



Procedure Committee

Oral evidence: Procedure under coronavirus restrictions, HC 300

Monday 12 October 2020

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Members present: Karen Bradley (Chair); Jack Brereton; Bambos Charalambous; Chris Elmore; James Gray; Andrew Griffith; Rob Roberts; Douglas Ross; James Sunderland.

Questions 338 - 418

Witnesses (in 3 panels)

I: Barbara Keeley MP, Claire Hanna MP and Stephen Farry MP ([Questions 338 – 354](#)).

II: Rt Hon. Dame Eleanor Laing MP, Chairman of Ways and Means, Rt Hon. Dame Rosie Winterton MP, First Deputy Chairman of Ways and Means, and Mr Nigel Evans MP, Second Deputy Chairman of Ways and Means ([Questions 355 – 382](#))

III: Dr John Benger, Clerk of the House of Commons, and Matthew Hamlyn, Strategic Director, Chamber Business Team, House of Commons ([Questions 383 – 418](#)).

Written evidence from witnesses:

- [CVR 103](#) Barbara Keeley MP
- [CVR 84](#) Stephen Farry MP
- [CVR 112](#) Rt Hon. Dame Eleanor Laing MP, Chairman of Ways and Means
- [CVR 116](#) Rt Hon. Dame Eleanor Laing MP (additional memorandum submitted subsequent to meeting)
- [CVR 115](#) Matthew Hamlyn, Strategic Director, Chamber Business Team, House of Commons (supplementary memorandum)



Examination of witnesses (panel 3 of 3)

Witnesses: Dr John Benger and Matthew Hamlyn.

Q383 **Chair:** Thank you very much for coming and apologies for keeping you waiting, but you will have heard that we were having some excellent contributions from the Deputy Speakers. They were very helpful in terms of our inquiry.

There are some specific questions that we want to put to you, Dr Benger and Mr Hamlyn, regarding the way the Chamber operates. We are looking at the call list and at debates and legislation. We are looking at time limits. We are also interested in whether there are ways in which we could structure the physical makeup of the House to increase the number of Members who might be able to contribute.

I will kick off with a very short question. In your view, how necessary are call lists at the moment?

Dr Benger: They are essential at the moment because we have to limit the numbers of individuals in the Chamber at any one time and to have a degree of predictability and certainty about that. That is to fulfil our obligations under public health guidance.

Q384 **James Gray:** What role do you have in putting together the call list? Are you central to that?

Dr Benger: The call lists are prepared in different ways for questions as opposed to urgent questions and statements. There is an old-fashioned shuffle that takes place through the Table Office for questions.

Q385 **James Gray:** Sorry, I meant on motions and legislation. We know about the shuffle.

Matthew Hamlyn: The substantive proceedings.

Dr Benger: The substantive proceedings, yes. We have hardly any role at all. We will advise the Speakers and Deputy Speakers, for example, if an individual member has the lead amendment in a group so they can be included in a call list, but it is not our office that does that.

Q386 **James Gray:** If a Member has a proxy or indeed does not have a proxy but has taken part in oral questions or in a statement or UQ, can they then speak in the Chamber on a debate later in the day?

Dr Benger: If they are registered for a proxy vote, the advice is that they should not speak in the Chamber. It is extremely difficult for us to police that. The proxy list each day has 150 or so Members and so we are not going through it to see. I do not know whether you put this to the Deputies—I am sorry that I could not be there for the first part—but there have been occasions when they have intervened and have said, “Do



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you realise you are down for a proxy vote? You should not be speaking in the Chamber”.

Q387 **James Gray:** They would have had to memorise that list and be aware that that particular person was speaking.

Dr Bengier: Their staff do go through that list and do their best, but ultimately we rely on honourable Members to—

Q388 **James Gray:** There is no real sanction. You cannot actually stop someone from speaking. If they choose to put their name on the list, you cannot actually prevent them.

Dr Bengier: Early on, things were changing all the time, to be fair, and it was extremely difficult to know where you were because the rules kept adapting to the fast-changing situation of the pandemic. Things have settled down a bit now in the last few weeks and we are getting fewer and fewer examples of Members being on the wrong side on this.

Q389 **James Gray:** Can you delete the names from the list if they are a proxy?

Dr Bengier: There is a regular changing between physical and virtual in the Chamber until fairly late, Matthew, I think?

Matthew Hamlyn: Yes. We have two systems in operation. One is the registration of a proxy vote, which a Member can change on any day, in effect, for the next day. We currently have well over 150 registered proxy votes, but that list is different every day of the week as Members’ circumstances change. We have one continually evolving cohort of data.

We have another set of data, which is Members who have registered for virtual participation in debates, which is done via the Speaker’s Office under a different resolution of the House. That is, broadly speaking, administered on a weekly basis, although it can be varied. There is a recommendation from the Speaker’s Office that —

Q390 **James Gray:** I have two supplementary questions. Sorry to interrupt. That was rather rude.

Matthew Hamlyn: No, not at all. Quite a lot of information is flying around. Members were advised that if they were applying either for a proxy vote or to participate virtually, they were saying it is because they are unable to come to Westminster. The question of what would happen if they participated physically or indeed were on the estate is an interesting one. They have effectively submitted a request to the Speaker to get a particular privilege not available to other Members because they could not be here. This was designed, in the large majority, for Members who are shielding and cannot come here.

