

Procedure Committee

Oral evidence: Voting by proxy, HC 722

Monday 10 January 2022

Ordered by the House of Commons to be published on 10 January 2022.

[Watch the meeting](#)

Members present: Chris Elmore (Chair); Aaron Bell; Bambos Charalambous; James Gray; Mr Kevan Jones; Nigel Mills; Owen Thompson; Suzanne Webb.

Questions 142-186

Witness

I: Rt Hon Jacob Rees-Mogg MP.

Examination of witness

Witness: Rt Hon Jacob Rees-Mogg MP.

Chair: Good afternoon and welcome to this session of the Procedure Committee. A very warm welcome to the Leader of the House and Lord President of the Council, Jacob Rees-Mogg. Just to explain, the Chair of the Committee is having to self-isolate, so she sends her apologies, although I am told she is watching live, so I am sure she will have some comments in due course.

Thank you for appearing at the Committee again; I think this is our third session in recent times, and you are very welcome. We will move straight into questions if you are agreeable, with the first question coming from Mr Thompson.

Q142 **Owen Thompson:** Thank you, Chair, and thank you, Lord President. I am going to kick us off on disproportionate costs when it comes to questions. I know this is something that a number of Members have come up against when trying to get answers in the past. The disproportionate cost threshold is opaque and 10 years old. When might we see a statement of some sort, and would that be before the next recess?

Mr Rees-Mogg: As you know, the disproportionate cost level is £850. It is only advisory—it is not compulsory—and it does not apply to oral questions. It is a difficult balance to get right. It is really important that Ministers are held accountable to Parliament and that they give proper answers. The £850 is a good week's work from a junior civil servant, so it is not an unreasonable level of cost, it seems to me.

Is it right to review it? All figures of this type are kept under review, and I am conscious that it has not been increased recently, although in the last 10 years inflation has not been enormously high, so this has perhaps been more reasonable than a 10-year period would sometimes be.

Q143 **Owen Thompson:** I think the last response that you gave was that you had raised this matter with the Treasury and that it would provide an update in due course. Is that something we could expect?

Mr Rees-Mogg: There is a meeting due to take place shortly between my officials and the Treasury to discuss this and other matters.

Q144 **Owen Thompson:** Okay. In a written statement of February 2012 it was indicated that the Treasury had a methodology for calculating the disproportionate cost. Is that something that has already been shared with you?

Mr Rees-Mogg: I do not have their methodology, and it is not made publicly available, but you have to have some means of working out what the cost is—you can't just invent it.

Q145 **Owen Thompson:** I think the Procedure Committee has previously made



HOUSE OF COMMONS

three specific recommendations on the calculation of the threshold. Do you have a view on these being the standard methodology for all the calculations—the recalculation to allow for appropriate inflation, and the calculation with regard to policy team time?

Mr Rees-Mogg: I think the key is: are Members' questions by and large being answered, or are lots of questions getting the disproportionate cost answer and therefore accountability is declining? I think the result is more important than the process. It would be interesting if the Procedure Committee looked at how many questions got a disproportionate cost answer, and whether that was a serious obstacle to proper accountability.

Q146 **Mr Jones:** Thank you. The issue is that there has been an increase in the use of this, certainly by the Treasury. I have had questions both to them and the Ministry of Defence where I have asked the same questions a year ago and got an answer. Then, lo and behold, now because of new Ministers, this is being used. When it comes to justifying the use of this, I wonder whether some Departments are using it just not to answer questions. Is there a way we could get statistics on the numbers, and could Departments be asked what they are using? Clearly, when you get answered one year and then the following year you ask a similar question—obviously with different people—you do not get the answer, but you get disproportionate costs. It seems, frankly, that Ministers are trying to avoid questions.

Mr Rees-Mogg: I view my role as being here in a major part to ensure that Members are able to hold the Government to account. As I have said a number of times at business questions, if Members are not getting proper answers, I am more than happy, on a case-by-case basis, to go to Departments and say, "Why are you not answering this question?", or "Why is this answer not complete?". If you would like to send me the examples of questions in 2020 and 2021 that have been given disproportionate cost answers the second time around, I will obviously take that up for you. I make two points. First, obviously it should not be used as a means of not answering. Secondly, if the cost of answering the question has increased because of inflation from one year to the next, that would make quite a strong case for saying that the level should be increased because it should be proportionate, in a way, to the information being asked for.

Q147 **Aaron Bell:** Thank you, Leader of the House, for coming. We want also to ask about parliamentary questions and the accountability of arm's length bodies. There are 415 that Ministers are responsible for. Are you satisfied that those bodies are sufficiently accountable to Members of the House?

