

Locked out of the Lords: ERS Briefing on the State of the Second Chamber

September 2019

Context

With democracy back in the spotlight, the House of Lords continues to do our politics few favours.

The announcement of 19 new peers this month – part of Theresa May’s resignation honours¹ – came amid reports that Boris Johnson hopes to appoint up to ‘dozens’ of peers of his own as a way of tipping the balance of power in the Lords in favour of ‘Brexiters’. The stories reflect the Lords’ vulnerability: it can be packed by the executive at any point.

While appointments to the Lords have decreased since the highs of the Blair and Cameron years, the process still relies on the voluntary restraint shown by the Prime Minister in charge at any given time. And this approach is not working.

Very modest progress has been achieved in reducing the size of the House, not even sufficient to keep pace with the ‘minimum incremental reform’ proposals, as the House of Commons Public Administration and Constitutional Affairs select committee described them,² contained in the report of the Lord Speaker’s committee on the size of the House (the so-called Burns report).³

The Burns report recommended capping the size of the House of Lords to 600 members, 15-year fixed terms for new peers, and a ‘two-out-one-in’ system, which would allow a gradual reduction in the size of the House by ensuring that any new appointment could only be made once two existing members had left.

The report also proposed that the Prime Minister should only appoint new peers when there are vacancies and to do so in proportion to the results of the general election (with the exception of Crossbench peers, whose appointment would follow a different procedure).

The slow progress in meeting the Burns report’s targets was evident in the committee’s third report of July 2019, which highlighted that, whilst the Lords had reduced from 823 members in June 2017 to 778 in June 2019, the chamber had missed the committee’s benchmark of 28.5 departing peers for the year ending June 2019.⁴ What’s more, half of the 26 departures were due to the deaths of sitting members – highlighting the absurdity of the voluntary approach relying on people passing away.

As made clear by the 19 new appointments – and threats of more to come – we cannot be reliant on the benevolence and whims of Prime Ministers to tackle the size of the House.

Nor can we rely on appointments to be made which are representative of the diversity of the UK and contribute to the purported expertise and independence of the Lords. The latest appointments to the Lords prove this – nine of the 19 new peers were either former politicians or had worked in politics as staff or activists.

A further three were businessmen who – while not being directly involved in politics – had previously donated to the Conservative Party.

1. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/830278/Resignation-Peerages-2019.pdf

2. House of Commons Public Administration and Constitutional Affairs select Committee (2019). Government Response to the Committee’s Thirteenth report: A smaller House of Lords: The report of the Lord Speaker’s committee on the size of the House. Twelfth Special Report of Session 2017–19. <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubadm/2005/2005.pdf>

3. Lord Speaker (2017). Report of the Lord Speaker’s committee on the size of the House. <https://www.parliament.uk/size-of-house-committee>

4. Lord Speaker (2019). Third Report of the Lord Speaker’s committee on the size of the House. <https://www.parliament.uk/documents/lords-committees/size-of-house/size-of-house-third-report.pdf>

In this briefing, we take a look at the recent history of appointments to the House of Lords and the overall composition of the House, showing how it continues to be unrepresentative of the diversity of the UK. Polling for the ERS in 2017⁵ showed two thirds support an elected second chamber – with strong support across all parties – while more recent analysis showed significant opposition to new Lords appointments.⁶

5. <https://www.electoral-reform.org.uk/latest-news-and-research/media-centre/press-releases/two-thirds-now-want-elected-house-of-lords-ahead-of-key-report/>

6. <https://www.electoral-reform.org.uk/latest-news-and-research/media-centre/press-releases/poll-shows-overwhelming-opposition-to-new-lords-appointments/>

7. These totals include only those peers directly appointed by the Prime Minister, not all those who joined the House of Lords during her premiership, thus excluding David Cameron's resignation honours, bishops, hereditaries and peers appointed by the House of Lords Appointments Commission.

<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/LLN-2018-0059> and <https://www.parliament.uk/mps-lords-and-offices/lords/new-lords/>

8. Lord Tyrie originally joined the House of Lords as a member of the Conservative group, but later became non-affiliated.

Peers Appointed by Theresa May

During her three years as Prime Minister and in her resignation honours, Theresa May appointed a total of 41 peers to the House of Lords.⁷ In addition to the latest 19 peerages, Theresa May appointed 13 peers in May 2018 as delayed dissolution honours following the 2017 general election. The remaining nine were announced 'ad hoc' between June 2017 and October 2017 (eight) and in January 2019 (one).

Twenty-one of these peers currently sit in the House of Lords as eligible members, while Lord Burnett of Maldon is ineligible by virtue of being Lord Chief Justice of England and Wales. The 19 peers appointed in September 2019 are yet to be formally introduced to the Lords.