The proxy voting Standing Order is grafted onto an existing Standing Order that relates to parental leave, and things are changing from day to day. The House has recently tidied it up so that we now have a separate resolution permanently in place on parental proxy voting and a temporary



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Standing Order to extend that to the Members who, for public health reasons, cannot be here.

Q391 **James Gray:** It should be reasonably easy electronically to compare the two lists. It cannot be beyond the wit of man.

The second question is slightly off-topic, but nonetheless important. I have not been here since March because I have had two hip replacement operations. They were absolutely nothing at all to do with Covid. The Whips got hold of this and said, "Can we have your proxy, please?" Only because I am a member of this Committee, I said, "No, you cannot because the proxies are to do with Covid." You describe people coming and going and suddenly turning up and going on the proxy list and then coming off again. That indicates that there may be people like me who are less principled than I was and are choosing to be on the proxy list because they cannot be bothered, because they have a constituency engagement, or because they are on holiday or something.

Matthew Hamlyn: The way the scheme is set up is that the Speaker does not look behind the Member's word. When they send their email to the dedicated inbox, they are in effect saying to the Speaker and to the House, "For a public health reason, I am unable to attend." That public health reason is really for them to be satisfied about. It is on their conscience, as it were, that it genuinely is a public health reason related to Covid. In many cases, that comes down to childcare arrangements or dependent relatives who need looking after. That is why sometimes it can vary. People's circumstances vary. The House decided to give that fairly broad-brush approach rather than having a very detailed one with the presentation of medical certificates or whatever.

Dr Bengler: That can change quickly. I went to Dorset on Saturday and I was supposed to be seeing some friends on Sunday. Someone whom I had been in contact with developed symptoms and was tested for coronavirus. Fortunately, they did not have it, but that was all within the space of a very few hours.

If there is a local lockdown in a particular part of the UK—we may be hearing more about that this afternoon—that Member may face real barriers to participation. There is good evidence that this is rapidly changing. We cannot just say, "That is not very likely," or, "That is very convenient." That is why it is a self-certifying system.

Q392 **Douglas Ross:** I want to take this opportunity with the Clerk of the House of Commons to ask about the advice for parliamentary staff, the digital service, and MPs and their staff. It is the Covid-19 coronavirus HR advice for people operating within the House of Commons.

Does the Clerk of the House of Commons believe that that advice and that document of 38 pages is clear enough for everyone to follow?



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Dr Bengier: We have a Covid-19 planning group that comprises a number of officials with particular responsibility for particular areas, who interpret all the guidance and are very much on top of it.

In terms of what it boils down to for operational staff, we are very clear. My staff are told that they should work from home unless it is essential that they need to be on the estate. We start off with a blanket coverage on that before we even start. For Members' staff, the guidance is that Members are asked not to have more than two members of staff on the estate. Individual Members make up their own minds.

We feel that we have enough to go on to operate Parliament safely and to provide a Covid-19-secure environment. We have the advantage of being in regular—certainly weekly and more likely daily—contact with Public Health England. If there is any ambiguity about anything, we can very rapidly get a precise expert opinion.

Q393 **Douglas Ross:** Margaret Ferrier explained her decision to return from London to Glasgow with a positive test for Covid-19 as a “blip”, but she was adamant that she had followed the rules correctly. Do you believe that this document, which was updated only three days ago, and what Members and others are asked to do if they have symptoms or if they have a positive Covid-19 test were followed correctly by the Member in that case?

Dr Bengier: I cannot comment on the Margaret Ferrier case for obvious reasons. We have a helpline and, if anyone is in any doubt at all, they can ring the helpline and get advice rapidly on what guidance should be followed. In the case of Margaret Ferrier and indeed in the case of every individual whom we are aware has tested positive for Covid-19 who has been on the estate and is a passholder, we have followed appropriate guidance on testing and tracing extremely rapidly in every case. I am absolutely confident that our procedures would be seen as robust.

Q394 **Douglas Ross:** Finally, given that this person who remains a Member of Parliament is saying they followed the rules correctly, does the guidance need to be clarified further to make them idiot-proof if some people are using this guidance as a defence for their reckless and dangerous actions?

Dr Bengier: If anyone had any uncertainty about what they were supposed to do in the event that they were tested or had come into contact with someone who was self-isolating or anything like that, we have helplines available for that. I would not necessarily expect them to pore over detailed guidance.

Q395 **Chris Elmore:** Dr Bengier, Mr Hamlyn, thank you very much again for coming to see us. You have become a regular duo of witnesses.

Following on from James's point about the proxy system and the fairness of it, I completely accept that this is about Members being honourable and upfront about what they are taking a proxy for. But there is a



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concern when Members could be chopping and changing their proxy within a 48-hour period of coming into the House and not appearing in the House, and also sometimes when Members are on a proxy and then are seen around the estate. It is quite unfair to those Members who are not here—isolating, looking after vulnerable family members, waiting for tests or whatever it might be.

