



Her Majesty's Opposition

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This note outlines the rights and privileges of Her Majesty's Loyal Opposition, or the Official Opposition, as the party with the second largest number of seats within the House of Commons is known. It does not deal with the position of the minor opposition parties but contains a selected bibliography for further reading.

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A. The formal role of opposition in Parliament

1. Historical background

The constitutional commentator Nevil Johnson gives the following account of the development of opposition politics:

Parliamentary opposition as a feature of normal political life gained recognition during the 18C¹...What emerged was recognition of the right of politicians in Parliament to oppose the Government, to criticize it and to seek to replace it [but still remain loyal to the Crown]...By the early nineteenth century parliamentary politics clearly took precedence over direct involvement of the monarch in the day-to-day management of public affairs, and in 1826 there occurred the first recorded use of the term 'His Majesty's loyal Opposition'². But it was the Tory opposition under Sir Robert Peel which in 1841 provided the first example of a party taking power after winning an election as the 'alternative government' After Peel's resignation in 1846 there followed two decades when party allegiances were blurred and fluid, but the second Reform Act of 1867 ushered in something like the modern political party, along with the need to appeal to a greatly expanded electorate. It is a two-party competition which was established in 1868 and in essentials this has persisted ever since, even though one of the original actors in that competition, the Liberal Party gave way in 1922 to the Labour Party

2. Formal recognition

The following extract from Erskine May, the authoritative guide to Parliamentary procedure, demonstrates the extent of the formal recognition of the Official Opposition:

The importance of the Opposition in the system of parliamentary government has long received practical recognition in the procedure of Parliament. In 1937 statutory recognition was accorded through the grant of a salary to the Leader of the Opposition³. The prevalence (on the whole) of the two-party system has usually obviated any uncertainty as to which party has the right to be called the 'Official Opposition': it is the largest minority party which is prepared, in the event of the resignation of the government, to assume office [and in a footnote: The Speaker's decision on the identity of the Leader of the Opposition is final (Ministerial and other Salaries Act 1975 (c27) s2 (2))].⁴

3. Public funding for opposition groups

Two sources of public funding are available to opposition parties.

First, "Short money" is available exclusively to opposition parties. It was introduced in 1975 by the Labour Leader of the House, Rt Hon Edward Short CH, and has three components:

¹ S.A. Frood, *His Majesty's Opposition 1714-1830*

² The phrase was first used by Sir John Cam Hobhouse in 1826 in the House of Commons and was immediately taken up by others

³ The *Ministers of the Crown Act 1937* (Edw. 8 & Geo. 6 Chapter 38)

⁴ Erskine May, *Parliamentary Practice*, 23rd edition, pp247-48

- 1) Funding to assist an opposition party in carrying out its Parliamentary business;
- 2) Funding for the opposition parties' travel and associated expenses; and
- 3) Funding for the running costs of the Leader of the Opposition's office.

The first two elements are available to all opposition parties with two or more MPs (a party with a single MP that secured more than 150,000 votes in a general election is also eligible). Different formulae are used to allocate the three different elements. Under the first element, parties receive funds based on the number of seats won and the number of votes received. The second element is a finite budget allocated in proportion to the first element. The third element is payable only to the main opposition party. For further information see SN/PC/1663 Short Money

The second source of public funding is the Policy Development Grant, which was introduced by the *Political Parties, Elections and Referendums Act 2000*. Under the provisions of the Act, £2 million is allocated between all political parties with more than two MPs in the House of Commons (they must have sworn the oath). The funds are made available to assist political parties with the development of policies for inclusion in any manifesto.

