



Chapter 14 – The existing life peers

14.1 As at 1 December 1999 there were 552 life peers¹ in the House of Lords. It is probable that more will be created before this report is published and yet more before its recommendations could be implemented.

14.2 We need therefore to consider whether the existing life peers, and those to be created between now and the implementation of our report, should continue to have a role in the reformed second chamber and, if so, on what basis they should serve. We are conscious that four members of this Commission are themselves life peers and therefore need, in that sense, to ‘declare an interest’.

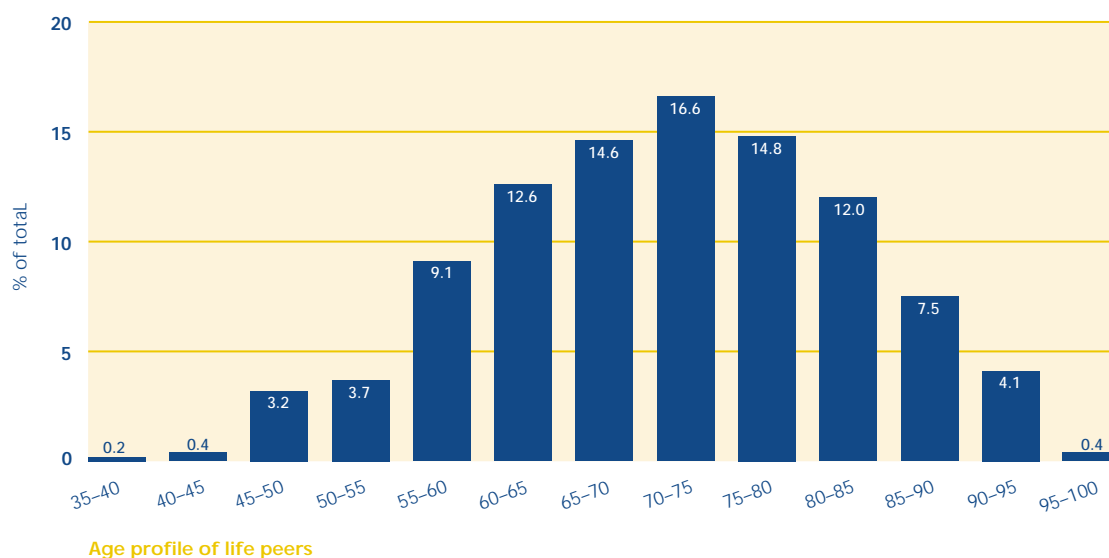
Characteristics of the life peers

14.3 Collectively, the existing life peers possess a great many, but not all, of the characteristics we would wish to see in the reformed second chamber. Many can offer the second chamber broad experience of public life. Many can offer expertise and experience outside politics. Many are men and women of distinction in their own right. Also, they have a reasonable expectation that they will be members of the second chamber for life. That was the understanding on which they decided to accept the offer of a life peerage. Many will have arranged their affairs on that basis, possibly to their financial disadvantage. Their right to sit in the House of Lords can only be extinguished by means of retrospective legislation.

14.4 Moreover, in practice, there will need to be a transitional period before the reformed second chamber is fully established, and some or all of the existing life peers could provide a solid foundation for the second chamber during that period, helping to maintain continuity and facilitating a smooth transition to the new arrangements. The Appointments Commission would have time to find its feet and establish a regular pattern of appointments, without being under pressure to appoint a very large number of members at the outset.

14.5 On the other hand, as we have said in previous chapters of this report, we believe the present House of Lords is in many ways insufficiently representative of the modern United Kingdom. It is also the case that the average age of the existing life peers is higher than we believe is desirable for the reformed second chamber, and there is a considerable imbalance in the age profiles of the Conservative and Labour life peers. Most significantly, their tenure is very different from what we are recommending for new members of the second chamber.

¹ 525 appointed under the Life Peerages Act 1958 and 27 appointed as Lords of Appeal in Ordinary under the Appellate Jurisdiction Act 1876 (as amended).



