

Q1: Is the House of Lords an effective second chamber?

Second chambers of parliament are fundamentally very different from first chambers of parliament. Second chambers around the world are very diverse. But fundamentally what unites them is that they are there to check and question the work of first chambers, and the work of governments as well.

Often they're not elected on the same basis as first chambers. The House of Lords is quite unusual among the developed democracies for being completely unelected. It's not unique but it's quite unusual in that respect.

So around the world second chambers are pretty controversial institutions actually. They're there in a way to get in the way: to ask difficult questions, to be grit in the oyster, to not let things go through too quickly. So when you're asking whether the House of Lords is effective, if you've got to ask at whether it's good at doing that, does it kind of ask the awkward questions? Does it take a different perspective to the House of Commons and bring something original that isn't just repeating what goes on in the House of Commons? And in that respect I think it is an effective second chamber.

The other key difference between the Lords and the Commons, aside from one being elected and the other not being elected, is that the Government depends on the confidence of the House of Commons. It has to retain the support of the House of Commons to stay in office, otherwise it will fall and a general election will be called quite possibly. The House of Lords doesn't have that kind of relationship with the Government.

So that means it's safe for the Government not to have a majority in the chamber, and it also means it's safe for there to be quite a kind of argumentative relationship between the Government and the Lords, because the Lords can't destroy the Government ultimately, the way

the Commons can. So it's there to get in the way, but it fundamentally cannot remove the Government. And in that kind of framing I think it's a pretty effective body.

**Q2: How has the House of Lords changed in recent years?
Especially with the removal of hereditary peers in 1999.**

One of the peculiar things about the House of Lords is that outwardly it looks like a very ancient institution. There are some important things that have never changed, you know, the place where members meet is very ornate and kind of old-fashioned. They're caught sometimes wearing these robes. They're terribly polite to each other and so on. But actually under the surface a huge amount's changed. So the House of Lords is much more representative than it used to be not just in party terms but also in demographic terms. It's got more ethnic minority members than the House of Commons for example. It's much more gender balanced than it used to be.

A lot of that is a result of the 1999 reform, because before the hereditaries were removed they were obviously a particular slice of the community. They were overwhelmingly male, they were overwhelmingly from one kind of part of society, and they were overwhelmingly white. And they were also overwhelmingly Conservative. So when they went the balance of membership was changed fundamentally and that not only changed the nature of the people sitting there, it also changed their attitudes towards what they could do. Because the House of Lords became a more representative institution members became, and also because everybody had got there on some kind of merit or principle, nobody was born straight into the place anymore. So they could all feel that they had a certain legitimacy to speak up and to challenge the Government. So it became a more confident institution.

So what looked like a very small reform at the time, a very modest and perhaps unambitious reform, to just remove the hereditary peers, actually fundamentally changed the institution. But to many people on the outside it still looks the same.

Q3: What are the House of Lords' strengths and weaknesses?

Well, one of the most obvious strengths to me is the fact that no party has an overall majority in the House of Lords. The balance of votes lies with a large group of independent members and with the third party in the Lords, the Liberal Democrats. So that gives it a lot of negotiating power. I'd say that's very important to the way the relationship works with the Government.

The fact that the House of Lords is not elected means that it has a different kind of people in there to the House of Commons who are driven by different incentives. So they don't have constituency work which occupies a lot of MPs' time. That's a good thing, I think. Constituency work, that's good. MPs do that. Peers don't have to think about that and therefore they've got more time to think about sort of big policy issues and focus on the detail of legislation.

The fact that people tend to be appointed there later in their careers, that they've had achievements in the past, brings a lot of strength to the place. So you've got a lot of people in there who are very politically experienced. People who've been senior civil servants, senior ministers, who've seen governments come and go; they've seen the kinds of mistakes, the kind of obvious errors that can be made, and they bring a lot of perspective to the work of the House.

So ministers can't stand up and win arguments on the basis of party loyalty. They may get some party loyalty from the people on their own side. But because they haven't got a majority in the place, and there's a lot of people in there who are not aligned, who are not going to follow slavishly anybody's instructions, ministers have to make the

case very clearly and logically and based on evidence. They have to answer lots of difficult questions from experts. The accountability in the House of Lords therefore is very strong and useful, I think, and a good check on ministers.

The weaknesses come from some of the same things though. The fact that people are not elected means that they don't really feel ultimately that they've got the legitimacy to push the Government too far. The fact in particular that there are people in there who don't represent a party means they don't feel like they've got any kind of democratic base to challenge the Government too hard. So, in terms of the House of Lords ability to get in the way and ask difficult questions, it can certainly ask those questions and it can push to some extent but fundamentally it's not there to run the place. The elected house runs the place. It can be accused of being illegitimate and undemocratic so it will back off. And some people might say on some matters it backs off a little bit too quickly, a little bit too often. The balance of its power is very, very subtle.

