

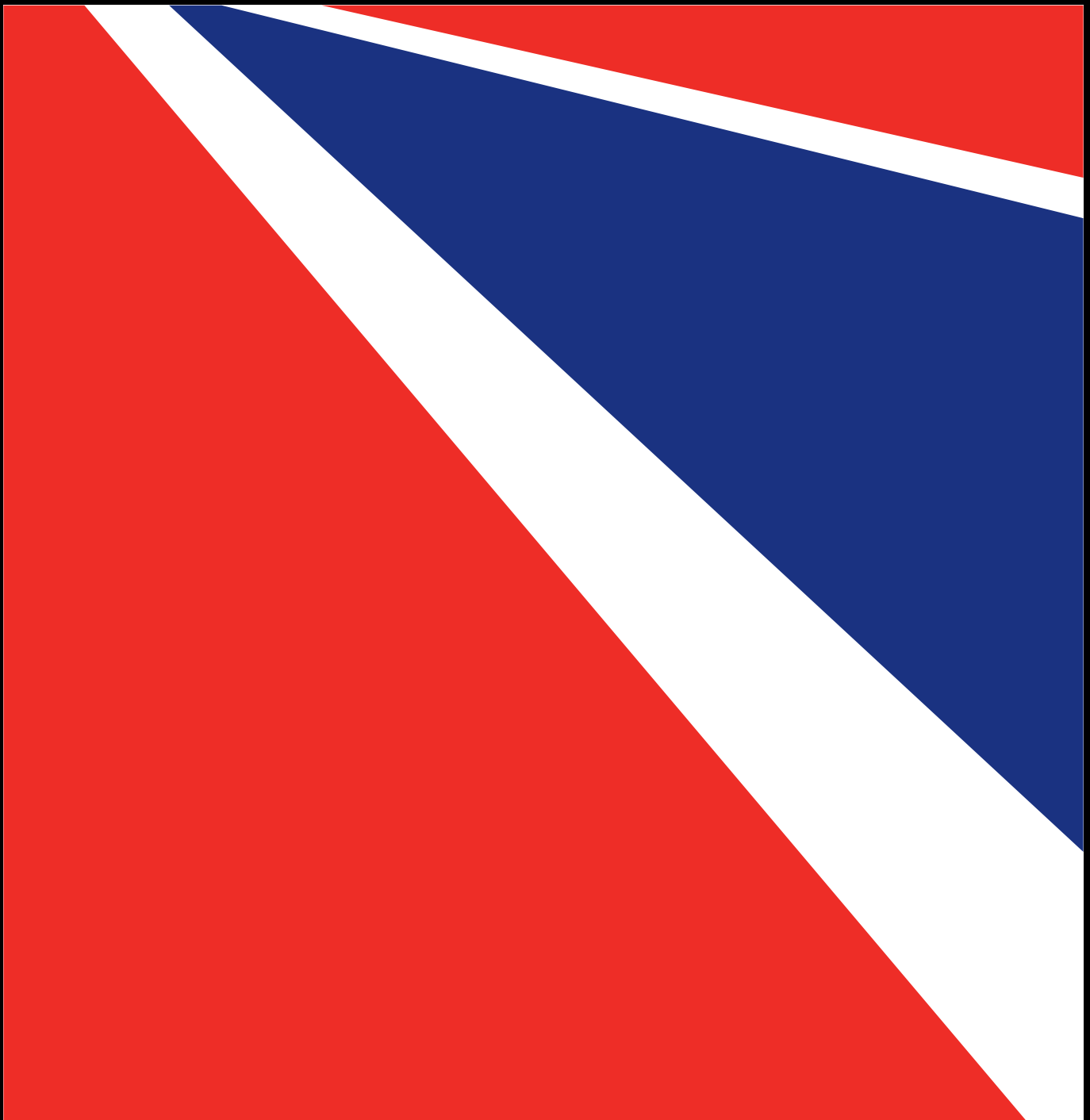


Ministry of  
**JUSTICE**



The Governance of Britain

An Elected Second Chamber:  
Further reform of the House of Lords





# An Elected Second Chamber

Further reform of the House of Lords

Presented to Parliament  
by the Lord Chancellor and Secretary of State for Justice  
by command of Her Majesty

July 2008

**© Crown Copyright 2008**

The text in this document (excluding the Royal Arms and other departmental or agency logos) may be reproduced free of charge in any format or medium providing it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

For any other use of this material please write to Office of Public Sector Information, Information Policy Team, Kew, Richmond, Surrey TW9 4DU or e-mail: [licensing@opsi.gov.uk](mailto:licensing@opsi.gov.uk)

# Contents

Foreword	1
Executive summary	4
1 Introduction	8
2 A reformed chamber: context for decisions	11
3 A reformed chamber: role and composition	13
4 A reformed chamber: increased legitimacy	15
5 A reformed chamber: powers	40
6 A reformed chamber: an appointed element?	45
7 A reformed chamber: other issues	61
8 A reformed chamber: making the transition	73
9 Costs	82
10 A reformed chamber: next steps	84
11 Conclusions	85
Annex 1 Members of the Cross-Party Group on House of Lords reform February 2007 to July 2008	86
Annex 2 Voting systems modelling	88
Annex 3 Illustration of ballot papers	121
Annex 4 Summary of electoral formula	125
Annex 5 Maps showing constituencies used for modelling each voting system discussed in Chapter 4	127
Annex 6 House of Lords Appointments Commissions appointment criteria	131
Annex 7 Free votes on reform of the House of Lords	133

## Foreword



The strength of our democracy is fundamental to our strength as a nation. A strong democracy needs effective, credible institutions, which command the support and engagement of citizens.

A key part of the Government's *Governance of Britain* programme is to reinvigorate our democracy by strengthening Parliament itself, and renewing its accountability. We have set out elsewhere our plans for the House of Commons.

The House of Lords – the second chamber of our legislature, and a vital part of our constitutional arrangements – plays a key role in scrutinising legislation, and holding the Government of the day to account. The creative tension between the Government, based primarily in the House of Commons, and the House of Lords, is essential for the making of good laws.

But an unelected second chamber raises the question of legitimacy for this body which plays such a decisive role in the making of legislation: from whom does the authority of its members derive, and to whom are they accountable?

Arguments that an unelected House lacks sufficient legitimacy have been vigorous for at least 150 years, and gathered pace as the legitimacy of the Commons was gradually extended by a progressive widening of the franchise during the nineteenth century.

An impasse between the Liberal government with a large Commons majority, and the House of Lords with an overwhelming Conservative majority and virtually equal powers<sup>1</sup> came to a head in 1909 when the Lords sought to veto Lloyd-George's 'People's Budget'. Two General Elections followed in 1910. Then in 1911 the first legislative step on the road of reform was taken with the Parliament Act 1911. This established the absolute primacy of the House of Commons in matters financial, and reined in the decisive power of veto on all other legislation held until then by the House of Lords, to a delaying power of three sessions. This was further reduced to two sessions by the Parliament Act 1949. These provisions, along with the Salisbury-Addison convention which inhibits the second chamber from voting down legislation on a manifesto commitment and other key conventions, represent the overarching framework within which the two Houses operate and co-operate to this day.

<sup>1</sup> The House of Commons had enjoyed primacy in relation to financial issues since a resolution of the House of Commons in the 17th Century.

Over time, the principles of further reform of the House of Lords have taken shape. The Life Peerages Act 1958 created life peerages and provided for women with life peerages to sit in the second chamber for the first time. Following Tony Benn's forced removal from the House of Commons following the death of his father Viscount Stansgate, the 1963 Peerage Act was passed allowing hereditary peerages to be disclaimed for life. The Act also allowed female hereditary peers and all members of the Scottish peerage to sit in the Lords. Building on a manifesto commitment, Harold Wilson's Government made a concerted attempt at reform after the 1966 General Election. Cross-party discussions were convened and a Bill introduced in 1968 but the Bill ran into such backbench opposition on both sides that it was aborted. More recently, this Government secured the House of Lords Act 1999, which removed all but 92 of the hereditary peers, and appointed a Royal Commission chaired by Lord Wakeham to examine and make recommendations of the role, function and composition of the second chamber.

This proposed a House of around 550 peers serving a fixed term, with a minority (with options from 65-195) elected from the nations and regions of the UK. The Wakeham Commission conducted much detailed research, and this and its conclusions have proved invaluable in informing the discussion within the cross-party group and within the Government.

A non-statutory appointments commission for the Lords was established in May 2000.

A Government White Paper on the Lords was issued in November 2001<sup>2</sup> with the Government's response to the Wakeham Commission. A debate with free votes on seven options on composition was held in February 2003. In the event the debate was wholly inconclusive. None of the options commanded support. An all-appointed House was defeated by the largest margin (323 to 245) and an 80% elected House by the smallest (284 to 281).<sup>3</sup>

All three main parties included pledges in their 2005 manifestos in favour of further reform of the Lords. A cross-party group (with representatives of Crossbenchers and the Bishops) was established in June 2006, and met regularly over the following eight months. In February 2007 the Government published its White Paper 'The House of Lords: Reform'<sup>4</sup> which took full account of the discussions in the cross-party group, which informed the two-day debate which took place in the Commons and the Lords in March 2007. On this occasion the Commons voted in favour of a wholly elected second chamber (337 to 224) and for an 80% elected chamber (305 to 267) and against all other options. The cross-party group reconvened following these votes, and I made an oral statement on progress on 19 July 2007.

<sup>2</sup> *The House of Lords: Completing the Reform*. The Stationery Office. (2001) (Cm 5291).

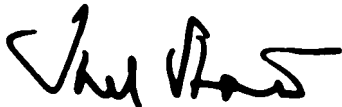
<sup>3</sup> A fuller account of the history of reform of the House of Lords is set out in Chapter 3 of the February 2007 White Paper 'The House of Lords: Reform'.

<sup>4</sup> *The House of Lords: Reform*. The Stationery Office. (2007) (Cm 7027).

This White Paper is a government document, but the text seeks to inform readers where there was a broad consensus, and to record where there were differences of view, as inevitably there will be on such a fundamental issue.

Parliament as a whole will not be an effective and credible institution without further reform of the House of Lords. The proposals and options in this White Paper are intended to generate discussion and inform debate, rather than representing a final blueprint for reform. The Government has long held that final proposals for reform would have to be included in a general election manifesto, to ensure that the electorate ultimately decide the form and role of the second chamber.

Finally, I pay tribute to the constructive way in which members of the cross-party group have engaged in this process. This White Paper marks a key stage in the reform process, and I encourage everyone to contribute to the ensuing debate.

A handwritten signature in black ink, appearing to read 'Jack Straw', written in a cursive style.

**Rt Hon Jack Straw MP**  
**Lord Chancellor and Secretary of State for Justice**

## Executive summary

In March 2007, there were free votes in both Houses of Parliament on House of Lords reform. The House of Lords voted for a wholly appointed House and the House of Commons for a wholly or mainly elected second chamber. This White Paper sets out what giving effect to the votes of the House of Commons, which is the primary chamber in the UK legislature, might mean in practice. The proposals, which are Government proposals, follow cross-party talks. The cross-party talks reached consensus on a number of issues. The detailed text of this White Paper indicates where other members of the Cross-Party Group on House of Lords reform dissented from the Government's proposals.

There is already widespread consensus over the role of the second chamber and its relationship to the House of Commons. The primacy of the Commons and the right of the Government to get its business through Parliament is acknowledged as beyond debate. But the second chamber has a crucial role to play.

In its three main functions of scrutinising legislation, conducting investigations and holding Government to account, the second chamber should complement the work of the Commons. Irrespective of its membership, this should continue to be the case in a reformed second chamber.

There are four key principles underpinning the reform proposals to maintain the difference between the membership of each House after members are elected to the second chamber:

- members of the second chamber should be elected on a different representative basis from members of the House of Commons;
- members of the second chamber should be able to bring independence of judgement to their work;
- members should serve a long term of office; and
- the second chamber should take account of the prevailing political view amongst the electorate, but also provide opportunities for independent and minority views to be represented.

The Government welcomes a confident and assertive second chamber. It sees this as further enhancing our democracy and something that is entirely consistent with the primacy of the House of Commons. That primacy rests in the fact that the Government of the day is formed from the party or parties that can command a majority in the House of Commons. It also rests in the Parliament Acts<sup>5</sup> and in the

<sup>5</sup> For further details see chapters 2 and 5 of this White Paper.



financial privilege of the House of Commons.<sup>6</sup> The Prime Minister and most senior ministers are also drawn from the House of Commons. A more assertive second chamber, operating within its current powers, would not threaten primacy.

One of the key reforms proposed in this White Paper is the introduction of elections to the second chamber. It was a recommendation of Lord Wakeham's Commission and has since enjoyed widespread support, including within the Cross-Party Group, that elected members would normally serve a single, non-renewable term of 12-15 years. They would be elected directly in thirds and with each member serving three electoral cycles. Large constituencies, each returning more than one member over the three electoral cycles, would be used.

The elections in thirds would take place at the same time as general elections for the House of Commons. To mitigate the risk of members serving very short terms, where a general election occurred less than three years after the previous one, it would not be accompanied by elections to the second chamber. The Government would welcome views on the appropriate size for a reformed second chamber.

Further consideration should be given to the options of using a First Past The Post, Alternative Vote, Single Transferable Vote or open- or semi-open list system. The Government would welcome views on the voting system to be used for electing members to a reformed second chamber.

The current powers of the House of Lords and the conventions that underpin them have worked well. The second chamber is likely to be more assertive, given its electoral mandate. The Government and members of the Cross-Party Group welcome this. Increased assertiveness is compatible with the continued primacy of the House of Commons, which does not rest solely or mainly in the fact that the House of Commons is an elected chamber whilst the House of Lords is not. Instead it rests in the mechanisms identified above. There is therefore no persuasive case for reducing the powers of the second chamber.

The key argument for any appointments to the second chamber is that it would preserve a significant Crossbench element. If there were an appointed element in a reformed second chamber, appointments would be made by an Appointments Commission, which would seek applications and nominations, against published criteria. Appointments would be made on merit, with the key focus being an individual's ability, willingness and commitment to take part in the full work of the second chamber.

<sup>6</sup> For further details see chapter 2 of this White Paper.

As with elected members, appointed members would serve for three electoral cycles without the possibility of re-appointment. One-third of appointed members would be replaced at each set of elections to the second chamber.

The Appointments Commission would operate on a statutory basis. Legislation would contain only broad parameters in relation to the role and operation of the Commission, to give it flexibility. The Commission would be accountable to the Prime Minister.

There would be no reserved seats for Church of England Bishops in a wholly elected second chamber. If there were an appointed element in the second chamber, there would be a proportionate number of seats reserved for Church of England Bishops. Retired Law Lords, or after 2009, Justices of the Supreme Court who were formerly Law Lords, would have the same status as other existing life Peers.

Membership of a reformed second chamber would no longer carry with it a peerage, nor would it be associated with the award of any other honour.

Eligibility requirements for membership of the reformed second chamber would be brought more into line with those for membership of the House of Commons. The minimum age for membership of the second chamber would be 18, and there would be no maximum limit. British, qualifying Commonwealth and Republic of Ireland citizens would be eligible for membership, as they are now. Those subject to a bankruptcy restriction order, those holding full-time judicial offices, those with certain criminal convictions, those detained for mental health reasons, those who had been convicted of electoral fraud and those who were not UK taxpayers would be ineligible. Those who had served as elected members would not be eligible to be appointed as members and vice versa. There would be provision for members to resign, but not to take leave of absence except if they had a major illness. Members would be allowed to vote in elections to both the House of Commons and the second chamber at all times. The Government would welcome views on whether there should be provision, similar to that which applies for the House of Commons, disqualifying those in certain public professions and offices, or who are members of certain public bodies, from membership of a reformed second chamber.

Further consideration would need to be given to the accountability arrangements for members of the reformed second chamber, particularly in light of proposals that they serve long, single terms. The Cross-Party Group discussed the possibility of introducing recall ballots, along the lines of those that exist in some states of the USA. The Government would welcome views on the proposals for such ballots set out in this White Paper.

Members of a reformed second chamber would receive taxable salaries. The Senior Salaries Review Body would advise on an appropriate level of salary and on the possibility and desirability of linking it to a member's contribution to the work of the second chamber.

There would be a transitional phase of three electoral cycles during which the three tranches of new members took up their places. During this time, new practices both internally and in relations with the House of Commons would develop. Existing peers would have key roles in ensuring that the second chamber continued to work effectively with the House of Commons and in transmitting knowledge to new members.

The sitting and voting rights of the remaining hereditary Peers would be removed, but the timing of this is for further consideration. This is linked to the need for further discussion about how far the rights of life Peers to sit and vote should continue during the transition and about whether they should continue after that phase is complete. The White Paper sets out three options, on which the Government would welcome views.

A common feature of almost all recent proposals is that the peerage itself, as an honour bestowed by the Crown, should be distinct from membership of a reformed second chamber. A peerage would therefore be neither a qualification nor a disqualification for membership. This would make it anomalous for the reformed chamber to be called the 'House of Lords', and a new name would be needed. Many, though by no means all, second chambers around the world are called 'Senates', and the title is no guide to their powers and functions. Such suggestions have been made for the reformed second chamber here. There may be others. The Government is open-minded on this, though there was a strong consensus among members of the Cross-Party Group for the name 'Senate'. To avoid a preoccupation with name over function and composition in the debates about the future, we use the neutral term "reformed second chamber" throughout this document.

# 1 Introduction

- 1.1 In 1999, the Government carried out substantial reform of the House of Lords. The House of Lords Act 1999 provided for the removal of the sitting and voting rights of the majority of hereditary Peers and established a mechanism for retaining 90 hereditary Peers through a process of election. In May 2006, the Government supported the establishment of a Joint Committee to examine the conventions governing the relationship between the two Houses of Parliament. The Government also set up cross-party talks on House of Lords reform. The consensus reached in these talks was reflected in the White Paper published in February 2007.<sup>7</sup> That White Paper provided the foundation for a series of free votes in both Houses in March 2007.
- 1.2 The foreword to the February 2007 White Paper noted that although the 1999 changes were significant and overdue, reform of the House of Lords remained unfinished business. The Director of 'Unlock Democracy', Peter Facey, has said: "The question is no longer whether the Government will complete reform, but when."<sup>8</sup>
- 1.3 Also, it can be argued that a modern state should seek to have in its legislature those who are best fitted to fulfil its roles. The main role of the second chamber in the UK is to revise and scrutinise legislation, providing a second opinion. It also helps hold government to account and carries out investigative work. However, members of the current House of Lords are not salaried. The award of a life Peerage continues to be both an honour and something that carries with it the right to sit and vote in the House of Lords. It is explicit that non party-political appointed members are not expected necessarily to make the same amount of time available to take part in the business of the House as 'working peers' and it is recognised that they may continue with their other interests.<sup>9</sup> (It is, however, important to emphasise that many "working peers" also have other occupations and interests.) These and other aspects of the composition of the second chamber need to be considered, to ensure not only that the chamber has the people it needs but also that its legitimacy and authority are not called into question.
- 1.4 A reformed second chamber will play a key role in the Government's programme to strengthen Parliament and renew its accountability to the electorate, as part of a programme of wider constitutional renewal.

<sup>7</sup> *The House of Lords: Reform*. The Stationery Office. (2007) (Cm 7027).

