My general contention is that - on the assumption that Brexit goes ahead and that as a consequence the key role of the House of Lords EU Sub Committees disappears – we have the opportunity to redeploy those resources onto a comprehensive range of permanent policy Committees.

It is recognised that the timescale of the rundown of activity on EU Affairs is not predictable and that the process may well take place in stages. That in turn would mean that the kind of radical proposals I am putting forward would need to be phased rather than introduced all at once. Even so it would be important that the House accepted early on the principle that there should be more policy committees and that their coverage would be as comprehensive as resources and planning allowed.

The Need for a Structure of Lords Policy Committees

The House of Lords’ two key constitutional functions are:

- to scrutinise in detail and propose revisions to all proposed legislation covering the whole range of government activity and all government departments (except we do not scrutinise or revise Finance Bills);
- to hold the government to account for policy, delivery and administration - likewise across the whole range of responsibility of Central Government departments and agencies.

The House has a considerable reputation for conducting both of these functions with great diligence and considerable expertise. Yet we do not have ongoing policy Committees to back up those roles.

It is bizarre that now the House consists overwhelmingly of members appointed for their experience and expertise in fields covering the whole range of Government policy and responsibility – in industry and business, education, health, social and legal affairs etc – that their expertise has not been reflected in the House’s Committee structure. Indeed – whilst I personally am an unrepentant supporter of a predominantly elected second Chamber – I have always recognised that one of the most important justifications for maintaining an appointed House is the level and range of expertise and life experience that the modern House of Lords represents. Yet most of that experience is not used in the most obvious and effective way in our current Committee structure.
The release of both staffing resources and experienced members from the current role of the EU Select Committees gives us the opportunity to address this dilemma.

Of course there have been some changes in the last twenty years as the House has recognised the logic of developing high quality policy scrutiny in key areas..

- In 2000 we established the Economic Affairs Committee and the Constitutional Affairs Committee both of which have been hugely successful in both enhancing the House’s important role through rapid constitutional and economic change – and making effective use of members experience in these fields.
- And in 2016 we established the International Relations Committee – this following a previous consultation on Committee structure. I was one of many advocating such a move.
- We also (for slightly odd reasons) in 2007 established a Communications Committee.

All these Committees have been successful in delivering authoritative work of use to members, successive governments and interested stakeholders – and to a degree the media and general public.

*These 'recent’ changes have still left whole swathes of public life and of government responsibility untouched by House of Lords Committees. Indeed the vast majority of Government decisions are not covered. And likewise there are whole swathes of expertise amongst members of this House which is not put to use in our Committee structures.*

I am of course not arguing for Committees of the House to consist solely of ‘experts’. All these relatively new Committees have consisted of members who have experience in these areas combined with others whose history is in other walks of life and have worked well as a result.

**Role of the European Union Committees**

Much of the committee staff resource and much of the talent and experience of Members has been deployed (since 1973) on the House of Lords EU Select Committee and its six Sub Committees. The work this structure has done has been invaluable in scrutinising not just Commission proposals for EU legislation and regulation but also assessing EU and UK Government policy and strategy in a wide range of areas. That role is now coming to an end in March 2019 (or possibly December 2020).
We now have the opportunity to deploy both staff and member resources to new tasks.

**Suggestions for a new permanent Policy Committee Structure covering the Range of Government Policy**

We need a comprehensive structure of Committees each of which will be responsible for overseeing Government policy and wider developments in their areas in the economy and society. I set out a proposal for a comprehensive range of Committees at **TABLE A**.

**TABLE A**

**PROPOSAL FOR STRUCTURE OF PERMANENT POLICY COMMITTEES OF THE HOUSE OF LORDS**

<table>
<thead>
<tr>
<th>Committee Name</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constitutional and Human Rights *</td>
<td>Constitutional affairs, devolution, equalities, human rights</td>
</tr>
<tr>
<td>Economic Affairs*</td>
<td>Macroeconomics, public finances, income and wealth</td>
</tr>
<tr>
<td>Education and Culture</td>
<td>Schools, further and higher education, vocational training, creative sectors, arts, media, sport</td>
</tr>
<tr>
<td>Environment and Land Use</td>
<td>Climate change, natural environment, planning, agriculture, food, air, water, marine and fisheries</td>
</tr>
<tr>
<td>European Union ~</td>
<td>UK/EU Relations post Brexit</td>
</tr>
<tr>
<td>Industrial and Employment Strategy</td>
<td>Industrial Strategy, business, employment and employment conditions, regional policy</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>Transport, energy, communications, digital infrastructure</td>
</tr>
<tr>
<td>International Relations*</td>
<td>International and Commonwealth affairs, development, defence and security</td>
</tr>
<tr>
<td>Justice and Security</td>
<td>Courts, policing, criminal law, migration, physical and digital security</td>
</tr>
<tr>
<td>---------------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Regulatory Policy</td>
<td>Better regulation, sector and other statutory regulators, consumer and competition</td>
</tr>
<tr>
<td>Science and Technology</td>
<td>Scientific development, R&amp;D, technological advance and change</td>
</tr>
<tr>
<td>Social Services and Social Policy</td>
<td>Health, social care, housing, social security, social mobility</td>
</tr>
<tr>
<td>(International) Trade</td>
<td>International trade treaties, export opportunities, customs arrangements, tariffs WTO.</td>
</tr>
</tbody>
</table>

