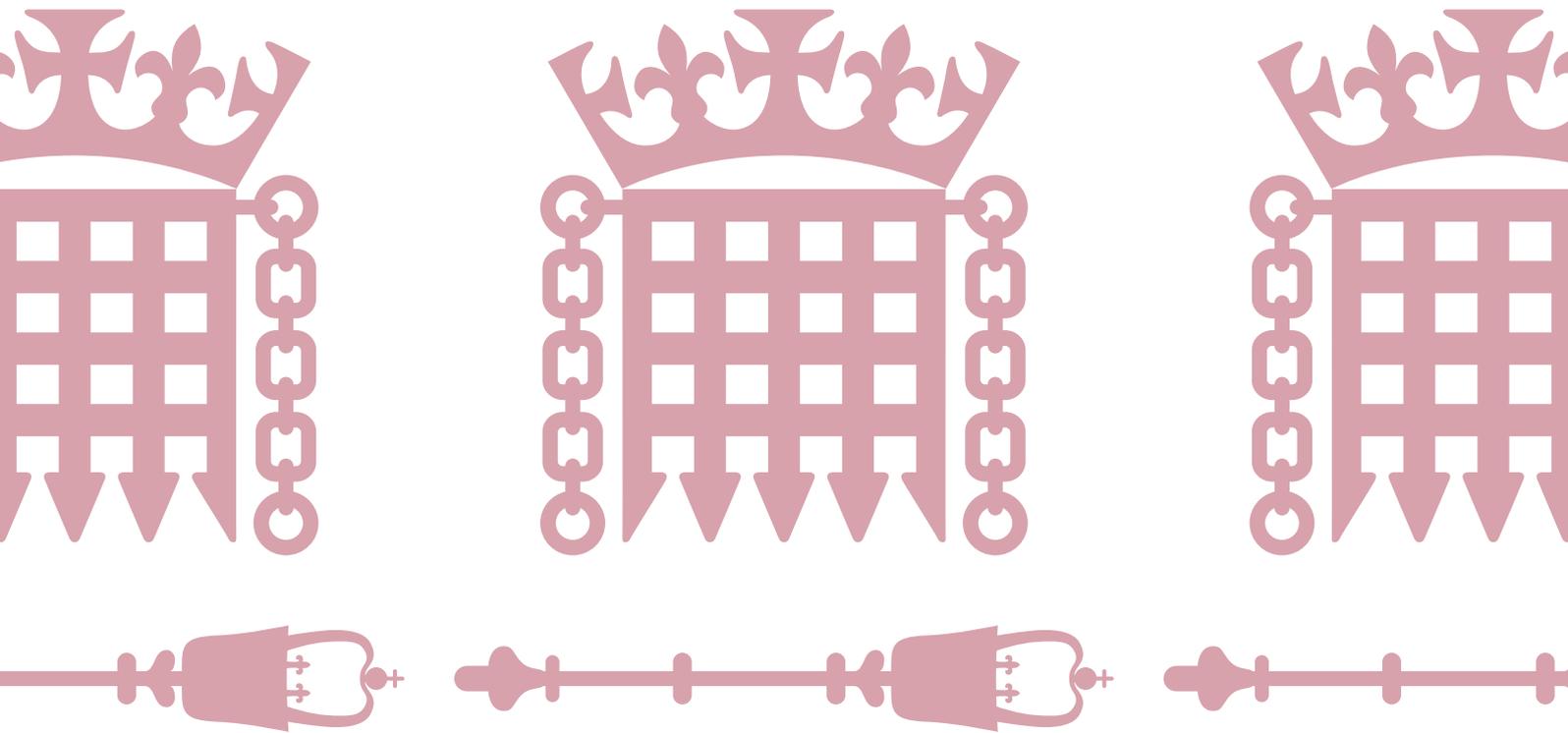




Lord Speaker



Second Report of the Lord Speaker's committee on the size of the House

Published on 24 October 2018

Almost a year ago, we published a report outlining a package of proposals to reduce the size of the House of Lords fairly and to cap the membership at 600. The report received a warm and positive response from the House and the Prime Minister alike. The implementation of the committee's proposals is now underway, and the size of the House is shrinking.

