



## Reform of the House of Lords: the Coalition Agreement and further developments

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The Coalition Agreement published on 20 May 2010 stated that a Committee would be appointed to bring forward proposals for a wholly or mainly elected House of Lords. The Committee, which consisted of front-bench spokespeople from the three main political parties, was to prepare a draft Bill.

The Draft Bill was published on 17 May 2011. It set out proposals for a House of Lords of 300 members. 80% of the members would be elected and 20% appointed. A maximum of 12 Church of England bishops would be ex-officio members of the House of Lords. Members would serve a single term of 15 years. Elections would be held for a third of the House at a time under the Single Transferable Vote system. The accompanying White Paper provided information on how the Draft Bill could be amended to provide for a 100% elected House of Lords.

The Coalition Agreement also stated that the Government would continue to make appointments to the House of Lords so that it becomes reflective of the share of the vote secured by the political parties in the General Election. A total of 117 life peerages have been created this Parliament to date.

On 29 June 2010 the Leader of the House of Lords announced he would establish a Leaders' Group to consider options for allowing Members of the House of Lords to retire. The Group published their final report on 13 January 2011. This recommended that the existing Leave of Absence scheme should be extended and that a voluntary retirement scheme be introduced, with a cost-neutral pension or one-off payment made available. They also recommended that future appointments made in the absence of wider reform should be for a limited term, renewable if necessary.

Information about proposals for reform of the House of Lords up to April 2010 are available in the Standard Note, SN/PC/5135, [Reform of the House of Lords: the 2008 White Paper and Developments to April 2010](#).

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## **1 The Coalition Agreement**

### **1.1 The Coalition's programme for Government**

The Coalition Agreement, published by the Government on 20 May 2010, stated that:

We will establish a committee to bring forward proposals for a wholly or mainly elected upper chamber on the basis of proportional representation. The committee will come forward with a draft motion by December 2010. It is likely that this will advocate single long terms of office. It is also likely that there will be a grandfathering system for current Peers. In the interim, 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.<sup>1</sup>

In a speech on political reform given on 19 May 2010, the Deputy Prime Minister Nick Clegg spoke about introducing an "elected second chamber" and gave some priority to the issue:

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<sup>1</sup> HM Government, *The Coalition: Our Programme for Government*, 20 May 2010

Second, reform of our politics: reform to reduce the power of political elites and to drag Westminster into the 21st century, starting with the House of Lords. Did you know that we have been talking about reforming the House of Lords for over 150 years? It is one of the areas where all of the parties agree, so the time for talk is over. This government will replace the House of Lords with an elected second chamber, where members are elected by a proportional voting system. There will be a committee charged specifically with making this happen. Make no mistake: that committee will not be yet another government talking shop. It will be a dedicated group devoted to kick starting real reform...<sup>2</sup>

The Prime Minister told the House of Commons that:

...There will be a draft motion, by December, which the House can vote on. I have always supported a predominantly elected House of Lords, and I am delighted that agreement has been reached on the coalition programme. *[Interruption]* I can already hear what a challenge around the House it is going to be to achieve the consensus that we need, but I hope that after all the promises of reform, this time we can move towards a predominantly elected second Chamber.<sup>3</sup>

During a debate on Lords Reform held in the House of Lords on 29 June 2010, Lord Strathclyde, Leader of the House of Lords stated that:

We have yet to take a view on whether a reformed House should be fully or partly elected.<sup>4</sup>

## 1.2 The 2010 General Election party manifestos

The Conservative party 2010 manifesto had pledged to build a consensus for a 'mainly' elected second chamber.<sup>5</sup> In February 2009, David Cameron told *Total Politics* magazine that, "In terms of reform, having a more elected chamber, which is what I favour, to be frank it is not an urgent priority".

