

## Background

This consultation paper has been produced by the Democratic Reform Group, a Working Group of the Federal Executive. The group has been asked to examine the democratic processes of the party in consultation with party members, with the intention of producing recommendations for change to be debated at Party Conference.

The group was chaired initially by Daisy Cooper and is now chaired by Sue Doughty. Members of the Democratic Reform Group welcome the opportunity to discuss these issues with party members.

Comments on this paper, and requests for speakers, should be addressed to Sue Doughty at [reform@libdems.org.uk](mailto:reform@libdems.org.uk) or c/o Rachael Clarke, LDHQ, 8-10 Great George Street, London, SW1P 3AE.

**The group also welcomes suggestions on improvements to other aspects of democracy within the Liberal Democrat Party.**

Comments on this paper should reach us as soon as possible and in any event no later than 4<sup>th</sup> October 2013.

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Members of this Group are:

Sue Doughty (Chair)  
Elaine Bagshaw  
Lorely Burt  
Daisy Cooper  
Kishwer Falkner  
David Williams  
Sian Reid (co-opted)  
David Allworthy (co-opted)

# 1. Introduction

- 1.1. In referring to the present arrangements for the House of Lords Nick Clegg said in a 2011 speech: ‘We need to ask ourselves whether our system is an affront the principles of openness which underpin a modern democracy’.
- 1.2. Until wholesale democratic reform of the House of Lords is achieved, we as Liberal Democrats believe that appointment of peers, although strictly a right and responsibility of the Party leadership, can be part of a more democratic structure.
- 1.3. The current democratic method is the Interim Peers’ Election Panel. Under this system, candidates are elected by Federal Conference representatives to a list from which the Leader can, at their discretion, select nominees – alongside other nominees of their own choosing.
- 1.4. This paper considers a replacement to the Interim Peers’ Election Panel – and the method by which Liberal Democrats select those to be nominated as Life Peers. There are two principal issues when considering an election system: how the list is formed, and how the list should be used by the Leader.
- 1.5. Nick Clegg, as Leader of the Parliamentary Party in the Commons, is from time to time, asked to nominate Liberal Democrats to the House of Lords. Like all other Parliamentarians, he cannot be bound under the Party’s Constitution. However, unlike the other main political parties, Liberal Democrats elect a list of suitable people from whom the Party Leader can choose, along with others of his own choosing. In the past these have included experts in particular fields, and those who have given exceptional service to the party.
- 1.6. The main question about how the list is formed is whether all members or just Federal Conference Representatives should be able to vote to create the list. Questions also arise about the voting process used by the party, whether former MPs, MSPs, AMs and MEPs should be on the list automatically, entitlement to vote, frequency of elections and the ballot process.
- 1.7. The main question about how the list should be used is to what extent membership of the list should result in nomination for a peerage. As it stands, the list elections do not connect directly to nomination as a Life Peer, since they simply entitle the successful candidates to consideration. They are, effectively, an indicative vote on the opinion of Conference Representatives.
- 1.8. The Cambridge local party submitted a motion to conference proposing that all nominees for Life Peers be elected by and from the membership. This arrangement, which mirrors those for the selection of Leader and President, would be more democratic than the existing system. It would, insofar as it lies within our control, introduce into the selection of Life Peers the kind of transparent and democratic electoral process which we have long argued should apply to the House of Lords as a whole.

## **Party Reform: A Panel Fit for Purpose**

- 1.9. This approach is also worthy of consideration given the recent ballot of the full membership of the Green Party to determine that the place offered to them in the July peerages would be awarded to Jenny Jones.
- 1.10. At present, despite strong challenges by the Liberal Democrats it is not possible to predict a date when our second chamber is elected. Accordingly we are constrained by the current practice where the leaders of each Party are allocated places in the Lords, and only they can put forward nominations. It is Liberal Democrat policy to create a democratically elected second chamber, but comments on how this should happen are outside the scope of this paper.
- 1.11. We would welcome comments on these questions about the balance that should be struck between patronage and democracy in selecting Liberal Democrat nominees as Life Peers.

