



HOUSE OF LORDS

Library Note

Debate on 20 January: Constitutional and Parliamentary Effect of Coalition Government

This Library Note aims to provide background reading for the debate to be held on Thursday 20 January:

“To call attention to the constitutional and parliamentary effect of Coalition Government”

This Note examines some of the issues surrounding government by coalition, particularly those highlighted since the formation of the current Coalition in May 2010. It considers constitutional issues that arose before and immediately after the 2010 general election, then sets out the administrative arrangements put in place to allow the Coalition Cabinet and machinery of government to function. It examines issues that have both constitutional and parliamentary significance (fixed term parliaments, the Salisbury Doctrine, government majority in the House of Lords) and, finally, deals with practical parliamentary matters such as Short/Cranborne money, seating arrangements, and parliamentary procedure and language.

Nicola Newson
17 January 2011
LLN 2011/002

House of Lords Library Notes are compiled for the benefit of Members of Parliament and their personal staff. Authors are available to discuss the contents of the Notes with the Members and their staff but cannot advise members of the general public.

Any comments on Library Notes should be sent to the Head of Research Services, House of Lords Library, London SW1A 0PW or emailed to brocklehursta@parliament.uk

Table of Contents

1. Introduction	1
2. Process of Government Formation	1
2.1 Pre-Election Guidance	1
2.2 The Experience of May 2010	4
2.3 Role of the Civil Service	5
2.4 Draft Cabinet Manual	6
3. Cabinet and the Machinery of Government	8
3.1 Collective Responsibility	8
3.2 Royal Prerogative	9
3.3 Resolving Disputes	9
3.4 Ministers	10
4. Fixed Term Parliaments	11
5. Salisbury Doctrine	12
6. Government Majority in the House of Lords.....	13
7. Short and Cranborne Money	15
8. Parliamentary Working Practices.....	16

1. Introduction

No party secured an outright majority in the general election on 6 May 2010. Following negotiations over the next five days, the Conservatives and Liberal Democrats established a governing coalition, the first formal coalition at Westminster in peacetime since the National Government of 1931–40.¹

“This too, I know,” declared Disraeli in 1852, “England does not love coalitions”.² Despite experience of coalitions in the Scottish Parliament and the National Assembly for Wales, and the fact that coalition government is routine in numerous European countries, the expectation in the UK is that single-party government at Westminster is the norm. However, it has been argued that a number of long-term electoral trends since the 1970s mark a decline in two-party politics, which increases the likelihood that future general elections could result in a hung parliament—and therefore the possibility of further periods of coalition government—even without reform of the first-past-the-post electoral system.³

As Lord Adonis has remarked, “whether coalitions be few or many, it is essential that constitutional and administrative arrangements are put in place for them to function effectively”.⁴ This Note examines some of the constitutional and parliamentary issues surrounding government by coalition, with particular reference to those that have been highlighted since the formation of the current Coalition in May 2010. It begins by considering constitutional issues that arose both before and immediately after the 2010 general election, then sets out the administrative arrangements that have been put in place to allow the Coalition Cabinet and machinery of government to function. It considers issues that have both constitutional and parliamentary significance (fixed term parliaments, the Salisbury Doctrine, government majority in the House of Lords) and, finally, deals with practical parliamentary matters such as Short/Cranborne money, seating arrangements, parliamentary procedure and parliamentary language.

2. Process of Government Formation

2.1 Pre-Election Guidance

There was widespread speculation prior to the 2010 general election that the result might be a hung parliament, with no party able to command an overall majority in the House of Commons. Since the United Kingdom has no written constitution, there was no single document which sets out all the constitutional procedures to be followed in the event of such a situation arising. As the House of Commons Justice Committee noted in March 2010:

The steps that have to be taken after a general election, and the roles and responsibilities of the Prime Minister, the Sovereign, the Civil Service and other

¹ See David Butler, *Coalitions in British Politics* (London: Macmillan, 1978) and House of Commons Library, [Hung Parliaments](#) (SN/PC/4951, last updated June 2010) for details of previous coalitions, hung parliaments and minority governments at Westminster.

² HC *Hansard*, 16 December 1852, col 1666.

³ John Curtice, “So what went wrong with the electoral system? The 2010 election result and the debate about electoral reform”, *Parliamentary Affairs* Vol 63 No 4 (2010), pp 623-38.

⁴ Lord Adonis, Foreword to Akash Paun, [United We Stand – Coalition Government in the UK](#), Institute for Government (September 2010).

key actors, are not widely understood. They need to be clear, and clarity is particularly important when the election results in a situation where no one political party has an overall majority in the House of Commons.⁵

A number of academic studies were published in the period before the general election which considered the constitutional implications of a hung parliament, and the possible outcomes of such a situation.⁶ In addition to the possibility of a formal coalition agreement, these included a minority government, a confidence-and-supply agreement or a dissolution followed by a second general election. A formal coalition between the Conservatives and the Liberal Democrats was not an outcome that many considered particularly likely before the results of the 2010 general election were known.

The civil service took steps before the election to prepare for the eventuality that no single party secured an absolute majority in the House of Commons. Gordon Brown, the then Prime Minister, announced on 2 February 2010 that he had “asked the Cabinet Secretary to lead work to consolidate the existing unwritten, piecemeal conventions that govern much of the way central government operates under our existing constitution into a single written document”.⁷ The Cabinet Office published a draft version of the chapter of the Cabinet Manual dealing with “Elections and Government formations” (the first chapter to be completed) on 24 February 2010. On the subject of hung parliaments, the draft chapter stated:

16. Where an election does not result in a clear majority for a single party, the incumbent Government remains in office unless and until the Prime Minister tenders his and the Government’s resignation to the Monarch. An incumbent Government is entitled to await the meeting of the new Parliament to see if it can command the confidence of the House of Commons or to resign if it becomes clear that it is unlikely to command that confidence. If a Government is defeated on a motion of confidence in the House of Commons, a Prime Minister is expected to tender the Government’s resignation immediately. A motion of confidence may be tabled by the Opposition, or may be a measure which the Government has previously said will be a test of the House’s confidence in it. Votes on the Queen’s Speech have traditionally been regarded as motions of confidence.
17. If the Prime Minister and Government resign at any stage, the principles in paragraph 14 apply—in particular that the person who appears to be most likely to command the confidence of the House of Commons will be asked by the Monarch to form a government.⁸ Where a range of different

⁵ House of Commons Justice Committee, [Constitutional processes following a general election](#), HC 396 of Session 2009–10 (March 2010), p 3.

