



Executive Summary

1. Reform of the House of Lords raises many complex and interrelated issues which have defied resolution for more than 100 years. But there has never been a better time to make progress.
2. The departure of most of the hereditary peers from the House of Lords has made it necessary to focus on the basic questions. What is the role of the second chamber? What contribution could it make to the political life of the United Kingdom in the 21st century? What is the modern rational basis on which it should be constituted?
3. The United Kingdom's constitution has been evolving – and fast. Devolution and decentralisation, the impact of the Human Rights Act 1998, developing relations with the European Union – all these factors need to be taken into account in deciding the shape of the new second chamber.
4. Our report points the way to a new second chamber for the United Kingdom Parliament. It traces the arguments which led to our conclusions. It defines the roles and functions that we recommend the new second chamber should perform. We show how the second chamber can complement and support the decisive political role of the House of Commons while increasing the effectiveness of Parliament as a whole in scrutinising proposed legislation and holding the Government to account. We examine the various suggestions for creating a second chamber fit to carry out this enhanced role. We make a number of proposals which represent a clear break from the past. The second chamber we envisage will build upon the strengths of the present House of Lords but it will also have important new sources of authority. If our recommendations are accepted the link between the possession of a peerage and membership of the second chamber will be broken.
5. We began our work by looking at the *roles* which the reformed second chamber could play. We then considered the *powers* it should have and the specific *functions* it should perform. Our conclusions on these matters gave us the basis for determining the *characteristics* which the reformed second chamber should possess and it was this assessment that shaped our recommendations on how the second chamber should be *constituted*.

The challenges

6. We needed to find a way of building on the strengths of the existing House of Lords while creating a new second chamber better adapted to modern circumstances. Change must be in a direction, and at a pace, which goes with the grain of the traditional British evolutionary approach to constitutional reform, while taking this once-in-a-lifetime opportunity to produce a coherent blueprint for the second chamber of Parliament.
7. We were also determined to define the role and functions of the new second chamber in terms which demonstrated that it has a real and important part to play in the political life of the country. At the same time we needed to allay fears that it could undermine the pre-eminence of the House of Commons as the United Kingdom's primary democratic forum.

8. In particular, we wanted to produce recommendations which would illustrate the crucial trilateral relationship between the Government, the House of Commons and the new second chamber. We took into account the fact that the stability of the trilateral relationship could be affected by the powers of the new second chamber and also by the way its members are selected.
9. We saw the need for a new second chamber with the authority and confidence to function effectively and to use its powers wisely. At the same time we recognised the danger of setting up an institution which could threaten the status of the House of Commons and cause constitutional conflict or whose members could rival those of the House of Commons (for example in the discharge of their constituency representative role).
10. Above all, we were keen to make proposals that would produce a new second chamber distinctively different from the House of Commons, whose members were more representative of the whole of British society and who could bring a wider range of expertise and experience to bear on the consideration of public policy questions.
11. We acknowledged from the outset that it would be wrong – as well as futile – to try to make the second chamber a politician-free zone. Parliament is a place where political issues are debated and fought over, and the second chamber cannot and should not be disengaged from that process. It will need a cadre of men and women with appropriate political experience to help it play a constructive role. But the new second chamber should not simply be a creature of the political parties, and the influence of the parties on individual members should be minimised. We wanted to create a new second chamber which was politically astute but not a home for yet another group of professional politicians; which provided an appropriate role for the political parties but discouraged sterile partisan confrontation; and which included members of the political parties but was designed to limit the parties' influence and foster the exercise of independent judgement.

Roles

12. The new second chamber should have four main roles:
 - It should bring a range of different perspectives to bear on the development of public policy.
 - It should be broadly representative of British society. People should be able to feel that there is a voice in Parliament for the different aspects of their personalities, whether regional, vocational, ethnic, professional, cultural or religious, expressed by a person or persons with whom they can identify.
 - It should play a vital role as one of the main 'checks and balances' within the unwritten British constitution. Its role should be complementary to that of the House of Commons in identifying points of concern and requiring the Government to reconsider or justify its policy intentions. If necessary, it should cause the House of Commons to think again. The second chamber should engender second thoughts.
 - It should provide a voice for the nations and regions of the United Kingdom at the centre of public affairs.

Powers

13. No radical change is needed in the balance of power between the two Houses of Parliament. The new second chamber should retain the ‘suspensory veto’ set out in the Parliament Acts. This will give it the power to delay the enactment of proposed legislation but not to prevent the passage of a Commons Bill which has been approved by the House of Commons in two successive sessions of Parliament.

14. The corollary of recommending that the new second chamber should have the same powers as the present House of Lords is that it should continue to consider all Government business within a reasonable time and that the principles underlying the ‘Salisbury Convention’ should be maintained. The second chamber should respect a governing party’s general election manifesto and be cautious about challenging the clearly expressed views of the House of Commons on major issues of public policy.