This report shows that even more members left the House in the first year of the scheme than we envisaged, and sets out revised departure and appointment benchmarks for Year 2 and the remainder of the Parliament. **We urge the House and the Government to build on the progress made to date, thereby establishing the mutual trust which is so central to the success of our proposals.**

Introduction

1. On 31 October 2017, we presented to the Lord Speaker a report setting out proposals for reducing the size of the House of Lords and keeping its membership within a fixed cap of 600 for as long as it remains an appointed chamber. The scheme would allow for the membership to be refreshed and rebalanced in line with general election results over time. Consistent with our remit, we designed our proposals to be achievable without legislation. The report can be accessed at www.parliament.uk/size-of-house-committee.
2. The House debated our report on 19 December 2017, with 95 members taking part. The great majority of speakers supported the committee's proposals. The Lord Speaker wrote to the Prime Minister on 21 December, enclosing a copy of the debate transcript and urging her to "seize this opportunity to make progress" (see Annex A). The Prime Minister responded at length on 20 February 2018 (see Annex B).
3. Following receipt of the Prime Minister's letter, the Lord Speaker asked the committee to reconvene in order to consider its implications and how to make further progress towards reducing the House's size. As part of this work, we held meetings with the leaders and chief whips of the three main parties and with the Convenor of the Crossbench Peers, further details of which are provided later in this report.
4. Now that more than a year has passed since the nominal starting date of our scheme (8 June 2017—the date of the last election), we have decided to publish a follow-up report which we hope that the House will find useful. It is structured as follows.
 - Analysis of the Prime Minister's response to the report.
 - Account of subsequent discussions with the Usual Channels.
 - Summary of departures and appointments in Year 1.
 - Proposed departure and appointment benchmarks for Year 2.
5. In this report, "departures" and "appointments" include hereditary peers who depart the House or join it through a by-election under the House of Lords Act 1999.

The Prime Minister's response

6. We were encouraged by much of the Prime Minister's response to our report, particularly her agreement that action should be taken now to reduce the size of the House and that the downward trajectory should be maintained.
7. Addressing her own role in achieving this goal, Mrs May stated:

"I would like to use this letter to make a statement of intent on further appointments over the remainder of this Parliament. I intend to continue with the restraint I have exercised to date and, when making appointments, to allocate them fairly, bearing in mind the results of the last general election and the leadership shown by each party in terms of retirements."

This statement is of central importance for two reasons. First, it indicates the Prime Minister's willingness to appoint new members sparingly enough to allow the net reduction in the size of the House to proceed broadly at the pace we proposed in our report. Second, it signals acceptance of the principle that new appointments should be linked to the performance of each party in the most recent election, and to the contribution made by each party to the departure rate of existing members.

8. The Prime Minister has not yet addressed the question of what size the House should be and whether it should be capped at that number. Neither has she yet accepted the principle of fixed terms. Without these elements of the committee's scheme, it is difficult to envisage how the size of the House can achieve the steady state which is necessary to provide stability and give confidence to members and the wider public.
9. We are however encouraged that the Prime Minister's letter suggests that, after a period of restraint in appointments and increased departures from all groups, she would hope that consideration could be given as to whether the scheme "should be formalised" and whether the additional mechanisms recommended in our report are needed.
10. **The committee's proposals are predicated on capping the membership of the House at an agreed number, which we proposed should be 600, and the need for such a cap will become increasingly apparent as the scheme proceeds. We welcome the Prime Minister's suggestion that these arrangements might be formalised after a period of restraint in appointments and increased cross-party departures, and the priority for the coming period must be to build the necessary trust on all sides of the House to allow this to happen.**
11. **We accept that our proposals for the "steady state", particularly the introduction of fixed terms, would be constitutionally significant, and we agree with the Prime Minister that they would benefit from "further careful thought and wider engagement". We have robust advice from leading experts in constitutional law and parliamentary practice that the proposals are constitutionally and legally sound, but we accept that the proposals need to be tested at the political level. It is important, however, that this process should not be used to postpone addressing the issue indefinitely. We look forward to revisiting and discussing this element of our proposals.**
12. In the meantime, as the Prime Minister said, "the need for further consideration of a longer term 'steady state' should not preclude us taking actions now, in the spirit of the committee's report, to reduce the House's size". In the remainder of this report, we assess progress to date and look at how the momentum might be maintained.