Of the 41 peers appointed by Theresa May, almost half (20) belong to (or will join) the Conservative group in the House of Lords, 10 are Crossbenchers, six belong to the Labour Party, three are non-affiliated, one belongs to the Democratic Unionist Party (DUP) and one will join the Green Party grouping.⁸

The professional background of these peers is not particularly diverse or representative. Almost half of them (19) had already worked in politics: 12 had a background in representative politics and seven were former political staff or activists. The remaining peers had the following professional backgrounds:

- Voluntary sector or NGOs/think tanks (six peers)
- Business and commerce (five)
- Legal professions (four)
- International affairs and diplomacy (two)
- Armed forces; clergy or religious; police; trade unions; other private sector (one peer each)

The peers appointed by Theresa May are also unrepresentative of Britain in terms of gender – only 15 (36.6%) are women: only slightly higher than the party's proportion of female MPs.

Based on the expense claims submitted, information on the region where they are based is unavailable for 18 of the 21 eligible peers appointed by May.⁹ The remaining three peers are based in the South West (two) and Yorkshire and the Humber (one).

Since joining the House of Lords, Theresa May's peers have already claimed a total of £518,476.¹⁰ There is significant variation in attendance, with five of the 22 peers appointed by May attending the Lords on fewer than half of sitting days, while four attended more than 90% of sitting days – showing what a political lottery Lords appointments can be.

Based on the average peers' annual expenses/allowance claim of £22,273.69¹¹ for the circa 141 days the chamber sat in the 2016–17 session, the 19 peers alone are expected to cost over £420,000 per year.

Overall House of Lords Figures – Pre-September 2019

The House of Lords starts from a place of maintaining class-based hierarchy rather than working for and representing voters. No amount of tweaking its size can cover for the fact that it fails on almost all democratic principles.

9. This and following figures in this section exclude Lord Burnett of Maldon, who became ineligible to sit in the Lords after December 2017 by virtue of being Lord Chief Justice of England and Wales, and the 19 new peers appointed in September 2019.

10. Expenses include peers' daily allowance of up to £305 and any travel expenses. They exclude expenses related to postage, any ministerial allowances and travel expenses for spouses and children.

11. This is the average annual amount claimed by each of the 862 peers who attended the 2016–17 session.

Twenty years on from the House of Lords Act 1999, reforming the House of Lords remains firmly unfinished business.

12. All figures are accurate as of 5 September 2019.

Size and Demographics¹²

Despite a slight reduction in membership, with 775 eligible peers the House of Lords remains the world's second largest legislative chamber – behind only the Chinese National People's Congress.

Though Theresa May showed some restraint in the number of peers appointed to the House, this is not the historical trend. During Tony Blair's premiership, 374 new life peerages were created, while 245 peers joined the Lords under David Cameron.¹³ Gordon Brown bucked this trend with 'only' 34 new peerages being created during his three years as Prime Minister.¹⁴

Of the 775 eligible peers in the House of Lords, 207 (26.7%) are women and 568 (73.3%) are men. Apart from the Green Party and the Independent Labour grouping, no party is balanced in terms of gender in the Lords. The Liberal Democrats fare best with 35.1% of their peers being female, while – of the groupings with more than a handful of peers – the non-affiliated and Crossbencher groupings have the lowest proportion of female peers (13.6% and 23.6% respectively).

In terms of age, 'the mean average age of members was 70, with the oldest member being 94 and the youngest 37' as of February 2019.¹⁵

13. These figures include all peers appointed during Blair and Cameron's premiership, regardless of whether the Prime Minister appointed them directly.

14. House of Lords Library (2018). Life Peerages Created Since 1958. <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/LLN-2018-0059>

15. Naomi Ellenbogen QC (2019). An Independent Inquiry into Bullying and Harassment in the House of Lords. <https://www.parliament.uk/documents/lords-committees/house-of-lords-commission/2017-19/ellenbogen-report.pdf>

Lords by party/group and gender
<https://www.parliament.uk/mps-lords-and-offices/lords/composition-of-the-lords>

Party/group	Men	Women	Percentage women	Total
Bishops	21	5	19.20%	26
Conservative	172	62	26.50%	234
Crossbench	139	43	23.60%	182
Labour	123	56	31.30%	179
Liberal Democrat	61	33	35.10%	94
Lord Speaker	1	0	0.00%	1
Non-affiliated	38	6	13.60%	44
Conservative Independent	1	0	0.00%	1
Democratic Unionist Party	4	0	0.00%	4
Green Party	0	1	100.00%	1
Independent Labour	2	0	0.00%	2
Independent Social Democrat	1	0	0.00%	1
Independent Ulster Unionist	1	0	0.00%	1
Labour Independent	0	1	100.00%	1
Plaid Cymru	1	0	0.00%	1
UK Independence Party	1	0	0.00%	1
Ulster Unionist Party	2	0	0.00%	2
Total	568	207	26.70%	775

Party Affiliation

Following the 1999 reforms and consequent removal of most hereditary peers, the in-built Conservative majority in the House of Lords was eliminated and the proportion of partisan peers belonging to each of the three main parties (Conservatives, Labour and LibDem) became more balanced.

