

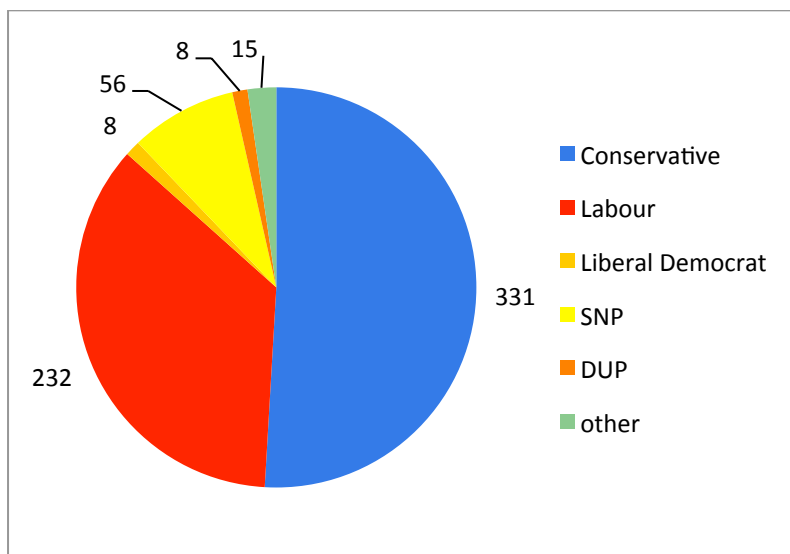
## Cameron's parliamentary challenge #2: managing the Lords

*As the fallout from the general election is dissected, some commentators have noted the challenges facing Cameron's new government in managing the House of Commons - given his small majority. But **Meg Russell** warns that his challenges in managing the House of Lords could be even greater.*

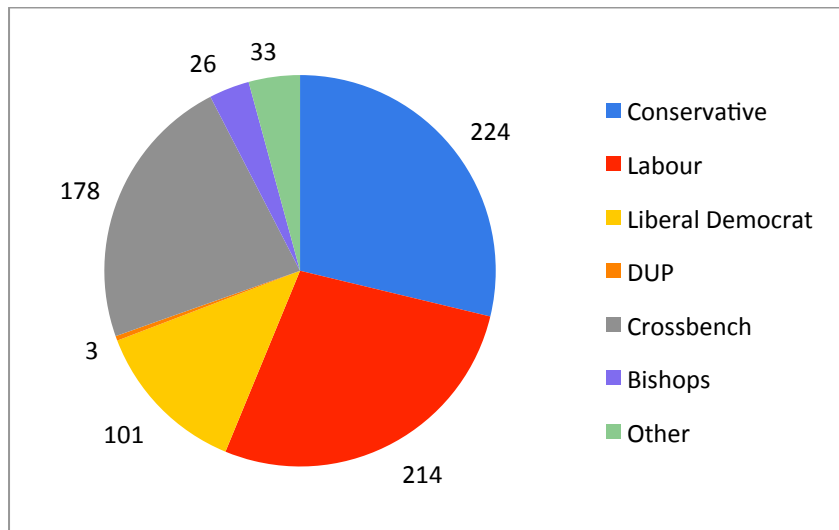
The country is now adjusting to a Conservative majority government that [none of the general election polls](#) (bar, broadly interpreted, the exit poll) predicted. The Conservatives are jubilant having increased their number of Commons seats, and now look forward to governing on their own. Senior figures no doubt hope for a more straightforward period of government than under coalition, subject to less negotiation and with greater ability to navigate policy through parliament. The challenges of governing with a narrow Commons majority have attracted [some comment](#) (with various references to the difficulties of [managing rebellious backbenchers](#) and reminders of the [challenges of the Major years](#)). But what most commentators have completely overlooked so far is the much greater challenge facing Cameron's new government in managing the House of Lords.