In summary, £1 million is shared equally among the eligible parties. The different nature of party politics in England, Wales, Scotland and Northern Ireland and the size of the electorate in the four countries are reflected in the formulae used to allocate the remaining £1 million. Policy Development Grants are available to the governing party as well as to opposition parties. For further information see SN/PC/3138 Funding of Political Parties

B. Rights and privileges of the opposition

1. Opposition days

Standing Order of the House of Commons SO 14 (2) provides for the business on twenty days to be determined by opposition parties:

Twenty days shall be allotted in each session for proceedings on opposition business, seventeen of which shall be at the disposal of the Leader of the Opposition and three of which shall be at the disposal of the leader of the second largest opposition party; and matters selected on those days shall have precedence over government business.⁵

In addition, Erskine May makes the following observation: "By established convention the government always accedes to the demand from the Leader of the Opposition to allot a day for the discussion of a motion tabled by the official Opposition, which, in the government's view, would have the effect of testing the confidence of the House". The government decides when the motion will be debated but "a reasonably early day is invariably found".⁶

⁵ House of Commons, *Standing Orders of the House of Commons – Public Business*, 7 April 2005, HC 558 2004-05, SO No. 14(2), <http://www.publications.parliament.uk/pa/cm200405/cmstords/558/201.htm>

⁶ Erskine May, *op cit*, pp329-330

2. Other powers of the opposition in the agenda-setting process of the Chamber

Otherwise, according to SO 14 (1) government business shall have precedence at every sitting. So the House of Commons has no formal means of involving the Opposition parties in determining the House's agenda. However, informal consultations are held:

[The Government Chief Whip] and the Chief Whip of the largest opposition party constitute the 'usual channels', through which consultations are held with other parties and Members about business arrangements and other matters of concern to the House.⁷

For further information see SN/PC/2829 *The Whip's Offices* and Michael Rush, *Opening up the Usual Channels*, 2002, Hansard Society

3. Opposition's powers in the law making process

As noted above the entire agenda is determined by the Government, with informal consultations. The opposition has no right of veto but in order for legislation to be enacted a bill has to be agreed in identical form by both Houses of Parliament.

4. Questions to the government

Questions are asked of individual Government departments on a monthly basis in the Chamber and the Prime Minister faces questions weekly. The Speaker calls alternately Members from the Government side and the Opposition side. The Opposition front bench spokesmen are given the opportunity to ask more than one question.

5. The role played by the Speaker of the Chamber in securing the opposition's rights

In the speech he made before his re-election as Speaker at the beginning of the current Parliament, Michael Martin said:

I have said previously, and I say today, that a Speaker has a clear duty to every section of the House, especially to Back Benchers. It is the Speaker's duty to serve the House, not the Executive ... Re-elected Members will know that I think that it is right and fitting that a Cabinet Minister, and any Minister, who has some new statement to make, should make that statement here, on the Floor of the House. Her Majesty's official Opposition have built-in rights and privileges that the House has rightly given them. I say to those from minority parties represented here today, however, that their voices must be heard—[Interruption.] The Speaker-elect can hear them.⁸

⁷ Erskine May, *op cit*, p250

⁸ HC Deb 11 May 2005 c3

C. Selected bibliography

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Period case studies:

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Transition:

- Rodney Brazier, *Constitutional practice*, 2nd edition, 1994
- Anthony Shrimpsley, *The first hundred days of Harold Wilson*, 1965

D. Leaders of the Official Opposition since 1935

1935 – 1940	Clement Attlee	(Labour)
1940 – 1945	World War II Coalition Government	
1945 - 1951	Winston Churchill	(Conservative)
1951 - 1955	Clement Attlee	(Labour)
1955 - 1963	Hugh Gaitskell	(Labour)
1963 - 1964	Harold Wilson	(Labour)
1964 - 1965	Sir Alec Douglas-Home	(Conservative)
1965 - 1970	Edward Heath	(Conservative)
1970 - 1974	Harold Wilson	(Labour)
1974 - 1975	Edward Heath	(Conservative)
1975 - 1979	Margaret Thatcher	(Conservative)
1979 - 1980	James Callaghan	(Labour)
1980 - 1983	Michael Foot	(Labour)
1983 - 1992	Neil Kinnock	(Labour)
1992 - 1994	John Smith	(Labour)
1994 -1997	Tony Blair	(Labour)
05-06.1997	John Major	(Conservative)
1997 - 2001	William Hague	(Conservative)
2001 - 2003	Iain Duncan Smith	(Conservative)
2003 – 2005	Michael Howard	(Conservative)
2005 to date	David Cameron	(Conservative)