

Crossbench peers' contribution to the legislative process

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Introduction

On 11 March 2010, there were 182 members of the House of Lords who belonged to the Crossbench group. Crossbench peers are the third largest political grouping in the House of Lords, after Conservative peers. They make up almost 26 per cent of the House membership. This research paper seeks to highlight the role independent Crossbench peers play in the House of Lords at a time when reform of the chamber is ongoing. The Government have called for the composition of the second chamber to be changed by introducing elections. While the Government have also indicated that they would wish to preserve an appointed Crossbench element in any reformed House,¹ it seems appropriate at this juncture to investigate the contributions Crossbench members make to the legislative process.

The Convenor of the Crossbench peers in the House of Lords, Baroness D'Souza, commissioned this research paper in 2009. Its purpose is to look into the relationship between Crossbench peers' areas of expertise and the impact of this expertise on legislative output. Initially amendments that were called to division by Crossbench peers in the 2007-08 parliamentary session were identified and those peers were contacted to establish whether they were interested in taking part in the project. It should be noted that the research paper was not limited to amendments in the 2007-08 session only: if in interviews, e-mails or questionnaires peers highlighted legislative successes in other parliamentary sessions, these data were also incorporated into the research. Additionally, an announcement was made in the weekly Crossbench meeting on 7 May 2009 to encourage peers to take part in the project. Questionnaires were designed to record in-

formation on amendments tabled by Crossbench peers and circulated with the weekly Crossbench notices that are sent to all Crossbench peers.

Initially the researcher ascertained which Crossbench peers had tabled amendments that had been put to division in the 2007-08 parliamentary session. All of these peers were contacted and six responded. The other peers have been chosen for the research paper either because they approached the researcher spontaneously or because they provided the Convenor's office with information about amendments they have tabled in recent years. Seven peers were interviewed in person between July 2009 and January 2010 either in the Royal Gallery or the Peers' Guest Room. One peer was interviewed over the telephone. The interviews focused on amendments tabled by peers, inquired into how peers achieve legislative results and tried to establish what opportunities and constraints there are for Crossbench peers wishing to revise legislation. The researcher engaged in e-mail correspondence with four peers to obtain information on their legislative activity and experience as Crossbench peers. For the purposes of this research project, questionnaires from two peers were used to analyse their legislative activity. In some cases these three methods of obtaining information from peers overlapped: e.g., some peers sent e-mails and submitted questionnaires.

This research paper will first summarise the information received from peers in the course of the interviews and from e-mails and questionnaires that peers have submitted. The data for most of the peers mentioned in this research paper have been grouped under the peers' names in the *Inter-*

¹ Ministry of Justice, 2008, p.5.

views section. For a small number of peers there was not enough information to warrant a full interview summary, but their interview results have been incorporated into the *Analysis* section. The research paper will then seek to analyse the data by looking at common themes that have emerged in interviews and also based on shorter contributions by some peers who have not been allocated an interview summary chapter. A number of peers provided information to the project on their own initiative. Seven out of the 12 peers discussed in this research paper are so-called Stevenson² peers since they were appointed by the House of Lords Appointments Commission (HOLAC) which was established in 2000.

² Lord Stevenson of Coddenham was Chair of HOLAC from 2000 until 2009.

Executive summary

The research paper investigates a variety of methods with which Crossbench peers contribute to legislative change and in particular how their individual expertise affects legislative outcomes. 12 Crossbench peers have been included in this paper. The paper concludes that Crossbench peers are in an advantageous position to effect legislative change by building cross-party coalitions and by directing their resources carefully.

In the areas of health and social care, Crossbench peers have raised awareness of spinal injuries, initiated a thorough debate on drugs policy reform and helped improve the position of the mentally ill, among other changes. The two Crossbench peers who have been HM Inspectors have worked to strengthen the presence of social services in improving the welfare of young prisoners and to ensure the effectiveness of HM Inspectorates. Those Crossbench peers with a background in law have worked towards encouraging supportive parenting in family law and closed important loopholes in Government legislation. One peer interviewed for this paper was previously a Member of the House of Commons and his experience as a Chief Whip in the House of Commons has given him a good background on how to operate in the House of Lords.

A key method of getting legislation changed is to use amendments-in-lieu. This means introducing an amendment, usually talking to the Minister in charge about it beforehand, speaking in its favour in a debate and finally obtaining a concession from the Government. The peer then withdraws his or her own amendment and the Government introduces it into the Bill. This tends to ensure that the Government will support it throughout all the Bill's stages. Calling divi-

sions on amendments can be done with careful preparation or on a matter of principle, but in general it tends to be a time-consuming method which does not guarantee that the amendment is adopted even if the division is won. Private Members' Bills are sometimes used by peers to increase public and parliamentary awareness on issues, but plenty of effort is needed for Private Members' Bills to actually become law. Private Members' Bills can operate in the same way as amendments-in-lieu: with good networking, the Government can be persuaded to see the argument behind them and elements of them can then be introduced in Government legislation. Oral Questions work best in conjunction with previously mentioned methods of influence. They are particularly useful in keeping matters on the agenda by highlighting them.

Crossbench peers occupy a useful position in terms of making legislative change. Party peers are sometimes deterred from tabling amendments because they might go against the party line; since Crossbenchers do not have a party line, this is not a concern for them. Peers interviewed for this paper have indicated that Crossbenchers are viewed as generally improving the quality of debate in the chamber. Crossbenchers do not operate by scoring political points; not being a political party makes this possible. At the same time, not having a party structure means that Crossbenchers have fewer resources, so they have to direct the few resources they have carefully. All-Party Parliamentary Groups are a useful tool to refresh peers' expertise and to interact with other parliamentarians. There are also informal subgroups within the Cross Benches which provide a forum for like-minded peers to coordinate legislative activity. Two

major ones are the Penal and Social Affairs subgroup and the immigration group. Outside research by Meg Russell and Maria Sciarra indicates that there is some feeling of cohesion among Crossbench peers and that the role and influence of the Crossbenchers in the House of Lords is difficult to quantify.

Some Crossbench peers have run media campaigns in conjunction with efforts to get legislation changed. An instance in which this worked favourably was in thwarting efforts to enact a 42-day detention period. There is limited contact between Members of the House of Lords and the House of Commons.

Interviews

General the Lord Ramsbotham

After a long and distinguished military career, Lord Ramsbotham was appointed as Chief Inspector of Prisons for England and Wales – a capacity in which he served from 1995 to 2001.³ In this position he gained a wide degree of experience of the UK prison system and used his inspection reports to highlight flaws in it. He was raised to the peerage in 2005 and has continued advocating prison reform from within Parliament.

As Chief Inspector of Prisons, Lord Ramsbotham became aware of the conflict between the prison service and child protection legislation. In effect, the prison service was violating the 1989 *Children Act* since there was evidence that children in custody were insufficiently protected from self-harm, bullying and assault. On Lord Ramsbotham's encouragement, the Howard League for Penal Reform took the Home Office to court over this, and won.⁴ Lord Ramsbotham visited the issue in the 2008 *Criminal Justice and Immigration Bill* by tabling a series of amendments designed to further rectify the situation.

If the Prison Services violate the 1989 *Children Act*, the police would have to investigate

and get involved. Lord Ramsbotham's amendment aimed to clarify the current situation by making social services responsible for investigating any possible breaches – not the police. This would remove any potential clash between the police and the social services. However, Lord Ramsbotham indicated that this is still not wholly enforced.