[Much of my research](#) in recent years has focussed on the changing nature of the Lords following the 1999 reform that removed most hereditary peers. That reform was transformative: the previously Conservative-dominated chamber became one of 'no overall control', in which the balance of power was held by the Liberal Democrats and numerous non-party Crossbenchers. Peers became both more confident, and more able, to inflict government defeats - of which the Blair and Brown governments suffered over 450 during 1999-2010. The key 'swing voters' in that period were the Liberal Democrats; had they voted differently, over 90% of defeats would have been averted (as first shown [here](#), and updated later [here](#)). Hence the 2010 coalition had a rather easier time managing the Lords - these swing voters having been absorbed into government. While Labour could defeat the coalition in the Lords if it joined forces with sufficient Crossbenchers or government rebels, defeats became less common - with [just 51](#) during 2012-15. But this week's move to single party government marks a return to something like the status quo ante - that is, a far more similar position to 1999-2010.

### House of Commons



## House of Lords



The two diagrams show the relative party strengths in Commons and Lords respectively as of this week. In the Commons the Conservatives have a narrow majority, but in the Lords they fall well short. The newly strengthened SNP notably has no peers at all - having always rejected such positions on principle. But the Liberal Democrats, while reduced to a rump of just eight MPs, have over 100 members in the Lords (so their new leader will inherit a parliamentary party 93% of whose members are peers). The party's numbers have swelled impressively over time - in his 10 years as Prime Minister Tony Blair appointed 54 Lib Dem peers; in the five years 2010-15 David Cameron appointed a further 40. These latter appointments were part of a wrongheaded coalition mission to bring membership of the Lords into line with general election vote shares (which was never achieved, and is critiqued [here](#)). That Cameron went along with this plan may already be a source of regret. If not, it probably will be soon.

So the Conservatives are in a relatively weak position in the Lords, holding less than a third of seats. The government can readily be defeated by various combinations of other forces - including Labour, Liberal Democrats, Bishops and Crossbenchers. These last two groups vote less frequently than party peers, and also do not vote as a block. So the key group is - once again - the Liberal Democrats. They are now numerically stronger than before, and following recent events are badly bruised. Despite having worked until recently alongside the Conservatives, their instincts may now often be to vote with Labour. The Lords has traditionally taken a stand on constitutional issues (recall the climbdowns forced on Blair over restricting trial by jury, detaining terrorist suspects, and introducing ID cards) - so we can expect clashes over the government's plans to repeal Human Rights Act, reform parliamentary boundaries and hold an EU in-out referendum, where Labour and Lib Dems will readily find common cause. But the chamber can generate problems on a far wider range of issues than that. Looking back to the 2010 parliament it is easy to see examples of policies that might have been scuppered in the Lords had the Liberal Democrats not been in government - the most obvious being NHS reform and university fees. An interesting question is the extent to which Lib Dem and Labour peers will be tempted to join forces to block Conservative austerity measures. This may cause fresh public rows about the Commons' [financial privilege](#) (as occurred over the coalition's Welfare Reform Bill) - where

the rules, and understandings of current conventions, are far from clear [as our research has shown](#).

Of course, there are constraints created by the fact that the Lords is not an elected chamber. It tends not to block government policies wholesale - for example very rarely seeking to defeat bills at their second reading. Peers know that they must apply caution when resisting policies approved by the elected chamber, and certain conventions apply. But these have been gradually eroding over time (for a detailed discussion see [here](#)), and may do so further. Most famously, the 'Salisbury convention' suggests that the Lords should not block policies (such as the constitutional measures mentioned in the previous paragraph) that appeared in the governing party's manifesto. But the Liberal Democrats pre-2010 led the way in questioning such conventions. Their leader in the Lords Tom McNally notably dubbed the Salisbury convention '[the last refuge of legislative scoundrels](#)' (col. 760). The party's primary complaint was that the 2005 Labour government could not claim a mandate for its policies having gained a Commons majority on only 35% of the vote. The new Cameron government has done only slightly better, on 37%. Arguments about the relative legitimacy of the two chambers - one relatively proportionate but unelected, the other the reverse - are thus likely to return.