In fairness, maybe you cannot answer this as either the Clerk or a senior Clerk of the House, but I wonder whether the Speaker's Office needs to be very robust around the idea that if you have a proxy, you should not be coming on to the estate. I accept the rule that Members cannot be stopped from coming on to the estate and the historical precedent for that. But, in these unusual times, it must be that if Members are honourable, they must do the honourable thing. If they are not able to come on the estate with a proxy, they should not be coming in, working from their offices and using it for meetings. One Member I am aware of has a proxy and I have seen them in the national media across the way off the estate. I am not sure how that is fair and appropriate.

Chair: Can I ask a related question that Kirsty Blackman has just asked? She is not able to participate, but she is listening in. How many Members are switching between proxy and physical and back to proxy? That is also a potential abuse of the system.

Dr Bengler: We would have to follow up with data on switching. It does happen. Every day I get a note from the Speaker's Office saying, "This Member who was physical is now virtual." Your Committee was very robust in your recommendations on this and said that it is all or nothing. That was really helpful.

I noticed that Dr Whitford gave evidence to your Committee. She made the point that in the very particular circumstance of her ballot Bill, she felt that she wanted to take the risk and come in to present that in person. You could argue that that is a legitimate thing to do. Another argument that has been put to me was about a Member who was happy to be on the estate, but not happy to take part in Divisions because they felt that Divisions were significantly more risky than any other activity. That is a debatable point, but it might be a counter-argument to a completely blanket exclusion.

Matthew Hamlyn: We can certainly provide some data. You can look. The *Votes and Proceedings* every day publishes the full list of Members who have registered a proxy.¹ You would have to read it, but you can see that the number is slightly different almost every day, because we have a very large cohort of Members whose circumstances change from day to day.

¹ *Note by witness:* A list of Members eligible for a proxy vote on each sitting day is published in the *Hansard* for that day.



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Fairly regularly, through inadvertence or just because there is so much going on, Members come to the House expecting to take part in a debate and are reminded that they either have signed up for virtual participation or have a proxy vote, and they have gone away. I do not know where but they have gone off the estate. They are certainly not in the Chamber and are not taking part in any proceedings.

Q396 Bambos Charalambous: This is a question about participation in the Chamber. I am sure the problem going on now is a situation that more people would like to be in the Chamber and participating in debates than are able to.

I am wondering if you have given consideration to a way of increasing the number of places available from which people can speak?

Dr Bengier: I will start on this, but Matthew knows more about it than I do, really. In private discussions with you, I have mentioned that we are looking at whether we can expand the number of seats from which Members can participate. We have some good news on that. The under galleries—the seats at the back of the Chamber—will be brought into play. We think that an additional eight seats can be liberated there. We are hoping to have those in play after the half-term recess. Is that right, Matthew?

Matthew Hamlyn: Yes. November is the date in my notes. It is not an exact date. Yes, there are quite a lot of things we would like to use the half-term recess for doing. Cabling for microphones is the main issue.

Dr Bengier: We need your help on the other bit, which is the potential use of the upper side galleries, which could produce another six seats on either side. That again involves more cost for cabling. There is more asbestos up there. It will require a Perspex screen to be placed about a foot above the rail there.

The problem we have is that we do not believe that interventions will be possible from those seats. If you are underneath that balcony, self-evidently, you cannot see a Member trying to intervene. The Speaker has authorised me to say that he is not in favour of there being two classes of Members—those who can intervene and those who cannot intervene; and those who can accept interventions and those who cannot.

Therefore, they would not be useful for general debates or legislative debates. But depending on your Committee's views, they could be brought into play for questions, urgent questions and statements, when they would significantly improve the capacity. For a day like today when the call list is 120, we would be able to have close to half of those Members in the Chamber or galleries at the beginning, for example. It would be helpful eventually to gain your views on that before we commit the additional expenditure into further cabling. There are different camera requirements, which are quite challenging. Then we need to make the sound work as well.



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Q397 **Chris Elmore:** All things should be investigated in terms of the Chamber layout. My concern is that in the Deputy Speakers' evidence, several Members made reference to the fact that quite often the Chamber is empty towards the end of debates. There is a great rush for PMQs and all the things that you two as experienced Clerks have seen over your years of service in the House. Members want to get in for those big events like now. Those of us who are hard-working, committed members of the Procedure Committee are here.

Chair: We are probably not leading the news at the moment.

Chris Elmore: We are not leading the news, no. Equally, with questions every morning, Whips on both sides of the House are able to manage colleagues in and out relatively effectively without causing much effect.

I would not instinctively object to using the upper galleries, but is the cost worth the participation from a public spending point of view? I know that that is always at the forefront of your mind, particularly when we have talked in previous evidence about the cost of what we have done with hybrid meetings.

Secondly, would anyone actually use them? We have had enough problems with the idea that some members are desperate to speak and then there are some Members intervening to give other Members an extra minute and the hokey cokey of all that. If you are up there, intervention could be complicated, as you have said. Is that really part of what the House is?

Dr Bengier: I am not convinced it is, no. We are managing pretty well through good co-operation from the Whips and from Members. Members have been incredibly helpful, on the whole. We have not had sit-down protests or people blocking seats. We were worried about this early on.