The broader issue behind the amendment is children going from custody to care. The Youth Justice Board has 157 youth justice teams which develop sentencing plans with the offender, meetings to which parents are invited as well. The same youth justice team looks after the children both in and out of custody. 60 per cent of children had a parent attending the conference, which Lord Ramsbotham considered to be an encouraging statistic. One of Lord Ramsbotham's amendments to the 2008 *Criminal Justice and Immigration Bill* was aimed at continuing the social workers' role when the children were in custody and was successful in persuading the Minister, Lord West of Spithead. The Government are considering the contents of the amendment. Complications are caused by the fact that a considerable degree of responsibility is in the hands of the local governments over this matter.

The amendments on the *Criminal Justice and Immigration Bill* garnered all-party support. Some of his amendments also had Conserva-

³ Dod's Parliamentary Companion, 2008, p.811.

⁴ Communitycare.co.uk, 31 May 2002.

tive and Liberal Democrat peers' names attached. These amendments were part of a broader campaign on Lord Ramsbotham's part to reform the prison system. Lord Ramsbotham co-operates with the Local Government Association, the Youth Justice Board and people working in prisons. The organisations involved arrange regular briefings for parliamentarians. He also indicated that there is an informal Crossbench group of people who have a reform agenda (see interview with Baroness Stern and the *Analysis* section for more on this group).

Lord Ramsbotham was also involved with the *Police and Justice Bill* in 2006. In his 2005 Budget speech, then-Chancellor Gordon Brown announced that all Her Majesty's Inspectorates would be reduced to three: education, health and justice (the last including custody matters). Lord Ramsbotham decided to fight for the preservation of the Prisons Inspectorate with the help of Baroness Anelay of St Johns who was then the Conservative frontbench spokesperson on Home Affairs. Baroness Scotland of Asthal, then the Government spokesperson for the Home Office in the House of Lords, was pursuing the Government's case to amalgamate the inspectorates. There was widespread opposition towards the change. Lord Ramsbotham spoke on the issue in the House of Lords after which the House divided on an amendment designed to prevent the change. Massive support was given to Lord Ramsbotham's amendment. As a result of this defeat, the Government scrapped its plans to change the inspectorates the following day.

In this instance, Lord Ramsbotham's position as an independent Crossbench peer was an advantage in rallying cross-party support. This was greatly helped by having held the position of HM Inspector of Prisons prior to his peerage. In other words, his experience and expertise prevented what could be de-

scribed as a detrimental change to the inspectorate system.

The third piece of legislation in which Lord Ramsbotham was in a key position was the *Corporate Manslaughter Bill* of 2007. The Bill made managers liable if accidents occurred. The Crown was not to be given immunity, with the sole exception of the Prison Service. As suicides and other kinds of deaths in prisons are not uncommon, Lord Ramsbotham thought that this was a notable omission in the Bill. There was cross-party consensus on this as well: Lords Hunt of Wirrall (Con), Lee of Trafford (LD) and Raz-zall (LD) were all supportive.

There were two divisions in the House of Lords and both were in favour of Lord Ramsbotham's amendment. However, ping-pong with the House of Commons proved difficult. During this process the Chairman of the Commons Home Affairs Committee, John Denham MP (Lab), and the Chairman of the Joint Human Rights Committee, Andrew Dismore MP (Lab), asked him to brief Labour MPs on the topic. However, the presence of a party whip outside the briefing room perhaps contributed to the low turnout. At this point, the Government changed the wording of the Bill, which opened up the opportunity for further divisions. The House of Lords divided twice more, both times in support of Lord Ramsbotham's amendment. In the end the Justice Secretary, Jack Straw MP, sought a meeting with Lord Ramsbotham and told him that he would give in, that the measures sought by Lord Ramsbotham would be implemented within three years and that the Ministry of Justice would publish annual progress reports in the interim.

While it could be said that Lord Ramsbotham's experience played a crucial role in ensuring that an important penal reform

was enacted, cross-party cooperation as well as good relations with certain members of the House of Commons were vital factors in its achievement.

Lord Dear

Lord Dear gained his expertise in the police force. He rose through the ranks eventually to serve as the Chief Constable of the West Midlands Police from 1985 to 1990, after which he was the HM Inspector of Constabulary until 1997.⁵ He was raised to the peerage in 2006 and joined the Cross Benches.

The *Counter-Terrorism Bill* attracted significant attention when it was debated in the House of Lords. The Government wanted to increase the amount of time a terrorist suspect could be detained without being charged for a crime to 42 days. The previous limit had been 28 days. Lord Dear was one of a large number of peers who objected to the extension at Second Reading. Baroness Manningham-Buller (XB) also spoke against this provision in her Maiden Speech. As the former head of the Security Service (MI5), her opinion was widely noted.⁶

At Committee stage an amendment stating that the detention time should not be increased was tabled by Lord Dear with cross-party sponsorship. Lord Dear saw the detention period as being a question of fundamental freedoms in Britain. The matter had gained wide media attention, so the pressure on the House of Lords to make a difference was significant. Liberty, JUSTICE, the Law Society and many other organisations had spoken out on the 42-day clause. Sir Ken Macdonald, the former Director of Public

Prosecutions, Andy Hayman, the former Assistant Commissioner for Special Operations at Scotland Yard as well as the independent Crossbench peer Lord Ramsbotham all wrote in major newspapers expressing their opposition to the provision.^{7,8,9}

In advocating the amendment, Lord Dear was supported by many Crossbenchers, both the Conservatives and Liberal Democrats, and a number of Labour peers.

Lord Dear received plenty of media attention with his amendment. He wrote an article in the *Guardian*¹⁰ in which he made the case that extending the pre-charge detention to 42 days would not help the police, but would rather help the terrorists by undermining community relations. It could be argued that Lord Dear was particularly well-placed to take up this issue not only because of his peerage and his previous police experience, but because in the 1980s he had been the target of an IRA parcel bomb. In addition, he gave a prime time interview to BBC Radio 4's *Today* programme on the morning of the debate.

During the debate, Lord Thomas of Gresford (LD) covered large parts of the role of the Director of Public Prosecutions, Lord Mayhew of Twysden (Con) the legal aspects and fellow Crossbench peer, Lord Lloyd of Berwick, also contributed to the debate. In the end, the House divided 309 votes content and 118 votes not content, giving Lord Dear the largest majority defeat of the Government, on any issue, for many years. There was still a theoretical risk that the House of

⁵ Dod's Parliamentary Companion, 2008, p. 617.

⁶ *Daily Telegraph*, 8 July 2008, "Eliza Manningham-Buller, former MI5 chief, savages 42-day plan".

⁷ *Guardian*, 23 April 2008, "DPP chief: extending detention period to 42 days is unnecessary".

⁸ *The Times*, 6 October 2008, "Stop playing politics with our safety".

⁹ *Guardian*, 13 October 2008, "Why I will vote against the 42-day law".

¹⁰ *Guardian*, 31 March 2008, "A PR coup for al-Qaida".

Commons would overturn the amendment, but in the end it decided not to go against such a large Lords majority.

Lord Dear emphasised his view that his previous police experience was not the main factor in motivating him to move this amendment, although it could be interpreted to mean that the police collectively did not want the measure. He indicated that he was primarily motivated by his commitment to upholding fundamental freedoms under the law. Additionally, he asserted that the House of Lords has a history of bringing Governments to account on human rights issues, and that his amendment was a part of this.

