

# FACTFILE: GCE GOVERNMENT & POLITICS

## THE HOUSE OF LORDS



### The House of Lords

The House of Lords has been subject to much political debate and controversy. Major electoral reforms in the nineteenth century, which saw the extension of the franchise, strengthened the legitimacy of the House of Commons and it began to be seen as more credible than the House of Lords because of the elected status of its members. This perception of the House of Commons as the more legitimate of the two chambers became enshrined in a series of constitutional reforms enacted in the twentieth century beginning with the 1911 Parliament Act, the 1949 Parliament Act and the House of Lords Act of 1999. These Acts placed restrictions on the powers of the House of Lords and with the passage of the Constitutional Reform Act in 2005, further changes were made to the composition of the second chamber.

The debate on the role, position and future of the Lords was a key political debate in the 1980s and the focus was on whether it should be abolished or not. By 1999, however, even those who had been in favour of abolition had moderated their views with the experiences of the 1980s and the Lords' more effective scrutiny of Margaret Thatcher's

Conservative government. The 1983 General Election saw Thatcher returned to government with a 146 seat majority in the House of Commons and the leader very popular amongst her backbenchers. Because of the sheer inferiority of the opposition's numbers it was the Lords who were better able to check the power of the government and, during the remainder of her time as Prime Minister, the Lords inflicted over a hundred defeats on Thatcher's government. For many, by the end of the 1980s it was clear that the Lords did have a role to play in UK politics. What wasn't clear was how that role could be legitimised. In its manifesto for the 1997 General Election the Labour party led by Tony Blair promised a series of radical constitutional reforms which included devolution to Scotland, Wales and Northern Ireland and reform of the House of Lords, particularly the hereditary principle. The Labour government's 1999 House of Lords Act which removed all but 92 of the hereditary peers transformed the upper house and arguably legitimised it; Labour had correctly identified hereditary peers as the stumbling block to legitimacy.



## The changing composition of the House of Lords

- 1. Hereditary Peers** – the House of Lords Act in 1999 ended the right of all but 92 hereditary peers to sit and vote in the Lords. Prior to this more than 750 hereditary peers had a place in the House. Some peerages go back centuries but most were created in the nineteenth and early twentieth centuries. The 1963 Peerages Act allowed hereditary peers to give up their titles and membership of the Lords to become (if successful at election) members of the House of Commons and also allowed female hereditary peers to sit in the Lords. Two famous Lords who gave up their titles using this Act were Alec Douglas Home who went on to become a Conservative Prime Minister and Viscount Stansgate, better known as Tony Benn, the former Labour MP. The hereditary element of the House is now selected by other hereditary peers, so if a peer dies, peers from the same group elect a replacement from the register of hereditary peers.
- 2. Life Peers** – the 1958 Life Peerages Act gave the Prime Minister the right to appoint members of the House of Lords for life. This means that their title and seat in the Lords is only for their own lifetime and cannot be passed on to their children. Life peerages make up the largest category of peers in the Lords– there were 590 of them in 2010.
- 3. Lords Spiritual** – Two Archbishops and 24 senior Bishops of the Anglican Church sit in the Lords.
- 4. Lords of Appeal** – The Lords of Appeal were more commonly known as Law Lords and they performed the judicial function of the House of Lords until 2009 when the new Supreme Court was established. In 2009 the 12 Law Lords in the House of Lords became the first 12 members of the Supreme Court. Whilst they perform this role they are no longer permitted to sit in the House of Lords but, on retirement, will be able to return to the House of Lords. Future appointees to the UK's Supreme Court will not be made members of the House of Lords.