<sup>8</sup> 10 August 2007. See: [www.electthelords.org.uk/news/000086/first\\_lords\\_elections\\_should\\_take\\_place\\_in\\_may\\_2011.html](http://www.electthelords.org.uk/news/000086/first_lords_elections_should_take_place_in_may_2011.html)

<sup>9</sup> House of Lords Appointments Commission Criteria Guiding the Assessment of Nominations for Non-Party Political Life Peers. See: [www.lordsappointments.gov.uk/criteria\\_guiding.aspx](http://www.lordsappointments.gov.uk/criteria_guiding.aspx)

- 1.5 Following on from the February 2007 White Paper,<sup>10</sup> in the March 2007 free votes<sup>11</sup>, the House of Commons voted by a margin of 113 for a wholly elected House of Lords. The Commons also backed, by a margin of 38, a mainly elected second chamber based on 80% elected and 20% appointed. It voted by a majority of 280 to remove the remaining hereditary Peers. The House of Lords voted by a majority of 240 for a fully appointed House. It rejected the options of a wholly or 80% elected second chamber (respectively by majorities of 204 and 222). Given the difference of view between the two chambers, the Government said that it would look at how best to deliver a mainly or wholly elected second chamber in accordance with the wishes of the House of Commons, which is the primary chamber in the UK legislature.<sup>12</sup>
- 1.6 Since the free votes, the Justice Secretary and Lord Chancellor has continued to chair the cross-party talks that led to the February 2007 White Paper. The continuing talks have considered what giving effect to the votes of the House of Commons for a wholly or mainly elected second chamber might mean in practice. The Cross-Party Group has considered the respective roles of the two Houses, the powers that a reformed second chamber might have, electoral systems, how an appointed element might operate, and the transitional arrangements. The Cross-Party Group consists of members of the front benches of the political parties in both Houses, the Lords Spiritual<sup>13</sup> and the Crossbenches.<sup>14</sup> The Group's current and previous membership is set out at Annex 1. The Convenor of the Crossbench Peers expressed concern in the talks that the basis on which they were proceeding ignored the outcome of the free votes in the House of Lords. The Convenor continues to believe that this is unacceptable and that therefore any use of the term 'consensus' in the White Paper is inappropriate.
- 1.7 This White Paper sets out the Government's proposals for a reformed second chamber. It stems from the constructive discussions in the Cross-Party Group. The Group reached consensus on a number of key issues. This White Paper states where the Group did not reach agreement.

<sup>10</sup> *The House of Lords: Reform*. The Stationery Office. (2007) (Cm 7027).

<sup>11</sup> Annex 7 sets out the results of these votes in both Houses of Parliament.

<sup>12</sup> Hansard House of Commons 19/07/2007 col 449.

<sup>13</sup> The Lords Spiritual are senior bishops from the Church of England, who are members of the House of Lords. There are 26 Lords Spiritual. They include the Archbishops of Canterbury and York, the Bishops of London, Durham and Winchester, and the 21 next most senior Church of England diocesan bishops."

<sup>14</sup> Independent Peers in the House of Lords are often called Crossbench Peers. They do not belong to either the Government party or one of the Opposition parties, and by tradition they sit on the benches that cross the chamber of the House of Lords.

- 1.8 This White Paper sets the context for decisions on House of Lords reform and goes on to consider issues around, and options for, electoral systems. The effect of different electoral systems is examined against two scenarios – that the House is either 100% or 80% elected. The White Paper then looks at the powers of the second chamber. It suggests possible arrangements for any appointed element, but at this stage, the Government is not making proposals about whether there should be one. Finally, the White Paper addresses other issues around the operation of a reformed second chamber and explores transitional arrangements.

### Next steps

- 1.9 Details of how people can put forward their views on the proposals in this White Paper are presented in Chapter 10. Ministers will consider the responses to this White Paper and how it should be taken forward. The Government intends to formulate a comprehensive package of reform that can be put to the electorate as a manifesto commitment at the next general election. It hopes that other parties will be able to include similar commitments in their manifestos, so that the cross-party consensus on House of Lords reform is clear.

## 2 A reformed chamber: context for decisions

- 2.1 The most significant change in a reformed House of Lords will be its composition. The move to a wholly or mainly elected second chamber should increase the extent to which the membership of the second chamber represents the UK as a whole, with members drawn from England, Scotland, Wales and Northern Ireland. The change will also give the second chamber more legitimacy, making Parliament more accountable to the people it serves. In addition, consideration needs to be given to what powers a reformed second chamber should have, as well as to its ways of working. These issues will bear significantly on its ability to play a proper role in its key work of scrutinising legislation and so ensuring better law, as well as its role of holding the executive to account. The reformed second chamber will need the right level of resources to deliver these roles effectively and build on the work of the House of Lords.
- 2.2 One of the strengths of the British constitution is that it evolves to meet new situations and challenges. The Government's proposals for constitutional renewal envisage that after its reform, the second chamber will continue to develop and change as it enhances its role and performance. This will take place within the context of the primacy of the House of Commons.
- 2.3 The Hunt Report noted, "the primacy of the elected House of Commons is the cornerstone of this country's parliamentary system. A second chamber has a valuable role to play as a constitutional back-stop and as a complement to the Commons".<sup>15</sup> There are a number of aspects to this primacy. The government of the day is formed from the party or parties that can command a majority in the House of Commons and most members of the Cabinet, including the Prime Minister, are members of the House of Commons. The Parliament Acts provide that the House of Commons can, eventually, secure legislation in the absence of the agreement of the House of Lords.<sup>16</sup> Finally, the House of Commons has financial privilege. There are two elements to this. First, the 1911 Parliament Act provides for a Money Bill to be presented for Royal Assent without the consent of the House of Lords. This is only possible provided that the Commons passes the Bill and sends it to the Lords at least one month before the end of a session

<sup>15</sup> *Labour Peers Working Group on House of Lords Reform*, Report to the Lords Labour Group. (2004).

<sup>16</sup> For further detail on the Parliament Acts, see chapter 5 of this White Paper. Broadly, they provide that a Money Bill passed by the House of Commons can receive Royal Assent without the approval of the House of Lords, if the Lords do not pass it without amendment within one month of being sent there. Any other public bill first introduced in the Commons, other than one extending the life of a Parliament, can receive Royal Assent without the consent of the House of Lords, provided that: (i) it has been passed by the House of Commons in two successive sessions; (ii) sent up to the Lords at least one calendar month before the end of each session; (iii) a year has elapsed between its Commons second reading in the first session and its passing by the Commons in the second.

and that the Bill is not passed by the Lords, without amendment, within a month after it was received. The second element is that the House of Commons has the right to decide on Bills of Aids and Supplies, though in theory, the Lords is entitled to reject such Bills. The creation of a reformed second chamber should not mean changes to any of these aspects of the primacy of the House of Commons.

- 2.4 In addition to these underpinning elements, the conventions which currently inform the working relationship between the two Houses were set out in the report of the Joint Committee on Conventions in 2006<sup>17</sup> and endorsed by both Houses in 2007.<sup>18</sup>
- 2.5 Since the passage of the House of Lords Act 1999, there has been a significant change in the way the House of Lords exercises its role. In recent years, the second chamber has become more assertive. The primacy of the House of Commons remains, but the House of Lords has challenged proposed legislation more often. In the 1997-98, 1998-99 and 1999-2000 sessions, the Government suffered 39, 31 and 36 defeats in the House of Lords respectively. (The 2000-2001 session was very short and has therefore been omitted.) From the 2001-02 to the 2006-07 session inclusive, the average number of such defeats in each session was almost 60.<sup>19</sup> It is noted that where the House of Lords has serious concerns about proposed legislation, it gives voice to them.
- 2.6 The Government welcomes this change in the way in which the House of Lords behaves as part of the evolution of the British constitution. There is no reason why any further increase in the authority and effectiveness of the second chamber following elections should undermine the primacy of the House of Commons. As noted in paragraph 2.3, primacy does not lie in the way that the second chamber approaches its business.
- 2.7 This White Paper covers the various aspects of reform referred to in paragraph 2.1 and presents proposals for how the scenarios voted for by the House of Commons – ie that the House of Lords is either 100% or 80% elected – might be achieved.

<sup>17</sup> *Joint Committee on Conventions. Report of Session 2005-06. Conventions of the UK Parliament.* Volume 1. The Stationery Office. (HL Paper 265-1. HC 1212-1). (2006).

<sup>18</sup> House of Lords Hansard 16/01/2007 Col 638.  
House of Commons Hansard 17/01/2007 Col 887.

<sup>19</sup> See: House of Commons Library Parliamentary Information List "Government Defeats in the House of Lords". Ref SN/PC 03252.



## 3 A reformed chamber: role and composition

- 3.1 The reformed second chamber should be confident in challenging both the executive and the House of Commons. The second chamber should be able to make the government pause and reconsider. Ultimately, however, the government should be able to get its business through the legislature, through effective resolution of disagreements between the two Houses and, if necessary in the most exceptional cases, by using the Parliament Acts. This ensures the primacy of the House of Commons and means that, ultimately, any gridlock between the two Houses can be resolved.
- 3.2 In performing its roles of scrutinising legislation, holding the executive to account and investigative work, the second chamber should complement the House of Commons. This complementarity is partly about the organisation of the work of the two Houses. For example, the House of Lords Committee on the Merits of Statutory Instruments<sup>20</sup> has a specific function and has added value to Parliamentary scrutiny in a unique way. The Committee reports to the House on whether secondary legislation is legally or politically important; may be inappropriate in view of changed circumstances since the passing of the parent Act; implements European Union legislation inappropriately; or may achieve its policy objectives imperfectly.<sup>21</sup> The expectation of a reformed second chamber is that it would develop new and fresh approaches to scrutiny. It might, for example, want to consider some of the changes that have been made as part of the modernisation of the work of the House of Commons, such as taking evidence as part of the Committee stage when primary legislation is being considered.<sup>22</sup> However the complementarity of the reformed second chamber will also be about its composition. There is a need for a different basis for membership from that of the House of Commons, bringing different perspectives to bear on relevant parliamentary processes. This can be achieved through implementing a number of key principles, within the context of the democratisation of the House.

<sup>20</sup> Statutory instruments are a form of secondary legislation. Secondary legislation is described in more detail in Chapter 5 of this White Paper. Broadly, such legislation arises where the original Act of Parliament includes provision enabling the law to be changed or fleshed out through statutory instruments, rules or codes of practice.

<sup>21</sup> Further information on the Merits of Statutory Instruments Committee is available at: [www.parliament.uk/parliamentary\\_committees/merits.cfm](http://www.parliament.uk/parliamentary_committees/merits.cfm)

<sup>22</sup> *House of Commons Select Committee on Modernisation of the House of Commons. Fifth Report of session 2005-06.* The Stationery Office. (2006) (HC 1097.)

- 3.3 **The representative basis for elected members of the reformed second chamber should be different from that for members of the House of Commons.** This is not necessarily to say that the voting system would be different but that the arrangements for elections taken as a whole, including the size of constituencies and the frequency and timing of elections, should not duplicate those for the House of Commons. Different voting arrangements should encourage diversity in the membership of the two chambers.
- 3.4 **Members of the reformed second chamber should be able to bring independence of judgement to their work.** Members who are elected will, for the most part, achieve membership on the basis that they represent a particular political party, although there will be scope for independent candidates. While most of the elected members will have party affiliations, the intention is that they should exercise their independent judgement in the second chamber. Some of this will be a matter for the parties, but Chapter 4 of this White Paper considers how electoral systems could help achieve this, including by providing that members of the reformed second chamber should serve a single term of around 12-15 years. If there is to be an appointed element in the reformed second chamber, appointments should be made on an independent basis, reflecting the merits of the particular individual. No party appointments are envisaged. Chapter 6 considers in detail how this might be achieved.
- 3.5 **Long tenure.** The work of any legislature is challenging. If all the members of the second chamber at a particular point in time were newly appointed or elected, it would take some time for them, individually and collectively, to understand their new roles and maximise their effectiveness in carrying them out. Significant continuity in the membership of the House of Commons is maintained by virtue of the fact that, even when there is a change of Government, many of those elected will have been Members of Parliament previously. There is a need to ensure similar continuity in the second chamber. Chapter 4 of this White Paper considers how this might be achieved in relation to elected members. If the reformed second chamber is to include appointees, suitable arrangements need to be in place to provide continuity amongst appointed members. Proposals about any appointed element are set out in Chapter 6.
- 3.6 **The reformed second chamber should take account of the prevailing political view amongst the electorate, but also provide opportunities for independent and minority views to be represented.** The Government wants the reformed second chamber to complement the House of Commons. The composition of the Commons will reflect the prevailing political view of the country and if the second chamber is to have increased legitimacy, it should do so too. However, it should also reflect a diversity of views. Chapter 6 of this White Paper considers further how this might be achieved through voting systems for the second chamber. Chapter 6 considers how any appointed element could be used to ensure that the reformed second chamber reflects a wide range of views.

## 4 A reformed chamber: increased legitimacy

### Summary

- 4.1 A key recommendation of Lord Wakeham's Royal Commission, which has since enjoyed widespread consensus, is that elected members of the second chamber should normally serve a single, non-renewable term of 12-15 years. They should be elected in thirds, with each member serving three electoral cycles.
- 4.2 The Government proposes that staggered elections for the second chamber take place at the same time as general elections for the House of Commons. To mitigate the risk of members serving very short terms, where a general election occurred shortly after the previous one, it would not be accompanied by elections to the second chamber. The Government proposes that such provision would apply where a general election took place less than three years after the previous one. The Conservative Party proposes that such provision apply where there was less than two years between general elections.
- 4.3 The Liberal Democrats propose that second chamber elections should take place at the same time as those for the devolved legislature and assemblies, ie every four years. There are also significant English local authority elections on the same cycle.
- 4.4 The Government proposes that large constituencies, each returning more than one member over the three cycles, would be used to elect members to the second chamber.
- 4.5 The Government proposes that the size of the second chamber should over time reduce from the current membership of the House of Lords and that it should be smaller than the House of Commons. It would welcome views on the eventual size of the second chamber. The Conservative Party considers that there is a strong case for a second chamber of 250-300 members.
- 4.6 The Government proposes that members of the second chamber should be elected directly. There was not consensus about the system that should be used for such elections. The Conservative Party favours a First Past The Post system. The Liberal Democrats favour the use of an open list or Single Transferable Vote system. The Government believes that further consideration should be given to the options of using either a First Past The Post, Alternative Vote, Single Transferable Vote (STV), open or semi-open list system. The Government would welcome views on what system should be used for elections to a wholly or mainly elected second chamber.

- 4.7 The Government would also welcome views on whether arrangements should be put in place to fill seats for elected members that become vacant.

## Introduction

- 4.8 Chapter 2 of this White Paper makes clear that the reformed second chamber will continue as the second chamber and there will be no change to the primacy of the House of Commons. Chapter 3 sets out a number of principles that would help ensure that the second chamber continued to be complementary to the House of Commons, without challenging its primacy. These include:

- members of the second chamber should be elected on a different representative basis from members of the House of Commons;
- members of the second chamber should be able to bring their independent judgement to their work;
- members should serve long terms of office; and
- members should take account of the prevailing political view amongst the electorate, but also provide opportunities for independent and minority views to be represented.

- 4.9 The voting system is only one aspect of the arrangements for electing members to the second chamber. Other aspects that will help determine the nature of the chamber and how it operates include:

- the length of term that members serve;
- whether they are eligible for re-election;
- the frequency and timing of elections;
- the size of constituencies and whether they return a single member or more than one; and
- the size of the reformed second chamber.

- 4.10 The Cross-Party Group considered extensively how different voting systems using these parameters would help:

- achieve a second chamber that was complementary to the Commons; and
- encourage the election of people with a range of views, including those from smaller political parties and independent candidates, whilst providing for the prevailing political view amongst the electorate to be reflected.

## Length of term

- 4.11 Provision that members of the second chamber could serve only a single term would help enhance the independence of, and reinforce the distinct role for, members of the second chamber. However, if members could serve only one term, that term would need to be sufficiently long to attract able people. **There is widespread consensus that elected members of the second chamber should serve a single, non-renewable term of 12-15 years.**
- 4.12 Chapter 7 considers in more detail possible arrangements to ensure the accountability of members in the second chamber, eg possible provisions on disqualification, whether changes to the House of Lords Code of Conduct are needed and whether a system of recall ballots might be appropriate.

## Electoral cycle

- 4.13 The Wakeham Commission<sup>23</sup> recommended that regional members of the second chamber should be selected on a phased basis, in thirds and serve for the equivalent of three electoral cycles. Appointed members would serve for fixed terms of 15 years. These proposals have been generally supported since then. Elections for the second chamber that were staggered over a number of electoral cycles could help ensure continued primacy of the House of Commons, as the latter would always have a more recent mandate than the second chamber taken as a whole.<sup>24</sup>

Under 'staggered election' arrangements, each constituency would be represented by more than one member. Under elections staggered in thirds, three members, or a number of members that was a multiple of three would represent each constituency. In a six-member constituency:

- Two members (A and B) would be elected at the first round.
- Two further members (C and D) would be elected at the second round. A and B would continue to be members.
- Two further members (E and F) would be elected at the third round. A, B, C and D would continue to be members. At this point, the constituency would have reached the point where it had its full quota of six members.
- At the fourth round, A and B's terms of office would end and two new members would be elected, so that the total would remain at six.

<sup>23</sup> *Royal Commission on the Reform of the House of Lords. A House for the Future.* The Stationery Office (2000) (Cm 4534).

<sup>24</sup> Although some individual members of the second chamber could have been elected more recently than members of the House of Commons, depending on the timing of elections to a second chamber.

- At the fifth round, C and D's terms of office would end and two new members would be elected.
- At the sixth round, E and F's terms of office would end and two new members would be elected.
- At the next round, the members elected at the fourth round would retire and two new members would be elected.

This process would continue, so that the constituency continued to be represented by six members, elected in 'rolling thirds'.

- 4.14 Staggered elections would create significant continuity of membership. They would reduce the scope for the membership of the second chamber to 'mirror' that of the House of Commons. In particular, they would damp the effect of substantial swings between the support for the main political parties and hence reduce the scope for one particular party to gain an overall majority in the second chamber. A party is likely to have to win the majority of seats at a succession of elections to be guaranteed a majority in the chamber overall under all four voting systems modelled, particularly under a list or STV system. However, if a particular party did command widespread support continuing over several electoral cycles, this would, in due course, be reflected fully in the membership of the second chamber. In the short term, staggered elections will in any event be necessary to ensure a smooth transition from a wholly appointed House to a mainly or wholly elected chamber. **The Government proposes that elections to the second chamber should be staggered.**
- 4.15 On the number of electoral cycles, there is a balance to be struck. A lower number of cycles would increase the extent to which the mandate of the second chamber as a whole would be as recent as that of the House of Commons. A higher number of cycles would mean that fewer members changed following each election, which could make for greater continuity and stability. The Government believes that staggering elections so members of the second chamber were elected in thirds would achieve the right balance.

### Timing of elections

- 4.16 Combining elections to the second chamber with other elections is likely to increase voter turnout. Historically, the highest turnout in UK elections tends to be in general elections to the House of Commons, followed by those for the devolved legislature and assemblies and for local authorities. Elections to the European Parliament have so far generally achieved lower turnouts.

## General elections

4.17 Combining staggered elections to the second chamber with general elections could help maximise turnout. Voters would vote for both chambers of the UK legislature at the same time and it would be clear what each election was for. No group of members of the second chamber would have a more recent mandate than Members of the House of Commons. Combining elections for the second chamber with general elections would avoid potential disruption to the legislative programme, as newly elected members would not be joining the second chamber partway through the consideration of legislation. However, combining elections to the second chamber with general elections under a system of single, non-renewable terms could mean that some members would serve very short terms. Where general elections were held very close together (as in 1950 and 1951, 1964 and 1966 and two general elections in 1974), a 'rider' provision could help mitigate this risk. Such provision would preclude elections to the second chamber accompanying a general election if the latter happened shortly after the previous general election.

## Devolved legislature and assemblies and local authority elections

4.18 Combining elections with those to the devolved legislature and assemblies and the accompanying local authority elections would provide certainty. Members of the second chamber would know that they would serve for three electoral cycles, each of four years, and exactly when their terms would end. Typically, they would not be elected at a time when the electorate was voting for a choice of government and hence the election would be clearly about the role of members of the second chamber. Unless General Elections coincided with those of the devolved legislature and assemblies, new members would join the second chamber part way through a legislative session and in order to avoid disruption to parliamentary business, members would have to defer taking up their seats immediately upon election. They could do so at the start of the next parliamentary session in the autumn. It is likely that some members of the second chamber would have a more recent mandate than members of the House of Commons.

## European Parliament elections

4.19 Combining elections with the European Parliament elections would provide certainty of terms (three cycles of five years each). It would have the same disadvantages as holding elections alongside those for the devolved legislature and assemblies and local authorities, and is least likely to result in a high turnout.