So we are managing. Even today, with this huge call list, Members know that they will all be managed in and out of the Chamber. It is debatable whether it is worth the extra expenditure. It is more expensive to bring in the upper galleries than the seats at the back because the seats in the under galleries are within the existing camera ranges and it is not that difficult to adapt the sound equipment to work there. It will be more of a challenge getting the upper galleries in and they may not be used very much. Most call lists for questions and urgent questions are not as long as the one today. That is really unusual. Mainly, we are managing fine. But if you have a strong view, we will look at it very carefully.

Q398 **James Gray:** I thought that the side galleries were theoretically usable for as long as history. I have never seen them used, though.

Dr Bengier: Procedurally, it is in order, but by long-standing convention the Speaker does not call people from those places.

Matthew Hamlyn: The convention existed on occasions when the House was very full and in an era when we had even more Members than we do



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now. We got up to 700 and something at some point in the 19th century with all the Irish Members. If it was completely rammed, a Member could be called from the side galleries. That was in an era before we had cameras, broadcasting or sound recording. The problem now is that if the Speaker calls someone from the side galleries, we would not be able to hear what you were saying and we would not be able to see you, which would be a pity for the Member concerned. Yes, it is a theoretical possibility. The latest edition of *Erskine May* makes it pretty clear that it is theoretical as in it does not happen.

Q399 **James Gray:** I have seen Sir Peter Bottomley try to do it. He was not called, but I have seen him standing up and trying to do it.

Matthew Hamlyn: We have used the galleries recently for Members rising to signify their support for an emergency debate application. The Speaker has authorised that because you only need to be able to see people and count them. That is a very sensible use of the galleries. Otherwise, it would be almost impossible ever to get all 40 people rising. That was a sensible use of the space.

I wonder if I might ask one other question back to the Committee on the use of the under galleries. The current use of those seats is as a sort of subs bench. Is that a problem and would it be a solvable problem if those seats were taken by Members wishing to speak? Your subs bench would then be somewhere else—outside the Chamber, I guess. We are assuming that the value of having those extra usable seats in the Chamber for speaking from outweighs any further challenges to the Whips' subs management.

Q400 **Chair:** I have certainly used those seats when I have been wanting to listen to the rest of a debate having contributed myself and moved from the quire area to those seats. I can see that there is a problem. But you can of course use the side galleries for that.

Matthew Hamlyn: There is, of, course some space in the gallery behind the Speaker's chair to the left, which would never work for Members in the debate because the Speaker would not want to have Members speaking from where he or she cannot see them.

Chris Elmore: We use those. That is deemed to be the official Opposition's side of the House, I suppose, as opposed to the SNP, for example. We definitely use people there almost in a queuing system to allow people to jump out of their seat in the main part of the Chamber and go out through one of the rear doors, and then the person waiting will fill the seat. The Government Whips do that in a similar vein. They use the far end of the Chamber and then use the area in front of the broadcasting box, whatever the technical word for that is.

Chair: Exactly, yes. Bambos, you had some more questions about the arrangements in the Chamber.

Q401 **Bambos Charalambous:** They are about safety—that has to be



paramount—and is there any other consideration about further safety measures? For instance, we heard last week about being able to move in the benches that are—

Dr Bengier: The rows?

Bambos Charalambous: Yes.

Dr Bengier: I passed on those comments to our team and it is going to look at them. It is a fair point. By putting tape across, you are not going to go there. If that means people are brushing past more, it might be a problem. We would need to somehow make it very clear in signage terms that you are not meant to sit on these rows when you come in. I have passed that on. It is a helpful suggestion.²

Matthew Hamlyn: What about the screens?

Dr Bengier: Yes, sorry, Matthew. We are introducing more Perspex screens within the Chamber around the Serjeant's chair, the Speaker's Secretary's chair, the Clerk's Table and the Government Whips. These are all vulnerable areas where people are brushing past. That will also discourage any of you from trying to chat to us, which normally is wonderful and makes our day, but at the moment contravenes the guidance.

Matthew Hamlyn: That work is ongoing. Some of my Table Clerk colleagues had a meeting with the maintenance guys on Friday and the Serjeant is doing the same. Without detracting from the Chamber being able to do its business, it is so that everyone can still see what is going on and see each other. From the Serjeant's point of view, it adds further safety if we are going to open up the seats behind the Serjeant for Members speaking. Some extra screening makes that more secure.

Q402 **Chris Elmore:** Could I raise a point about some practical changes to the Chamber? I am a Whip, as is Bambos. I feel like this is a confession of Whips. Often there is a Government Whip and an Opposition Whip behind the Speaker's chair with the Speaker's Secretary and then Ian Davis. That is just about manageable if you are keeping distanced and are managing that at the back end of the Chambers. It worries me that Members still pile in behind there, particularly at PMQs or big statements, and it is a bit of a free-for-all. I wondered what, from a Clerk's perspective, you are able to do to remind Members that they must not do that. Is it for Whips to say to a Member, "No, I am here because I am trying to do my Front-Bench role and am trying to manage an element of the Chamber that is there to assist the Speaker in lots of cases"?