The creation of life peerages in 1958 greatly

enhanced the professionalism of the Lords and they became more likely to play an active political role. Life peers include former ministers and MPs, leading figures from business, education, industry and the arts. Twenty percent of life peers are women. The creation of life peerages in 1958 also marked a change in the activity of the Lords. Up until the Life Peerages Act of 1958 attendance was poor with the Lords rarely meeting more than three days per week and then only for 3-4 hours per day. The influx of life peers changed this dramatically so that by the 1980s daily sittings were lasting for 6-7 hours. The Lords today has an average daily attendance of over 450 members. In the 1950s the Lords only voted 10-20 times per year but by the 1990s this had risen to approximately 200 times per year. Government defeats became more common too; between 1979 and 1997 ministers suffered 250 defeats at the hands of the Lords. After further reform with the passage of the House of Lords Act in 1999, this figure rocketed to 528 defeats between 1997 and 2010. The televising of the Lords' work which began in 1985 also raised its profile and reduced some of the myths surrounding it. Before the 1999 House of Lords Act, the House of Lords had 1,296 members of which 759 were hereditary peers. After the Act, the Lords was reduced to 666 members. In 2012 there were 765 peers of whom 650 were life peers. In 1954 the number of Conservative peers stood at 505 whilst in 1999, just before the reform was introduced, there were 473 Conservative peers and 168 Labour peers. The historical Conservative dominance in the Lords was removed by the 1999 House of Lords Act as many of the hereditary peers who lost their seats had taken the Conservative whip. In the most recent tally of membership of the Lords there were more Labour Lords than Conservatives, however, no one single party is dominant as a sizeable number designate themselves as crossbench peers. This means that peers are able to vote whichever way they like on issues as they arise. The figures today reveal a very different picture to that of the past with the Lords having 213 Conservative peers, 226 Labour peers and 177 crossbench peers.



## Proceedings in the House of Lords

There is no Speaker in the House of Lords as it is supposed to be able to maintain order itself. Due to the Salisbury Convention which emerged during the Labour government of 1945-51, the Lords do not vote on or challenge any bill that was included in the government's manifesto. The Lords will also debate all amendments tabled for a bill unlike the procedure in the Commons where only a few will be debated. There is no guillotine motion in the House of Lords meaning that debates can last as long as necessary. Both of these differences make the quality of debate in the House of Lords better than that of the Commons. The functions of the Lords are similar to those of the Members in the House of Commons although with a slightly different emphasis.

### Legislation

The majority of Lords' time is spent on legislation – approximately 60%. The Lords tend to focus on the detail of bills rather than the principle behind them. In doing so they bring a wide range of expertise to the consideration of bills both in the debate and committee stages. The Lords therefore provide good quality legislative scrutiny and will make amendments which are usually accepted by the Commons. It is this solid amending function which has caused the Lords to be regarded as a revising chamber. Each year the Lords typically agree between 500 and 4,000 amendments, the vast majority of which are seen as making bills better. For example, in the 1998-99 session the Lords made 108 amendments to the Access to Justice Bill; 71 of these were acknowledged by the minister to have had a positive impact on the final piece of legislation.

The House of Lords in 2016 has also inflicted several defeats on the Conservative government's welfare reforms. The Lords defeated the government's planned cuts to the Employment and Support Allowance (ESA) and also amended the Welfare Reform and Work Bill to include the provision that ministers had to report annually on income levels in the poorest families.

'Politics e-Review' considers the significance of the 2015 government defeats on tax credits in the Lords in an article written by [Emma Kilheaney](#).

### Debates

These debates are less restricted by time and party allegiance than in the Commons and are therefore deemed to be of higher quality. One day a week is given over to general debates as suggested by peers. The purpose of these debates is to discuss issues in more detail rather than coming to firm conclusions – these are exploratory and informative rather than argumentative debates.

### Questions

In the House of Lords there are two types of questions: questions for short debate (QSD) and oral questions. Lords can also table questions for written answer and in an average session would table more than 5,000. Oral questions take place at the start of each day in the Lords and last for half an hour. They are directed at the government with ministers appearing in the Lords in order to answer these questions.

At the end of each day there is usually a QSD which lasts between 60 and 90 minutes. Peers who wish to speak may do so and the appropriate minister contributes to the debate. For example, Baroness Afshar in November 2015 asked what measures were being taken to enable Muslim women to report incidents of domestic violence. In a QSD in March 2016 Baroness Afshar also asked the government what discussions it had held with the government of Iran concerning the treatment of human rights campaigners in that country, as part of the negotiations on lifting sanctions. Baroness Walmsley, a Liberal Democrat peer, also asked the government in January 2016 what assessment it had made of the factors contributing to cancer survival rates in the United Kingdom. Lord Hanningfield, a crossbench peer, also asked in January 2016 what the government was doing to raise educational standards in prisons. Many of the questions asked by the Lords contribute to raising the profile of an issue and place it firmly on the political agenda.