## 2. How are Peers chosen?

### Public Nomination Procedure

2.1. There are different opportunities to nominate peers available to the Leader as follows:

- **Dissolution Honours.** Awarded at the end of a Parliament and recognise the service of MPs who have left the House of Commons.
- **Appointment to the Lords at other times.** This list is created on an intermittent basis. The Prime Minister decides on the balance of numbers to be allocated to each Party. This tends broadly to reflect the result of the previous General Election in respect of the Labour and Conservative Parties. The number of new members allocated to the Lib Dems tends to reflect our Leader's influence with the PM of the time. Although the Coalition Agreement contains a proposal that appointments to the Lords should reflect the most recent General Election result, this is not currently being acted upon
- **An extra nomination in special circumstances**

2.2. The list of nominees is vetted by the House of Lords Appointments Commission based on the criteria set out on its website<sup>1</sup>. Occasionally nominees, who need to meet the same personal standards as MPs, are rejected at this stage.

### Party Nomination Procedure

2.3. In 2004, Liberal Democrats voted to implement a list system with the intention that when there were a number of appointments to be made, the majority should be drawn from the list.

2.4. The current practice is as follows:

- Conference representatives vote for 30 people to join the Interim Peers List every two years. People stay on the list for 4 years. In 2010 the Federal Executive extended the life of the 2006 to 2012 and decided to reduce the number of places elected in 2010 to 15 in the light of the lack of recent appointments to the Lords.
- Former MPs are automatically included on the list, together with former members of the Scottish and Welsh assemblies and the European Parliament.
- Candidates for election to the list need nomination by 25 voting conference representatives and need to have been a member of the party for at least one year. They are also advised that in order to become a peer they will be subject to detailed scrutiny by the appointments commission.
- Other direct recommendations and applications are received by the Leader's office
- There may also be people who are available, sympathetic to Liberal Democrat policies who have specialist knowledge which could be useful in the Lords but who may have been unable to undertake party political activity while employed, for example in government or defence jobs and their names may also be put forward to the Leader.

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<sup>1</sup> <http://lordsappointments.independent.gov.uk/selection-criteria.aspx>

## Party Reform: A Panel Fit for Purpose

- Others appointed to the Lords may include people who have given exceptional services to the party.
- A long list is produced from the above groups for consideration by an advisory panel which recommends candidates for the leader to consider. Party officials are then requested to conduct a number of informal checks on candidates. Informal approaches are also made and at this stage candidates will be removed in the light of further information, or may withdraw due to other commitments.

### Role of the Leader

2.5. Appointments to the House of Lords are in the gift of the party leader. Federal Conference Representatives are asked to vote on the list of people they would like to see appointed to the Lords (at the choice of the leader), and this shortlist is refreshed normally every two years or when it has been reduced substantially.

2.6. During appointments, consideration is given to the current workload of the Lords and identified gaps in expertise in specific policy areas. In recent years, Nick Clegg has looked to improving representation from under-represented regions and groups, for example women, BAME individuals, and those with disabilities. He has also recruited from Councillors with strong leadership experience. There is a general aim to improve regional representation. Currently the Prime Minister notifies the Leader of future allocations of places in the Lords and the Leader submits their list from those above.

### Questions

- 1) Should the Interim Peers Election Panel (with existing rules) continue, or is there a better alternative?
- 2) Should the electorate for the Interim Peers Election Panel be on the basis of one member, one vote?
- 3) In order to minimise costs, a one member one vote system would need to be combined with an existing ballot. Would you prefer a biennial ballot in conjunction with Party Presidential ballot, or a 5-yearly ballot in conjunction with Euro selections?
- 4) Do you agree with the approach of the Working Group that supports the increased nomination of those with under-represented protected characteristics<sup>2</sup>?
- 5) As well as addressing the under-representation of people according to protected characteristic, should balance by region be encouraged in nominations?
- 6) Could increased regional balance be aided by conducting an all-member ballot by English Region, Scotland, and Wales)?
- 7) How many members should be required to nominate a candidate for the Interim Peers Election Panel, and who should be allowed to sign nominations?
- 8) Is nomination (to stand for election to the List) by party members the best way to solve the issue of nomination?

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<sup>2</sup> Equality Act 2010, s4. Listed as age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

- 9) Do you support the inclusion of additional information on ballots to indicate to voters and, if elected, the Leader, whether individuals belong to under-represented groups? What information could this be?

