



House of Lords (Peerage Nominations) Bill [HL]

HL Bill 19 of 2022–23

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The [House of Lords \(Peerage Nominations\) Bill \[HL\]](#) is a private member's bill sponsored by Lord Norton of Louth (Conservative). The bill seeks to strengthen the [House of Lords Appointments Commission](#) (HOLAC). The House is due to debate the bill at second reading on 18 November 2022.

Lord Norton introduced a similar bill in the 2021–22 session, but this earlier version did not progress beyond first reading.¹

1. Background: How are members of the House of Lords appointed?

The membership of the House of Lords can be divided into three broad categories: life peers; hereditary peers; and bishops of the Church of England.² Of the House's current total membership, 85% of members are life peers appointed under the Life Peerages Act 1958. The remainder comprise hereditary peers excepted from removal under the House of Lords Act 1999 (11%), Church of England bishops (3%), and judicial life peers appointed under the Appellate Jurisdiction Act 1876 (1%).

Life peerages created under the Life Peerages Act 1958 are conferred by the sovereign on the advice of the prime minister in their capacity as the monarch's most senior adviser.³ There is no statutory limit on the number of life peerages that can be created in this way. Prime ministers may make recommendations for both political and non-party political life peers, and by convention may take advice from other party leaders when recommending life peerages for individuals affiliated with opposition groups. Separate arrangements govern how hereditary peers and bishops join the House, and judicial life peers have not been appointed since the House's judicial function ended in 2009.⁴

HOLAC, established as an independent, advisory, non-departmental public body in May 2000, vets nominees for new life peerages for propriety. It interprets propriety in this context to mean:

- An individual should be in good standing in the community in general and with the public regulatory authorities in particular.
- The past conduct of a nominee would not reasonably be regarded as bringing the House of Lords into disrepute.⁵

¹ UK Parliament, '[House of Lords \(Peerage Nominations\) Bill \[HL\] 2021–22](#)', accessed 29 July 2022.

² See, for example: House of Lords Library, '[House of Lords data dashboard: Membership of the House](#)', 4 May 2022.

³ House of Lords Library, '[Lords appointments: Life peerages created since 1958](#)', 20 January 2021; and '[House of Lords data dashboard: Peerage creations](#)', 4 May 2022.

⁴ See, for example: House of Lords Library, '[Hereditary by-elections: Results](#)', 31 March 2022; and '[House of Lords: Lords spiritual](#)', 4 September 2017.

⁵ House of Lords Appointments Commission, '[Letter from Lord Bew to Keir Starmer](#)', 17 March 2022.

However, prime ministers may disregard commission advice that a nominee does not meet these criteria if they choose to do so. For example, in December 2020 Prime Minister Boris Johnson announced that Peter Cruddas, a businessperson, philanthropist, and Conservative Party donor and former co-treasurer, would be appointed to the House of Lords as a new Conservative life peer.⁶ HOLAC had advised Mr Johnson that it was unable to support Mr Cruddas's nomination after carrying out vetting against its published propriety criteria.⁷ However, Mr Johnson decided the appointment should go ahead. In his letter to HOLAC's chair, Lord Bew (Crossbench), Mr Johnson explained that he intended to recommend Mr Cruddas for a life peerage despite the commission concluding that it could not support the nomination.⁸ Lord Cruddas joined the Lords in 2021.

The commission's other main function is to recommend individuals to the prime minister for appointment as non-party political (crossbench) life peers.⁹ As at late July 2022, the commission's recommendations had led to 74 crossbench appointments.¹⁰

The commission has seven members, including Lord Bew who chairs the body.¹¹ Three of the remaining members were appointed to represent the main political parties and three places are reserved for non-political individuals. There is currently one vacancy following the resignation of Harry Mount in September 2022. Mr Mount had been appointed earlier that month.¹²

Unlike bodies such as the National Audit Office, the Electoral Commission and the Judicial Appointments Commission, HOLAC's mandate and functions are not currently set out in legislation.

2. What would the bill do?

2.1 Clause overview

Clause 1 of the bill would put HOLAC on a statutory basis.

Clause 2 would strengthen the commission's role in the appointments process. It would require the prime minister to refer the name of an individual to the commission before recommending them for a life peerage. It would also require the prime minister to wait until the commission had advised on whether a nominated individual met specified criteria before recommending them to the crown. The principal criteria against which nominees would be judged, set out in **clause 7**, would be "conspicuous merit" and a "willingness and capacity to contribute to the work of the House of Lords". The commission would be able to propose additional criteria, although any changes would be subject to parliamentary scrutiny through the negative resolution procedure.