The Liberal Democrats 2010 manifesto stated that the Liberal Democrats would, "Replace the House of Lords with a fully-elected second chamber with considerably fewer members than the current House".<sup>6</sup>

The Labour party had pledged to hold a referendum on House of Lords reform on the same day as a referendum on the voting system for the House of Commons. They favoured a fully elected second chamber:

We will ensure that the hereditary principle is removed from the House of Lords. Further democratic reform to create a fully elected Second Chamber will then be achieved in stages. At the end of the next Parliament one third of the House of Lords will be elected; a further one third of members will be elected at the general election after that. Until the final stage, the representation of all groups should be maintained in equal proportions to now. We will consult widely on these proposals, and on an open-list proportional representation electoral system for the Second Chamber, before putting them to the people in a referendum.<sup>7</sup>

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<sup>2</sup> Speech given by Nick Clegg, [Speech given 19 May 2010](#)

<sup>3</sup> HC Deb 2 June 2010 c426

<sup>4</sup> HL Deb 29 June 2010 c1667

<sup>5</sup> Conservative Party, [An Invitation to Join the Government of Britain](#), 2010, p67

<sup>6</sup> Liberal Democrat Party, [Liberal Democrat Manifesto 2010](#), 2010, p88

<sup>7</sup> The Labour Party, [The Labour Party Manifesto 2010: A Future Fair for All](#), 2010, 9:3

## 2 The Committee on Lords Reform

The Committee on Lords Reform was a Government committee. The membership of the Committee was drawn from the front benches of both the Government and main opposition party in the Commons and the Lords. Its membership was announced to the House on 7 June 2010,<sup>8</sup> and was changed to reflect the elections to the Shadow Cabinet which took place in the autumn.<sup>9</sup> The membership is now as follows:

- Nick Clegg, Deputy Prime Minister (Chair);
- Mark Harper, Minister for Political and Constitutional Reform;
- Sir George Young, Leader of the House of Commons;
- David Heath, Deputy Leader of the House of Commons;
- Hilary Benn, Shadow Leader of the House of Commons;
- Sadiq Khan, Shadow Secretary of State for Justice;
- Lord Strathclyde, Leader of the House of Lords;
- Lord McNally, Deputy Leader of the House of Lords;
- Baroness Royall of Blaisdon, Shadow Leader of the House of Lords.

The Deputy Prime Minister, Nick Clegg, gave details of the Committee during the debate on the Queen's Speech on 7 June 2010:

I should like to turn to reform of the other place, which we all agree must now happen. It should be up to the British people to elect their second Chamber—a second Chamber that must be much more representative of them, their communities and their neighbourhoods. To that end, I should like to announce the following measures. First, I have set up a committee, which I will chair, to take forward this reform, composed of Members from all three major political parties, as well as from both Houses. Secondly, the committee will be explicitly charged with producing a draft Bill by no later than the end of this year—the first time that legislation for an elected second Chamber will ever have been published. Thirdly, the draft Bill will then be subject to pre-legislative scrutiny by a Joint Committee of both Houses during which there will of course be ample opportunity for all voices to be heard.

Make no mistake: we are not starting this process from scratch. There is already significant shared ground between the parties that will be taken as our starting point. I am not going to hide my impatience for reforms that are more than 100 years overdue. Subject to the legitimate scrutiny that the Bill will deserve, this Government are determined to push through the necessary reforms to the other place. People have been talking about Lords reform for more than a century. The time for talk is over. People must be allowed to elect those who make the laws of the land. Change must begin now.

**Mr Straw** *rose—*

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<sup>8</sup> HC Deb 7 June 2010 c48

<sup>9</sup> HL Deb 9 November 2010 WA62c

**The Deputy Prime Minister:** Let me just confirm that the committee will hold its first meeting as early as next week, and that its members will be the Parliamentary Secretary, Cabinet Office, the hon. Member for Forest of Dean (Mr Harper), who is the Minister with responsibility for political and constitutional reform; the Leader of the House of Lords; the Deputy Leader of the Lords; the shadow Leader of the Lords, the Leader of the House of Commons; the Deputy Leader of the Commons; the shadow Leader of the Commons; and, of course, the shadow Justice Secretary, to whom I give way.

**Mr Straw:** I am very grateful to the right hon. Gentleman for what he has said, and we will work constructively with him and his colleagues.<sup>10</sup>

The membership of the Committee has been the subject of some discussion in the House of Lords, with some dissatisfaction that there is no representation of those who sit on the Cross Benches. During a debate on Lords Reform held on 29 June 2010, Baroness d'Souza explained that:

The Deputy Prime Minister courteously called me to tell me in advance about the announcement that he was about to make in the other place two weeks ago about the Cabinet drafting committee to be set up, for which I am extremely appreciative. However, I asked him why I, as representative of almost one third of this House, was to be excluded. The answer, which I think is worth repeating verbatim, was:

"I want a clear and explicit political consensus which I would not get if you were on the committee".