Discussions in the Usual Channels

13. As set out above, after receiving the Prime Minister's letter our Chairman and the Lord Speaker met, in turn, the leadership of each party and the Convenor of the Crossbench Peers. There was a general wish to find a way of achieving the figures in the report. The leaderships of the two main opposition parties indicated a willingness to work towards the departure figures if there was an actual

demonstration of—or further detail about—how the Prime Minister is proposing to make new appointments as set out in general terms in her letter. The Convenor has told us that he regards it as his responsibility to work towards achieving the benchmark departure figures for the Crossbenchers.

14. Regarding new appointments, we have been looking for a way of putting more flesh on the bones. To date we have not been able to make any further progress on this issue and for the time being must rely on the general words in the Prime Minister's letter. **The next round of appointments will give further insight into the Prime Minister's words, and could provide the basis for a greater incentive for the groups to meet their departure targets as set out in our report.**

Summary of departures and appointments in Year 1

Departures

15. In our original report, we proposed a system of “equal contribution” for determining how to allocate the necessary departures from the House between the four main groups. This meant that each group would be required to persuade the same proportion of its membership to retire in each year of the scheme, adjusted for deaths. We emphasise that, for the purposes of our scheme, it is the total number of departures from each group that is relevant, not the number of retirements alone.
16. The table below shows:
- the benchmark figures which each group would need to meet in order to achieve the committee's proposed rate of reduction, expressed as a figure for the whole of the 2017–22 Parliament and as an annualised figure; and
 - the number of departures from each group in Year 1 of the scheme (8 June 2017 to 7 June 2018), broken down between retirements and deaths.

Group	Benchmark for Parliament	Annual benchmark*	Departures in Year 1		
			Retirements	Deaths	TOTAL
Con	48	10	10**	1	11
Lab	38	8	4	9	13
LD	19	4	1	0	1
XB	35	7	5	5	10
Other***	10	2	1	0	1
TOTAL	150	31	21	15	36

* The benchmarks are rounded to whole numbers. They will be higher or lower in some years, as will the total.

** This number excludes hereditary peer Lord Glentoran, who retired on 1 June 2018 but was not replaced until well after the start of Year 2. For clarity, both he and his replacement are included in the Year 2 figures.

*** Includes members affiliated to the smaller parties and those with no affiliation.

17. **The retirement figures achieved in Year 1 are encouraging, and it is noteworthy that the three largest groups in the House each exceeded their annual benchmark for departures.**

Appointments

18. In considering new appointments, we proposed that one new member should be appointed for every two who departed (“two-out, one-in”) until the House had reached its target size of 600. This would imply 75 appointments over the first five years of the scheme. The Crossbenchers would receive a fixed share of these appointments (17), with the parties’ share linked to the 2017 General Election results.
19. The table below sets out the number of appointments which each group can expect over a full 2017 Parliament, based on the 2017 General Election results.

Group	Average of seats and votes (GE 2017)	Entitlement to appointments over full 2017 Parliament
Con	45.7	26
Lab	40.2	23
LD	4.6	3
XB	N/A	17
Other	(Varies by party)	6*
TOTAL	-	75

* The allocation of departures to the smaller parties will be calculated on the same basis as for the larger parties, but their numbers have been amalgamated in this table for convenience.