Mr Rees-Mogg: No, I am not. I had this problem when I was on the Back Benches. It is impossible to get any sensible answer from Ofsted, or it certainly was when I tried to get answers from Ofsted, and you just get palmed off on the basis that they are an arm's length body. It is very difficult for Members to hold them to account, but Ministers do not necessarily hold them to account either, because they are independent of Ministers. Can I throw it slightly back to the Procedure Committee? It



HOUSE OF COMMONS

would be really helpful if you could think of a means by which we could hold arm's length bodies better to account.

Q148 **Aaron Bell:** I am sure we can think about it. What would you recommend, based on your previous experience on this Committee and in the House?

Mr Rees-Mogg: I wish I knew. I do think it is a gap in accountability, and it is quite a serious one for constituents, because so many of the things that they deal with are issues that fall upon arm's length bodies. It is a sort of cauterising of accountability, and I don't think that is satisfactory. Practically the last thing I did as a Back Bencher was to try and get funding from NICE for a drug for a constituent, and that is a similar thing. It is an arm's length body and you get the reply from Ministers, "We sympathise, but we can't do anything because it is arm's length." As Members of Parliament, we are in the business of holding the Executive to account in all its arms, not just its formal ministerial arms, so I think it is something that needs further work.

Q149 **Aaron Bell:** Do you think arm's length bodies understand their responsibility to the House, or do they not understand that?

Mr Rees-Mogg: Well, I am going back some years, but I had a response from Ofsted at one point that was so dismissive that I certainly didn't think at that point that they recognised that they were accountable to Parliament.

Q150 **Aaron Bell:** The Cabinet Office has a parliamentary capability team that helps Government Departments understand their responsibilities. Does that support arm's length bodies or just central Departments?

Mr Rees-Mogg: I work very closely with parliamentary capability, and did a session for Departments with the Speaker recently to try to make the case that it is actually in the interests of Government to answer questions well, because if you handle accountability effectively you do a service to the Executive. It is not a purely altruistic activity; it leads to better government. It also leads to an easier performance for a Minister at the Dispatch Box. If the question has been well answered initially, you are not going to be asking for an Adjournment debate, an urgent question and all the other mechanisms that create a great deal of work for Departments, and sometimes awkwardness, so I work with them on the ministerial side. I have not been asked to do so for arm's length bodies, so I do not know the extent to which arm's length bodies are involved in parliamentary capability.

Q151 **Aaron Bell:** In some cases—I think there are 20, in fact—the independence from Ministers is protected by legislation. They are non-ministerial departments. You mentioned Ofsted. Other examples include the Food Standards Agency, HMRC, Ofgem and so on. In those circumstances, where we have a non-ministerial department, do you think that it would be sensible to allow Members to table written questions to them directly, and allow the heads of those bodies to make written statements?



HOUSE OF COMMONS

Mr Rees-Mogg: They do appear, of course, before Select Committees. Having mentioned a body that I found was unresponsive, I may be unique in this but I have always found HMRC the most responsive body that I have written to on behalf of constituents.

Mr Jones: I haven't.

Mr Rees-Mogg: They have sent me really good answers to quite complex constituent inquiries. Whether a formal written question would be the right approach, I doubt, because how can they answer if they are not Members of Parliament? You need a sponsoring Member to answer the question, because we do not generally allow answers to be given by non-parliamentarians. There may be a broader question about whether politicians having handed things over to arm's length bodies is as good an idea as it was once thought to be, but that is probably beyond the remit of the Procedure Committee.

Chair: Indeed. Mr Jones, do you want to come back on that point?

Q152 **Mr Jones:** Yes. In terms of HMRC, on individual tax things that might be the case, but if you are talking about policy or bigger issues, it is not the case. I will give you an example. David Davis and I for the last 10 years have been pursuing a major landfill tax fraud. The Minister, when you write to them, hides behind legislation. When you write to HMRC, HMRC then hides behind the legislation and cannot do anything. On this particular issue, it was around an investigation that had actually been completed. I understand that we could not comment while it was ongoing, but it had been completed.

Even when it had been completed, they said that they could not give us any information on it, so David and I both got the National Audit Office to do an investigation, which took the lid off quite a disgraceful set of facts around the way HMRC had handled that investigation. That would not have come to light had we not done that. Every time you spoke to Ministers or wrote to HMRC, you got one-line answers quoting the Act and saying that they could not comment, even though both David and I in the last 10 years had met HMRC officials to discuss this case. I understand why, especially on tax, we do not want to interfere directly in how they operate, but there are some larger policy issues on the way they operate that have implications for national policy. In the case raised by David and I, constituents have been affected by this landfill tax fraud.

