House of Lords reform: navigating the obstacles

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IfG–Bennett foreword

In February 2022, the Institute for Government and the Bennett Institute for Public Policy launched a Review of the UK Constitution, to offer an evidence-based and non-partisan analysis of the strengths and weaknesses of the constitution, and where necessary make recommendations for change.

To address the bold scope of this project, we have complemented our own in-depth research with a breadth of perspectives from some of the UK's foremost constitutional experts. In this series of expert guest papers, we publish the views and proposals of academics and practitioners, who take a range of stances from constitutional conservation through to major reform. While these papers respond to the pressing constitutional questions of the day, they all also look to construct long-term solutions that will inform political decision making as well as public debate.

Given the range of views expressed, we do not necessarily endorse all of the ideas found in these papers, but we can commend the rigour with which the arguments have been constructed and sincerely thank the authors for their thoughtful contributions.

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Introduction

When conducting a review of the UK constitution, as the Institute for Government and the Bennett Institute are so usefully doing, the House of Lords is one of the most obvious topics to consider. The second chamber of the UK parliament has long been controversial, and has been subject to numerous proposals for reform.

The House of Lords is still an entirely unelected body (unless counting the 92 hereditary peers, who are chosen through a bizarre internal system of by-elections), leading many to see it as an outdated throwback to earlier times. But the institution is in fact far more complex than that. It has evolved gradually over centuries and, notwithstanding its unusual composition, performs important scrutiny roles – often focusing on the detail of policy, and helping to hold the government to account. And while the House of Lords certainly remains problematic in various respects, it is far from unique in attracting criticism. Looking around the world, many second chambers are vigorously challenged, even if their members are elected. Despite the criticisms, these institutions nonetheless often play valued roles in national systems of constitutional checks and balances.

This paper goes beyond knee-jerk reactions to the House of Lords, to explore what the institution does, how it has evolved, what proposals for change have been put forward and what the key reform objectives and priorities should be. In doing so, it also touches on what experience from other bicameral (two chamber) parliaments can teach us.

Shortly before the preparation of this paper, the Commission on the UK's Future, chaired for the Labour Party by the former prime minister Gordon Brown, had published its proposals.[1] These recommended wide-ranging changes both to the UK's devolution arrangements and to the House of Lords. Widely reported as calling for the 'abolition' of the Lords, the Brown commission more accurately proposed the replacement of the existing chamber with an elected 'Assembly of the Nations and Regions'. This to an extent echoed, but also in other ways diverged from, proposals that had previously been made under both the Labour governments of 1997–2010 and the Conservative/Liberal Democrat coalition of 2010–15. In government, the Conservatives have now proposed no new initiatives on Lords reform for more than 10 years. Meanwhile, the Labour Party is consulting on the Brown proposals; hence this paper gives them significant attention. But it also goes far wider: first by locating debates on Lords reform historically and internationally; and second by considering other possible smaller-scale reforms that either a Conservative or a Labour government might implement.

The rest of this paper is divided into eight sections. The first summarises the current composition and role of the House of Lords. The second explores international comparisons. The third summarises previous attempts at reform – both successful and unsuccessful – since the start of the 20th century, exploring both how the Lords has changed and why it has not changed further. The fourth section then considers public attitudes to the Lords and its reform, finding these to be quite nuanced and complex. The fifth section draws much of this evidence together, to identify possible

objectives for reform. The next two sections are longer, looking in detail respectively at the options for large-scale reform to create an elected second chamber of the nations and regions, and at smaller-scale changes to deal with widely recognised problems, such as the size of the chamber and the current appointments process. The final section offers some conclusions.

In summary, the paper concludes that House of Lords reform is desirable, but very difficult to achieve. Both international and historical experiences show that designing a second chamber that is complementary to the work of the first chamber often proves controversial, and can readily fail. The ambitious Brown proposals therefore would not be easy for Labour to deliver, and once fleshed out would probably (like numerous large-scale reform proposals before them) face challenge and resistance – including inside the House of Commons and the governing party. Meanwhile, other smaller reforms are likely to prove more achievable, and it is important that the opportunity to pursue these is not lost. The current government could readily achieve this. But if it does not deal with these problems and Labour enters power, Labour should embrace such changes as a matter of urgency. These might be seen as the first stage of a two-stage reform, in a similar approach to the one adopted by the 1997 Blair government, which resulted in significant and lasting change to the chamber.

What is the House of Lords and what does it do?

The House of Lords is a well-known institution, but not particularly well understood. It quite frequently reaches the headlines, but more often due to controversies about its membership, or claims that it needs reform, rather than for its actual work. Even the pictures that accompany stories about the Lords can often be misleading (its members do not routinely wear red ermine-trimmed robes); and few journalists follow its proceedings in any detail. Yet the Lords plays a substantial role in the work of parliament, and thereby in our national life.

Before thinking about reform of the House of Lords, it is essential to first have an understanding of what the institution is and what it does. This section briefly summarises the chamber's composition, its functions and powers, its relationship to the House of Commons and its overall contribution.

Probably the best-known thing about the House of Lords is its unelected basis. The great majority of its members are 'life peers', who are formally appointed by the monarch – but in practice by the prime minister. Because they can sit for life, these members have been appointed by various successive prime ministers.[*] They currently number around 670.[**] In addition, 92 places in the Lords are reserved for hereditary peers (that is, members who inherited their titles rather than directly being appointed

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[*] At the time of writing, the longest-serving life peer (Baroness Masham of Ilton) was appointed in 1970. A total of 60 serving life peers were appointed before 1997.

[**] The numbers here are stated as approximations because the membership of the House of Lords changes frequently in small ways, with members retiring or dying and new members being added. At the time of writing, there was still speculation about new resignation honours lists from both Boris Johnson and Liz Truss. Hence, few of the 'current' Lords numbers quoted in this paper are fixed.

themselves). This is a hangover from the reform that took place in 1999, as further discussed below. Finally, 26 seats are reserved for bishops and archbishops of the Church of England. Members of this last group have busy jobs outside parliament, so on most days very few attend.

Both the majority of life peers, and the majority of hereditary peers, sit for political parties. In terms of party balance, the Conservatives now outnumber Labour by around 265 to 175 in the House of Lords, while the Liberal Democrats hold just over 80 seats (the Greens and the Northern Ireland parties hold far smaller numbers).[*] But roughly a quarter of the members of the chamber are independent 'Crossbenchers' who deliberately take no party whip, and organise as a non-party group. Various others are unaffiliated.[**] Hence, neither the government nor the opposition has an automatic majority in the House of Lords.

The routes to membership among these various groupings are controversial, as further discussed later in this paper. New life peers who sit for the parties are chosen by their party leaders, with no constraints on the prime minister in terms of the overall numbers and balance among those appointed. Crossbench peers are mostly chosen by the independent House of Lords Appointments Commission, which vets them carefully for suitability, but again the prime minister decides the numbers. Party peers receive a much more limited vetting from the commission, solely on propriety grounds. When a hereditary peer retires or dies they are not replaced automatically by their own descendant, but by a candidate from a wider pool of hereditary peers, who is chosen through a 'by-election' in which the voters are members of the House of Lords.[***] Places for bishops are based on their seniority in the Church of England, and this is the only group that has a fixed retirement age – of 70. Members of other groups may choose whether and when to retire. All members can also take temporary 'leave of absence', for example due to duties outside parliament or because they are unwell. Once those on leave of absence are included, the current House of Lords exceeds 820 members. The chamber's disproportionate size has been one of the most frequent criticisms over recent years, as further discussed later in this paper.

Traditionally, peers have tended to be appointed relatively late in life (the average age among current Lords members is 71). Hence, many members arrive with substantial experience in various professions, often having reached senior levels – leading to the chamber's often-cited reputation for 'expertise'. The largest professional grouping comprises members with a former background in politics (many are former MPs), while a detailed study in 2009 found that the legal professions, business and finance, and academia were also fairly well represented – while other members were, for example,

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[*] Some parties are completely absent. Most notably, the Scottish National Party (SNP) has a policy of not accepting seats in the House of Lords.

[**] There is a distinction between Crossbenchers and unaffiliated members. Crossbenchers both organise as a group and sign up to a code of independence. Unaffiliated members are not part of this group and many have previously been members of political parties – for example, having given up the whip temporarily when holding public appointments or having been excluded from their parties.

[***] The majority of these elections take place within party groups, with the voters being existing hereditary peers. But 15 are elected to serve as officeholders (for example, deputy speakers) and these members are elected across the whole House (hereditary and non-hereditary).

drawn from the civil service and armed forces.[2] These various backgrounds are brought to bear in the chamber's work. But the prime minister's appointments to the Lords – in terms of quality as well as numbers – often attract controversy.

The House of Lords carries out broadly similar functions to the House of Commons, with some important differences in implementation, and some crucial exceptions. Most centrally, unlike the Commons, the Lords has no role in deciding the government of the day, and there is no concept of a 'confidence vote'. The chamber also plays a very minimal role in financial matters. But it conducts scrutiny of primary legislation, which must normally pass through both chambers before becoming law, as well as questioning ministers, hearing ministerial statements, holding debates and having a group of specialist select committees.

In practice, a large proportion of time in the House of Lords is spent on legislation. As in the House of Commons, bills pass through a series of stages, during which they can potentially be amended. Most bills are introduced in the Commons, so pass to the Lords afterwards, though a minority of bills begin their passage in the Lords and then pass to the Commons. Typically, debates in the Lords are more muted than those in the Commons, where the big set-piece speeches are made, and peers tend to focus more on the detail. Despite the government's lack of majority, it is exceptionally rare for a whole bill to be defeated at second or third reading in the Lords, though defeats on amendments are relatively common. And most amendments are in fact made more consensually. In the 2019–21 session, the Lords made 1,029 amendments to government bills, of which only 83 were government defeats.[3] The remainder resulted from the government either accepting amendments or (more commonly) offering amendments of its own, often in response to points that members of the chamber had made.

In presenting legislation, making statements or responding to peers' questions, ministers face an environment in which they cannot depend on majority support, and where many of those with whom they are debating have extensive experience and specialist knowledge. Lords ministers (few of whom are officially high-ranking in their departments) therefore have a challenging task. The nature of the environment encourages reasoned debate, and can result in very effective scrutiny.