15. The absolute (but unused) power of the House of Lords to veto Statutory Instruments should be adapted so that any vote against a Statutory Instrument in the new second chamber could be overridden by an affirmative vote in the House of Commons. While this would represent a diminution in the formal power of the second chamber, it would give it a mechanism which it could use in order to delay, and demonstrate its concern about, specific Statutory Instruments. The House of Commons should have the last word but would have to take full account of the second chamber’s concerns, Ministers’ responses and public opinion.

Making law

16. There should be no significant changes in the second chamber’s law-making functions. Parliament should continue to derive the benefits of being bicameral, with a second chamber capable of bringing a distinctive range of perspectives to bear. There should be more pre-legislative scrutiny of draft Bills. The new second chamber should consider how to promote the consideration of law reform Bills drawn up by the Law Commission. The valuable work of the Delegated Powers and Deregulation Committee should continue.

Protecting the constitution

17. The second chamber’s role in protecting the constitution should be maintained and enhanced. It should no longer be possible to amend the Parliament Acts using Parliament Act procedures, as was done in 1949. Such a change would maintain the current balance of power between the two Houses of Parliament and reinforce the second chamber’s power of veto over any Bill to extend the life of a Parliament.

18. There should be no extension of the second chamber’s formal powers in respect of any other matter, whether ‘constitutional’ or concerning human rights. But an authoritative Constitutional Committee should be set up by the second chamber to scrutinise the constitutional implications of all legislation and to keep the operation of the constitution under review.

19. A Human Rights Committee should be set up by the second chamber to scrutinise all Bills and Statutory Instruments for human rights implications. This would enable Parliament as a whole to reach an informed judgement before legislation is enacted. Given the forthcoming implementation of the Human Rights Act 1998, such a procedure is required if Parliament is to discharge effectively its primary responsibility for the protection of human rights. This should reduce the need for points of concern to be adjudicated by the courts.

Giving a voice to the nations and regions

20. The new second chamber should be able to play a valuable role in giving a voice to the nations and regions, whatever pattern of devolution and decentralisation may emerge in future. The chamber must serve the interests of the whole of the United Kingdom and contain people from all over the United Kingdom. It should contain a proportion of ‘regional members’ to provide a direct voice for the nations and regions of the United Kingdom at the centre of national affairs. These ‘regional members’ should not be drawn from the devolved administrations, or from the Scottish Parliament and the other devolved Assemblies, but should be able to speak for each national or regional unit of the United Kingdom. Because the ‘regional members’ would share a regional perspective with MEPs, members of the devolved institutions, the English Regional Chambers and the existing local government groupings, they could encourage and facilitate greater contact across different levels of Government and a stronger ‘regional’ voice, in Europe as well as at Westminster.

Scrutinising secondary legislation

21. Secondary legislation is increasingly pervasive and voluminous but currently subject to inadequate Parliamentary scrutiny. The House of Lords has shown a conscientious interest in the grant and exercise of delegated powers. The new second chamber should maintain and extend this function, using the new procedure referred to in paragraph 15.

Scrutinising EU business

22. The existing arrangements for scrutinising Ministers’ handling of European Union business should be maintained and improved in the new second chamber, with additional resources being made available to its European Union Committee. United Kingdom MEPs should not be represented in the new second chamber, but the chamber should promote greater contact and co-operation between Parliament and the United Kingdom’s MEPs.



Holding the Government to account

23. Some Ministers should continue to be drawn from and be directly accountable to the new second chamber. Senior Ministers based in the House of Commons should make occasional statements to and take questions from an appropriate second chamber Committee.

24. The new second chamber should continue to be a relatively non-polemical forum for national debate, informed by the range of different perspectives which its members should have. Its specialist investigations (e.g. in respect of scientific and technological issues) should continue, drawing on its members' broad spread of expertise. There is no distinct role for the second chamber to play in scrutinising public appointments.

25. A Committee should be established to scrutinise Treaties laid before Parliament and draw attention to any implications which merit Parliamentary consideration before ratification takes place.

The Law Lords and the judicial role of the second chamber

26. It is not for us to say how the superior courts of the United Kingdom should be organised; but we had to reach a view on whether the new second chamber could continue to carry out, through Committees composed exclusively of Law Lords, the judicial functions of the present House of Lords. We conclude that, as long as certain basic conventions (which we recommend should be set out in writing) continue to be observed, there is insufficient reason to change the present arrangements. Indeed, we see some advantage in having senior judges in the legislature where they can be made aware of the social developments and political balances which underlie most legislation.

Continuity with the past

27. All these recommendations on the roles, powers and functions of the new second chamber build to a considerable extent on those of the existing House of Lords. They broaden the second chamber's role rather than constituting a radical departure from what has gone before. The new second chamber should have a larger role to play in scrutinising the executive, protecting the constitution, safeguarding human rights, deliberating on issues which arise from devolution and decentralisation and examining secondary legislation.

Characteristics

28. Taking account of the roles and functions we think the new second chamber should perform, we believe it should, above all, be:

- authoritative;
- confident; and
- broadly representative of the whole of British society.