## Committees

Whilst the House of Lords makes good use of ad-hoc or temporary committees, it has seven core committees that are highly valued by all parts of the parliamentary system for their knowledge and expert handling of the matters they specialise in. These committees are as follows:

1. The European Union Committee was set up in 1974. This committee undertakes scrutiny of draft European legislation. Members are appointed to the main committee and its various subcommittees; for example, subcommittee E deals with justice, institutions and consumer protection. This committee can call for evidence from the government and from outside bodies. It also takes written evidence and prepares reports for the House of Commons. On average it sends 20-30 reports to the Commons each year. The European Union Committee has built up a reputation as a thorough and informed body and its reports are respected not only in Whitehall but also in the institutions of the EU.
2. The Science and Technology Committee, set up in 1979, benefits from a number of peers who are considered to be experts in this area; for example, the Chairman of the Committee in 2012, Lord Krebs, was the Principal of Jesus College, Oxford, and one of the world's leading experts in zoology. Its inquiries and ensuing reports have covered a wide range of topics such as the Zika virus, EU regulation of life science as well as the use of science in emergencies. This committee is well respected and therefore carries out some vital governmental work.
3. The Delegated Powers and Regulatory Reform Committee may not sound very glamorous but nonetheless carries out a solid 'housekeeping' function as it checks that the powers given in delegated legislation are appropriate and within constitutional limits. The work of this committee saves the government time and money and is so well regarded that it is standard practice for the government to accept its recommendations without query.
4. The Constitution Committee was set up in 2001 with the purpose of investigating and reporting on the constitutional implications of public bills. Again it is a well respected committee and seen as an aid to the smooth running of government. Its current and only inquiry at the outset of 2016 is on the impact of devolution on the Union.
5. The Economic Affairs Committee was also set up in 2001 and is slightly more unusual than some of the others given the growing tendency over the twentieth century for the Lords to be kept away from economic policy and steered towards constitutional/legal matters. However, this committee publishes a wide range of respected reports on the economic implications of aspects of government policy. For example, it has published reports on the private finance initiative and the implications for the UK of Scottish independence and in November 2015 launched an investigation into the demand for and availability of low cost housing.
6. The Communications Committee, set up in 2007, investigates and compiles reports on the burgeoning communication sector. For example, it has investigated issues such as the ownership of news and the future of public service broadcasting.
7. In addition to the committees outlined above, there is the Joint Committee on Human Rights which was established following the passage of the Human Rights Act in 1998 and has members drawn from the House of Commons as well as the House of Lords. It has six members from each chamber and its main task is to report on the human rights implications of bills. It was influential in changing some aspects of the 2001 Anti-Terrorism Crime and Security Bill.



## What does the future hold for the House of Lords?

As mentioned earlier, there have been a number of reforms to the Lords since the start of the twentieth century which have worked to improve the legitimacy of the chamber considerably. Gone are most of the voices calling for abolition of an outdated and unnecessary institution that were fairly loud, especially amongst the left, during the 1970s and 1980s. A quick look at the various significant reforms helps us to understand what is meant by the term 'evolving constitution'. These reforms were made in response to the changing social attitudes which characterised several decades during the twentieth century. The political system proved itself able to adapt and accommodate these changes.

Major reforms to the House of Lords include:

**The Parliament Act 1911:** limited the powers of the House of Lords by denying the Lords the power of veto over public bills and replaced this with the power to delay bills for two parliamentary sessions. The Lords, moreover, lost the ability to reject 'money' bills.

**The Parliament Act 1949:** reduced the delaying power of the 1911 Act for public bills from two years (two parliamentary sessions) to one year (one parliamentary session).

**The Life Peerages Act 1958:** permitted the creation of peerages for life. Around the same time allowances for peers' 'out-of-pocket' expenses and the system of 'leave of absence' for members was introduced. This permitted peers to be absent from the chamber for the duration of a parliamentary session.

**The Peerage Act 1963:** allowed hereditary peeresses to be members of the House, hereditary peerages to be disclaimed for life and for all Scottish peers to sit. This change was brought about largely as a result of a campaign by Tony Benn, who was an MP. His father died meaning that he inherited the family title and became Viscount Stansgate which at the time meant that he would have to take his seat in the Lords and cease being an MP. He objected to this and campaigned to have the law changed to allow hereditary peers to rebuke their title for their own lifetime.

**The House of Lords Act 1999:** removed the right of most hereditary peers to sit and vote in the House. During the passage of the legislation an amendment was accepted, enabling 92 hereditary peers to remain until further reform is adopted.

**The Constitutional Reform Act 2005:** separates the House's judicial function from Parliament and ends the Lord Chancellor's combined role as Head of the judiciary, a member of the executive and Speaker of the House of Lords. In 2009 the House's judicial function was transferred to the new UK Supreme Court.