⁶ See for example: Robert Blackburn et al, [Who Governs? Forming a coalition or a minority government in the event of a hung parliament](#) (London: Hansard Society & Study of Parliament Group, 2010); Alex Brazier and Susanna Kalitowski (eds), *No Overall Control – The impact of a ‘hung parliament’ on British politics* (London: Hansard Society, 2008); Robert Hazell and Akash Paun (eds), [Making Minority Government Work: Hung parliaments and the challenges for Westminster and Whitehall](#) (London: Institute for Government & Constitution Unit, 2009).

⁷ Cabinet Office press release, [“Sir Gus O’Donnell gives evidence on elections”](#), 24 February 2010.

⁸ Paragraph 14 states: “Governments hold office by virtue of their ability to command the confidence of the House and hold office until they resign. A Government or Prime Minister who cannot command the confidence of the House of Commons is required by constitutional convention to resign or, where it is appropriate to do so instead, may seek a dissolution of Parliament”.

administrations could potentially be formed, the expectation is that discussions will take place between political parties on who should form the next Government. The Monarch would not expect to become involved in such discussions, although the political parties and the Cabinet Secretary would have a role in ensuring that the Palace is informed of progress.

18. A Prime Minister may request that the Monarch dissolves Parliament and hold a further election. The Monarch is not bound to accept such a request, especially when such a request is made soon after a previous dissolution. In those circumstances, the Monarch would normally wish the parties to ascertain that there was no potential government that could command the confidence of the House of Commons before granting a dissolution.
19. It is open to the Prime Minister to ask the Cabinet Secretary to support the Government's discussions with Opposition or minority parties on the formation of a government. If Opposition parties request similar support for their discussions with each other or with the Government, this can be provided by the Cabinet Office with the authorisation of the Prime Minister.
20. As long as there is significant doubt whether the Government has the confidence of the House of Commons, it would be prudent for it to observe discretion about taking significant decisions, as per the pre-election period. The normal and essential business of government at all levels, however, will need to be carried out.⁹

The House of Commons Justice Committee held a session on how constitutional principle, provision and practice apply after general elections, during which it heard evidence from Sir Gus O'Donnell, the Cabinet Secretary, and constitutional experts. Among the Committee's conclusions were the findings that:

Our witnesses were unanimous that, in circumstances of a House with no overall majority, it was for the politicians to conduct negotiations to clarify who was most likely to be able to command the House's confidence and the Sovereign would not, and should not be expected to, take a role in that process.

It is clear from the draft chapter produced by the Cabinet Office, and emphasised by Sir Gus in evidence to us, that support from Cabinet Office personnel is envisaged—and indeed has already been authorised by the present Prime Minister—to assist the administration and process of negotiations, not only between government and opposition parties, but also between opposition parties themselves, in any period of discussion of government formation. These arrangements should be set out in the Cabinet Manual.¹⁰

The Committee also recommended that the Cabinet Manual should set out more clearly the timing and nature of restrictions on the activities of a "caretaker" government before and after a general election. Although the Cabinet Office had signalled an intention to publish an updated version of the draft chapter prior to the general election, this did not happen.

⁹ Cabinet Office, "[Chapter 6: Elections and Government formation \(DRAFT\)](#)", 24 February 2010.

¹⁰ House of Commons Justice Committee, "[Constitutional processes following a general election](#)", HC 396 of Session 2009–10 (March 2010), p 10.

Some academics consider that the draft chapter did not merely describe existing convention, but created new expectations and processes. The extension of restrictions on the activities of a “caretaker” government to a *post*-election period during which, in Sir Gus’s words, “we do not have a stable government” is regarded by the Hansard Society and Professor Robert Blackburn of King’s College London as an innovation in conventional practice.¹¹ Secondly, Professor Blackburn argues that the draft chapter’s guidance on civil service support to post-election government formation implied that the civil service would take over the hosting of such negotiations. In his view, this was another change to conventional practice. Arguably, removing 10 Downing Street as the forum for the incumbent Prime Minister’s negotiations with other parties erodes the Prime Minister’s “psychological advantage in terms of maintaining initiative and momentum over events”.¹²

2.2 The Experience of May 2010

A number of constitutional issues were highlighted by the events of 7-11 May 2010 and the formation of the Coalition. In the event of a hung parliament, the convention has been that the incumbent Prime Minister gets first call on forming a new administration.¹³ However, this does not mean that other parties have a constitutional obligation to lend support to the incumbent Prime Minister in forming a new administration, or even to enter into negotiations with the incumbent governing party. In November 2009, Nick Clegg, the leader of the Liberal Democrats, stated that he would regard the party with “the strongest mandate” as having won the election, and therefore the one with which he would enter into negotiations first. This has been regarded as a “highly significant political development”.¹⁴ The Liberal Democrats entered separate discussions with both the Labour Party and the Conservative Party about the prospects for forming a coalition with one or the other, but at the point where it became apparent that a Liberal Democrat-Conservative partnership was the more likely option, but before a formal agreement had been concluded, Gordon Brown as sitting Prime Minister was left in what one academic has called “a constitutional bind”¹⁵:

The incumbent Prime Minister has in theory the right to remain in government until he or she has explicitly lost the confidence of the Commons. It has been argued by many that the incumbent Prime Minister is constitutionally required to remain in post until he or she is able to indicate a viable alternative to the Sovereign. This view contrasts with the description of Gordon Brown by parts of the media after the election as a “squatter” in Downing Street.¹⁶

Related to the question of the point at which the incumbent Prime Minister should resign, there has been debate about whether the lack of a clearly defined timetable for the process of forming a new government in these circumstances had a bearing on the 2010

¹¹ Hansard Society, written evidence submitted to the House of Commons Political and Constitutional Reform Committee inquiry into lessons from the process of government formation after the 2010 general election, [LPGF 04](#), 15 October 2010 and Robert Blackburn, *ibid.*, [LPGF 03](#), 9 October 2010.

¹² *Ibid.*

¹³ Robert Blackburn et al, [Who Governs? Forming a coalition or a minority government in the event of a hung parliament](#), Hansard Society & Study of Parliament Group (2010), p 4.