I appreciate the frankness, but I wonder what consensus means or what kind of consensus is concerned with talking only to those who already agree with your plan. That is no way to rewrite fundamental parts of the constitution of this country.<sup>11</sup>

In response to the statement on 17 May 2011 on the publication of the Draft Bill and White Paper on Lords reform, the House of Lords Baroness Royall, the Leader of the Labour Party in the Lords stated that the cross party Committee on Lords reform had not met since November 2010, and that the Bill had not been produced by the Committee but was a Government Bill.<sup>12</sup>

### **3 Publication of the White Paper and Draft Bill**

#### **3.1 Summary of proposals**

The Draft Bill and White Paper on House of Lords Reform was published on 17 May 2011. The White Paper proposed a House of Lords with 300 "full-time" members.<sup>13</sup> The Government sets out proposals for 240 (80%) of the members to be elected and 60 (20%) appointed. There would also be a maximum of 12 Church of England bishops who would sit as ex-officio members. Ministers would be drawn from elected members of the reformed House. In addition, the Prime Minister would be able to appointed a "limited number" of people to serve as Ministers would be members of the House of Lords for the duration of their appointment. Detailed provision, including the limit on the number of such appointees, would be set out in secondary legislation. Members would serve a single term of 15 years,

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<sup>10</sup> HC Deb 7 June 2010 c48

<sup>11</sup> HC Deb 29 June 2010 c1674

<sup>12</sup> HL Deb 17 May 2011 c1271

<sup>13</sup> HM Government, *House of Lords Reform Draft Bill*, May 2011, Cm 8077

the length of three Parliaments. Elections would be held for a third of the House at a time. The elections would be held under the Single Transferable Vote system.

The White Paper also provides information on how the Draft Bill could be amended to provide for a 100% elected House of Lords. The Government has invited respondents to the White Paper to give their views on the choice between a wholly elected and majority elected chamber. Nick Clegg, in his statement to the House of Commons, said:

The coalition agreement committed the Government to produce proposals for

“a wholly or mainly elected chamber”.

That debate is reflected in what we are publishing today... The White Paper includes the case for a 100%-elected House of Lords. The 80:20 split is the more complicated option, and so has been put into the draft Bill in order to illustrate it in legislative terms. The 100% option would be easy to substitute into the draft Bill should that be where we end up.

There are people on both sides of the House who support a fully elected Chamber, believing that an elected House of Lords should be just that. Others, again on both sides, take a different view, and support having a non-elected component in order to retain an element of non-party expertise, as well as to keep a greater distinction between the two Houses. Personally, I have always supported a 100%-elected House of Lords, but the key thing is not to make the best the enemy of the good. That approach has stymied Lords reform for far too long. After all, 80% is a whole lot better than 0%.<sup>14</sup>

The primacy of the House of Commons would be ensured through the continued operation of the Parliament Acts. A clause in the draft Bill also states that nothing in the draft Bill “affects the primacy of the House of Commons” or “otherwise affects the powers, rights, privileges or jurisdiction of either House of Parliament, or the conventions governing the relationship between the two Houses”.<sup>15</sup>

The White Paper proposes three options for the transition from the current House to the fully “reformed” House of Lords:

- The first is set out in the draft Bill and aims to reduce the number of current members with the introduction of new elected and appointed members over the course of three elections. The House of Lords would determine the method for selecting members to sit during the transitional phases.
- The second would allow all those eligible, and who choose to do so, to remain in the reformed House of Lords until the dissolution of Parliament immediately prior to the election.
- The third option is to reduce the House of Lords to 300 members at the time of the first election. 200 of the existing members of the House of Lords would remain at the time of the first election, and 100 at the second. All remained former members of the House of Lords would leave immediately before the third election.

The Draft Bill set out provisions to implement the first of these three options.

