The tax credit row highlighted a fundamental imbalance in our political system: here's one way to redress it

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The events leading to the Strathclyde Review highlighted a fundamental problem with our democratic system, namely that it is currently skewed too far in favour of representation, with little to ensure individual government actions are aligned with public's preferences, writes ***Harry Farmer****. He argues if this is to change, reform of the House of Lords needs to take into consideration the current failings of representative democracy.*

Credit: UK House of Lords. Parliamentary Copyright

Nestled amongst the higher profile announcements of last week's Queen's speech was an elliptical reference to the Strathclyde review, and the government's ongoing frustrations with the House of Lords.

Though the events that prompted the review – in which the House of Lords derailed the government's changes to working tax credits – most obviously invite discussion of the unelected nature of the second chamber, they also highlight a deeper problem with our democratic system.

Lying beneath the surface of this struggle between the Conservative government and a predominately Labour and Liberal Democrat House of Lords is a fundamental tension between two ideas that underpin our political system: the idea that the public should decide its own affairs (public sovereignty), and the idea that the public elects representatives to make decisions on its behalf
(representative democracy).

On the one hand, we elect governments and representatives to act on our behalf, entrusting them to make judgement calls about issues that the public does not necessarily have the time or the inclination to become directly involved in.

Tempering this, there is a need to ensure that the public's preferences and the government's actions never stray too

far apart. If the government interprets its electoral mandate too loosely, the representative element undermines public sovereignty – and the more directly democratic element of our system of government.

In our political system, the balance is currently skewed too far in favour of representation, with too little to ensure the proximity of individual government actions to the public's preferences. This is primarily a product of our overreliance on elections, which are an inaccurate way of establishing what people want from government. Indeed, the act of voting for a political party leaves almost all of a person's policy preferences unclear: When a person casts a vote for a party, there is nothing to determine which (if any) policies this is a gesture of 'support for' and which it is 'in spite of'. As a consequence, governments have a lot of scope to implement legislation on their own initiative.

The attempted changes to working tax credits are an interesting example of how this imbalance can lead to a divergence between a government's mandate and the feelings of the majority of the electorate. Even though the public had voted for a party whose manifesto was implicitly committed to cuts to working tax credits, this was clearly something of which most of the public disapproved, and did not feel they had authorised.

While there are questions as to whether it is the right body to play such a role, there was a very real sense in which the House of Lords was acting to prevent the government from interpreting its mandate in a manner that was incompatible with public opinion. In this sense, the clash between the government and the Lords could be seen as a reaction against a system that had placed too much emphasis on representation at the expense of public sovereignty.

This is indicative of a system in need of a legitimate means for the public to constrain the power of the executive branch, guiding and tempering the government's actions in a way they are unable to do through the electoral process.

Responding to the government's references to the likely outcome of the Strathclyde review, Labour reaffirmed its commitment to replacing the House of Lords with an elected second chamber. While a step in the right direction, this proposal misses the more fundamental lesson of the tax credit row. The problem is not a lack of electoral representation, but the fact that electoral representation alone is not enough for a healthy democracy. Indeed, elected representatives, who are under the same obligations to ensure the enactment of party manifestos as governments, are in a very bad position to represent the unmediated views of the people.

Fortunately, there are proposals for reforms to the House of Lords that address both its undemocratic selection process and the imbalance between representation and public sovereignty. Perhaps one of the most promising of these is the creation of a second chamber composed of members of the public chosen by sortition – a processes whereby political representatives are selected by a lottery, similar to the method of jury selection.

Though this is by no means a new idea, it offers a powerful means of addressing some of the failings of representative democracy. In addition to giving the public a say on important issues that are currently delegated wholesale to government and parliament, it would likely change the tenor of political debate for the better.

Rather than selling its policies exclusively to the section of the electorate from which it needs votes, governments would also have to seek the approval of a non-partisan, well-informed and demographically representative assembly of the people. Doing so would require government to articulate policy in terms that are acceptable to a group of people with differing 'conceptions of the good'. The resulting requirement for governments to take a pluralistic approach to policy development and implementation would serve as a counterbalance to the factional nature of many political debates.

Back in reality, a second chamber elected by sortition feels a long way off. The most likely outcome of the Strathclyde review is that the House of Lords will have its wings clipped, with its power to block secondary legislation replaced with the ability to ask the Commons to 'look again' at a bill.

Still, if we are worried by what the Strathclyde review has highlighted about the health of our democracy, we need to

be brave about pushing for genuinely appealing alternatives. As fair constitutional reform is rarely implemented by those embedded in the system, that responsibility lies squarely with those outside of it.

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Harry Farmer is a policy researcher at Involve. He is fascinated by the power of deliberative processes to enable governments to negotiate controversial policy decisions – particularly those presented by emerging technologies and demographic change.