¹⁴ Robert Blackburn, written evidence submitted to the House of Commons Political and Constitutional Reform Committee inquiry into *Lessons from the process of government formation after the 2010 general election*, [LPGF 03](#), 9 October 2010.

¹⁵ *Ibid.*

¹⁶ House of Commons Political and Constitutional Reform Committee, discussion paper on [“Lessons from the process of government formation after the 2010 general election”](#), 8 September 2010.

coalition negotiations. For example, during an evidence session held by the House of Commons Political and Constitutional Reform Committee into lessons learned from the process, committee member Sheila Gilmore (Labour) wondered:

... If there were a clearer constitutional procedure involved, that was clearly understood in the population generally, [whether] some of the pressure could have been lifted off? [Lord Adonis] said there was no constitutional deadline other than the sitting of Parliament, but there was a great deal of an atmosphere, it would be fair to say, of “get on with it”, “crisis” and “we don’t have a Government”, and that has been contrasted with the position in other countries where it is recognised that there may be a period of Government formation. Do you think it would help in the future if this was clearer, so that discussion could take place in a calmer atmosphere?¹⁷

Lord Adonis, who was a member of the Labour negotiating team, indicated in response that while it was not realistic to expect the media to “lay off” in these circumstances, there had been no constitutional crisis. The machinery of government continued “on a perfectly satisfactory basis”.¹⁸ His view was that:

I do not think any changes are needed; I think the constitution worked remarkably well. In particular, the discussions that took place between the party leaders and their negotiating teams, in those five days, did precisely what was required in the circumstances, which was to identify the shape and leadership of a new Government and to enable the sitting Prime Minister to give advice to the Queen on who his successor should be. I think that the arrangement served those purposes well and there is no need to change them.¹⁹

2.3 Role of the Civil Service

Some concerns have also been expressed about the role of the civil service in the coalition formation process in May 2010. The Cabinet Office published a note clarifying the support it had given to the negotiations. Detailed annexes to that note set out the nature of the support the civil service was permitted to provide, arrangements for the provision of factual information, and the venues the civil service could offer for meetings. The note also explained that:

Between 7 May and 11 May the civil service provided logistical support, factual briefing and advice on constitutional processes on request to parties. In particular, the civil service facilitated meetings in Admiralty House, the Cabinet Office at 70 Whitehall and the Foreign and Commonwealth Office as part of negotiations between the Liberal Democrat Party and the Conservative Party, and negotiations between the Liberal Democrat Party and the Labour Party.²⁰

In a BBC documentary entitled “Five Days That Changed Britain”, Sir Gus was recorded saying that:

What might have been a minority government wouldn’t have the strength in Parliament to be able to pass the tough measures that were needed to get us through this problem.

¹⁷ [Corrected transcript](#) of evidence taken before the Political and Constitutional Reform Committee to be published as HC 528-i of session 2010–11, 14 October 2010, Q75.

¹⁸ Ibid.

¹⁹ Ibid., Q73.

²⁰ Cabinet Office, [Civil Service support to coalition negotiations](#), AO2010/1.

... So the key issue then was that the markets would really make us pay a price on the Monday morning by selling out debt and that would have been a real problem for the country.

... My advice to [the politicians], and of course we only facilitated, I want to get that absolutely clear, they discussed amongst themselves, I said that pace was important but that it also... the more comprehensive the agreement the better.²¹

In response to suggestions that by giving such advice he had thrown the weight of the civil service behind a coalition, Sir Gus later explained to the House of Commons Public Administration Committee that his job had not been to offer “bland advice”, but rather to “provide the same advice to all parties”. He said that he was “simply telling the politicians that a coalition would be better from a market’s point of view”, but that he “didn’t argue for coalition on these grounds”.²²

The House of Commons Political and Constitutional Reform Committee later questioned David Laws about his experience of the part that the civil service had played in the negotiations. Mr Laws noted that the Liberal Democrats turned down Sir Gus’s offer to support the negotiations directly by having civil servants in the room to take notes, and to arrange briefings from the Bank of England and the Treasury.²³ He explained that he “would have been a little bit reticent to have been seen to be bringing in non-political individuals that might influence in any way the decisions”. In response to a question from Tristram Hunt (Labour) about whether—despite the convention that the sitting Prime Minister should have first attempt at forming a coalition—the “energy and activism of the civil service” was focused on the Liberal Democrats and Conservatives, Mr Laws gave his opinion that:

I am sure that civil servants would have supported us extremely professionally and even-handedly in both circumstances, but I do think sometimes there is a risk that the civil service can see the way the wind blows... We did not have that problem, or didn’t perceive that problem at all, in these negotiations I ought to emphasise. But I think that sometimes it is inevitable that strong impartiality of the civil service is qualified by a bit of anticipation about who is going to be wielding power.²⁴

2.4 Draft Cabinet Manual

The Cabinet Office subsequently updated the chapter on elections and government formation in light of the experience gained in May 2010, and a new draft version of the entire Cabinet Manual was published in December 2010.²⁵ The guidance on parliaments with no overall majority in the House of Commons reads as follows:

48. Where an election does not result in an overall majority for a single party, the incumbent government remains in office unless and until the Prime Minister tenders his or her resignation and the Government’s resignation

²¹ Quoted in “[Sir Gus O’Donnell plays GOD with Cleggy... and with the constitution?](#)”, Paul Waugh’s blog for the *Evening Standard*, 29 July 2010.

²² Quoted in Ned Simons, “[Civil service head denies pushing for coalition](#)”, *epolitix.com*, 28 October 2010.

²³ [Corrected transcript](#) of evidence taken before the Political and Constitutional Reform Committee to be published as HC 528-i of session 2010–11, 14 October 2010, Q20-Q21.

²⁴ *Ibid.*, Q22.

²⁵ Cabinet Office, [The Cabinet Manual – Draft](#) (December 2010), pp 26–28.

to the Sovereign. An incumbent government is entitled to wait until the new Parliament has met to see if it can command the confidence of the House of Commons, but is expected to resign if it becomes clear that it is unlikely to be able to command that confidence and there is a clear alternative.