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<sup>14</sup> HC Deb 17 May 2011 c156

<sup>15</sup> *House of Lords Reform Bill (Draft) c2*

### 3.2 Initial reactions

In response to Nick Clegg's statement, the Shadow Constitutional Reform Minister Sadiq Khan, set out a series of questions:

Bearing in mind that the country comprehensively rejected the AV system two weeks ago, is the Deputy Prime Minister seriously suggesting that he should impose a system of proportional representation for the second Chamber without consulting the electorate? What powers does he want a reformed House of Lords to have? How will he deal with the conventions that currently govern the relationship between the two Chambers? Does he believe that the relationship should be codified? What role does he envisage for the bishops in the second chamber, and why 12? Can he set out the cost of a reformed second chamber? If it is possible that no peers would be forced to leave until 2025, what does he predict the maximum size and cost of the second chamber would be in the interim? Will he confirm that he wants reform on the statute book by the next election? Will he confirm whether he intends to use the Parliament Acts to force the proposals through? Will he also confirm whether coalition MPs and peers will be whipped to vote for the Bill when it comes out of the Joint Committee? Finally, will he allow a debate on his Bill in Government time before the summer recess?

He then concluded that "the Bill, the White Paper and the whole process" were "a huge anti-climax".<sup>16</sup>

In response, Nick Clegg said that it was not possible to estimate the cost at this stage as it would depend on the final composition and on the transition to the reformed chamber. He confirmed that the Government wanted to see legislation in the statute book "in time for elections in 2015". He did not directly answer the question about the use of the Parliament Acts, but implied they could be used, stating that:

We will treat this legislation as we treat all Government legislation. This is something to which both our manifestos – in fact, all the manifestos – are committed, and it is clearly set out in the coalition agreement. We will use all the legislative tools at our disposal to deliver on that commitment.<sup>17</sup>

He repeated that the Government would use "all the legitimate instruments" at their disposal in response to a further question from Ben Bradshaw.<sup>18</sup>

In the House of Lords, Baroness Royall argued that reform of the House of Lords should be put to the people in a referendum.<sup>19</sup>

Baroness D'Souza, Convener of the Crossbench Peers, Stated:

Surely the outcome of an elected House would be to give it more political power than it currently had, despite what is said in the White Paper. That would be the inevitable result of an elected House or even a partly elected House, and I think that it would eventually result in the power of veto, otherwise why undertake such a radical change? ...I would be much more in favour of abolishing the House of Lords altogether and appointing external scrutiny committees than having an elected chamber because I

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<sup>16</sup> HC Deb 17 May 2011 c158

<sup>17</sup> *Ibid*, c159

<sup>18</sup> *Ibid*, c164

<sup>19</sup> HL Deb 17 May 2011 c1272

cannot be convinced that an elected House would be able to do its work better than the present House.<sup>20</sup>

Lord Strathclyde said that “no final decision has yet been taken as to whether there should be a free vote and it would not be taken until we proposed a Bill”.<sup>21</sup> He also suggested that, should the proposals be rejected by the House of Lords, “as with all government legislation, the Parliament Act is always a fallback”.<sup>22</sup>

Further detail of responses to the proposals both inside and outside Parliament are set out in the House of Lords Library Note, LLN 2011/018, [House of Lords Reform Draft Bill](#).

### **3.3 Joint Committee on the Draft Bill**

Nick Clegg told the House of Commons that:

The draft Bill and White Paper will now be scrutinised by a Joint Committee composed of 13 peers and 13 Members of this House. The Committee will report early next year, and a Government Bill will then be introduced.<sup>23</sup>

Lord Strathclyde has indicated that the Committee will include Members from the Cross Benches in the Lords, and a Bishop.<sup>24</sup> No motion has yet been tabled to establish the Joint Committee in either Chamber.

## **4 Appointments to the House of Lords**

### **4.1 Introduction**

The Coalition Agreement states that until proposals were brought forward for further reform of the House of Lords:

... 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.<sup>25</sup>

There was some speculation about the number of peerage creations that would be required to rebalance the Lords in this way.<sup>26</sup> The long term aim is broadly reflective of the previous Government’s position but it was not until June 2005, as a result of the number of peers created in the dissolution honours list, that Labour peers outnumbered Conservative peers for the first time.