Lord Dear has detected a change over the last four years in Crossbenchers' legislative activity. He has sensed that Crossbenchers have become considerably more active. One of the challenges in sponsoring an amendment is that Crossbench peers usually have to run the entire operation by themselves. This deters some peers from moving amendments. When this is compared to the support that parties are capable of mobilising, it becomes evident that they are better resourced. However, party peers can be deterred from tabling amendments if these go against party policy – something that does not affect independent members. The media tend to recognise and value the independence of Crossbenchers, and the wide range of experience that they contribute.

Baroness Stern

From 1977 until 1996 Baroness Stern was the director of Nacro (the National Association for the Care and Resettlement of Offenders), which is one of the most prominent crime-reduction charities in the UK. In addition to this, she is a founder member of Penal Reform International – an organisation whose Secretary-General she was from 1989

until 2005 after which she became the organisation's Honorary President. In 1997, she became a senior research fellow at the International Centre for Prison Studies at King's College London – a position she continues to hold today.¹¹ When she was raised to the peerage in 1999, she continued to pursue matters pertaining to prison reform – her area of expertise – as the following legislative case studies demonstrate. According to Baroness Stern herself, her most valuable asset is having previous experience in public service.

Baroness Stern is chair of a smaller, more specific issue group within the Cross Benches. This is the Penal and Social Affairs Crossbench group whose membership includes Lord Ramsbotham, Lord Fellowes and Lord Dear, among others. Altogether there are between 15 and 18 members who get the minutes for the group's meetings. The group's mode of operation is to help all those involved with the information needed to work towards a common goal. Among the group's goals are tackling human rights abuses from the prison service and improving the prison and probation services. All members of the group are broadly in agreement on these goals, but there are occasional differences in terms of policy and tactics. This is very much a group within a group, in the sense that Crossbench peers not belonging to the subgroup may have different views on penal matters.

Another smaller group within the Cross Benches is the immigration subgroup whose membership includes the Earl of Sandwich and Lord Hylton, among others. Baroness Stern, who is also a member, describes this group as less formally organised than the Penal and Social Affairs group. The group aims to challenge the Government's policy on

¹¹ Dod's Parliamentary Companion, 2008, p. 859.

how it treats migrants. It receives assistance from outside organisations, including Amnesty International.

A recent victory for the immigration subgroup was guaranteeing access for certain failed asylum seekers to secondary health care and treatment for HIV / AIDS. The amendment will benefit those failed asylum seekers who cannot be deported for various reasons and who are entitled to claim 'Section 4' support. This was done with an amendment to the 2009 *Health Bill* in conjunction with 29 organisations including Amnesty International and the Refugee Council. The Minister in charge gave assurances to Baroness Stern indicating that the Government were sympathetic to the cause and that the change would be enacted through secondary legislation, as a result of which the amendment itself was withdrawn.

A great resource for Baroness Stern is her office at King's College London where she is a senior research fellow. This office can be used by all the members of the Penal and Social Affairs subgroup and in Baroness Stern's opinion, its existence is vital to the group. Despite this, even with the King's College office, the group has rather limited resources at its disposal as these types of groups receive no formal support from Parliament.

Baroness Stern observed that in order to defeat an unsatisfactory measure, it is necessary to bring coalitions together. Crossbenchers need to make strategic choices in order to get the results they want. For example, if they have a major disagreement with an entire Bill, it would be almost impossible to get the Bill defeated. Rather, it is necessary to prioritise and pick apart the sections of the Bill considered to be the most egregious. Baroness Stern believes that Crossbenchers tend to improve the quality

of debate by not having a party line. This is due to Crossbench peers being independent and depending on their expertise in Parliamentary debates. She tries to bring in reputable evidence to the debate whenever possible.

Dialogue with the House of Commons is not usual although there is some interaction with individual Members of Parliament, such as Dominic Grieve, the Conservative Shadow Justice Secretary, or Edward Garnier, the Conservative Shadow Attorney General. Baroness Stern indicated that the House of Commons does not have enough time to deal with legislation which is why so much of the legislative scrutiny falls on the House of Lords.

Baroness Meacher

Baroness Meacher's fields of expertise include health and social care. She was Mental Health Act Commissioner from 1987 to 1992, the non-executive director of the Tower Hamlets Healthcare Trust from 1994 to 1998 and has held the chair of the East London Foundation Trust since 2004, to list a few elements of her experience.¹² She was raised to the peerage in 2006 and has advocated on matters related to health care and social care in the House of Lords.

In the recent *Health Bill* [HL], Baroness Meacher tabled an amendment proposing to allow exceptions to the private patient income cap. The amendment was pursued to division and won in the House of Lords. In 2002, the *Health Bill* established Foundation Trusts and decreed that these trusts could undertake private patient work up to the level of trust private work in 2002/3. The result was that Trusts had vastly different private patient income caps, ranging from

¹² Dod's Parliamentary Companion, 2008, p. 759.

zero to 30 per cent. In particular, Mental Health Trusts had a zero cap. Baroness Meacher's recent amendment made provision for regulations to enable exceptions to this rule. A trust could undertake private patient work up to a specified level as long as this benefited the NHS. Even though the Minister did not commit to supporting the amendment through the House of Commons, he agreed to institute a review of the private patient cap; the review began in November 2009.¹³ The Government also conceded a private patient cap of 1.5 per cent for all Mental Health Trusts.

Baroness Meacher tabled 22 amendments to the 2009 *Welfare Reform Bill* at various stages of the Bill. She also had meetings with the Secretary of State for the Department for Work and Pensions (DWP), the Lords Minister, Lord McKenzie of Luton, peers on all sides of the House and a number of external organisations including the Royal College of Psychiatrists. As a result, the Government tabled amendments changing the Bill in significant ways. The following are examples of the changes resulting directly from the amendments of and meetings by Baroness Meacher:

1. Jobseeker's allowance and employment support allowance claimants will not be required to accept medical treatment (whether medication or psychological treatment) as a condition of continued receipt of full benefit.
2. Information about claimants dependent on drugs cannot be disclosed to third parties if it relates to the provision of medical treatment or care or the provision of services by a social worker.
3. Eight pages of amendments revised the regime for claimants dependent on

drugs, eliminating compulsory treatment for this group and replacing this with a requirement to attend assessments for treatment. The Government have introduced a new category of 'voluntary' rehabilitation plans alongside the original (but revised) mandatory rehabilitation plans.

4. The Meacher amendment on compulsory drug testing for drug users had proposed the deletion of the entire clause from the Bill. DWP Ministers were convinced that the Meacher amendment was the right course. However, Cabinet agreement was not forthcoming. The final result was the drawing of tight limits around the use of mandatory drug tests and the elimination of the taking of intimate samples for the purposes of drug tests.

In his concluding remarks on the Bill, the Minister, Lord McKenzie of Luton said: "Thanks are due to noble Lords too numerous to name – although I should mention the noble Baroness, Lady Meacher, on the Cross Benches – who have played an important part in our proceedings and have been responsible for many of the important changes that we have made in this House ... This is the first Bill in which I have been involved where an entire clause ... has been largely conceived on the Cross Benches. That is indeed co-production at its very best".¹⁴

Baroness Meacher tabled an amendment on the 2007 *Welfare Reform Bill* as a result of which the linking rules were simplified for benefit claimants. The changes are of particular significance for claimants with mental health problems. The revised rules ensure that benefit claimants with disabilities who take a job but are unable to hold onto it, are able to restore their benefits with a single

¹³ The Health Service Journal, 11 June 2009, "Burnham backs review of private patient income cap".

