial support for Members (based on age or term of service).⁹³
- Confining certain payments to regular attendees based on a threshold of attendance (although the Clerk of the Parliaments acknowledged that, whereas this may discourage rare attendees, it could also encourage others to attend more).⁹⁴
- Reduced allowances becoming available over a certain threshold of attendance (it was suggested that this could decrease overcrowding in the Chamber and may encourage Members to be more selective about the sittings they attend).⁹⁵
- Further promotion of the voluntary retirement scheme by encouraging more high profile Members to retire and by marking the service of retiring Members in the Chamber.⁹⁶

The memorandum was debated in Grand Committee on 24 October 2013.⁹⁷ Opening the debate, Lord Higgins (Conservative), highlighted the lack of incentives for Members to retire and, with reference to the discussion of the issue in the memorandum, recommended the introduction of financial incentives:

The Clerk’s memorandum makes it absolutely clear that this proposal will be likely to reduce public expenditure. The key policy of the Government is to reduce public expenditure. Therefore, I am sorry that it is not a Treasury Minister who will reply to the debate this afternoon. I do not suggest that the proposal will result in a massive reduction in the deficit. None the less, it is a move in the right direction, and if we do nothing at all with more and more Members being appointed, there will be an increase in public expenditure, which is clearly incompatible with the fundamental economic policy of the present Government. The Clerk of the Parliaments has helpfully pointed out, in fairly concrete mathematical terms, what the savings might be. They are not insignificant, and this points the way forward [...]

One particular point needs to be borne in mind. It is the question of party balance. Clearly, if all the volunteers were from one part of the House, that would give a certain

⁹⁰ *ibid*, [Appendix D](#).

⁹¹ *ibid*, [para 28](#).

⁹² *ibid*, [paras 26–7](#).

⁹³ *ibid*, [para 31](#).

⁹⁴ *ibid*, [para 32](#).

⁹⁵ *ibid*, [para 33](#).

⁹⁶ *ibid*, [paras 35–6](#).

⁹⁷ HL *Hansard*, 24 October 2013, [cols GC425–39](#).

amount of concern to the Whips. We will need to take that into account. Therefore, in organising this, the Whips will need to be involved. None the less, we can make significant progress. I do not believe that it is something which is impossible to sell to the public at large. The argument that we will reduce public expenditure is very strong indeed [...]⁹⁸

This proposal was supported by Lord Norton of Louth (Conservative), who, addressing the Government's previous opposition to spending "taxpayer's money" on financial incentives, queried the Government's stance in light of the use of similar financial incentives in the House of Commons, and the use of "taxpayers' money" to facilitate the creation of new peerages.⁹⁹ Lord Steel of Aikwood (Liberal Democrat) also highlighted the potential savings noted in the Clerk of the Parliaments' memorandum, and emphasised his backing for the retirement provisions in Dan Byles's (the Conservative MP for North Warwickshire) Private Member's Bill ([House of Lords Reform \(No 2\) Bill](#)):

The important point is that the Bill simply confers the statutory authority that the Hunt committee said that it believed was necessary for the House to decide on what sort of retirement scheme should come into effect. The present so-called retirement scheme is nothing of the kind—it is simply an extended leave of absence. All those who think that they have retired from the House will find that, after the next election, they still get the Writ of Summons, because there is no capacity to create a retirement scheme at the moment. That is why we need the statutory provision and why I hope that the Byles Bill will succeed.¹⁰⁰

Meanwhile, Baroness Hayman (Crossbench) raised the issue of appointing Members in pursuit of party-political balance:

I want to take up the theme of party-political balance in the House. We have no agreement about what the relative strengths of parties in the House should be. However, we do have agreement, I think, that much legislation that comes to this House is badly drafted, inadequately scrutinised or not scrutinised at all, because of timetabling in the other place. Given those circumstances, I ask the Government to think very carefully about increasing by large numbers the proportion of party-political Peers in the House. Second Chambers exist to ask first Chambers to have second thoughts. We need to do our job of pressure-testing legislation, both for policy and for drafting, and to ask the Commons to think again when appropriate. The joy of our present system, and the reason why many of us oppose an elected House of Lords, is because democratic power, accountability and legitimacy lie with the Commons, which always in the end gets its way.¹⁰¹

This point was supported by Lord Hunt of Kings Heath (Labour), who stressed the importance of the House's role as a revising Chamber and expressed his concerns that, due to the policy set out in the Coalition Agreement¹⁰², this function would soon be depreciated by the potential size of the Government majority in the House: "our estimate is that the Government will

⁹⁸ *ibid*, [cols GC426–7](#).