4.20 **The Government proposes that the timing of elections take place at the same time as general elections.** The Conservative Party agrees. The Liberal Democrats propose that second chamber elections should take place at the

same time as those for the devolved legislature and assemblies. (There are also significant English local authority elections on the same cycle.) They argue that this would ensure clear, consistent terms of office, while avoiding confusion on the part of those electors who see General Election time as the opportunity to support or oppose a mandated Government.

- 4.21 Under the Government's proposal there would be the chance that members would serve relatively short terms of office, if general elections were held in quick succession. A 'rider' provision would help ensure elected members served a minimum number of years in the second chamber and hence it would encourage people to stand for election. **The Government proposes that a 'rider' would apply where a general election is held less than three years after the previous one.** In these circumstances, the second general election would not count towards the three electoral terms to be served. Hence a 'rider' of three years would guarantee members of the second chamber a minimum term of nine years.
- 4.22 The Conservative Party supports the proposal for a 'rider', but for two years rather than the three proposed by the Government. The Conservative Party proposal would guarantee members of the second chamber a minimum term of office of six years.

## Constituencies

- 4.23 If the membership of the second chamber is to be distinctive from that of the House of Commons, the Government believes members should be elected on a different representative basis. As far as possible, the constituencies used for elections to the second chamber should require alteration only infrequently, should reflect some sort of community or geographical area and should provide an equal level of representation for all voters. Relatively large geographical areas with constituencies that each returned more than one member would meet these criteria, and could also help reduce the risk of elected members competing with Members of Parliament over constituency work. They could also help ensure that the memberships of the two chambers were distinctive, although the degree of difference between them will vary with the voting system used. **The Government proposes that large constituencies that return more than one member each over three electoral cycles should be used to elect members to the second chamber.**
- 4.24 The Conservative Party agrees with the broad approach of multi-member constituencies and long terms; however, it believes that the constituencies should not be large and amorphous, but should reflect traditional city and county boundaries to which people have loyalty.



4.25 The number of members returned for each constituency at each round of elections would depend on the size of the second chamber and the voting system used. For some of the options considered by the Cross-Party Group, which are described later in this chapter, each constituency would return one member at each round of elections, giving a total of three members for the constituency as a whole. For other options, more than one member would be returned at each round of elections. The views of the different participants in the cross-party talks about whether more than one member should be returned for each constituency at each round of elections varies according to their view on the desirable size of the second chamber and on which voting system should be used.

### Size of the second chamber

- 4.26 An important distinguishing feature of second chambers around the world is that they tend to be smaller than the first chamber. The current membership of the House of Lords is 746.<sup>25</sup> This exceeds the House of Commons which consists of 644<sup>26</sup> members. Italy has just over 300 members and Spain, India and Japan have more than 200 members in their second chambers. In Australia, the Senate is just over half the size of the lower chamber with just over 70 Senators. Similarly, in France, the Sénat is composed of 331 members, while the lower house has a membership of 577<sup>27</sup>. In the USA, the Senate is a quarter of the size of the House of Representatives with 100 Senators.
- 4.27 However, not all members of the House of Lords attend regularly. The average daily attendance for the 2006–07 session was 415 members.<sup>28</sup> The UK second chamber would be a working chamber and should be large enough to carry out its roles and functions adequately, but represent value for money in terms of its costs.
- 4.28 If members would normally be expected to attend when the second chamber was sitting, a membership of 400–450 would provide broadly the same number of people to undertake the work of the second chamber as at present. A membership of 400–450 members would also be commensurate with international comparisons in terms of its size relative to the House of Commons.

<sup>25</sup> This excludes 11 peers who are on leave of absence. Figure as at 1 July 2008. See: [www.parliament.uk](http://www.parliament.uk)

<sup>26</sup> Figure as at 30 June 2008. See: [www.parliament.uk](http://www.parliament.uk)

<sup>27</sup> See: [www.ipu.org](http://www.ipu.org)

<sup>28</sup> See: [www.parliament.uk](http://www.parliament.uk)

- 4.29 Some have argued for smaller numbers in the second chamber. A significantly smaller second chamber of around 150-200 would require a complete overhaul of the current working practices and arrangements to enable the reformed second chamber to play an effective role in the parliamentary system. The overriding objective is to ensure that, whatever its size, the second chamber can carry out its work effectively and cover the extensive scrutiny and select committee business that the House of Lords does so effectively at the moment.
- 4.30 **The Government proposes that the size of the second chamber should be significantly reduced from the current membership of the House of Lords and that it should be smaller than the House of Commons. The Government would welcome views on the size of the second chamber.** The Conservative Party considers that there is a strong case for a second chamber of no more than 250-300 members as part of a policy of reducing the overall number of elected politicians in the country.

### Which voting system?

- 4.31 The Cross-Party Group considered the effect of different voting systems a second chamber:
- with between 400 and 450 members, whether all or most of them are elected; and
  - which comprised or included elected members who represent large constituencies each represented by more than one member and who are elected in thirds at elections whose timing coincides with that for general elections. A 'rider' provision would mean that where a general election occurred soon after the previous one, it would not be accompanied by elections to the second chamber.
- 4.32 These provisions would help achieve a non-renewable term of 12-15 years for members of the second chamber.
- 4.33 The figure of between 400 and 450 members used for the modelling reflects the current average daily attendance in the House of Lords.
- 4.34 The Government believes that the voting system for the second chamber should be straightforward and easy for voters to understand as well as giving them as much choice as possible. This will help maximise voters' participation in elections and hence their degree of engagement with the democratic processes of the UK.

## Direct or indirect elections?

### Indirect elections

4.35 There are two broad options for a system of indirect election: an electoral college or representation of vocational and interest groups or the secondary mandate, where the second chamber would be composed from a regional list system according to votes cast at the General Election. Indirect election could offer some degree of democratic legitimacy to the reformed second chamber. However, as the electorate does not cast a specific vote for the second chamber it is difficult to see any direct link. The practical difficulties in reaching agreement on which institutions should be represented is also a hindrance to the system and some could argue that there is very little difference between indirect electoral systems and an appointed House.

### *Electoral College*

4.36 Proposals for indirect electoral systems for the second chamber have been put forward on a number of occasions but have never gathered a great deal of support. The Wakeham Commission Report was concerned that indirect election from the devolved institutions or from UK members of the European Parliament would create “a total mismatch between the responsibilities which the people concerned were elected to discharge and their role in the second chamber, which would open up a significant gap in accountability and there would be a risk that members chosen in this way would act as delegates from those who appointed them to the second chamber rather than as representatives in the wider sense.”

4.37 “These difficulties would arise in an even more acute form if members of the second chamber were elected or appointed by, rather than being drawn from, the institutions concerned.”<sup>29</sup> The Commission was also opposed to members of the second chamber being indirectly elected by local government electoral colleges. They also said: “Additionally, we see no reason to believe that indirectly elected members of the second chamber would be broadly representative of British society, be likely to have the requisite range of expertise and experience or possess the other specific characteristics which members of the second chamber should have.”<sup>30</sup>

<sup>29</sup> *Royal Commission on the Reform of the House of Lords. A House for the Future*. The Stationery Office (2000) (Cm 4534). Page 108.

<sup>30</sup> *Ibid.*

## 1.1 *Secondary Mandate*

- 4.38 A separate system of indirect election that has been proposed is the Secondary Mandate. This would involve composing the second chamber from votes cast for candidates to the House of Commons at the General Election. Parties would use a regional list system and individuals would be elected according to the share of the vote in each region at the General Election.
- 4.39 Proponents of this system argue that it enshrines the primacy of the House of Commons because the second chamber is drawn from votes for the first. By ensuring that all votes cast at a General Election were counted in the composition of Parliament as a whole, it is claimed that it would enhance the democratic process and give people more reason to use their vote even in constituencies perceived to be 'safe seats' for one of the main parties. Such a system would produce a second chamber that reflected the broad pattern of political opinion across the country and, by using regional lists, was fully representative of all parts of the country. It has also been claimed that it might offer some of the advantages of appointment and is more administratively efficient and cost-effective than direct elections.
- 4.40 On the other hand, it has been argued that a Secondary Mandate system would not be successful in bringing the necessary degree of independence of judgement to the second chamber. Further, such a system would not sit easily with the aim of members serving long terms.
- 4.41 The Government's February 2007 White Paper concluded that: "Direct election of individuals plainly would confer more legitimacy than an indirect system. Many other second chambers around the world use direct election as the method for selecting the whole or part of their membership, and it allows every voter in the country to have a say in who sits in the House of Lords."<sup>31</sup> **There was strong consensus in the Cross-Party Group for, and the Government proposes that there should be, direct elections to the second chamber.**

## Direct elections

- 4.42 The Cross-Party Group considered possible systems of direct elections that could be used for the second chamber. All these systems have been modelled on the parameters set out in paragraph 6.10. The modelling has formed part of the process of assessing how each voting system would contribute to the aims set out in paragraphs 6.8 and 6.9.

<sup>31</sup> *The House of Lords: Reform*. The Stationery Office. (2007) (Cm 7027). Page 33.

- 4.43 Four voting systems options were modelled for elections to the second chamber:
- Model A – First Past The Post (FPTP), ie a plurality system;
  - Model B – Alternative Vote (AV), ie a majority system;
  - Model C – Single Transferable Vote (STV), ie a proportional-based system; and
  - Model D – list, ie a proportional-based system.
- 4.44 These models give only a general illustration of the distribution of seats in a reformed second chamber between the parties over time under each electoral system. Annex 2 provides a detailed description of the modelling and its limitations.
- 4.45 In the absence of any historical data on elections to the second chamber some very broad assumptions have had to be made. For instance ten previous general election results were aggregated to derive votes for each party over a certain period. Independent candidates were excluded from the analysis due to the difficulties in assessing their popularity in any constituency and election other than that in which they actually stood. Hence the closed list system was modelled showing the effect only on the parties, rather than on individual candidates. Some general assumptions were made about the allocation of preference votes under the STV system and a simple counting process was used to determine the allocation of seats to parties.
- 4.46 Large constituencies were created broadly based on the Jenkins Report's<sup>32</sup> Top-up areas for FPTP system and an AV system.<sup>33</sup> The constituencies created are purely for the purposes of modelling and do not reflect the actual constituencies that would be used for elections to the second chamber. The Government proposes that the Parliamentary Boundary Commissions should be asked draw up any new electoral boundaries that might be needed.
- 4.47 Notwithstanding the accepted limitations of the modelling, the Cross Party Group found its outcomes very helpful in informing its discussion of the potential outcomes of different electoral systems.

<sup>32</sup> *The Report of the Independent Commission on the Voting System*. The Stationery Office. (1998) (Cm 4090-I and II).

<sup>33</sup> The Jenkins Commission recommended a mixed system, of 80-85% of the Commons to be elected by the Alternative Vote in individual constituencies, and the remaining 15-20% by means of a party list known as Top-up members. The Jenkins Commission recommended that the Top-up areas would be located in cities and preserved counties in England, and in the electoral regions to be used for the elections to the Scottish Parliament and the National Assembly for Wales. It recommended a new system to be adopted in Northern Ireland to preserve uniformity.

## 1.1 Modelling the voting systems options

Breakdown of the total number of members that could be elected in the second chamber over three elections under each voting system modelled.

	First Past The Post system	Alternative Vote system	Single Transferable Vote system	List system
<b>Wholly elected second chamber:</b>				
Total constituencies	140	140	24	12
Total number of members in each constituency after three elections	3	3	18	Between 9 and 60
Members elected in each constituency at each election	1	1	6	Varies according to the number of registered electors. Between 3 and 20
Total number of members elected at each election	140	140	144	146
<b>Total membership after three elections in a wholly elected second chamber</b>	<b>420</b>	<b>420</b>	<b>432</b>	<b>438</b>

	First Past The Post system	Alternative Vote system	Single Transferable Vote system	List system
<b>Mainly elected second chamber:</b>				
Total constituencies	112	112	24	12
Total number of members in each constituency after three elections	3	3	15	Between 9 and 48
Members elected in each constituency at each election	1	1	5	Varies according to the number of registered electors. Between 3 and 16
Total members elected at each election	112	112	120	116
Total number of elected members after three elections	336	336	360	348
Total number of appointed members after three elections	84	84	90	87
<b>Total membership after three elections in a mainly elected second chamber</b>	<b>420</b>	<b>420</b>	<b>450</b>	<b>435</b>

Note: A total membership of between 400 and 450 members, including appointed members where relevant, was modelled as a starting point, to reflect the current average daily attendance in the House of Lords.

Maps showing constituencies used for modelling each voting system discussed in this chapter are presented at Annex 5.

## Model A: First Past The Post (FPTP) system with sub-regional constituencies

4.48 Under an FPTP system voters indicate a single candidate of their choice. The winner in each constituency is the person who secures the most votes. Annex 3 includes a sample ballot paper for an FPTP system. An FPTP system is used in the UK for elections to the House of Commons. Although the period of office is much shorter than that proposed in relation to the second chamber, the arrangement of FPTP elections in thirds in three-member wards is common in local elections, being used in English metropolitan district councils and in many English non-metropolitan district councils.

### Summary of modelling of the FPTP system

4.49 Model A(1) provides for an FPTP system creating a wholly elected second chamber of 420 members. A total of 140 constituencies were created for modelling purposes, based on the 80 Top-up areas recommended by the Independent Commission on the Voting System (the Jenkins Commission). The 60 Jenkins Top-up areas with the largest number of votes cast in the 2005 general election were split in two, to create more constituencies. Under the modelling assumptions, at each of the three rounds of staggered elections, one member would be elected for each of the 140 constituencies.

4.50 Model A(2) provides for an FPTP system creating an 80% elected second chamber of 420 members. This consists of 336 elected members and 84 appointed members. In this case, the 32 Jenkins Top-up areas with the largest number of votes cast in the general election were split to create additional constituencies. Under the modelling assumptions, at each of the three rounds of staggered elections, one member would be elected for each of the 112 constituencies.

## Model B: Alternative Vote (AV) system with sub-regional constituencies

4.51 Under an AV system, voters rank all the candidates in their order of preference. Annex 3 includes a sample ballot paper for an Alternative Vote system. Under an AV system, only one candidate can be elected and the winning candidate must gain more than 50% of the votes cast. If this is not secured on the basis of first preferences, the candidate with the lowest number of votes is eliminated and their votes are reallocated on the basis of second preferences. The process continues until one candidate has more than 50% of the votes, after the second preferences of the least popular candidates are redistributed.



### Summary of modelling of the AV system

- 4.52 Model B(1) provides for an Alternative Vote system creating a wholly elected second chamber of 420 members. The 140 constituencies used for Model A(1) were also used here. Under the modelling assumptions, at each of the three rounds of staggered elections, one member would be elected for each of the 140 constituencies.
- 4.53 Model B(2) provides for an Alternative Vote system creating an 80% elected second chamber of 420 members. This consists of 336 elected members and 84 appointed members. Under the modelling assumptions, at each of the three rounds of staggered elections, one member would be elected for each of the 112 constituencies.

### Model C: Single Transferable Vote (STV) system with sub-regional constituencies

- 4.54 The STV system is a broadly proportional system in terms of allocating seats to the parties in multi-member constituencies. It is a preferential voting system where the voter can rank all or some of the candidates according to their preferences across as well as between parties on the ballot paper. Annex 3 illustrates how the ballot paper might look under an STV system. An electoral formula is used to allocate seats and an agreed quota or threshold of votes is required for a candidate to win a seat in a constituency.

### Summary of modelling of the STV system

- 4.55 Model C (1) assumes that the members of the second chamber are elected on an STV system using 24 sub-regional boundaries. These were constructed for modelling purposes by combining two or more adjacent Jenkins Top-up areas, to create new constituencies with approximately 1.5 million to 2 million electors in each. The model assumes the total membership in a wholly elected second chamber is 432 with 144 members elected at each of three election cycles. The number of seats allocated per region for each multi-member constituency is the same throughout the country at 18 seats, with six seats available at each round of election per region. The commonly used Droop quota<sup>34</sup> is used to allocate seats to the parties. To win a seat in a constituency a candidate is required to obtain nearly 15% of the total votes cast in that region.

<sup>34</sup> See Annex 4.

- 4.56 Model C(2) assumes the total membership in a mainly elected second chamber is 450 members. This consists of 360 elected members and 90 appointed members. The new intake at each of three rounds of election would be 120 elected members and 30 appointed members. The number of seats allocated per region for each multi-member constituency is the same throughout the country at 15 seats, with five seats available at each round of election. To win a seat in a constituency a candidate is required to obtain nearly 17% of the total votes cast in that region.

### Model D: List system with sub-regional boundaries

- 4.57 The list system is a broadly proportional system in terms of allocating seats to the parties. The proportion of votes cast determines the total number of seats that each party receives. Parties publish a list of candidates for each constituency and the size of the ballot paper is determined by the number of seats to be filled in a particular region. The number of members elected from each party list in a region will broadly reflect the share of the votes cast for the party or individual candidate in that region. An electoral formula is used to allocate seats to the parties. The type of list used will determine the level of choice the voter has and the allocation of seats between the party candidates on the party list.

#### A closed-list system

- 4.58 The closed-list system is used in European Parliamentary elections in England, Scotland and Wales. It allows the voter one vote. Annex 3 illustrates how the ballot paper might look under a closed list system. The political parties publish lists of candidates and the voter votes for one such list. The voter has no influence on the position of a candidate on the party list. Members are elected on the basis of where their parties have placed them on their lists. The list ranking therefore determines whether or not a candidate is chosen, with those near the top of the list more likely to be elected. Voters are not required to make decisions about particular candidates and the system involves a high degree of party control.

#### An open-list system

- 4.59 The open-list system allows the voter one vote, for the candidate of their choice. Voters are required to make a choice of a candidate from various party lists on the ballot paper. The total votes cast for candidates of a particular party are used to calculate how many seats that party will have. Once the shares of the seats have been allocated to the parties, an agreed formula, quota or threshold is then used to determine which candidates from that party's list are chosen. One variant is to determine the candidates on the basis of the absolute number of votes cast. If a party won four seats in a region, the candidates from that

party would be ranked according to the number of votes that had been cast for them and the top four would be elected. Alternatively, an electoral formula could be used to determine the threshold required for a candidate to secure a seat, eg the commonly used Droop quota.<sup>35</sup> This would have the effect that if a party was allocated four seats in a region, any candidate with more than one fifth of the party's share of the vote would be guaranteed a seat. The option of reverting back to the list ranking is possible where insufficient candidates reach the threshold to allocate any remaining seats.

### Semi-open list system

- 4.60 A semi-open list system allows the voter one vote but two choices. They can either place an 'X' next to the preferred candidate on the ballot paper or place an 'X' next to the preferred party list as published. A vote either for the party list or an individual candidate on that party list would count towards the party's allocation of seats in that region. A semi-open list system would require an individual candidate to reach an agreed threshold of personal votes to override the list ranking. This system offers a certain degree of flexibility to the voter, who does not have to choose a specific candidate, but can opt for the party list if they do not have a preference for a specific candidate.

Under a semi-open list system a vote for the party list or for an individual candidate on the party list both count towards the total votes cast when allocating the share of the seats to the parties. Each candidate's position on the party list will have a bearing on allocating seats within the party, ie candidates who appear at the top of the list are more likely to be allocated a seat within the party's total. An individual candidate on the party list would have to secure a certain percentage of the party's vote to enable their personal votes to override the party list. For instance in Sweden, in elections to the national parliament, the Riksdag, an individual candidate must gain 8% of their party's votes in a constituency in order for him or her to override the order of the party list. The worked example below shows how a party's seat would be allocated to its candidates under a semi-open list system where an 8% threshold is applied.

In Constituency Z, a total of 800 votes have been cast for Party X in elections to the second chamber. Party X is therefore allocated four seats in that constituency. A total of 500 votes were cast for the party list and a further 300 votes were cast for individual candidates on the party list. The order in which the candidates appear on the ballot paper (ie the party's ranking) is as follows:

<sup>35</sup> See Annex 4.