49. Where a range of different administrations could potentially be formed, discussions will take place between political parties on who should form the next government. The Sovereign would not expect to become involved in such negotiations, although the political parties and the Cabinet Secretary would have responsibilities in ensuring that the Palace is provided with information on the progress of discussions and their conclusion. The Principal Private Secretary to the Prime Minister may also have a role.
50. The incumbent Prime Minister is not expected to resign until it is clear that there is someone else who should be asked to form a government because they are better placed to command the confidence of the House of Commons and that information has been communicated to the Sovereign.
51. Any negotiations between political parties over the formation of a stable government need to be as well informed as possible, and the leaders of the political parties involved may therefore seek the support of the Civil Service. Such support may be organised by the Cabinet Secretary, with the authorisation of the Prime Minister.
52. Civil Service support may be provided for negotiations between the Government and opposition parties and/or between opposition parties themselves, and would normally be made available to parties with a realistic prospect of forming, joining or formally supporting the Government. Support would be focused and provided on an equal basis to all the parties involved, including the party that was currently in government. The incumbent government would also continue to be supported by the Civil Service in the usual way.
53. The support provided by the Civil Service to the parties could include: advice on the constitutional processes of government formation; provisions of factual information in relation to specific policy proposals; and facilitation of discussions and negotiations (including the provision of facilities, such as meeting rooms). Support would only commence following the election and support for opposition parties would normally cease once a stable government had been formed, although it could continue, with the authorisation of the Prime Minister, for any party formally supporting the Government. Following the election in May 2010, where there was no overall majority, the Civil Service provided support to negotiations between political parties. Further information on the nature of that support can be found at: www.cabinetoffice.gov.uk/resource-library/civil-service-support-coalition-negotiations.
54. As long as there is significant doubt following an election over the Government's ability to command the confidence of the House of Commons, certain restrictions on government activity apply.²⁶

²⁶ Cabinet Office, [The Cabinet Manual – Draft](#) (December 2010), pp 26–28.

Members of the House of Commons Political and Constitutional Reform Committee have questioned the legal status of the Cabinet Manual, and raised concerns about the process by which it was produced.²⁷ This is echoed by comments from academics that “The drafting of the Cabinet Manual amounts to partial codification of aspects of our constitutional arrangements” and that the process by which the Cabinet Secretary took the initiative in developing constitutional practice on government formation “is questionable”.²⁸ However, Sir Gus O’Donnell maintains that it “is not intended to have any legal effect or set issues in stone” and that it merely describes existing convention.²⁹ Other academics are clear in their judgment that the Cabinet Manual is not a step towards a written constitution.³⁰

3. Cabinet and the Machinery of Government

On 20 May 2010, the *Coalition Agreement for Stability and Reform* was published, which set out how the Coalition government would operate in practice. The agreement stated that:

There is no constitutional difference between a Coalition Government and a single party government, but working practices need to adapt to reflect the fact that the UK has not had a Coalition in modern times.³¹

3.1 Collective Responsibility

The agreement sets out that “The principle of collective responsibility, save where it is explicitly set aside, continues to apply to all Government Ministers”.³² The policy areas where the Coalition partners agreed to disagree in their Programme for Government, and where the doctrine of collective responsibility and parliamentary whipping along government lines could therefore be relaxed to a greater or lesser extent, are as follows:

- Renewal of Trident: “Liberal Democrats will continue to make the case for alternatives”.
- Alternative Vote (AV) electoral system: “We will whip both Parliamentary parties in both Houses to support a simple majority referendum on the Alternative Vote, without prejudice to the positions parties will take during such a referendum”.
- Construction of nuclear power stations: “We will implement a process allowing the Liberal Democrats to maintain their opposition to nuclear power while permitting the Government to bring forward the National

²⁷ [Corrected transcript](#) of oral evidence taken before the Political and Constitutional Reform Committee to be published as HC 538-iv of session 2010–11, 4 November 2010.

²⁸ Hansard Society, written evidence submitted to the House of Commons Political and Constitutional Reform Committee inquiry into lessons from the process of government formation after the 2010 general election, [LPGF 04](#), 15 October 2010, and Robert Blackburn, *ibid.*, [LPGF 03](#), 9 October 2010.

²⁹ Sir Gus O’Donnell, Foreword to [The Cabinet Manual – Draft](#) (December 2010).

³⁰ See for example [video interview with Robert Hazell](#) on the Constitution Unit website, 20 December 2010 and Peter Riddell, “[Why fears the Cabinet Manual is a step towards a written constitution are unfounded](#)”, Institute for Government blog, 14 December 2010.

³¹ Coalition Government, [Coalition Agreement for Stability and Reform](#), 20 May 2010, p 1.

³² *Ibid.*, p 2.

Planning Statement for ratification by Parliament so that new nuclear construction becomes possible”.

- Married couples’ tax allowances: “We will also ensure that provision is made for Liberal Democrat MPs to abstain on budget resolutions to introduce transferable tax allowances for married couples without prejudice to the coalition agreement”.
- Higher education funding: “If the response of the Government to Lord Browne’s report is one that Liberal Democrats cannot accept, then arrangements will be made to enable Liberal Democrat MPs to abstain in any vote”.³³

Akash Paun of the Institute for Government argues that this is an unusual, but not entirely unprecedented, approach to dealing with irreconcilable policy differences; coalitions in Scotland, Wales and most European countries “commonly maintain an expectation of strict unity when it comes to voting in parliament, at least on legislation”.³⁴ However, Paun takes the view that the “limited provisions for ‘agreement to disagree’ in the UK coalition... need cause no significant difficulties in constitutional or administrative terms”.³⁵

3.2 Royal Prerogative

The Prime Minister exercises certain key powers—such as the power to appoint ministers and make public appointments—by virtue of the royal prerogative. The *Coalition Agreement for Stability and Reform* therefore sets out how the Prime Minister will consult with the Deputy Prime Minister in making such appointments. For example, in any future allocation of ministerial positions, the Prime Minister will nominate Conservative ministers and the Deputy Prime Minister will nominate Liberal Democrat ministers. Any changes to the allocation of portfolios between the Coalition parties will be agreed between the Prime Minister and the Deputy Prime Minister.