Q4: Is the House of Lords an effective British political institution?

Well what you think about the House of Lords and its interventions tends to depend on where you're sitting within the system. So when you're the Government, the House of Lords can be quite annoying, because it asks difficult questions. It potentially slows down or even blocks bits of your legislation. But actually if you want the Government asked tough questions, if you want the Government to have to explain itself, then you want a strong second chamber to do that.

So this is one of the fundamental challenges of second chambers, this is why they're controversial round the world, is that there are always some people who are on their side who are plugging away maybe wanting them to push even harder the Government if they

don't support the Government. And then there are those often on the Government's side who are saying no, you're getting in the way, you're being irritating now, you're pushing us too hard and furthermore you're not elected. So the House of Lords is always dealing with that kind of tension.

In terms of how it intervenes, we see it most obviously when the Government is defeated in the Lords, which it can be quite readily because of not having a majority. At the moment, you've got the potential for Labour to join up either with the Liberal Democrats or with a large enough number of crossbenchers to defeat the Conservatives in the Lords. It's a very interesting situation actually because historically the House of Lords has been an institution dominated by the Conservatives. And it's been Labour governments who've said the House of Lords is too strong, it's getting in the way. The Conservatives have found it quite difficult to adjust to having a House of Lords where Labour and the Liberal Democrats and maybe Independent members can gang up against them and they're not guaranteed to get their legislation through. So we've been through quite an interesting period of transition.

Defeats, while they're very visible, are only if you like the sort of visible bit of the iceberg above the surface in terms of the House of Lords exerts its power, because there is the potential for the Government to be defeated in the Lords because the government doesn't have a majority there. When peers ask the Government to change policy, the Government has to think about it very carefully. And often they will go away and come back with concessions, they will negotiate with peers. They will change their policy in subtle ways. Sometimes not so subtle ways, sometimes quite big changes are made in response to peers without there being defeat. So it's more effective than it looks if all you're looking for is the defeats.

The House of Lords is very effective in that respect because of the impressive nature of its membership. Because there are people in there who are not going to be easily fooled and who are not going to

be easily wooed just by being told that they have to follow a party line.

Q5: The House of Lords is an unelected institution. Does this make it illegitimate in democratic terms?

The most obvious thing to focus on when you ask about legitimacy is election. What people would say, what people will call democratic legitimacy – which is a form in the jargon of input legitimacy. How do people get there? How is the institution made up? But academics recognise different kinds of legitimacy. There's also what they call output legitimacy in terms of what the institution does, whether it's performing a useful function. And also even more jargonistic what gets referred to sometimes as throughput legitimacy or procedural legitimacy, how it goes about doing its business. These kinds of terms are used with respect to the courts for example.

So, you know, the courts play an important part in our political systems, increasingly so in the UK, and yet judges are not elected. So you have to use different kinds of measures of legitimacy to say whether an institution is doing an appropriate job. There are other forms of input legitimacy as well. So on the one hand the House of Lords isn't elected. So you can see that might look like a democratic deficit. And some people very strongly argue that that is a democratic deficit and that's a perfectly reasonable, defensible point of view. But at the same time, so compare the House of Lords with the House of Commons in terms of party balance for example.

So the House of Commons in some respects some people would argue is not legitimate because it doesn't reflect the balance of votes at general elections. Governments tend to win a majority on a minority of the vote. In the House of Lords, the balance between the parties is actually ironically closer to the balance of how people vote in general elections than the House of Commons is. So even in terms of input legitimacy the House of Lords has some features which

seem like desirable good features. And also some of the things that I've talked about before in terms of the types of people who get there, that could be seen as part of input legitimacy. You know, the fact that it is a body full of very experienced former politicians and people from other walks of life and other aspects of the economy gives it a kind of input legitimacy.

If you want your second chamber to be different to your first chamber, because there's no point having two chambers that are the same, then obviously you've got to pick it in a different way. Well we've used the most obvious means for the first chamber. We've elected it on the basis that everybody has an equal share, you know, everybody has one vote. So we're going to do something different for the second chamber. We've got to come up with something which is defensible, which has a logic to it but is not the same.

So the likelihood is always that the second chamber will be attacked for not meeting the standards that the first chamber meets but it perhaps meets different standards that the first chamber doesn't meet. And therefore the two are complementary of each other and kind of together Parliament is the stronger for the presence of both.

Q6: Is the House of Lords too big?

It's not as big as it looks. It now has over 800 members, which is undoubtedly far too many. But of course the nature of the Lords is that most people do not turn up on a full-time basis. A lot of people are either semi-retired or they have occupations outside the House. They're working as surgeons, they're working as business people, they're working as academics or whatever so they don't come every day. So while the size officially, the number of members who are eligible to attend is over 800, the average attendance is something more like 450. Nonetheless, it's too big.