### 3. What is involved in the job

- 3.1. One of the fundamental questions to ask in this consultation is ‘what are we seeking to achieve in appointing people to the House of Lords?’
- 3.2. The answer may well be: *‘To appoint the most competent person to do effective public policy analysis and scrutiny to bring about the best possible legislation, within the parameters of underlying Liberal Democrat philosophy and values.’*
- 3.3. However, the demands of an unreformed chamber; an unreformed voting system to the Commons, and an unreformed party funding system may well lead us to a broader definition which might be: *‘To appoint the most competent person to do effective public policy analysis and scrutiny to bring about the best possible legislation, supporting Liberal Democrat philosophy and values, bearing in mind the need for broad representation from under-represented groups in terms of equality; aspiring to have a regionally balanced representation from the country, and seeking the broadest democratic input into the selection, while recognising the positive impact of those who previously had not been able to participate in party politics.’*
- 3.4. It can be argued that since the Interim Peers List was established in 1999, successive Liberal Democrat Leaders have attempted to conform to the broader definition. What makes the question of what we are trying to achieve particularly difficult is the current constitutional position of the Lords and the impact of political parties within that system.

#### Membership of the House of Lords

- 3.5. Membership of the House of Lords is for life. Unlike MPs, peers are paid on a daily basis for attendance at the House, currently £300 per day, do not receive separate expense allowances for researchers or other staff and do not receive a separate allowance for accommodation. Travel to attend the House is reimbursed for members who live outside Greater London. Also, unlike MPs, the position carries no pension entitlement. The House sits for approximately 150 days each year with sittings lasting often until 10pm or later.
- 3.6. It should be noted that there is no automatic retirement procedure for peers. Although Lords can now retire, in practice there is no incentive for them to do so, and there is no incentive for groups in the Lords to encourage their members to retire as this would reduce their voting strength, with no guarantee of timely replenishments. Although efforts are being made by Lord Steele and Nick Clegg to find an acceptable solution, this is unlikely to change in the near future.

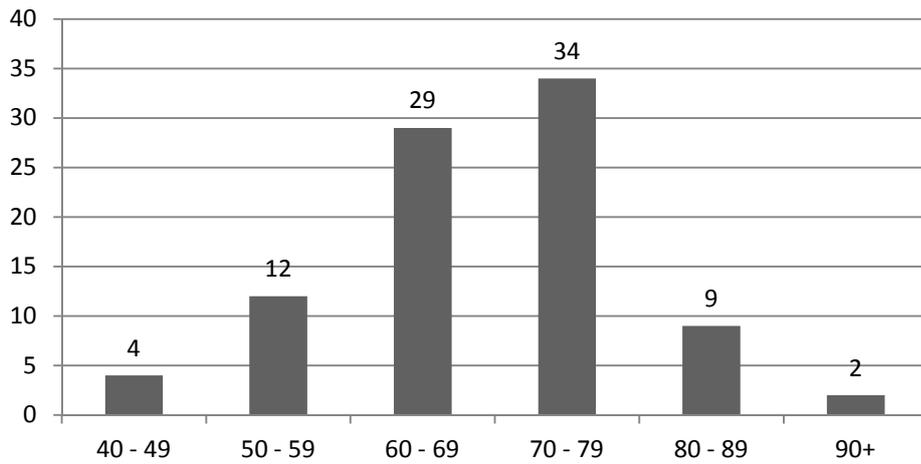
#### The job of a Life Peer

- 3.7. The House of Lords is very different to the House of Commons. With no constituents to represent, the focus of the House is to hold the Government to account, a role that it takes seriously. The vast bulk of work that is done in the Lords is scrutiny of policy and legislation – probing questions, revising bills, ensuring policy will work properly and where it believes it is flawed, to ask the House of Commons to think again through amendments. Moreover, there is a large select committee system, among which notably is the European Union Committees - of which there are six specialist select

committees - that scrutinise policy formulated in the European Union (some half of all UK law) for its impact on the UK.