3.3 Resolving Disputes

Arrangements have also been put in place for resolving any disputes that arise between the Coalition partners at Cabinet level, which may be summarised as follows:

Carefully constructed machinery has been created by the two party leaders to sustain the coalition and swiftly resolve any issues between the two parties. The most senior component in this is the “Coalition Committee”, which has the status of being a formal Cabinet Committee. It is co-chaired by David Cameron and Nick Clegg, and comprises an equal number of Cabinet members from each party. It meets weekly, or as required. Below it is the Coalition Operation and Strategic Planning Group, which is designated an informal working group (not a Cabinet sub-committee), comprising four members, two from each party.

Across the new structure of Cabinet Committees established by the Prime Minister, each Committee has a chair from one party and a deputy chair from the other party, and if any unresolved issues arise between members of the different

³³ [The Coalition – Our Programme for Government](#), 20 May 2010.

³⁴ Akash Paun, [United We Stand – Coalition Government in the UK](#), Institute for Government (September 2010), p 38.

³⁵ Ibid.

parties on any of the Committees, they are to be referred to the Coalition Committee.³⁶

3.4 Ministers

The underlying principle of the *Coalition Agreement for Stability and Reform* is that there should be balance in both partners' approaches to all aspects of government business, including in the allocation of responsibilities. Akash Paun has commented that:

The Liberal Democrats have five of 23 full Cabinet positions, which is a higher share of Cabinet seats than their share of MPs, although they are under-represented in comparison with vote share. International experience confirms that it is common practice for smaller partners to be given a disproportionate share of ministerial posts in purely arithmetical terms. The logic is that members of the smaller party must stretch across a wider range of policy issues on a per capita basis (for instance via participation in Cabinet committees) to ensure that policy in all areas is properly 'coalitionised'.³⁷

Paun notes that the Liberal Democrats control none of the "big spending" government departments, which poses the risk that the Liberal Democrat view may be under-represented in key policy-making processes and budget negotiations. His research shows that a common approach to this problem in other countries is for government departments to have junior ministers from the alternate party to that of the Secretary of State, and in most UK departments this is the model that has been followed. Dr Catherine Haddon of the Institute for Government has analysed some of the advantages and disadvantages of this approach of "pooling" ministers:

The pooled option has two main benefits;

- It keeps each partner in touch with what the other is doing throughout all departments.
- It brings the different perspectives of the coalition together consistently, thereby reinforcing coalition management and agreement day-to-day.

But this option also has drawbacks... Examples of the pooled system elsewhere in the world show the danger of senior and junior ministers from different parties fighting for control of the policy-making and decision-making process... Civil Servants will need a clear sense of the ministerial remits, and the processes of policy-making and of information dissemination, both within pooled ministries and across government.³⁸

In a September 2010 report on the workings of the Coalition, the Institute of Government made the case for providing additional resources to Nick Clegg in his role as Deputy Prime Minister ("he is attempting to cover 90 per cent of the remit of the Prime Minister with less than half of the support"), ensuring there is a Liberal Democrat minister in every

³⁶ Robert Blackburn, written evidence submitted to the House of Commons Political and Constitutional Reform Committee inquiry into *Lessons from the process of government formation after the 2010 general election*, [LPGF 03](#), 9 October 2010.

³⁷ Akash Paun, [United We Stand – Coalition Government in the UK](#), Institute for Government (September 2010), p 30.

³⁸ Catherine Haddon, [Rough guide to coalition government – lessons from the Institute for Government and Constitution Unit's reports](#), Institute for Government.

government department, and appointing additional special advisers so that each major department has at least one from each coalition partner.³⁹

4. Fixed Term Parliaments

One of the commitments to constitutional reform contained in the Conservative-Liberal Democrat programme for government was the introduction of five-year fixed term parliaments. Fixed-term parliaments were already an established policy of the Liberal Democrats, and the Conservatives had promised in their manifesto to make “the Royal Prerogative subject to greater democratic control so that Parliament is properly involved”.⁴⁰ David Cameron said that the Coalition’s plans for fixed term parliaments were a “huge change in our system” which would provide “strong and stable government” over the next five years, and should be “welcome”.⁴¹ Commentators noted that the changes “offer some security to Nick Clegg, deputy prime minister, by taking away the right of the prime minister to call the election at a time of maximum advantage to the Tories”.⁴²

However, there were concerns amongst Labour members of parliament that the proposed requirement for a 55 per cent Commons majority to secure a vote for an early dissolution still allowed the Coalition to call for dissolution at the time of its choosing, as it commands just over 55 per cent of seats in the House of Commons. Angela Eagle (Labour) said:

... My reading of the situation is that, as a result of the 55 per cent rule, the mathematics of the current Parliament mean that an early general election could be called, regardless of a pledge to have a five-year Parliament, if both of the member parties of the Government coalition decided that they wanted an election, as between them the two parties can muster more than 55 per cent of MPs.⁴³

Nick Clegg announced on 5 July that the government had revised its proposals, so that a Commons majority of two thirds would be required for an early dissolution, and that votes of no confidence would still require only a simple majority.⁴⁴ The requirement for a two-thirds super-majority has provoked substantial debate. For example, Dr Meg Russell of the Constitution Unit wrote that:

... Collectively, the coalition has 56 per cent of seats—meaning Cameron and Nick Clegg together could call an early election, even if the measure went through. Governing parties often exceed 55 per cent: Blair did in 1997 and 2001, and Thatcher in 1983 and 1987. In contrast, a threshold of 67 per cent, as applies in the Scottish Parliament, would have bound every post-war government. Adopting this figure would look like long-term constitutional engineering, rather than a short-term fix.⁴⁵

³⁹ Akash Paun, [United We Stand – Coalition Government in the UK](#), Institute for Government (September 2010).

⁴⁰ Conservative Party, [Invitation to join the Government of Britain](#) (2010), p 67.

⁴¹ “[Cameron defends change over election vote rules](#)”, BBC News online, 14 May 2010.

⁴² Alex Barker and Jim Pickard, “[Coalition accused of gerrymandering](#)”, *Financial Times*, 14 May 2010.

⁴³ HC *Hansard*, 25 May 2010, col 137.

⁴⁴ HC *Hansard*, 5 July 2010, col 23.

⁴⁵ Meg Russell, ‘Hot Topic: A fix or a fair reform’, *The House Magazine*, 7 June 2010, p 8.

