Constitutional reform: next steps for the House of Lords

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Constitutional Reform: Next steps for the House of Lords

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A consultation paper produced by the Department for Constitutional Affairs

This information is also available on the DCA website:
www.dca.gov.uk at www.dca.gov.uk/consult/holref/

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Foreword

By Lord Falconer of Thoroton
Secretary of State for Constitutional Affairs and Lord Chancellor

The Government believes that a credible and effective second chamber is vital to the health of our democracy. It has an essential role to play as a revising chamber which complements the work of the House of Commons but does not threaten its supremacy. That is why we removed the rights of the hereditary peers to an automatic seat in the House of Lords in 1999. It is why we appointed a Royal Commission that same year to consider the wider changes required for the second chamber to play its part in a modernised Parliament. And it is why we published our White Paper *The House of Lords – Completing the Reform in 2001*, which set out a series of radical reforms to the composition, appointment and size of the new second chamber.

Following the lack of agreement to the proposals in the White Paper, we asked Parliament to set up a Joint Committee to consider the role and functions of the House of Lords and to propose options on composition on which both Houses could vote. These votes, in February 2003, showed that there was no consensus in Parliament on the way forward. As a Government we now have two stark choices: do nothing or seek to move forward where we can. We have chosen to act. This consultation paper marks the next, but not the final, stage of Lords reform. The way ahead is
not as foreseen at the time of the 1999 Act, nor at the time of the 2001 Manifesto. One more heave to a final settlement is not in prospect.

This consultation paper sets out the action the Government proposes to take on two of the most glaring current anomalies – the hereditaries and the position of the non statutory Appointments Commission – as our 2001 Manifesto promised. We also propose a number of other sensible reforms to the Lords, including bringing the rules relating to disqualification of peers into line with those of the Commons, and making it possible for life peers to renounce their peerages.

The Consultation Paper follows on from the Government’s response to the Joint Committee on House of Lords Reform, where we committed ourselves to consult on proposals for a revised Appointments Commission. It also gives us an opportunity to look at a range of other issues highlighted by the Joint Committee, including how to ensure that the Lords is as representative as possible of UK society.

In summary, we propose to introduce a Bill, when Parliamentary time allows, to remove the remaining hereditaries, including the Earl Marshal and the Lord Great Chamberlain. The transitional arrangements introduced by the 1999 Act should now be brought to an end. They were never intended to be a long-term settlement. We also propose to move the Appointments Commission to a statutory footing. For as long as the second chamber has an appointed element it is vital that people have confidence that all members are there on merit. The Commission will determine the number and timing of appointments to be made to the House; select
Next steps for the House of Lords

But this is not the end of the story. On 12 June 2003 the Government announced its intention to abolish the post of Lord Chancellor and establish a new Supreme Court. This will further enshrine the independence of the Judiciary from the executive and the legislature. It will separate the highest appeal court from the House of Lords and the House will no longer have a judicial function or any specific judicial members. In addition, the Government has invited the House of Lords to consider establishing a Speakership independent of the executive. And the House has appointed a Select Committee to consider this matter.

Looking ahead, it is clear that there is more to be done on Lords reform after this Bill. Parliament is clearly divided. I am keen that the Government should now lead work to shape a consensus to make the second chamber more legitimate and more representative of our society.

House of Lords reform is but one element of a radical programme of constitutional renewal that this Government has put in place since 1997. This has included devolution to Scotland, Wales and Northern Ireland, Freedom of Information, and the incorporation of Human Rights into UK law. The establishment of the Department for Constitutional Affairs shows our commitment to continue that process of reform. The Consultation Papers on the abolition of the Lord Chancellor, the establishment of a Supreme Court and a Judicial Appointments Commission, and now this
Paper on the next stage of Lords reform, are further evidence that the work goes on.

Lord Falconer of Thoroton
How to respond

Please send your response by 12 December 2003 to:

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Representative groups are asked to give a summary of the people and organisations they represent when they respond.

The Department may wish to publish responses to this consultation paper in due course. Please ensure your response is marked clearly if you wish your response or name to be kept confidential. Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.
Further copies of this consultation paper can be obtained from Bola Akinbileje at the above address or by phoning 0207 210 1507.

A Welsh language version of this consultation paper will be posted on the Department’s website.
Executive summary

The consultation paper sets out proposals for the further reform of the House of Lords. The Government proposes to introduce a Bill when Parliamentary time allows to:

*Hereditary peers*
- Remove all hereditary peers, including the Earl Marshal and the Lord Great Chamberlain (paragraphs 24-28);

*Appointments*
- Establish a statutory independent Appointments Commission accountable to Parliament rather than to Ministers. The Commission would determine numbers and timing of appointments, select independent members of the House and oversee party nominations (paragraphs 29-60);
- Ensure that the appointment of Commissioners is transparent, open, and free from Prime Ministerial patronage (paragraphs 32-38);
- Charge the Commission with ensuring that in selecting independent members they should have regard to the make-up of society. The Appointments Commission should encourage appointments and nominations from under-represented groups (paragraphs 53-55);
- Place an obligation on the Commission to ensure that the balance of party members has regard to the outcome of the previous general election (paragraph 41);
• Place an obligation on the Commission to ensure that the appointment of non-party members of the House averages 20% of new appointments over the course of each Parliament (paragraph 43);

• Require that the Government of the day should not have an overall majority in the House (paragraph 41);

Managing the size of the House
• The paper raises the question of whether there should be formal caps on the size of the House, but on balance recommends that this should be limited to a requirement on the Commission to aim to ensure that the House does not grow beyond its present size and reduces in numbers over time to no more than 600 (paragraphs 44-52);

Disqualification
• Bring provisions on the disqualification of members of the Lords on the grounds of conviction for an offence, into line with those of the Commons. Disqualified peers would lose the right to sit and vote, and would lose their titles (paragraphs 61-66);

Joining the Lords
• Enable the Prime Minister to make up to five direct Ministerial appointments per Parliament to the Lords. The Appointments Commission would check all appointments before they took their seats (paragraphs 67-70);
**Leaving the Lords**

- Give life peers the option of renouncing their peerages and so enabling them to vote in national elections (paragraph 71).
This consultation is aimed at as wide a range of people as possible, and is being conducted in accordance with the Code of Practice on Written Consultation issued by the Cabinet Office. It falls within the scope of the Code. The Code criteria set out in Annex C have been followed.

An initial analysis of the potential changes to the House of Lords discussed in this paper did not indicate any impact on business, charities or the voluntary sector. Consequently, no formal Regulatory Impact Assessment is attached to the current consultation document but the position will be reviewed in the light of responses to it.

A list of the main consultees can be found at Annex B. Those being consulted include professional bodies, Government departments, public bodies and organisations who responded to the Government’s previous consultation.
1. The story so far

### House of Lords reform: a brief history since 1997

- House of Lords Act 1999 – removed most hereditary peers from the House of Lords, stopped inheritance of a title being an automatic entry ticket to Parliament, and ended the century long dominance of the House by one political party.

- Royal Commission established 1999, under the chairmanship of Lord Wakeham, to consider recommendations on the role, functions and composition of the second chamber.