Secondly, about the Doorkeepers, particularly in Divisions, we have the

² *Note by witness:* Public Health England's advice on modifying access to the benches is that it will increase risk if Members are able to transit through the taped off benches (eg Members will thereby be facilitated to stop and talk). They do not feel that opening them up offers any risk mitigation.



Aye and No Lobbies all going the same way. I do not want to get into the conga line and the keyboards and all the rest of it, but at the other end, Whips stand behind the doors that are open to act as a shielding mechanism while they are counted, but the Doorkeepers are just left to ref the situation. If I can be blunt, not all Members are very courteous to Doorkeepers. They are not always the most helpful or the most polite.

I wonder if any thought has been given to whether, particularly at the bottom end of the Chamber behind the Speaker's Chair, there could be anything built to allow Doorkeepers to be a bit more protected than they are now. I am truly astonished by some of the behaviour of Members towards Doorkeepers. They are all fantastic and are there to look after us, but not all Members seem to understand that. I worry about the risk we are putting them in by kettling behind the Speaker's Chair, particularly in Divisions.

Dr Bengier: There is quite a lot there. They are really good and helpful points. I will take them as I can.

We do not really see what happens behind us, so it is always a surprise to hear about things going on there. That is something I can raise with the Serjeant. If there are people congregating behind the Chair and not observing social distancing, they should not be. If that message got through to the Speaker, he would certainly take a very dim view of it. I will follow that up.

I like the idea of a protected area for our Doorkeepers, who do a fantastic job—I completely agree with you. You are absolutely right that not all Members are observing social distancing as well as the majority are. The Reasons Room is there as well, which Doorkeepers are welcome to use during Divisions and they know that, but I would like to look into getting a better protective area for them.³

You may know—you may be coming on to this—that the Speaker remains troubled by congestion during Divisions. Anecdotally, it has become better in the last week or so. We have noticed that Members are observing social distancing better. The Whips are more actively engaged. Doorkeepers are being listened to. So, it has improved, but it is still a high-risk activity as far as we are concerned.

The Speaker has let Members know that he still wants to explore ways of making that procedure safer. There are a couple of different ideas floating around, but one of them is to not have both Lobbies pouring out of the same place and to find somewhere else to have one of the Lobbies. That is one idea that he has put in a letter to all Members, I believe.

Q403 Chris Elmore: Has any thought been given to this idea? At the minute,

³ *Note by witness:* The doorkeepers have been advised where to stand in the area behind the Speaker's chair, in order to allow them to maintain 2 metres distancing at all times. Any screens in that area would be likely to impede a fire evacuation.



all Members come in through the Members' Lobby, either up the Members' stairwell or through Central Lobby. In the old days, which feels about 100 years ago now, we used to have two ways of going into the Lobby and so did not have such a sheer volume of Members going out into one area. Is that being looked at in terms of the volume of people? In other words, we would go back to having the Aye and No Lobbies being where they are now, but Members who were voting one way would go up and around and out one way rather than having Members all congregating behind the Speaker's Chair. Surely that would mean there would be fewer people kettling in that one place.

Dr Bengier: That is the problematic area. You are right. But I am not sure that whichever way you do it, you will not still get that bottleneck, whether it is at the beginning or at the end, even if they are going in different directions. We have had queue experts in to advise us. They model the flows of people. Surprisingly, there are such people. They exist.

Chris Elmore: I do not doubt that for a minute.

Dr Bengier: They have advised us. There is a view that if we can get a second Lobby that is within range—of course, it has to be within a reasonable distance of Members' offices—that might be a better bet than the existing configuration. I do not know whether you have anything to add, Matthew.

Matthew Hamlyn: No, not in detail. But the Speaker has asked me and colleagues who are in charge of Divisions to look at all possible options. If we can find a way of making them go off in different directions and if we separated out the flows, each of those flows would be that much smaller. We could then use both Division lobbies for Ayes or for Noes, which would thin it out while having a similar process for the other side of a Question at some notional lobby somewhere nearby. A lot of it depends on the architecture of the building. The queue consultants have been in and one of my colleagues is getting a report back from them this week. We will see what that has to say.

Q404 **Chris Elmore:** Of course e-voting would solve all of this, but that is where we are. If the Member hub system that you both and other Clerks spearheaded was reintroduced, we would not be in this position. We could have the participation we have now, but e-voting could mean Members beyond the estate could vote on the Member hub, or their proxies could vote for them and would have to be on the estate. There are ways of working.

Matthew Hamlyn: The House took a view on the future of electronic remote voting, so that is not for me to comment on further. It is self-evidently a fact that if the strategic objective is to have fewer physical bodies congregating during a Division, a system that means that no one needs to be there does deliver that, but the House felt there were many other criteria that had to be in play.



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Sadly, there is not the technological wizardry to mean that tomorrow I could offer you an electronic system that worked only if Members were in an incredibly narrowly defined geographical area. No doubt if we spend enough time and money we might be able to deliver it, but genuinely we have not commissioned that work because the project has stopped.