In Professor Robert Blackburn's view:

... Fixed terms are a good idea but I do not think that means that we need to be frightened of general elections. Setting the threshold at two-thirds I think is too high... I think a normal voting rule for a dissolution vote is the best. And if you want to have a special majority, then the Commons can think of that at a later date and change standing orders accordingly.⁴⁶

Professor Hazell told the House of Lords Constitution Committee that:

... I am still puzzling myself to understand the rationale for what I called, in shorthand, the dual threshold. Why should it be a much higher threshold if it is the government which seeks to initiate a dissolution?⁴⁷

For further analysis of this issue and comparisons with the procedures that apply in the Scottish Parliament, see House of Commons Library, [Fixed Term Parliaments Bill](#), RP 10/54 (26 August 2010), section 5.2.

5. Salisbury Doctrine

Although it is not formally codified, the Salisbury Doctrine is a convention according to which the House of Lords, as an unelected chamber, does not try to vote down at second or third reading a Government Bill to which the government committed itself in its election manifesto.⁴⁸ There has been some debate about whether this applies to the Coalition's programme for government, since it is not strictly speaking an election manifesto, and was in fact drafted after the election. Lord McNally (Liberal Democrat), Deputy Leader of the House of Lords, declared in June 2010 that "as far as I am concerned the Salisbury and the Cunningham conventions will still be operated in this House".⁴⁹ Some academics have forecast that clashes over the application of the Salisbury Convention have the potential to provoke a constitutional crisis. For example, Professor Robert Hazell of the Constitution Unit at University College London noted that:

In the previous Parliament the Liberal Democrats said they no longer subscribed to the Salisbury convention. If the Lords decided to oppose the bill, the government might need to invoke the Parliament Acts to force the bill through.⁵⁰

The Hansard Society commented that:

On contentious issues, particularly of a constitutional nature, [the Lords] may therefore not feel bound to acquiesce to the will of the Commons if the proposed

⁴⁶ Minutes of Evidence taken before the House of Lords Constitution Committee (Unrevised), [The Government's Constitutional Reform Programme](#), Ev 1, Professor Robert Blackburn, Professor Robert Hazell and Peter Riddell, Wednesday 21 July 2010, Q21.

⁴⁷ Ibid.

⁴⁸ For further information about the history and recent practice of the Salisbury Doctrine, see House of Lords Library, [The Salisbury Doctrine](#) (June 2006) and Joint Committee on Conventions, [Conventions of the UK Parliament](#), HL Paper 265-I of session 2005–6 (November 2006).

⁴⁹ HL *Hansard*, 29 June 2010, col 1784.

⁵⁰ Robert Hazell, *The Conservative-Liberal Democrat Agenda for Constitutional and Political Reform*, Constitution Unit (June 2010), p 51.

measures do not carry the authority of having been manifesto commitments. If this occurs, we could face a political and constitutional crisis.⁵¹

Dr Eamonn Butler of the Adam Smith Institute argues that the confusion over the status of the Salisbury convention and how it should operate in relation to a coalition government increases the pressure for an elected House of Lords.⁵²

Baroness D'Souza, Convenor of the Crossbench peers, has commented that there are three possibilities for the operation (or not) of the Salisbury convention:

- [1] The Salisbury-Addison convention cannot and does not apply since no one voted for the Coalition agreement.
- [2] The Convention does not apply strictly but since the electorate by its votes ensured a hung Parliament and that therefore a coalition was more than likely, the Agreement forged between the two parties should count as a manifesto.
- [3] The Lords should respect only those policies which were put forward in the manifestos of both the Tories and the Lib Dems and are therefore similar.

This could become a lawyers' paradise—researching the minutiae of precedent even going back to the 19th Century. However the most sensible compromise, which some might see as weaselly—is to observe the *spirit* of the convention. ... Conventions should be sufficiently flexible to develop according to circumstances.⁵³

In Lord Adonis's view the coalition agreement is:

... An agreement between the two political parties that command the confidence of the House of Commons and, therefore, it has a significant status. So far as the attitude that the House of Lords should take to it is concerned, that is entirely uncharted waters... parts of the coalition agreement were not in the manifesto of either of the coalition parties, [and] there is very little in it that was in the manifesto of both of the coalition parties. So the House of Lords will have to exercise its judgment with discretion and wisdom, as it always does in my experience.⁵⁴

6. Government Majority in the House of Lords

In recent years, some degree of consensus has emerged that the governing party should not command an automatic majority in the House of Lords. The Coalition's programme

⁵¹ Hansard Society, written evidence submitted to the House of Commons Political and Constitutional Reform Committee inquiry into *Lessons from the process of government formation after the 2010 general election*, [LPFG 04](#), 15 October 2010.

⁵² Eamonn Butler, "[The future of the Salisbury Convention](#)", Adam Smith Institute blog, 8 June 2010.

⁵³ Baroness D'Souza, "[Is the Coalition Agreement a Manifesto?](#)", Lords of the Blog, 17 November 2010.

⁵⁴ [Corrected transcript](#) of oral evidence taken before the Political and Constitutional Reform Committee, *Lessons from the process of government formation after the 2010 general election*, to be published as HC 528-i of session 2010–11, Q53.

for government contained a commitment that “Lords appointments will be made with the objective of creating a second chamber that is reflective of the share of the vote secured by the political parties in the last general election”.⁵⁵ Since the general election, 117 new life peers have been announced; as of 10 January 2011, 76 of these had received a writ of summons and 73 had been introduced. The breakdown by political affiliation of those with a writ of summons is:

Conservative	30
Liberal Democrat	13
Labour	28
Crossbench	3
Other	2
<hr/>	
Total	76

Members of the Labour Party have accused the Coalition of creating a large number of new peers in order to create a majority in the House of Lords. Chris Bryant, the Shadow Minister for Political and Constitutional Reform, reportedly claimed that:

... The number of new peers announced yesterday [19 November 2010] was further evidence of plans to create “artificial majorities” in both the Commons and the Lords. Mr Bryant said: “This government can only win by fixing the rules of the game in its favour. It is playing politics with constituency boundaries and reducing the scrutiny capacity of the Commons by 50 MPs.