Candidate of Party X	Individual votes received	Individual votes as a percentage of all Party X's votes
Candidate A	14	1.8
Candidate B	87	10.9
Candidate C	34	4.3
Candidate D	29	3.6
Candidate E	95	11.9
Candidate F	16	2.00
Candidate G	25	3.1

Candidate B and Candidate E receive the first two of the four seats which Party X has won, because they have received more than 8% of the total votes cast for Party X. No other candidate has obtained more than 8% of Party X's votes.

Party X's remaining two seats are now awarded to the two candidates highest on the party list who have not already won a seat through the number of individual votes they received. These seats go to Candidate A and Candidate C.

Candidate E, Candidate B, Candidate A and Candidate C are therefore awarded Party X's four seats in Constituency Z.

### Summary of modelling of the list system

- 4.61 In the absence of any historical data on elections to the second chamber some very broad assumptions have had to be made. These are outlined at paragraph 4.45. As a result, the closed list system was modelled showing the effect only on the parties, rather than on individual candidates.
- 4.62 Model D(1) assumes that all members of the second chamber are elected on a list system using twelve regional boundaries broadly based on the European Parliament constituencies, ie the nine Government Office Regions of England, plus Scotland, Wales and Northern Ireland. The model assumes the total membership in a wholly elected second chamber is 438, with 146 members elected over three election cycles. The number of seats allocated per region differs according to the size of the region. A region with a higher concentration of the population, such as the south east, attracts a greater number of seats.

4.63 Model D(2) assumes the total membership in a mainly elected second chamber is 435 members. This consists of 348 elected members and 87 appointed members. The new intake at each of the three rounds of election would be 116 elected members and 29 appointed members.

### Outcomes of the modelling of the voting systems

4.64 Annex 2 gives details of the modelling that has been done to illustrate the possible outcomes of different voting systems using the parameters described in paragraphs 6.10. The annex considers how many seats the various parties might have secured in the second chamber if electors had voted as they did in general elections between 1966 and 2005. The constituencies modelled do not reflect the actual size of the constituencies that would be used for elections to the second chamber. The Government proposes that the Parliamentary Boundary Commissions should be asked draw up any new electoral boundaries that might be needed.

4.65 The outcomes of the modelling show that:

- Under a First Past The Post system or Alternative Vote system there would be a significant possibility that the party forming the government of the day would also secure a majority in the second chamber, if they won a number of successive elections, even with elections staggered over three cycles. However, if there were repeated changes of government at general elections, the government of the day would be unlikely to have a majority in the second chamber under either system. Similarly, if there was a change of government after a long period, the new government might not have a majority in the second chamber after the first election when the change occurred.
- Under an STV or list system with staggered elections over three cycles, it would be hard for a single party to achieve an overall majority in the second chamber. A party would need to gain a large proportion of the votes in each successive election to do so.
- Parties other than the main two and independent candidates would stand a better chance of gaining seats under STV and list systems than FPTP and AV. Under FPTP, a successful candidate must win a constituency outright, beating all other candidates. Under AV, a candidate would need to obtain 50% plus one of votes, once preference transfers are counted. In a six-seat constituency under STV, a candidate would need just under 15% of the vote (including preference transfers from successful or eliminated candidates) to be guaranteed a seat. In a ten-seat constituency under a list system, obtaining about 10% of the vote would be sufficient for a party to secure representation.

A number of reports on Lords reform have considered the merits of various electoral systems. In 2000, the Wakeham Commission<sup>36</sup> recommended "an arrangement which would give the regional electorate a voice in the selection of regional members". Options for realising this principle were (a) indirect election using votes cast at general elections and party lists and (b) two proportional systems using European election constituencies with different numbers of members in the constituencies and with different timings for their election.

In 2001, the White Paper *House of Lords: Completing the Reform*<sup>37</sup> endorsed a version of one of the Wakeham Commission options, which was a proportional system using European election constituencies with all constituencies returning members at each election.

In 2002, the Public Administration Select Committee set out a number of principles which "would be best realised using multi-member constituencies and a proportional voting system. This could be either STV or regional lists, so long as the lists are fully open, which maximises voter choice."<sup>38</sup> The Joint Committee on House of Lords Reform noted the advantages of both these systems: "they provide for much larger constituencies than for MPs, minimising the risk of overlap."<sup>39</sup> The Committee added that a FPTP system ruled out the election of independents and small parties. The Committee's second report<sup>40</sup> (April 2003) recorded some MPs' desire for indirect election either through regional structures or a secondary use of votes cast at general elections using regional lists.

In 2005, the cross-party authors of the *Breaking the Deadlock* report recommended that "elections should be carried out using either open lists or STV. On balance we believe that STV is more in keeping with the needs of the second chamber."<sup>41</sup> In 2007, the White Paper *House of Lords: Reform*<sup>42</sup> recommended a partially open regional list system.

<sup>36</sup> Royal Commission on the Reform of the House of Lords. *A House for the Future*. The Stationery Office (2000) (Cm 4534). Page 113.

<sup>37</sup> *The House of Lords: Completing the Reform*. The Stationery Office. (2001) (Cm 5291). Page 21.

<sup>38</sup> *House of Commons Public Administration Select Committee. Fifth Report of Session 2001-02. The Second Chamber: Continuing the Reform*. The Stationery Office. (2002) (HC 494-I). Page 27.

<sup>39</sup> *Joint Committee on House of Lords Reform. First Report of Session 2002-03*. The Stationery Office (HC 171, HL 17). Page 20.

<sup>40</sup> *Joint Committee on House of Lords Reform. Second Report of Session 2002-03*. The Stationery Office (HC 668, HL 97).

<sup>41</sup> Clarke, K et al (2005). *Reforming the House of Lords: Breaking the Deadlock*. University College London. Page 28.

<sup>42</sup> *The House of Lords: Reform*. The Stationery Office. (2007) (Cm 7027). Page 39.

In addition, the Jenkins Report considered electoral systems for the House of Commons as a whole. It recommended a two-vote mixed system ('AV Top-up') with the majority of MPs being elected on an individual constituency basis. The remainder would be elected on a Top-up basis to address "the disproportionality and the geographical divisiveness which are inherent in FPTP."<sup>43</sup>

One member of the Commission, Lord Alexander, supported the idea of an additional member system while keeping FPTP in the constituency elections. He expressed reservations that AV received little, if any, support in the submissions received by the Commission and highlighted a potential unfairness that the only second preferences to be counted were those of the most unsuccessful candidates.

### Pros and cons of different voting systems

- 4.66 These outcomes have been considered in relation to the potential extent to which each voting system could contribute to the aims set out in paragraphs 6.8 and 6.9 of achieving a second chamber that was complementary to the Commons; and encouraging the election of people with a range of views, including those from smaller political parties and independent candidates, whilst providing for the prevailing political view amongst the electorate to be reflected. In addition, consideration has been given to the degree of choice and ease of operation that different electoral systems provide for voters and how easy it is to understand how the final results are reached.
- 4.67 As paragraph 4.45 makes clear, the modelling presented in this White Paper is based on historical results for the House of Commons. These are the most relevant data available. It is possible that voting patterns for the second chamber could differ from the House of Commons even if elections for both took place on the same day.
- 4.68 A FPTP system would make it more difficult for representatives of smaller parties and independent candidates to be elected. It would ensure that the prevailing political view amongst the electorate was reflected in the second chamber. However, this carries with it an increased risk of the membership of the second chamber 'mirroring' that of the House of Commons. FPTP systems are widely understood and easy to operate. The FPTP system presented in this White Paper would provide for 140 constituencies if there were a fully elected second chamber and 112 if it were 80% elected. By contrast, the STV system would use 24 constituencies and the list system the twelve European Parliament ones. The smaller constituencies that are a feature of the FPTP system and the AV system modelled would cover cities and counties, which are naturally understood areas. They contrast with the much larger and in the case of the STV system, artificially-created, constituencies that would be used for the STV and list systems.

<sup>43</sup> *The Report of the Independent Commission on the Voting System*. The Stationery Office. (1998) (Cm 4090-I and II). Chapter 9.

- 4.69 The AV system modelled in this White Paper would use the same constituencies as the FPTP system. It is very difficult to assess the outcomes from an AV system because there is no direct evidence from the general election results about how people would have allocated subsequent preferences between parties. (In modelling STV systems, various assumptions have been made, including the simplifying one that people would allocate their preferences to candidates of the same party only. This assumption would not be relevant to modelling the AV system proposed here, as there would almost certainly only be one candidate from each party standing in each constituency.) Insofar as there is evidence, this might not hold for elections to the second chamber. It also seems likely that people would allocate subsequent preferences differently in elections at different times, depending on the political and other circumstances prevailing.
- 4.70 However, it can be argued that an AV system would be more preferential than FPTP for the second chamber, in the sense that all those elected would have to receive more than half the votes cast, including redistributed votes. This aspect is particularly important now that the UK is in an era where almost all contested elections occur between more than just the two main parties and where many elections, which would probably include any to the second chamber, also involve smaller parties. The Conservative Party disagrees that AV would be more preferential than FPTP because promoting second choice votes weakens a mandate and gives weight to tactical rather than preferential voting.
- 4.71 An AV system could encourage the election of well-known independent candidates, insofar as they picked up voters' alternative preferences. The operation of an AV system would be more complex than that of a FPTP one and the calculation of the results would have to be explained to voters. For example, it is only a losing candidate's second preferences that are reallocated to enable another candidate to gain a majority of votes.
- 4.72 The two proportional systems that have been modelled – STV and a list system – would both provide enhanced opportunities for candidates from parties other than the main two and for independent candidates to be elected, and would help produce a balance between parties in the second chamber.
- 4.73 In the large constituencies each returning more than one member, which the Government envisages for elections to the second chamber, it could be argued that a list system would be much easier for voters to operate than an STV system. Both systems could result in long ballot papers, because a large number of candidates can be expected to stand in large, multi-member constituencies. However, under a list system electors would have only one vote and they would use an 'X', rather than having to rank candidates. The former is straightforward and more consistent with other voting systems used in the UK.



- 4.74 Under an STV system, voters would be asked to rank candidates. An STV system in large constituencies, each returning more than one member, would be complicated for voters. Although it should be noted that this system has been used successfully in Northern Ireland for many years in local, Assembly and European elections, it is more complex to count the votes under an STV system and to explain how the results were arrived at. Election results under STV typically take longer to be determined, sometimes up to two days.
- 4.75 A closed list is not favoured for elections to the second chamber because this would restrict voters' choices about individual candidates. However, the modelling assumes a closed list system (where voters express a preference for a party and not an individual candidate) and no assumption has been made to try to reflect the popularity of individual candidate which is required under a semi-open and open list system. An open list on the other hand would require voters to make a well-informed decision about candidates on party lists and is more likely to lead to greater competitiveness within the parties. A semi-open list would be more flexible. Voters are familiar with voting for a party as a whole in some other UK elections but a semi-open list system also offers the voter a choice to vote for a particular candidate on the party list should they wish to do so.
- 4.76 There was not consensus in the Cross-Party Group about which electoral system would be the most appropriate for elections to the second chamber.
- 4.77 The Conservative Party favours a First Past The Post system for elections to the second chamber. In particular, they favour using the 80 constituencies proposed by Jenkins, leading to a total membership of 300 (of which 60 who would be appointed), plus the Bishops.
- 4.78 The Liberal Democrats consider that an Alternative Vote system would have the disadvantages of a First Past The Post system. They also think that it would have the additional disadvantage that members of the second chamber elected on an Alternative Vote system could claim to have more substantial public support and therefore a more substantial mandate than members of the House of Commons. The Liberal Democrats favour the use of the Single Transferable Vote system for elections to the second chamber to give the widest possible choice to the elector – including support for independents – rather than perpetuating party patronage. The Liberal Democrats are strongly opposed to a closed or semi-open list in all circumstances.
- 4.79 The Convenor of the Crossbench Peers favours the use of a Single Transferable Vote or Alternative Vote system and is opposed to the use of any form of list system for elections to the second chamber.

- 4.80 **The Government believes that further consideration should be given to the following voting systems options for elections to the second chamber:**
- a First Past The Post system;
  - an Alternative Vote system;
  - a Single Transferable Vote system; or
  - an open or semi-open list system.
- 4.81 **The choice of a voting system for elections to the second chamber is the subject of much discussion. It is a key decision about the way forward for a reformed second chamber and hence about the institutions of our democracy. The Government is therefore keen to facilitate an extensive and wide-ranging debate on this issue. Hence it would welcome views from all quarters.**

### Filling vacancies for elected members

- 4.82 The long terms of office that the Government proposes for elected members of the second chamber mean that inevitably, some seats will become vacant. If elected members were not replaced soon after a seat became vacant, it could be argued that, even with constituencies each returning more than member, the electorate for that seat was not being fully represented.
- 4.83 Any detailed arrangements for filling vacancies would depend on which voting system was used for the second chamber. In general, where FPTP, AV and STV systems operate, a by-election is held to fill vacancies. It is worth noting that vacancies in the Northern Ireland Assembly, which is elected under an STV system, are currently filled through a system of substitutes. Under a list system, it might be possible to fill the vacancy on the basis of the votes cast at the original election. The seat could be offered to the person who would have been elected next at the most recent election, with the process continuing until someone was found who was willing and able to fill the seat. It might, of course, be some time since the original election, and consideration could be given to the necessary arrangements that would need to be in place where there is a difficulty in filling a vacant seat. In these circumstances, one option might be to offer the vacancy to someone from the relevant party who had stood unsuccessfully at a more recent election to choose members to represent that constituency in the second chamber.

- 4.84 Any proposal to fill vacant seats could result in some members of the second chamber serving terms that were much shorter than usual ones, if they were elected to fill vacancies that had been filled by someone else for most of a 12-15 year period of office. The situation would occur where a seat that was due to be filled at the time of the next general election became vacant and that general election followed shortly afterwards.
- 4.85 The Cross-Party Group considered this issue at some length. The group could see merit in arrangements by which an elected member would be eligible to stand for re-election, if they replaced someone who left before their term was exhausted and there was less than a certain period to run on that term. The period could be, say, three years. Under this proposal, the provision would apply only in relation to the next election for that seat (or its equivalent following boundary changes) and not to any other election, for that seat or any other. This would be the only circumstance in which someone who had previously been an elected member of the reformed second chamber would be eligible for re-election.
- 4.86 However, it might prove difficult to find people to stand for election where a vacancy had only a short period to run. An alternative would be to extend the period, possibly by saying that re-election would be allowed if the vacancy occurred at any stage during the second or third electoral cycle which applied to the vacancy. This would mean that a vacancy would be likely to have up to eight years to run. There are concerns that allowing someone to stand for re-election for 15 years after they had served an initial term of up to eight years would provide for a long period of office.
- 4.87 **The Government believes that there should be a process to fill vacancies and would welcome views on what those arrangements should be.**

## 5 A reformed chamber: powers

### Summary

5.1 The current powers of the second chamber, the Parliament Acts and the conventions that underpin them have worked well. Given its electoral mandate, a reformed chamber is likely to be more assertive. The Government welcomes this. Increased assertiveness on the part of the second chamber is compatible with the continued primacy of the House of Commons, which does not rest solely or mainly on the fact that the House of Commons is an elected chamber whilst the House of Lords is not. (One aspect of the primacy of the House of Commons is the operation of the 1911 and 1949 Parliament Acts, which the Government does not intend to change.) There is no persuasive case for reducing the powers of a reformed second chamber.

### Primary legislation

5.2 There are a number of constraints on the way in which the current House of Lords exercises its legislative functions and powers in relation to primary legislation (Bills). The 1911 Parliament Act provided that Money Bills could receive Royal Assent without the approval of the House of Lords, if not passed by the Lords without amendment within one month. It also provided that any other public bill first introduced in the Commons, other than one extending the life of a Parliament, would receive Royal Assent without the consent of the House of Lords, if it had been passed by the House of Commons in three successive sessions and as long as two years had elapsed between its Commons second reading in the first session and its final passing by the Commons. Subsequently, the 1949 Parliament Act decreased the number of sessions in which the Commons must pass a Bill from three to two and reduced the period between the first Commons second reading and final passage in the Commons to one year.

5.3 Following the 1945 general election, which resulted in strains between a Labour Government with a majority of 156 in the House of Commons and a House of Lords with only 16 Labour peers out of a total of 831, the so-called "Salisbury-Addison Convention" evolved. This came to imply that the House of Lords should not reject at second or third reading an intention to legislate mentioned in the Government's election manifesto. The 2006 report of the Joint Committee on Conventions noted that the Salisbury-Addison Convention had changed, particularly since 1999. The report set out the key conventions

that now governed the relationship between the two Houses of Parliament. The Government accepted the Joint Committee's recommendations and conclusions<sup>44</sup> and the Committee's report was debated by both Houses, which passed resolutions in identical terms approving it.<sup>45</sup> While the Joint Committee was clear that the conventions it set out would be called into question in the event of reform, it is equally clear that the two Houses must continue to maintain effective working relationships in the context of the primacy of the Commons.

The Joint Committee concluded that the key conventions that now governed the relationship between the two Houses were:

**Salisbury-Addison Convention:** that in the House of Lords, a manifesto Bill is accorded a second reading; is not subject to 'wrecking amendments' which change the Government's manifesto intention as proposed in the Bill; and is passed and sent (or returned) to the House of Commons, so that it has the opportunity, in reasonable time, to consider the Bill or any amendments the Lords may wish to propose.<sup>46</sup>

**Reasonable time:** the House of Lords considers Government business in reasonable time.<sup>47</sup>

**Secondary legislation:** neither House of Parliament regularly rejects secondary legislation, but in exceptional circumstances it may be appropriate for either House to do so. There are situations in which it is consistent with both the Lords' role in Parliament as a revising chamber, and with Parliament's role in relation to delegated legislation, for the Lords to threaten to defeat a statutory instrument.<sup>48</sup>

**Financial privilege:** If the Commons have disagreed to Lords amendments on grounds of financial privilege, it is contrary to convention for the House of Lords to send back amendments in lieu which clearly invite the same response.<sup>49</sup>

In addition, the Committee concluded that the evidence they had heard pointed to the emergence in recent years of a practice that the House of Lords will usually give a Second Reading to any government Bill, whether based on the manifesto or not.

<sup>44</sup> *Government Response to the Joint Committee on Conventions Report of Session 2005-06*. The Stationery Office. (2006) (Cm 6997). Page 9.

<sup>45</sup> House of Lords Hansard 16/01/2007 Col 638. House of Commons Hansard 17/01/2007 Col 887.

<sup>46</sup> *Joint Committee on Conventions. Report of Session 2005-06. Conventions of the UK Parliament*. Volume 1. The Stationery Office. (2006) (HL Paper 265-1. HC 1212-1.) Page 32.

<sup>47</sup> *Ibid.* Page 44.

<sup>48</sup> *Ibid.* Page 62.

<sup>49</sup> *Ibid.* Page 67.

## Secondary legislation

- 5.4 In addition to Bills, both Houses of Parliament also consider proposals for delegated or secondary legislation. This arises where the original Act of Parliament includes provision enabling the law to be changed or fleshed out through statutory instruments, rules or codes of practice. The sort of changes and provisions provided for include technical changes, detailed rules and procedures and changes or details that need to be made or set out regularly (for example because levels of payment are to increase over time). Typically, Parliament considers about 3,000 statutory instruments each year.
- 5.5 Like the House of Commons, the House of Lords can currently only accept or reject a proposed statutory instrument – it has no power to amend it. The Lords has developed the practice of expressing its concerns about a statutory instrument through the use of non-fatal amendments to motions approving statutory instruments, sometimes giving explanations or reasons.<sup>50</sup> The existence of such amendments may cause the Government to reconsider its proposals. The House of Lords very rarely rejects a statutory instrument and it has done so on only three previous occasions.<sup>51</sup>

## A reformed second chamber

- 5.6 A reformed second chamber will almost certainly be more assertive than the current House of Lords, because it will be wholly- or mainly-elected. As noted in paragraphs 2.5 – 2.6, the Government welcomes the fact that where the House of Lords has serious concerns about proposed legislation, it gives voice to them. The Cross-Party Group on House of Lords reform considered that such assertiveness is unlikely to pose a risk to the primacy of the House of Commons. This primacy is currently based on the fact that the Government of the day is formed from the party or parties that can command a majority in the House of Commons. It is also based on the Parliament Acts<sup>52</sup> and the financial privilege of the House of Commons.<sup>53</sup> The Prime Minister and most senior ministers are also drawn from the House of Commons. A second chamber that is more assertive than the current House of Lords, operating against the background of the current arrangements for its powers, would not threaten primacy.