When the hereditaries were removed the size of the chamber went down to just over 660 and it's now over 800. So over 18 years we've seen an increase of getting on for 200 members. And there's a lot of unhappiness in the Lords about the way that the size of the place has increased. It makes it harder for people to get in and get heard at Question Time. It makes it harder to find office space for people. It makes the place more expensive and less efficient. So there is a really bad problem which is to do with the unfettered ability that the Prime Minister has to appoint people to the Lords.

So one of the difficulties is that, the biggest difficulty in my mind about the House of Lords, at the moment is that there is no regulation of the Prime Minister's ability to appoint peers and it's very tempting for Prime Ministers to appoint too many. It's useful for them to be able to appoint people to their own side. They then have to compensate by appointing some people to the other side. They want to put people in there to perform as ministers and so on. And they just tend, and this has happened across history, to put in people at a faster rate than they leave, and they mostly leave through dying although you can retire now. And David Cameron was particularly bad in this regard.

So Tony Blair put an awful lot of people into the Lords. David Cameron, he appointed at an even faster rate than Tony Blair. And so the number increased quite sharply under his premiership and that's a problem and something needs to be done, I think.

Q7: What form should House of Lords reform take? And is Lords reform likely?

There are some people who are very keen that the House of Lords should play less of a part in British politics, and those people tend to be on the Government side at any one time. And then there are those who think that the House of Lords should be more powerful. That its problem is that it's held back by its lack of democratic

legitimacy as perceived and that it ought to be able to be more of a kind of roadblock to the Government's plans. Those people at any one time tend to be on the opposition side or not supporters of the Government.

So there's been pressure in different directions with respect to the Lords. There is a tension between the desire to see more democratic legitimacy through introducing elections and the realisation that most people have that if members of the House of Lords were elected they would be less shy in using their powers. They would actually cause more problems for the Government. So whether you think that that's a good thing or a bad thing tends to depend on where you're sitting within a system at any one time. And that's one of the things which has got in the way of Lords reform historically, and it's a blight on attempts to reform second chambers all around the world actually.

So second chambers get attacked for being too powerful if they stand in the Government's way too much. If they don't stand in the Government's way very much people ask, well, what's the point having it, shall we get rid of it? Or maybe they want to strengthen it. So it's very hard to get agreement on reform. We've seen various reform packages fail in the UK. So the Labour government put forward a whole series of proposals to reform the Lords. It proposed initially that we should have a chamber which was largely still appointed but with a few elected members. That was attacked for not being democratic enough.

Then there was a proposal from the Government that it should be maybe a 50/50 House: half elected, half appointed. That was attacked for being a sort of soggy compromise between the two. Then the Government came forward with a proposal that it should be mostly elected with a few appointed members, which got attacked by some people for still not being democratic enough, but by other people for the fact that this would strengthen the House of Lords too much, and it would start to compromise the House of Commons and make it difficult to govern.

I think the only thing that can happen is small things. The big things are just too difficult to agree. But there are small things which need to happen like dealing with the size for example. So we're in this strange situation where there have been many more restrictions put in recent years on the mechanisms for making public appointments. Across the public sector, ministers have a lot less power, a lot less discretion than they used to have to make public appointments. Meanwhile, the Prime Minister has got unlimited powers to appoint to a chamber of Parliament. This is extremely odd.

So to me the next reform that needs to happen is tightening up the appointments process. There needs to be some restriction put on the number of people who can be appointed and there need to be some clear rules for the balance between appointments, between the parties, and maybe some kind of strengthening of the rules with respect to the qualifications that you need to have to be appointed to the second chamber. You could do things like requiring representation geographically from across the UK. You might not want to say that a certain minimum proportion of the people appointed should be women, these kinds of things. There are lots of things that you could do with appointments which wouldn't get you into the big arguments about whether it should be elected and whether that was going to make it more powerful.

That might look a bit unambitious to many people. But I would say these are words that Nick Clegg used actually, ironically when he was introducing his reform: it's important not to let the best be the enemy of the good. Not to constantly be looking for the perfect second chamber and let that stop you making small improvements to the one that you've got. Because if you look back over history there have been arguments for decades, indeed you could say for centuries, about large scale Lords reform. We have never had a large scale Lords reform; we have only ever had small incremental reforms. So I think we need to ask ourselves what is the next small incremental reform that we need. And to me it's cleaning up the

appointments process and introducing some regulation on Prime Minister or patronage.

The other thing that goes alongside the unfettered right of patronage is obviously the unlimited size of the House, which is getting bigger as we've said. It's very unusual to have a chamber of Parliament doesn't have a maximum size. It's also unique around the world to have a second chamber which is larger than the first chamber. So I would say there should be a maximum size for the House of Lords and the obvious thing is to say no larger than the House of Commons.