Select committees in the House of Lords are different from those in the House of Commons, most of which mirror the structure of government departments. Instead, the Lords has cross-cutting committees, often focused on technical detail. For example, the Constitution Committee considers the constitutional implications of all bills, as well as carrying out thematic inquiries. A new International Agreements Committee considers treaties, while a subcommittee of the European Affairs Committee is considering the operation of the Northern Ireland protocol post-Brexit. An important pair of committees – the Delegated Powers and Regulatory Reform Committee and the Secondary Legislation Scrutiny Committee – scrutinise law making powers delegated to the government, and issue often quite technical reports advising other peers on how to respond to particular pieces of primary or secondary legislation.

In these ways, the work of the House of Lords is often highly complementary to that of the House of Commons, with an emphasis on detailed scrutiny rather than high politics, and a focus on topics that may receive relatively less attention from MPs. But there are also very important connections between the chambers. Peers and MPs collaborate through forums such as All-Party Parliamentary Groups (APPGs) as well as through their party groups, and many peers themselves are former MPs. Generally, members of the Lords are highly attuned to when there is controversy in the Commons, particularly on the government backbenches. During scrutiny of bills, they may therefore press ministers on matters where government MPs have shown discomfort, and broker compromise out of the media spotlight. Only when this proves impossible are matters pressed to a government defeat.

Even when the government is defeated in the House of Lords, the House of Commons is the ultimate arbiter of policy. If ministers fear dissent on their own backbenches, they may accept a Lords defeat; if they are confident of MPs' support, they will ask them to overturn the Lords amendment, after which peers generally back down. The House of Lords therefore offers an important check, and can ask ministers and MPs to think again; but it is always the elected chamber that ultimately decides. Were compromise to fail, the government can potentially resort to the Parliament Acts, which allow the Commons to overrule the Lords after roughly a year's delay. But this has happened only four times since 1949, most recently in 2004.

Altogether, the House of Lords conducts important functions, and has some significant merits. But controversies around its composition, including the prime minister's largely uncontrolled appointments, mean that it often reaches the news for negative reasons. These controversies tarnish the chamber's reputation, and can limit its ability to do its job.

Comparative context: second chambers and their reform around the world

The UK is far from unique in having a two-chamber parliament. According to the Inter-Parliamentary Union (IPU), in December 2022 there were 190 states with national legislatures, of which 79 were bicameral, and the remaining 111 unicameral.*

The House of Lords does have a unique form of composition, but it is not quite as out of step with international trends as many might assume. While first chambers are normally – like the House of Commons – elected by the people on a universal franchise, the composition of second chambers is much more varied (see Table 1). Based on the same IPU data, only 20 out of 79 second chambers are entirely directly elected by the people – and 15 of these are in presidential democracies, rather than parliamentary

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* Note that the IPU actually listed 193 countries, but in three of these – all bicameral – the parliament was currently suspended. Source: IPU Parline, 'Compare data on parliaments', retrieved 6 December 2022, https://data.ipu.org/compare?field=country%3A%3Afield_structure_of_parliament#pie

ones where the executive depends on the confidence of parliament.* Beyond direct election, both indirect election (where members of the second chamber are chosen, for example, by local councillors or subnational legislatures) and appointment are relatively common. Currently 14 second chambers are wholly indirectly elected, while 15 are wholly appointed. But it is also very common for second chambers to include a mixture of members chosen by these different routes. For example, in Spain the second chamber includes a mixture of directly and indirectly elected members, while Italy includes a mixture of directly elected and appointed members, Belgium and India include both indirectly elected and appointed members, and Ireland includes some members from all three groups.

A crucial principle of bicameralism is that the second chamber's composition should be complementary to that of the first chamber. Inclusion of indirectly elected or appointed members is one way of achieving this goal. Another is through the use of different electoral systems, or different electoral boundaries. Hence many second chambers, particularly in federal systems, explicitly reflect the country's territorial structure. The US Senate is the classic example, with two senators directly elected to represent each state, irrespective of its population size. A similar system operates in Australia. Where members are chosen by state legislatures (which actually applied in the US until 1913), the opportunities for connections with subnational institutions are clearly stronger. The ultimate example is the German second chamber, the *Bundesrat*, whose members are ministers in state (*Länder*) governments.

The powers of second chambers also differ widely. As in the UK, while the assent of the first chamber is generally required for passing laws (and, in parliamentary systems, that chamber's confidence is necessary for the government to remain in office), this is frequently not the case for the second chamber. 'Co-equal' powers are common in presidential systems, but in parliamentary systems the second chamber often only has a power of delay over legislation.[4] In some countries where the second chamber has an explicitly territorial function, such as Germany and South Africa, it has greater power over legislation affecting subnational government than it does over other matters.

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* The parliamentary democracies with entirely directly elected second chambers are Australia, the Czech Republic, Japan, Romania and Switzerland.

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Table 1 **Composition of second chambers around the world**

Type of composition	No.	Examples
Wholly directly elected	20	Australia, Brazil, Japan, Mexico, the US
Wholly indirectly elected	14	Austria, France, Germany, the Netherlands, South Africa
Mix of directly and indirectly elected	1	Spain
Mix of directly elected and appointed	6	Colombia, Italy, Kenya
Mix of indirectly elected and appointed	19	Algeria, Belgium, India, Malaysia
Mix of directly elected, indirectly elected and appointed	1	Ireland
Wholly appointed	15	Bahamas, Barbados, Canada, Jordan, Oman
Mix of appointed and hereditary	2	Lesotho, the UK
Mix of directly elected, indirectly elected appointed and hereditary	1	Zimbabwe
Total	**79**	

Source: Based on Inter-Parliamentary Union Parline database, 6 December 2022

The House of Lords is a controversial institution, and it is easy to assume that this is purely due to its particular make-up, which is widely seen as outdated. But it is actually commonplace for the role of second chambers to be contested, for two interconnected reasons. First, these institutions exist deliberately to question the decisions of elected first chambers and political executives, and hence may attract criticism (particularly from those groups) when they delay or challenge policy. But if a second chamber does not offer such challenge, its very purpose may be brought into doubt. Second, as we have already seen, these bodies are often not directly elected, and are intended to bring a different perspective to policy making that does not simply echo that of the first chamber. Again, therefore, a second chamber may attract criticism either for being too different in its composition from the first chamber or for being too similar. These are fundamental conundrums of bicameralism, leading one pair of authors to dub second chambers "essentially contested institutions".[5]

This makes it unsurprising that calls for second chamber reform are commonplace around the world. Whether the second chamber is seen as too similar to the first (as in Italy) or too different and insufficiently democratic (as in Canada), and whether it is seen as too weak (as in Ireland) or too strong (as in Japan), there may be demands for change. But for a number of reasons, second chamber reform is very difficult to achieve.[6] While it may be easy to criticise the composition of the second chamber, it is far harder to agree what the correct composition should be. Meanwhile, governments may be reluctant to see second chambers strengthened, while the public may be uncomfortable with them being weakened. In some countries, arguments about second chamber reform also get tangled up with wider arguments about the territorial structure of the state.

Consequently, in the face of frequent proposals for second chamber reform, some reforms do happen, but others often fail. Recent examples of dramatically failed reforms include the rejection of government proposals in referendums to abolish the Irish Senate (in 2013)[7] and to radically reform the Italian Senate (in 2016). The latter led to the downfall of the then prime minister, Matteo Renzi.[8]

Past attempts at House of Lords reform: successes and failures

Before focusing on reform options for today, a further essential kind of context comes from the House of Lords' historical development. Notwithstanding the chamber's image as an outdated institution, it has changed substantially over the decades, as a cumulative result of various incremental reforms. Alongside these, numerous other more ambitious reform proposals have failed. The history of the House of Lords is, in many ways, a story of constant pressures for reform – some successful and others unsuccessful. In terms of what succeeds and what fails, the level of reform ambition is often the key factor.

At the start of the 20th century, the House of Lords contained three groups. The hereditary peers sat as a result of centuries of tradition, making up the vast majority of its roughly 600 members. Places for bishops had also existed for centuries, but were capped at 26 in legislation after 1847. In addition, there were a small number of 'law lords' appointed specifically to contribute to the chamber's role as the UK's highest court, following legislation in 1876. This last group were the only life peers, and the appointment of new members (which occurred quite frequently) otherwise required the creation of new hereditary titles.[*]

While the chamber's composition had long been seen as anomalous even at this point, the first set of changes in the 20th century concerned its powers. In 1900, the House of Lords still retained a complete veto over legislation. This was ended by the 1911 Parliament Act, which the Liberal government passed after a showdown with the Conservative-dominated chamber over Lloyd George's so-called 'people's budget'.[9]

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[*]　In 1957, just before life peerages were introduced, half of the peers in the 860-member chamber held hereditary titles that had been created in the 20th century (Bromhead PA, *The House of Lords and Contemporary Politics*, Routledge & Kegan Paul, 1958).

The 1911 Act reduced the Lords' power to one of delay over bills beginning their passage in the House of Commons.* Later the Parliament Act 1949, passed by Attlee's Labour government, reduced the delaying power from roughly two years to one, and remains the framework for the powers of today's House of Lords.

Reform to the chamber's membership followed later, in gradual steps. In 1958 – after many decades of pressure – a generalised ability to create life peers, rather than members who handed on their titles, was finally agreed. It was this that also allowed women to enter the chamber for the first time. Subsequently, life peerages became the standard means of appointment. In 1999, under Tony Blair's government, the majority of remaining hereditary peers were then evicted from the House of Lords. The original intention had been to remove all of them, but Labour cut a deal with the Conservatives whereby 92 (out of roughly 750) could remain. The choice regarding who would stay was taken through ballots in the individual party (and other) groups in the chamber. Later on during Blair's premiership, the Constitutional Reform Act 2005 created the Supreme Court, ending the chamber's role as the UK's highest court and the appointment of law lords. Finally, in 2014, as the result of a private member's bill, the ability for life peers to retire voluntarily was introduced. Although these various changes left the House of Lords unelected, they significantly changed its composition.