<sup>50</sup> A non-fatal amendment usually takes the form of words calling on the Government to withdraw (in the case of a draft affirmative instrument) or revoke (in the case of a negative instrument) an instrument. Sometimes a reason is proposed, regretting a particular aspect of the instrument or calling on the Government to revise it in some way.

<sup>51</sup> 18 June 1968: South Rhodesia (United Nations Sanctions) Order 1968; 22 February 2000: Greater London Authority (Election Expenses) Order 2000 and Greater London Authority Election Rules 2000; 28 March 2007: Gambling (Geographical Distribution of Casino Premises Licenses) Order 2007 [affirmative instrument].

<sup>52</sup> For further details see Chapter 2 of this White Paper.

<sup>53</sup> For further details see Chapter 2 of this White Paper.

- 5.7 Given this, the Cross-Party Group saw no reason to change the current arrangements for the powers of the second chamber once it became wholly- or mainly- elected. Moreover, the group concluded that it would also be difficult to justify making changes on a contingency basis, and before there was any evidence of the likelihood of inappropriate challenges to the primacy of the House of Commons arising. **The Government proposes that there should be no change to the powers of a reformed second chamber.**

### Parliament Acts

- 5.8 Although the Government considers that there is no case for changing the powers of the second chamber, the cross-party discussions did consider options for changes in some detail. One would be to extend the scope of the 1911 and 1949 Parliament Acts, so that they covered Bills that began in the second chamber. The group noted that in practice non-applicability of the Acts to Bills that begin in the second chamber has not given rise to recent problems or issues. Hence it would be difficult to argue that the scope of the Acts should be extended.

### Exchange of amendments

- 5.9 The group also noted that any arrangements in relation to exchange of amendments to primary legislation would have to ensure that ultimately the views of the House of Commons would prevail, so as to safeguard the primacy of the Commons. Current practices allow the exchanges between the two Houses to complete the parliamentary passage of a Bill (except for Money Bills or Bills of Aids and Supplies, or other Bills covered by the Parliament Acts) to continue until a final agreement is reached. Hence resolution is almost invariably reached without the Commons insisting on its primacy.

### Time limits

- 5.10 An alternative to changing the scope of the Parliament Acts or putting new arrangements in place in relation to exchange of amendments would be to specify how long any Bill should spend in the second chamber, including Bills that start there, in line with the 'reasonable time' convention. The Cross-Party Group noted the 2006 Joint Committee view that: "there is no problem which would be solved" by defining 'reasonable' or setting a time limit; and the reasons the Committee gave to support this statement.<sup>54</sup> The group also noted that there could be difficulties of definition and the possible risk of bringing the Speaker of the House of Commons into areas of political controversy if they had to decide on such issues.

<sup>54</sup> *Joint Committee on Conventions. Report of Session 2005-06. Conventions of the UK Parliament. Volume 1. The Stationery Office. (2006) (HL Paper 265-1. HC 1212-1.) Page 44.*

### Codifying conventions

- 5.11 The option of codifying the Salisbury-Addison Convention would create more difficulties of definition, as not only 'reasonable time', but also terms like 'manifesto Bill' and 'wrecking amendments' (or the type of amendments that would be prohibited) would have to be set out in writing. Any codification of the Convention could in principle be through statute or through some form of resolution of both Houses of Parliament. The former route in particular could open up a role for the courts in deciding matters relating to the business of Parliament, such as whether a particular Bill met a statutory definition for a 'manifesto Bill'. This could place a strain on the principle of exclusive cognisance, where each House has the power to control its own affairs. Alternatively, the option could run the risk of bringing the Speaker of the House of Commons into areas of political controversy.
- 5.12 The Cross-Party Group agrees with the conclusion of the Joint Committee on Conventions, which looked at the practicality of codifying the key conventions on the relationship between the two Houses of Parliament. The Government agreed with the Joint Committee's views that legislation, or any other form of codification that would turn conventions into rules, was not the way forward. Codification would remove flexibility, exclude exceptions and inhibit evolution in response to political circumstances.

### Secondary legislation

- 5.13 The cross-party discussions raised a number of issues in relation to the arrangements for secondary legislation that the group considered could be taken forward as part of the process of Parliamentary reform more generally.



## 6 A reformed chamber: an appointed element?

### Summary

- 6.1 This White Paper considers what the arrangements for a reformed second chamber on either a wholly or mainly elected basis might be. The Government considers that the key argument for any appointments in the second chamber is that they would preserve a significant independent element. Given this, the Government proposes that there should be no party-political appointments to a reformed second chamber. However, there should not be a bar on those who have or who have had party-political affiliations or connections being considered.
- 6.2 There was a difference of views in the cross-party talks on whether individuals who have held certain offices as public servants (for instance the Cabinet Secretary) should continue to be considered for membership of the reformed second chamber in the same way that they are now. The Government proposes that this practice should cease as part of reform, although the characteristics of distinguished former public servants are typically such that they would be extremely credible candidates for appointment to a reformed second chamber, if it were mainly, rather than wholly, elected.
- 6.3 The Government will give further consideration to and would welcome views on whether there should be provision for appointments to a reformed second chamber specifically for the purposes of enabling a particular individual to become a Government Minister.
- 6.4 The Government proposes that if there is an appointed element in a reformed second chamber, there should continue to be an Appointments Commission, which would seek applications and nominations, against published criteria. Appointments would be made on merit, with the key focus being an individual's ability, willingness and commitment to take part in the full work of the second chamber. The Government also proposes that any appointed members of a reformed second chamber should take part fully in its work, in general terms devoting the same amount of time to that work as elected members.
- 6.5 The Government proposes that, as for elected members, appointed members of a reformed second chamber should serve for three electoral cycles without the possibility of reappointment. One-third of appointed members would be replaced at each set of elections to the second chamber. The Government proposes that the Commission replace members who leave the second chamber before their term of office ends.

- 6.6 The Government proposes that if there is to be an appointed element in a reformed second chamber, with an Appointments Commission as a permanent part of those arrangements, that Commission should be on a statutory basis. Legislation should contain only broad parameters in relation to the role and operation of the Appointments Commission, to give it flexibility to respond effectively to changing needs and circumstances.
- 6.7 The Government proposes that any appointments commission should be accountable to the Prime Minister.
- 6.8 The Government proposes that there should be no reserved seats for Church of England Bishops in a wholly elected second chamber. It also proposes that if there is an appointed element in a reformed second chamber, there should be a proportionate number of seats reserved for Church of England Bishops. These seats would not count towards the proportion to be filled following nomination or application to the Appointments Commission. The Church of England would be invited to consider how it would in future select Bishops for membership of the second chamber.
- 6.9 After careful consideration, the Government proposes to endorse the recommendations of the Wakeham Commission<sup>55</sup> that providing reserved places for other churches and faith communities other than the Church of England in a reformed second chamber would be problematic. Any appointments to represent other churches and faith groups should be made through the Appointments Commission in the usual way. The Government would welcome views on whether the Appointments Commission should be given a specific remit to provide for representation of other churches and faith groups in making its appointments.
- 6.10 On the Government's proposals, the Convenor of the Crossbench Peers considers that there should be a bar on those who have or have had recent party-political affiliations or connections from being considered for any appointed element. The Conservative Party considers that some individuals should be considered automatically for membership of an appointed element and that any future Appointments Commission should continue to be non-statutory to maximise its flexibility. The Liberal Democrats propose that there should be no reserved seats for Church of England Bishops in a reformed second chamber if it includes an appointed element. However, Bishops or other representatives of the Church of England could be nominated or apply to the Appointments Commission in the usual way.

<sup>55</sup> *Royal Commission on the Reform of the House of Lords. A House for the Future.* The Stationery Office. (2000) (Cm 4534). Page 154.

## Introduction

6.11 The basis for the further work of the Cross-Party Group was to illustrate how a reformed second chamber constituted on the basis voted for by the House of Commons in March 2007 (ie either wholly or mainly elected) might be achieved. This chapter therefore explores the arguments for an appointed element. It goes on to set out views on the possible composition of any appointed element and on how members might be appointed. Views would be welcomed on whether the reformed second chamber should include appointees and if so, on the detailed proposals presented here.

## The case for an appointed element

6.12 A number of reports have recommended that elections to a reformed second chamber should be complemented by an appointed element. In February 2002, the House of Commons Public Administration Select Committee recommended that 60% of the members of a reformed chamber be elected, 20% be nominated by the political parties and 20% be independent, non-aligned members. It noted that a wholly elected chamber would leave little or no room for non-aligned people who were independent of party affiliations. It could also jeopardise the principles that no party should have an outright majority, that the House should be more diverse, and that the second chamber should include expertise and experience from people whose careers have lain outside politics.<sup>56</sup> The first report of the Joint Committee on House of Lords Reform<sup>57</sup> and the report *Reforming the House of Lords: Breaking the Deadlock*<sup>58</sup> set out a number of options, noting that a wholly elected chamber would be likely to have few if any independent members.

6.13 The view that a reformed second chamber should have both an elected and an appointed element was echoed in the manifestos of the Conservative Party<sup>59</sup> and Liberal Democrats<sup>60</sup> for the May 2005 elections.

6.14 **The Government believes that the key argument for any appointments in a reformed second chamber is that it would preserve a significant independent element.** The Crossbenchers have played a valuable role in the House of Lords, bringing a non-party perspective to the work of the chamber. The introduction of an elected element into a reformed second chamber would mean that in future, most members will have been elected as representatives of

<sup>56</sup> *House of Commons Public Administration Select Committee. Fifth Report of Session 2001-02. The Second Chamber: Continuing the Reform.* The Stationery Office. (2002) (HC 494-I). Page 23.

<sup>57</sup> *Joint Committee on House of Lords Reform. First Report of Session 2002-03.* The Stationery Office. (HC 171, HL 17). Page 23.

<sup>58</sup> Clarke, K et al (2005). *Reforming the House of Lords: Breaking the Deadlock.* University College London. Page 19.

<sup>59</sup> *It's Time for Action*, Page 21.

<sup>60</sup> *The Real Alternative*, Page 18.

one of the political parties. Without an appointed element, the advantages of a significant independent element would be lost.

- 6.15 **The Government considers that any appointed element in a reformed second chamber would be an effective way of securing the continuation of a number of independent members. The presence of a significant minority of independent members would both distinguish the second chamber clearly from the House of Commons and complement the work of the Commons by providing non-partisan viewpoints in the legislative revision process. The size of any appointed element should be at the level of the 20% voted for by the House of Commons in March 2007.**

### Composition of any appointed element

- 6.16 Currently, appointments to the House of Lords come from a number of sources. If someone is independent of any political party,<sup>61</sup> they can apply or be nominated for a life Peerage. The House of Lords Appointments Commission was established in May 2000 on a non-statutory basis to assist with the transitional phase in reforming the House of Lords. It is an independent non-departmental public body supported and funded by the Cabinet Office. The Commission considers applications and nominations, within provisions set by the Prime Minister about the timing of appointments and the number of such peers that can be created. It makes recommendations for non-party political appointments to the Prime Minister, who then makes nominations to the Monarch. The current Prime Minister has followed the precedent set by his predecessor and undertaken to pass recommendations from the Commission for non-party political appointments to the Monarch without alteration.
- 6.17 The Prime Minister also makes a number of nominations from across a range of political parties to the Monarch other than on the advice of the Commission. The Commission vets these proposed nominations for propriety. These are referred to as 'party-political nominations'. The Prime Minister also nominates a small number of former public servants (up to ten per Parliament). In addition, although many Government Ministers in the Lords have been chosen from among existing peers, Prime Ministers also nominate individuals for membership of the Lords specifically so that these people can serve as Ministers. The two most significant roles of the second chamber will continue to be considering legislation and scrutinising the work of the executive. This creates a need for sufficient members of the Government in a reformed chamber to carry out work there in relation to each Government Department.

<sup>61</sup> See Annex 6 for further details.

- 6.18 **Given the Government's view that the primary purpose of any appointed element in a reformed second chamber should be to secure the continuation of a number of independent members, it believes that, subject to paragraph 6.23, there should be no party-political appointments to that chamber.** The existence of a substantial number of elected members in a reformed second chamber will ensure proper representation for political parties, which are the cornerstone of democracy in this country.
- 6.19 **However, if there is an appointed element in a reformed second chamber, the Government proposes that, as is the case now, there should not be a bar on those who have or who have had party-political affiliations or connections being considered. Those appointed to a reformed chamber should be, individually and collectively, those able to make the best contribution to its work. Any political affiliations should be disregarded when considering whether someone is suitable to serve and should not be the basis for either preferential or detrimental consideration. However, as the basis for appointment would be to provide an independent element, appointed members of a reformed second chamber would be expected to act independently from any political party.**
- 6.20 The Cross-Party Group considered whether the Prime Minister should continue to be able to nominate a limited number of former public servants to the second chamber. It can be argued that nomination by the Prime Minister should be automatic for people who had held roles such as Archbishop of Canterbury, Cabinet Secretary and Chief of the Defence Staff, who could be unlikely to put themselves forward for appointment to the second chamber but who would bring valuable perspectives to its work.
- 6.21 The Cross-Party Group expressed a variety of views on the idea of 'automatic' nomination to a reformed second chamber. The Government considers it would be difficult to justify 'automatic' consideration for membership for any one group above others, with the exception of serving Church of England Bishops (see paragraphs 6.45 – 6.52). If there were an appointed element in a reformed second chamber, former public servants could be appointed through the general arrangements for appointments. Their suitability could be considered alongside that of other applicants and nominees. Therefore, although there would be no certainty of a place, the characteristics of distinguished former public servants would mean that they would be extremely credible candidates. **The Government proposes that there should be no expectation of membership of the reformed second chamber in the case of distinguished former public servants: each application would be considered on an individual basis.**

- 6.22 The Conservative Party considered that there was a case for an element of automaticity in the case of distinguished former public servants.
- 6.23 **The Government would welcome views on whether there should be provision for appointments to a reformed second chamber specifically for the purposes of enabling a particular individual to become a Government Minister.**

### Identification of potential appointees

- 6.24 The current House of Lords Appointments Commission invites applications and nominations. The Commission considers applications against published criteria and makes recommendations on merit. These principles have worked well and commanded general support. **The Government proposes that if there is to be an appointed element in a reformed second chamber, there should continue to be an Appointments Commission and that it should seek applications and nominations. These should be considered on merit, against published criteria.**

### Principles for appointment

- 6.25 The criteria used currently by the House of Lords Appointments Commission for non-party political appointments are attached at Annex 6. They include that applicants and nominees should:
- have a record of significance that demonstrates a range of experience, skills and competencies;
  - be able to make an effective and significant contribution to the work of the House across a wide range of issues;
  - have some understanding of the constitutional framework and the skills and qualities needed to be an effective member of the House;
  - have the time available to make an effective contribution within the procedures of working practices of the House; and
  - be able to demonstrate outstanding personal qualities, in particular integrity and independence.
- 6.26 **If there is to be an appointed element in a reformed second chamber, the Government proposes that the key focus in assessing potential appointees should be their ability, willingness and commitment to take part in the full range of the work of the chamber.** Both elected and any appointed members will bring these qualities. While account should be taken of achievement or expertise, those appointed to a reformed second chamber should hold their

membership because they are the best people for the job and will make an effective contribution to the work of the chamber, rather than because they are the most successful in their chosen field.

- 6.27 **The Government proposes that an Appointments Commission for a reformed second chamber should not have a general remit to ensure that aspects of society such as sport or the arts were represented, with the possible exception of faith (see paragraphs 6.53 and 6.54).** The role of all members of the second chamber, including any appointed element, will be to take part in debates and scrutiny across a wide range of areas. As with the current House of Lords, a reformed second chamber would be able to get access to specific expertise and experience through, for example, committees taking written and oral evidence, rather than through the appointment of members with particular expertise and experience.
- 6.28 **The Government proposes that any appointed members of a reformed second chamber should take part fully in the work of the chamber, in general terms devoting the same amount of time to this work as elected members.** This is consistent with the principle that the status of any appointed members should be on a par with those who are elected.

### Status of any Appointments Commission

- 6.29 The current House of Lords Appointments Commission is a non-statutory body. Generally, non-statutory status provides bodies of this sort the flexibility to respond to changing needs and circumstances.
- 6.30 However, a number of reports have argued that any Appointments Commission for a reformed second chamber should be statutory. The Wakeham Commission recommended that an Appointments Commission be established by primary legislation. It noted that the option of a non-departmental public body would not offer the level of independence and entrenchment required.<sup>62</sup> As noted above, the current Prime Minister follows the precedent of his predecessor in passing recommendations from the House of Lords Appointments Commission for non-party political peers to the Monarch without alteration. However, these 'self-denying ordinances' do not provide the sort of guarantee about the future behaviour of Governments that some people are seeking.

<sup>62</sup> Op. Cit. Page 132.

- 6.31 The House of Lords and House of Commons Joint Committee on House of Lords Reform<sup>63</sup> and the February 2005 report *Reforming the House of Lords: Breaking the Deadlock*<sup>64</sup> by a cross-party group of parliamentarians both recommended that a new Appointments Commission be established on a statutory basis.
- 6.32 In 2006-07, the House of Commons Public Administration Select Committee considered the possible future status, role and operation of the House of Lords Appointments Commission, in the context of considering the policy and regulatory issues arising from matters investigated by the police in response to allegations concerning the possible offer of peerages in exchange for financial assistance to political parties. The Committee reported in December 2007. It recommended, in advance of the introduction of any elected element, that the current Appointments Commission should be put onto a statutory footing,<sup>65</sup> to clarify its remit and remove the Prime Minister from decisions on the size and composition of the House of Lords.<sup>66</sup>
- 6.33 In its February 2007 White Paper *The House of Lords: Reform*, the Government set out its view that: "Whilst it would be acceptable for the Appointments Commission to remain on a non-statutory basis if its current role were to continue, it would not be appropriate if its role were to increase significantly."<sup>67</sup> **It remains the Government's view that if there is to be an appointed element in a reformed second chamber, with an appointments commission as a permanent part of the arrangements, that commission should be on a statutory basis. However, any legislation providing for an appointments commission should contain only broad parameters in relation to its role and operation, to give the Commission flexibility to respond effectively to changing needs and circumstances.**
- 6.34 The Conservative Party considers that any future appointments commission should continue to be non-statutory, to maximise flexibility.

<sup>63</sup> *Joint Committee on House of Lords Reform. First Report of Session 2002-03.* The Stationery Office (HC 171, HL 17). Page 20.

<sup>64</sup> Clarke, K et al. (2005). *Reforming the House of Lords: Breaking the Deadlock.* University College London. Page 33.

<sup>65</sup> *House of Commons Public Administration Select Committee. Second Report of Session 2007-08. Propriety and Peerages.* The Stationery Office. (HC153). Page 44.

<sup>66</sup> *Ibid*, Page 43.

<sup>67</sup> *The House of Lords: Reform.* The Stationery Office. (2002) (Cm 7027). Page 41.



## Accountability

- 6.35 Whether a statutory or non-statutory body, any appointments commission would have the power to appoint a small but significant part of the UK Parliament. Considerable power is therefore invested in it. The Government considers that confidence in any appointments commission and its decisions would be improved by a clear system of accountability. This would enhance the authority of those appointed, and so enable them to carry out their duties more effectively.
- 6.36 Public bodies are usually accountable to Government or directly to Parliament. **The Government proposes that the Appointments Commission should be accountable to the Prime Minister.**

## Making appointments to a reformed second chamber

### Criteria for appointment

- 6.37 **The Government proposes that the published criteria for appointments would need to be devised by the Commission itself and approved by Parliament. The criteria would need to reflect the broad principles (see paragraphs 6.25 – 6.28) that appointments should be based on ability, willingness and commitment to take part and a recognition that appointed and elected members should be on a par, including in relation to the contribution they are expected to make.** Leaving any more detailed criteria to the Commission itself would enable the Commissioners to take into account past experience, and would provide the flexibility needed to appoint the best candidates over time.