But despite these changes, the House of Lords is far from a non-political chamber of experts and independents, as its supporters like to portray it. Around two-thirds of its members belong to a party political grouping in the House. The Conservatives are the largest grouping in the Lords, with 234 peers (30% of the total), while Labour peers make up 23% of the total and Liberal Democrats 12%.

Crossbenchers – independent peers not aligned to any political party – make up 24% of the chamber. There are also some non-affiliated members of the Lords (5% of the total with 42 peers) who are non-partisan peers, but do not form part of the Crossbench grouping.

Lords by party/group and type

<https://www.parliament.uk/mps-lords-and-offices/lords/composition-of-the-lords/>

Party/group	Life peers	Hereditary peers	Bishops	Total	Percentage of total in this group
Bishops	0	0	26	26	3%
Conservative	188	46		234	30%
Crossbench	151	32		183	24%
Labour	175	4		179	23%
Liberal Democrat	91	3		94	12%
Lord Speaker	1	0		1	0%
Non-affiliated	37	5		42	5%
Other	15	1		16	2%
Total	658	91	26	775	

Region

Analysis of peers' place of residence shows that even in this respect the House of Lords is unrepresentative of the UK. Of the 799 peers who submitted an expense form for the period 1–31 March 2019 (the latest for which data is available), place of residence is known for 537 peers, with the remaining 262 peers failing to providing location of even a region where they are based.¹⁶

Our analysis shows that more than half of peers for whom location data is available reside in just one part of one of our four nations: 54.7% of peers reside in London, the South East and the East of England, almost 20 percentage points higher than the population share for these regions (36.1%).¹⁷ London and the South East are overrepresented by 11 and 7 percentage points respectively. The East of England, South West and Scotland are very slightly overrepresented in the Lords by around 0.5–0.6 percentage points.

All other regions of England, Wales and Northern Ireland have fewer than their fair share of peers. The North West, West Midlands and East Midlands are particularly underrepresented, having around 5–6% fewer peers than their population share.

16. <https://www.parliament.uk/business/lords/whos-in-the-house-of-lords/house-of-lords-expenses/>

Given the lack of exact location details, please note that the seven peers residing in Lincolnshire were included in the East Midlands region, though North and North East Lincolnshire are in Yorkshire and the Humber.

17. Population data was taken from <https://beta.ons.gov.uk/datasets/mid-year-pop-est/editions/time-series/versions/4>

Lords' place of residence

Place of residence	Number of peers residing in each area	Proportion of peers residing in an area (as % of all peers for which place of residence is available)	Percentage of the UK adult population residing in an area	Difference between peers and UK population in each area
London	130	24.20%	13.10%	11.10%
South East	111	20.70%	13.70%	7%
East of England	53	9.90%	9.30%	0.60%
South West	49	9.10%	8.60%	0.60%
Scotland	48	8.90%	8.40%	0.50%
Yorkshire and the Humber	32	6.00%	8.20%	-2.30%
North West	26	4.80%	11%	-6.10%
West Midlands	21	3.90%	8.80%	-4.90%
Wales	20	3.70%	4.80%	-1.10%
North East	17	3.20%	4.10%	-0.90%
East Midlands	14	2.60%	7.30%	-4.70%
Northern Ireland	12	2.20%	2.80%	-0.50%
Overseas	4	0.70%	N/A	N/A

Professional Background

The most common prior profession of peers is politics. And the House of Lords seems to be increasingly becoming a chamber of former politicians and party staffers at every new appointment round.

While Theresa May showed some restraint in the number of appointments, their background lacked diversity, with her political advisors and party funders making up 42.1% of her appointments.

More than a third of currently eligible peers (36.9%) are former politicians (223 peers, 28.8% of the total) or former political staffers/activists (63 peers, 8.1% of the total), according to ERS analysis. More than half of peers (57.5%)

come from five broad professional backgrounds: in addition to representative politics and political staff/activists, these are business and commerce (8.1%), legal professions (6.3%) and banking and finance (6.2%).