¹⁴ HL Deb, 3 November 2009, c179.

telephone call. This simplified system applies to people returning to benefits within a 12-week period. The situation prior to the amendment was that if a claimant lost their new job or quit, they would have to complete a new application form and attend an interview before restoration of benefits would be considered. This process could take three months. The revision was done so that people with mental health issues would be more likely to risk taking employment after being on benefit. The simplified rules are important because 40 per cent of people on employment support allowances have mental health problems. The amendment was not pressed to a division, but the Minister appreciated the argument and changed the rules. In the course of a number of meetings with the Minister and on the floor of the House Baroness Meacher also argued strongly that housing benefit would need to be re-instated automatically along with the re-instatement of employment support allowance. Work is now under way to give effect to this proposal.

On 25 November 2008, Baroness Meacher tabled an Order to ensure that cannabis should remain a Class C drug as recommended by the Advisory Council on the Misuse of Drugs. Even though the subsequent division was not won (with 64 peers voting content and 116 not content), Baroness Meacher was told by a number of peers that the debate that preceded the division had been the best on this issue. Baroness Meacher led the debate, and was supported by Lord Cobbold, a fellow Crossbench peer. After the division, 30 peers signed a letter to the Director General of the UN Office on Drugs and Crime asking it to conduct an inter-governmental review of the UN drugs policy. The Secretary-General of the United Nations, Ban Ki-moon, responded to the group of peers. Baroness Meacher sent a further letter to the Secretary-General on be-

half of the 30 peers on 26 October 2009. This letter welcomed his agreement that a review of alternative policies for the control of the drugs trade is now of global importance. Baroness Meacher's long-term goal would be to have the UN or the EU undertake a review of the criminalisation of narcotic drugs. Nearly five per cent of the world's adult population still take illegal drugs – roughly the same proportion as ten years ago when the UN launched the War on Drugs. The use of drugs has gone up drastically in the past quarter of a century and this has resulted in serious consequences in terms of crime, for example. Baroness Meacher will continue to press for the decriminalising of drug users, and nation-wide provision of medical treatment for this deprived group.

Baroness Greengross

Many of the amendments that Baroness Greengross tables tend to be related to older people and ageing. Prior to being raised to the peerage in 2000, she gained a wide expertise and huge experience in the field of ageing. She started working for Age Concern England in 1977 and eventually became its Director-General – a post she held until 2000. Additionally, she was the European Vice-President of the International Federation of Ageing from 1987 until 2001, and the joint chair of the Age Concern Institute of Gerontology at King's College London from 1987 until 2000. Currently she is the Chief Executive of the International Longevity Centre UK as well as a Commissioner on the Equality and Human Rights Commission.¹⁵

Baroness Greengross finds the Government very receptive to her arguments and towards Crossbench peers in general. When it comes

¹⁵ Dod's Parliamentary Companion, 2008, p. 664.

to health, social care, pensions, benefits and other topics, the Government often calls on Baroness Greengross to give talks and discuss the issues in detail. She frequently asks questions on the floor of the House and tables amendments on her areas of expertise.

Private Members' Bills can be introduced by a Member of Parliament or a member of the House of Lords who are not Ministers. It is unusual for a Private Members' Bill to pass all the legislative stages and become law – rather, they are used to bring attention and to publicise various issues. Private Members' Bills introduced in the House of Lords have to have a Member of Parliament support them in order for them to go through the normal process of legislation. However, Private Members' Bills introduced in the House of Lords do not have priority over Government bills, making the likelihood of any time being allotted to debate them very low.

Baroness Greengross has currently proposed two Private Members' Bills: one on integrated transportation and another on sperm donation. The first Bill would propose that non-emergency ambulances and special school buses ought to be used, for example, for transporting elderly people when these vehicles are not being used for essential functions. A duty to cooperate in this is the essential point of the proposed Bill. The Government have indicated that they may adopt the core of the private Bill.

The second Bill concerning sperm donations has to do with balancing a child's right to know with other people's rights. After the provision for fathers' identities to be revealed to children was passed, the number of sperm donors in the UK plummeted. Baroness Greengross argues that a compromise might be the ability to obtain a DNA profile rather than full identity. The Department of Health has agreed to look into whether this

could be accomplished through secondary legislation. Additionally, Baroness Greengross has met the relevant Minister who said that he would talk to Department of Health officials about this.

Baroness Greengross notes that there is great respect in the House of Lords for peers with particular skills and expertise, and that the quality of the debate tends to be high precisely because of the presence of these experts. She finds that as a Cross-bencher, she can easily cooperate with peers from all parties and work with them on Bills or questions. She finds that the Government are not generally hostile and that she aims to work with the Government.

Lord Best

Lord Best has gained extensive experience in the field of housing: among other positions, he was the Chief Executive of the National Federation of Housing Associations from 1973 to 1988 as well as the Chief Executive of the Joseph Rowntree Housing Trust (and the Joseph Rowntree Foundation) from 1988 to 2006.¹⁶ It should be noted that housing is a broad field which covers everything from the regeneration of whole cities to the relationship between tenants and landlords. Lord Best was raised to the peerage in 2001 and has continued advocating improvements to the housing sector from within Parliament.

When tabling amendments to change policy, Lord Best observed that his amendments have a considerably better chance of becoming law if they are taken forth by the Government. This way there is a stronger likelihood they will be adopted. In Lord Best's experience, if amendments are forced to division, they can be relegated to a low priority and they risk failing before enactment.

¹⁶ Dod's Parliamentary Companion, 2008, p. 556.

This is because they can be overturned by the House of Commons. In addition, divisions are time-consuming for all Members of the House and they require plenty of advance activity from the peer who tables them.

In 2008 Lord Best moved an amendment to the *Housing and Regeneration Bill* to enable council tenants to be brought within the protection of the new Tenant Services Authority. This will crucially ensure that providers of council housing will have to comply with the standards set by the Tenant Services Authority. The Bill originally only gave this support to tenants of housing associations. At first, the Government resisted Lord Best's proposal, but he persisted with the amendments through all the stages of the Bill. In the end the Minister in charge, Baroness Andrews, accepted his case and the Bill was amended accordingly. Throughout this process, he was advised by the Local Government Association, Shelter, the Chartered Institute of Housing as well as other relevant organisations. The changes achieved by Lord Best should benefit up to two million tenants in the UK.

Another way of influencing the Government is tabling oral questions. Unlike written questions, oral questions have the potential to highlight important issues. Lord Best noted that written questions are often not useful as tabling them involves too much bureaucracy; there are often easier ways to obtain answers to such questions. Ministers' offices tend to be helpful to Crossbench peers in answering their queries. Lord Best finds that it is easier to obtain information directly from these offices. Lord Best stresses that the best way to influence legislation is to talk directly to people, both to Ministers and to officials. When talking about cooperation with the House of Commons, Lord Best noted that Ministers in the Commons can be

approached if you know them – otherwise this can be a difficult process.

All-Party Parliamentary Groups (APPGs) are also helpful in exchanging ideas between parliamentarians of all parties and groups. They provide one of the few instances in which members of both Houses work together in the same room. APPGs go beyond the legislative process by, e.g., drafting responses to green papers.