*broadly existing Committee*

I suggest that these Policy Committees should also be responsible for considering – hopefully increasing numbers of – Draft Bills; and Bills subject to post legislative scrutiny in their fields.

We should not duplicate the Departmental structure of Select Committees in the House of Commons but rather allocate Committees broader areas of policy which would cut across departments. Different configurations are of course possible - and of course they could be changed each Parliament as no Parliament can bind its successor. However this is simply my proposal for an eventual comprehensive coverage by permanent Policy Committees.

Others will no doubt have different configurations and combinations but the key issue is that the committee structure should cover the whole range of government policy and administration (aside from taxation).

I have retained a **European Union Select Committee** (without its sub committees) because there will be an ongoing complex relationship between the EU and the UK post Brexit. However eventually this role might merge with the International Relations Committee or be divided between that Committee and the proposed International Trade Committee.
I have also included a somewhat different proposition for a new **Regulatory Policy Committee**. This is partly to address the issues that will inevitably follow the passage of the EU Withdrawal Bill as regards the use of Henry VIII powers but it would also address the need to have clarity of approach to regulatory reform (now we can no longer blame the EU for much of our regulatory approach). There will inevitably be pressures both for tighter regulation and for deregulation once we have ‘taken back control’. Meanwhile there is some anxiety about the diminution of independent oversight of regulatory proposals with an apparently reduced role for the independent Better Regulation Committee. In addition there is a need for parliamentary oversight of statutory regulators; a few years ago there was an ad hoc committee on the role of economic sector regulators but this role needs to be institutionalised so that parliament has oversight of - and can conduct inquiries into - the performance of all statutory regulators.

This committee would be responsible for oversight of the **general policy and approach to regulation**. It would not take over or clash with the role of the Delegated Powers Committee which assesses the appropriateness of specific delegations in new primary legislation, nor the role of the Statutory Instruments Committee in assessing the merits of specific new SIs – nor indeed the role of any new Lords body sifting proposals for delegated legislation arising from the EU (Withdrawal) Bill.

The proposed list also envisages the splitting of the functions of the **Communications Committee** between two policy committees – **Education and Culture** and **Infrastructure**; with internal HoL communications issues going to the **Administration Committee**.

Whilst the proposal aims to create a comprehensive structure of Policy Committees the remits proposed in **TABLE A** could be modified and it would be possible to arrange a phased introduction of these Committees over say three Parliamentary sessions.

**Resourcing and Membership**

Taking into account the retention of the Economic Affairs, Constitution Affairs and International Relations Committees and the abolition of the EU Sub Committees and the Communications Committee, this structure if we assume 12 embers per Committee would approximately involve roughly the same number of Members and the same staff resources as the pre-existing committee structure. In staff terms it might involve marginally more with more specialised expertise but that could be offset by having fewer ad hoc Committees.
I commend these proposals to the Liaison Committee Review.

LORD WHITTY

Attached at ANNEX I are further comments on the specific Questions set out in the Consultation Paper.
ANSWERS TO SPECIFIC QUESTIONS

Key Questions

• How can Committees add most value to the scrutiny work of the House of Lords as a second chamber?

• What are the strengths and weaknesses of the current House of Lords Committee structure and what should change?

*Its main strength is the solidity of the evidence based approach and the effective use of the expertise of Lords members combined with the skills of the clerks and policy advisers.*

*Its main weakness is that there are whole swathes of public life and government activity that the present structure does not touch. This means the relationship between episodic legislative scrutiny on particular bills, however diligent, is not linked to overall strategic policy assessment.*

• How can House of Lords Committees develop a national conversation to complement their inquiry and scrutiny work?

• How can House of Lords Committees maximize their impact inside and outside the House?

*We need to organise public seminars on significant Reports or groups of reports currently for example on our Brexit Reports); this has been done occasionally but mostly we rely on publication and media coverage to evoke interest in civic society*

• How can House of Lords Committees promote inter-parliamentary dialogue both within and outside the UK?