The way ahead

14.6 The situation that the Commission faced is neither easy nor straightforward. In the best of all possible Parliaments, it would be preferable for all members of the second chamber to be there on the same basis, on the same terms and conditions and because they had been judged able to make a positive contribution to securing a second chamber with the characteristics we have set out. However, we have to face the situation as it exists, not as we would ideally like it to be. We considered three options:

- terminating the rights of the existing life peers to sit and vote in the House of Lords but at the same time inviting the Appointments Commission to consider appointing a proportion of them to provide a core of members for the reformed second chamber, for the normal 15-year term with the possibility of reappointment by the Appointments Commission for a further period of up to 15 years;
- giving existing life peers the *right* to continue to sit and vote in the reformed second chamber for 15 years, again subject to the possibility of reappointment; and
- giving all existing life peers the right to continue to sit and vote in the reformed second chamber, for life, coupled with arrangements to facilitate the departure of those no longer wish to make an active contribution.

14.7 The first option would represent a clean break with the past. The situation in which someone could be a member of the second chamber for life regardless of the quality of their contribution would, at a stroke, be ended. The new second chamber would be genuinely ‘new’, except to the extent that existing life peers were reappointed to it. Perhaps most important, all the appointed members of the new second chamber would be members of it on exactly the same basis. They would all have been appointed by the Appointments Commission for identical 15-year terms, and the Appointments Commission, in deciding whether or not to appoint existing life peers, would be in a position to make its decisions on the basis of individuals’ personal contributions and also their contribution to creating the more representative second chamber that the Commission seeks.



14.8 Nevertheless, although the advantages of this option are obvious, the disadvantages are also obvious and the Commission unanimously recommends against it. Such a course of action, involving the extinction of the rights of the existing life peers, would require retrospective legislation. The simultaneous disappearance from the second chamber of some 525–75 existing life peers and the need to replace them would place an enormous – and probably insupportable – burden on the new Appointments Commission. Not least, such a course of action would maximise, and also greatly prolong, the uncertainty about its future that is already a problem for the existing House of Lords. If we recommended the removal of all the life peers, and given that the relevant legislation is unlikely to come into force until 2002 or 2003 at the earliest, we would be creating a situation in which every individual life peer, uncertain about his or her future, would be to some extent a ‘lame duck’ for a number of years to come and in which, worse, the whole House of Lords would come to be seen, and come to see itself, as a lame-duck chamber. The creation of uncertainty on this scale would be impossible to justify.

14.9 Some members of the Commission would, however, support the second option, which would guarantee a large measure of continuity from the present House of Lords and avoid most of the damaging uncertainty inherent in the first option while signalling an end to the anachronistic practice of

allowing people to sit in the second chamber for life irrespective of their health or the quality of the contribution they would be making. It also has the advantage that, from the outset, all members of the reformed chamber would be serving terms of the same length.

14.10 However, we recommend, by a majority, that under the legislation necessary to implement our recommendations those existing life peers who wish to take up the opportunity should be deemed to have been appointed to the reformed second chamber, and for life rather than for a 15-year term.²

14.11 In addition to the general arguments summarised in paragraphs 14.3 and 14.4, the main reasons for adopting this third option are:

- to avoid retrospective legislation which would inevitably be contentious and which many would see as unjust;
- to avoid a potential ‘cliff edge’ at a point 15 years after the reformed second chamber has been established, with a large proportion of members leaving at one time; and
- to avoid perpetuating the uncertainty which has been a problem for the House of Lords in recent months.

² Serving Lords of Appeal in Ordinary should be automatically deemed to be appointed to the reformed second chamber; but former Lords of Appeal in Ordinary should be given the same option as other life peers.

14.12 It is worth pointing out that, whichever of the latter two options were adopted, the practical effects, in terms of the second chamber's actual membership, would probably be quite similar. By the time any reforms have been enacted and a further 15 years have passed, only about 45 of the existing life peers will be under the age of 75 and not all of those would necessarily want to continue to play an active role. Under either option, the phasing out of the existing life peers is likely to be substantially complete by, at the latest, 2020.

