



House of Commons
Public Administration
and Constitutional Affairs
Committee (PACAC)

**Government Response to
the Committee's Thirteenth
report: A smaller House of
Lords: The report of the
Lord Speaker's committee
on the size of the House**

**Twelfth Special Report of
Session 2017–19**

*Ordered by the House of Commons
to be printed 28 February 2019*

Public Administration and Constitutional Affairs Committee

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Twelfth Special Report

1. On 19 November 2018, the Public Administration and Constitutional Affairs Committee (PACAC) published its thirteenth report of session 2017–19, *A smaller House of Lords: The Lord Speaker's committee on the size of the House*. The Government's Response was received on 11 January 2019. After considering the Government's response the Committee wrote to the Minister for the Constitution, Chloe Smith MP, on 21 January 2019 asking for a response to be provided to all of the Committee's recommendations and for more details to be provided as to how the Government is currently considering the issues raised by this Committee and the Lord Speaker's Committee on the Size of the House of Lords, and what the timescale is for these issues to be considered. The Minister wrote back to the Committee on 20 February 2019. These letters are appended to this Report.

2. The Government made clear in its letter that comprehensive reform is not a priority in the current Parliament. The letter also sets out that proposals such as capping the size of the House and introducing Party ratios for appointments based on the previous general election results is not a priority and it does not have a process in place to consider such proposals. The Government's view set out in the letter is clear, and understandable given the current number of immediately pressing issues it has to deal with. However, the Committee maintains that the Burns Report recommendations represents "a minimum incremental reform" and regards this as unfinished business that will need to be addressed.

Appendix 1: Government Response

The Government is grateful to the Committee for its report. As the Committee notes, the House of Lords, as the Second Chamber of Parliament, fulfils a vital complementary role to that of the House of Commons. Whilst primacy rightly sits with the elected House of Commons, in scrutinising legislation, the House of Lords can, and does, ask the Commons to think again. Its select committees, which again complement, rather than duplicate the Commons, hold the Government to account in a number of specific and detailed areas. It is therefore crucial that the House of Lords functions effectively, and the issue of its size is one of a number of factors which affects its ability to do so. It is for that reason that the Prime Minister welcomed the thorough and carefully considered work of the Lord Speaker's committee, under the Chairmanship of Lord Burns, as a serious attempt to tackle the challenge presented to them. The Government also joins the Lord Speaker in welcoming the good progress so far made by the House of Lords to reduce its size, as set out in the follow-up report from the Lord Speaker's committee. We remain willing to engage with all sides of the House to build on this progress.

Recommendation: *There is widespread agreement that addressing the size of the Chamber is now an indispensable imperative, and that this has become the "unarguable next step" in the proven process of incremental Lords reform. There are serious concerns that the House of Lords' growing size and cost has a direct impact on the Chamber's ability to conduct its important functions. While more far reaching reforms should continue to be discussed, reaching agreement has always been difficult. Addressing the size of the House of Lords is an urgent political priority which must not be delayed.* (Paragraph 24)

Response: As the Committee points out, plans for comprehensive reform of the House of Lords have not attracted consensus and past attempts have proved difficult to deliver. Given the present challenges faced by the UK, this Government has been consistent in its view that comprehensive reform is not a priority for this Parliament. We have focussed instead on working constructively with Peers where there appears to be consensus within the House of Lords to enable them to achieve smaller, but equally important, reforms to reduce the size of the House and ensure that the House continues to work effectively. This has included the option of retiring, which almost 90 Peers have already chosen to do since 2014. Securing that key legislative step has underpinned all the steps recommended by the Lord Speaker's committee.

We take the opportunity presented by your report to reiterate the welcome the Prime Minister gave to the important work undertaken by the Lord Speaker's committee. The Prime Minister, in her letter to the Lord Speaker of 20 February committed to do her bit in addressing the size of the House by continuing the restrained approach she has taken so far to appointments. She has committed to make future appointments fairly across the House, bearing in mind the results of the last general election and the leadership shown by each party in terms of increasing the number of retirements.