- Royal Commission report, *A House for the Future* (Cm 4534) published January 2000. Proposed that the House should basically be a revising and advisory chamber intended to complement but not to undermine the House of Commons. It should be a majority appointed House, with a statutory Appointments Commission answerable to the House; and responsible for nominating all appointed members of the House, including those from the political parties.

- Independent Appointments Commission appointed April 2000 to take over the nomination of non-party members of the House. Represents a significant reduction in the Prime Minister’s powers of patronage – the first time this has been done voluntarily. First round of appointments made in April 2001.
1. The story so far

- Government White Paper, *The House of Lords – Completing the Reform*, (Cm 5291) published November 2001. White Paper endorses Royal Commission’s vision of the role and importance of second chamber and accepts broad framework on membership. In particular, accepts that the House should continue to be 80% appointed and that the Appointments Commission should be moved on to a statutory basis.

- Public Administration Select Committee report *The Second Chamber: Continuing the Reform* (Fifth Report of Session 2001-02, HC 494-I) published February 2002. Recommends a House that is 60% elected. Suggest that this is the ‘centre of gravity’ around which a consensus may be built. Otherwise recommends little change in the role and functions of the Lords. Statutory Appointments Commission to look after the 40% appointed members (20% party and 20% independent).

- Government response to Public Administration Select Committee report published, welcoming the developing consensus on the role and functions of the House. It proposes that the two Houses of Parliament should set up a Joint Committee with a two-fold remit. First, to examine the role and functions of the House of Lords and to bring forward a series of options on composition, on which both Houses would vote. Second, to take account of the results of those votes and work up a detailed proposal for reform. The Joint Committee on House of Lords Reform appointed July 2002.

- Joint Committee First Report published December 2002. Recommends very little change in the role and functions of the House or of its relationship with the Commons. Agrees with consensus that the outcome must not endanger
Commons supremacy. Seven options for composition are 0%, 20%, 40%, 50%, 60%, 80% and 100% elected.

- House of Commons and House of Lords debate composition of Lords and consider options ranging from a fully appointed to a fully elected House in January and February 2003. In the House of Commons there is no majority support for any of the options. The House of Lords votes overwhelmingly in favour of a wholly appointed House.

- Joint Committee Second Report published April 2003, setting out a number of issues where they think progress is possible (even setting aside the main question of the size of an elected element) including the status of the Appointments Commission, and seeking guidance from the Government and then from Parliament about where they should concentrate their future work.

- Government response to Joint Committee Report published July 2003. Welcomes the further endorsement from the Joint Committee on the developing consensus on the role and functions of the House of Lords and promises that the Government will produce a consultation document on the future of the appointments process in the autumn.

1. The Government believes that the UK must remain a bicameral democracy. The second chamber has an important part to play in our system of Government. It has a distinctive role: to be a complement to
1. The story so far

The House of Commons; to bring a less partisan viewpoint to the consideration of legislation; and to have the time to undertake longer-term enquiries into the work of Government. There are a number of areas where the present House could be better equipped to carry out its role and functions. The proposals which follow in this consultation document are directed to that end.

2. There is widespread agreement about the proper role and functions of the House and about the principles which should inform its composition.

3. These areas of agreement include the following:

- The Lords should not challenge the pre-eminence of the House of Commons. It should be a complement to it, not a copy or a rival. The present constitutional conventions which govern how the Lords conducts its business and behaves towards the Commons should remain basically unchanged;

- The most important role of the Lords is to be a revising chamber for legislation. In undertaking this role, it should bring a distinctive perspective, not simply duplicate the work of the House of Commons.

- The Lords also has important functions in relation to the scrutiny of government action and holding Ministers to account.
Any proposals for the composition of the House, and indeed for the way in which it does its business, should spring from a clear understanding of its role and functions.

The principles which should determine the composition of the House are that its members should be:

- Legitimate
- Representative of society as a whole
- Not dominated by any one political party
- Independent
- Bringing an expertise to their deliberations.

4. The Government believes that it is important to build as far as possible on these areas of agreement to keep up the momentum of reform. The two areas where it sees the possibility of early action are the removal of the remaining hereditary peers and the establishment of a statutory Appointments Commission. Both these areas were highlighted in the 2001 Manifesto:

“completing House of Lords reform, including removal of the remaining hereditary peers, to make it more representative and democratic, while maintaining the House of Commons’ traditional primacy. We have given our support to the report and conclusions of the Wakeham Commission and will seek to implement them in the most effective way possible. Labour supports modernisation of the House of Lords’ procedures to improve its effectiveness. We will
put the independent Appointments Commission on a statutory footing.” [emphasis added]

5. Detailed proposals on reform are set out in Chapter 3. The next Chapter sets out those elements of the House of Lords that the Government expects to remain unchanged for the time being.
2. What will remain unchanged for now

6. As set out in the previous chapter, advocates and opponents of many schemes of House of Lords reform agree on much. In summary, the Government wishes to see a second chamber that is:

- a revising and deliberative assembly, which does not usurp the role of the Commons as the pre-eminent Chamber;

- composed of a membership appropriate to its revising and deliberative functions; not a duplicate or clone of the Commons;

- political in approach – but not dominated by any one political party;

- representative of independent expertise and of the broader community in the UK – but not disrupting the relationship between elected members of the Commons and their constituents.

Role and powers

7. The Government has no plans to change the role and powers of the Lords. It is agreed as a fundamental principle of any reform that, as now ultimately, in any dispute between the two chambers, it is the will of the House of Commons which must prevail.

8. That does not preclude an important role in the parliamentary process for the second chamber. The issue is how to give effect to this principle
in the day to day workings of each House. The objective must be to secure primary policy responsibility to the House of Commons, while allowing the second chamber to contribute effectively, from its distinctive viewpoint, and for its views to be treated with due respect.

9. The House of Lords will clearly retain an important scrutiny role in reviewing and, where necessary, challenging Government proposals. The Government is not proposing at this time any change in its role and functions. There is a mass of policy business conducted by government; legislation needs careful and detailed scrutiny to test its effects and workability. So there will remain a detailed scrutiny role for the second chamber. It will be important to retain the House’s access to wide expertise so that they can bring a distinctive perspective to policy proposals. Moreover, the Lords’ relative distancing from the Commons’ role in sustaining the executive and their absence of constituency responsibilities facilitate that function.

10. It is agreed that the Commons, as the elected chamber, must retain primacy in conferring (or withholding) authority and legitimacy on the Government’s overall policy programme. However, the historic legacy of the way our constitution has evolved is that, in theory, the formal powers of the House of Lords remain a duplicate of those of the House of Commons, subject only to the Parliament Acts and Commons financial privilege.

11. The relationship between the two Houses is regulated mostly by convention and also by the Parliament Acts in the relatively few cases
of irreconcilable disagreement between the two Houses. The Lords recognise that the will of the House of Commons, as the elected chamber upon which the existence of the Government depends, should generally prevail. As the formal expression of the ultimate supremacy of the Commons, the Parliament Acts have the balance about right. It has long been recognised, however, that the Parliament Acts deal with extreme cases. They are there to provide a framework for the interrelation, not to be the routine procedure for dealing with differences.

12. This issue of how to regulate the everyday relationships between the two Houses is not a new one. It is as old as Parliament itself. For nearly 60 years, the way it has been addressed is through the Salisbury-Addison Convention. In its classic formulation, this is that:

“it would be constitutionally wrong .. for this House [the House of Lords] to oppose proposals which have been definitely put before the electorate.”