- 3.8. A factor influencing the 'job' of members of the House of Lords is the longevity of membership. Life Peers may serve in the House for 30 years or more – particularly as it remains unreformed and younger peers are appointed. Any 'expertise' that one brings in on appointment may either be augmented through deeper knowledge over years of Lords membership; or alternatively, can become stale in a decade or so if one is now not able to participate professionally in the area where the expertise was gained, particularly where the sector of one's expertise is adapting and changing with time. A further issue if people are selected on current positions on public policy/expertise is that even Lib Dem policy and analysis can change over time, making one's 'expertise' dated as time goes on.
- 3.9. Within the political groupings, the call of expertise can be cyclically more and less relevant. There may be little call within the Liberal Democrats for a specialist in a particular sector if there happen to be several existing peers who have similar expertise. However, as 'experts' cease to be working peers, there may be call for that expertise at a later period of time. There are also practical considerations for the leadership in allocating portfolios – if a peer with expertise is incapacitated through illness or has other time-specific engagements – there may be a need for a replacement specialist for a limited period. The system does not lend itself to 'recruitment' for a typical job description.
- 3.10. It might however be questioned whether the overwhelming emphasis on expertise is essential. Some peers successfully take up briefs in which they have had little previous expertise. Those who have served in other elected assemblies might argue that although expertise is helpful, it is the ability to take a considered view of the issues under discussion which is the most important aspect of the work. In an elected second chamber the emphasis on expertise would be reduced.
- 3.11. Another ambiguity in terms of a job description is the time commitment of working peers. While all Liberal Democrats commit before appointment to be working peers, this is not always followed through in reality. Factors such as age, outside commitments, and unforeseen events can influence the ability of individuals to undertake the role of a working peer.
- 3.12. In practice, the workload is shared unevenly across members with some taking on a disproportionate load. Working on a typical bill will involve being in the Chamber until 10pm during the passage of the bill and attending copious meetings through its passage of about three to four months or longer. There will be vast amounts of reading and one effectively gives up 'having a life' for that period. This means that outside commitments have to be put on hold during the period.
- 3.13. Charts detailing the makeup of the Liberal Democrat Group in the House of Lords (as of the 1<sup>st</sup> July) are included below.

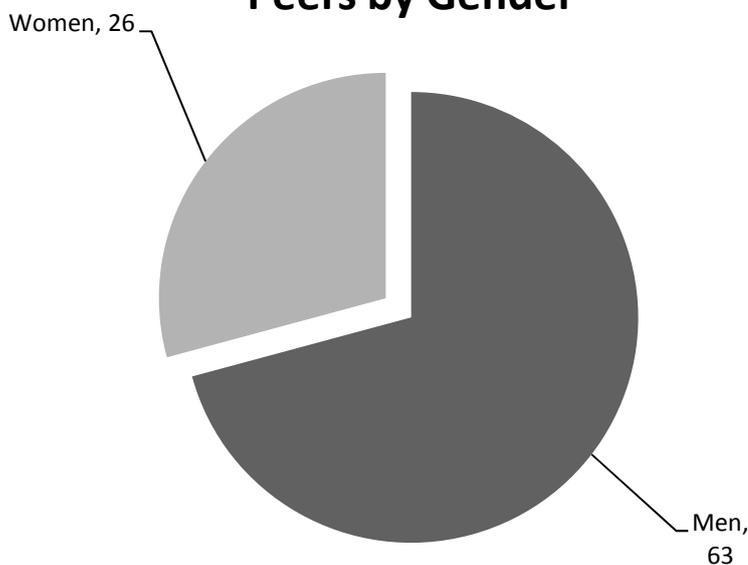
### Number of Peers By Age



### Peers by Ethnic Background



### Peers by Gender



Questions

- 10) Should peers be politicians above other qualifications?
- 11) How do we balance the conflicting requirements for the best nominations for Liberal Democrat peers?
- 12) Should we aim to ensure that the list brings a degree of subject expertise to the public policy making process?
- 13) Should those nominated make a clear commitment to contributing a minimum amount of time to the work of the Lords?
- 14) If the Party Leader only chooses people from those elected to the Interim Peers Panel, how might they recruit expertise which is available now, but may not be if they have to wait for the next round of elections?

## 4. Issues Raised

### Constitutional

- 4.1. The House of Lords is still unelected, despite Liberal Democrat efforts in coalition. So whilst we continue to campaign for a wholly or largely elected upper house, this is not currently on offer.
- 4.2. Liberal Democrat peers are nominated by the party leader, formally by the monarch, subject to approval by the vetting procedure for all Lords nominations. This is the current constitutional position which will not change until legislation is passed to elect peers.