In terms of comparing Crossbench peers and party peers, Lord Best noted that one key difference is that party peers tend to operate by scoring political points against the Government, whereas Crossbench peers have a less politically charged approach. Additionally, party peers have to defer to their parties' spokespeople on the front benches on many matters, which is something Crossbench peers do not have to do. As Crossbench peers, it is usually best to limit the remit to one's own area of expertise. Lord Best tells that there is a temptation to expand the remit indefinitely. However, when a Crossbench peer is considered an expert in their area, they are given special attention when they speak on their issues. Lord Best indicated that the element of expertise is particularly associated with Crossbench peers and not as much with party peers. In terms of expertise and experience, Lord Best stressed that it is vital to have fresh experience. He ensures this by having one foot firmly placed in the outside world, in civil society. Being the Group Chair of the Hanover Housing Association, among other positions, helps him do this.

Baroness Deech

Coming from a strong legal background, Baroness Deech has specialised in legal aspects of human fertilisation and embryology matters as well as family and human rights

law. She was the chair of the Human Fertilisation and Embryology Authority from 1994 to 2002, a fellow of the International Society of Family Law and the co-editor of the 2002 book *Biomedicine, Family and Human Rights*. She was raised to the peerage in 2005.¹⁷

When the *Human Fertilisation and Embryology Bill* [HL] was being debated in 2008, Baroness Deech, along with other Crossbench peers, was unwilling to see the reference to the need for a father vanish from the Bill. Baroness Deech, together with colleagues, attempted to amend the Bill inserting words “need for a father and a mother”. This amendment was put to a division on 21 January 2008, but lost with 93 votes content and 164 votes not content. In the end, the wording “need for supportive parenting”, put forward by the Government, made it to the final version of the Bill. Baroness Deech’s amendment paved the way to this compromise.

Baroness Deech took a particular interest in the 2008-09 *Cohabitation Bill* [HL], introduced as a Private Members’ Bill by Lord Lester of Herne Hill QC (LD). The Bill was designed to redraft family law by redefining cohabitation, particularly for the purposes of giving additional rights to unmarried partners in the event of a relationship ending. In the Second Reading of the Bill, Baroness Deech referred to her 30 years of experience in the field of family law, and expressed her opinion that the Bill “retards the progress of women, disrespects the relationship, is a recipe for instability, takes away choice, is too expensive and extends an already unsatisfactory maintenance law to another large category”.¹⁸ The crux of her argument was that the Bill would force people into a legal structure to which they might have no wish to belong. In

the end, Baroness Deech tabled so many amendments to the Bill that it eventually fell.

Lord Pannick

Lord Pannick QC is one of the leading barristers in the United Kingdom. Recently he acted for Debbie Purdy in the case that established the Director of Public Prosecution’s duty to publish guidelines regarding powers to prosecute those who help relatives go abroad to commit assisted suicide. Earlier, he had represented the BBC when it was charged with blasphemy over its decision to broadcast “Jerry Springer – the Opera” – a judgment shortly after which blasphemy was removed from the statute book.¹⁹ These are just a few of his high-profile cases. He was raised to the peerage as a Crossbench peer in 2008.²⁰

When the *Parliamentary Standards Bill* was debated recently, Lord Pannick tabled an amendment which was drafted to ensure that the procedural rules which the new Independent Parliamentary Standards Authority adopts for the conduct of investigations must be fair. He was supported by fellow peers Lord Lester of Herne Hill (LD), Lord Woolf (XB), Baroness Butler-Sloss (XB) and Lord Mackay of Clashfern (Con) who all agreed with the need to add this provision to the Bill.²¹ The Minister in charge, Lord Hunt of Kings Heath, agreed to the amendment without a division.

Amendments were tabled on the *Marine and Coastal Access Bill* by Lord Pannick and Lord Goodlad (Con) clarifying the appeal procedure for those affected by the coastal access duty. Specifically, the amendments sought to limit the Secretary of State’s powers in the

¹⁷ Dod’s Parliamentary Companion, 2008, p. 618.

¹⁸ HL Deb, 13 March 2009, c1418.

¹⁹ Blackstone Chambers, 2009.

²⁰ Dod’s Parliamentary Companion online.

²¹ HL Deb, 20 July 2009, c1439-1441.

appeal process: the original wording gave the Secretary of State the power to accept or reject the views of the person appointed to head the appeal process. The Government tabled an amendment meeting most of Lord Pannick and Lord Goodlad's concerns, and the Minister, Lord Hunt of Kings Heath, thanked Lords Pannick and Goodlad for the work they had made on improving the Bill.²²

Lord Pannick believes that being a Crossbench peer gives him greater influence in the House of Lords than if he were pursuing a party line. In his experience, the Government takes very seriously suggestions made by Crossbenchers because of their independence – in the sense of approaching matters in a disinterested manner – as well as their expertise.

Lord Walton of Detchant

Lord Walton of Detchant graduated MBBS from Newcastle Medical School, then part of Durham University, in 1945, proceeding after military service in RAMC to MD Durham 1952, FRCP London 1960, DSc Newcastle 1979, and FMedSci 1999. He was Professor of Neurology and Director of the Muscular Dystrophy Research Laboratory in Newcastle from 1968-83, and Dean of Medicine 1971-81 before becoming Warden of Green College Oxford 1983-89. He received the Territorial Decoration in 1962, was knighted in 1979 and became a life peer in 1989. In the House of Lords he has spoken extensively on medicine, science and education.²³ Lord Walton was particularly active on the 2009 *Health Bill* [HL]. When it was debated in the House of Lords, he tabled several amendments to it. The first to be highlighted here is his amendment to include, on the face of the Bill, education and training of

health care professionals. In advocating this amendment, he was joined by fellow Crossbench peers Baroness Finlay of Llandaff, Baroness Emerton and Lord Patel. Lord Walton considers the amendment a success as the Minister in charge gave assurances that the matter would be looked into.

Another amendment to the *Health Bill* dealt with the banning of tobacco vending machines. The amendment was originally tabled by Lord Crisp (XB), but as he was abroad on the day the debate took place, Lord Walton spoke on his behalf. The amendment received Crossbench support: Baroness Finlay of Llandaff and Lord Patel co-sponsored the amendment. Assistance also came from outside groups, including Action on Smoking and Health, the British Heart Foundation, Cancer Research UK as well as the North-East Trading Standards Agency. In the end, the amendment was pressed to division in the House of Lords, but lost the vote with 86 members content and 134 not content. The amendment received its biggest bloc of support from Liberal Democrat peers. Subsequently, however, the House of Commons passed an amendment banning cigarette vending machines, and the House of Lords subsequently agreed to the amendment, resulting in a significant change in policy.²⁴ It could be argued that the original Crossbench amendment paved the way for this change.

Lord Walton's third amendment dealt with the newly-introduced NHS innovation prizes which are designed to encourage ideas which improve overall quality and productivity within the NHS. Concern had been expressed by the Medical Research Council and the Association for Medical Research Charities that nowhere in the NHS Constitution does it explicitly state that the NHS has a

²² HL Deb, 8 June 2009, c450.

²³ Dod's Parliamentary Companion, 2008, p.896.

²⁴ Cancer Research UK press release, 13 October 2009.

responsibility for providing facilities for the support of research. The amendment sought to clarify that these innovation prizes would include research as well. The Government agreed with this, and produced an amendment-in-lieu meeting all of Lord Walton's concerns. The contents of the amendment were accepted and the Government altered the clause in the Bill dealing with innovation prizes to include research.