The Prime Minister's letter also welcomes the acknowledgement and commitment by the Labour and Liberal Democrat leaders that more retirements will be required from their ranks. In his response welcoming the Prime Minister's letter, the Lord Speaker also recognised the responsibility of the other political leaders in fulfilling their role in reducing numbers.¹

It should be noted that of the four main groups in the House, the only group significantly behind their target of reducing the number of peers leaving the House as suggested in the report of the Lord Speaker's Committee are the Liberal Democrats, who are currently below the number that would be required to sustain the progress to date.² Those party groups who are playing their part in efforts to reduce the size of the House through retirements should not be unduly penalised in terms of their relative representation in the House because they are reducing their numbers in line with the recommended targets set out by the report of the Lord Speaker's Committee.

We therefore believe that a combination of restraint regarding future appointments and sustained efforts from all parties and those not affiliated to a party to increase the number of retirements will represent the most effective short-term approach to addressing concerns about the size of the House.

Recommendation: *The effect of implementing the Burns Report recommendations is the very minimum reform which should be contemplated. We support the objective of reducing the size of the House of Lords and capping the Chamber's size at a maximum of 600 members, but we recommend that this be achieved more quickly than the rate set out in the Burns Report. We recognise that gaining consent for this reform depends upon avoiding unreasonable pressure on existing members to retire, but we urge the leaders*

1 <https://www.parliament.uk/business/news/2018/february/lord-speaker-responds-to-pms-statement-on-size-of-the-house-of-lords/>

2 Since October 2014 a total of 91 Peers have retired, of which 31 were Conservatives (34.1%), 15 were Labour (16.5%), 11 were Liberal Democrats (12.1%) and 34 were Crossbenchers/non-affiliated/DUP (37.4%)

of the party groups in the House of Lords to agree to strict retirement targets. We hope a faster rate of retirements is possible while maintaining the equal contribution basis outlined in the Burns report. (Paragraph 32)

Response: The Government agrees with the Committee that the objectives of the report of the Lord Speaker's committee to reduce the size of the House should be supported. The follow-up report published by the Lord Speaker's committee on 24 October tracked the progress made in reducing the size of the House since the proposals were made. Progress is encouraging and shows that the numbers leaving the House are greater than the Lord Speaker's committee anticipated, with half of the total retirements in the first year coming from the Conservative benches. Combined with the continued restraint shown by the Prime Minister, and assuming the other parties show equal leadership in encouraging retirements at the appropriate time, the reduction in the size of the House is on a promising trajectory.

Recommendation: It is important that the Prime Minister commits to the proposed cap and to limiting appointments in line with the proposed appointment formula. The adoption of this formula is a vital aspect of the proposals to reduce the size of the House. This system would make appointment of peers more transparent and set out clearly, as called for by our predecessor committees over many years, a constitutional convention that appointments to the House of Lords should reflect the results of the most recent general election. (Paragraph 35)

Response: The Prime Minister responded to the report of the Lord Speaker's committee by way of a letter to the Lord Speaker on 20 February 2018. In that letter, the Prime Minister committed to allocating future appointments fairly, bearing in mind the results of the last general election and the leadership shown by each party in terms of retirements. The Government does not however accept the Committee's recommendation that the Prime Minister must now commit to a specific cap on numbers, and absolutely limiting appointments in line with the formula proposed.

As the Prime Minister outlined in her letter, some of the recommendations of the Lord Speaker's committee represent short-term, practical steps that can be implemented straight away. Fixing the size of the House of Lords, and the ratios of party strengths within it, would be a long-term, significant change to the composition, character and functions of the Lords, and therefore needs careful consideration and wider engagement, so as not to risk unintended consequences, in particular to the fundamental relationship between the Lords and the elected House.

The Government notes that the Committee has also stated that caution should be applied in relation to the recommendation of the Lord Speaker's committee that the term of new members of the House of Lords should be limited to 15 years. This would have a significant impact on the composition, character and functions of the House of Lords and as the Committee notes, such changes could have unintended consequences.

Recommendation: In order to provide confidence in the Prime Minister's commitment to the proposed cap and limiting of appointments, this should also be set out in the Cabinet Manual. (Paragraph 36)

Response: The Prime Minister's commitment has been made publicly. She has adhered to it and it speaks for itself. The Lords Speaker's Committee calculated that 75 appointments

per Parliament (15 per year) would allow for their targeted reduction in overall numbers to be reached. In the period between the June 2017 election and the publication of the Lord Speaker's Committee report in October 2018, the Committee calculated that the Prime Minister had made just 12 eligible appointments. In addition, the annual target for the number of Peers departing has been exceeded, primarily because of the number of retirements from amongst Peers on the Government benches, which far exceeds the retirements from any other party. The Cabinet Manual sets out in one place the rules and procedures under which Government operates, including the relevant statutory framework and long-established conventions. It is not intended to be the source of any rule or to set out the specific commitments of a particular Government.