⁹⁹ *ibid*, [cols GC433–4](#).

¹⁰⁰ *ibid*, [col GC429](#).

¹⁰¹ *ibid*, [col GC439](#).

¹⁰² HM Government, [The Coalition: Our Programme for Government](#), May 2010, p 27.

shortly have a political majority in the Chamber of more than 100. What is the point of it? We are a revising Chamber; if the Government cannot be defeated, revisions cannot take place”.¹⁰³

Responding for the Government, Lord Wallace of Saltaire (Liberal Democrat) reaffirmed the Government’s commitment not to introduce financial incentives: “service in this House is a privilege which we should not expect to have to be bought out of. That is the view which I and a number of others hold. The Government remain unconvinced that we should attempt to buy older Peers out”.¹⁰⁴ However, Lord Wallace did indicate his backing for “a scheme that encourages retirement” and suggested that further consideration would be given to the proposal of recognising a Member’s service when retiring.¹⁰⁵ He also stated that, due to the participation of Crossbench Members, the Government did not have an overall majority in the House: “this is for the first time a coalition Government and part of the issue is whether you count the entire coalition of both parties as one or as two. The Government do not have an overall majority in this House because we have a large number of Crossbenchers. If I may say so, one of the first things I learnt when I entered this House was that if you want to defeat the Government, what you need is a speaker from each of the four main groups, because at that point the Government will recognise that they are about to lose”.¹⁰⁶

Summing up, Lord Wallace stated that “the Government are willing to give a fair wind to the Dan Byles Bill [[House of Lords Reform \(No 2\) Bill](#)], which I hope will come to this House in good time and provide for some of the housekeeping measures which noble Lords are calling for”.¹⁰⁷ As highlighted earlier in this Note, Lord Hill of Oareford, the Leader of the House of Lords, has since stated that “the Government’s position has moved to one of support for the Private Member’s Bill sponsored by Dan Byles”.¹⁰⁸

Appendix: Statistical Tables on Lords Membership

Table 1: Actual Membership, Absolute Membership and Average Daily Attendance Dating Back to Session 1992–93

Session	Actual Membership	Absolute Membership	Average Daily Attendance
1992–93	1040	1207	379
1993–94	1043	1204	378
1994–95	1037	1190	376
1995–96	1061	1207	372
1996–97	1067	1204	381
1997–98	1166	1297	417
1998–99	1210	1325	446
1999–00	690	693	352
2000–01	675	679	347
2001–02	683	694	370
2002–03	671	682	362
2003–04	693	707	368

¹⁰³ HL *Hansard*, 24 October 2013, [col GC435](#).

¹⁰⁴ *ibid*, [col GC439](#).

¹⁰⁵ *ibid*, [col GC438](#).

¹⁰⁶ *ibid*, [col GC437](#).

¹⁰⁷ *ibid*, [col GC439](#).

¹⁰⁸ HL *Hansard*, 19 November 2013, [col 850](#).

2004–05	692	706	388
2005–06	738	751	403
2006–07	738	751	415
2007–08	733	744	413
2008–09	704	736	400
2009–10	706	735	388
2010–12	788	826	468
2012–13	762	810	484
2013–14 ¹⁰⁹	781	835	—

Table 2: Actual Membership as a Percentage of Absolute Membership, and Average Daily Attendance as a Percentage of Absolute and Actual Membership Dating Back to Session 1992–93

Session	Actual Membership as a Percentage of Absolute Membership	Average Attendance as a Percentage of Absolute Membership	Average Attendance as a Percentage of Actual Membership
1992–93	86.2	31.4	36.4
1993–94	86.6	31.4	36.2
1994–95	87.1	31.6	36.3
1995–96	87.9	30.8	35.1
1996–97	88.6	31.6	35.7
1997–98	89.9	32.2	35.8
1998–99	91.3	33.7	36.9
1999–00	99.6	50.8	51.0
2000–01	99.4	51.1	51.4
2001–02	98.4	53.3	54.2
2002–03	98.4	53.1	53.9
2003–04	98.0	52.1	53.1
2004–05	98.0	55.0	56.1
2005–06	98.3	53.7	54.6
2006–07	98.3	55.3	56.2
2007–08	98.5	55.5	56.3
2008–09	95.7	54.3	56.8
2009–10	96.1	52.8	55.0
2010–12	95.4	56.7	59.4
2012–13	94.1	59.8	63.5
2013–14 ¹¹⁰	93.5	—	—

¹⁰⁹ As at 2 December 2013.

¹¹⁰ As at 2 December 2013.