Table 2 **Key reforms to the House of Lords achieved since 1900**

Year	Nature of reform
1911	Parliament Act removes the House of Lords' veto over bills starting in the House of Commons, reducing it to a two-year delay, or a one-month delay in the case of 'money bills'
1949	Parliament Act reduces the previous delay period from two years to one
1958	Life Peerages Act allows members to be appointed for their lifetime only rather than as hereditary peers
1999	House of Lords Act removes most hereditary peers, leaving 92 remaining
2005	Constitutional Reform Act ends the chamber's judicial role, passing this to the Supreme Court
2014	House of Lords Reform Act allows members to voluntarily retire

Note: Some relatively less significant changes are omitted from this table, and from the text.

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* The House of Lords retains a veto over bills that start in that chamber, and over delegated (secondary) legislation. The Parliament Act 1911 also significantly reduced the chamber's formal powers over financial matters.

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Over this same period, and indeed beforehand, there were multiple proposals for House of Lords reform that failed. In particular, the aspiration to introduce elections has often been expressed, and sometimes pursued by government, but remains unachieved. Importantly, the House of Lords itself has never been the key blockage to such reforms. Instead, they have mostly failed due to resistance from members on the government side in the House of Commons.

The Parliament Act 1911 famously stated in its preamble that "it is intended to substitute for the House of Lords as it at present exists a Second Chamber constituted on a popular instead of hereditary basis, but such substitution cannot be immediately brought into operation". Some in the Liberal government favoured introducing elections, but this was far from universally agreed, and no progress was made. In 1918, a cross-party commission chaired by Lord Bryce failed to reach agreement on a new model for composition. A significant potential opportunity was then the landslide Labour victory in 1945. The party had historically supported the abolition of the House of Lords, but its ambitious policy programme led it to recognise the benefit of added legislative capacity that comes with a second chamber. No internal agreement was found on an alternative composition for the Lords, so the Parliament Act 1949 focused solely on further limiting the chamber's powers. From this point onwards, there were few mainstream suggestions for outright abolition of the Lords.[*]

When Labour returned to government in the 1960s, Harold Wilson pursued an ambitious plan to reform both the chamber's membership and its powers. A bill was introduced, but was withdrawn after lengthy discussion at the House of Commons committee stage. Opponents included those within Labour (such as Michael Foot) who favoured the abolition of the House of Lords, and others who preferred to maintain the chamber as it was. This ended active consideration of reform by government for several decades.

The 1997 Labour government then entered power on a manifesto that promised a two-stage House of Lords reform. The first stage would remove the hereditary peers (as above) and the second would "make the House of Lords more democratic and representative".[10] This second stage was initially referred to a Royal Commission on the Reform of the House of Lords. Its report in 2000 was thorough and detailed, carefully considering options for both election and appointment.[11] But the Royal Commission's proposals – which would see only a minority of members of the chamber elected – were widely seen as timid. Despite a government white paper proposing implementation,[12] significant backbench resistance resulted in no bill being brought forward. Later, the government was persuaded to sponsor a series of free votes in the House of Commons on various options for reforming the composition of the Lords, including abolition, a minority elected chamber, a 50/50 chamber, a majority elected chamber or a wholly elected chamber. But all of these options were voted down.[13]

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* The most obvious exception was the Labour Party's manifesto of 1983, which briefly returned the party to this policy.

Attempts to reach agreement continued, including under Gordon Brown's government and the Conservative/Liberal Democrat coalition government. A white paper in 2007 proposed a 50/50 chamber, but this failed to find support in an in-principle vote in the House of Commons.[14] Instead, there was a narrow Commons majority for an 80% elected chamber, and a further white paper in 2008 suggested putting this into effect.[15] But with continued disagreement within the Labour Party, no legislation was proposed. Subsequently, the Liberal Democrat deputy prime minister, Nick Clegg, brought forward very similar proposals in a bill, but this was withdrawn after 91 Conservative MPs voted against the second reading, and Labour indicated that it would join the rebels in voting down the programme motion for the bill.

Table 3 **Key failed government initiatives on House of Lords reform since 1900**

Year	Nature of proposed reform
1911	Parliament Act suggests a second chamber "on a popular instead of hereditary basis" but no further action is taken
1918	Bryce commission on the second chamber fails to reach agreement on composition
1945–	Labour government fails to agree plans to reform the chamber's membership
1968	Bill by Harold Wilson's Labour government withdrawn due to disagreement in the House of Commons
2000	Wide-ranging Royal Commission report, but a bill to implement its proposals is never introduced
2003	House of Commons fails to support any option in a series of votes on House of Lords reform
2007	White paper suggests a 50/50 elected/appointed chamber, but there is limited Commons support
2008	White paper suggests an 80/20 elected/appointed chamber, but no bill is introduced
2012	House of Lords Reform Bill (similar to 2008 proposals) is withdrawn after a backbench House of Commons rebellion and anticipated defeat of its programme motion

This brief history shows the difficulties of achieving House of Lords reform – a pattern which is consistent with that seen in many other countries around the world. In practice, small reforms occasionally succeed, but large reforms invariably fail, in significant part due to disagreements on the government benches. The small reforms which succeed have generally been discussed for many years beforehand, being seen as long overdue and temporary solutions. But they have nonetheless added up, collectively, to a significant transformation in the House of Lords – from an overwhelmingly hereditary

(and male) chamber with a veto over legislation, to a far more mixed one, where most members are appointed, and can retire when they wish, which exercises only a power of delay. In addition, judicial duties which the House of Lords used to carry out have passed to the Supreme Court.

What do the public think?

A final essential piece of context is what is known about the views of the public. Here the evidence is limited, but the message is not straightforward. House of Lords reform is not at the top of most people's list of political priorities, which is one reason why it consistently gets delayed. But insofar as the public's views are known, they also do not drive consistently in one direction in relation to large-scale reform of the Lords.

Polls are published relatively frequently showing public dissatisfaction with the House of Lords, but sometimes these are based on one-sided or leading questions that campaign groups have sponsored. They also tend to take the House of Lords in isolation, rather than comparing it with other bodies. When questions are more balanced or contextualised, a more complex view emerges.

Fewer questions have been asked about the House of Lords' role than its composition. But in 2007 a poll for the Constitution Unit found 57% believing that "the House of Lords generally carries out its policy role well", contrasted with 15% who disagreed. In the same poll, the equivalent figures for the House of Commons were 53% and 22%.[16] These questions have not been repeated, and it is possible that attitudes may have become more negative,* but at least at that time the public clearly saw value in the work of the House of Lords, and if anything rated this slightly more highly than the work of the elected chamber. More recent polling by the Constitution Unit's 'Democracy in the UK after Brexit' project in 2022 asked respondents whether "MPs should decide on policy matters in parliament without interference from the unelected House of Lords" or whether "members of the House of Lords should be able to require MPs to look at an issue again before making a final decision". There was significant support for the Lords' role, with 26% of respondents selecting the first statement compared with 41% who selected the second (16% agreed with both equally). In a similar question, 24% of respondents agreed with the stronger statement that peers "should sometimes be able to overrule MPs on policy" against 30% who believed that "MPs should always have the last word" and 26% who agreed with both statements equally.

Turning to composition, the public's views are also not entirely what might be expected. A fascinating poll for *The Times* in 2006 showed how mutually contradictory arguments about the make-up of the House of Lords can both find significant public support. Respondents were asked whether they agreed that "at least half of the members of the House of Lords should be elected so that the upper chamber of parliament has

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* The Brown commission's report cites a YouGov survey from 2020 showing that, in response to the question "How well or badly do you think the following parts of the British democratic system work?", just 31% selected 'well' for the House of Lords compared with 49% who selected 'badly'. But this question could be read as concerning the chamber's composition just as much as its legislative functions. The equivalent figures for the House of Commons were 47% for 'well' and 37% for 'badly'.

democratic legitimacy" and 72% agreed with this statement. Yet in the same poll, 75% of these same respondents agreed that "the House of Lords should remain a mainly appointed house because this gives it a degree of independence from electoral politics and allows people with a broad range of experience and expertise to be involved in the lawmaking process". Thus, members of the public are responsive to cues about the benefits of both election and appointment to the House of Lords. The Constitution Unit's 2022 poll confronted respondents with a choice between similar options to these in a single question. Here, 29% of respondents agreed that the chamber "should include elected members to ensure that it is democratically accountable to the people", while 28% agreed that it "should include appointed members to ensure that it contains experts and people independent of political parties". A further 26% agreed with both statements equally (while 18% responded 'don't know').

These last results are consistent with earlier polling, which has often shown support for a mixed elected/appointed chamber. For example, the British Social Attitudes survey in 2011 found that 27% supported an all-elected chamber, 8.5% supported an all-appointed chamber and 29% believed that there should be roughly equal numbers of both types of member (7% believed that the chamber should be mostly appointed, and 16% that it should be mostly elected, while 11% responded 'don't know').[17] The same survey found that 55% believed "the House of Lords should consist of independent experts, not party politicians", while only 7% disagreed (the remainder holding a neutral or undecided position). All of this suggests that the public recognise the trade-offs between having elected versus appointed members in the second chamber. Faced with high-profile political arguments about large-scale Lords reform, it is unclear on which side public opinion would fall, and responses would most likely be quite mixed.

In contrast, there are some aspects of the House of Lords that seem largely to unite public opinion. One of these is the size of the chamber (which is discussed in more detail below). A 2018 poll for the Electoral Reform Society found that 62% of respondents felt that the then 794-member chamber was too large, while only 14% felt that it was about right and 3% that it was too small (21% said 'don't know').[18] Likewise, the Constitution Unit's 2022 survey found 65% believing that the House of Lords should be no larger than the 650-member House of Commons, versus just 3% believing that its size should not be capped, while 9% agreed with both statements equally (and 23% responded 'don't know'). In this same survey, respondents also thought that the power of appointment should be taken out of the hands of the prime minister: just 6% believed that he or she should be responsible for appointments, against 58% who preferred this to rest with an independent commission (17% agreed with both statements equally and 19% selected 'don't know').[19]

The objectives of reform

As has already been shown, reforms introduced to the House of Lords tend to lag substantially behind pressures for reform. This means that the chamber exists almost perpetually in an 'unreformed' state, which is quite common for second chambers internationally.