### Terms of appointment

- 6.38 The arrangements for any appointed members of a reformed second chamber should equate as far as possible to those for elected members. **Therefore, the Government proposes that as for elected members, those appointed would serve for three electoral cycles without the possibility of reappointment. One-third of appointed members would be replaced at each election.**<sup>68</sup>
- 6.39 Options for replacing elected members mid-term are considered in paragraphs 4.82 – 4.87. **The Government proposes that there should be arrangements to replace appointed members who leave before their term of office is due to end, analogous to whatever arrangements are made for elected members.**

<sup>68</sup> At the first three elections, no members would leave, as the House would not have reached its full complement until three electoral cycles had passed.

### The process of appointing members

6.40 The detailed process for assessing and selecting individuals to become members of the second chamber would be a matter for any appointments commission itself to devise. **The Government therefore proposes that the process should be underpinned by two broad criteria:**

- **The selection process should be straightforward and clearly understandable, with published guidelines to help those undergoing the selection process.**
- **Selection would be based on candidates providing evidence, which the Commission could verify and assess against its published criteria.**

### Formal approval of appointments

6.41 **Any Appointments Commission would recommend candidates for appointment to the reformed second chamber. The Monarch would make the appointment, on the advice of Ministers.** It is constitutionally impossible for the Monarch to approve these decisions on the advice of anyone else. Government advice to the Monarch is therefore a constitutional necessity.

6.42 The only circumstance under which the Prime Minister would alter the Commission's advice to appoint a particular individual would be if there were information about a candidate relevant to their suitability that was not available to the Commission, for example because it concerned national security. In such circumstances alone, the Prime Minister might decide not to pass on a nomination.

6.43 These arrangements would provide the appointee with the appropriate level of authority to contribute to making laws that affect the whole country.

6.44 The Liberal Democrats think that the Government of the day should have no role, either actual or formal, in appointments to a reformed second chamber and that consideration should be given to appointments being made other than through the Monarch.

### Church of England Bishops

6.45 The Church of England's unique place in society and the valuable role it plays in English national life, both religious and secular, is widely recognised. Within England, the position of the Church of England is that of the Church by law established, with the Sovereign as its supreme Governor. The relationship between the Church and State is a core part of our constitutional framework

that has evolved over centuries. The presence of Bishops in the House of Lords signals successive Governments' commitment to this fundamental constitutional principle and to an expression of the relationship between the Crown, Parliament and the Church that underpins the fabric of our nation.

- 6.46 However, the Church of England's role stretches further than constitutional principles. The Church takes a leading part in a range of spheres, both religious and secular. In partnership with many of the UK's other religious communities, the Church offers spiritual support to everyone, regardless of their beliefs. The fact that the Church's staff and volunteers often live in the heart of the community they serve adds to the effectiveness of this support. The Church of England Bishops' position in Parliament reflects this culture of promoting tolerance and inclusiveness.
- 6.47 The Wakeham Commission highlighted the valuable parliamentary role that the Church plays and its wider implications: "The Church of England Bishops' position as Lords of Parliament reflects the British history and culture of seeking to heal religious conflict and promoting ever greater religious tolerance and inclusiveness."<sup>69</sup>
- 6.48 **The Government is clear that if a reformed second chamber is wholly elected, there should be no seats for Church of England Bishops or any other group.**
- 6.49 If the number of seats available in a mainly elected second chamber reduced compared with the current House of Lords, it would be logical to reduce proportionally the number seats available for Bishops. However, practice is that Bishops attend the House of Lords on a rota basis, reflecting their other commitments. Reducing the number would make it harder for the Bishops collectively to carry out their functions in the second chamber and to continue to make their current level of contribution. **The Government therefore proposes that if there is an appointed element in a reformed second chamber, there should be a number of seats reserved for Church of England Bishops. As the number of seats generally available in the second chamber will be reduced in comparison with the current House of Lords, it would also be logical to reduce proportionally the number seats available for Bishops. These would not count towards the 20% of members appointed by an appointments commission.**
- 6.50 The Church of England would be invited to consider how it would in future select Bishops for membership of the second chamber.

<sup>69</sup> *Royal Commission on the Reform of the House of Lords. A House for the Future.* The Stationery Office. (2000) (Cm 4534), Page 152.

- 6.51 The Liberal Democrats do not think there should be reserved seats for Church of England Bishops in a reformed second chamber. Their view is that if there were to be an appointed element, there would be opportunities for Bishops or other representatives of the Church of England, as well as from other faiths, to be put forward to the Appointments Commission as candidates for membership.
- 6.52 Before firm decisions can be made, consultation with the Church of England authorities would be necessary on the details of any proposals affecting Bishops' membership of the second chamber.

### Other churches and faiths

- 6.53 The Wakeham Commission considered providing for similar representation from other faith communities. The Commission concluded that providing reserved places for other faith communities would be problematic because of the small number of seats available and the large number of faiths represented in the UK. In addition, the Commission noted that – “none of them has a suitable representative body.” It went on to recommend that the Commission should make clear to the various faith communities that it is open to receive nominations from them.<sup>70</sup>
- 6.54 **After careful consideration, the Government proposes that these recommendations be endorsed. However, it is likely that many church and faith leaders would be strong candidates for appointment by the Appointments Commission. The Appointments Commission should make this clear to leaders of all churches and faith communities and encourage applications from them. Views would be welcomed on whether the Appointments Commission should be given a specific remit to provide for representation of other churches and faith communities in making its appointments.**

### Law Lords

- 6.55 **Law Lords are life Peers and the Government proposes that they should be treated on a par with other life Peers.** Currently, serving Law Lords do not take an active part in considering legislation in the House of Lords. This effectively rules out active participation in legislative work when serving as a member of the judiciary. However, some Law Lords take an active part in the proceedings of the House on retirement.
- 6.56 In 2009, the Supreme Court will begin its work. Law Lords sitting at the time of the change will become Justices of the Supreme Court. The Constitutional Reform Act 2005 will prevent these judges from sitting and voting in the House of Lords for as long as they remain full-time judges. However, the Act allows former Law Lords to take up their place in the House of Lords on retirement from the Supreme Court.

<sup>70</sup> Ibid. Page 154.

- 6.57 The terms of appointment for Law Lords and life Peers are effectively the same once the judicial functions taken on by the Supreme Court have been excluded. Proposals about the role of existing life Peers in a reformed second chamber (see paragraphs 8.15 – 8.17) would therefore apply to those retired Justices of the Supreme Court who were formerly Law Lords and to retired Law Lords who will not become Justices of the Supreme Court. This will be irrespective of whether there is an appointed element in a reformed second chamber. If there were an appointed element, none of the existing life Peers, including Law Lords, would count towards the total for that element.
- 6.58 Any Justice of the Supreme Court appointed after the Supreme Court begins work will not be a member of the second chamber in Parliament. Therefore, the question of some form of automatic membership of the second chamber would not arise. However, the Appointments Commission could consider retired Justices of the Supreme Court for appointment in the normal way.
- 6.59 The Government proposes that the arrangements for membership of a reformed second chamber for those retired Justices of the Supreme Court who were formerly Law Lords should be the same as the arrangements for other life Peers. Justices of the Supreme Court who are not former Law Lords would not be members of a reformed second chamber.

## Appointing the Appointments Commission

### Current Commissioners

- 6.60 The House of Lords Appointments Commission is a non-departmental public body with two core functions: to recommend individuals for appointment as non-party political life peers; and, to vet most nominations for life peers, including those nominated by the UK political parties, to ensure the highest standards of propriety. The current terms of appointment of the Chairman and Members of the House of Lords Appointments Commission ended on 30 June 2008. A recruitment exercise is underway to recruit a new Chairman and Independent Members, which is being run in accordance with the independent Commissioner for Public Appointments' Code of Practice. To ensure continuity and with the approval of the Commissioner for Public Appointments, the Chairman has agreed to remain in post until the Autumn.

### Proposed membership of any appointments commission

- 6.61 **In order to ensure the appointments process does not become unwieldy or protracted, the Government proposes that any commission would comprise seven Commissioners.** An odd number of Commissioners would help reduce the possibility of stalemate in any decisions where opinions were divided.

### Eligibility for the role of Commissioner

- 6.62 **The Government proposes that serving members of the House of Commons would be barred from serving as Commissioners.** This would be consistent with the long-held principle that it is not right for members of one House of Parliament to be involved in the business of the other (exclusive cognisance), which was endorsed by the Wakeham Commission.<sup>71</sup>
- 6.63 The Government thinks that not all Commissioners need to be members of the second chamber. However, in order to ensure familiarity with the chamber and its procedures, it would be helpful for a number of the Commissioners to have experience of working there.
- 6.64 **The Government proposes that in order to ensure impartiality, a Commissioner would be ineligible for appointment to a reformed second chamber for five years after ceasing to serve on the Commission.**

### Appointment of Commissioners

- 6.65 **The Government proposes that the Monarch appoint Commissioners to a statutory Appointments Commission, on the advice of Ministers. The appointment of any Commissioners would be made through open competition in accordance with the Nolan principles.<sup>72</sup> Parliament would agree detailed criteria for the role of Commissioner. The appointment of Commissioners themselves would be based on the individuals' abilities.**
- 6.66 **The Government proposes that any Commissioners would be recruited on a non-party political basis.** This would not mean that candidates should have no political affiliations, but simply that political parties would have no role in nominating or supporting candidates: candidates would apply as individuals. Indeed, just as political affiliation should neither qualify nor debar an individual from being considered for appointment to a reformed second chamber, so the same principle should apply to Commissioners themselves. A total ban on those with party connections might exclude a large number of able candidates, as experience of a political environment may well be of benefit to those appointing members of an upper House.
- 6.67 Whether involved in politics or not, candidates would be required to demonstrate sufficient independence of mind to be able to make non-partisan decisions in the appointment process.

<sup>71</sup> Ibid. Page 134.

<sup>72</sup> See: [www.public-standards.gov.uk/about\\_us/the\\_seven\\_principles\\_of\\_life.aspx](http://www.public-standards.gov.uk/about_us/the_seven_principles_of_life.aspx)

- 6.68 **The Government's view is that there should be a balance of political views among the Commissioners.** This could involve applicants declaring any political interests in order for the final Commission to be perceived as balanced and fair in its decisions.

### Terms of appointment

- 6.69 **The Government proposes that there should be fixed, non-renewable terms for the Commissioners serving on any appointments commission. There should be provision for replacement of Commissioners who leave mid-term.**
- 6.70 The Wakeham Commission proposed that Commissioners hold office for no longer than ten years,<sup>73</sup> in accordance with the *Code of Practice* of the independent Commissioner for Public Appointments. The Office of the Commissioner for Public Appointments (OCPA) requires that public appointments be no longer than ten years.
- 6.71 **The Government proposes that Appointments Commissioners serve for one ten-year non-renewable term.** This would be in line with OCPA guidelines. A ten-year term would address the fact that if appointments were made to coincide with each general election, significant numbers of appointments would be required only every four to five years. Also, a longer term, but one with no prospect of renewal, would enable a high degree of perceived and actual independence in Commissioners' decision-making.
- 6.72 The Government proposes that, on the establishment of the Commission, three of the seven Commissioners would be recruited initially for five years only, and the remaining four would be recruited for ten years. After five years, three new Commissioners would replace the first three, each of the new Commissioners then being appointed for the normal term of ten years. With half the Commission being replaced every five years, this staggered recruitment programme would provide for continuity and the retention of experience within the Commission.

<sup>73</sup> Op. Cit. Page 135.

### Remuneration and running costs

- 6.73 The work of the current House of Lords Appointments Commissioners is undertaken on a part-time basis. If a reformed second chamber were around 400 strong, then the number of appointments needed at each round of appointments would be similar to the number currently required over the lifetime of a Parliament. **The Government proposes that the remuneration arrangements for any Commissioners should be broadly same as those for the current House of Lords Appointments Commissioners, taking account of any reduction in the size of the second chamber and subject to the advice of the Senior Salaries Review Body.**



## 7 A reformed chamber: other issues

### Summary

- 7.1 This chapter considers issues regarding the arrangements for a reformed second chamber that have not been considered elsewhere. It confirms the Government's view that membership of a reformed second chamber should no longer carry with it a peerage, nor should it be associated with the award of any other honour.
- 7.2 The Government proposes a range of provision on eligibility for a reformed second chamber. The minimum age for membership would be 18 and there would be no maximum limit. As now, British, Commonwealth and Republic of Ireland citizens would be eligible. Those subject to a bankruptcy restriction order, those holding full-time judicial offices, those with certain criminal convictions, those detained for mental health reasons, those who have been convicted of electoral fraud and those who are not UK taxpayers would be ineligible. Views would be welcomed on whether there should be provision similar to that which applies for the House of Commons disqualifying those in certain public professions and offices or who are members of certain public bodies.
- 7.3 The Government proposes that those who had served as elected members of a reformed second chamber would not be eligible to be appointed as members and vice versa. There would be provision for members to resign. There would be provision for them to take leave of absence only where they had a major illness.
- 7.4 Further consideration would need to be given to the accountability arrangements for members of a reformed second chamber, particularly in light of proposals that they serve long, single, fixed terms. The Cross-Party Group discussed the possibility of introducing recall ballots for elected members of a reformed second chamber, along the lines of those that exist in some states of the USA. These ask electors to consider whether a person should continue in public office. It is envisaged that any system of recall ballots would apply to concerns that a member was incompetent, had neglected their duties as a member of the second chamber, was corrupt (other than in relation to electoral fraud) or had committed misconduct. It is proposed that if there were a system of recall ballots for elected members of a reformed second chamber, there should be analogous arrangements for any appointed members. Proposals for recall ballots are set out in paragraph 7.23 – 7.34. Views are invited on whether there should be a system of such ballots for a reformed second chamber and if so, what the detailed arrangements for these ballots should be.

- 7.5 The Government proposes that members of a reformed second chamber should receive taxable salaries and that the Senior Salaries Review Body should be asked to advise on the level of salary that would be appropriate. It also proposes to ask the Review Body whether any salary could be linked to members' contributions to the work of the second chamber.
- 7.6 The Government proposes that members of a reformed second chamber should be allowed to vote in elections to both the House of Commons and the second chamber. A cooling off period of five years between someone ceasing their membership of the second chamber and being eligible for election to the House of Commons is proposed. This would prevent membership of the second chamber being used as an immediate launch pad for a career in the House of Commons. Comments would be welcomed on whether there should be a cooling off period between someone ceasing to be a member of the House of Commons and being eligible for election or appointment to the second chamber.

### [Link between the award of a peerage and membership of the second chamber](#)

- 7.7 **As set out in its February 2007 White Paper,<sup>74</sup> the Government proposes that the link between the award of a peerage and membership of the second chamber should cease as part of the process of further reform of the House of Lords. Membership of the second chamber should also be dissociated from the award of any other honour.**

### [Eligibility for membership of a reformed second chamber](#)

- 7.8 Under current arrangements, eligibility for membership of the House of Lords is restricted to British and qualifying Commonwealth citizens (who include citizens of British Overseas Territories) and citizens of the Republic of Ireland. This provision is the same as that for membership of the House of Commons. The following groups are not eligible to sit and vote in the House of Lords:
- those under the age of 21;
  - those subject to a bankruptcy restriction order; and
  - when relevant legislation comes into force, full-time judicial office holders.

<sup>74</sup> The House of Lords: Reform. The Stationery Office. (2007) (Cm 7027). Page 48.

### Age limits

- 7.9 The Cross-Party Group considered whether this provision should apply to a reformed second chamber. On the minimum age limit, it was noted that the minimum age limit for membership of the House of Commons is 18. It was also noted that some other countries set a much higher limit for their second than their primary chamber, in order to encourage the entry of more experienced people. For example, Italy has a minimum age limit of 40, and France, 30.<sup>75</sup> It is proposed that for a wholly or mainly elected second chamber in the UK it would not be appropriate to constrain electoral choice unduly by imposing an unnecessarily high minimum age limit for membership. **The Government proposes that the minimum age limit for membership of a reformed second chamber would be 18 and that there be no maximum age limit.**
- 7.10 The Convenor of the Crossbench Peers considers that the minimum age limit should be 30 and that there should be a maximum age limit of 70 for standing for election or being considered for appointment to a reformed second chamber. This minimum age limit would be the same as that for Senators in the USA.

### Nationality requirements

- 7.11 The Government's view is that there is no case for changing current nationality and citizenship requirements for membership of the second chamber, in advance of any wider changes in this area. **The Government proposes that in the absence of any other changes to nationality requirements for membership of the legislature, British citizens and qualifying citizens of the Commonwealth (including citizens of British Overseas Territories) and citizens of the Republic of Ireland would be eligible for membership of a reformed second chamber.**

### Those subject to a bankruptcy restriction order

- 7.12 **The Government proposes provision excluding those subject to a bankruptcy restriction order from membership of the reformed second chamber.**

### Other office holders and members of particular public professions and public bodies

- 7.13 As noted in paragraph 6.56, provision is due to come into force barring full-time judicial office holders from membership of the House of Lords. There is already wider provision barring the holders of certain offices or members

<sup>75</sup> See:  
[www.ipu.org/parline-e/reports/2158.htm](http://www.ipu.org/parline-e/reports/2158.htm);  
[www.ipu.org/parline-e/reports/2114.htm](http://www.ipu.org/parline-e/reports/2114.htm).

of certain professions from sitting in the House of Commons. The House of Commons Disqualification Act 1975 bars not only certain judicial office holders, but also members of the armed forces or the police, civil servants, those who hold offices listed in a schedule to the Act and members of certain public bodies that are also listed. The Cross-Party Group has considered whether there should be similar provision in relation to members of a reformed second chamber. Such provision would reduce the scope for conflict of interest on the part of members. However, it could restrict membership of the second chamber unnecessarily. It could be argued that the work of the chamber could benefit from having as members some of those whose public office would disqualify them from the House of Commons, provided that their position and interests were declared and public. **The Government's view is that further consideration should be given as to whether people in particular public professions, holding certain public offices or who are members of specific public bodies would be excluded from a reformed second chamber. Views would be welcomed on this issue, including on which professions, offices and bodies it might be appropriate to include in any disqualification provision.**

#### [Those convicted of criminal offences or subject to certain mental health detention orders](#)

- 7.14 Unlike the House of Commons, there is no provision barring from the House of Lords those who have been convicted of criminal offences and sentenced to a prison term of more than twelve months, nor those subject to certain mental health detention orders. **The Government's February 2007 White Paper on House of Lords reform proposed that provision similar to that which operates for the House of Commons in relation to criminal convictions and detentions for reason of mental health should apply to a reformed second chamber.**<sup>76</sup> The Government proposes that provision along these lines should be introduced.

#### [Those found guilty of electoral fraud](#)

- 7.15 The House of Commons also disqualifies from membership certain people found guilty of electoral fraud. Broadly, someone is disqualified from being a Member of Parliament for three years if they have been found guilty of illegal practices and for five years if they have been found guilty of corrupt practices. With the introduction of elected members, the Government proposes that provision on electoral fraud along the lines of that for the House of Commons should apply to a reformed second chamber. However, members of the House of Commons who have been disqualified for electoral fraud can stand again, once the period of their disqualification has expired. It was proposed earlier (see paragraph 4.11) that elected members of a reformed second chamber should be

<sup>76</sup> *The House of Lords: Reform*. The Stationery Office. (2007) (Cm 7027). Page 48.

able to stand for only one term. **The Government proposes that anyone who is disqualified from being a member of a reformed second chamber for electoral fraud would not be able to stand again.**

### Tax status

- 7.16 Over the past year, a number of members of both Houses of Parliament have proposed that members of the UK Parliament should be resident in the UK for tax purposes. It is an important way in which they demonstrate their connection with and commitment to the UK. The Government has said that it agrees with this principle, in relation to both Houses. **The Government therefore proposes that the creation of a reformed second chamber would include provision disqualifying from membership anyone who is not resident in the UK for tax purposes.**

## Accountability of members of the second chamber

### Members to serve one term only

- 7.17 It has been proposed (see paragraph 4.11) that elected members of a reformed second chamber should serve long terms and that they should not be eligible for re-election. Similar provision is also proposed for any appointed members (see paragraph 6.38). **The Government proposes that those who have served as elected members of the second chamber would not be eligible to be appointed to the chamber; and that those who have served as appointed members would not be eligible to stand for election.** Such provision would ensure that in taking part in the work of the second chamber and putting forward their views, members would not be influenced by the prospect of continued membership.