Baroness Valentine

Before being raised to the peerage in 2005, Baroness Valentine gained a significant amount of experience in the business sector. She worked in corporate finance at Barings Bank and the multinational industrial gas group BOC until the mid-1990s. She started working for London First in 1997 as Managing Director and was appointed its Chief Executive in 2003. London First is a non-profit making business membership organisation whose mission is to make London the best city in the world in which to do business.²⁵

Baroness Valentine tabled amendments in the recently debated *Business Rate Supplements Bill*. The first amendment was aimed at allowing business property owners to be able to contribute to Business Improvement Districts, thereby lowering the overall burden for occupiers when they are also required to contribute to Business Rate Supplements. Baroness Valentine garnered cross-party support for the amendment by having it co-sponsored with the Earl of Cathcart (Con) as well as Lord Bates (Con). She also received assistance in drafting the amendment from New West End Company (a Business Improvement District focused on Oxford Street, Regent Street and Bond Street), the British Property Federation and London First, with briefing support from the CBI and

the Greater London Authority. Legal advice was provided by the law firm Denton Wilde Sapte. The Government were sympathetic to the amendment: the Minister promised to return to the issue at the Report stage of the Bill and accordingly laid Government amendments-in-lieu.

The second amendment Baroness Valentine tabled on the *Business Rate Supplements Bill* concerned Crossrail provisions. This amendment was also co-sponsored by Lord Bates and the Earl of Cathcart. The amendment was designed to clarify legislation on allowing an exemption for Crossrail-focused supplementary business rates from the requirement for a vote, given the business-led long campaign for this London transport project. The amendment received briefing support from the Greater London Authority. The Minister in charge accepted that the smooth progress of Crossrail would be secured by the success of this amendment and gave support accordingly. The Government introduced an amendment-in-lieu and the gist of Baroness Valentine's amendment made it to the statute book.

Lord Alton of Liverpool

Lord Alton was elected into the House of Commons in 1979 and was a Member of Parliament for 18 years. He was the Chief Whip of the Liberal Party from 1985 until 1987. Before becoming an MP, he was closely involved in local politics in Liverpool. Lord Alton was raised to the peerage in 1997 – the year he retired from the House of Commons – and he joined the Cross Benches as an independent peer. In addition, he is a professor of citizenship at Liverpool John Moores University.²⁶

²⁵ Dod's Parliamentary Companion, 2008, p.888.

²⁶ Dod's Parliamentary Companion 2009, p.547.

Lord Alton indicated that previous experience in the House of Commons is not always necessarily an advantage. This very much depends on how engaged the MP has been in legislation. This can be quite a limited experience for some, particularly if the MP is from the party in Government. Many votes in the House of Commons are whipped and it would not be prudent to try to alter too much of one's own party's legislation through amendments. When Lord Alton was an MP, the Liberal Party was small, so all members had to be active on the legislative front. In this sense, the House of Commons helped him learn how to operate in a legislative environment. He explained that the best way to learn how to influence legislation is to get alongside people who are or have been active.

All-Party Parliamentary Groups (APPGs) are a useful tool for peers to deepen expertise and to stay in touch with developments in broader society (particularly if a peer is not in employment outside Parliament). Lord Alton is a member of several APPGs and said that he thought it would be advantageous if more Crossbenchers joined and became active in more APPGs. He particularly highlighted his membership of the Sudan APPG which has been holding a series of evidence sessions and played a part in initiating a debate on Sudan in the House of Lords chamber on 7 January 2010.

One of the key methods of influencing legislation in the House of Lords is to get the Government to accept or to table amendments on its own Bills. While Private Members' Bills have the ability to increase awareness on issues, amending Government legislation has a higher likelihood of influencing what actually becomes law. As a successful example, Lord Alton described his support for Baroness Young of Hornsey, a fellow Crossbench peer, in the autumn of 2009

when Parliament was considering the *Coroners and Justice Bill*. She wanted to amend the Bill to protect people from modern-day slavery, criminalising forced labour and servitude. Lord Alton arranged for them to meet with the Minister in charge of the Bill, Lord Bach. After two such meetings, the Government saw the merits of her argument and amended its own Bill. Lord Alton described this as having been considerably more effective than trying to navigate a Private Members' Bill through Parliament.

There are certain instances in which Lord Alton could see it useful to call a division on an amendment. Sometimes there are issues of principle where it is helpful to have the opinion of the House on the record, even if it is likely that the division will result in the amendment in question being defeated.

The learning curve for new members of the House of Lords can be steep, and Lord Alton thought that more induction sessions on legislation and political skills might be helpful to enable members to operate better in the House of Lords. As Lord Alton indicated before, some of the key elements in becoming an effective legislator are creating contacts and staying on top of one's area of expertise either through outside employment or through an All-Party Parliamentary Group. Keeping one's expertise up-to-date is important as expertise can quickly become outdated if one does not keep abreast of current developments, particularly in fields that develop rapidly. In other words, expertise can in many cases have a "sell-by date". Lord Alton observed that the House of Lords tends to promote expertise rather than being a "jack-of-all-trades", meaning that members tend to take part in debates and divisions in which they have specialist knowledge.

Lord Alton argues that another way to get Crossbench peers more engaged would be to have them lead specialist inquiries in Parliament. Full expert reports would be influ-

ential and in some cases they could even be used for pre-legislative purposes.

Analysis

Expertise and previous experience

Three out of the 13 peers interviewed have achieved major changes in legislation relating to health care or social care. Baroness Masham of Ilton has campaigned to raise awareness on spinal injuries and used her expertise to influence the Government during the *Health Bill* [HL] debates. A ministerial visit that helped promote the importance for specialised care at spinal injuries clinics was arranged on her initiative. Baroness Meacher's health care and social care expertise generated, in her opinion, one of the best debates that there has been in the House of Lords on drug policy reform. Her experience in mental health matters ensured that the 2007 *Welfare Reform Bill* was modified so that it would create better conditions for those with mental health problems to find employment. In addition, she tabled amendments on the 2009 *Welfare Reform Bill* which led to significant changes, including those claiming benefits not having to accept medical treatment as a condition for continued benefits and the tight limitation of circumstances where compulsory drug testing is allowed. She has also generated significant debate on allowing exceptions to the private patient income cap – which, as a consequence, the Government started reviewing in November 2009. Lord Walton's long-standing medical experience allowed him to table several influential amendments to the recent *Health Bill* [HL]. He ensured that the Government would look into including education and training of health care profession-

als in the Bill and clarified that NHS innovation prizes would include research.

Two peers interviewed for this research paper had previously been HM Inspectors: Lord Ramsbotham for prisons and Lord Dear for the constabulary. Lord Ramsbotham's previous experience as the HM Inspector for Prisons has helped him when pursuing a prison reform agenda in the House of Lords. He tabled amendments on the 2008 *Criminal Justice and Immigration Bill* to strengthen the position of the social services for ensuring the welfare of young prisoners. His prison service experience also helped to ensure that prisons were not exempted from the *Corporate Manslaughter Bill* 2007. His inspectorate experience put him in an ideal position to thwart the amalgamation of inspectorates in 2006. Lord Dear had extensive experience in how the police operate in the UK: this had been gained as Chief Constable and HM Inspector for the Constabulary. His contribution to the *Counter-Terrorism Bill* in 2008 ensured that the amount of time a terrorist suspect could be detained was not raised to 42 days, contrary to the Government's wishes. Lord Dear stressed that one of the most important factors in motivating him was his commitment to upholding fundamental freedoms under the law.