13. The practical effect of the doctrine is that the Lords will not assert their right to vote against a Manifesto Bill at Second or Third Reading and that it is regarded as unacceptable to agree wrecking amendments to a Bill which has been given a Second Reading.

14. The Salisbury-Addison Convention has worked well since it was formulated, and has been honoured by all the major parties. It has become accepted as a limitation on the powers of the House of Lords in its relations with the House of Commons, whatever Government is in
power, even though it was born out of the peculiarities of the composition of the House of Lords at the time it was articulated.

15. The Salisbury-Addison convention is partnered by a second, which says that the Government is entitled to have its business considered in reasonable time.

16. The Government believes that these arrangements for regulating both the formal and effective powers of the House of Lords can remain effective during this next stage of reform. It does not see any need to propose changes to them at this stage.

State Opening

17. The State Opening of Parliament will remain unaffected by the Government’s proposals in this consultation paper. The removal of the Earl Marshal and the Lord Great Chamberlain from the House need make no difference to their role at the State Opening, which is undertaken in their capacity as members of the Royal Household, not of the House of Lords.

18. The Government has also decided to postpone consideration of the following issues until it has established a consensus on the final composition of the Lords.
Next steps for the House of Lords

Presence of, and numbers of, the Lords Spiritual

19. The Government has previously proposed reducing the size of the Church of England’s representation in the House from its current 26 to 16. This would have been in the context of a much more fundamental reform than is being proposed at this stage and probably in the context of a smaller House. There is a separate issue about how to increase the representation for other faiths and denominations, and this is one of the issues to which the Appointments Commission could be asked to give consideration.

Imposing fixed terms on membership of the Lords

20. Membership of the Lords is presently for life. This has the advantage of enhancing the independence of the members. There are, of course, disadvantages to this, not least in the extent to which it makes it difficult to refresh the membership without a potentially unacceptable increase in size. Without a consensus on the reform of the composition of the House, this proposition, which has considerable merit, is difficult to introduce at this stage.

Breaking the link between peerage and membership of the Lords

21. Membership of the House of Lords is impossible without also being a peer or a bishop. It is possible to be a peer outside the House of Lords, as the majority of hereditary peers now are. In its White Paper, the Government proposed removing the linkage altogether, allowing the
peerage to become a simple honour, like a knighthood. This was in the context of a House at least some of whose members would be elected for a fixed term of years, and all of whose members would serve for a fixed term. A lifetime honour as a condition of membership was clearly inappropriate in those circumstances. However, the same is not true of the present proposals and as in the case of fixed-term membership, to which it is closely allied, the Government proposes to make no alteration in the current arrangements at this stage.

Compulsory removal for non-attendance

22. There are a number of peers who take no interest at all in the work of the House. This may be because they only ever regarded the peerage as an honour and did not accept that it carried with it any obligations in relation to the House. It may be because age, or infirmity, or occupation, whether at home or overseas, has made it difficult for them to contribute. There are, however, only a small number who fail to attend at all, as opposed to rarely, and their reasons for failing to attend are so varied that the Government does not see any need to introduce a means of revoking membership rights for them at this stage.
3. What will change

23. This chapter sets out those reforms to the House of Lords that the Government proposes to take forward over the coming months. The two key elements of this are the removal of the remaining hereditary peers; and the replacement of the present non-statutory Appointments Commission with a statutory one. Both these elements of the present arrangements were only ever intended to hold good during a transitional period. In the absence for the moment of any parliamentary consensus on the way forward for more radical reform, the Government has concluded that it should consolidate the reforms which have already been made. The continuation of the remaining hereditaries as Members of the House was intended as an encouragement to move to the second stage of reform. That second stage cannot be delivered in one heave. It is right, however, that the steps proposed in this paper mark significant steps on the way. In particular, the Government's voluntary arrangements to restrict the Prime Minister's rights of patronage in relation to the Lords should be set in statute so that a future Government is not able to resile from them. The Government will also take this opportunity to bring the rules for disqualification for membership of the House more closely into line with those for the House of Commons; and to enable life peers, like hereditary peers before them, to relinquish their titles and membership of the House.
Removal of hereditary peers

24. The House of Lords Act 1999 removed all but 92 of the 750 hereditary peers from the House of Lords and stopped inheritance of a title being an automatic entry ticket to Parliament. It therefore put an end to the unacceptable position whereby the actions of an ancestor had determined who was, and who was not, entitled to sit in Parliament. It also put an end to the situation where the composition of one House of Parliament was totally unresponsive to changes in political opinion in the country. The effect of the hereditary system had been that for a century, one political party had dominated one House of Parliament regardless of the outcome of popular elections. In its Manifesto of 2001 and the White Paper of November that same year the Government committed itself to the removal of the remaining hereditary peers as part of a wide ranging reform of the second chamber.

25. It had been hoped that the presence of the remaining hereditary peers in the House would encourage all sides in a search for consensus on the way forward for the next stage of reform. Debate since the publication of the 2001 Manifesto, both within Parliament and outside it, has so far failed to produce that result. In particular, Parliament has shown that it has been unable to agree on the way forward. The House of Lords has shown a clear preference for a wholly appointed House. The House of Commons, while recording more votes in favour of largely elected than largely appointed options, has shown no majority for any of the largely elected options.
26. The failure to generate a consensus in Parliament leaves the Government with two choices: to do nothing and allow the present temporary arrangement to become permanent, or to accept that the present arrangements have not, and will not, produce their intended effect and should be terminated. It should be recalled that in its 1997 manifesto, the Government made it clear that the removal of the hereditary peers should be a self-contained reform. Completion of that stage of reform, it has been demonstrated, will have no implications at all for the ability of Parliament to agree on the next stage of reform. The Government therefore proposes that it should seek to move forward where it can and establish the House on a secure footing which can provide a stable platform for further reform. The key element of that will be the statutory Appointments Commission. That will mark a significant further step of reform and will justify the ending of the present transitional arrangements for the hereditary peers. In our increasingly democratic age, the continued presence of the hereditaries – whatever the qualities of the individual members – is an anomaly that can be justified no longer when it has failed to deliver the intended incentive to further reform.

27. Hereditary titles and the power to create them will continue to exist. The heirs of hereditary peers will continue to inherit their titles according to the established rules of succession. The other traditional incidents of the peerage will also continue to exist.

28. With the final ending of any connection between a hereditary peerage and the right to sit in the House of Lords, there will also be a need to
change the arrangements for resolving disputed claims to hereditary peerages or bringing them out of abeyance, and for keeping the Peerage Roll up to date. The changes proposed to establish a new Supreme Court in any case have implications for the present arrangements, as the Law Lords will no longer be members of the House and thus will be unavailable to sit on the Committee for Privileges. The Government proposes that new arrangements should be introduced on the lines of those which presently apply to the baronetage. Under this proposal, the successor or claimant would apply to the Secretary of State to have his or her name included on the official Roll. In difficult cases, the Secretary of State can consult the Law Officers. The most difficult cases would be referred to the Judicial Committee of the Privy Council, who would advise the Sovereign whether or not the claim should be allowed. For peerages of Scotland, the role of the Lord Lyon King of Arms, for example in determining the right to bear the arms associated with a peerage, would remain unchanged.