Recommendation: *We welcome the proposals in the Burns Report to strengthen the role of the House of Lords Appointments Commission (HOLAC) in ensuring nominees are made aware of what being active member of the House of Lords entails. We recommend that all political parties and HOLAC provide a written statement of nomination setting out why a person is being nominated for a peerage and how this qualifies them to contribute to the House of Lords. The person nominated should also make a written statement prior to the nomination being approved, setting out how they intend to contribute to the work of the House of Lords, in particular to the scrutiny of Bills and other legislation, and in general to the work of the Committees of the House. This statement would be published when the peerage is announced. (Paragraph 39)*

Recommendation: *The current membership of the House of Lords, as Lord Bew pointed out to us, in many areas does not reflect the country which it serves. While changes have started to be put in place, it is important that new appointments better reflect the make-up of the UK, in areas such as gender, region, ethnicity and religion. We recommend that HOLAC be given the role of monitoring and reporting on the diversity of nominees and peers for all groups. It should publish recommendations identifying which groups or communities require better representation, which should be aimed particularly at the political parties responsible for the majority of nominations. (Paragraph 40)*

Response: The Committee raises important concerns about transparency and the lack of diversity in the House. The Government will work with the independent House of Lords Appointments Commission to consider its future role and functions, in the light of both the recommendations made in the Committee's report and those contained in the report by the Lord Speaker's Committee.

Appendix 2: Correspondence between the Chair and Chloe Smith MP, Minister for the Constitution, regarding this Government Response

Dear Chloe Smith MP,

I am writing in regard to the Government Response to PACAC report A smaller House of Lords: The Lord Speaker's committee on the size of the House (Thirteenth Report of Session 2017–19). First, let me express the Committee's appreciation that the response was produced within the eight-week response period. The Committee also understands that this response has come at a time when the focus of the Government is on other matters. Nonetheless this remains a vital and pressing issue that needs to be addressed. The response says that the Government has not yet been able to fully consider the issues that have longer term implications. However, the Government has now had over a year since the publication of the Lord Speaker's Committee on the Size of the House Report (Burns Report), and almost a year since the Prime Minister wrote to the Lord Speaker saying the Government needed more time to consider the longer-term issues. In part it was to allow the Government time to have considered these issues that the Committee held off producing its report until November 2018.

While I'm sure it was an oversight, the Government response does not currently address all of the recommendations made by PACAC in its report. We would, therefore, like to offer an opportunity for the Government to take a little more time to consider the issues at hand and at the very least set out, in a revised response to the Committee, the details of the process underway and timescale for the Government to consider and engage with the issues identified both in the Burns Report and by our own Report. This would also provide the Government the opportunity to more fully expand on some of the points made in the original response. To assist you I have indicated some of the areas the Committee thinks could be clarified.

The response says that the Government has focussed "on working constructively with Peers where there appears to be consensus within the House of Lords". However, PACAC has evidence that suggests there is a strong consensus in favour in the House of Lords for the recommendations of Burns Report. Could the Government outline what evidence it has to the contrary?

The Prime Minister "committed to allocating future appointments fairly, bearing in mind the results of the last general election and the leadership shown by each party in terms of retirements". However, the Government has said in the response that it will not commit to "limiting appointments in line with the formula proposed". Could the Government outline the criteria being used to ensure that appointments are made "fairly" as indicated. This would add much needed transparency to an appointment system that has a negative public image.

The Government response indicates that the issues of "fixing the size of the House", "ratios of Party strengths" and "a term limit of 15 years" are all issues which could "cause significant change to the composition, character and functions of the Lords" as such the

Government says “careful consideration and wider engagement” are needed. It would be very helpful as suggested above if the Government could set out in detail the process that is underway and the timescale for when this is likely to be concluded.