In thinking through the next stages of reform, the obvious starting point is the current perceived problems with the House of Lords. Here there are at least six things worth noting:

1. There has been relatively little controversy about the powers of the House of Lords. All previous major sets of proposals from the Royal Commission onwards (until Brown, discussed below) essentially concluded that the existing Parliament Act 1949 settlement on powers should remain unchanged. The House of Lords can theoretically delay most government bills for around a year (the precise period will depend on the point at which the bill is introduced), but these powers are only extremely rarely used to their maximum because peers hold back from directly challenging the elected chamber. Normally, matters are resolved by negotiation between the House of Lords, the House of Commons and the government. Although there are occasional moments of anger when the government argues that the House of Lords is pushing its luck, this is normal in a bicameral system, and in practice there have been few serious pressures to reform the chamber's formal powers.[*] The practical use of these powers might change if its composition became more defensible, but opening up a debate about formal powers would make arguments about Lords reform much more complicated.

2. Recent complaints about the House of Lords have instead largely focused on its composition, which in turn affects its ability to do its job effectively. In terms of how the current appointed system works, a frequent source of attention has been the chamber's growing size. It is correctly often noted that the House of Lords is the largest second chamber in the world, which feeds negative headlines, internal inefficiency and public demands for change – reflected in the polling cited above. This led to the establishment of a Lord Speaker's Committee on the Size of the House, which first reported in 2017.[20] In addition, there are concerns about the quality of members appointed, including for example large party donors, which similarly attract negative media attention. Both problems stem from the prime minister's unconstrained appointment power. The net effect is to damage the chamber's reputation as a serious expert body, which can limit its ability to exert policy influence.[**] A minimal objective of reform should be that the second chamber's composition allows it to do its job effectively.

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[*] An exception in recent years was the Cameron government's setting up of the Strathclyde review after the House of Lords used its veto power to vote down a piece of delegated legislation on tax credits. The review appeared to be little more than a government warning that the Lords should not make a habit of this behaviour, and there was no subsequent attempt to introduce change. See HM Government, *Strathclyde Review: Secondary legislation and the primacy of the House of Commons*, GOV.UK, 2015, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/486791/53088_Cm_9177_PRINT.pdf.

[**] Indeed the prime minister can even potentially abuse this power to deliberately discredit the House of Lords, as touched on below.

3. Beyond this, bigger in-principle objections have long been voiced about the membership of the House of Lords. Many argue that appointment is inappropriate for a chamber of parliament that contributes to the law making process, and that members should instead be elected. Discussions about the merits of elections to the House of Lords have gone on for decades, at times quite intensively, as summarised above. Similar in-principle objections are raised to the continued existence of hereditary members in the chamber, and to the continued presence of bishops. These principled objections are somewhat different from the pragmatic ones in point 2 above, and are often more disputed.

4. An additional question, raised most recently in the proposals from the Brown commission, is whether the second chamber should take on additional functions that the House of Lords does not currently perform. In particular, there have long been suggestions that the second chamber should act more explicitly as a constitutional guardian, and/or that it could link to the devolution settlement and better bind together and protect the nations and regions of the UK. This is not so much a criticism of the House of Lords and what it does now, as an aspiration that the second chamber should do something new. As already described, second chambers in many modern democracies seek to reflect the territorial structure of the state, and so this proposal deserves to be taken seriously.

5. A perennial challenge for second chambers is how to maintain complementarity to the first chamber, while nonetheless being defensible in their own right. At present, the House of Lords has significant complementarity – being unelected, having no party majority, containing many independent members and deferring to the legitimacy of the elected House of Commons. But concerns about its legitimacy can compromise its ability to operate effectively. In changing the House of Lords, it is important to bear in mind the need to maintain complementarity. There are certainly ways of doing this in elected systems, but if the two chambers become too similar, bicameralism will begin to suffer new and different kinds of legitimacy problems. To ensure an effective parliament, the two chambers must be able to work together in a complementary way.

6. While some of the above objectives may be arguable, it should be uncontroversial that to succeed, any reform of the House of Lords should actually be achievable. Devising a perfect scheme for reform will achieve nothing, unless that can practically be put into effect. As seen above, there are many potential obstacles to reforming second chambers, and it is important that reformers should recognise the political realities, and adopt a pragmatic and realistic approach.

The remainder of this paper focuses on the various options for reform, informed by these (sometimes potentially conflicting) objectives. First it explores the options for a second chamber of the nations and regions, particularly in the light of the ambitious proposals from the Brown commission. It then considers other possible more incremental changes.

A second chamber of the nations and regions?

The Commission on the UK's Future, chaired for Labour by Gordon Brown, recommended that the House of Lords should be replaced by an 'Assembly of the Nations and Regions'.[21] This echoed previous Labour proposals. The Labour Party's 2015 manifesto promised "an elected Senate of the Nations and Regions"[22] and precisely the same words then appeared in the 2019 manifesto[23] – though neither indicated any further details as to the design of such a body. In at least a weak sense, all major proposals for elections to the second chamber in the past 25 years could be seen to fit this model: the plans from the 2000 Royal Commission, various Labour white papers from 2000 to 2010 and Nick Clegg's proposals of 2011–12 all suggested elections based on the same large regional/national constituencies (those used for European elections before Brexit). Such a system has been seen as one way to build in complementarity with the House of Commons, as well as potentially to reflect the UK's devolution arrangements.

This section reviews different aspects of a possible second chamber of the nations and regions, including its functions, its composition and how such a reform might be implemented. It draws on previous proposals, and overseas experience, but gives particular attention to the recent Brown proposals.

Functions: meaningful territorial representation in a second chamber

The report of the Brown commission expressed an ambition for the reformed second chamber to underpin and strengthen the devolution settlement.[24] Much of the report was focused on economic inequalities and the benefits of decentralising power, while there was also a clear desire to strengthen the Union and discourage separatism. The proposals for the second chamber appeared late in the report, after proposals for reforming devolution had been set out, and by implication were intended to tie the whole system together.

These proposals went further than Labour had previously done to articulate what a territorially based second chamber might seek to achieve in terms of functions.[25] The party's post-2000 white papers gave relatively little attention to this point, as did the Clegg proposals, though it received some careful consideration from the 2000 Royal Commission.* The Brown report suggested that the reformed second chamber should adopt new duties, to oversee intergovernmental bodies within the UK, monitor regional economic inequalities and take a lead in scrutinising a new category of local legislation. It would also have "a new role of safeguarding the UK constitution",[26] with enhanced powers over a defined set of constitutional statutes.** This all built on other proposals set out earlier in the report.

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*   The Royal Commission on the Constitution (the Kilbrandon commission), which reported in the 1970s, also considered it, but did not in the end recommend a territorial second chamber (*Royal Commission on the Constitution 1969–1973*, HMSO, 1973).

**   This proposal to 'entrench' certain constitutional statutes has received significant attention from others, but is not analysed here. See, for example, the series of posts on the UK Constitutional Law Association's blog, all accessible via the following post: Sandro P, 'Vorrei ma non posso? The Brown commission's report and the conundrum of constitutional entrenchment in the UK', UK Constitutional Law Association blog, 19 December 2022, retrieved 22 February 2023, https://ukconstitutionallaw.org/2022/12/19/vorrei-ma-non-posso-the-brown-commissions-report-and-the-conundrum-of-constitutional-entrenchment-in-the-uk

There are some significant challenges to fulfilling territorial functions in a UK second chamber, related to our specific devolution arrangements (which also affect composition, discussed below). Scotland, Wales and Northern Ireland all have their own legislatures, but each has different powers and responsibilities. In contrast, in many areas of England there is no devolved level of government at all. City/region mayors exist, for example in London, Greater Manchester and the West Midlands, but many other cities, as well as more rural areas, rely solely on long-standing structures of local government. Bringing representatives of all these areas together in a second chamber would therefore be very different from the more 'one size fits all' model that exists in many other second chambers, particularly in federal states. If a key purpose is to discuss the impact of UK-level decision making on devolved matters, these differ area by area. In the UK there is also a lack of 'shared' competencies between Westminster and the devolved nations, of the kind that exist in various other systems. The Brown report suggests that these might be built up, but leaves such proposals quite vague. A key question is therefore which new matters members of a second chamber of the nations and regions might fruitfully discuss, and how.

But these rather unique characteristics of territorial politics in the UK are not the only obstacle to establishing meaningful territorial representation in a second chamber. While many second chambers ostensibly exist to perform this role, complaints that they fail to do so are extremely common.[27] This is particularly likely with respect to directly elected second chambers. The use of electoral boundaries contiguous with those for subnational government is not enough to ensure good communication between such bodies and members of the second chamber, and additional problems may arise due to party political rivalries between different sets of representatives. In countries such as Australia, senators are often criticised for primarily representing their political parties rather than their states, and intergovernmental co-ordination between states operates through forums completely separate from the second chamber. One expert goes so far as to suggest that:

> There is, in general, a widespread trust in second chambers that does not match reality. This is not to say that (territorial) second chambers are not useful for several purposes, but simply that they are structurally unable to become effective fora for subnational participation in the national decision-making process.[28]

Indirect election, with members of the second chamber chosen by subnational legislatures or governments rather than directly by the public, may seek to address these problems, but even then, links can prove to be weak without robust mechanisms of reporting and accountability. A plainly very effective territorial second chamber is the German *Bundesrat*, whose members are themselves members of state governments. While most members of second chambers sit in party blocks, *Bundesrat* members sit in state blocks and cast block votes – despite most state governments being cross-party coalitions. But the chamber is a particular product of the close-knit system of German federalism (indeed, some dispute whether it is a parliamentary chamber at all – rather than an intergovernmental body). Even other federal countries have failed to

replicate this tightly effective system. Notably, the *Bundesrat* influenced the design of the South African second chamber, which requires its (indirectly elected) members to vote in provincial blocks on legislation that affects the provinces. But the chamber has nonetheless been accused of failing in its territorial role.[29]

The question of indirect election for the UK is dealt with below. But overseas experience suggests that, even with this built in, questions of functions and procedure would need serious consideration in designing a genuinely territorial second chamber. In particular, these concern relationships between second chamber members and those making political decisions at the devolved level.