Q405 **Chair:** Are there ways that we could see people being physically present in the building but not actually having to go to a Division Lobby? Even with two different Division Lobbies in different places, you still have the problem of which queue you join and how. I understand that part of the reason the Whips want to have physical voting is so they can marshal people into the right Lobby. But if you have physical queues starting from two completely different places, the Whips are going to find that much harder to marshal.

Matthew Hamlyn: Yes, they will have to call for more resources, as I always say at this point when we embark on new projects.

More seriously, the House has to balance its priorities, I am afraid. If there is an absolute priority to keep the numbers down, we might have to look at a solution that is unpalatable in other ways. Going back to the earlier discussion about relying on Members' honour or a Member's word that they genuinely do have a public health reason for not being here, we do not look behind that. What about a system where we took a Member's word on some mechanism and we could work out, "I guarantee that I am going to be on the estate all day and I will certainly be here." Then someone could vote on their behalf, rather like we have with the proxies now, but they would be onsite proxies rather than offsite proxies.

Q406 **Chair:** Sort of present proxies?

Dr Benger: Physical proxies rather than virtual proxies, yes.

Matthew Hamlyn: They would be physically here. We would be operating two parallel systems of rules that point in opposite directions, which could be administered, but might be complicated. You would be relying entirely on Members sticking by what they said and then suffering the consequences if it turns out they were not there. As you can see, we have been doing a lot of thinking about this in the last week.

Q407 **Chris Elmore:** From one point of view, that does actually exist in the form of nodding through.

Matthew Hamlyn: Yes, exactly. It is an extension of nodding through from one Member at a time to 500.

Q408 **Chair:** There is a member of the Committee who has tested positive for Covid and has not been able to take part today because of that, so we are acutely aware that there is a risk to all of us from this. The Division queues seem to be the most acute area.

The other point that has been made to us by a number of Members is whether we can free up more seats in the Chamber. Why do we have to



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have those rows that nobody is sitting in? Is there a way to get more people in and do one-metre-plus?

I know the Commission took a unanimous view on this, but could you set out on record what mitigations were offered to the Commission to enable there to be more people in the Chamber and why the decisions were taken?

Dr Bengler: Yes, certainly. One-metre-plus, which does not seem to be talked about as much now, would have involved Members having masks other than when they were speaking, speaking from a seated position rather than standing, and possibly Perspex screens surrounding them.

Q409 **Chair:** You would have to deliver your speech sitting down?

Dr Bengler: Sitting down with Perspex screens and masks when you were not speaking.

Matthew Hamlyn: The Leader of the House mentioned this in one of the debates or in business questions, and he ran through the salient points. There was also the calculation done about how many more Members we could get in.

Dr Bengler: It is surprisingly few.

Matthew Hamlyn: It is a function of the way geometry and distances work. Even at one metre, we would not get hundreds more Members in.

Dr Bengler: No, it was something like 20-something more. It was not a doubling or trebling, or anything like that.

Matthew Hamlyn: There are two things. There is having lots of Members in the Chamber to take part and not being exclusionary. Then there is recreating what you might call the stadium atmosphere and having large numbers of Members present. Someone jokingly suggesting that we could have artificial PMQ noises like some football stadiums are doing. More seriously, there is technology being developed now so that a remote audience's applause or laughter can be fed back into the studio. One Radio 4 alleged comedy programme has done that. The impact if you are listening to it at home on the radio is quite extraordinary. It sounds like a live audience. I am not sure how feasible that would be with 600 Members.

Chris Elmore: When you say alleged comedy programme—

Matthew Hamlyn: I have to remain rigorously impartial about whether BBC comedy—or indeed anyone else's comedy—is funny or not because it is such a minefield.

Q410 **Chair:** Another question we have had a lot of is around virtual participation in debates. You may have heard the evidence from the Deputy Speakers that there is a concern that those Members who are participating virtually are trying desperately to get into every UQ,



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statement and oral question because it is their only opportunity to participate. If we were to broaden virtual participation to debates, it might manage the oversubscription there seems to be on the call lists.

Also, we are excluding people from very important debates. You may have seen Barbara Keeley give evidence earlier. She simply was not able to take part in debates about aviation and other matters, which are incredibly important to her constituency. She was precluded because she has to physically shield and not be in Parliament. She took the risk and came to Parliament, as did Dr Whitford, to take part in a debate. I wonder if you have any views on that.

The point was made about Adjournment debates as well because, from an MP's point of view, they give you an opportunity to really get a detailed exposition about your issue on the record.

Dr Bengier: The House has made these rules. They have determined which types of business are susceptible to virtual participation and which have a physical requirement. Those are decisions for the House and I cannot have views on decisions the House has taken.

Q411 **James Gray:** They have been changed?

Dr Bengier: They have been changed, yes.

Q412 **James Gray:** They could be changed?

Dr Bengier: Certainly they could be changed. Not only could they be changed, but whereas back in April and May, in the very early stages, we were facing extremely difficult technical challenges in having participation virtually at all, we were the first Parliament in the world to engage in hybrid proceedings on any scale. Things have moved on. We have a lot more technical resource now than we did then. Soon enough, and almost immediately really, if you did extend virtual participation to other proceedings, the sorts of constraints that the House had to operate under back in April and May would not now apply. Matthew will correct me if I am wrong, but we would not now say, "This is limited to two hours and we need half an hour in between. You cannot do this and you cannot do that". Far more is possible now than was possible then. You could extend that even to things like interventions and points of order. All those things could be managed technically. I am not saying at all whether that is desirable. I am just saying that, technically, that could be possible in a way that it was not a few months ago.