Professor Robert Hazell of the Constitution Unit at UCL, writing before the General Election, explained that in the event of a Conservative victory:

One of the early tasks facing the new government will be to replenish the numbers of Conservative peers in the Lords. After the removal of most of the hereditary peers in 1999 the Conservatives remained the largest group, with 50 more peers than Labour. But since then the government has steadily topped up the numbers on the Labour side, following their policy that the size of the party groups should broadly reflect the balance of votes cast (not seats won) at the previous general election. The Conservative group

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<sup>20</sup> *Ibid*, c1274

<sup>21</sup> *Ibid*, c1281

<sup>22</sup> *Ibid*, c1278

<sup>23</sup> HC Deb 17 May 2011 c155

<sup>24</sup> HL Deb 17 May 2011 c1277

<sup>25</sup> HM Government, *The Coalition: Our Programme for Government*, 20 May 2010, p27

<sup>26</sup> See for example, “Coalition creates 100 peers with Lords deal”, *The Times*, 17 May 2010



has become older, and being older has a lower average attendance, than the other party groups, as a result of the failure to replenish. That will need rectifying.<sup>27</sup>

However, the impact on the size of the House of Lords has been noted, with the second chamber already one of the largest parliamentary chambers in the world. In July 2009 Andrew Tyrie and Sir George Young wrote that:

...the Lords is too big, and risks becoming bigger still. Even after the expulsion of the hereditaries in 1999, it remains (at 740 members) the second-biggest chamber in the world, according to the lists kept by the Inter-Parliamentary Union (IPU): only the Chinese National People's Congress, with 3,000 delegates meeting for two weeks a year, is bigger. The United Kingdom is also the only bicameral country, out of 76 lists by the IPU, in which the upper house is bigger than the lower. This, it must be remembered, is in spite of the Commons being relatively large (it comes fourth in the IPU's ranking, with North Korea's Supreme People's Assembly sandwiched between the two British chambers)... Admittedly, the average attendance of the Lords (413 in the 2007-08 session) is much lower than overall membership; however, this is still quite a large figure, and the difference between membership and attendance figures underscores the peculiarly optional nature of the legislative power enjoyed by peers under the current system.<sup>28</sup>

Since May 2010, a total of 117 life peerages have been created.

#### **4.2 May 2010 – working peers and dissolution honours list**

On 18 May 2010, it was announced that Nat Wei would be appointed to the House of Lords as a Conservative peer, this was followed on 19 May by two more Conservative peerages being announced: Lord Hill of Oareford and Lord Sessoon.

On 28 May 2010 the Government issued a press notice announcing a number of new appointments to the House of Lords:

The previous Prime Minister (the Rt Hon Gordon Brown MP) undertook a process to recommend to the Queen new party-political life peerages. This consisted of working peers from each party and, as is customary at the end of a Parliament, a dissolution list for former MPs.<sup>29</sup>

The Press Notice announced the appointment of 10 Conservative 'working peers'; 6 Liberal Democrats; and 15 Labour.

The Press Notice also announced the Dissolution List: 6 Conservative peers were created; 3 Liberal Democrats and 13 Labour peers. Ian Paisley was also raised to the peerage in this list, for the DUP and Sir Ian Blair, former Commissioner of the Metropolitan Police was created a cross bencher.

#### **4.3 House of Lords Appointments Commission peers and ad hoc appointments**

In addition, two new non-party-political peers appointed on the recommendation of the House of Lords Appointments Commission were announced on 5 October 2010.<sup>30</sup>

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<sup>27</sup> Robert Hazell, *The Conservative Agenda for Constitutional Reform*, February 2010, p48

<sup>28</sup> Andrew Tyrie and Sir George Young, *An Elected Second Chamber: A Conservative View*, July 2009

<sup>29</sup> Number 10, Press Notice, *Peerages, Honours and Appointments*, 28 May 2010

<sup>30</sup> House of Lords Appointments Commission, *New non-party-political peers*, 5 October 2010

Also in October 2010, it was announced that Michael Kerr (known as Michael Ancram) would be given a life peerage as a Conservative peer, and that Air Chief Marshall Sir Graham Stirrup would be given a life peerage and sit as a Crossbench peer.

#### 4.4 November 2010 – working peers list

On 19 November 2010 the Government announced a further list of working peers. This list comprised of 27 Conservatives, 15 Liberal Democrats, 10 Labour Party peers and a Plaid Cymru peer.<sup>31</sup> In addition, the list included Sir Richard Dannatt, Former Chief of the General Staff who has elected to sit on the cross benches.

The composition of the House of Lords by party and type of peerage can be found on the [Parliamentary Website](#).