So what can the new government do in the face of these potential threats to its programme? The short answer is not very much. Appointments to the Lords are for life, and there are currently no means of forcing retirements or resignations. The only way of rebalancing the chamber is therefore through new appointments. But while Cameron may be tempted to create more Conservative peers, he has already [attracted widespread criticism](#) for his appointment rate to date - which has exceeded that of any prime minister since life peerages began (see page 13 [here](#)). Cameron might feel that he can face down more such criticisms, but there are two fundamental problems. First, his [manifesto](#) included a pledge to 'address... the size of the chamber' (page 49) - which would be immediately broken by a large tranche of new peers. Second, over 160 new Conservative members (and no peerages at all for other groups) would be required to give the government a Lords majority. Simply to outstrip other parties 70 would be needed - a rate of appointment which would be completely unprecedented, and greeted with legitimate outrage. Large-scale Lords reform does not offer a way out either, as the Conservative manifesto explicitly stated that this was 'not a priority in the next Parliament'. So at least in the short term, the government's only practical option is to learn how to manage the chamber more or less as it is.

While the new dynamics may come as something of a shock, Cameron is in no worse a situation than were the Labour governments that immediately preceded the 2010 coalition. Indeed, the Conservatives at least start out as the biggest party in the Lords - a position that Labour did not achieve until 2006. As outlined in detail in [my 2013 book](#) (which, dare I say it, might now be essential reading for senior Conservatives), the watchword under Labour was negotiation. As a former Labour whip put it to me, 'the whole job was trying to... reach an agreement with the Lib Dems on specific issues, or an agreement with the Tories on specific issues, or persuading one or other of them to go home'. This frequently required policy to be trimmed in order to avert defeat. In addition, there are, of course, the Crossbenchers. They have taken on a more pivotal position, and become more active, under the coalition - so convincing them of the merits of government policy will also be important. But this is painstaking work - because they do not vote as a block they must be convinced one-by-one. Keeping Crossbenchers onside additionally requires that debates in the Lords do not descend into party political point scoring, but are won on the basis of rational argument. When it

comes to defeats, the mood outside the chamber can be important. Peers are more likely to challenge the government if they detect that its policies lack public support. In turn, the government can be more bullish if it has powerful interests on its side (the outspoken denunciation in [The Sun](#) of the assault by Bishops in the Lords on the coalition's benefit cap must have been music to ministers' ears). But it would be a mistake to think that the government can always win against the Lords on populist policies - as Blair learnt to his cost on [detention of terror suspects](#) in 2005 (see pp. 9-11). And public attitudes to intervention by the unelected chamber are more complex than you might expect. There is [absolutely no evidence](#) that voters think manifesto pledges should be treated with particular reverence, and they broadly support the Lords blocking unpopular policies. Indeed [they tend to have, if anything](#), greater respect for the policy role of the Lords than that of the Commons.

In a way, a new period where the Lords is at the heart of British policy-making could be seen as relatively mundane - as indicated above, a return to the status quo ante. But at another level, it is momentous - because it is now the Conservatives, not Labour, that the Lords will have in their sights. Before 1999 the Conservatives essentially dominated the Lords for 200 years. Until now, the chamber has continued to be seen as a largely unreformed - and largely anti-Labour - institution. I have long argued that it is not. As I suggested in [my 2013 book](#) (page 292):

*One interesting counterfactual is to consider what would have happened had the Conservatives won an outright Commons majority in 2010, and formed a single party government. The Liberal Democrats would have retained a pivotal position in the Lords, and almost certainly joined forces with Labour to defeat controversial policies on matters such as NHS reform and benefit cuts. For the first time in modern politics a Conservative government would have faced resistance from a centre-left dominated House of Lords. Had this occurred, it would have made abundantly clear how much the dynamics of parliament and party politics have changed.*

It has taken an additional five years, but that moment has now (somewhat unexpectedly) arrived. Those who have not paid much attention to the Lords to date would be well advised to start doing so. It may be about to become very interesting indeed!

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