Clause 3 would require the prime minister to have regard to three principles when determining whether to make recommendations for new life peers. These would be that:

⁶ Prime Minister's Office, '[Political peerages 2020](#)', 22 December 2020.

⁷ House of Lords Appointments Commission, '[Letter from Lord Bew to William Wragg MP](#)', 22 December 2020.

⁸ Prime Minister's Office, '[Letter from Prime Minister Boris Johnson to Lord Bew](#)', 22 December 2020.

⁹ House of Lords Appointments Commission, '[The Commission](#)', accessed 29 July 2022.

¹⁰ House of Lords Appointments Commission, '[Appointments](#)', accessed 29 July 2022.

¹¹ House of Lords Appointments Commission, '[The Commission](#)', accessed 29 July 2022.

¹² Prime Minister's Office, '[Independent member for the House of Lords Appointments Commission](#)', 1 September 2022.

- Not less than 20% of the membership of the House of Lords shall consist of members who are independent of any registered political party.
- No one party may have an absolute majority of members in the House of Lords.
- The membership of the House of Lords must be no larger than that of the House of Commons.

Individuals would be deemed to be independent if during the two years before their nomination they had not been a member of, given public support to, or made a financial donation to a registered political party. In addition, the commission would make recommendations on reducing the size of the House which the prime minister would have to consider. However, where a prime minister came to office following a general election in which there was a change in governing party, he or she would be able to recommend up to 40 new peers on one occasion only.

Clause 4 would set out rules governing the commission's membership. The commission would consist of nine individuals. They would be nominated jointly by the Speaker of the House of Commons and the Lord Speaker with the aim of ensuring political balance. At least four members would be independent, including the chair (based on the conditions in clause 3). In addition, at least four members would have to be privy counsellors and none could be ministers or hold national office in a registered political party. Members would serve for a non-renewable term of seven years.

Clause 5 would provide for the commission to determine its own rules and procedures.

Clause 6 would allow the commission to continue to propose new crossbench life peers. Such individuals would have to meet the same criteria set out in clauses 3 and 4 regarding independence. Nominations by members of the public could be considered.

Clause 8 would allow the commission to issue guidelines setting out how it would interpret and apply the criteria set out in clause 7. These would be publicised and reviewed as the commission deemed appropriate.

Clause 9 would require party leaders to inform the commission of the procedure and criteria used when selecting and proposing individuals for life peerages. The commission would be able to request additional information. The prime minister would also have to supply information requested by the commission when acting in that role and not just as a party leader.

Clauses 10, 11 and 12 provide for the bill's commencement, extent and the short title respectively. The bill would come into force three months after royal assent and would apply across the UK.

2.2 Explanation by Lord Norton

Lord Norton explained the rationale for his bill during a September 2021 debate on whether the government planned to put HOLAC on a statutory basis. He argued the existing commission was "limited in two significant respects". These were that "it can examine nominations only in terms of propriety, not suitability, and it is the creature of the prime minister". Lord Norton added that having an appointments commission that was "not only independent of the prime minister but is seen to be independent strengthens both the prime minister, confirming the merits of the persons nominated, and the legitimacy of the House". He continued:

Putting the appointments commission on to a statutory basis is necessary, but it is not sufficient. Powers will have to be vested in it and, I shall argue, can be without jeopardising the prime minister's role as principal adviser to the sovereign in recommending individuals for peerages [...] I have introduced a bill that has now had its first reading. I have sought in it to ensure that the commission can have an impact through vetting nominations to ensure that they meet a high-quality threshold, through requiring the prime minister to await the advice of the commission before putting forward names to the crown, and through ensuring transparency in the process by requiring the prime minister, and other party leaders as appropriate, to inform the commission of the process by which the names were selected to be put forward. As noble Lords will see, it also includes provision for the prime minister to have regard to the principles that I believe are widely supported by the House, not least in terms of size.¹³

Responding at the end of the debate, Cabinet Office minister Lord True said the government had no plans to change HOLAC's "role or remit" or to place it on a statutory footing.¹⁴ He argued that the conclusions reached by HOLAC regarding nominations were advisory and that the prime minister "should be able, in exceptional circumstances, to ignore and appoint outside [its] advice".¹⁵

3. Earlier proposals for a statutory appointments commission

In January 2000, the Royal Commission on Reform of the House of Lords recommended that the proposed House of Lords Appointments Commission should be established on a statutory basis.¹⁶ It argued that forming the commission on a non-statutory basis would mean its role could be altered, or that it could even be abolished, without reference to Parliament. It therefore concluded that establishing the new body through legislation would offer "considerable entrenchment".