#### 4.5 Further comment

Following the appointments made in November 2010, Dr Meg Russell of the Constitution Unit at UCL stated that:

The coalition agreement states 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 offers one rationale for the spate of new appointments. Another (more justified) reason why the Conservatives in particular wanted to refresh their Lords benches was that Tory peers were on average older, and attended less often, than peers from other groups, as relatively few had been appointed in recent years. But while new appointments have helped deal with the second of these problems, they have made little contribution to the first. By the time Labour lost power it had more peers than the Conservatives: around 220 versus 200. Since then 38 new Labour peers have been announced, plus 43 Conservatives and 24 Liberal Democrats. Even after this latest batch have taken their seats Labour will remain the largest party. Supposing that no new Labour peers were appointed from now on, around 86 more Conservative peers and 99 more Liberal Democrat peers would be needed in order to achieve proportionality with general election votes. This would create a chamber of 977 members, even in the unlikely event that no new independents or others were included.<sup>32</sup>

In a paper published in April 2011 with the support of a number of Members of Parliament and peers, Meg Russell stated:

We come from different parties and none, and have differing views on the long-term future of the House of Lords and its reform. But we are united now in calling for three things:

- An immediate moratorium on Lords appointments, to be lifted only once the number of members eligible to attend the chamber has dropped below 750. Thereafter this should be an absolute cap on the size of the chamber.
- Immediate implementation of the non-statutory proposals from the Leader’s Group chaired by Lord Hunt of Wirral, to allow retirements from the Lords. [See section 5 below.]
- Any future appointments to be put on a more transparent and sustainable basis, with the House of Lords Appointments Commission to determine the number of

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<sup>31</sup> Number 10, [Latest Peerages Announced](#), 19 November 2010

<sup>32</sup> Meg Russell, [Time for a moratorium on Lords appointments](#), 22 November 2010

vacancies, divide these using a clear formula between the parties (and Crossbenchers), and invite the parties to nominate. The simplest formula would be to appoint each batch of *new* appointments in proportion to election votes.<sup>33</sup>

## 5 Proposals to allow members to resign from the House of Lords

### 5.1 Establishment of Leader's Group on Members Leaving the House

On 29 June 2010 the House of Lords held a debate on the motion "That this House takes note of the case for reform of the House of Lords".<sup>34</sup> Opening the debate, Lord Strathclyde stated that:

While we remain an overwhelmingly directly appointed House... our membership continues to grow. It is now fast approaching 800, with daily average attendance rising over 400. More new Members are due to be introduced over the coming weeks and months. I believe that it is time to examine what avenues could be created to make it possible for Members to leave the House permanently. To this end, I can announce that I will be setting up a Leaders' Group, chaired by my noble friend Lord Hunt of Wirral, to investigate the options available. The group will include representation from all sides of the House and will be tasked with identifying the options that could be considered to allow members to leave or to retire from the House.<sup>35</sup>

Proposals to allow members of the House of Lords to resign from the House of Lords had been included, along with provisions for expulsion and suspension from the second chamber, in the *Constitutional Reform and Governance Bill 2009-10* as introduced. However, these clauses were removed from the Bill during 'wash-up' at the end of the Parliamentary session. More details on the provisions in that Bill are set out in the Library Standard Note, SN/PC/5148, [Resignation, Suspension and Expulsion from the House of Lords](#).

### 5.2 Interim report and debate

The Leader's Group published an interim report on 3 November 2010 which set out the outcome of their consultation with members of the House of Lords.<sup>36</sup> The Group stated that most members who responded to their consultation had favoured the introduction of some means by which members could leave the House permanently. However, a small minority expressed their opposition to any provision for retirement; they suggested that the decision to accept the honour of a peerage and the Parliamentary duty that this involved was not one which should subsequently be reversed because it was found to be an encumbrance or a liability.