**Statutory Appointments Commission**

*Accountability and oversight*

29. In an appointed House it is vital that people have confidence in the process by which members are appointed. That is why the Government proposes to establish a statutory independent Appointments Commission accountable to Parliament rather than to Ministers. The
Commission would control all appointments to the Lords with the exception of up to five direct Ministerial appointments per Parliament for the Prime Minister (see paragraph 67 below) and the Lords Spiritual (i.e. the Archbishops and Bishops).

30. As part of its first stage of reforms, the Government set up a non-statutory Commission, to which a significant degree of the Prime Minister’s patronage over nominations to the House was relinquished. This was the first time a Prime Minister had voluntarily given up patronage in this way. The proposals for a statutory Commission will build on and take further those arrangements.

31. The present Appointments Commission is an advisory Non-Departmental Public Body (NDPB) which is sponsored by the Cabinet Office. It was appointed by the Prime Minister in accordance with the principles of the Commissioner for Public Appointments. It is mainly accountable to Ministers, although like all NDPBs, it is expected to make an annual report to Parliament on its activities and its accountability for public funds. Its membership consists of a Chairman, one person nominated by each of the three main party leaders and three independent members.

32. The Government proposes to take the opportunity for setting up the Appointments Commission on a statutory basis to enhance significantly its independence from the Government. It believes, as proposed in its 2001 White Paper, that a good model to follow would be that of the Electoral Commission. The Electoral Commission is appointed by the
Queen in response to an Address from the House of Commons. Such an Address can be moved only with the agreement of the Speaker and that of the leader of each registered political party with two or more members sitting in the House of Commons. Members of the Commission can only be removed in response to an Address from the House, which itself must be based on the report of a special Committee of the House chaired by the Speaker, on which backbench members are in a majority. Its funding is voted by the House directly, on the basis of Estimates approved by and laid before Parliament by the Speaker’s Committee.

33. Given that the functions of the Appointments Commission will be related to the House of Lords rather than the House of Commons, the arrangements for the appointment of the Commission cannot exactly duplicate those for the Electoral Commission. On the other hand, nor will it be possible simply to substitute the House of Lords for the House of Commons throughout the arrangements, since a Committee of the House of Lords would have no power to lay an Estimate before the House of Commons for the Commission’s funding. The options would appear to be to make the Commission answerable to both Houses, but provide that only the Commons members of the equivalent to the Speaker’s Committee should be responsible for funding; or to make the Commission answerable only to the House of Lords and make other arrangements for voting the Commission’s funding.

**Issue 1:**

The Government proposes that the Appointments Commission should be put on a statutory footing at the next legislative opportunity.
Next steps for the House of Lords

(a) Should the arrangements for accountability for such a body follow those for the Electoral Commission in making it accountable to Parliament rather than Government Ministers?

(b) If so, should the different circumstances of the Appointments Commission be reflected by (i) making it accountable to the House of Lords alone (as the Electoral Commission is responsible to the House of Commons alone); or (ii) making it accountable to both Houses of Parliament?

Appointment and membership

34. The new statutory Appointments Commission will wield very significant powers. It is therefore vital that the appointment of Commissioners is transparent, open, and free from Prime Ministerial patronage. The White Paper proposed a Commission of eight members, four nominated and recommended by the parties and cross-benchers; and three members and the Chairman to be recruited through an open selection process according to Nolan principles. The Commission will have significant powers in relation to the appointment of party members of the House, and will be wholly responsible for the nomination of cross-bench members. The Government therefore believes it is right that these groups should be directly represented on the Commission. The addition of a direct nomination from the cross-benchers would mean that the independently appointed members would not be in a majority.
To restore this majority would require a Commission of nine members, which might be considered to be too large. One possible option could be to invite the selection panel, rather than the Convenor of the cross-benchers, to select the cross-bench representative. They could do this using Nolan principles and it would relieve the Convenor of a responsibility that sits rather uneasily with the informal nature of his position, since he is not a party leader and the cross-benchers do not have a party position or any formal discipline arrangements. The Government proposes that the actual appointment should be made by the Queen in response to a Parliamentary Address made on the motion moved by the Leader of the House, following the normal consultation with the leaders of the other party groupings and the Convenor.

35. In its consultation on a new Judicial Appointments Commission, the Government has proposed a special selection panel for the appointment of the members of the Commission. There are, however, particular reasons for this, especially the extent to which experience of the professional qualities of the judiciary will be needed in members of the Commission. The Government does not therefore think that this is needed in relation to the Appointments Commission. The selection of independent members will be carried out in accordance with the normal principles of the Commissioner for Public Appointments (the ‘Nolan principles’). However, it is important that the members of the Commission are acceptable to all parties, and the Government will therefore discuss with the Opposition parties how they might also be involved in the appointments process.
36. One issue on which the Government would welcome views is the extent to which members of either House of Parliament should be eligible to be members of the Commission. On the one hand, there is the argument that existing members of the House have the opportunity to understand how it works and appreciate the qualities which will enable someone to make a significant contribution. On the other hand, if the Commission is too dominated by members of the House, there will be a danger that they will continue to recruit people who fit the present mould. It is certainly not reasonable to prevent the cross-bench peers being represented by an existing member of the House. A case could also be made for allowing the political parties to choose existing members of the House. This would especially be so if restrictions were to be imposed on the ability of Commissioners to be nominated to the House, as their leading candidates for membership of the Commission outside the House are also likely to be among their leading candidates for membership of the House. The more open question is in relation to the independent members: should members of the House be allowed to apply for appointment as an independent member?

37. A particular issue relates to the appointment of the Chairman, and whether the Chairman should be separately recruited as such or whether the Commission should be able to select its own chairman from among its members. There are advantages in both approaches. In the first case, there will be a guarantee that there is someone on the Commission who is properly equipped for the role of Chairman. Moreover, there will not be half a dozen potential chairmen who feel disappointed because they have not got the position. On the other
hand, recruiting the Chairman separately will limit the choice to one of the independently appointed members, however suitable one of the directly appointed members might be.

38. It is normal in cases such as this to provide that members of an appointing body should not themselves be eligible for appointment for a number of years after they cease to be members of the appointing body. The reasons for this are obvious. What the correct number of years is, depends among other issues on the extent to which the reputation of the appointments process would be damaged by too swift an appointment of an ex-member of the Commission to the House, and conversely on the extent to which too long a period of quarantine would deter good candidates for the Commission from seeking membership of it.

**Issue 2:**
The Government believes it is vital that the appointment of Commissioners is transparent and open. Views are sought on the following issues in relation to the appointments process:

(a) Should the membership of the Commission consist of representatives of the three main political parties and the cross-benchers and a number of independently appointed members?

(b) Should the independently appointed members be in a majority? If so, should the cross-bench member be appointed by the Convenor of the cross-bench peers, giving a Commission of at least 9? Or should the
cross-bench member be selected by the same independent appointment process as the lay members, thus enabling the total to be kept to 8?

(c) Should members of either House of Parliament be eligible to apply for appointment as an independent member?

(d) Should the Chairman be appointed separately, or should the Commission choose its own chairman?