It therefore remains uncertain that the new system of territorial functions proposed in the Brown report could be made to work effectively in practice. More controversially, the question arises of whether, in adopting new functions, some existing functions of the House of Lords would be dropped. Seemingly as compensation for the second chamber's new elected basis and veto power over constitutional statutes, the Brown report suggests (albeit not in a formal recommendation) that "the new second chamber should *not* inherit the present Lords power of delaying all legislation" (italics in original).[30] This implies some reduction in the powers set out in the Parliament Act 1949, and raises questions about how the reformed chamber could effectively exercise the kind of useful influence over legislation that it does today. The proposal in the Brown report is no doubt designed to allay fears that a more democratically legitimate second chamber would tend to use its powers more fully than the current House of Lords. But it puts the report out of step with previous proposals, and opens up a new potential area of contestation.

A final potential obstacle to a meaningful second chamber of the nations and regions is separatist pressures. In countries such as Canada and Spain there has long been debate about strengthening the territorial roles of the second chamber, but separatist parties deliberately resist this. In the UK, the Scottish National Party (SNP) in particular is focused on Scottish independence, rather than on strengthening the Union. It would therefore be risky to assume that all of the key players would actually want to make a meaningful second chamber of the nations and regions work.

Composition: electing a second chamber of the nations and regions
The Brown proposals, and all other major proposals in the past 25 years, have suggested that there should be directly elected representatives of the nations and regions in the second chamber. But while the Brown report went further than previous proposals in setting out new functions for the chamber, on this point it was far less detailed than what had gone before. The report stated that the new second chamber "should be markedly smaller than the present Lords, [and] chosen on a different electoral cycle", but added that "the precise composition and method of election [are] matters for consultation".[31] While not formally a recommendation, the report indicated that the second chamber might have around 200 members.

Previous proposals have gone much further in spelling these kinds of details out, and they have often been matters of contention. There are important matters here that would need to be resolved before a second chamber of the nations and regions could be put into effect. These include:

- electoral boundaries

- the division of seats between areas

- the electoral system

- the electoral cycle

- members' terms of office

- the size of the chamber.

There are also questions about including some appointed members, and possibly indirectly elected members, alongside those who are directly elected. Each of these is discussed briefly below.

As already indicated, the **boundaries** for election in earlier proposals consistently focused on the same electoral areas previously used for European Parliament elections – that is, nine large English regions, plus Northern Ireland, Scotland and Wales. Post-1997, in the context in which the Royal Commission originally reported, Labour's intention had been to move to elected regional government based on these areas. But the plans were abandoned after the defeat of proposals for a north-east regional assembly in a referendum in 2004. Although the regions initially continued to have some administrative purpose, this has largely now expired.

To have meaningful links with the devolved bodies, a second chamber of the nations and regions would surely need to base itself on their boundaries; but in England this is clearly difficult. The Brown report espoused future English devolution, but was deliberately non-prescriptive regarding boundaries, supporting a bottom-up approach. Without this matter being settled, it would be quite difficult to agree the appropriate electoral areas for England in the second chamber.

In previous proposals there has been widespread agreement that the **electoral system** for the second chamber should be a proportional one, based on region-wide constituencies. This would create complementarity with the House of Commons, and likely ensure that no single party would enjoy a majority in the second chamber. Most previous discussions have favoured either 'open' or 'closed' lists, with the former offering voters some choice between individual candidates, and the latter presenting a fixed ranking which the political parties determine. The Clegg bill instead proposed the single transferable vote (STV) system. The Brown report says nothing on the electoral system, but agreement on this would clearly be necessary. Alongside the question of boundaries, discussed above, and terms of office, as discussed below, this would be crucial to the party balance in a reformed chamber – and therefore to how and when it chooses to exercise its powers.

The **division of seats between areas** has been little debated previously, with a general assumption that seats would be distributed based on population. But this diverges from the pattern for many other territorial second chambers. Notably, both the Australian and US Senates allocate equal numbers of seats per state, irrespective of population, while other countries (such as Germany) base seat share on a compromise between this and population. An analysis in 2000 contrasted the implications of these two logics for a reformed second chamber in the UK: based on 240 elected seats, equality would have given each of the 12 nations and regions 20 seats, whereas a division by population would have given Northern Ireland just six, Wales 12 and Scotland 21, versus 32 for the south-east of England and 29 for London.[32] The point of equality of seats in second chambers is to ensure equal voice for each area, so that less populous areas are not outvoted as they may more readily be in the first chamber. But a population-based allocation of seats could see even London and the south-east of England alone far outweighing Northern Ireland, Scotland and Wales put together. Without some kind of special decision making mechanisms, the allocation of seats under this model seems unlikely to provide the kind of constitutional protections that the smaller nations seek. A fundamental challenge in the UK system is the size of England compared with the other nations, which would likely make a system seen as 'fair' by all areas very difficult to achieve.

The **electoral cycle** and **terms of office** are very important issues, which have received substantial attention previously, but were omitted from the Brown report. If the House of Commons and the second chamber were elected on the same timetable, there is a widely recognised danger of a clash of mandates, with a proportionally elected second chamber perhaps even claiming the greater democratic legitimacy. One obvious way to tackle this, which featured in virtually all packages over the past 25 years, is to stagger elections to the second chamber so that not all members are elected at once. Notably, this pattern is extremely common in second chambers overseas; for example, the US Senate sees a third of members chosen at each election, and the Australian Senate a half of members. Consequently, senators serve longer terms of office than members of the lower chamber. The Royal Commission, the Labour white papers of 2007 and 2008 and the Clegg bill all proposed election in thirds for non-renewable terms of 12–15 years. There are strong arguments for lengthy non-renewable terms, which almost certainly outweigh the alternatives; but these proposals did nonetheless attract some controversy.[*]

The Brown proposals also differ significantly from most previous packages in terms of the **size of the chamber**. Earlier proposals have generally recommended 400–600 members.[**] This would ensure meaningful proportionality at each election, particularly if the chamber were elected in parts (as illustrated by the potential election of just six

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[*]   Notably, senior Labour figures queried this proposal when the coalition government made it, notwithstanding that Labour had proposed the same thing relatively recently. Arguments on both the length and renewability of term concern the balance between electoral accountability and other important factors, including discouraging competition with MPs over constituency work, and encouraging independence from the whip in the second chamber.

[**] The Royal Commission proposed 550, the 2001 white paper 600, the 2007 white paper 540 and the coalition government's bill 450.

members for Northern Ireland or 12 for Wales in a chamber of 240 members). There are also obvious questions regarding the chamber's functioning if it were this small, such as the proportion of members who would serve on the front bench, and the ability to maintain existing valued committees.

Previous proposals for elections to the second chamber have mostly included retention of **some appointed members**. The primary arguments for this are twofold. First, it could ensure that a substantial non-party expert element was maintained in the second chamber. Second, it would provide protection against claims that the second chamber had greater electoral legitimacy than the House of Commons. Hence, 20% of seats for appointed independents was included in the Royal Commission's proposals, the Labour white papers of 2001, 2007 and 2008, and the Clegg proposals. Notably, this was one question on which the Brown commission was explicitly divided, with a footnote indicating that one member favoured retention of some appointed members.

Finally, including **indirectly elected members** (which, as seen earlier, is relatively common in overseas second chambers) could be beneficial, again for two reasons: helping to establish meaningful links between a reformed House of Lords and the devolved institutions; and diluting the chamber's democratic mandate. The Brown report hinted that this might be desirable. But developing such a system would be far from straightforward in the UK context, and has not been proposed in previous major packages of reform. First, there are no obvious bodies from which to draw members for most areas of England. Second, where areas do have devolved bodies, their members are fully occupied, mostly at a significant distance from Westminster. Potentially, mayors or members of devolved legislatures could attend the second chamber occasionally for particular business, but clearly not full time.* Introducing such a system would, at the very least, require careful consideration.

All of the earlier proposals for elections to the second chamber were more detailed than those in the Brown report, and based on considerable deliberation and consultation, including learning from overseas experience. It is striking that on some points they reached consistent conclusions, which differ from those of Brown. Consultation on the Brown proposals therefore seems likely to drive opinion back towards some of these options – of a relatively larger chamber, with members elected in parts using some kind of proportional system, serving longer terms of office than MPs, and possibly including some appointed members. Such design features are intended to encourage complementarity with the House of Commons, and to lower the risk of competition over legitimacy, and hence of legislative gridlock. There are also very tricky questions to resolve about the boundaries for election, and the division of seats between different areas, if the chamber is to fulfil adequately the kind of territorial functions envisaged by Brown.

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* One specific complication could be how such members contribute to party balance in the chamber, and whether they would face pressure from whips to attend more frequently than was practical for them. Particularly in a 'mid-term' scenario, such members might be strongly tilted against the government. One option would be for them to have voting rights only on certain matters, but where to draw the line would be complex and likely disputed.

Practicalities of implementation

While going beyond the previous Labour manifesto commitments to "an elected Senate of the Nations and Regions", the Brown proposals leave many significant questions unanswered. These concern both the functions of a reformed second chamber and its composition.

Labour's consultation on the Brown report will need to address these points. But it is difficult for a party in opposition to run a truly rigorous consultation, for two reasons. First, opposition parties simply lack the resources and infrastructure to conduct such work. Second, while they are at best a 'government in waiting', the incentives for other actors to engage in discussion on hypothetical proposals are limited. Governments, in contrast, have access to funds and the resources of the civil service, and may attract some co-operation even from political opponents once it is clear that plans are likely to be put into effect. So while Labour can usefully begin discussions about the details of a radically reformed second chamber now, it seems inevitable that these will need to continue if and when the party enters government.

