On 26 October, for the first time in 100 years, peers defeated the government on a piece of financial legislation. Government plans to cut tax credit benefits were not approved.

The votes
Members of the House of Lords voted 307 to 277 to delay the proposed cuts to tax credits until the government responded to the Institute for Fiscal Studies’ assessment that combined changes to tax, tax credits and benefits would reduce household incomes. In a later vote, peers voted 289 to 272 in favour of a Labour motion, which demanded full compensation for low-paid people for at least 3 years. The government avoided complete defeat however, when the Liberal Democrats’ ‘fatal motion’ to kill the bill entirely was rejected by 310 to 99.

Why is this significant?
It was the first time in a century that the Lords had voted against a piece of financial legislation. Peers ignored the constitutional convention that prevents the House of Lords from defeating the government on financial matters. The Lords argued that they were well within their rights to vote against the tax-credit cuts because the government had used the statutory instrument of secondary legislation to put the bill forward, avoiding the traditional route of a Finance Bill, which the Lords do not historically have the power to oppose.

The House of Lords has only blocked secondary legislation five times since 1945 — once in 1968, twice in 2000 and once in both 2007 and 2012. Delegated or secondary legislation allows the government to make changes to the law using powers conferred by an Act of Parliament.

The government accused the House of Lords of abandoning the Salisbury convention, arguing that tax-credit cuts were implicit in the Conservative manifesto, which detailed an extensive reduction in government spending in order to cut the deficit.

Constitutional expert Professor Vernon Bogdanor argued that ‘there is a constitutional difficulty because it appears that the Labour and Liberal Democrat peers in the House of Lords intend to use it as an opposition chamber, rather than as a revising chamber. And that, I think, this government or indeed any government would find unacceptable.’

The table overleaf shows the total defeats of legislation in the Lords since 1975.

Emma Kilheeney looks at the significance of the government defeat on tax credits in the Lords.
Can the power of the Lords be curtailed?

Yes, it can. A simple amendment to the Parliament Act could specify that the supremacy of the Commons on matters of finance is an overriding principle of law. Alternatively, an amendment could specify that the convention preventing peers from voting down financial legislation should be extended to secondary legislation. The formal restrictions on the powers of the Lords were set out in the Parliament Act of 1911 and amended by Attlee’s Labour government in 1949 to prevent the upper house from blocking or amending a bill designated as a ‘money bill’.

What happens next?

David Cameron has asked Lord Strathclyde to carry out a review to ensure that MPs have the ‘decisive role’ over key financial decisions and secondary legislation.

George Osborne announced a U-turn on tax credits on 25 November.