Matthew Hamlyn: The longer you go on doing something, the more you learn about how to do it. Members will learn how to do it. Everyone has learned how to use lots of video conferencing machinery, which none of us knew about in February and March. Everyone has learned a lot more. We have worked out a lot of the technical problems.

We have also done a piece of work that was long in gestation and has now actually happened, and has been accelerated, to have a much more



resilient broadcasting hub on the estate and also more offsite capacity. That gives us much more resilience and more capability. It would make it easier if the House said, “We would like to run hybrid proceedings all day.” It is now a question of making sure we have enough people to do the engagement with Members, the setting up of calls and all the rest of it. But in practical terms—and I know, because I checked—we could do it. There is no conceptual problem in doing that if the House voted next week. Give us a bit of lead-in time.

In terms of the additional functionality, as the IT people would say, we cannot guarantee all the lovely things that John has been talking about in terms of making interventions and points of order work magically, but we have now worked it out. If the House said, “We want this to happen,” it would then be worth investing in the development work. We know conceptually how we could do it, because some similar work was done in the House of Lords. That would be deliverable. We are reluctant to do a lot of work on it now until we know the House wants it.

Q413 **Bambos Charalambous:** The House of Lords votes virtually?

Matthew Hamlyn: Yes, they have electronic voting.

Q414 **Bambos Charalambous:** Do they have points of order?

Matthew Hamlyn: I would like to come back to you on that, if I may.⁴ They adopted on a permanent basis the hybrid model for most of their proceedings but the introduction of new Members—that must be done physically. Rather sweetly, that is the time the Lords Clerks put their full regalia on, but not when they are clerking a semi-virtual Chamber, when they dress like this. They have certainly played around with other options they might be able to use. I can certainly send you a note on what the House of Lords has done and what it has explored, if that would be helpful.

Q415 **Chris Elmore:** I wonder what your view is. My view is that there is a balance to be held. Members can participate fully in a hybrid virtual Parliament. Petitions are difficult to deliver—I accept that—and you could not have interventions particularly, but is that the balance? If a Member is here, they are able to intervene and we can have the system we have now with Members in the Chamber for Bills and in Back-Bench debates. They can do that and can make their brief contribution if they do not wish to stay for a speech, or have tried to put in and have been knocked down to 70th of 70 or whatever. Those Members who are participating virtually at least get to put their comments on record.

Barbara Keeley’s comments earlier were a bit surprising. She had tried to put in for a statement or a UQ 69 times and had been called only three times. She is not necessarily complaining about that, but there is the question of her constituents’ point of view, regarding her as a representative. She has made public why she has not been able to come

⁴ *Note by witness:* The House of Lords does not have points of order.



down to London for very good medical reasons.

Now you are saying that the House can have the capability to do this. I know what the answer is, but I almost feel like asking what the block is. It is quite important from a democratic point of view that there is a deficit at the moment and Members cannot represent their constituents in debates. Four of us here as Members will be asked, "Can you speak in this Back-Bench debate?" The answer comes back, "No, I am terribly sorry. I have been told I am not allowed to speak in that Back-Bench debate". The public do not understand that. They do not understand why we cannot go back to what we had before.

Do you agree that the medium is a good way forward, if Members have to forfeit and cannot do an intervention? If the tech is there, are you able to make a request, or at least to say, "This is now available. Can we look at it?" Maybe you have.

Dr Benger: You are going to lead us into difficult territory very quickly.

Chris Elmore: Yes, I appreciate that. I do not mean to at all.

Dr Benger: No, not at all. I absolutely get that. It is up to the House what it requires. We will do our best to fulfil a requirement. If people say to us, "We would like hybrid participation to extend to other areas," I am confident we can deliver technical solutions that will make that possible. I am clear about that. Your Committee can make recommendations and will be an influential voice in that debate.

The initial point you made is a really interesting one. If statements, urgent questions, questions and so on are all you can do, should you have additional priority over Members who can take part in all other proceedings? That is an argument.

Just on time, I did a calculation before I came here. You are probably coming on to call lists and times, so I may be jumping the gun. But Members somehow think that there is a tremendous pool of time that has somehow been lost somewhere. There are 639 Members, if we remove the Speaker, Deputies and Sinn Féin Members, who can participate in proceedings, and we have 32 hours available in a week when we do not have Friday sittings. That gives each Member 2.9 minutes per week. It is not a lot of time. It is not surprising that Members feel frustrated. You all came here to represent tens of thousands and you all have things to say. Members in their nature have things to say. We have had Westminster Hall back up and running in the last couple of weeks. That helps to relieve some of the pressure. Select Committees have been very active throughout the period. But that frustration you feel may not be just a fact of the nature of the current Parliament and the current pandemic.