Recommendation 102: Under the legislation necessary to implement the second stage of Lords reform, those life peers created before the publication of this report who wish to take up the opportunity should be deemed to have been appointed to the reformed second chamber, for life.

14.13 The Government and the Parliamentary Draftsman would need to consider how best to achieve this result, whether by extinguishing the rights of existing life peers under the Life Peerages Act 1958³ and providing equivalent rights under the new legislation; or by preserving those rights with some adaptations (as set out below).

New life peers

14.14 The above recommendation does not apply to life peers created between the publication of this report and the commencement of the relevant provisions. They would have accepted their peerages in full knowledge of our recommendations and they should therefore only be deemed to be appointed to the reformed second chamber for a period totalling 15 years from the award of their life peerage.

Recommendation 103: Life peers created between the publication of this report and the enactment of the legislation necessary to implement the second stage of Lords reform should be deemed to have been appointed to the reformed second chamber for a period totalling 15 years from the award of their life peerage.

Provision for retirement

14.15 Our recommendation is also based on the understanding that steps would be taken to facilitate the departure of those life peers who wish to take no further part in the work of the second chamber. At the point at which the reformed second chamber comes into existence, all existing life peers should be asked whether they would like to stay on and only those who express a wish to continue to sit and vote in the reformed second chamber should be deemed to be appointed to it. If necessary, the Life Peerages Act 1958³ should be amended to enable life peers to renounce their right to sit and vote in the second chamber. That would also provide a means for life peers to retire from the second chamber at a later point if they wished to do so. If they had been deemed to be

³ and the Appellate Jurisdiction Act 1876.

appointed to the reformed second chamber under the new legislation they would of course be able to retire like any other member. Indeed, we recommend that, like other members, those life peers remaining in the second chamber should be reminded of their right to retire towards the end of each session. We expect that, in time, most will wish to take up this option and stand aside in favour of new members who could make a more active contribution.

Recommendation 104: People appointed as life peers under the Life Peerages Act 1958 or the Appellate Jurisdiction Act 1876 and who remain in the reformed second chamber should be able to renounce their entitlement to sit and vote in the second chamber, or otherwise be able to retire from the second chamber under new legislation.

14.16 We considered whether the requirement proposed in Chapter 12, that members of the second chamber should be precluded from being elected to the House of Commons for a period of 10 years from the point at which their term of membership comes to an end, should apply to the existing life peers. We believe that it should. Existing life peers would have known, in accepting their peerage, that it would prevent them from ever seeking membership of the House of Commons and that, unlike hereditary peers, they could not renounce it. In introducing the right for life peers to retire from the second chamber, we think it right that, like other members of the chamber, they should be precluded from being elected to the House of Commons for 10 years after the point at which they leave the second chamber.

Recommendation 105: Life peers who renounce their right to sit and vote in the second chamber, or otherwise retire from it, should, like other members of the reformed second chamber, be precluded from being elected to the House of Commons within the following 10 years.

Transition

14.17 Meanwhile, it would obviously be helpful for the independent Appointments Commission, in planning its work, to know how long the remaining life peers intended to serve for. Those life peers who chose to remain as members of the second chamber should be encouraged to indicate for approximately how long they would expect to make a continuing contribution to the work of the second chamber. This need not represent a binding commitment, and the position of individual members need not be publicised but it would help to structure expectations and provide a firm foundation for the Appointments Commission's work.

Recommendation 106: The life peers who remain members of the second chamber should be encouraged to reach an informal understanding with the Appointments Commission about how long they intend to serve.

14.18 We envisage that the number of people who were members of the second chamber by virtue of being an existing life peer would decline as the number of members appointed by the Appointments Commission built up. We would be surprised if, within 20 years of the commencement of the legislation necessary to implement our recommendations, there were more than a handful of members sitting in the second chamber by virtue of a life peerage.