In November 2001, the Labour government published a white paper in which it proposed that there "should be a statutory appointments commission to manage the balance and size of the House, to appoint the independent members, and to assure the integrity of those nominated by political parties".¹⁷ However, the proposal to put the commission on a statutory basis was not implemented.

The role and powers of the commission were also considered as part of the coalition government's proposals for reform of the House of Lords. In 2012, the Joint Committee on the Draft House of Lords Reform Bill agreed with proposals from the then government that the commission should be placed on a statutory basis.¹⁸ However, the subsequent House of Lords Reform Bill was not passed.

In 2010, Lord Steel of Aikwood introduced a private member's bill which included a provision that all recommendations for life peerages should be made by a statutory appointments commission.¹⁹ The bill completed all of its stages in the House of Lords but did not pass the House of Commons before

¹³ [HL Hansard, 6 September 2021, col 670.](#)

¹⁴ [HL Hansard, 6 September 2021, col 684.](#)

¹⁵ [HL Hansard, 6 September 2021, col 683.](#)

¹⁶ Cabinet Office, '[Royal Commission on the Reform of the House of Lords: Chapter 13](#)', 20 January 2000, p 132.

¹⁷ HM Government, '[House of Lords: Completing the reform](#)', 7 November 2001, Cm 5291.

¹⁸ Joint Committee on the Draft House of Lords Reform Bill, '[Draft House of Lords Reform Bill](#)', 23 April 2012, HL Paper 284, pp 59–60.

¹⁹ UK Parliament, '[House of Lords \(Amendment\) Bill \[HL\] 2010–12](#)', accessed 29 July 2022.

the end of the 2010–12 session and was therefore lost. Lord Steel sponsored a subsequent private member’s bill, the House of Lords Reform (No 2) Bill, during the 2013–14 session.²⁰ The bill had been introduced in the House of Commons by Dan Byles (then Conservative MP for North Warwickshire) and went on to receive royal assent as the House of Lords Reform Act 2014. However, it did not include the provisions concerning a statutory commission that had appeared in Lord Steel’s earlier bill.

In November 2021, the independent Committee on Standards in Public Life, chaired by Lord Evans of Weardale (Crossbench), published a final report on upholding standards in public life following its ‘Standards Matter 2’ review.²¹ It noted that HOLAC was among non-statutory regulators in government that had a “limited or low degree of independence”. The committee said that this fell “below what is necessary to ensure effective regulation and maintain public credibility”, both in the case of HOLAC and several other bodies. It continued:

Independence matters not only as a safeguard against political interference; it is also a matter of trust. Self-regulation, or matters resolved by regulators who are not perceived as independent, offers little assurance to the public that ethical standards are being upheld. The public rightly casts a sceptical eye over regulators perceived to be too close to those they are regulating.²²

On HOLAC in particular, the committee said that “public disquiet on the propriety of appointments to the House of Lords remains a regular feature of our politics”. The committee argued that it was therefore “critical” to the credibility of appointments to the House of Lords that HOLAC’s advice was followed.²³ It added that it recognised arguments that a statutory commission may be required, although it said this should be considered as part of a broader House of Lords reform agenda.²⁴

4. Read more

- The Norton View, ‘[Making the case for a statutory House of Lords Appointments Commission](#)’, 12 September 2021; and ‘[Success in the private members’ bill ballot](#)’, 13 May 2022
- House of Lords Library, ‘[Reforming the House of Lords Appointments Commission](#)’, 20 August 2021; and [QSD on the ‘House of Lords Appointments Commission’](#), HL Hansard, 6 September 2021, cols 669–84
- House of Lords Library, ‘[House of Lords appointments: Should the process be reviewed?](#)’, 12 November 2021; and [QSD on ‘House of Lords: Appointments process’](#), 18 November 2021, cols 465–80
- House of Lords Library, ‘[Vetting appointments to the House of Lords](#)’, 28 February 2022; and [QSD on ‘Peerages: Recommendations’](#), 3 March 2022, cols 360–74GC
- House of Commons Public Administration and Constitutional Affairs Committee, ‘[Oral evidence: House of Lords Appointments Commission](#)’, 20 April 2022

²⁰ UK Parliament, ‘[House of Lords Reform Act 2014](#)’, accessed 29 July 2022.

²¹ Committee on Standards in Public Life, ‘[Upholding standards in public life: Final report](#)’, 1 November 2021.

²² Committee on Standards in Public Life, ‘[Upholding standards in public life: Final report](#)’, 1 November 2021, p 42.

²³ Committee on Standards in Public Life, ‘[Upholding standards in public life: Final report](#)’, 1 November 2021, p 27.

²⁴ Committee on Standards in Public Life, ‘[Upholding standards in public life: Final report](#)’, 1 November 2021, pp 47–8.

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