### Provision for members to resign

- 7.18 The proposals for long fixed terms for members of a reformed second chamber, without the prospect of a second term, create a need to consider what arrangements would be appropriate to ensure the accountability of members. One particular point of concern in relation to the current House of Lords is that there is no provision for members to resign, although they can apply for leave of absence. It is proposed that these arrangements be changed. If a member were to feel unable to continue working as such or wanted to cease to be a member for any other reason, they should be able to do so. If this were, as now, through application for leave of absence, the electorate in a particular constituency would not be represented fully in the second chamber while the member was away. (Paragraphs 7.36 – 7.37 considers further what arrangements might be made in relation to any member whose attendance were to fall below a prescribed level.) **The Government proposes that there would be provision**

**for members of the second chamber to resign and for any vacancy created by such a resignation to be filled.** Provision allowing existing members of the House of Lords to resign from the second chamber would come into force well ahead of the first set of elections to the second chamber. This would enable existing peers to resign before the start of the transition, should they want to do so.

- 7.19 The Government believes that in most circumstances where members may want to absent themselves from a reformed second chamber, it would be appropriate for them to resign. However, where the reason for the absence is a major illness, resignation might be inappropriate, but the member might wish to indicate that they would be absent from the chamber for some time. **The Government therefore proposes that members would be able to seek leave of absence from a reformed second chamber, but only in the case of major illness.**

### Misconduct

- 7.20 The House of Lords Code of Conduct sets standards for the personal conduct of members of the House. It goes on to reproduce the seven general principles of conduct identified by the Committee on Standards in Public Life and states that members should observe these. It also describes the primacy of the public interest and covers financial and relevant non-financial interests of members. The Code provides for ways in which complaints for alleged breaches of the Code can be made and investigations undertaken.<sup>77</sup> There are no specific sanctions for breach of the Code and no precedents for the House securing a time-limited disqualification of a member. These arrangements reflect the fact that members of the House of Lords do not receive salaries and that many of them continue with their professional and other working interests, which can help maintain expertise and experience.<sup>78</sup>
- 7.21 The House of Commons Code of Conduct is more extensive than the House of Lords Code of Conduct. Where there are alleged breaches of the House of Commons Code of Conduct, any member of the House of Commons or a member of the public can complain in writing to the Parliamentary Commissioner for Standards. There are procedures for a preliminary and if necessary a full investigation by the Commissioner. In the most difficult cases, an Investigatory Panel, comprising the Commissioner, a legal adviser and a senior member of the House of Commons can sit. In minor cases or inadvertent cases, the Commissioner has discretion to allow the Member to rectify the matter. The Commissioner reports all investigations to the Committee on Standards and Privileges which, if it agrees with the Commissioner's findings, considers what

<sup>77</sup> House of Lords Code of Conduct adopted on Monday 2 July 2001 as amended Tuesday 24 July 2001.

<sup>78</sup> See: [www.lordsappointments.gov.uk/criteria\\_guiding.aspx](http://www.lordsappointments.gov.uk/criteria_guiding.aspx).

if any penalty is appropriate. The Committee reports to the House. Possible penalties for breaches of the Code include requiring an apology, suspension and/or withdrawal of salary. The latter two sanctions require the approval of the House through a specific Motion.

**7.22 The Government proposes that in the run-up to the creation of a reformed second chamber, the House of Lords should give further consideration to the accountability arrangements that would apply to the new chamber. In particular, the House could consider:**

- **whether any changes to the House of Lords Code of Conduct might be appropriate;**
- **whether it might be appropriate to establish a Commissioner for Standards, similar to the post established in the Commons, who could carry out investigations in relation to alleged breaches of the House of Lords Code of Conduct; and**
- **whether it might be appropriate for a reformed second chamber to have provision whereby it could require an apology from a member and/or suspend them and/or withdraw their salary.**

**Alleged incompetence, neglect of duties, corruption (other than electoral fraud) and/or misconduct**

**7.23** With the long, non-renewable terms of office suggested for members of a reformed second chamber, concerns about the accountability of elected members to the electorate could arise. It is possible to envisage circumstances in which the voters in a particular constituency might feel that a particular member should no longer represent them. Such circumstances might include where there were allegations that a member:

- was incompetent;
- had neglected their duties as a member of the second chamber;
- was corrupt (other than in relation to electoral fraud; proposals addressing electoral fraud are described in paragraph 7.15); and/or
- had committed misconduct. (Any definition of misconduct could refer back to the House of Lords Code of Conduct.)

- 7.24 The Cross-Party Group therefore discussed the possibility of introducing arrangements for recall ballots, similar to those that exist in some states of the USA, for elected members of a reformed second chamber. Recall ballots ask electors to consider whether a particular person should continue in public office. If the ballot is successful, the individual ceases to serve in that office. In the USA, ballots can be held only in a specified range of circumstances, including that a certain proportion of relevant voters have petitioned for the ballot to be held.
- 7.25 It would be possible for a system of recall ballots to apply throughout a member's term of office. Given that the rationale for such ballots would be the need for additional accountability mechanisms during the later part of what would be long, non-renewable terms of office, it might be appropriate for provision to apply only after a member had served five years. **The Government would welcome views on the idea that any system of recall ballots for elected members of a reformed second chamber in the UK should apply only after they had served for five years.**
- 7.26 The proposals discussed by the Cross-Party Group included that any system of recall ballots for members of a reformed second chamber in the United Kingdom should apply only where a voter or voters in the constituency of a member consider that the member:
- is incompetent;
  - has neglected their duties as a member of the second chamber;
  - is corrupt (other than in relation to electoral fraud; proposals addressing electoral fraud are described in paragraph 7.15); and/or
  - has committed misconduct.
- 7.27 Under a recall ballot system, the voter or voters would be required to set out the reasons why they considered the member fulfilled these criteria. It would be explicit that the criteria would not be fulfilled simply because the member had spoken or voted or failed to speak or vote in a particular way in the second chamber or more widely. Any system of recall ballots would have to be such that there was no danger of it being used as a plebiscite on a particular issue. It would be important that members were able to exercise their judgement as they saw fit, without fear of being removed as a result of their views.
- 7.28 Depending on the outcome of the consultation, further consideration will be needed on how far it might be appropriate to include the detailed criteria in primary legislation. To the extent it would not, consideration on how workable definitions of misconduct might be devised will also be necessary.
- 7.29 **The Government has concluded that any system of recall ballots should include the following provision, which is based on practice in the USA.**



- 7.30 A ballot could occur only if sufficient electors in the relevant constituency called for one. This would be done through the circulation of a petition, which would have to gather a certain number of signatures within a certain time for the ballot to take place. It is proposed that the requirement about the number of signatures and the time allowed for the petition should be stringent, to deter malicious or frivolous ballots. It is considered that the requirement for support could be set at 40% of the number who voted in the election at which the member was elected. It is considered that 90 days might strike an appropriate balance between the time needed to organise a petition and the need to minimise the period during which there was uncertainty about the member continuing in office.
- 7.31 If the requirements for the petition were met, a ballot would take place within a short, specified period of time. The ballot would ask voters whether the member should continue in office. It is considered that it may be appropriate to set a minimum threshold that would have to be met for a member not to continue in office. This could be a proportion of the total registered electorate in the constituency (ie not just those voting in the recall ballot). It would not be appropriate to have a threshold higher than half the total electorate. A higher threshold could result in a situation where the majority of voters in the constituency considered that the person should leave office but they remained nonetheless.
- 7.32 If the recall ballot were unsuccessful (ie more than the required number of people voted for the member to continue in office), the member would continue automatically as such for the remainder of their term.
- 7.33 If the recall ballot were successful (ie less than the required number of people voted for the member to continue in office), a by-election would be held. The previous office holder would not be allowed to stand in that by-election (or to stand for election again, or to be appointed as a member of the second chamber). The person who was successful at the by-election would be elected for the remainder of the term of the person who had been removed as a result of the outcome of the recall ballot. The Government's view is that there should be provision to cover instances where the remaining term of office of the person who was successful at the by-election is relatively short. These arrangements should reflect whatever is decided on in relation to filling vacancies for elected members mid-term. (See paragraphs 4.82 – 4.87.)
- 7.34 If a system of recall ballots were adopted in relation to elected members, there would be analogous provision in relation to any appointed members. This could take the form of arrangements by which the Appointments Commission could consider adverse reports about the standard of behaviour of appointed members. This would be only in relation to the grounds that applied for recall ballots. If the Appointments Commission were to consider that the member had

not behaved in an appropriate way, it would be able to recommend ending their membership of the second chamber, and there would be a process for cessation of membership in such cases.

- 7.35 **Views and comments would be welcomed on whether there should be arrangements for recall ballots for elected members of a reformed second chamber, and on analogous arrangements in relation to any appointed members and if so, on the detail of those arrangements.**

### Attendance

- 7.36 The Government is clear that members of a reformed second chamber should be held to account if they do not attend regularly. The Local Government Act 1972 provides that if a member of a local authority fails to attend meetings of the authority (or relevant committees of that authority) for a period of six months, they will be disqualified. There is provision whereby this provision is disregarded, if the authority approves the reason for absence before the end of the six-month period. It is proposed that there be similar provision in relation to members of a reformed second chamber. **The Government proposes that those who do not attend for any period of six months should be disqualified as members, unless they have put their reasons for non-attendance to a committee of the second chamber, which has approved those reasons before the expiry of the period.**
- 7.37 **It is also proposed that consideration be given to including non-attendance in any system of recall ballots for elected members.** The arrangements could be triggered in circumstances where voters were dissatisfied with the level of the member's attendance in the second chamber, but where the non-attendance was not sufficient to invoke any disqualification provision. There would be analogous arrangements in relation to appointed members. Views on this proposal would be welcomed.

### Remuneration for members of a reformed second chamber

- 7.38 Currently, members of the House of Lords are unpaid, with the exception of certain office holders, Ministers and the Law Lords. They do, however, receive non-taxable allowances to cover expenses incurred in relation to their parliamentary duties. The members of virtually all the second chambers in other countries are paid. **The Government proposes that members of a reformed second chamber in the UK should receive taxable salaries.**

- 7.39 **On the level of salary to be paid, the Government considers that the advice of the Senior Salaries Review Body should be sought.** In seeking the advice of the Review Body, it is proposed to set out particular factors for the Review Body to consider in formulating its advice. The following factors might be considered:
- the particular roles of the second chamber as set out in Chapter 5;
  - either all or the majority of the members would be elected;
  - the eligibility criteria of any appointees, as set out in Chapter 8;
  - the expectations for the levels of skills (eg the ability to speak authoritatively), as set out in Chapter 6;
  - the expectation of the highest levels of personal integrity;
  - the expectation of high levels of attendance and various eligibility and disqualification criteria, as set out earlier in this chapter.
  - that members would be allowed to undertake other work part-time;
  - that members would not have constituency responsibilities to the extent that members of the House of Commons do; and
  - the length of members' terms of office (12-15 years).
- 7.40 The Review Body would also be asked to set the level of salary for members of a reformed second chamber by reference to the comparative responsibilities of associated members of other UK legislatures. The current salary for a Member of Parliament is £61,820; for a Member of the Scottish Parliament, £53,091; for a Member of the Welsh Assembly, £50,692; and for a Member of the Northern Ireland Assembly, £43,101. **As indicated above, the Government considers that the responsibilities of members of a reformed second chamber would be less than for members of the House of Commons. The Government considers that as members would be members of the UK legislature, their salaries should be more than those of members of the devolved legislature and assemblies.**
- 7.41 The Cross-Party Group discussed the idea of linking any salary for members of a reformed second chamber to the extent to which they participate in the work of the chamber. **The Government proposes that the Senior Salaries Review Body be asked to advise on the feasibility of linking a salary to a member's contribution.** This could be done through either linking the salary to a member's attendance or through deductions if attendance were to fall below a certain level (other than where there was a valid reason for absence, eg sickness).

7.42 There are currently a number of salaried posts in the House of Lords.<sup>79</sup> The Senior Salaries Review Body has previously made recommendations on what salaries should be paid to the holders of these offices. **It is proposed that the Review Body be asked to consider what, if any, changes to these salaries should be made alongside any introduction of salaries for all members of the reformed second chamber.** The Review Body has also made recommendations about the entitlements payable to Government Ministers in the House of Lords. Again, it is proposed that the Review Body be asked to consider what, if any, changes would be appropriate to these entitlements, if there were a general system of salaries.

### Implications of membership and past membership of a reformed second chamber

7.43 **The Government proposes that someone should not be a member of the second chamber and a Member of the House of Commons simultaneously.** These are both demanding roles and it would not be practical for someone to fulfil them both effectively at the same time.

7.44 Current rules prevent members of the House of Lords from voting in a general election. **The Government proposes, in line with its view set out in its February 2007 White Paper,<sup>80</sup> that members of a reformed second chamber should be allowed to vote in elections to both the House of Commons and the second chamber.**

7.45 The Government also set out in the February 2007 White Paper its intention that a reformed second chamber should attract into the UK legislature those who have wider interests outside politics, including among the members representing political parties. The White Paper set out the Government's view that membership of a reformed second chamber should not be used to build a political base for a career in the House of Commons.<sup>81</sup> **The Government proposes that a cooling off period of five years be required between someone ceasing their membership of the second chamber and being eligible for election to the House of Commons.**

7.46 The Conservative Party considers that rather than any cooling off period, former members of a reformed second chamber should be ineligible to stand as Members of Parliament

7.47 The Government's proposal for a cooling off period raises the question of whether there should be a similar cooling off period for former MPs. During such a period, they would not be eligible for election or appointment to the second chamber. The Government would welcome views on whether there should be a cooling off period.

<sup>79</sup> These are Lord Speaker, Leader of the Opposition, Opposition Chief Whip, Chairman of Committees and Principal Deputy Chairman of Committees.

<sup>80</sup> The House of Lords: Reform. The Stationery Office. (2007) (Cm 7027). Page 48.

<sup>81</sup> Ibid.

## 8 A reformed chamber: making the transition

### Summary

- 8.1 Decisions will have to be made about how quickly proposals for moving to a fully reformed second chamber are implemented, in particular about the future arrangements for existing members of the House of Lords.
- 8.2 10.2 The transitional phase will be critical to the effective operation of a reformed second chamber, both during the transition itself and in the longer term. Peers, as members of the second chamber, will have a crucial role during the transitional phase, ensuring the chamber works effectively with the House of Commons and transmitting knowledge to new members.
- 8.3 The Government proposes that during the transition to a fully reformed second chamber, there should be no further by-elections for hereditary Peers to become members of the chamber. The sitting and voting rights of the remaining hereditary Peers would be removed, but the timing of this requires further consideration. This is linked to the need for further discussion about how far the rights of life Peers to sit and vote should continue during the transition, and whether they should continue after that phase is complete.
- 8.4 This White Paper sets out three options in relation to the transition to a fully reformed second chamber. One is to allow all life Peers to continue to be members of the second chamber for life, but for hereditary Peers to leave when the third group of elected members arrives in the reformed second chamber. Another is for all existing peers to leave when the third group of elected members (and any appointed members) arrives. This would be the first point at which there would be a full complement of new members. The third option provides for existing peers to leave in three groups, each coinciding with the arrival of a group of new members.
- 8.5 The Government would welcome views on these options.

### Introduction

- 8.6 Earlier chapters of this White Paper have made proposals for how and when groups of elected (and possibly some appointed) members might take up their places in a reformed second chamber. The Government proposes that the entry date for each group would coincide with the start of a new parliamentary

session following a general election to the House of Commons. Members of a reformed second chamber would serve for three terms. Under the Government's proposals, the length of each term would be determined by the timing of general elections. Terms would run from the start of a new session following a general election to the date Parliament was next dissolved for a general election. Very broadly, members might expect to serve for around 12 -15 years (see paragraphs 4.11 and 6.38).

- 8.7 Under the proposals put forward by the Liberal Democrats, the entry date for each group of new members would coincide with elections to the devolved legislature and assemblies and to local authorities. Members would therefore serve fixed terms of twelve years.
- 8.8 Under either of these proposals, decisions will have to be made about how quickly they are implemented. In particular, decisions will have to be made about the future arrangements for existing members of the House of Lords.

### The transitional phase

- 8.9 During the build up of the reformed second chamber there would be a transitional phase, when initially only one group and then two groups of new members had joined. With the entry of the third group, the new membership of the second chamber would be complete.
- 8.10 The transitional phase will be critical to the effective operation of a reformed second chamber, not just during the transition itself, but also in the longer term. In particular, it will be during the transitional phase that the working relationship between the reformed second chamber and the House of Commons is forged. As noted in paragraph 2.2, the Government is clear that a reformed second chamber should continue as the second chamber and that there will be no change to the primacy of the House of Commons.
- 8.11 During this transitional phase, new internal practices and relationships with the House of Commons will develop. The Government welcomes this. As with many aspects of the British constitution, the process of development will most likely be a gradual one, combining valuable aspects of the working of the current House of Lords with the evolution of new conventions, which may better suit new circumstances. A sudden, radical change in the way the second chamber operates, coinciding with the start of the next phase of reform, would be unhelpful and potentially destabilising.
- 8.12 That is why the Government believes that there would be a crucial role for peers as members of the second chamber during the transitional phase. Peers would have key roles in ensuring that the second chamber continues to work effectively with the House of Commons and in transmitting knowledge to new members.

- 8.13 Consideration needs to be given to how many peers should remain during the transition and for how long. Decisions also have to be made about whether any existing peers should remain in the second chamber beyond the point at which the third group of new members arrives and at which the chamber would, in the absence of any peers, be constituted fully on its new basis.

### The position of existing hereditary Peers

- 8.14 The right of most hereditary Peers to sit and vote in the House of Lords was removed by the House of Lords Act 1999. Ninety hereditary Peers (plus the holders of the offices of Earl Marshal and Lord Great Chamberlain) remain as members of the House of Lords pending the next stage of reform. When a hereditary Peer dies, there is a by-election to fill the vacant place. During the passage of the 1999 Act the intention was made clear that the next phase of House of Lords reform would include the removal of the sitting and voting rights of the remaining hereditary Peers in the second chamber. Under the provisions of the House of Lords Act 1999, two hereditary Peers who are Royal Office holders – the Earl Marshal and the Lord Great Chamberlain – retained their seats in the House. The office holders do not need to sit in the second chamber to fulfil their duties as members of the Royal Household. **The Government proposes that there should be no further by-elections to select hereditary Peers to sit in the House of Lords during the transition to a reformed second chamber.**

### The position of existing life Peers

- 8.15 The Government noted in its February 2007 White Paper that: "The current members have entered the House in the expectation that they will stay for life. Some will have given up careers and other roles to do so. It would be unfair to require them to leave in these circumstances."<sup>82</sup> The Government remains very conscious that this is the formal basis on which existing life Peers entered the House of Lords.
- 8.16 The context for the February 2007 White Paper was that it considered the range of options for the composition of a reformed second chamber. It looked at an all-appointed membership, an all-elected membership and hybrid options. It presented a model of how a hybrid House might work, based on the assumption that half its membership was elected. Options for a second chamber which include a substantial appointed element provide a different context for consideration of the position of existing life Peers than that provided for by the outcome of the free votes in the House of Commons in March 2007. The model in the February 2007 White Paper showed 540 members, of whom half (270) would be appointed. This White Paper considers a reformed second

<sup>82</sup> The House of Lords: Reform. The Stationery Office. (2007) (Cm 7027). Page 50.

chamber with a maximum size of 450 members. Based on the outcome of the free votes in the House of Commons, the membership of the reformed second chamber would be either wholly elected or 20% appointed. On a chamber of 450 members, the appointed element would be 90. If the size of the reformed chamber were smaller, any appointed element would be reduced proportionately.