The Leader's Group published the evidence they had received from the Clerk of the Parliaments and the Head of the Crown Office on the need for legislation to allow for voluntary retirement from the House. The Head of the Crown Office advised that "primary legislation would still appear to be required if the desire is for a peer voluntarily to give up the entitlement to receive a Writ of Summons".<sup>37</sup>

The interim report summed up the views of some peers that there would be some demand for provisions for early retirement amongst elder members or those who had a change in

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<sup>33</sup> Meg Russell, [House Full: Time to get a Grip on Lords appointments](#), April 2011

<sup>34</sup> HL Deb 29 June 2010 c1661

<sup>35</sup> HL Deb 20 June 2010 c1667

<sup>36</sup> Leader's Group on Members Leaving the House, [Consultation on Members Leaving the House](#), 3 November 2010, HL Paper 48

<sup>37</sup> *Ibid*, para 11

circumstances. However, the interim report also set out the views of others that very few members would be likely to retire voluntarily. Some peers had proposed provisions for compulsory retirement based either on age, length of service, and attendance. Other issues raised in the report included whether or not there should be financial provision for those who retired, the question of the continued appointment of new life peers, and how those members who did retire could retain some connection with the work of the House.

The Leader's Group invited members to comment further on the options raised so far either in debate or in writing by 23 November 2010. A debate was held on the report in the Lords on 16 November 2010. Lord Hunt of Wirral, the chair of the Leader's Group, explained that the objective of the debate was to hear the views of members of the House of Lords on the range of options that had so far been proposed.<sup>38</sup>

The debate was opened by Lord Strathclyde who ruled out the possibility of any financial provision for peers who left the House of Lords for the time being. He stated that "In the current context it would simply not be understood by the British people".<sup>39</sup> A number of views were put forward during the debate, largely reflecting the variety of views set out in the interim report. In particular, there was some interest in the concept of 'associate membership' of the House, whereby peers who stood down could continue to use the facilities of the House, and perhaps even take part in some of the activities of the House, without being able to take part in its legislative activity.<sup>40</sup> Closing the debate, Lord Strathclyde stated that he hoped the Leader's Group would be able to produce a final report relatively shortly.<sup>41</sup>

### 5.3 Final report

The Leader's Group on Members Leaving the House published their final report on 13 January 2011. The Group summarised their report as follows:

...we conclude that provision for compulsory retirement is not appropriate (nor realistically achievable) in the current House. We conclude that there is a broad consensus that the current House is too big and that the overall size of the House should be reduced as soon as possible.

We recommend that the arrangements for Leave of Absence should be immediately strengthened in order to encourage those who, for whatever reason, are unable or unwilling to play a full part in the work of the House, to step down from active membership.

We recommend that a scheme to allow members to give notice of their intention to retire from membership of the House permanently on a voluntary basis should be agreed by the House and implemented as soon as possible. Introducing voluntary retirement will ease the immediate problem of the size of the House, as well as laying the foundation for a smoother transition to a reformed House.<sup>42</sup>

The Group recommended that at the beginning of each session of Parliament, in addition to writing to those currently on Leave of Absence, the Clerk of the Parliaments should also write

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<sup>38</sup> HL Deb 16 November 2010 c682

<sup>39</sup> HL Deb 16 November 2010 c675

<sup>40</sup> See for example Baroness Scott of Needham Market at c677 and Lord Hunt of Kings Heath at c707

<sup>41</sup> HL Deb 16 November 2010 c711

<sup>42</sup> Leader's Group on Members Leaving the House, *Members Leaving the House*, 13 January 2011 HL Paper 83 2010-11

to those members who attended on three or fewer occasions in the previous session, inviting them to take Leave of Absence.

On the matter of voluntary retirement, the Group noted that to retire permanently from the House would require legislation. However, they concluded that this should not be an impediment to the creation of a scheme where members could give notice of their intention to resign. The resignation of a peer could, they suggested, be marked with some sort of ceremony analogous to the introduction of a peer when they first take their seat in the Lords. The Leader's Group suggested that party leaders in the House and the Convener of the Crossbench Peers could seek assurances about peers willingness or ability to participate in the Lords. They stated that they thought it "reasonable that those who attend as a matter of form, but do not contribute to the work of the House, should be invited to consider their position".<sup>43</sup> The Group also recommended that a new understanding should be developed about the proportion of seats it would be appropriate for each grouping or party to rely on, so that those members who wished to resign would not be concerned about the effect this would have on their party's representation in the Lords.