(e) Should there be a period during which former members of the Commission are ineligible for membership of the House of Lords. If so, what should it be?

Determining the number of appointments

39. The Commission would have three distinct roles. First, it would determine the number and timing of nominations to be made by each party, and the number of appointments of independents. Second, it would select independents to sit in the House. Third, it would oversee nominations from the political parties, particularly on grounds of propriety.

40. The present Appointments Commission has no powers in relation to the number or timing of appointments it makes, even of independent peers. It simply provides the Prime Minister with the number of names he has asked for. To hand over to the Commission the power to determine the numbers of each grouping within the House and the timing of the
appointment rounds will therefore remove a significant element of Prime Ministerial patronage. It will ensure that no Prime Minister can in the future create peers as he or she wishes, as they can at present.

41. Such a significant power clearly needs to be exercised in conformity with certain guidelines. The Government proposes that there should be three of these. First, that the Government of the day should not have an overall majority in the House. In practice, the other principles will normally deliver this effect even without specifically spelling it out. Second, that the representation of the political parties should have regard to the outcome of the previous general election result. The Government has previously proposed that this should mean that the Commission should be guided, in its decision on the appropriate balance of new nominations between the parties, by the distribution of the vote between the major parties at the previous general election. Views are invited on whether that remains the most appropriate way of enabling the make-up of the House to reflect the balance of political opinion in the country, or whether some regard should also be given to the number of seats won by each party. In either case, the Government proposes that the Appointments Commission’s first priority should be given to ensuring that as soon as reasonable, given the status quo, the governing party has more seats than the main Opposition party.

42. Because of the built-in inflexibilities of the House’s membership, the Government does not propose to set out any of these rules, beyond that to have regard to the general election result, in legislation. It would be
for the Appointments Commission itself to set out the guidelines it would use for determining how to interpret that requirement.

43. The third criterion which the Appointments Commission will be required to have in mind is the non party peers’ share of the House. The Government proposes that it should be a guideline for the Commission that the appointment of non-political members of the House should average 20% of new appointments over the course of each Parliament. As with the parties’ shares of the House, this will not be a rigidly imposed quota. It will, however, be something that the Commission will be expected to adhere to on average over the lifetime of a Parliament.

_Capping the size of the House_

44. In its response to the Joint Committee on House of Lords Reform, the Government said that consultation on the role of the Appointments Commission would provide an opportunity to consider a range of related issues, including the optimum and maximum size of the House, which was an issue to which the Joint Committee itself drew attention.

45. The House of Lords is unique among significant parliamentary chambers in not having a finite membership. It is also unusual in the extent to which it assumes that its members will contribute on a part-time, rather than a full-time basis. At nearly 700 members the House is one of the largest parliamentary chambers in the world, and the largest in a bicameral legislature. Even at its average daily attendance of some 350, it would be large by the standards of second chambers. Only the
French senate, with 359 members, is around the same size. Most second chambers are significantly smaller than the main democratic chamber. Obviously, the correct size of a second chamber is closely tied to its role and functions. Other second chambers may well not play the significant role in the detailed scrutiny of legislation which the House of Lords contributes to the UK Parliamentary process. Nonetheless, a chamber which is too large can be as ineffective as one that is too small.

46. The Government is therefore seeking views on whether it should introduce a statutory limit on the size of the House of Lords; if so, what that limit should be; and how long should the transition period be. A number of considerations would need to be borne in mind.

47. What is the minimum number required to keep the work of the House going? At the moment, one of the most highly regarded aspects of the Lords work is the scrutiny undertaken by its select committees. Over 160 backbench peers are actively involved in this work. In addition, there is the need for peers to be available for the detailed scrutiny of legislation. With the increased use of the Grand Committee procedure, the number of members involved in this work is likely to increase.

48. What is the average rate of attendance that might be expected? One of the advantages of an appointed House is the opportunity it gives for membership for those whose main occupation is something outside politics. It is important for the expertise of the House as a whole that at least a proportion of its members should still be active, rather than
retired, members of other professions. This should apply to the representatives of the political parties as well as those who claim no party allegiance and will in the future be selected by the Appointments Commission. There will therefore always be a proportion of members of the House who expect to attend only when there is a debate to which they can make a specific contribution.

49. How many members are needed in order to ensure that the spread of representation in the House is sufficiently wide, both in total and within particular parliamentary groups? The objective is to secure a House which is properly representative by nation or region, by age, by gender, by ethnic origin, in relation to disability and by faith. These will not be mechanical calculations expressed by quota. Nonetheless, there will be a certain minimum number required to enable the full spread of representative criteria to be met. Ideally, the number should also be sufficiently large that a proportion of the House will still be fully representative in this way.

50. The Royal Commission thought that a House of around 550 would be the right size. The Joint Committee also proposed, in its First Report, a House of 600, although it noted in its Second Report that this had been criticised as being too high.

51. There are two ways of setting the size of the House. The first would be to cap it in legislation. This would require very careful thought to be given to the transition from the existing House if the cap were to be set significantly lower than the present membership. Even with the removal
of the hereditary peers, and in due course the Law Lords, the House will comprise 570 members. Those members will have an expectation of life membership. Although the Government is proposing to introduce a scheme whereby members can retire from the House, this would be entirely voluntary. It is an important part of securing the independence of members of the House that there should be no means by which the parties or the Appointments Commission could decide who would be asked to leave the House as part of the process of transition. A statutory cap would also make much harder the delivery of any precise rules about political balance or other elements of representation, because the Appointments Commission’s room for manoeuvre would be limited.

52. The other possible approach would be to leave it to the Appointments Commission to determine how many appointments should be made to the House and thus the overall size of the House. It would be expected to have in mind an optimum size of the House and should in determining the number of new appointments always have regard to their impact on the overall size of the second chamber. The Government believes that it should aim to ensure that the House does not grow beyond its present size and reduces in numbers over time to no more than 600. The Government thinks that it would be reasonable for the Commission to aim for a House of no more than 600 within a decade of its commencement, although it does not wish to set out a precise timetable in statute and would wish to leave the Commission some flexibility on the appropriate timescale in the light of the circumstances it faces. On balance, the Government feels this is the
better approach in the present state of reform, but would welcome views.

**Issue 3:**

(a) Do you agree that the Appointments Commission should have the power to determine the number of new appointments to the House of Lords?

Are the appropriate criteria for guiding its decisions:

(b) That the Government should not have an overall majority;

(c) That the political parties’ share of the House should have regard to the result of the previous general election. Should this relate only to the votes cast, or also take some account of the number of seats won?

(d) That the appointment of non party members of the House should, on average over the lifetime of a Parliament, constitute 20% of the total of appointments;

(e) That the overall size of the House should not grow beyond its present size of about 675 members and should reduce over time to a House of no more than 600; and

(f) That there should not be a statutory cap on the size of the House, but that the Appointments Commission should have very much in mind the need to keep the House to a manageable size?

**Representativeness**

53. The Government proposes to charge the Appointments Commission with ensuring that in selecting independent members they should have regard to the make-up of society. We wish to see a mix of independent members that are representative of the nations and regions of the UK and are balanced in terms of age, gender, ethnicity, disability and faith.
The Government generally has objectives for public appointments in relation to gender, ethnicity and disability. For gender, it is equality of representation. For ethnicity, it is representation *pro rata* with representation in the population as a whole. For the disabled, it is to secure increased participation. These criteria would not apply directly to the Appointments Commission’s nominations to the House of Lords. Nonetheless, they provide suitable benchmarks against which the Appointments Commission could judge its own performance in these areas.