Though there has been a net decrease in the number of peers from these professional backgrounds (-13) since 2018,¹⁸ the House of Lords continues to fail to represent the socio-economic diversity of the UK. For example, no peer comes from a manual and skilled trades background, following Baroness Blood's retirement in September 2018.

18. <https://www.electoral-reform.org.uk/latest-news-and-research/parliamentary-briefings/house-of-lords-abolition-westminster-hall-debate/>

Lords' primary profession

Primary profession	Number (excluding ineligible)	%
Representative politics	223	28.80%
Business and commerce	63	8.10%
Political staff and activists	63	8.10%
Legal professions	49	6.30%
Banking and finance	48	6.20%
Higher education	40	5.20%
Clergy or religious	37	4.80%
Journalism, media and publishing	32	4.10%
Voluntary sector, NGOs and think tanks	32	4.10%
Other private sector	28	3.60%
Trade unions	21	2.70%
Culture, arts and sport	19	2.50%
Agriculture and horticulture	18	2.30%
Medical and healthcare	17	2.20%
Armed forces	15	1.90%
Other public sector	12	1.50%
Civil service (UK)	11	1.40%
International affairs and diplomacy	10	1.30%
Unclassified	10	1.30%
Architecture, engineering and construction	8	1.00%
Police	8	1.00%
Education and training (not HE)	5	0.60%
Transport	3	0.40%
Royal family staff	2	0.30%
Local authority administration	1	0.10%
Manual and skilled trades	0	0%
Total	775	100%

Hereditary Peers

The House of Lords still guarantees seats to hereditary aristocrats. The 1999 House of Lords Act removed all but 90 of the hereditary peers (plus holders of the offices of Earl Marshall and Lord Great Chamberlain) – 92 in total. 667 hereditary peers lost their right to sit in the Lords in these reforms.

Subsequently, vacancies that result from death or – since the House of Lords Reform Act 2014 and House of Lords (Expulsion and Suspension) Act 2015 – retirement, resignation or exclusion are filled through a by-election.

By-elections take place within party groups – except for 15 hereditary peers, such as Lord Skelmersdale, originally elected to serve as office holders, whose successors are elected by the whole house.

These party groups reflected the proportion of party affiliation at the time of the 1999 reforms – meaning they are locked in an out of date representation of party politics ad infinitum. There are 47 Conservative hereditary peers, four Labour, four Liberal Democrat and 31 Crossbench hereditary peers (one UKIP, one non-affiliated).¹⁹

Recent analysis by the Mirror²⁰ showed that these Lords had claimed over £4m in expenses and allowances in just the past two years alone – and they have been known to successfully try to stymie even minor, well-supported reform efforts.²¹

19. The full breakdown is available at <https://www.parliament.uk/mps-lords-and-offices/lords/composition-of-the-lords/>

21. <https://www.electoral-reform.org.uk/latest-news-and-research/media-centre/press-releases/campaigners-name-and-shame-aristocrats-planning-to-filibuster-lords-reform-attempt/>

20. <https://www.mirror.co.uk/news/politics/aristocrat-peers-trouser-4million-taxpayer-19004018>

Concluding Remarks

The outdated and unelected House of Lords completely fails to represent Britain today. Amid growing concerns about regional disparities – as well as the skewed representation of the Commons under First Past the Post – it is clear that voters deserve a fairly elected, modern revising chamber, which can reflect and speak up for the whole of the UK.

The current method of appointment to the House of Lords is completely undemocratic, with most peerages being subject to the whims of Prime Ministers, who have little incentive to limit their influence in the Lords. Seats in parliament should not be used as a handout for big political donors and campaign apparatchiks.

The fact that Prime Minister Johnson is considering appointing a significant number of peers to significantly ‘rebalance’ the Lords – and has the power to do so – shows the absurdity of the current set-up: each new PM tries to pack it with cronies in order to tip the scales in their favour. Long after Brexit is over, these peers will be able to claim expenses and decide on our laws for the rest of their lives, if they choose to.

This feudal relic needs to be scrapped and replaced with a democratic second chamber. An elected House of Lords could serve as the forum where representatives from the UK’s nations and localities could gather to discuss national and cross-border issues.

The ERS proposes a second chamber elected on a territorial basis to serve as a forum in which the four nations (including English localities, depending on how they choose to be represented at the national level) can work together in the 21st century, and scrutinise and revise the work of the government and the House of Commons. Our Parliament can no longer be a plaything of an over-powerful executive or unelected power, but a voice for the whole country.

For more information on reforming the House of Lords, read the ERS’ recent report on how to make Westminster work for everyone:

<https://www.electoral-reform.org.uk/westminster-beyond-brexit/>

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