It should also contain members with:

- a breadth of experience outside the world of politics and a broad range of expertise;
- particular skills and knowledge relevant to the careful assessment of constitutional matters and human rights;
- the ability to bring a philosophical, moral or spiritual perspective to bear;
- personal distinction;
- freedom from party domination. A significant proportion of the members should belong to no political party and sit on the Cross Benches, so that no one party is able to dominate the second chamber;
- a non-polemical and courteous style; and
- the ability to take a long-term view.



29. A new second chamber with these characteristics should remedy the deficiencies of the old House of Lords, which lacked the political legitimacy and confidence to do its job properly, while preserving some of its best features.

Composition

30. After making a detailed analysis of potential methods of composition and the extent to which they could reliably deliver these characteristics, we do not recommend:

- a wholly or largely directly elected second chamber;
- indirect election from the devolved institutions (or local government electoral colleges) or from among United Kingdom MEPs;
- random selection; or
- co-option.

31. While the principle of vocational or interest group representation is attractive, the objective would be more effectively achieved through an independent appointments system. On the other hand, total reliance on an independent appointments system to nominate members of the new second chamber would leave no voice for the electorate in its composition. It would be unsatisfactory as a basis for identifying people to provide a voice for the nations and regions of the United Kingdom.

32. We also believe the proposed arrangements for making appointments to the interim House of Lords through the mechanism of an independent Appointments Commission would not be satisfactory as a long-term solution. They leave too much power in the hands of the Prime Minister of the day and they confine the role of the Appointments Commission to the nomination of Cross Benchers.

33. We therefore recommend that a new second chamber of around 550 members should be made up as follows:

- A significant minority of the members of the new second chamber should be ‘regional members’ chosen on a basis which reflects the balance of political opinion within each of the nations and regions of the United Kingdom. The regional electorates should have a voice in the selection of members of the new second chamber. Those members in turn will provide a voice for the nations and regions.
- Other members should be appointed on the nomination of a genuinely independent Appointments Commission with a remit to create a second chamber which was broadly representative of British society and possessed all the other characteristics mentioned above.
- The Appointments Commission should be responsible for maintaining the proportion of independents (‘Cross Benchers’) in the new second chamber at around 20 per cent of the total membership.
- Among the politically-affiliated members, the Appointments Commission would be required to secure an overall political balance matching the political opinion of the country as a whole, as expressed in votes cast at the most recent general election.

34. To facilitate a smooth transition to the new arrangements, the existing life peers should become members of the new second chamber.

35. Untrammelled party patronage and Prime Ministerial control of the size and balance of the second chamber should cease. The Appointments Commission should ensure that the new second chamber is broadly representative of British society. It should make early progress towards achieving gender balance and proportionate representation for members of minority ethnic groups. In order to identify appropriate candidates for the second chamber it should maintain contacts with vocational, professional, cultural, sporting and other bodies. It should publish criteria for appointment to the chamber and invite nominations from the widest possible range of sources.

36. We present three possible models for the selection of the regional members. Each model has the support of different members of the Commission. Model B has the support of a substantial majority of the Commission.

Model A – a total of 65 regional members, chosen at the time of each general election by a system of ‘complementary’ election. Votes cast for party candidates in each constituency at general elections would be accumulated at regional level. The parties would secure the number of regional members for each region proportional to their shares of the vote in that region, drawing the names from a previously published party list. Regional members would be selected for one-third of the regions at each general election.

Model B – a total of 87 regional members, elected at the time of each European Parliament election. One-third of the regions would choose their regional members at each election. The system of election used for electing members of the second chamber should be the same as that used for electing the United Kingdom’s members of the European Parliament, although a majority of those supporting this model would prefer a ‘partially open’ list system of proportional representation (PR).

Model C – a total of 195 regional members elected by thirds, using a ‘partially open’ list system of PR, at the time of each European Parliament election.

37. To promote continuity and a longer-term perspective, all members (under all three models) should serve for three electoral cycles or 15-year terms, with the possibility of being reappointed for a further period of up to 15 years at the discretion of the Appointments Commission.

Religious faiths

38. A substantial majority of the Commission recommends a broadening and deepening of religious representation in the second chamber. Representation should be extended beyond the Church of England to embrace other Christian denominations in all parts of the United Kingdom and representatives of other faiths.

Remuneration

39. To make participation in the work of the new second chamber possible for people who do not have other sources of income and who come from outside the South East of England, there should be a review of the current system of paying expenses. A modest payment related to attendance in the new second chamber should be introduced.

Conclusion

40. Our proposals represent a significant change from what has gone before. No new member of the second chamber will arrive there on the same basis as any existing member of the House of Lords. No new member of the second chamber will get there via an Honours List. The new second chamber will be more democratic and representative than the present House of Lords.

More democratic – The chamber as a whole will reflect the overall balance of political opinion within the country. Regional members will directly reflect the balance of political opinion within the regions.

More representative – The chamber will contain members from all parts of the country and from all walks of life, broadly equal numbers of men and women and representatives of all the country’s main ethnic and religious communities.

41. We were determined to produce recommendations which were not only persuasive and intellectually coherent but also workable, durable and politically realistic. Our report sets out the case for radical but evolutionary change which will, in our view, contribute to better government for all.