54. There are a number of other factors which the Appointments Commission and the political parties should take into account when determining nominations. One of the most important is a good spread of geographical representation. In the absence of any elected element, which automatically delivers some regional representation, it is particularly important that this factor is borne in mind. At the moment, the House has too high a proportion of members whose base is in the south-east of England.

55. Encouraging a wider geographical spread must therefore be one of the most important functions of the Appointments Commission. There are a number of factors which might account for the present geographical imbalance. Not all of these will be within the power of the Appointments Commission or the parties to address. Some of them will be, however. In particular, it is important that in assessing the ability of prospective members to contribute to the House, or in considering from where to invite nominations (if that is a way the Commission decides to proceed)
it actively seeks to promote regional diversity and does not set in place procedures and criteria which have the effect of discriminating against those from a regional base. The Government is not suggesting that there should be specific quotas for membership from different parts of the country. Appointment to the House of Lords should be, like all public appointments, on merit taking account of the full range of contribution each member can make. Nor is it proposing the criteria which the Appointments Commission should apply. But it does attach importance to ensuring that those criteria do encourage greater geographical diversity in the membership.

56. The Appointments Commission will be nominating only a small proportion of the House. Even in total, the proportion for which it will be wholly responsible will be only 20% of the House. At the rate of new nominations it will be making, therefore, it would be impossible for it to make a significant difference to the make-up of the House. The question therefore arises of whether or not the same guidelines should also be applied to the political parties, or at least the largest of them. Only if that were the case would it be likely that there could be a significant shift in the average make-up of the House. The Government believes that the guidelines should be applied to the political parties, but that the parties themselves should be the judge of how best to ensure that they are met within the context of their nominations as a whole, recognising that it will be particularly difficult to do full justice to them in the case of parties with only a small number of nominations to make.
Issue 4:
The Government is strongly of the view that the House of Lords should better reflect the make up of UK society.

(a) Views are sought on the range of measures against which the Appointments Commission should assess the suitability of potential independent members. The Government proposes that these should particularly include regional diversity, gender balance, ethnic representation, age profile, disability representation, and faith representation.

(b) Should the same range of measures be applied to the political parties?

*Functions in relation to political appointments*

57. The Appointments Commission will continue to have the function undertaken by the present Commission of vetting the nominations of the political parties for propriety, for example in relation to the various laws about the sale and abuse of honours.

58. The Appointments Commission will have no powers to appoint members in the name of a party. The right of a party to choose whom it wants to represent it in the House of Lords must be respected. No-one would suggest that anyone other than the party should nominate a candidate for election, or even those on a list for election. There should, therefore, be no question of the Commission telling a party that a particular person is being appointed in their name. The Appointments Commission’s power over the number of political appointments will be
enough to ensure that the Government of the day cannot pack the House. Since it would in any case always be open to a party to offer or withhold the whip, there is no point in giving the Appointments Commission the power to appoint someone in the party’s name.

**Status of the Appointments Commission’s nominations**

59. In its consultation on the new Judicial Appointments Commission, the Government raised the possibility of the Commission being able to recommend nominations for judges directly to the Queen. This would be a constitutional innovation, since the convention is that the Queen acts on the advice of her Ministers. The favoured option for the Judicial Appointments Commission is that the Commission should recommend to the Secretary of State names for appointment, and that the Secretary of State should, save in the most exceptional circumstances, in turn advise Her Majesty to appoint those so recommended. This seemed to provide the best balance between an independent nomination process and protecting the constitutional position of the sovereign.

60. The Government proposes the same approach in relation to the Appointments Commission. Because the Government is proposing no change in the status of members of the House, the Appointments Commission will be making recommendations for the award of peerages. Peerages can only be created by the Crown. The creation of peerages is a prerogative act. As such, it should be carried out by the sovereign only on the advice of her Ministers. In the case of the award of honours and dignities, the advice comes from the Prime Minister. The
legal position will remain that the Appointments Commission makes recommendations to the Prime Minister, who then advises the Queen that she should accept them. The Prime Minister will pledge himself to endorse the Appointments Commission’s recommendations, except in the most exceptional circumstances which would, in any such case, be explained to the Commission.

Disqualification

61. The Government does not propose major changes in the rules governing eligibility for membership of the Lords. However, the Government does see a strong case for bringing the provisions on the disqualification of members of the Lords who are convicted of an offence and sentenced to more than 12 months’ detention into line with those of the Commons. At present, MPs are disqualified from the Commons in those circumstances. Their seat is declared vacant and if they wish to return to the House, they need to seek re-election.

62. For the House of Lords, on the other hand, although a peer is effectively unable to sit and vote while imprisoned, he or she is free to resume his or her seat immediately on release. The Government now proposes that any member of the Lords sentenced to a term of imprisonment exceeding 12 months would lose his or her seat and title. It does not believe that it is right that those who have broken the law in a manner sufficiently serious to warrant a significant custodial sentence should be able to resume their role as a legislator, or continue to lay claim to a title
which was given as a personal dignity, without any period of rehabilitation. The provision would be retrospective.

63. MPs are also disqualified for membership of the House of Commons when they are

- Declared bankrupt; or

- Detained under the mental health Acts

for periods longer than 6 months.

64. Under the Enterprise Act 2002, the rules in relation to bankruptcy in England and Wales will be changed from April 2004. From that date, MPs and peers will be disqualified immediately if they become subject to a Bankruptcy Restriction Order, but will not be subject to any sanction for simple bankruptcy. There is presently, however, no equivalent of the BRO in Scotland and Northern Ireland, and MPs subject to bankruptcy proceedings in those jurisdictions will, even after April 2004, continue to be subject to the present rules. However, the Northern Ireland Insolvency Service has just completed a consultation exercise in respect of a proposal to bring the rules in Northern Ireland into line with those in England and Wales. Insolvency in Scotland is a devolved matter.

65. As will already be the case when the Enterprise Act comes into force, the Government does not believe that it is necessary to deprive peers
subject to a BRO, or to other bankruptcy sanction in Scotland or Northern Ireland, of their seat, as opposed to their right to sit and vote for so long as the condition persists. As with MPs, peers declared bankrupt in England and Wales but not subject to a BRO will no longer be disqualified from sitting and voting.

66. The Government is committed to modernising and reforming mental health legislation. A draft Mental Health Bill was published for consultation in June 2002 to which some 2,000 responses were received. A Mental Health Bill will be introduced when Parliamentary time allows. The Bill will break the automatic link between compulsory treatment and detention in hospital so that patients can be treated in settings most appropriate to them. This will require new arrangements in respect of the disqualification of MPs. When these are determined, the Government proposes that peers will be subject to the loss of the right to sit and vote while subject to the same conditions, but as in the case of bankruptcy, will not lose their membership of the House.