20. The following table sets out the actual number of appointments in Year 1.

Group	Appts between GE 2017 and list of 18 May 2018	Appts in list of 18 May 2018	HOLAC list of June 2018	Elected hereditary peers	Total appts since GE 2017
Con	3*	9	-	0	12
Lab	0	3	-	0	3
LD	0	0	-	0	0
XB	5	0	3	1	9
Other	0	1	-	0	1
TOTAL	8	13	3	1	25

* Excludes one member from the Cameron resignation honours who joined the House after a long delay.

21. In assessing these numbers, the committee proposes to discount the appointments made in the list announced on 18 May 2018, which the Prime Minister forewarned us about and described as “a legacy issue arising from the general election”. While we accept that some members will disagree with this decision, it is clear to us that the list in question was essentially a delayed dissolution list—and a small one by historic standards—which was drawn up before our proposals were published. Moreover, the Prime Minister has otherwise exercised restraint in her appointments. We note, though, that this makes it all the more important that the party balance of future lists should be in line with the statement of intent in the Prime Minister’s letter and our recommendations.

22. With the numbers revised as explained, the figures for Year 1 would be as follows.

Group	Entitlement to appointments over full 2017 Parliament	Annual entitlement to appointments	Eligible appointments/elections in Parliament to date
Con	26	5.2	3
Lab	23	4.6	0
LD	3	0.6	0
XB	17	3.4	9
Other	6	1.2	0
TOTAL	75	15	12

23. The number of Crossbench appointments to date includes five nominated directly by the Prime Minister. These five come out of the Prime Minister's allowance of nominations for distinguished former public servants which, under existing arrangements, is 10 per Parliament. Any remaining allocation would be filled by nominees of the House of Lords Appointments Commission and where appropriate hereditary peers successful in Crossbench by-elections.

Summary

24. For ease of reference, the following summary table sets out each group's (a) benchmarks for the Parliament, (b) departures and appointments in Year 1 and (c) remaining departures and appointments for the remainder of the 2017–2022 Parliament.

Group	Departure benchmark for Parliament	Actual departures in Year 1	Remaining departures in Parliament	Appt benchmark for Parliament	Actual appts in Year 1	Remaining appts in Parliament
Con	48	11	37	26	3	23
Lab	38	13	25	23	0	23
LD	19	1	18	3	0	3
XB	35	10	25	17	9	8
Other	10	1	9	6	0	6
TOTAL	150	36	114	75	12	63

Proposed figures for Year 2

25. Under the proposals in our original report, in Year 2 each of the groups would be asked to meet the same departure benchmarks as in Year 1, and would receive new appointments based on the figures set out in paragraph 19, above (to be adjusted if a group has exceeded or fallen short of its departure benchmark in Year 1).

26. The number of appointments in Year 1 (and, to a lesser extent, departures) is however out of kilter with the number in our report. Given the ongoing lack of agreement between the groups about the exact numbers, we have concluded that it would not be profitable to attempt the complicated task of adjusting the original numbers accordingly.

27. Instead, we propose that the House should focus on achieving the benchmark departure and appointment numbers across the Parliament as a whole. To aid in this task, for each group we propose to set the benchmarks for Year 2 by dividing their remaining departures and appointments by four (the number of years left in the Parliament if it runs to term). Similarly, in a year's time the Year 3 benchmarks can be set by dividing the equivalent figures by three, and so on until the end of the Parliament.
28. The table below shows the benchmarks for Year 2 calculated on this basis. Since the benchmarks are fairly small, we have deliberately not rounded the numbers up or down; but we hope that they will give the groups a clear steer about what to aim for.

Group	Benchmark departures for Year 2	Benchmark appointments for Year 2
Con	9.25	5.75
Lab	6.25	5.75
LD	4.50	0.75
XB	6.25	2.00
Other	2.25	1.50
TOTAL	28.50	15.75

29. In fact the Conservatives and Labour have already had two departures each in Year 2, and the Liberal Democrats and Crossbenchers have each had one. Their totals can therefore be adjusted accordingly.