In general, for major constitutional reform to succeed and remain stable, it must not be perceived as simply serving the interests of the government of the day. Hence, the voices of others must be listened to and taken seriously. If the purpose of a second chamber of the nations and regions is to bind the devolution settlement together, engagement with key figures from beyond Westminster, particularly at the devolved level, is clearly essential. (In addition, it would be wise to collect evidence from other countries currently operating such systems.) Consultation should also meaningfully engage the public, ideally through deliberative exercises such as citizens' assemblies. Given that the proposals for second chamber reform in the Brown report sit within wider ambitions to develop the UK's devolution arrangements, consultation on them would need to dovetail with that wider consultation. But this is clearly a major undertaking, making it unlikely that concrete action on large-scale Lords reform could be taken before the second or third year of a Labour government.

After the necessary consultation, an additional question concerns how the plans themselves would be introduced. Headlines about the Brown report provocatively referred to the 'abolition' of the House of Lords, when in fact the proposals are for the chamber's replacement with an elected alternative. Notably, the earlier Labour proposals, and the Clegg plan, were never referred to as the 'abolition' of the Lords. Indeed, previous proposals have generally suggested a gradual transition to an elected chamber, consistent with the introduction of staggered elections. For example, Labour's 2010 manifesto, drawn up under Brown's own leadership, suggested that:

> democratic reform to create a fully elected Second Chamber will... 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.[33]

The fully reformed chamber was finally intended to be in place only after a third and final election. This means that the second chamber would have continued to include a mix of members, with the proportion of elected members gradually growing – bringing advantages in terms of continuity in some of the House of Lords' more respected work. This might well prove to be the most effective way of implementing the Brown proposals, if they get that far.

Finally, some might argue that a large-scale reform of this kind should be put directly to the people in a referendum. There is no obligation to do so, and there has been a tendency to avoid this route regarding Lords reform. Experience in other countries may be instructive here. As noted earlier in this paper, voters have rejected government proposals for senate reform in both Ireland and Italy in recent years, and both cases provide further evidence of the public's complex views on second chambers. In Ireland, polls had previously suggested that the Seanad was an unpopular institution, but its abolition was nonetheless voted down. In Italy, likewise, calls for senate reform had been widespread and long-existent, but the prime minister, Matteo Renzi, ended up resigning when his ambitious proposals for reform were defeated. Comprising major compositional changes, and a significant reduction in the senate's powers, all aimed at making it a more territorially focused body, the Renzi reforms bore some resemblance to those proposed by Brown.[34] When faced with the complexities and trade-offs involved in adopting an elected second chamber of the nations and regions, it cannot be assumed that the public would back such change.

More minor changes, and a possible 'first stage' of reform

While there are valid arguments in favour of a second chamber of the nations and regions, past experience suggests that large-scale reform of this kind would be difficult to achieve if Labour came to power. The Brown report also leaves many open questions on which careful consultation and deliberation would be required. Meanwhile, there are some clear problems with the House of Lords on which there is widespread agreement, and which would be relatively straightforward to deal with. These could be tackled now, by Rishi Sunak's government, or by whichever party wins the next election. Notably, the current nature of the House of Lords means that some changes could be implemented by a prime minister immediately, without even the need for legislation. Others could be dealt with via a relatively uncontroversial bill for early implementation. If Labour does come to power, and these urgent changes have not yet been implemented, Keir Starmer would be well advised to follow Blair's precedent, from 1997, of a two-stage reform: implementing small-scale changes immediately, while plans for a second stage are developed.

This section of the report details such beneficial small-scale changes. They include:

- placing a limit on the size of the House of Lords

- agreeing a formula for the sharing of seats

- introducing greater quality control on appointments

- removing the remaining hereditary peers.

All of these options have been much discussed, and have attracted practical proposals for change in recent years.

Placing a limit on the size of the House of Lords

One of the most visible difficulties with the House of Lords is its growing size. The Labour reform of 1999 slashed the chamber from more than 1,200 members to 666. Since then, its size has crept gradually upwards again, as shown in Figure 1.

Figure 1 **Size of the House of Lords, 2000–23**
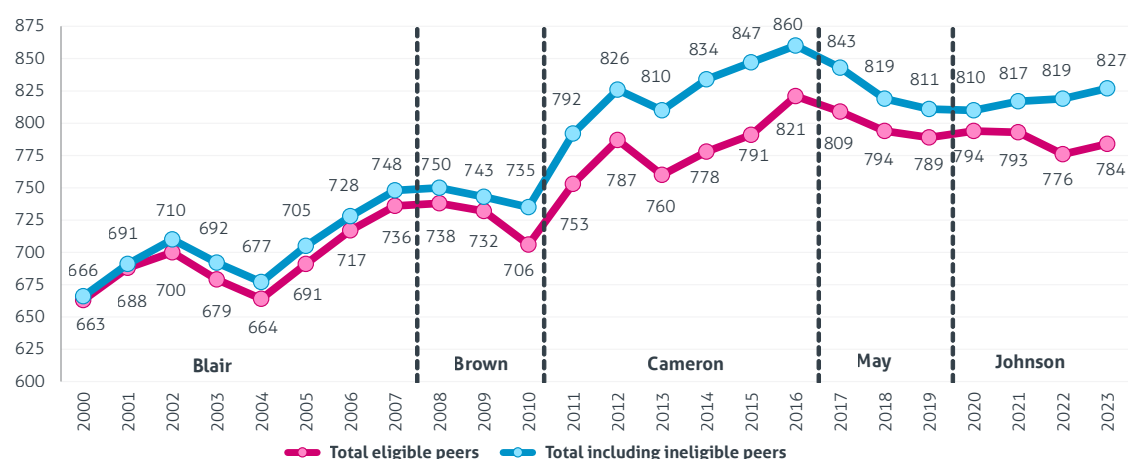
Source: Based on official House of Lords figures for January each year. Note: The 'ineligible' peers are those either currently on leave of absence or temporarily disqualified from sitting – any of whom could potentially return. Since late 2019, the only appointments to the chamber have been those of Boris Johnson.

Concerns about this growth have been expressed for a long time, particularly since the post-2010 leap in appointments under David Cameron. In 2011, a cross-party group of senior figures backed proposals for a moratorium on House of Lords appointments.[35] The Conservative manifestos of 2015 and 2017 both acknowledged that the size of the House of Lords needed to be 'addressed', but no specific government action has followed. In 2016, the Lord Speaker (then Norman Fowler) created the Committee on the Size of the House, chaired by the Crossbencher Lord Burns. It recommended that the size of the chamber should be gradually managed down to 600 and then be capped at that level.[36] This would be achieved initially by operating a 'two out, one in' principle for new appointments, after which new vacancies would be filled as they arose.[*]

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[*] The Burns committee also suggested that future appointments should be for fixed 15-year terms. This would make it easier to control size and party balance, but a great deal could still be achieved under the existing system of life peerages.

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As shown in Figure 1, the size of the chamber gradually began to fall under Theresa May's premiership after these recommendations, but they were flouted by her successor Boris Johnson – under whom the size of the chamber began to rise again. The most recent attempt to tackle this problem has been a private member's bill proposed by Lord Norton of Louth (the constitutional specialist, Professor Philip Norton), which would require the House of Lords to be no larger than the House of Commons (currently 650 members).[37] As indicated earlier, there is strong public support for such a move.

Few disagree that the growing size of the House of Lords is a problem. It is, at the very least, bad for the chamber's reputation – attracting frequent negative headlines, which undermine its ability to be taken seriously. But it also threatens the chamber's effectiveness in other ways, meaning that facilities have become increasingly overcrowded and debates oversubscribed, while costs have increased. Nonetheless, it is important to remember that not all peers attend every day: average daily attendance was 352 in the 1999–2000 session, and peaked at 497 in 2015–16.[38] Many peers, particularly Crossbenchers and bishops, attend only on a part-time basis – combining membership of the House of Lords with other duties.

The primary cause of growth in the chamber's size is the prime minister's unrestrained patronage powers, and consistent over-appointment. While members of the House of Lords can now retire, retirements alone cannot solve the problem, as even larger numbers of others can always be appointed to replace departing peers.[*] Indeed, some have expressed concerns that prime ministerial appointments may have been deliberately used to damage the reputation of the Lords, and thereby to strengthen the government against parliament.[39] That this is even possible is a major flaw in the system.

The immediate action needed is for the prime minister to explicitly commit to managing the chamber's size down to an agreed cap (for example, 600 or 650). Ideally, legislation would then back this up. But since the prime minister almost entirely controls appointments, in the short term a firm public commitment of this kind would in itself be an important step.

Agreeing a formula for the sharing of seats

Crucially connected to the size of the House of Lords is the question of fair allocation of appointments between party (and other) groups. Currently this lies wholly at the prime minister's discretion. One important driver of the chamber's increasing size has historically been prime ministers' desire to rebalance in partisan terms after the appointments of their predecessors. Until a formula for party balance is agreed, this upward ratchet effect is likely to continue.

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[*] From time to time there have been discussions about enforced exit mechanisms for peers – for example, through the introduction of a retirement age or term limits on appointments. Each of these has pros and cons, and might play a part in a longer-term solution; but the urgent problem in dealing with size and balance in the House of Lords is to regulate prime ministerial appointments.

Figure 2 **Party balance in the House of Lords, 2000–23**
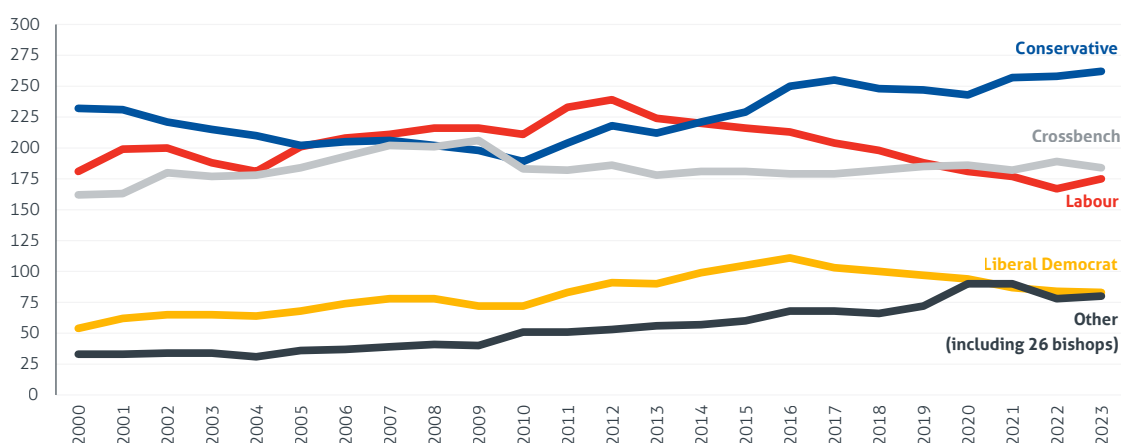
Source: Based on official House of Lords figures for January each year.