The reforms which have been enacted have helped the House of Lords develop and respond to changing social attitudes but, most importantly, to continue to perform a political function. Today the House of Lords is generally seen as an important part of the political system with distinct areas of expertise. The growth in the scope and range of issues that governments need to address makes the existence of a second chamber, populated by experts and less driven by party and constituency concerns, very appealing.

Nonetheless one of the reasons the public standing of the Lords has improved is because it has proven itself willing to stand up to the government if there is a strong feeling that a government policy is wrong. While some of its objections to government policy, such as the Lords' refusal to sign the Hunting with Dogs Act, harks back to its ancient roots as an institution which represented the landed classes, other amendments or defeats inflicted on the government cannot be dismissed in the same manner. The Lords' opposition to the Labour government's plans to increase terror detention limits to 90 days in 2005 and 42 days in 2008 on the grounds that such action was contrary to human rights is evidence of this. More recently, the Lords' opposition to several aspects of Cameron's austerity measures which some peers argued were unnecessary and would bring poverty and misery to many of the most vulnerable people in Britain demonstrate that, at times, they can be more successful at holding the government to account than the official Opposition.

The former Prime Minister, David Cameron, was frustrated by the Lords on several occasions and considered removing the Lords' power to veto delegated or secondary legislation after they were able to vote against cuts to tax credits in October 2015. Although the House of Lords is unable to

reject 'money' bills, the vote against cuts to tax credits was legitimate as they were introduced as a statutory instrument. Statutory instruments allow the government to make changes to a pre-existing Act of Parliament without having to introduce a new bill. The Lords was able to defeat this statutory instrument as it was not a piece of primary legislation. The second stage of Lords' reform has proved difficult to plan with the Commons and Lords unable to agree what the second stage should be.

The main debate is over whether the Lords should be mainly appointed or mainly elected. The most recent clash between the two Houses on the issue was in 2012 when the Conservative led coalition withdrew the House of Lords Reform Bill for fear of defeat. The bill proposed that 80% of the Lords should be elected; however, 91 Conservative MPs voted against it and 19 more abstained. This was a major embarrassment for the government. Reform of the House of Lords remains a contentious political issue.



## Conclusion

To conclude, the House of Lords has been considerably improved by reforms made to its composition and is now regarded as making a valuable contribution to the political process. Lords spend 60% of their time on legislation and 40% on scrutiny. They can draw public attention to what they see as the failings of a bill in the hope that they will be able to get support for the amendments they recommend. They have a high level of expertise which is respected and, in some areas, this expertise means that the Commons will defer to the Lords, for example, in European or Science and Technology legislation.

The House of Lords is an unelected upper chamber with the power to delay bills for one year; however, if the Lords and the Commons clash on a bill it can be passed by the House of Commons without incorporating the Lords' suggestions if the Commons waits one year to pass it. This may seem to indicate that the Lords has little legislative power; however, its suggestions are usually taken on board and the power to pass a bill without its support has only been used seven times in the past century.

1. **The Government of Ireland Act, 1914**
2. **The Welsh Church Act, 1914**
4. **War Crimes Act 1991**
3. **The Parliament Act, 1949**
5. **European Parliamentary Elections Act 1999**
6. **Sexual Offences (Amendment) Act 2000**
7. **Hunting Act 2004**

Until 2009, the Lords also had a judicial role as the Law Lords and the UK's Highest Court of Appeal were part of the House of Lords. Since 2009, however, there has been a separate Supreme Court therefore the Lords no longer fulfils this function. Arguably this separation of roles and powers has also helped clarify the contemporary role of the Lords and reinforces its parliamentary as opposed to its judicial status. Whichever way we look at it, the Lords today looks likely to stay and is widely regarded as a vital part of the parliamentary system.

### Additional resources:

[For up-to-date news about the work of the House of Lords consult the Guardian's 'House of Lords' section in their 'Politics' coverage](#)

[Up-to-date record of the membership of the House of Lords according to party designation](#)

[Access a number of short, introductory videos on the membership and work of the House of Lords](#)

[www.parliament.uk](http://www.parliament.uk) also has a number of relevant pages.

Hammal, Rowena (2014, Vol 23, no. 3)  
*The Work of the House of Lords*, Politics e-Review, Hodder Education

Kilheaney, Emma (December 2015)  
*Government Defeat in the Lords*, Politics e-review, Hodder Education.

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