“It is facing both ways in the Lords, simultaneously creating a majority through appointment and keeping up the pretence of support for reform.”⁵⁶

As of 10 January 2011, Labour remains the largest single party in the Lords with 233 members, but the Coalition has a combined total of 287 members (204 Conservatives and 83 Liberal Democrats).⁵⁷ This does not give the Coalition an outright majority, as the total membership of the House stood at 753 on 10 January, but Peter Riddell and Akash Paun argue that the Coalition effectively has a majority as “the 200-odd crossbenchers and bishops do not vote as a bloc and may only vote occasionally”.⁵⁸ However, Lord Wallace of Saltaire (Liberal Democrat), a Government Whip, has challenged the assertion that the Coalition has an inbuilt majority:

Has the establishment of a coalition government changed ‘the fundamental role’ of the House of Lords as a revising chamber? In the debate on Lords working practices on July 12, Baroness Royall, now Labour opposition leader in the Lords, asserted that it had. “If the government has a permanent inbuilt majority,” she went on, “the new voting pattern in this House of the new politics is putting in question the traditional role of this House as a revising chamber.”

After ten weeks, in which the government has lost three divisions in the Lords and won four, the image which the Labour front bench appears to have, of united and

⁵⁵ [The Coalition – Our Programme for Government](#), 20 May 2010, p 27.

⁵⁶ Nigel Morris, “[Labour hits out over attempts to ‘fix’ Parliament](#)”, *Independent*, 20 November 2010.

⁵⁷ <http://www.parliament.uk/mps-lords-and-offices/lords/lords-by-type-and-party/>, accessed 12 January 2011.

⁵⁸ Peter Riddell, “But just how are they all going to fit in?”, *Times*, 29 May 2010. Akash Paun also asserts that the Coalition has an “effective majority in the House of Lords” in [United We Stand – Coalition Government in the UK](#), Institute for Government (September 2010), p 17.

disciplined Conservative and Liberal Democrat peers marching in step through the lobbies to defeat every amendment and critical motion, seems far-fetched.

On the arithmetic, Baroness Royall's assertion that the coalition has 'a permanent inbuilt majority' is plain wrong. It's true that 268 coalition peers (192 Conservative, 76 Liberal Democrat) narrowly outweigh the 231 Labour peers in the current House; but 181 crossbenchers, 25 bishops, and nine others confidently hold the balance.

The government's first defeat, on the issue of whether the Local Government Bill was hybrid, was partly due to abstentions by Conservatives who were persuaded by crossbench and Labour arguments in the course of the debate. The second defeat was on a motion proposed by a former Liberal Democrat leader; the largest group in those who followed Lord Steel through the lobby were crossbenchers, the second-largest Conservatives.

Liberal Democrat abstentions, and a strong crossbench turnout, accounted for the third defeat, on Baroness Wilkins' amendment to the Academies Bill on special educational needs.

Of the government victories, Labour lost Lord Hunt's committee amendment on the Academies Bill because most crossbenchers supported the government; while Baroness Royall's amendment, on July 7, failed because only 39 Labour peers voted. On this record, the Lords' position as a revising chamber—in which no minister can take assent for granted without a persuasive rationale—looks secure.⁵⁹

7. Short and Cranborne Money

Both the House of Lords and the House of Commons have schemes whereby funding is made available to support the parliamentary business of opposition parties (known as Short money in the House of Commons and Cranborne money in the House of Lords).⁶⁰ Following the formation of the Coalition government, the Liberal Democrats were no longer an opposition party, and were therefore no longer entitled to receive such payments. However, they reportedly explored ways by which they could continue to receive at least some funding towards their costs. A Liberal Democrat spokesman told the BBC:

We are no longer in receipt of Short Money as its current formulation is for opposition parties only. The current system of Short Money does not account for the complexity of situations where there is not a majority government. We are looking to existing precedents, such as that established by the previous Labour Government, in Scotland, to ensure that, as the smaller of the two coalition parties, the Liberal Democrats are able to maintain their operational independence in parliament. Recognising their role in government, the Liberal

⁵⁹ Lord Wallace of Saltaire, "[Coalition does not have a 'permanent inbuilt majority'](#)", originally published in *The House Magazine*, reposted on [epolitix.com](#), 29 July 2010.

⁶⁰ For further information on Short money and Cranborne money, please see House of Commons Library, [Short Money](#), SN/PC/1663 (last updated 1 July 2010).

Democrats believe any such financial support for parliamentary functions should be less than received in opposition.⁶¹

Sir George Young (Conservative), Leader of the House of Commons, stated that:

I make it absolutely clear that Short money is available to Opposition parties. The Liberal Democrats are a party of government and therefore Short money is not available to them.⁶²

According to Dr Ruth Fox of the Hansard Society, loss of Short money meant that the Liberal Democrats had to make over 20 members of party staff redundant. She believes that “it will be difficult for the party to sustain an independent policy development process with reduced resources”.⁶³

In the House of Lords, a resolution of 30 July 2002 which set out the terms for the payment of Cranborne money made specific references to financial assistance for “the second largest opposition party”.⁶⁴ The House agreed a motion on 24 June 2010 which removed these references, meaning that financial assistance would henceforth only be given to the Opposition (defined in the 2002 resolution as “the party in opposition to Her Majesty’s Government having the greatest numerical strength in the House of Commons”) and the Convenor of the Crossbench peers. Lord Strathclyde (Conservative), Leader of the House of Lords, observed that:

We took the view that, as the Liberal Democrats had joined us in coalition government, both we and they should give up that money.

... if a second party of opposition should re-emerge, the whole situation should be reconsidered and the position reviewed. I cannot conceive of circumstances in which such a review would not be done in a most positive light, with Cranborne money reapplying to a second party of opposition.⁶⁵

8. Parliamentary Working Practices

The formation of a Coalition government has necessitated changes to some of the working practices in both Houses with regard to seating arrangements, determining when and in which order members may speak, and how members address each other. In the House of Commons, the Liberal Democrats and the Conservatives swapped sides to sit together on the government side of the House and Labour moved to the opposition benches. David Cameron and Nick Clegg sit next to each other on the government front bench, while the Conservative and Liberal Democrat MPs who are not part of the Government sit in their own groups, on the same side as the government.⁶⁶

The transition to a new seating arrangement was more complicated in the House of Lords. The fixed position of the Bishops’ benches to the right of the Throne, and the

⁶¹ Michael Crick, “[The Lib Dems respond to Short Money rumours](#)”, BBC Newsnight blog, 19 May 2010.