The Committee welcomes the Government’s openness to our recommendations around making the appointments process more transparent through requiring a written statement of nomination from both the nominating party and the nominee themselves as well our recommendation that the House of Lords Appointment Commission be given an expanded role. The Government has indicated that it will work with the House of Lords appointment Commission on these recommendations, however, the response has not set out a process or timescale for when this will take place.

To assist you I have copied here the recommendations that were not explicitly addressed in the initial response:

We welcome the Prime Minister’s letter to the Lord Speaker and her commitment to show restraint in making appointments for the rest of the Parliament. However, in order to ensure progress, it is essential that this commitment is made more concrete. As such we urge the Prime Minister to commit to the principle of two-out, one-in, as proposed by the Burns Committee, and to the future appointment formula based on general election results. (Para 54)

The broad scheme of the Burns report presents an opportunity which must not be missed. This is a minimal incremental reform, which will fall far short of the aspirations of many who wish to see abolition or an elected Upper House; but the House of Lords itself should take the opportunity to make this reform, given that it does not require legislation. Adopting this reform does, however, not remove the pressure for more fundamental reform of the second chamber. (Para 59)

While we recommend the non-legislative proposals set out in the Burns Report as an achievable next step for addressing the problem of the size of the House, the task of reforming the second chamber of the UK Parliament must not be put on hold until the issue of the size of the House of Lords is “solved”. This small incremental reform should not halt the pursuit of more radical reform to the second chamber, 107 years after the Parliament Act 1911 was passed only as a temporary expedient. (Para 60)

I would like to reiterate that the Committee is mindful of the other issues that the Government is focused on, however, this important constitutional issue must not be overlooked especially at a time when there is such widespread support for these proposals for what is clearly recognised as the “unarguable next step”. With this in mind the Committee hopes that the Government will welcome an opportunity to give a fuller response, before we present it to Parliament.

Sir Bernard Jenkin MP

Chair, Public Administration and Constitutional Affairs Committee (PACAC)

Dear Sir Bernard Jenkin MP,

I am writing in response to your letter regarding the Government's response to your Committee's Report 'A Smaller House of Lords: The Lord Speaker's Committee on the Size of the House.'

I agree that the size of the House of Lords is an important issue and one that needs to be addressed. Whilst I believe that the House of Lords currently works effectively, it is clear that it cannot grow indefinitely. As the Prime Minister, and the Government's response to PACAC's report made clear, it is the restraint of Prime Ministers in making appointments, along with a commitment from Peers to retire at the appropriate time, that are crucial in reducing the size of the House of Lords in the shorter-term. And these should be the priority. The follow-up report from the Lord Speaker's Committee was encouraging, with the number of Peers leaving the House in the last year on track for meeting the Committee's targets. However, the majority of the retirements were from the Government benches and there must be an ongoing commitment from all parties, and those not affiliated to any party, in relation to retirements.

In its report, the Lord Speaker's Committee also made a number of longer-term recommendations which the Government has said need further consideration. It is not the case that the Government has not considered or provided a response in relation to these issues. Instead, the Government has been clear that now is not the time to address more radical, longer-term reform.

In your letter, you have asked for clarification in relation to specific areas of your report, which I have addressed below point by point, drawing on what the Government has already included in the response. For that reason, we do not intend on revising the response, but hope that you find the following helpful:

The response says that the Government has focussed "on working constructively with Peers where there appears to be consensus within the House of Lords". However, PACAC has evidence that suggests there is a strong consensus in favour in the House of Lords for the recommendations of Burns Report. Could the Government outline what evidence it has to the contrary?

It was clear from the debate in the House of Lords on 19 December 2017 on the Committee's proposals that there is a strong consensus on the need to reduce the size of the House. During that debate however, a number of members expressed concern about some of the recommendations in the report, specifically the proposal to introduce 15 year terms. Whilst such a limit might help prevent the House from increasing in size in the longer term, it will not help reduce numbers in the shorter term and may have a detrimental effect on the experience and knowledge of the House as a whole. PACAC itself stated that caution should be applied to recommendation that new members should be limited to 15 years.

The Prime Minister "committed to allocating future appointments fairly, bearing in mind the results of the last general election and the leadership shown by each party in terms of Retirements". However, the Government has said in the response that it will not commit to "limiting appointments in line with the formula proposed". Could

the Government outline the criteria being used to ensure that appointments are made “fairly” as indicated. This would add much needed transparency to an appointment system that has a negative public image.