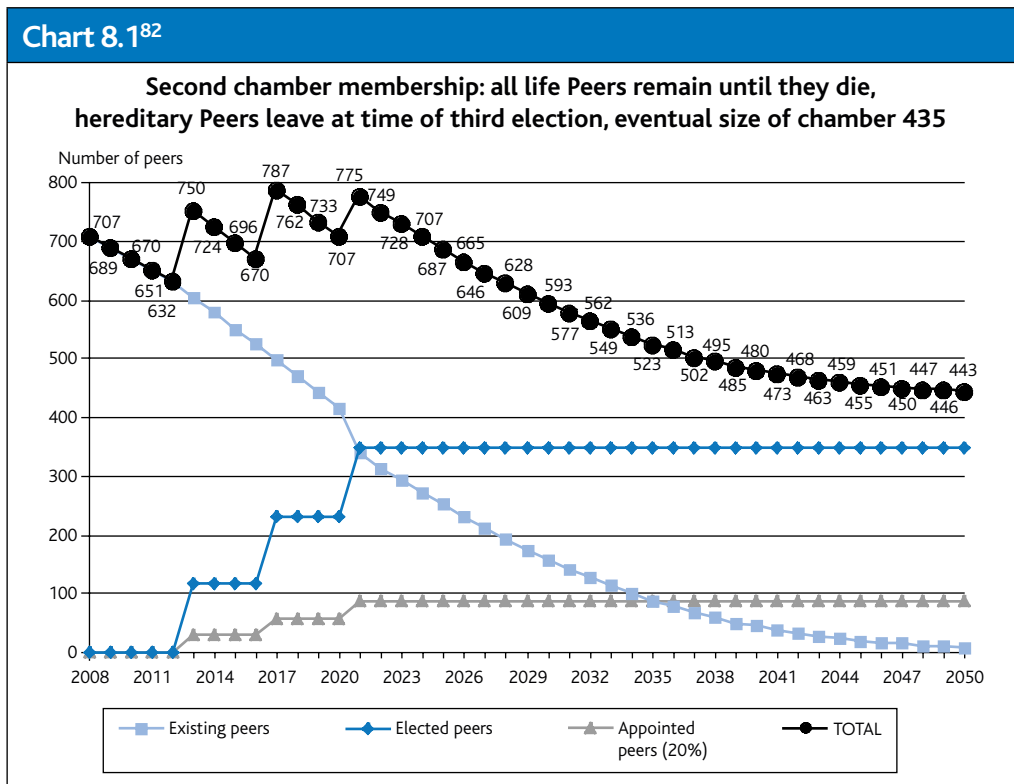
- 8.17 It is for further consideration and discussion how far the rights of life Peers to sit and vote should continue during the transition to a wholly or mainly elected second chamber and whether they should continue after that phase is complete. This White Paper looks at a number of options, which were discussed by the Cross-Party Group. The Government would welcome comment and debate on these options.

### Option one: Allowing all life Peers to continue to be members of the second chamber for life

- 8.18 Chart 8.1 illustrates the possible composition of the second chamber over time on the basis of the Government's proposals in this White Paper. It assumes the final size of the second chamber, once all existing peers have departed, would be 435, of whom 80% would be elected.<sup>83</sup> This chart excludes any seats reserved for Church of England Bishops in an 80% elected chamber. The final total of 435 new members is reached through the arrival of three groups, each of 145 members. This reflects the proposals in this White Paper that new members be elected (and any appointed members appointed), in thirds, with elections taking place at the same time as general elections. Each new member would serve for three electoral cycles. In the illustration in Chart 8.1, 2013, 2017 and 2021 are hypothetical general election dates. After the third group of new members arrives in 2021, the total of members elected or appointed under the new arrangements would remain at 435. At each subsequent election, one group of 145 members would end their term of service, but a new group would arrive. Chart 8.1 assumes that the remaining sitting and voting rights for hereditary Peers are removed at the point at which the third group of new members is elected (or appointed) to the second chamber and the total of 435 new members is reached.

<sup>83</sup> There is no implication that either the Cross-Party Group or the Government favours this specific size of second chamber, nor an 80%, rather than a 100% elected chamber. The chamber size of 435 members is used as an illustrative example, as this is the mid-point between the various sizes of second chamber illustrated in Chapter 4 and Annex 2 of this White Paper. These sizes range from 420 to 450. One specific model in Chapter 4 and Annex 2 provided for a second chamber with this final size. Hence that model, which was for an 80% elected chamber, with elections based on a list system, was used for the purposes of illustrating transitional options. The use of this particular model for this particular purpose does not imply any preference for it over the other models included in Chapter 4 and Annex 2.





8.19 Chart 8.1 shows that if existing life Peers were to remain in the second chamber for life, it is likely to be at least 2040 before the chamber is constituted fully on a new basis.<sup>84</sup>

8.20 The Cross-Party Group has also considered two alternative approaches which would ensure that the reformed chamber would be constituted fully on a new basis by the time the third group of new members were elected (and possibly appointed). These options reflect the view that existing peers should contribute during and to the transition to a reformed second chamber. The Government is also concerned to ensure that any arrangements that do not provide for life Peers to remain in the second chamber for life while hereditary Peers left at the third election would not have an adverse effect on the balance between the parties that currently exists across peers in the House of Lords. The Government’s February 2007 White Paper noted that: “The removal of the hereditary Peers will disadvantage the Conservatives much more than the

<sup>84</sup> In Charts 8.1 – 8.3, House of Lords membership for 2008 is as at June 2008. The starting figure of 707 peers does not include Lords Spiritual and peers on Leave of Absence. Law Lords are included in the model in the same way as life Peers. It is assumed that between June 2008 and 2013, 28 new life Peers are appointed. Broadly, this figure reflects the current rate of appointments by the House of Lords Appointments Commission. During the same period, 130 life and hereditary Peers are assumed to die. This figure reflects survival probabilities (based on the gender and age of existing life and hereditary Peers) published by the Government Actuary’s Department. In Charts 8.1 and 8.2, between 2013 and 2017, a further 108 life and hereditary Peers are assumed to die, again based on actuarial rates. The number of assumed deaths between 2017 and 2021 is also 103. No other departures are assumed. The rate of deaths beyond 2021 also reflects survival probabilities published by the Government Actuary’s Department.

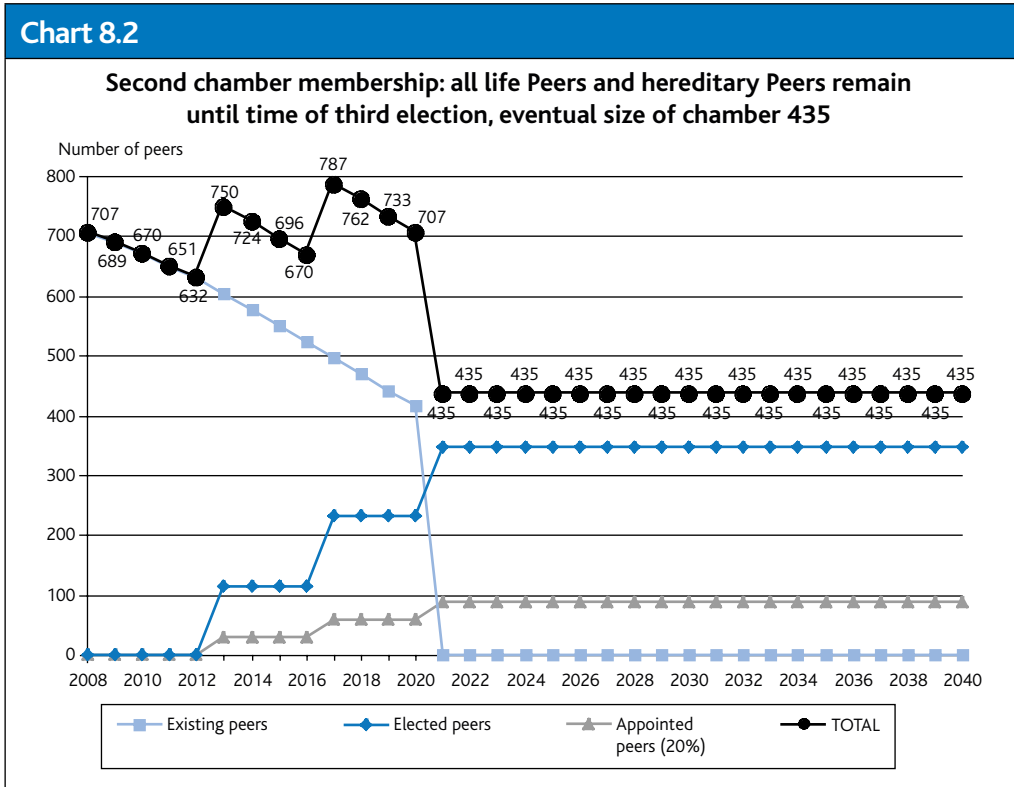
other parties, not just because there are more Conservative hereditary Peers but also because the average age of Conservative life Peers is higher than that of the other parties.”<sup>85</sup> The Government noted that the cross-party talks would consider – “the need for action to avoid gratuitously cutting Conservative Party representation in the Lords when and if the remaining hereditary Peers are removed.”<sup>86</sup> The average age of those on the Crossbenches is also higher than that of members of the Labour Party and the Liberal Democrats in the House of Lords. The alternatives to allowing life Peers to remain in the second chamber for life that have been considered therefore provide for hereditary Peers to depart at the same time as life Peers, in order to maintain the current party balance.

### Option two: Existing peers depart when the third group of new members arrives

8.21 Chart 8.2 makes the same assumptions as Chart 8.1 in terms of the final size of the second chamber and the timing of the arrival of new members. This example also uses the same assumptions about the creation of new life Peers between 2007 and 2013 and about the deaths of hereditary Peers between 2007 and 2013 and 2013 and 2017. However, in this example, it assumes that those hereditary and life Peers who are members of the House of Lords at the time of the first elections (and possibly appointments) to a reformed second chamber (assumed as 2013 for modelling purposes) will leave at the time of the third elections (assumed as 2021 for modelling purposes). This option means that at the first point at which there would be a full complement of new members, the fully reformed chamber would also come into existence (because those peers remaining in the chamber at that point would all leave).

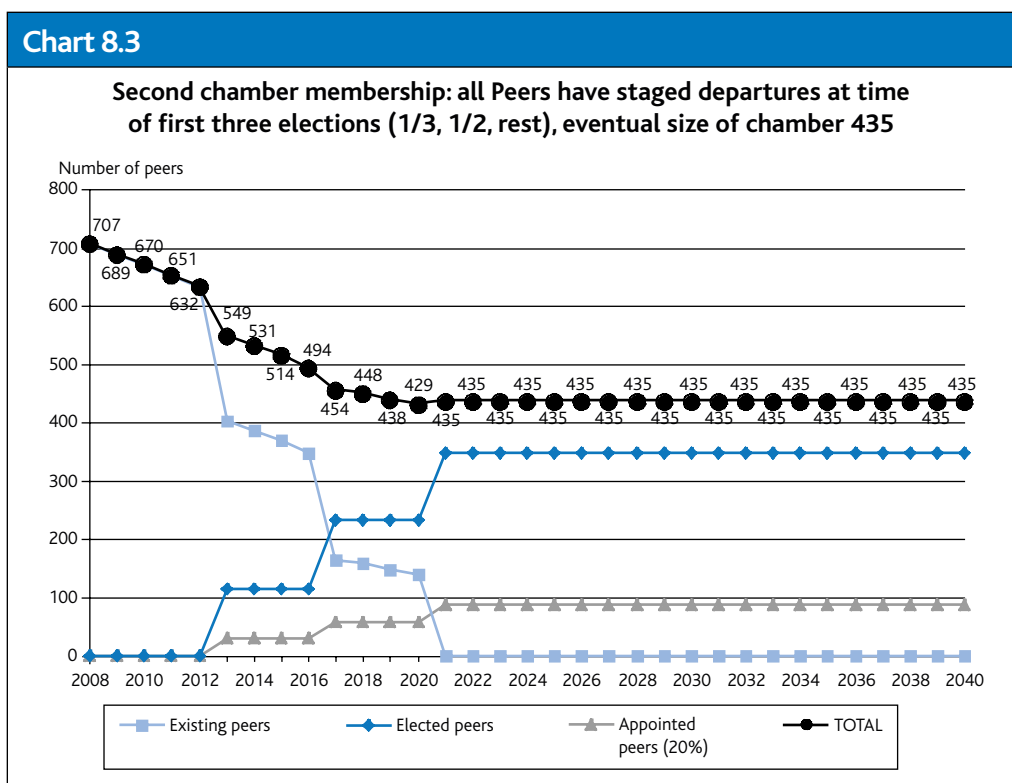
<sup>85</sup> The House of Lords: Reform. The Stationery Office. (2007). (Cm 7027). Page 53.

<sup>86</sup> House of Commons Hansard 19/07/2007 col 450.



8.22 This option minimises the extent to which life Peers would be compelled to leave, commensurate with putting the second chamber fully onto its new basis at the time at which the third group of new members arrived. The modelling suggests that under this option, around 340 of the current total of 615 life Peers (excluding those on leave of absence) would need to leave at the time of the third election.

### Option three: Existing peers depart in three groups, each coinciding with the arrival of a group of new members



8.23 Broadly, this option provides for around one-third of existing peers to leave at the time of the first elections to a reformed second chamber, around half the remainder to leave at the time of the second elections and the rest to leave at the time of the third elections. This final date is when the fully reformed chamber would otherwise come into existence.

8.24 Chart 8.3 reflects the same assumptions about the deaths of existing peers as Charts 8.1 and 8.2 (see footnote 84). These are reflected in the falls in the number of existing peers shown between the first and second and second and third elections to the second chamber. However, under this option some peers would have to leave at the times of the first, second and third elections. There would be a need to decide which individual peers would depart and which remain at each of these times. It is possible that some peers, particularly those who were older and/or who do not attend the House of Lords frequently, might choose to resign,<sup>87</sup> mitigating the need for compulsory departures. However there would need to be 'long stop' provision to manage departures.

<sup>87</sup> Chapter 7 of this White Paper proposes that there should be provision for members of a reformed second chamber to resign.

- 8.25 One option would be to leave it to the parties and groups to decide which peers should remain at which stage, using whatever basis they considered appropriate. Alternatives would be provision for elections organised by the House authorities, along the lines of those held for hereditary Peers following the passage of the House of Lords Act 1999 or managing departures by age.

## General

- 8.26 Any life Peers who resigned from or were compelled to leave the second chamber would continue to hold their titles.
- 8.27 **The Government would welcome comments on the three options for the position of existing peers presented here.**

## Financial arrangements for life Peers remaining during the transition

- 8.28 Chapter 7 includes proposals for remuneration of members of the reformed second chamber. The Government proposes that the arrangements for elected members (and any members appointed under new arrangements) should be on a different basis from that of existing peers.
- 8.29 It could be argued that all those serving as members of the second chamber during the transition to a fully reformed chamber should receive the same remuneration. The Government proposes that this be the case if there is an appointed element in the reformed chamber. If, however, a reformed second chamber is wholly elected, then it could be argued that elected members should receive different remuneration from life Peers remaining for some or all of the period of the transition. Different remuneration would reflect the fact that the Government proposes that new members of the reformed second chamber should make themselves available when the chamber is sitting and take a full part in its work. This is a different basis to that on which existing life Peers were appointed.<sup>88</sup> It is proposed that if it is decided that the reformed second chamber will be wholly elected, further consideration should be given to whether, during the transition, existing peers continue to be remunerated on the current basis or in the same way as new members.

<sup>88</sup> The criteria for appointment used by the House of Lords Appointments Commission include: "With[in] the time available, to ensure they can make an effective contribution within the procedures and working practices of the House of Lords. This does not necessarily mean the same amount of time expected of "working peers". The Commission recognises that many active members continue with their professional and other working interests and this can help maintain expertise and experience." See: [www.lordsappointments.gov.uk/criteria\\_guiding.aspx](http://www.lordsappointments.gov.uk/criteria_guiding.aspx).

## 9 Costs

### Costs of a reformed second chamber

- 9.1 There are a number of variables to consider before making any assumptions about the overall cost of a reformed second chamber. The Government will work up a more detailed analysis once there are firmer proposals in particular areas, for instance the trajectory for reducing the size of the second chamber. The steady state of the cost of the reformed second chamber will depend on the remuneration of new members, which the Government proposes be the subject of consideration by the Senior Salaries Review Body (see Chapter 7). It is important to bear in mind that newly elected members of a reformed second chamber would not be performing a constituency role to the same extent that Members of Parliament do and would therefore not have the same needs for accommodation and staff.
- 9.2 The net operating cost of the current House of Lords over the past three financial years is set out in the table below<sup>89</sup>. The Government's intention is to ensure that the costs of a reformed second chamber are maintained at current levels or lower.

Expenditure type	2006/07 (£000)	2005/06 (£000)	2004/05 (£000)
Staff costs	19,651	16,547	15,535
Members' Expenses	17,718	15,613	14,429
Security	9,313	9,112	8,122
Property costs	19,379	19,068	22,811
Other expenditure	12,510	10,338	10,292
Non-cash items	27,354	41,070	24,183
Income	(7,303)	(5,366)	(4,606)
<b>Total</b>	<b>98,622</b>	<b>106,382</b>	<b>90,766</b>

### Cost of elections

- 9.3 Combining elections to the second chamber with other elections could generate efficiency savings. There would be separate costs for printing and counting ballot papers, but the cost of polling stations (both staff and accommodation) could be shared. There would also be opportunities to combine postal voting and to share equipment. The additional cost of elections to the second chamber alongside general elections could be in the region of £43m. This takes into account approximately £13m for election mailings, such as the provision of free postage and campaign leaflets, as elections to the second chamber are likely to generate more candidates than there are seats compared to general elections.

<sup>89</sup> House of Lords Annual Report (2006/07). The figures are in resource terms.

## Costs of a statutory Appointments Commission

- 9.4 Chapter 6 discusses setting up a statutory Appointments Commission and the need for further consideration of the Senior Salaries Review Body about the remuneration of Commissioners. The cost of creating a new body is likely to be in the region of £1.5m, including the set-up and initial running costs of the Commission.

## 10 A reformed chamber: next steps

10.1 Comments and views are sought from as wide a range of people as possible on the proposals contained in this White Paper. Arrangements will be made for discussions with parliamentarians, including non-party independent members. Views from interest groups and members of the public are also very welcome. Views can be put forward by:

10.2 Writing to:

House of Lords Reform Team  
Ministry of Justice  
6.07  
Selborne House  
54 Victoria Street  
LONDON  
SW1E 6QW

10.3 E-mailing: [lords.reform@justice.gsi.gov.uk](mailto:lords.reform@justice.gsi.gov.uk)



# 11 Conclusions

- 11.1 Reform of the House of Lords, to bring it into line with our modern society and thinking, is a key part of the Governance of Britain programme. This White Paper sets out specific proposals, aimed at achieving reform through cross-party consensus, on how a reformed second chamber that is wholly or mainly elected might be achieved.
- 11.2 Although differences between the parties exist on some of the detail of reform, there is broad consensus that current arrangements do not reflect as well as they could the needs of a twenty-first century democracy. All, or at least the majority, of those people who sit in the second chamber of the country's legislature should be there because the citizens of the country have elected them. This White Paper proposes how such change might be realised and implemented.
- 11.3 The White Paper is set against the backdrop of this Government's commitment to thorough and ongoing constitutional reform across a range of issues. The Government believes it is vital that our democratic institutions enjoy increased legitimacy, are more trusted and are more responsive to the people they serve.
- 11.4 As Parliament is the supreme legislative body of the UK, reform of its upper chamber is a major element of this wider constitutional renewal. It is hoped the proposals in this White Paper will be the launch pad from which a reformed second chamber will be able to continue the process of adapting to new times and circumstances. They follow on from the votes in the House of Commons and set out what the House could look like as a result of the views expressed by the Commons. The Government's vision is of a renewed second chamber, with clear legitimacy, playing its full part in scrutinising the proposed laws, policies and work of the government of the day. Creating such a chamber is a key part of this Government's plans to reinvigorate our democracy.