### Internal Election System

- 4.3. In nominating peers, the Party Leader will be guided by the conference business motions passed since 1999 when the Interim Peers List was set up. The party leader was requested to choose (any) nominations from this list, former MPs, and one additional personal nomination. The motions made no mention of MPs, MEPs, MSPs or AMs, but current members will be unlikely to declare until they retire or lose their seats, that they wish to be peers.
- 4.4. The list is currently elected by conference delegates who may be biased in favour of those they already know, in contrast with electing PPCs by one member one vote. Nominees require 30 signatures in order to stand for election.
- 4.5. One member one vote will incur more of a cost to the party. Although some members are very connected with the party, we currently have email addresses for only around 60% of existing members. As with any organisation, the read rate of e-mails is some distance from 100% - though there is no way of telling whether this is also true of a postal voting system. Accordingly, the party would need to budget for a postal vote for those without e-mail addresses (and those who would prefer a postal ballot).
- 4.6. Personal nominations by the party leader are related to the wish to nominate people with sound experience. There have been several Liberal Democrat nominations of able and qualified people who were not able because of employment to declare their party allegiance.

### Candidacy

- 4.7. There is currently no candidate approval process in place for those wishing to be elected to the Interim Peers Election Panel. Candidate approval processes are used across the Party for all candidates to the Welsh Assembly, Scottish Parliament, Westminster Parliament, European Parliament, and large single seats (such as Police Commissioners and Mayors). These provide an independent assessment of individuals' competence, ability, and suitability.
- 4.8. One of the challenges for the Party in the Lords is winning votes (on legislation) and punching above our weight as the Liberal Democrats have had a key pivotal position for many years. Another is that non-attendance or voting against the party cannot be sanctioned in the same way as the Commons.

- 4.9. There is also a perception that some of those appointed to the Lords by virtue of previous elected office such as MPs regard the job as a reward rather than an opportunity to continue to serve.
- 4.10. The House of Lords is primarily a part of the legislature requiring a less confrontational style of working but which still requires member to use judgement of the legislation under consideration, as well as the political context.

### Questions

- 15) Should all candidates for the Interim Peers List, or any successor, have been accredited via an approval process like that of other high profile candidates?
- 16) Should individual references (as used by the Lords Appointments Commission<sup>3</sup>) be required as part of the approvals process?
- 17) Should people be allowed to be a selected PPC whilst also on the Interim Peers List? *This does not apply to selected candidates for the Scottish Parliament or Welsh Assembly, which are separate legislatures.*

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<sup>3</sup> <http://lordsappointments.independent.gov.uk/how-to-apply.aspx>

## 5. Options to Consider

5.1 Included below is a grid of options referencing the current Interim Peers Election Panel procedure, and proposals for the future. It is designed to clearly lay out the options being considered by the Working Group. Those submitting comments are welcome to present proposed revisions to this grid.

<i>Issue</i>	<i>Current position</i>	<i>Alternative proposal</i>	<i>Other options for consideration</i>
1. Who should be the electorate for the List	Conference Delegates	All members	
2. Timing of elections to the List	Suspended due to the list not being sufficiently reduced by appointments.	Every two years, to coincide with election of President	To coincide with MEP candidate elections which are also one member one vote.
3. Approval of List candidates	Nominated by conference reps	Approval as for elected MPs prior to ballot.  References to be in line with Public Appointments Commission Assessment based on procedures for AMs/MSPs/MPs/MEPs.	
4. Should former MPs, AMs MSPs and MEPs be automatically included in the List	Yes	No. Former MPs and MEPs would have to stand for election to the List, or be appointed directly be the Leader as below.	
5. Limit on percentage of places in each batch to be selected at discretion of Party Leader	None	20%	50% or 0%. Note that this 'limit' cannot be enforced under the Constitution.
6. Method of selecting those who are drawn from List	At discretion of Party Leader	Those with highest votes.	Those with highest votes, but with adjustment for under-represented groups (as above)

5.2 The Alternative Proposal is designed to:

- a. Shift from the current system, which is largely one of Party Leader discretion, to one which is largely **transparent and democratic**.
- b. **Give party members a real voice** in how our Party is run. Specifically, helping to maintain and increase party membership by empowering party members to engage fully with the important process of selecting members of the House of Lords.
- c. Maintain the **momentum towards an elected House of Lords**, by demonstrating our internal party commitment to the electoral process.