What Should Replace The House Of Lords?

Contents

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Introduction

The House of Lords is the second largest legislative chamber in the world, following only the National People's Congress of China.

Unlike most bicameral legislatures, in which the upper house is usually the smaller, we make room for 92 Hereditary Peers (previously 700) by virtue of birth, 654 (and counting) Life Peers by political favour and 26 Lords Spiritual, affording special privilege to the Church of England. At a point it begins to read like 12 Days of Christmas with Lords Temporal replacing Lords-a-leaping.

Women Peers were first admitted in 1958, yet seven decades later men still outnumber women by more than 2-1. Only around 6% come from a minority ethnic community and similar underrepresentation applies to other social groups, while more than half of all Peers reside in the south of England. Appointment without election should make this simpler to change than in politics more widely, were they not handed out to political sympathisers and party donors.

Peers can claim a £323 sitting fee for every day they attend as well as travel and other expenses. For reference, a single person over 25 on Universal Credit receives £324.84 per month. Whenever we see a headline attacking *benefit scroungers* remember that if every Lord turned up to work it would cost us around £250,000 per day.

A number of cross-party groups have formed to find consensus and by 2005 even the Conservatives supported an 80% elected house. In 2007, MPs voted on ten indicative proposals with only a fully elected chamber winning an overall majority. In 2011, the Conservative-Liberal Democrat coalition drafted a proposal to reduce the number of Lords to 300, with 80% proportionally elected for single non-renewable terms of 15 years, while still retaining the primacy of the Commons. This bill was later abandoned.

We mustn't seek to replace the Lords simply because of their size or cost. Not even because they're an uncomfortable contradiction of our modern values, reminding us that the UK was not invented as a democracy. The Lords exert significant power over our lives and the laws we live by - surely it isn't controversial to suggest that people should have oversight of this power.

Consideration 1: How Many Houses?

Do we need two chambers? Why don't we simply have a single chamber? Or three?

Few countries have experimented with tricameralism, which often retained a degree of aristocratic or monarchical power, and most of those later abandoned the system.

A single chamber would require significant reform to contain the benefits of two chambers. This might include mixed member voting to ensure broader representation and weighted legislative mechanisms. It seems more effective to maintain bicameralism with its capacity for greater scrutiny and dispersed - which is to say, weakened - lobbying by special interests.

The overall political structure of the UK must also be considered. The reformed Parliament should have a smaller remit as greater power is held at local and regional levels and in participatory forums.

Consideration 2: How Many Seats?

The ratio of population size to legislator is important to ensure adequate representation. But this is far from the only factor to consider. Italy and France each have similar population sizes to the UK and have ~250-350 members of their upper houses. Yet, the USA has a population approx. 6x the UK's and only 100 Senators (and a lower house significantly smaller than the Commons).

Therefore, we should consider:

- Primary function – to have equal legislative power or to be a place of reflection?
- Composition – should any constituencies be especially represented?
- If members are elected, then how are their constituencies shaped and sized?
- Wider political structure – devolution, localism, participatory mechanisms.

In Ireland, the Dáil is proportionately elected while the Seanad is nominated. 43/60 Senators are nominated by parliamentarians and designated bodies and then chosen by electoral colleges including TDs (MPs) and local councillors. They are grouped by sectoral knowledge, including public services, agriculture, culture, commerce and labour. Through these *vocational panels*, Ireland more convincingly maximises expertise.

Germany also indirectly elects its second chamber. Each Land nominates - and mandates - a delegation to the Bundesrat which possesses 3-6 votes. The votes possessed by each Land are weighted but the smallest Länder still hold more power than they would under a purely proportional system (like India's Rajya Sabha).

Australia employs a system nicknamed Washminster, combining the US's popular election of both chambers with the UK's fusion of powers.

This sample shows a range of methods of maximising democratic legitimacy, expertise and regional equity.

Consideration 4: Powers, Functions & Mechanisms

The Lords' have legislative power within certain limitations. The 1911 and 1949 Parliament Acts and the Salisbury Convention limit the Lords' power to delay legislation, introduce or amend money bills and to reject legislation promised in the governing party's manifesto.

A democratic upper house may be afforded greater legislative power. It is often claimed that this will lead to US-style gridlock but that is entirely nonsensical. Gridlock doesn't occur because both houses claim democratic legitimacy but because of the particular political structures, and so these could easily be designed in a different way.

Many countries resolve disputes between houses via a *joint sitting* - i.e. bringing both houses together as one to vote on the bill, with a majority in favour accepted as passage in both houses. This may be by simple majority, or it could require a 2/3 supermajority (as with the *French Congress* in voting on constitutional amendments). Australia initiates a double dissolution and new election of both houses, only utilising a joint sitting if this doesn't lead to resolution. Other countries, such as India, don't require this step before calling a joint sitting. We may also consider requiring a default joint sitting on some issues, such as declaration of war as the Philippines does.