Conclusion

30. **We are encouraged by the House's warm reception for our original report, and note that the House exceeded the proposed number of departures in Year 1 by five. We also welcome much of the Prime Minister's response.**
31. **We have set out a basis for judging progress with departures and appointments in Year 2, and we encourage the groups and the Prime Minister to work towards them.**
32. **We make this report to the House for information and as a guide to how the proposals are already working in practice. We will continue to convene as a committee as and when the Lord Speaker and we feel that it would be helpful.**

Annex A: Letter from the Lord Speaker to the Prime Minister, 21 December 2017

Thank you for your letter of 15 November regarding the committee on the size of the House of Lords. You will remember that you wrote “any reforms will need to command consensus across the House in order to succeed.”

The House debated the report on Tuesday 19 December, with 95 members taking part. I enclose a copy of the Hansard. Overwhelmingly the great majority of speakers—over 80%—supported the committee’s proposals. This is as close to consensus on a major change to the composition of the House of Lords as it is possible to achieve, and there is a strong appetite across the House, not least on the Conservative benches, to move towards implementing the proposals without undue delay. I am sure the leaders of Labour Party and the Liberal Democrats in this House, and the Convenor of the Crossbench Peers will want to discuss taking this forward with the Government.

The Burns report shows that the scheme would, without legislation, enable the composition of the House to change to reflect public opinion—with the difference that the size of the House would be capped and its ever-upward trajectory ended.

Your prerogative to appoint peers would be maintained—indeed, by having fixed terms you would be guaranteed a substantial and consistent flow of vacancies to fill—and there would be nothing to stop you walking away from the agreement if the House failed to respect the conventions or the other parties stopped co-operating with the scheme. I very much hope that you will feel able to seize this opportunity to make progress, which would meet your manifesto commitment “to ensure the work of the House of Lords remains relevant and effective by addressing issues such as its size” and indeed go further than that to make a lasting reform to the second chamber.

I stand ready to discuss this further with you and Natalie Evans.

Annex B: Letter from the Prime Minister to the Lord Speaker, 20 February 2018

Thank you for your letter of 21 December and the Hansard record of the debate on 19 December on the report of the committee you set up under the chairmanship of Lord Burns to consider the size of the House of Lords. I commend Lord Burns and the rest of the committee for their thorough and carefully considered work, which in my view represents a serious attempt to tackle the challenge presented to them, including that of finding non-legislative solutions.

I have discussed the proposals contained in their report—and the points raised in the debate on it—with Baroness Evans of Bowes Park, and have noted the broad degree of support for the report from those who spoke in the House on 19 December.

As a Government, we respect the important role the House of Lords plays in scrutinising and revising legislation and debating public policy. It thereby complements the work of the House of Commons while respecting its primacy and the associated conventions between the two Houses. I have confidence in the House of Lords continuing to perform its work effectively and doing so within the framework of those conventions.

To my mind, the report's recommendations divide into two separate areas. The first includes those steps which are necessary to achieve a reduction in the size of the House of Lords. The second set of recommendations would establish mechanisms by which the House would thereafter be maintained at a steady and smaller state.

In my view the constitutional issues associated with the recommendations made by Lord Burns and the committee in this second area—maintaining the membership of the Second Chamber in a steady state—require further careful thought and wider engagement, particularly with the House of Commons, before those steps can be progressed. These proposals would have a significant impact on the composition and, therefore, the character and functions of the House of Lords, which have always been linked to its role and relationship with the elected House.

It was clear from the debate on 19 December that many members recognised that some of these proposals, for instance the introduction of fixed terms for new members, require further consideration to ensure that they do not have unintended consequences. Furthermore, as Chapter three of Lord Burns's committee's report makes clear, the non-statutory mechanism they propose raises some legal questions which will need to be carefully explored.

Nevertheless, the need for further consideration of a longer term 'steady state' should not preclude us taking actions now, in the spirit of the committee's report, to reduce the House's size. As Lord Burns and the committee say in the summary of their report, 'We recognise that there are differing views about how the House should be constituted, but it is clear to us that there is widespread agreement on the urgency of addressing its size.' I am pleased that the debate on 19 December underscored the desire on all sides of the House for progress to be made in this regard.