⁶² HC *Hansard*, 10 June 2010, col 468.

⁶³ Ruth Fox, “Five Days in May: A New Political Order Emerges”, *Parliamentary Affairs* Vol 63 No 4 (2010), p 620.

⁶⁴ House of Lords, [Minutes of Proceedings](#), 30 July 2002.

⁶⁵ HL *Hansard*, 24 June 2010, col 1435.

⁶⁶ BBC College of Journalism, “[The House of Commons is the focal point of UK democracy, but how does it work?](#)”, accessed 12 January 2011.

habit of “spillover” Crossbenchers (those for whom there was not enough room on the actual cross benches) of sitting at the other end of that side of the House meant that there was limited space to accommodate both the Conservatives and Liberal Democrats on the government side. Initially, the peers swapped sides with all parties sitting directly opposite where they had sat before, with only the bishops and the Crossbenchers who actually sat on the crossbenches not moving.⁶⁷ Subsequently, by mutual agreement between the party leaders, the Liberal Democrats moved from the area behind the Bishops’ benches into the rows further away from the Woolsack on the government side, with the Conservatives instead occupying the rows behind the Lords Spiritual vacated by the Liberal Democrats.⁶⁸

In the House of Commons, the order in which MPs speak is determined by the Speaker. When taking questions from MPs, the Speaker still alternates between members from the Government and the opposition, now treating the Conservatives and Liberal Democrats as one government bloc. At Prime Minister’s Questions, there were previously two questions allocated to the Liberal Democrats, but this is no longer the case. The Leader of the Opposition is still entitled to ask up to six questions, and the time previously allocated for questions from the Leader of the Liberal Democrats is now used for backbenchers’ questions.⁶⁹ It has been noted that during debates, the Speaker is making a point of calling backbench Liberal Democrats to speak when a Conservative minister has opened the debate, and vice versa.⁷⁰

In the self-regulating House of Lords, it is the peers themselves who determine in which order members should speak. Prior to the general election, the House adopted the rule of thumb that after the member who had tabled a question had asked both the tabled question and a supplementary, the subsequent supplementary questions would be asked by members in a rough rotation around the main parties/groups in the House. This meant that supplementary questions were asked in about equal shares by the Government backbenches, the two opposition benches, and the Crossbenches, with occasional interventions from the smaller parties. Following the formation of the Coalition, the House had to feel its way with regard to how questions should be shared out. For example, in the early days of the new parliament, the following exchange took place at question time between Lord Peston (Labour) and Lord Oakeshott of Seagrove Bay (Liberal Democrat), with Lord Strathclyde (Conservative) as Leader of the House trying to mediate:

Lord Oakeshott of Seagrove Bay: My Lords-

Lord Peston: My Lords-

Lord Strathclyde: My Lords, this always works very well when we take it in turns. Could the noble Lord, Lord Peston, sit down?

Lord Peston: My Lords-

Noble Lords: Order!

⁶⁷ Lord Norton of Louth, “[All change – almost](#)”, The Norton View blog, 1 June 2010.

⁶⁸ Lord Tyler, “[Wonderland](#)”, Lords of the Blog, 6 October 2010.

⁶⁹ BBC College of Journalism, “[The House of Commons is the focal point of UK democracy, but how does it work?](#)”, accessed 12 January 2011.

⁷⁰ Institute for Government, “[Making Coalition Government Work: the impact on parliament](#)”, accessed 12 January 2011.

Lord Strathclyde: My Lords, we cannot both stand up at the same time. I think that I have the Floor. The noble Lord, Lord Oakeshott, should be given an opportunity to speak.

Lord Oakeshott of Seagrove Bay: Thank you, my Lords. The Labour Benches have already had two questions. [Question and answer followed]

Lord Peston: My Lords, I was under the impression that the Liberal Democrats were part of the Government. I know that we need to sort out the protocol, but they really have to get used to what they have sold their souls for.⁷¹

The formation of the Coalition has also meant that instead of two opposition party front benches putting questions to a minister following a ministerial statement in the House of Lords, now only the Labour benches do so. Similarly, there is now one “winding” opposition speech at the end of a debate instead of two.

There have also been changes in the way that members of both Houses address each other. In the House of Commons, MPs refer to members of their own party as “my honourable friend” and members of opposing parties as “the honourable member”; in the House of Lords the equivalent terms are “my noble friend” and “the noble Lord/Lady”. When the Coalition was first formed, there was uncertainty about how the Conservatives and Liberal Democrats would address each other.⁷² Baroness Falkner of Margravine (Liberal Democrat) paved the way in the House of Lords by using the term “noble friend” during the debate on the Motion for an Humble address on 25 May 2010, the first full sitting after the general election.⁷³ In the equivalent debate in the House of Commons, Peter Lilley (Conservative), introducing the motion, observed:

This coalition throws up difficult problems of parliamentary etiquette, and I am the first to have to tackle them. Should I refer to my Liberal Democrat colleague as “my hon. Friend”, but that is a term reserved for members of our own parties? How about “my honourable partner”? The word “partner”, however, nowadays implies an even greater degree of intimacy than friendship... so I will stick to “my honourable ally”.⁷⁴

In response, Don Foster (Liberal Democrat), referred to Mr Lilley as “the right honourable member”.⁷⁵ Other MPs have begun addressing their Coalition colleagues as “friend”, however. In response to an interview question about whether this felt strange, the Liberal Democrat MP Jo Swinson said: “I suppose because it’s weird anyway to describe someone as the Honourable Member for wherever, it’s not such a big deal to say ‘my Honourable Friend’”.⁷⁶

⁷¹ HL *Hansard*, 7 June 2010, cols 505–6.

⁷² See for example Jonathan Isaby, “[Will Conservatives and Lib Dem MPs refer to each other as “honourable friends”?](#)”, ConservativeHome blog, 17 May 2010.

⁷³ HL *Hansard*, 25 May 2010, col 12.

⁷⁴ HC *Hansard*, 25 May 2010, col 34.

⁷⁵ HC *Hansard*, 25 May 2010, col 37.

⁷⁶ Caron Lindsay, “[Door knocking, Deputy Leader and Honourable Friends – interview with Jo Swinson](#)”, *Liberal Democrat Voice*, reposted on Jo Swinson’s blog, 14 October 2010.