*On all inquiries we need to ensure we engage with Committees in the Devolved Assemblies. With Brexit we will need to re evaluate our role on COSAC – probably retaining observer status whilst also increasing bilateral contacts with parliamentary committees in the major
European countries - and beyond in Commonwealth parliaments and the USA.
Subject matter and structure

An overriding question is: How should the structure and working practices of House of Lords committees be rationalised?

To help answer that question:

1. Should the current committee structure be changed?
2. What changes are needed in the wake of Brexit? Are committees needed to scrutinise the UK-EU relationship in future, and if so how?
   See main submission.
3. To what extent does it remain desirable to avoid overlap with the House of Commons?
   We should not seek to match or duplicate Commons departmental structures but there will need to be some overlap of subject matter. Liaison between Lords and Commons staff and Committee chairs could be improved.
4. What is the best balance between ad hoc committees and sessional committees?
   My proposition for permanent policy committees would reduce the need for ad hoc Committees but not eliminate it. We would still probably need two or three ad hoc committees per year. The one on AI at the moment could not be captured in a policy committee structure.
5. What is the best balance between short and long inquiries?
   This will vary. Committees will need to judge. But in general we probably over emphasise longer inquiries when shorter ones might have been more impactful.
6. What should be the duration of most committees (eg a two or three year term)?
   The Committees should be established for a full parliament and individual appointments – including chairs - for three years. Two years is too short to develop expertise and ethos. However initial appointment to a new structure should be staggered with some having shorter periods so that the whole committee does not disappear at the same time. This will be a delicate but short term problem.
Ad hoc committees

In relation to ad hoc committees, the Liaison Committee has considered proposals for new committees against these criteria:

- Makes best use of the knowledge and experience of members of the House;
- Complements the work of House of Commons departmental select committees;
- Addresses areas of policy that cross departmental boundaries; and
- That the activity proposed should be capable of being completed in one year.

7. Are the present criteria for examining proposals for ad hoc committees the right ones?

Broadly yes. If my proposal for comprehensive policy committees were adopted the criteria should also be that the issue covers more than one policy committee remit.

8. Are the current arrangements for following-up committee reports (especially those of ad hoc committees) appropriate?

We do not do enough follow up. This ought to fall to the Policy Committees – as could post legislative scrutiny - in future.

9. What is the correct balance between the flexibility of having new committees each year and more sessional committees?

As indicated I favour more sessional committees – but we will still need 2/3 ad hoc committees as well.

10. How should the work of post-legislative scrutiny committees be developed?

This should be an explicit part of the remit of proposed policy committees.

Engagement with the public
There has been a substantial increase in media coverage of Lords committees in recent years. Committees began using Twitter in 2014. Committees have also engaged with hard-to-reach groups by releasing easy-read versions of some reports. There have been additional efforts to engage with children and young people through a variety of methods, including online surveys.

11. How can Lords committees engage more effectively with the public and media to encourage a national conversation?
   *We should encourage all Committees to hold regular physical and virtual meetings with their stakeholders and the general public during and after each significant inquiry. To achieve that we should reduce concentration on producing weighty tomes of reports – though we will still need to produce that kind of report – and focus more on communicating our findings via more user friendly and generally electronically based means.*

12. What has been successful in increasing the levels of engagement on social media, and what more could be done?
   *Evidently this has been successful to a degree with for example the Brexit reports. More structured digital engagement could help.*

13. What new offline channels could be used to engage with the public?
   *See above*

14. How should committees engage with stakeholders in evaluating their activity?
   *Organise at least once each year a physical meeting and a digital engagement with stakeholders – combining the two may be more difficult.*

Chairmen and members

15. Are the current arrangements for the appointment of Committee Chairmen and members satisfactory, including the “rotation rule”?
   *Appointment by the ‘usual channels’ is difficult to justify in theory but in practice I cannot see we can do it any other way. There does however need to be some inhibition about politically vindictive removals.*
   *See above on rotation.*
16. What is the ideal number of members for investigative and scrutiny committees?
   
   **10-12 maximum. Anything bigger is unmanageable.**

17. Should there be a written role description for Committee chairmen and members to clarify expectations from the outset?
   
   **In theory probably yes – but difficult to draft much beyond the existing guide.**

**Committee effectiveness**

18. Is there anything committee staff could do to support chairmen and members to be more effective in their committee work?
   
   **In general staff perform a miraculous job. Policy Analysts could perhaps be more assertive in proposing background reading for Members and Chairs – and perhaps performing induction sessions. Then by exploring innovative ways of communicating the Committee findings.**

19. How can the timeliness and content of Government responses be improved?
   
   * **Propose and adopt a Resolution of the House that written responses shall be within two months of delivery of the report – otherwise the S of S will be hauled before the Committee.**
   
   * **Designate one Thursday per month for consideration of Committee Reports and keep it inviolate.**