Of the peers covered in this research, two have a strong background in law: Baroness Deech and Lord Pannick QC. Baroness Deech recently used her extensive experience in family law to attempt to amend the *Human Fertilisation and Embryology Bill* [HL] to

include the need for a father and a mother. While this endeavour was not successful, Baroness Deech's amendment helped pave the way to a compromise put forward by the Government inserting a clause requiring supportive parenting. She also thwarted the 2008-09 *Cohabitation Bill* [HL] which she saw as detrimental to family law in the UK. Lord Pannick is arguably one of the best barristers in the UK and his legal expertise has proven helpful in amending legislation. He recently successfully amended the *Parliamentary Standards Bill* to ensure that any investigations conducted by the new Independent Parliamentary Standards Authority are done fairly. In addition, in the *Marine and Coastal Access Bill*, amendments tabled by Lord Pannick and Lord Goodlad were warmly welcomed by the Government as they closed loopholes that had previously gone unnoticed.

One peer that was interviewed for this research had formerly been a Member of Parliament. Lord Alton of Liverpool's experience indicated that having served in the House of Commons can be an advantage in knowing how to operate in the House of Lords, but that this depends on what kind of experience one has had as an MP. For example, if an MP has been from a party in Government, it is possible that the MP has not taken too much part in legislating. Lord Alton, however, was the Chief Whip of the Liberal Party (which was a small party in itself), so he had hands-on experience in the field of legislation. In other words, having served as an MP does not always translate into an advantage if the MP becomes a peer.

Baroness Valentine has used her experience in business to amend legislation. She ensured that the Crossrail project would fare better by tabling an amendment in the recent *Business Rate Supplements Bill* to clarify an exemption for Crossrail-focused supplementary business rates from the requirement for a

vote. The Government accepted the premise of the amendment and tabled an amendment-in-lieu that was incorporated into the Act.

Ministerial assurances through amendments and Oral Questions

A well-accepted way of bringing about legislative change is to persuade the Government about the merits of one's amendment, withdraw it, and have the Government either bring in an amendment-in-lieu or promise change of one sort or another. In the end, not that many amendments are pushed to a division. Even if a division is won, there is still the chance that the House of Commons would overturn the amendment, and little might be accomplished in the end. Lord Best observed that amendments have the best chance of 'making it' if they are carried through by the Government. If amendments are pushed to division, it is possible that the vote will be lost or that the House of Commons decides to overturn the amendment. Divisions are also time-consuming and require plenty of advance coordination to push through successfully. Lord Alton specifically mentioned that there are certain instances in which he could see calling a division. This might happen out of principle, i.e. if the peer calling for a division wants to record the opinion of the House on something, even though they know that it is likely the division will be lost.

Baroness Stern and her group of fellow Crossbench peers interested in migration matters tabled an amendment seeking to guarantee access to secondary health care and HIV / AIDS treatment for certain failed asylum seekers. The amendment was withdrawn after ministerial assurances were obtained, and the change was achieved later by means of secondary legislation. Baroness Greengross talked of using Private Members'

Bills as a way of persuading the Government. She feels that by tabling Private Members' Bills, the Government is more able to view certain aspects mentioned in the Bills more sympathetically. Lord Best described how he obtained ministerial assurances by arguing for his amendment throughout all the stages of the *Housing and Regeneration Bill*, after which the Minister accepted his case and amended the Bill. Lord Alton offered support for Baroness Young of Hornsey when the *Coroners and Justice Bill* was being debated in autumn 2009. He helped arrange a meeting between them and the Minister in charge of the Bill and after two meetings persuaded the Government that her amendment, designed to criminalise forced labour and servitude, should be a part of the Bill. Lord Alton stressed that this was a better way of obtaining legislative change than, for example, using a Private Members' Bill.

In some instances, tabling Oral Questions can have similar effects than tabling amendments to Bills. Baroness Greengross indicated that she achieves some of her legislative outcomes by asking Oral Questions in the House of Lords. Oral Questions can be particularly useful when used in conjunction with other legislative means: they can ensure that issues remain on the agenda. Lord Best also highlighted the effectiveness of Oral Questions: when compared to written questions, they are much more conspicuous and it is possible to obtain change through them. On 10 December 2009, Lord Best asked an Oral Question highlighting the issue of tenants being evicted because of their landlords' mortgage arrears.²⁷ In response, the Government indicated that they would address these concerns through a Private Members' Bill, the *Mortgage Repossessions (Protection of Tenants Etc.) Bill*. Lord Best obtained information about the support through the Oral

Question and ensured that the matter remain on the agenda.

Being a Crossbench peer

Across the board, the interviewees indicated that they were in a particularly good position to enact legislative change precisely because they belong to the Crossbench group. Lord Dear observed that party peers can sometimes be deterred from tabling amendments which do not follow the party line. Lord Dear also noted that the media tend to think that Crossbenchers have a considerable talent to offer in the legislative field. Baroness Stern's opinions reflect those of Lord Dear's when she says that not being under party control is a unique part of being a Crossbencher. Baroness Stern also pointed out that Crossbenchers generally tend to improve the quality of the debate in the chamber. Baroness Greengross said that she aims to work with the Government and that due to her position as an independent peer, they value her expertise and her opinions greatly. Lord Best indicated that one of the major differences between (opposition) party peers and Crossbench peers is that while the former have a tendency to operate by scoring political points against the Government, Crossbench peers approach matters in a less politically charged way. In addition, Lord Best stressed the importance of constantly refreshing one's experience by having positions outside Parliament in order to be able to give a full contribution to Parliament.

Not having a party structure also means that Crossbench peers have a smaller and leaner support framework when compared to party peers. Baroness Stern observed that this means that Crossbench peers have to choose their battles carefully as the lack of resources prevents them from doing all the legislative change they might wish. Lord Dear added that some peers are deterred from

²⁷ HL Deb, 10 December 2009, c1146.

amending certain Bills because of the amount of work this might involve. Receiving briefings from NGOs also tend to be valuable as this works to strengthen the understanding peers have of issues.

One particular method of keeping experience refreshed and learning about new fields are the All-Party Parliamentary Groups (APPGs). Lord Alton indicated that he has had positive experiences with being a member of several APPGs; in particular, he mentioned the Sudan APPG whose evidence sessions helped initiate a debate on Sudan in the House of Lords. Lord Best also highlighted the positive impact made by APPGs. He said that they are particularly good forums for members of both Houses of Parliament to work together on issues, and that their remit can go beyond the legislative arena, for example by drafting responses to green papers.

The research has revealed the existence of subgroups within the Crossbenchers. Baroness Stern described two of these: the Penal and Social Affairs Crossbench group as well as the immigration group. These provide a forum for like-minded Crossbench peers to coordinate their legislative agendas and to pursue change. It should be remembered that those Crossbench peers not belonging to these groups may well have different views on matters. The Penal and Social Affairs group's existence also seems to depend on external resources: Baroness Stern indicated that the group receives crucial support from her office at King's College London. The KCL connection is also one of numerous examples of the Crossbench peers' links to, and often strong dependence on, the expertise of outside organisations within civil society. Lord Ramsbotham, a member of the Penal and Social Affairs group, elaborated on the nature of the group. The five primary purposes of the group are:

1. Looking at current and upcoming legislation and deciding who in the group would take what action in terms of amendments or producing correspondence;
2. Agreeing on who would ask parliamentary questions about what and keeping track of relevant parliamentary questions that have already been tabled;
3. Formulating topics for debate;
4. Exchanging information on ministerial contacts or briefings and;
5. Considering who might be asked to join the group.