A key part of that progress—as Lord Burns's report makes clear, and as many peers emphasised during the debate on it—is an assurance from Prime Ministers to exercise restraint over new appointments. I would like to respond to this point in particular.

You will be aware that, since I became Prime Minister in 2016, I have not recommended a significant number of people for peerages. Indeed, other than three Ministerial appointments, I have not recommended any party-political peers at all in this Parliament or the last. Last October, I recommended five distinguished public servants—the Lord Chief Justice, the former Bishop of London, the former Commissioner of the Metropolitan Police, a former Chief of the Defence Staff, and a former Private Secretary to Her Majesty The Queen—to continue to contribute to national life as crossbench peers. One of the key strengths of the House of Lords is that it is a place where people of this calibre and experience can participate directly in our legislature.

Over the same period of time, 28 peers have taken up the opportunity introduced in the House of Lords Reform Act 2014 to retire from the House of Lords; a further two have been removed for non-attendance under the provisions of that Act, and 16 have sadly died.

Taking into account the new peers who have joined the House—24 appointments (including my predecessor's resignation list) and two newly elected hereditary peers—the total number, including those on a Leave of Absence, has reduced by 20 members since I became Prime Minister. Like most of those who spoke in the debate on 19 December, I am keen to maintain that trajectory.

Two principal elements are needed to do this—continued restraint over new appointments, and a sustained commitment from all parties and none to reduce the size of the House through retirement. Lord Burns and his fellow committee members propose a target of 139 departures by the end of this Parliament in 2022: to date there have been 20.

I acknowledge that these two elements are connected: during the debate on 19 December a number of speakers made clear that, without an assurance of restraint by the Prime Minister, they would be reluctant to take advantage of their ability to retire.

Having nominated no political peers in the last Parliament—nor at dissolution, as is normal practice—I am planning to propose a small list of new party-political peers, which will be announced in the usual way in due course. As a number of speakers in the debate on 19 December including Lord Butler of Brockwell recognised, this is a legacy issue arising from the general election. The House of Lords Appointments Commission has also recommended a small number of independent crossbench peers.

I would like to use this letter to make a statement of intent on further appointments over the remainder of this Parliament. I intend to continue with the restraint which I have exercised to date and, when making appointments, to allocate them fairly, bearing in mind the results of the last general election and the leadership shown by each party in terms of retirements. I will also operate on the basis that there is no automatic entitlement to a peerage for any holder of high office in public life.

Of course any undertaking by me will have a limited effect on reducing the size of the House unless members themselves are willing to retire over the same period. As Baroness Evans made clear during the debate in December, peers on the Conservative benches have a strong record in embracing retirement at the appropriate time, but achieving the sort of change outlined by Lord Burns and the committee will require that peers from all sides of the House do the same. As a part of this, the House itself would of course remain free to consider whether additional mechanisms to reduce the size of the House should be put in place.

I believe that a combination of restraint on appointments and an increased, cross-party take up of retirement would represent the most effective action which could be taken immediately to address the real concerns about the size of the House. It was, therefore, encouraging to see both the Labour Leader, Baroness Smith of Basildon, and the Liberal Democrat Leader, Lord Newby, express their broad support for the Burns proposals and acknowledge that more retirements would be required from their ranks—I welcome their commitment.

After a period of evaluating the success or otherwise of this first, important step, I would hope that consideration could then be given by all parties as to whether it should be formalised and whether any of the additional mechanisms recommended in the Burns report would be necessary.

Once again, I am grateful to you, to Lord Burns and his fellow committee members, and to the many other peers and figures from beyond the House of Lords who have contributed to their work, for taking the initiative and for producing serious proposals on which I think all sides can work constructively.

I am copying this letter to Lord Burns, Baroness Evans of Bowes Park, the Leaders of the Labour and Liberal Democrat peers, to the Convenor of the Crossbench peers, and Lord Kakkar as Chairman of the House of Lords Appointments Commission.

Available online at www.parliament.uk/size-of-house-committee

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