The Group agreed with the Leader of the House of Lords that it "would be inappropriate for a reduction in the number of members of the House to occasion any additional cost to the taxpayer".<sup>44</sup> However, they do consider whether a modest pension payment could be made in a way which was cost-neutral to the House:

The idea has also been introduced into debate of an "invest-to-save" policy", whereby a calculation could be made of the marginal costs of support for each additional member in the House and that proportion of the budget of the House could then be offered as an incentive to a member to retire. We are attracted by this "value for money" argument, and think that it is likely that, with appropriate actuarial and accountancy input, it would be possible to identify the potential saving to the public purse which could be achieved if the membership of the House were to be reduced significantly without delay. From this potential saving it would be possible to offer either a modest resettlement payment on retirement, or a periodic payment on the lines of a pensions, without incurring any additional long-term cost to public funds.<sup>45</sup>

The report recommended that the possibility of making such a payment to those who had "played an active part in the work of the House over a number of years" should be investigated.<sup>46</sup> They further suggested that any payment would only be made available to peers who took voluntary retirement within a limited period after its introduction should be investigated. In addition, a hardship fund, resourced from voluntary contributions for peers, should also be made available to peers who retire.<sup>47</sup>

The Group considered the possibility of compulsory retirement for certain peers and did not recommend any of the potential options for this. However, they did concede that if insufficient numbers took voluntary retirement, the pressures for compulsory retirement would increase, in which case further consideration would be needed. They suggested that in particular, further consideration should be given to an arrangement whereby the different groups in the House elect those who should remain, stated that "we suggest that this is the

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<sup>43</sup> *Ibid*, para 33

<sup>44</sup> *Ibid*, para 44

<sup>45</sup> *Ibid*, para 46

<sup>46</sup> *Ibid*, para 47

<sup>47</sup> *Ibid*, para 48

least arbitrary course, and would result in the selection of those whose work in Parliament commands the respect and support of their peers”.<sup>48</sup>

Lastly, the Group looked at future appointments to the House of Lords. The Group recommended that:

...any further appointments made to the House in the absence of wider reform should be for a limited term, renewable if necessary. This would ensure that the intrinsic problems in the composition of the current House do not continue to be exacerbated.<sup>49</sup>

A proposal for so-called ‘term-peerages’ had been put forward by some Members of the House of Commons during the passage of the *Constitutional Reform and Governance Act 2010*. Andrew Tyrie and Keith Vaz proposed an amendment to introduce term-peerages of 15 years. Andrew Tyrie explained the purpose of the amendment was three-fold. First, it would move membership of the House of Lords “a step along the road” from being an honour to being a job.<sup>50</sup> Secondly, it would address the “inevitable upward ratchet in the size of the House, given the way it is presently constituted”.<sup>51</sup> Lastly, the proposals would leave the existing life peerage unaffected, minimising the “risk of friction” as term peerages were introduced.<sup>52</sup> The amendment received support from the Conservative front bench,<sup>53</sup> the Liberal Democrats; and some Labour backbench Members including the chair of the Public Administration Select Committee, Tony Wright.<sup>54</sup> However, the Justice Minister, Michael Wills, stated that the Government would not support the amendment. He argued that the proposals were based on the premise that comprehensive reform of the House of Lords was not going to happen in the near future, and this premise was “misplaced”.<sup>55</sup> He stated that the Government “will publish draft clauses” for “wholesale reform” shortly. The House divided on the amendment, with 170 voting in favour and 249 voting against.<sup>56</sup> In the end, as noted above, all clauses in the Bill concerned with the House of Lords were removed during the ‘wash-up’ period before the May 2010 General Election.

#### **5.4 Lords Procedure Committee report**

On 23 May 2011 the House of Lords Procedure Committee published a short report setting out the necessary changes which would need to be made to the House of Lords Standing Orders, and the Companion to Standing Orders, to implement the proposals from the Leader’s Working Group on leave of absence and voluntary retirement.<sup>57</sup>

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<sup>48</sup> *Ibid*, para 57

<sup>49</sup> *Ibid*, para 64

<sup>50</sup> HC Deb 26 January 2010 c732

<sup>51</sup> *Ibid*

<sup>52</sup> *Ibid* c733

<sup>53</sup> *Ibid* c734

<sup>54</sup> *Ibid* c734-735

<sup>55</sup> *Ibid* c741-2

<sup>56</sup> *Ibid* c744

<sup>57</sup> House of Lords Procedure Committee, *Members Leaving the House*, 23 May 2011, HL Paper 151 2010-12