Lord Ramsbotham emphasised that the group have consistently refused to accept people from other parties as members. However, from time to time, peers who are not Crossbenchers have attended particular meetings and are on the distribution list for supplementary information. In addition to the Penal and Social Affairs subgroup, Lord Ramsbotham described two other groups that he attends. Lord de Mauley, a Conservative Whip, convened a group on the *Apprenticeships, Skills and Learning Bill*, which consisted of Lord Ramsbotham as a Crossbench member as well as a number of Conservative and Liberal Democrat peers, and their researchers. The third group Lord Ramsbotham mentioned was the group on children's matters, led by Baroness Massey of Darwen (Lab), who also chairs the All-Party Parliamentary Group on Children. The group circulates minutes of meetings and briefings on relevant Bills and amendments to its members. Crossbenchers are well represented in this group.

Very little academic research has been conducted on the Crossbench group. One of the first detailed studies looking into this was Meg Russell and Maria Sciara's article in *Par-*

liamentary Affairs in 2009.²⁸ The research rightly observes that the Crossbenchers' influence in the House of Lords is difficult to quantify. It also points out that only 12 Crossbench peers had previously been members of the House of Commons. This emphasises the steep learning curve that some Crossbench peers face when they enter the House of Lords. Russell and Sciara also cite a survey they commissioned in 2005, which indicated that 33 per cent of Crossbench respondents agreed that the group had a "strong collective ethos". This could be interpreted to mean that even though Crossbench peers are independent, there is a sense of cohesion among its members. Additionally, another survey commissioned by the Constitution Unit and conducted by Ipsos MORI in October 2007 indicated that 41 per cent of the public thought it very important to maintain an independent element in the House of Lords. In describing the Crossbenchers' influence on the House of Lords, Russell and Sciara state: "A more considered analysis finds that the Crossbenchers' presence has subtle but important effects, and is in fact central to the ethos of the House of Lords. The Crossbenchers personify in many ways what the Lords is known for: expertise, independence from party and reasoned debate".²⁹

Other aspects

Many Crossbench peers interviewed for this research paper had broader agendas in mind when asking Oral Questions and tabling amendments. Baroness Masham of Ilton has been involved in raising awareness on spinal injuries for a long time. Much of Lord Ramsbotham's (as well as Baroness Stern's) par-

liamentary work relates directly to prison reform. Lord Dear indicated that much of his legislative work stems from his commitment to upholding fundamental freedoms under the law. More than often these broader campaigns are directly linked to the peers' areas of expertise or past experience.

Some Crossbench peers are also keen to run media campaigns to rally support behind their causes. When Lord Dear was running his campaign to thwart the Government's efforts to enact the 42-day detention period, he wrote a piece for the *Guardian* and appeared extensively in the media. As the results show, getting attention can help the legislative agenda.

One aspect that is conspicuous in the research is the general lack of contact with the House of Commons. There were some cases in which peers indicated that Members of Parliament had been particularly helpful, but all in all, the lower chamber seldom came up in the interviews. Baroness Stern indicated that dialogue with the House of Commons is not usual, but that there is some interaction with certain individual MPs. Lord Best said that if peers know Ministers in the House of Commons, they can be approached, but otherwise this can be a difficult process.

A recurring theme that came up in the interviews is the strength of the cross-party co-operation in which Crossbench peers engage. Both Liberal Democrat and Conservative peers added their names onto Lord Ramsbotham's amendments on the *Criminal Justice and Immigration Bill*. In addition, when Lord Ramsbotham was resisting the Government's attempts to amalgamate the Inspectorates, he received assistance from Baroness Anelay of St Johns, the then Conservative spokesperson on Home Affairs. Lord Ramsbotham stressed that had he been a party peer, it might have been considerably

²⁸ Russell, Meg and Sciara, Maria, "Independent Parliamentarians En Masse: The Changing Nature and Role of the 'Crossbenchers' in the House of Lords", *Parliamentary Affairs*, Vol. 62, No. 1, 2009, pp. 32-52.

²⁹ *Ibid.*, p.49.

more difficult to rally cross-party support behind his cause. Lord Dear's amendment opposing the 42-day detention period in the *Counter-Terrorism Bill* attracted support from

Conservatives, Liberal Democrats as well as Labour peers.

Conclusion

Peers' expertise from five particular areas of background has been highlighted. The paper has looked at the various means through which peers accomplish legislative change in the House of Lords. Amendments-in-lieu was an often-mentioned method. Many peers felt that this constituted a particularly effective way of changing legislation. Securing amendments-in-lieu relies on convincing the Government about the merits of an amendment and effectively having the Government adopt the contents of the amendment. This tends to ensure safe passage through the House of Commons and throughout the rest of the legislative process as well. While it is possible to accomplish legislative change by sponsoring amendments and then pushing them to division, this is seen as a less amicable way of operating and it runs the particular risk of the House of Commons overturning the amendment, provided it is first won in the House of Lords. It could be argued that those Crossbench peers who introduce amendments without first talking to Ministers and relevant bill teams and who do not attempt to secure cross-party support are destined to lose. Some peers indicated that Oral Questions are a useful instrument for obtaining concessions and ensuring that matters remain on the agenda. They can be particularly effective if they are used in conjunction with amendments, networking and speaking in the debates. The analysis indicated that Written Questions are not as useful as there are considerably more of them and it tends to be easier to obtain informa-

tion by speaking directly with the Minister or the bill team.

Crossbenchers have some advantages in enacting legislative change in the House of Lords. Those peers belonging to a political party are under more control, so working against the party line can have adverse consequences for them. For example, tabling amendments that are against the party line is likely to not be viewed favourably by the party leadership. As Crossbenchers do not belong to a political party, they do not operate by scoring political points against their opponents. Crossbenchers tend to be viewed as having great expertise in their respective fields, so they can reach a trusted position as experts in the House. In order to keep this expertise up to date, it is important that peers have some mechanism of interacting with civil society, either through jobs outside the House or membership of All-Party Parliamentary Groups, for example. Crossbench peers are at a disadvantage when compared to party peers in terms of background support. Political parties have more resources to offer their peers, whereas most of the time Crossbenchers have to organise efforts to enact legislative change entirely by themselves. They need to choose carefully where to direct resources.

Research done by Meg Russell and Maria Sciarra shows that despite Crossbenchers not having as strong a leadership structure as political parties have, there is cohesion within the group. This research paper has

revealed the existence of subgroups within the Cross Benches. These serve to bring together peers who have similar legislative agendas in particular fields of policy. The Penal and Social Affairs group seeks to bring change to the prison system, among other things, and peers belonging to this group work together to coordinate amendments and strategy more broadly. The research also revealed cross-party groups where membership of any political group did not prevent peers from pursuing the same goal. This highlights the importance and preva-

lence of cross-party cooperation in the House of Lords.

Initiative taken by Crossbenchers is taken particularly seriously because of their independence, their method of approaching matters in a disinterested fashion, as well as their expertise. Crossbenchers always need to bring coalitions together to make change, which means that they act independently but they do not act alone.

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