The problem of party balance would pose a particular dilemma for an incoming Labour government, as the number of Conservative appointments has far exceeded those for Labour in recent years. Consequently, the Conservatives have increasingly outstripped Labour in terms of seats (as shown in Figure 2), currently having an advantage of around 90 members. But if a future prime minister sought immediately to use appointments to make Labour the largest party, this could take the size of the chamber to 900 or more. As Figure 2 shows, Labour did not become the largest party until nine years after the 1997 general election, while this took the Conservatives four years after 2010. But the discrepancy between the two parties is now significantly bigger than it has been for more than 20 years.

Various proposals have been made for an appointments formula to achieve a more sustainable position longer term, with the obvious reference point being votes in general elections. The Lord Speaker's Committee on the Size of the House carried out the most recent detailed work on this, and suggested that the formula should share new appointments between the parties based on an average of their most recent general election vote share and seat share in the House of Commons.[40] Any formula should apply only across each new group of entrants, rather than through seeking to rebalance the chamber as a whole, as the latter could not be achieved without driving its size ever upwards.[41]

The broad effects of a formula based on vote share, seat share or an average of the two are shown in Table 4 for the period 1992–2019. The key differences are that: (i) vote shares are more stable than seat shares; and (ii) parties beyond the big two gain more representation using vote shares than seat shares. If a relatively small and sustainable number of appointments is being made (say 10 a year), the first of these would not make a great deal of difference over time, but the second would have a lasting impact. It was these kinds of considerations that led the Burns committee to suggest compromising on an average of vote and seat shares.

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Table 4 **Vote shares, seat shares and average in the House of Commons, 1992–2019 (%)**

Party	1992	1997	2001	2005	2010	2015	2017	2019
Vote shares								
Con	42	31	32	32	36	37	42	44
Lab	34	43	41	35	29	30	40	32
Lib Dem	18	17	18	22	23	8	7	11
Other	6	9	9	10	12	25	10	13
House of Commons seat shares								
Con	52	25	25	31	47	51	49	56
Lab	42	63	63	55	40	36	40	31
Lib Dem	3	7	8	10	9	1	2	2
Other	4	5	4	5	4	12	9	11
Average (mean) of the above								
Con	47	28	28	31	41	44	45	50
Lab	38	53	52	45	34	33	40	31
Lib Dem	10	12	13	16	16	4	4	6
Other	5	7	6	7	8	18	9	12

One common concern is that no political party should be able to gain a majority in the House of Lords.[*] Under any of the formulae mentioned here, this is relatively unlikely because appointments are made gradually over time, and fluctuations would even out election by election. In addition, most proposals have also suggested that 20% or more of seats should be set aside for Crossbenchers (who currently make up 23% of the chamber).[**] Maintaining this principle – so that party seats were shared out between the remaining 80% – would further guarantee that no party had an overall majority.

Notably, in 2018 the House of Commons Public Administration and Constitutional Affairs Committee (PACAC) endorsed the need for both a cap on the size of the House of Lords and a proportionality formula based on general election results.[42]

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[*] The current Norton bill includes a provision requiring that no party should have an overall majority, but fails to include a formula. If a proportionality formula is adopted, alongside protection for Crossbenchers (which is in the bill), this provision is unnecessary.

[**] As discussed earlier, most previous proposals have set this figure at 20%. The Lord Speaker's Committee on the Size of the House suggested maintaining the Crossbench share at its current level, which at the time its report was published was 24%.

An essential element of a short-term package of reforms to the House of Lords is a commitment to a clear and sustainable formula for the share of future appointments. Again, this could be achieved in the first instance through a straightforward public commitment by the prime minister, though this would ideally be followed up and cemented through legislation.

As already indicated, in the event of an incoming Labour government, the current Conservative lead in the House of Lords would complicate this question in the short term. This is discussed further in the 'Practicalities of implementation' subsection below.

Introducing greater quality control on appointments

Another particularly common complaint about the House of Lords concerns the quality of its members, and the lack of adequate vetting for their suitability to play a role in the legislature. Media stories along these lines are often seen, focused either on particular individuals – such as the *Evening Standard* owner, Evgeny Lebedev[43] – or on broad categories of members, such as major party donors.[44] While most members of the Lords are entirely reputable and make useful contributions, the prevalence of stories such as these clearly damages the institution.

At present, as touched on above, there are two quite different routes for members to be appointed as life peers. The House of Lords Appointments Commission is responsible for selecting most members who sit as Crossbenchers, which it does when invited by the prime minister. It uses a rigorous appointments process, based on an application form, references and two rounds of interviews, which tests candidates on their willingness and ability to contribute to the work of the House of Lords. In contrast, party nominees receive far less vetting. The prime minister invites nominations from party leaders, and nominates from their own party, with the House of Lords Appointments Commission limited to checking such candidates for propriety (for example, concerning their tax affairs and criminal activity), rather than suitability. Even this function is advisory only – with the prime minister able to overrule the commission. This occurred for the first time under Boris Johnson in 2020, over his appointment of party donor Peter Cruddas.[45]

Proposals have been made over many years for greater quality control regarding party political appointments to the House of Lords. For example, the House of Commons Public Administration Select Committee (PASC) suggested in 2007 that the House of Lords Appointments Commission should be able to select names from lists of nominees put forward by the parties, which would have the benefit of enabling it to ensure diversity.[46] This could help improve territorial diversity among peers, as well as diversity in relation to gender, ethnicity and expertise. PASC's successor committee – PACAC – suggested in 2018 that statements should be published setting out clearly the qualifications of each new party peer to serve in the Lords.[47] More recently, the House of Lords Appointments Commission itself has indicated that it is "increasingly uncomfortable" with the narrowness of its remit.[48]

In addition to improved vetting of party nominees for both suitability and diversity, the House of Lords Appointments Commission is the obvious body to be given responsibility for monitoring the size of the chamber, the space for new appointments and the formula to be used for sharing out new appointments (as discussed above). This has long been suggested, most recently by the Burns committee. There are therefore several distinct new functions which could usefully be given to the Appointments Commission, each of which is relatively uncontroversial.

When the House of Lords Appointments Commission was first created in 2000, this was achieved by an announcement from the prime minister, who set out its responsibilities in a letter to the newly appointed chair. It would be equally straightforward to expand the commission's responsibilities, simply through a public instruction by the prime minister.* Again, this would ideally be followed up by legislation, to put the commission on a firmer statutory basis; but change could readily be achieved immediately in advance of such legislation.

Hereditary peers and bishops

The final obvious area for short-term reform concerns the other groups in the chamber, beyond the life peers.

This particularly applies to the remaining 92 hereditary peers, where there has long been pressure for change. Initially, the 1997 Labour government's plan had been to remove all hereditary peers from the House of Lords. The 92 hereditary peers were retained as part of a deal with the Conservative Party. The clear intention was that this would be a temporary arrangement, until the second stage of reform was reached, but it never was. Consequently, by-elections to replace hereditary peers who retire or die have been in place for more than 20 years.**

There have been repeated attempts to end the hereditary peer by-elections via private member's bills, so that the number of hereditary peers would diminish as they retired or died. The first such attempt was now made more than 20 years ago.[49] In recent years, former Labour chief whip, Lord Grocott, has pursued this reform in bills across five different parliamentary sessions, but without success. The government has not backed this proposal, leaving Grocott's bill prey to repeated procedural blocking by a small group of peers – despite widespread support among most members of the House of Lords.[50]

To date, the focus has been on ending the by-elections rather than removing the 92 hereditary peers altogether. Individual hereditary members can make useful contributions (indeed one of them is currently deputy leader of the House of Lords). An additional initial concern was that their wholesale removal would disadvantage the Conservatives, who hold 46 of these seats, while Labour hold just four.*** But given the

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*   The prime minister's announcement should also make clear that the governing party will respect the kind of diversity among appointments which the House of Lords Appointments Commission is asked to regulate, and that other political parties will be asked to do so.
**   Initially, departing hereditary peers were replaced by 'best losers' from the elections in 1999, which determined which members would stay. But provision was included for by-elections to begin in 2001.
***   Currently, the Crossbenchers hold 35, the Liberal Democrats hold three and others also hold three.

Conservative Party's strong representation, an incoming Labour government could achieve some rebalancing simply by abolishing these seats – which would require legislation. To ensure an easy passage of such a bill, and to be fair to the hereditary peers who currently contribute most, an agreement could be reached to give a small number of them life peerages.

A separate question concerns the bishops. Many people clearly consider formal representation of the Church of England in the chamber to be anathema.[*] But, unlike the other proposals outlined above, there have been few active attempts in recent years to end this representation. The Royal Commission and various government white papers from 2001 to 2011 did propose a reduction in the number of bishops in the Lords (mostly from 26 to 16, which the Church of England appears to have accepted in principle). Achieving change in this area would also require legislation, but this is a complex question bound up with the broader constitutional status of the Church of England. This means that it would almost certainly spark more controversy outside parliament than the removal of the hereditary peers.

Practicalities of implementation

There are hence a series of small-scale changes which could be made immediately to improve the House of Lords. Like successful small-scale changes in the past, all of these have been under discussion for a long time, and would target the chamber's most obviously controversial elements. The priorities are:

- a size cap of no larger than the House of Commons

- a proportionality formula for sharing out new appointments

- greater vetting of new party political peers

- a role for the House of Lords Appointments Commission in overseeing the whole system.