**Issue 5:**
Should the same rules on disqualification that apply to the Commons apply equally to the Lords in relation to conviction for an offence? Should conviction for an offence lead to the loss of the title?
Joining the Lords

67. The Government’s proposal for an independent statutory Appointments Commission will effectively remove the Prime Minister’s powers of patronage over the Lords. However, as the White Paper made clear, the Government believes there is a good case to retain the discretionary right for the Prime Minister to appoint up to five people per Parliament directly as Ministers in the Lords.

68. There are presently a small number of offices where there is a presumption that the immediately past holders are entitled to a peerage. The Government believes that there is no reason why this arrangement should not continue. By definition, these people will have experience that would make them valuable members of the House. They cannot be appointed to it while holding their offices. There might not be vacancies at the time when they become eligible. The offices in question are the Archbishop of Canterbury, the Archbishop of York, the Secretary of the Cabinet, the Queen’s Principal Private Secretary, and the Chief of the Defence Staff. The Government proposes to take powers which would enable the Prime Minister to continue to offer peerages to these office holders on retirement. He would not be under an obligation to do so, and they would certainly be free to decline the appointment. The same arrangement would apply, on appointment to the Household, for the Lord Chamberlain if he or she were not already a peer at that time. Where the Prime Minister made such a recommendation, it would not count against the 20% average of non-party appointments which the Government is proposing the Appointments Commission should be required to deliver over the lifetime of a Parliament. The Government proposes no change in the arrangement
whereby the House of Commons may petition the Crown for a peerage for their former Speaker.

69. One of the key themes of the Government’s present package of constitutional reform proposals is to strengthen the independence of the judiciary from both the executive and the legislature. The Government has already proposed as part of the consultation on the new Supreme Court that the full-time members of the Court should cease to sit in the House. The Government is presently consulting on the question of whether former members of the new Supreme Court, and other holders of high judicial office, should have an expectation of membership of the House of Lords. It is now minded to propose that the following rules should apply to retired members of the Supreme Court and holders of high judicial office. This is that they will be entitled to a peerage, and therefore to membership of the House of Lords, on retirement from their office, rather than on appointment to it. Once they accept a peerage, they will no longer be able to sit judicially. Different, transitional arrangements, will be made for those who already hold peerages; they will be cease to be members of the House while they are eligible to sit judicially, but will not lose their peerages.

70. Apart from this, membership of the second chamber would be exclusively via the schemes run by the Appointments Commission, with the exception of the direct Prime Ministerial appointments referred to above and the continuing right of Bishops to sit in the Lords. However, those who have distinguished themselves in public life and clearly had a
further contribution to offer will still be strong candidates to enter the Lords. In future it would be for the Appointments Commission to decide on the merits of the individual candidate and recommend their appointment.

**Issue 6**
(a) Do you agree that the Prime Minister should continue to be able to recommend peerages for the past holders of certain offices?

(b) Do you agree that there should be a presumption that former holders of the highest judicial offices should be entitled, by virtue of that office, to membership of the House of Lords?

**Leaving the Lords**

71. At present, there is no way that a member of the House of Lords may resign from it. Hereditary peers can disclaim their titles, but even they could do so only if they had not applied for a writ of summons to the House. Once a peer has taken his or her seat, it can never be relinquished. The Government thinks that this is unnecessarily inflexible. It attaches importance, for example, to increasing the number of younger members of the House and believes that this would be more attractive if there were the prospect of being able to resign membership at a later date if circumstances changed. The Government therefore proposes to give life peers the option of renouncing their peerages and so become eligible to vote in national elections and to stand for election as MPs. This will also enable the Government to fulfil the requirements of the common principles on European Parliamentary elections, which
stipulate that dual membership of the European Parliament and of any House of the national parliament are incompatible. Under the present arrangements, no peer may stand for election to the European Parliament from 2004 onwards unless he or she is already a member and after 2009, no one may be a member of both institutions. Without a change in the law, this will effectively mean that members of the House of Lords would be forced to relinquish any ambition to be members of the European Parliament.

Issue 7
Should provision be introduced to allow for voluntary resignation from the Lords and disclaimer of life peerages?
Annex A : Summary of issues for consideration

Below is a summary of the issues set out in the consultation paper to which we would specifically like responses. Please ensure that you include the number of the issue/s to which you are responding. However, when replying please feel free to make any additional comments or raise other points which you consider relevant.

Issue 1:

The Government proposes that the Appointments Commission should be put on a statutory footing at the next legislative opportunity.

(a) Should the arrangements for accountability for such a body follow those for the Electoral Commission in making it accountable to Parliament rather than Government Ministers?

(b) If so, should the different circumstances of the Appointments Commission be reflected by (i) making it accountable to the House of Lords alone (as the Electoral Commission is responsible to the House of Commons alone); or (ii) making it accountable to both Houses of Parliament?
Issue 2:

The Government believes it is vital that the appointment of Commissioners is transparent and open. Views are sought on the following issues in relation to the appointments process:

(a) Should the membership of the Commission consist of representatives of the three main political parties and the cross-benchers and a number of independently appointed members?

(b) Should the independently appointed members be in a majority? If so, should the cross-bench member be appointed by the Convenor of the cross-bench peers, giving a Commission of at least 9? Or should the cross-bench member be selected by the same independent appointment process as the lay members, thus enabling the total to be kept to 8?

(c) Should members of either House of Parliament be eligible to apply for appointment as an independent member?

(d) Should the Chairman be appointed separately, or should the Commission choose its own chairman?

(e) Should there be a period during which former members of the Commission are ineligible for membership of the House of Lords. If so, what should it be?
Issue 3:

(a) Do you agree that the Appointments Commission should have the power to determine the number of new appointments to the House of Lords?

Are the appropriate criteria for guiding its decisions:

(b) That the Government should not have an overall majority;

(c) That the political parties’ share of the House should have regard to the result of the previous general election. Should this relate only to the votes cast, or also take some account of the number of seats won?

(d) That the appointment of non party members of the House should, on average over the lifetime of a Parliament, constitute 20% of the total of appointments;

(e) That the overall size of the House should not grow beyond its present size of about 675 members and should reduce over time to a House of no more than 600; and

(f) That there should not be a statutory cap on the size of the House but that the Appointments Commission should
have very much in mind the need to keep the House to a manageable size?

**Issue 4:**

The Government is strongly of the view that the House of Lords should better reflect the make up of UK society.

(a) Views are sought on the range of measures against which the Appointments Commission should assess the suitability of potential independent members. The Government proposes that these should particularly include regional diversity, gender balance, ethnic representation, age profile, disability representation, and faith representation.

(b) Should the same range of measures be applied to the political parties?

**Issue 5:**

Should the same rules on disqualification that apply to the Commons apply equally to the Lords, in relation to conviction for an offence? Should conviction for an offence lead to the loss of the title?
Issue 6:

(a) Do you agree that the Prime Minister should continue to be able to recommend peerages for the past holders of certain offices?

(b) Do you agree that there should be a presumption that former holders of high judicial office should be entitled, by virtue of that office, to membership of the House of Lords?

Issue 7:

Should provision be introduced to allow for voluntary resignation from the Lords and disclaimer of life peerages?
Please send your response (preferably by e-mail) by **12 December 2003**
to:

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Annex B: List of Consultees

Copies of the consultation paper have been sent to the following organisations. Please note the list is not exhaustive and comments are welcomed from any group or individual who holds a view on the issues in this paper.