The Prime Minister has indeed shown restraint and fairness in her appointments to the House of Lords. The Prime Minister has made significantly fewer appointments than previous Prime Ministers, including fewer political appointments. In making these appointments, she has been mindful of: the need to reduce numbers; the results of the last election and current make-up of the House; the need to make a small number of Ministerial appointments; the need to add to the knowledge and experience of the membership; and the leadership shown by each party in terms of retirements. The Prime Minister also made clear that she intends to operate on the basis that there is no automatic entitlement to a peerage for any holder of high office in public life.

The Government response indicates that the issues of “fixing the size of the House”, “ratios of Party strengths” and “a term limit of 15 years” are all issues which could “cause significant change to the composition, character and functions of the Lords” as such the Government says “careful consideration and wider engagement” are needed. It would be very helpful as suggested above if the Government could set out in detail the process that is underway and the timescale for when this is likely to be concluded.

The issues highlighted above are areas that will, in the longer term, have a fundamental impact on the composition of the House. In the shorter term however, they will not, in and of themselves, reduce the size of the House. It is the restraint of Prime Ministers in making appointments, along with a commitment from Peers to retire at the appropriate time, that are crucial in initially reducing the size of the House of Lords, and it is on those areas that the Government is focussed. The Government does not believe that the recommendations detailed above should be the priority and has not set out a detailed process or timescale for their conclusion. The Lord Speaker's Committee's follow-up report is encouraging and we will follow the progress made closely.

The Committee welcomes the Government's openness to our recommendations around making the appointments process more transparent through requiring a written statement of nomination from both the nominating party and the nominee themselves as well our recommendation that the House of Lords Appointment Commission be given an expanded role. The Government has indicated that it will work with the House of Lords Appointment Commission on these recommendations, however, the response has not set out a process or timescale for when this will take place.

As the Government has noted, the Committee has raised important concerns about transparency and the lack of diversity in the House, and intends to work with the independent House of Lords Appointments Commission (HOLAC) to consider its future role and functions. The Government is further considering how best to take this work forward, to ensure that sufficient time and resource is made available to fully consider the recommendations. These recommendations might be considered as part of the next Tailored Review of HOLAC, or as a stand-alone piece of work. The Government will discuss its proposed approach with HOLAC.

Your letter also asks for the following conclusions and recommendations to be addressed explicitly:

We welcome the Prime Minister's letter to the Lord Speaker and her commitment to show restraint in making appointments for the rest of the Parliament. However, in order to ensure progress, it is essential that this commitment is made more concrete. As such, we urge the Prime Minister to commit to the principle of two out, one in, as proposed by the future appointments formula based on general election results. (Paragraph 54)

As I outlined in the Government's response to the Committee's report and elsewhere in this letter, committing to making appointments based on a specific formula to address the ratios of party strengths within the House of Lords would be a long-term, significant change to the composition, character and function of the House. Therefore, so as not to risk unintended consequences, particularly in relation to the fundamental relationship between the Lords and the elected House, careful consideration and wider engagement would be required and should not be rushed.

The broad scheme of the Burns report presents an opportunity which must not be missed. This is a minimal incremental reform, which will fall far short of the aspirations of many who wish to see abolition or an elected Upper House; but the House of Lords itself should take the opportunity to make this reform, given that it does not require legislation. Adopting this reform does, however, not remove the pressure for more fundamental reform of the second chamber. (Paragraph 59)

As the Government response set out, this Government has been consistent in its view that comprehensive reform is not a priority for the duration of this Parliament. As the Committee notes, "the House of Lords itself should take the opportunity to make this reform" and the Prime Minister too said in her letter to the Burns Committee "any undertaking by me will have a limited effect on reducing the size of the House unless members themselves are willing to retire."

While we recommend the non-legislative proposals set out in the Burns Report as an achievable next step for addressing the problem of the size of the House, the task of reforming the second chamber of the UK Parliament must not be put on hold until the issue of the size of the House of Lords is "solved". This small incremental reform should not halt the pursuit of more radical reform to the second chamber, 107 years after the Parliament Act 1911 was passed only as a temporary expedient. (Paragraph 60)

Again, I would make the point that the Government has been consistent in its view that comprehensive reform is not a priority for this Parliament.

Chloe Smith MP

Minister for the Constitution