All of these changes could initially be made without legislation, so could potentially be achieved by the current prime minister, Rishi Sunak, straight away, or by a new prime minister immediately after a general election. Beyond these initial four elements, legislation would be needed to end rights for hereditary peers, and to make any changes regarding the representation of the bishops. If a bill to achieve either of these things were proposed, it would ideally also put the other new arrangements and powers of the House of Lords Appointments Commission into statute. A simple government bill to end the hereditary by-elections and cement more regulated appointments could be passed relatively swiftly – as widespread support exists in the House of Lords itself for both measures.

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[*]   See, for example, the recently launched petition to evict the bishops: Change.Org, 'Remove bishops from the House of Lords', Change.Org, (no date) retrieved 22 February 2023, www.change.org/p/remove-bishops-from-the-house-of-lords.

An announcement by the prime minister that more powers were being handed to the House of Lords Appointments Commission could be an important symbolic change, indicating a commitment to higher parliamentary standards. If Labour wished to adopt this route, it could clearly signal this in advance of an election, putting change into practice straight afterwards. Such a package (ideally itself comprising two steps: immediate non-statutory change, followed by a short bill) might form the first stage of a potential two-stage Labour reform, where the second stage explored the implementation of proposals such as those in the Brown report. This would echo not only the approach of the 1997 Labour government, but also the proposals in the party's manifesto of 2017, which stated:

> Our fundamental belief is that the Second Chamber should be democratically elected. In the interim period, we will seek to end the hereditary principle and reduce the size of the current House of Lords as part of a wider package of constitutional reform to address the growing democratic deficit across Britain.[51]

A tricky question facing an incoming Labour government would be what to do about the current imbalance between the two main parties in the House of Lords. It is likely that if Labour takes office, a number of the party's peers would retire, safe in the knowledge that they would be replaced like for like (without this knowledge, various elderly Labour peers are currently reluctant to retire). Replacing such members would refresh the party's benches, but still leave it significantly disadvantaged. A reform to actually remove the existing 92 hereditary peers (rather than just to end the by-elections) could both rebalance and slim the chamber, reducing the Conservatives to around 215 seats to Labour's 170 in a chamber of approximately 692 (based on current numbers).[*] Crossbench numbers would also reduce to about 150 (22% of the chamber overall). A one-off appointment of 20–30 additional Labour members (beyond like-for-like replacements) could then bring numbers sufficiently into line to allow a new appointments formula, based on 'two out, one in' to begin to operate.[**]

A more radical alternative would be for Labour to include within its short-term bill a requirement for the size of the chamber to immediately reduce to 600 or 650 members, through each group shedding members in line with a proportionality formula. This should not only be based on the most recent general election, but also take into account several past elections – to mimic what would have occurred had an election-based proportionality formula been in use for some time. Should Labour be tempted to take such a route, it would be advisable to begin cross-party talks in the House of Lords soon on the appropriate formula and numbers, to minimise arguments and ease the passage of the eventual bill. Indeed, successful cross-party talks might even result in an agreed package of voluntary retirements across different groups, without the need for statutory change. If groups were to be reduced on a compulsory basis, the most obvious

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[*]   Of course, numbers may change significantly between now and the next general election, particularly if Rishi Sunak chooses to honour resignation honours lists from Boris Johnson and/or Liz Truss.

[**]   This would be consistent with the situation in 1997 and 2010, when the governing party took over from a point of disadvantage in the House of Lords. Operation of the formula over subsequent years would give the governing party more appointments than the opposition, allowing numbers to level up further.

means for identifying candidates for removal would be internal party elections, of the kind used in 1999 to reduce the number of hereditary peers. This would have the distinct advantage that party groups themselves could evict their least effective members, which might well include some of those who are most controversial – such as party donors who make little practical contribution to the work of the chamber.

Conclusion

This paper has reviewed the options for House of Lords reform, which has long been an ambition for many people. The House of Lords, as the second chamber of the UK parliament, has important responsibilities to scrutinise and agree legislation, oversee the actions of ministers and conduct investigations through its select committees. The work that it does is relatively uncontroversial, and through providing protection against ill-thought-through policies being rushed through the House of Commons – where the government usually has a partisan majority – it is often valued as an important part of the political process. The primary difficulties identified with the chamber instead concern how it is composed. But these two aspects cannot be entirely separated. If the House of Lords' composition brings it into disrepute, it will be less able to do its job effectively. If it can be dismissed as outdated, unrepresentative and bloated, ministers can more easily sideline the chamber, which serves to strengthen the government and weaken parliament.

The recent Brown commission report described the House of Lords as "indefensible". It backed up this statement with evidence about the chamber's size, the volume and quality of prime ministerial appointments, and the presence of hereditary peers. Polling shows that the public strongly share some of these concerns – with only 3% supporting the status quo position of no cap on the size of the House of Lords, and only 6% believing that the prime minister (rather than an independent commission) should be responsible for appointments.[52] On some of the most glaring problems regarding the Lords, there seems to be widespread agreement, so progress should be readily attainable.

Meanwhile, all of the evidence, both from the UK historically and from other bicameral countries, shows that major second chamber reform can be very difficult to achieve. Second chambers exist to complement the work of first chambers, which means generally being composed differently, and sometimes taking a different point of view. This means that they are liable to be criticised by MPs, but also that MPs may be wary of reforms which strengthen them. Such a dynamic can be clearly seen in the history of House of Lords reform. In addition, many people value aspects of the current chamber, including its numerous independent members and often-cited 'expertise'. There are various alternative options for the design of a UK second chamber, but achieving change is far from straightforward.

The most recent proposals for large-scale reform, from the Brown commission, suggested replacing the House of Lords with an 'Assembly of the Nations and Regions'. To an extent, this echoed proposals made during previous Labour governments and the Conservative/Liberal Democrat coalition government. But the Brown proposals are far from a blueprint; many important details remain unspecified. These include:

- electoral boundaries

- the division of seats between areas

- the electoral system

- the electoral cycle and members' terms of office

- the size of the chamber

- whether it should continue to include some appointed independent members (as many earlier proposals urged) or include members elected 'indirectly' by the devolved bodies.

Exactly how the chamber would protect the devolution settlement and the constitution would also need working out. Internationally, many second chambers are designed to fulfil such territorial functions, but this can be difficult to achieve meaningfully in practice, so requires careful thought. In addition, the Brown report suggested that the chamber's existing powers over legislation might be reduced, which is likely to prove controversial.

Altogether, there is much still to discuss about the design of a second chamber of the nations and regions, and making such a system work would depend on careful consultation and deliberation. While Labour can begin this work in opposition, only a government has the status and resources to conduct such consultation and policy formulation convincingly. It is therefore not realistic to expect the Brown proposals to be put into effect immediately if Labour comes to power.

Meanwhile, there are other matters that deserve urgent attention regarding the House of Lords, which could be resolved far more quickly. Either the Conservative government of Rishi Sunak, or Labour immediately after a general election should it come to power, could pursue such changes. The current private member's bill from Conservative Lord (Philip) Norton of Louth represents a worthwhile package of reform – seeking to deal with the size of the chamber and to put the House of Lords Appointments Commission on a statutory basis – but the government has so far indicated little enthusiasm for it. Likewise, the private member's bill by Labour's Lord Grocott, which would end the hereditary peer by-elections, seeks to achieve a reform which is long overdue, but has not secured government support and has been repeatedly blocked.

Given the lack of recent government action, and the current state of the polls, it may well be that the next steps in Lords reform fall to Labour – which has included ambitions for such reform consistently in its manifestos over the past 20-plus years. But many of these attempts have failed. Past experience suggests that pragmatism on Lords

reform is what works. The most successful Labour reform was that of 1997, when the Blair government gained office and committed to a two-stage process. The first stage tackled the most clearly anachronistic element of the chamber, which at that time was the presence of more than 700 hereditary peers. Like all previous successful Lords reforms in the 20th century, this proposal had been under consideration for decades, and was seen as long overdue. It was thus relatively easily achieved. Discussions about the second stage of reform continued subsequently, but it was never agreed. Labour's approach, notably, achieved far more than the subsequent 'all or nothing' reform attempt by Nick Clegg. The removal of the bulk of hereditary peers was an important legacy that significantly strengthened parliament.

If a future Labour government wishes to succeed at Lords reform, it should adopt a similar two-stage approach. While consulting and deliberating on large-scale reform, an initial package of reforms should be put in place immediately. Some of these can be actioned without legislation, and others through a short, uncontroversial bill within the government's first year. The Conservatives could of course potentially implement the same package should they wish. Its key elements would be as follows:

- An immediate announcement of new powers for the House of Lords Appointments Commission, to monitor the size and party balance of the chamber, and invite nominations from political parties as vacancies occur. The target size should be no greater than that of the House of Commons, and a transparent formula should be adopted for new party appointments based on general election votes, with an additional 20% of seats reserved for independent Crossbenchers.

- The House of Lords Appointments Commission should also be given new vetting powers over party political peers. Statements should be required from party leaders setting out candidates' suitability, and the commission should monitor diversity, for example in terms of gender, ethnicity and area of residence.

- These initial reforms could be achieved immediately, without legislation. A bill would then be required to deal with the hereditary peers, either ending the by-elections or, more likely, removing these members altogether. A small number who are currently very active could be created life peers.

- Rebalancing of the chamber between parties (given the Conservatives' significant lead) would be aided by this measure, but could be taken further through an immediate move towards a smaller chamber, of perhaps 600 or 650 members, with party (and other) groups required to vote to proportionately reduce their numbers (as occurred among the hereditary peers in 1999). The formula for balancing seats between parties should use an average over several previous general elections. If Labour wished to pursue this option, it would be wise to initiate cross-party talks in the chamber on the logistics now.

- A bill on any of the above matters should also set out in statute the new powers already given to the House of Lords Appointments Commission.

Proponents of change need to be under no illusions: achieving House of Lords reform is difficult. When reformers seek perfection, change inevitably eludes them. All of the evidence, from both UK history and international experience, shows that a pragmatic approach is required. Small-scale reform of the Lords is not the enemy of large-scale reform – indeed, it is the only thing that has ever succeeded. The House of Lords plays an important part in our national political life, but it is undermined by uncontrolled prime ministerial appointments, growing size and the continued membership of hereditary peers. The public want change on these things and – before doing anything else – party leaders should deliver them.

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