

House of Lords Reform Bill Second Reading debate

The Electoral Reform Society welcomes the House of Lords Reform Bill. Lords reform has been unfinished business for just over a century and Parliament now has the opportunity to finish the job.

The House of Lords cannot be viewed in isolation. An effective second chamber is part and parcel of an effective parliament and effective government. Reform is a chance to preserve the chamber's vital scrutiny role and to enhance it with the legitimacy conferred by public election.

Why change?

The British public supports election to the House of Lords. Public support for election has ranged from 54% to 82% since 2000.

Since 1999 over 150 hours have been spent in Parliament debating Lords reform

In the period 2001 to 2010 debates in the upper chamber on reforming the Lords have seen turnout double the average. Appointed Lords have consistently voted in favour of an appointed House

The electoral system proposed

The House of Lords Bill proposes using a Semi-Open list PR electoral system. In the system proposed, voters may cast a vote for a whole party list or vote for a specific candidate on that list. If they cast a vote for a party list then they have essentially endorsed the party's ordering of candidates. If 5% of the voters cast their votes for a candidate then they can be elected 'out of order' i.e outside of the party list.

Electing a candidate 'out of order' is an unlikely occurrence due to the size of the constituencies which make it difficult to gain large amounts of individual support. Additionally candidates will not be able to run for re-election and so will not be able to build a support base in the way incumbent MPs do. Under this system the vast majority of elected peers are likely to be elected from a party's lists. The results therefore are likely to closely mirror a closed list system.

Independent candidates will be less likely to be elected under this system as it will be extremely difficult to gain the necessary votes over sizeable constituencies without an existing campaign base and/or large sums of campaign finance.

The preferred system

The Society support STV for election to the Lords as proposed in the draft bill. Any voting system for the second chamber should maximise choice by enabling voters to vote for individual candidates (within and across parties); encourage a more diverse chamber; and encourage the election of independent-minded people as well as minimise the risk of one party gaining an overall majority.

These principles would be best realised by using multi-member constituencies, and a proportional voting system. The Electoral Reform Society believes that the Single Transferable Vote would be the optimum electoral system for the House of Lords.

STV enables voters to cast a vote for independent candidates without fear of wasting their vote as votes can transfer elsewhere. In a list system such votes are generally wasted. Candidates such as community leaders who have a party leaning but would rather stand as independents are able to do so without harming their party's chances by splitting the vote. Under STV parties have control of who stands as their candidates but it is the voters who decide which of these are elected. Compared to other systems STV offers increased voter choice because voters can choose between candidates of the same party as well as between parties. Voters are not limited to ranking the candidates from a single party but can give preferences that cross party lines.

The Upper Chamber – challenging the assumptions

Primacy

- The upper chamber most similar to the proposed reformed Lords is the Australian Senate which is elected by halves by a STV system every 3 years, on the same day as elections to the House of Representatives. Senators are elected on 6 year terms (as opposed to MPs who are elected on 3 year terms). It enjoys almost co-equal powers with the House of Representatives, with the exception that it cannot initiate or amend money bills (though it can reject them and suggest amendments to the House).
- Despite this the Senate is seen as a 'House of Review' rather than a 'State's House', with longer terms often cited as giving Senators less democratic legitimacy than MPs. Additionally governments generally claim a stronger democratic legitimacy.
- The concept of a 'House of Review' is accepted by Senators from both major and minor parties though the extent of this 'review' power is often contested. However it is implicitly accepted by all major actors in Australian politics that it lies somewhere between co-equality and being a mere rubber stamp.
- Due to its democratic legitimacy the Australian Senate has been able to build a much more effective committee system than the House of Lords, with Senate committees taking a much more important role in scrutiny than House of Representatives committees.

- The Senate, with direct election and almost co-equal powers, fits comfortably into a Westminster model of 'responsible government'. The government's reform bill proposes a Lords which is only 80% elected, on longer terms than the Senate and subject to the Parliament Acts (stronger controls than the Australian system) making it exceedingly unlikely that the Primacy of the Commons would be challenged.

Party politics

The vast majority of appointees to the Upper House are former politicians.

- Since 1997, twenty-nine per cent of those granted peerages were formerly MPs or MEPs¹.
- The total number of former MPs in the House of Lords currently stands at 195, about a quarter of the total House.
- Of the 117 new members of the House of Lords appointed since May 2010, half are either former MPs or former local Councillors and one in five peers appointed have been special advisors, party employees or executives (former Party Treasurers, Committee Chairs, Directors).

Independence

Received wisdom states that the strength of the Upper Chamber lies in its independence but this is not born out by voting patterns.

- 70% of the Upper House takes a political whip and attendance is far higher amongst those in this group. 33% of Crossbenchers cast no votes in the 2009/10 session. Whilst only between 5-8% of Conservative, Labour and Liberal Democrat Peers did not vote at all².
- Turnout amongst Crossbenchers is traditionally very low. Between 1999 and 2005 the average number of Crossbenchers in whipped divisions was 18 (the maximum was 82)³.

Expertise

Expertise is often claimed as one of the distinguishing features of the House of Lords. But experience is not spread across the professions.

¹ House of Lords library note, Peerage creations since 1997'.

² House of Lords library note: House of Lords: Party and Group Strengths and Voting

³ Johnson, R., Pattie, C., (2011), 'Parties and crossbenchers voting in the post-2010 House of Lords: The example of the Parliamentary Voting System and Constituencies Bill', British Politics, Vol. 6, 4.

- Politics is the predominant former career of members of the House of Lords with professional experience amongst peers concentrated in the field of representational politics.
- Twice as many peers have politics as their first or secondary profession (27%) than the next highest - business and commerce (14%)⁴.
- Banking and finance is third highest (12%) then the higher education sector (10%). Areas found to be underrepresented are manual and skilled trades, policing and transport which in 2010 only represented in 1% of the chamber each⁵.

Size and cost

- The upper house currently has 765 active peers, dwarfing other second chambers around the globe (France is the closest at 343).
- 525 peerages have been created since 1997 including 117 peerages since 2010. A change in government at the next election would see the number of Peers in the Upper House increase dramatically again.
- Currently Peers are members for life and able to claim a tax-free attendance allowance of £300 per day and travel expenses for the duration. Recent research has found that Peers who did not vote at all in 2011 claimed a total of £46,685⁶.

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⁴ Russell, M. and Benton, M., (2010), Analysis of existing data on the breadth of expertise and experience in the House of Lords. Report to the House of Lords Appointments Commission

⁵ Ibid.

⁶ Unlock Democracy, July 2012.