Q416 **Chair:** That is a very interesting statistic. I was not going to talk too much about time limits and call lists with you, because I thought we would use your time to cover some of the issues that others cannot talk



about quite so readily. There is one final question. I recognise that we have not heard what the Prime Minister has said, but we may be in situations with local lockdowns and real problems with getting the staff to Parliament. We had this debate earlier on. What is the minimum skeleton staff you can operate with so that Parliament can continue to function? Is there a point at which we could not safely open because we simply did not have the staff onsite to do that?

James Gray: To add to that, what would happen to Members of Parliament whose areas are locked down? Are they still allowed to come here if their constituencies are in Liverpool, for example? Secondly, what would happen if Westminster is locked down?

Dr Bengier: Those are difficult questions. I suppose the starting point is that we have been here in terms of the national lockdown before. Keeping a functioning Parliament going is incredibly important not just to you but to my colleagues as well. We are determined that the legislature should operate.

On the minimum staff, if we had no security, we could not function. We could not take our chances. We need to have a secure cordon around the state. We would ideally like to broadcast proceedings, but I suppose that is not absolutely essential. We could reconstruct a transcript if we had *Hansard*.⁵

We have as much resilience built in as we can. We have looked carefully at critical areas and tried to provide backup and cover whenever possible. We are looking carefully at the rooms that key colleagues are in and trying to split teams so that they are not all in the same room at the same time.

If Westminster was in lockdown, we would be under a lot of pressure. There is no doubt about that. It may be that the Government would then choose to adapt the measures to allow Parliament to function and possibly revert to something more like what we had earlier on in this crisis. Those would be decisions the House would have to take.

Matthew Hamlyn: From the experience of delivering the Parliament in the initial lockdown phases, the Covid planning group that John refers to was keeping a daily tab on literally how many people were on site: staff, Members, Members' staff, contractors. Those numbers went right down and we could get on with delivering a functioning Chamber. Select Committees at that point went almost entirely virtual for quite a long

⁵ *Note by witness:* Depending on the nature of any Westminster lockdown, normal broadcast coverage might not be possible. A rudimentary audio/video feed of proceedings could, however, be made available to members not attending physically via Parliament's online video service; this basic coverage could be made available to media organisations. This would include microphone switching in the Chamber and usual coverage of contributions at the despatch boxes. Coverage of backbench contributions would be curtailed, much of the time using a wide shot of the chamber.



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time. They are now a mixture of virtual and hybrid, like this one. We showed we could run some kind of Parliament—both Houses.

We are regularly challenged, not least by my boss, “Go back again over those absolutely hotspot areas: *Hansard*, the broadcasters, the Public Bill Office. Show me level 1, level 2 and level 3 depths of resilience.” One of our colleagues did an audit on the basis of the health and safety advice and then produced a report. It was a challenge back to all of the measures in there and asking, “Have you tried every last thing?” The two people who are completely on top of the Bill publishing software are never in the same room. The Public Bill Office used to be very much open and Members could always drop in when the House was sitting. Now staff come in when they have a Committee to clerk and they go home when they have stopped clerking it.

I am only in here today for this evidence session and then I will be going straight home afterwards. I will be in on Wednesday just for Table duty and the Table Clerks make sure that not too many of them are there at once. We do not want to suddenly ground half a dozen of them because one of them has tracked and traced us. You keep going back and looking at the detail, and you also look at how you deliver services differently. The Table Office has gone to an almost entirely virtual model, which I know is unsatisfactory because Members like the chance to come into the office behind the Chair to get stuff sorted out, ask questions and find out what is going on. We have tried to replicate that otherwise, but it does mean that we can process thousands of questions a year and all the rest of it without anyone being put in harm’s way.

Q417 **James Gray:** If London were locked down or Westminster were locked down, presumably we would have a totally virtual Parliament of some kind in the same way we did before.

Matthew Hamlyn: It would depend on the rules. During the initial lockdown, when it was illegal to leave your house unless you met one of four criteria, one of the criteria was that it was essential for you to go to your place of work. In effect, Members of Parliament and the staff of Parliament were designated as keyworkers, so it was legitimate. At one level, for a lockdown in Westminster, or anywhere else where Members or staff come from, it would depend on the wording of the lockdown.

Q418 **James Gray:** What about after this afternoon and Members from Liverpool or wherever else might be in category three?

Dr Bengier: That would give them the option of applying for a proxy vote, for example, and taking part virtually for public health reasons related to the pandemic. That is indeed one of the ways in which this might change very quickly. We talked about that earlier.

Chair: I have no further questions. I do not think the Committee is putting forward any more questions. Can I thank you once again? I know you have come in front of this Committee many times and you always



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give very expansive and informative answers. It will help us enormously in our recommendations. I hope you can work virtually for the rest of the week apart from Wednesday, Matthew. Thank you.

Previous panels:

I: Barbara Keeley MP, Claire Hanna MP and Stephen Farry MP ([Questions 338 – 354](#)).

II: Rt Hon. Dame Eleanor Laing MP, Chairman of Ways and Means, Rt Hon. Dame Rosie Winterton MP, First Deputy Chairman of Ways and Means, and Mr Nigel Evans MP, Second Deputy Chairman of Ways and Means ([Questions 355 – 382](#))