Parliamentarians

Main Political Parties
All members of the House of Lords and House of Commons
Members of the House of Lords Appointments Commission

Judiciary

Association of District Judges
Court of Appeal Judges
Her Majesty’s Council of Circuit Judges
Law Lords
Magistrate’s Courts Consultative Council
Magistrates’ Association
Senior District Judge
Sheriff Principals
Sheriffs Association
The Lord Chief Justice of England and Wales
The Master of the Rolls
The President of the Family Division of the High Court
The Vice Chancellor, Chancery Division

Government Departments, Public Bodies and Others

Association of Electoral Administrators
Attorney General’s Chambers
Cabinet Secretary’s Office
Chancellor of the Duchy of Lancaster
Charities Commission
Civil Justice Council
Commission for Judicial Appointments
Commission for Racial Equality (CRE)
Commonwealth Parliamentary Association
Council on Tribunals
Crown Prosecution Service
Department for Education and Skills
Department for Environment, Food and Rural Affairs (DEFRA)
Department for Work and Pensions
Department of Trade and Industry
Department of the Clerk of the Parliaments
Department of Health
Annex B: List of consultees

Department of Trade & Industry (DTI)
Disability Rights Commission
Electoral Commission
Equal Opportunities Commission (EOC)
European Commission
European Parliament United Kingdom Office
Foreign and Commonwealth Office
Government Office for London
HM Customs & Excise
HM Land Registry
HM Treasury
Home Office
Inland Revenue
Judicial Studies Board
Law Commission
Legal Services Commission
Local Government Association
Ministry of Defence
National Archives
National Assembly for Wales
National Audit Office (Headquarters)
Office for National Statistics
Office of Fair Trading
Office of the Deputy Prime Minister
Office of the Legal Services Ombudsman
Office of the Lord President
Official Solicitor's Office
Parliamentary Counsel Office
Parliamentary Ombudsman (Parliamentary Commissioner for Administration)
Privy Council Office
Public Notaries Office
Public Record Office
Senior Salaries Review Body/ Office of Manpower Economics
Serious Fraud Office
Small Business Service/ DTI
The Council on Tribunals
The Democratic Audit of The United Kingdom
 Trades Union Congress
Treasury Solicitor’s Department
Wales Office

Representative Groups

Action for Communities in Rural England
Advice Services Association
Advice UK
African, Caribbean and Asian Lawyers’ Group
Association of British Insurers
Association of Chief Officers of England, Wales and Northern Ireland
Association of Justices’ Chief Executives
Association of Lord Lieutenants
Association of Police Authorities
Association of Women Barristers
Bar Council
Barrow Cadbury Trust
Black Police Association
British American Parliamentary Group
British Bankers Association
British Building Societies Association
British Humanist Association
British Legal Association
Carers UK
Charter 88
Civil Courts Users' Association
Confederation of British Industry (CBI)
Consumers Association
Demos
Disability Alliance
Discrimination Law Association
Equal Treatment Advisory Committee
Equality and Diversity Unit
Federation of Law Centres
Federation of Small Businesses
Freedom In Action
Free Representation Unit
Gingerbread
Hansard Society
Howard League for Penal Reform
Institute for Public Policy Research (IPPR)
Institute of Advanced Legal Studies
Institute of Directors
Institute of Financial Services
Institute of Legal Executives
Justice
Justices Clerk’s Association
Law Centres Federation
Law Reform Committee
Law Society
Legal Action Group
Legal Services Committee for Wales – Legal Services Commission
Liberty (The National Council for Civil Liberties)
Litigants in Person Society
Local Government Association
London Advice Services Alliance
National Association for the Care and Resettlement of Offenders (NACRO)
National Association of Citizens Advice Bureaux
National Children’s Home (NCH)
National Consumer Council
National Consumers Council
National Council for Voluntary Organisations
Annex B: List of consultees

National Secular Society
Nuffield Foundation
Peabody Trust
Police Federation of England and Wales
Police Superintendents’ Association of England and Wales
Policy Studies Institute
Probation Boards Association
Society of Black Lawyers
The Blackstone Society
The Fawcett Society
The Runnymede Trust
UK Disability Forum for European Affairs,
Victim Support
Women’s National Commission

Religious Groups/Representatives

Archbishops’ Council & General Synod of the Church of England
Baha’i Community of the UK
Baptist Union of Great Britain
Baptist Union of Wales
Catholic Bishops’ Conference of England and Wales
Churches Main Committee
Churches Together in Britain and Ireland
Evangelical Alliance
General & Synod Services
Interfaith Network
Religious Society of Friends in Britain
The Board of Deputies of British Jews
The Free Churches Group
The General Assembly of Church of Scotland
Committee on Church and Nation
The Lord Archbishop of Canterbury
The Presbyterian Church In Ireland
Church and Government Committee
World Congress of Faiths

Scotland

Advocate General for Scotland
Commission for Racial Equality Scotland
Confederation of British Industry (Scotland)
District Courts Association
Faculty of Advocates (Scotland)
Inner House/ First Division
Inner House/ Second Division
Judges of the Court of Session
Judicial Appointments Board for Scotland
Judicial Studies Commission for Scotland
Next steps for the House of Lords

Justice Committees of the Scottish Parliament
Law Society (Scotland)
Lord Justice Clerk
Lord Lyon King of Arms
Lord President of the Court of Session
Scotland Office
Scottish Association of Law Centres
Scottish Council for Voluntary Organisations
Scottish Court Service
Scottish Executive
Scottish Human Rights Centre
Scottish Law Commission
Scottish Legal Action Group
Scottish Police Federation
Scottish Trade Union Congress
Solicitor-General for Scotland/ Crown Office (Scotland)

Northern Ireland

Commissioner for Judicial Appointments for Northern Ireland
Committee on the Administration of Justice
Disability Action Northern Ireland
Equality Commission for Northern Ireland
General Council of the Bar in Northern Ireland
Human Rights Commission for Northern Ireland
Law Society of Northern Ireland
Northern Ireland Citizens Advice Bureau
Northern Ireland Court Service
Northern Ireland Local Government Association
Northern Ireland Office
Northern Ireland Ombudsman
Northern Ireland Political Parties
Office of Law Reform, Northern Ireland
Office of the First Minister and Deputy First Minister
Office of the Lord Chief Justice of Northern Ireland
The Chief Constable of the Police Service of Northern Ireland
The Lord Chief Justice of Northern Ireland
Annex C: Consultation Co-ordinator

If you have any complaints or comments about the consultation process, you should contact the Department for Constitutional Affairs consultation co-ordinator, Laurence Fiddler, on 020 7210 8516 or email him at laurence.fiddler@dca.gsi.gov.uk. Alternatively, you may wish to write to the address below:

Laurence Fiddler
Consultation Co-ordinator
5th Floor
Department for Constitutional Affairs
Selborne House
54-60 Victoria Street
London SW1E 6QW

General principles of Consultation

The criteria in the Code of Practice on Written Consultation issued by the Cabinet Office is as follows:

A Timing of consultation should be built into the planning process for a policy or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.

B It should be clear who is being consulted, about what questions, in what timescale and for what purpose.

C A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.

D Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.

E Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation.

F Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken.

G Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.