The Lords' capacity to hold the government to account is restrained by its inability to call a vote of no confidence, meaning the government feels no need to command its confidence. In Italy, the government must secure the confidence of both chambers. A requirement for a joint sitting of both houses to remove a government would be a neater system. Of course, in this case the joint sitting wouldn't be called by the Prime Minister – perhaps a weighted joint vote could be triggered by a simple vote in each house or by a petition threshold.

The most detailed scrutiny is often performed by committees and the membership of these must be considered. Like the chamber as a whole, each committee should balance issue-specific knowledge with a representation of the elected members.

Lords may serve as government ministers despite their lack of democratic legitimacy. This is limited only by optics, but democratisation would address this controversy completely.

Consideration 5: Location & Modernisation

The case has been made that Parliament should relocate from London to somewhere more central. Proponents suggest this would have material benefits for legislation and regional equality as well as symbolic benefit for national unity. A relocation coinciding with the institution of a democratic chamber would represent a significant statement of values. The Palace of Westminster should become a museum, an academic study in the values of a different age. The pomp and regalia that reminds the great unwashed that they have no place in politics should also be mothballed.

Greater use of technology, such as remote attendance and digital voting, could connect representatives (and civil servants) across distant parts of the country with ease. This would also allow parliamentarians to better balance time in parliament and in their constituency.

A House Reformed – How Could a UK Senate Work?

1. Going forward, we should avoid terminology of *upper* and *lower* houses. These have been used above as useful shorthand but if both claim democratic legitimacy and bear equal (even if different) powers then they should be valued equally.

2. What should the new house be called? *Senate* is a regular proposal that's common around the world, although perhaps a word meaning *elder* or *old man* doesn't send the most forward-looking message. Though given how meanings change and how other countries have applied the term we can probably overlook this. Likewise, the Commons should also be renamed to reflect the centuries of struggle to escape the yolk of medieval aristocracy. Let's put a variety of names to referendum and let the people decide.

3. The house should balance specialist knowledge, regional equity and democratic representation. We might call this the *Ireland + Germany + Democracy Model*. Let's say, for illustration, there are 400 Senators. These could be divided as follows:

   • 25% (100) allocated to vocational experts. These would be submitted via expressions of interest / nominations, vetted by vocational panels (sub-committees of an appointments panel which is accountable to the lower house) and then chosen by sectoral electoral colleges. Part of the vetting would include ensuring nominees have no active party affiliation or history of political donations. These 100 should be divided evenly across different sectors and stakeholders e.g. business, labour, public services, agriculture, arts, academia etc. If, in the design of the Senate, it becomes clear that more seats are required for this constituency to represent all parts of society then proportionate increases should be made to the other constituencies (e.g. 20 additional vocational seats = 20 additional regional seats and 40 additional elected seats = 480 total Senators).

   • 25% (100) allocated across the nations and regions of the UK. These should be selected by devolved administrations

via the mechanism of their choice. A key point is that these should be allocated equally regardless of population size to ensure parity of esteem. This isn't a concern as population-based proportion is automatically built into all elected representatives across both houses due to the number of constituencies.

- 50% (200) to be directly elected. One option is to elect these alongside members of the lower house as part of an additional member system (AMS). Under this, each member of the upper house would represent an area covering ~2-5 lower house constituencies (depending on population size). Each constituent would benefit from having two representatives at the national level, often from different parties which would rebalance attempts at gerrymandering electoral boundaries. Ideally, proportional electoral systems would lead to greater representation across social groups though we may consider mechanisms for affirmative action, even temporarily.

4. Both houses should have equal legislative and scrutiny powers. A joint sitting should be employed where there is gridlock and by default to agree certain matters, such as declaration of war or votes of no confidence.

5. Senators should be term limited. This would be considerably simpler if terms are fixed – with members serving, for example, 3 parliamentary terms. If terms are not limited, then we may say that Senators can serve 15-19 total years – i.e. their term end should coincide with the parliamentary election most closely following their 15th year of service).

6. Another possibility is for Senate elections to occur in parts to ensure institutional memory, e.g. 1/3 of members in each cycle. However, a downside of this – and of excessively long single terms - may be that representatives lag changes in public opinion, though this could be mitigated by proportional elections.

7. Senators should treat representation as a full-time job, not a side hustle. This means both mandating attendance, allowing for modern workplace flexibility, and banning second jobbing.

8. The Executive (Cabinet) could continue to be drawn from both Houses though now with greater democratic legitimacy.

Conclusion

It shouldn't be a controversial suggestion in the 21st century that citizens should have direct oversight of their representatives and, in that way, over the laws that govern them.

There are some reasonable critiques of a fully elected upper house, such as the loss of specialist knowledge. But it is entirely possible to design a system that reconciles each of these concerns with the fundamental importance of democracy, as well as also enhancing regional equity and social unity.

Replacing the House of Lords should be pursued in parallel with local-federalisation of power and wealth, electoral reform, deliberative mechanisms like citizens' assemblies and participatory budgeting, a written constitution and any number of other democratic measures.

We can find proven concepts around the world, replicate what they do well and learn from the challenges they've encountered.

This isn't simply about the principle of a modern, representative government but fundamental to a greater quality of legislation and an empowered citizenry who feel tangible ownership over a government that they can see themselves in.

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