Mr Rees-Mogg: There are almost invariably parliamentary mechanisms that one can use to get information. All Select Committees have the authority to send for persons and papers, and if there is a specific issue HMRC is answerable to the Treasury Committee. We have seen in recent years the effectiveness of Humble Addresses in getting information out of Government bodies, so my advice would be to use the parliamentary mechanisms that are available because there are ultimately enough to make it work, even if on occasions things do not run as smoothly as they should. Certainly as Leader of the House, I am very keen to help people to



HOUSE OF COMMONS

get legitimate information out of public bodies, regardless of whether they are arm's length or not.

Q153 Mr Jones: I will just ask one other, small point. It is about Government Departments passing on information from Members of Parliament to arm's length bodies. I think I copied you into my correspondence with the Department of Health where a legitimate question I asked of the Department of Health was then passed to the CQC, and the CQC then divulged the information to the people we were complaining about. Are you confident that Departments, when they are answering inquiries from parliamentarians, are conscious of the fact that that is a privileged relationship between us and the Department? Information shouldn't be shared with individuals who—in this case, for example—we were directly complaining about.

Mr Rees-Mogg: It is very difficult, with specific cases, to comment on the details, so if I may, I will stick to general principles. Inevitably, Departments will try to seek information from the bodies that come under their auspices, and then the question is: how is that information divulged and is that done properly? But yes of course, confidential information should always be handled properly. Whether that is always got right is another matter.

Q154 James Gray: I quite agree that you could not possibly have arm's length bodies answering to direct questions, because they haven't got Ministers in them, but there are of course several organisations that do answer direct parliamentary oral questions—namely, the Church of England Commissioners and, indeed, the House of Commons Commission. There may well be others, but they do not spring to mind offhand. Would it not be possible to invent some mechanism by which, for example, HMRC could have a Member answering on behalf of HMRC?

Mr Rees-Mogg: It is very difficult to do that, because you would then be saying it is an arm's length body but there is an MP who has some influence within it, is some part of it, but is not with ministerial responsibility. The Second Church Estates Commissioner is a very particular role, answering on behalf of the commission, or, when it comes to answering on behalf of the R&R sponsor body, the person who answers is a member of that body and so is intimately involved with it, so—

Q155 James Gray: The Electoral Commission?

Mr Rees-Mogg: But there is a commission on the Electoral Commission that answers and that is a parliamentary body. Nothing is impossible, but I think it would be easier to say that it was a ministerial responsibility rather than simply to say there is—I mean, they are usually Back-Bench MPs and they are not invariably from the governing party. I don't know: some Labour MPs might think it would be quite fun to answer for HMRC on some occasions. I think it would be difficult.

Chair: We will go back to Mr Bell.

Q156 Aaron Bell: I have one final question on transparency with these sorts of



HOUSE OF COMMONS

answers. The example in our brief is from Ofsted. One Member asked whether a school could receive a good rating from Ofsted where the inspector had found inadequate provision for SEND, and the Minister replied, "These are matters for Her Majesty's Chief Inspector...I have asked her to write to you directly and a copy of her reply will be placed in the Libraries of both Houses." That is not really good enough for public consumption, in my opinion, because there is no link on that website. It can be hard to find it. Obviously, a copy will be made available to the Member. Could we not do something to improve the way these things are displayed to the public on the website, in particular, so that people can see the answer to the question?

Mr Rees-Mogg: I do not think the way answers are published requires anything to be done by the Government. I think that is an internal House matter and the links that are made available in the publications would be for the House authorities. I will stand correction on that, but I think that if the Procedure Committee were to make a recommendation of that kind—

Q157 **Aaron Bell:** You would support improved transparency?

Mr Rees-Mogg: Of course I would. It has improved out of all recognition in recent years, because of the internet; you can link through to papers. This is not always to Members' benefit, because sometimes Members complain that instead of getting a detailed answer, they just get a link to a website, and they feel they should be getting more detail than that. Sometimes the effort for transparency goes wrong.

Q158 **Aaron Bell:** No, it's a case where the answer is available, but there is just no link to it. You would expect there to be a link in 2022.

Mr Rees-Mogg: I do not disagree with that, but I do not think it requires a Government action to change that.

Aaron Bell: Perhaps people will hear this exchange and it will get changed anyway. Thank you, Chair.

Chair: In fairness to the Leader, through an exchange of nodding with the Clerk of the Committee, we will make sure that we look at it and see if we can bring something forward.

Q159 **Nigel Mills:** First, Jacob, you seemed to indicate that a Back-Bench Member could achieve a Humble Address. Are you suggesting that the Government would welcome Backbench Business Committee motions being Humble Addresses to achieve that information?

Mr Rees-Mogg: I am not sure the Government would welcome it, but—
[Laughter.]

Nigel Mills: If it was procedurally allowed.

Mr Rees-Mogg: Speaking from my quite extensive experience as a Back Bencher, how do you get redress of grievance for your constituents? Mr Jones is a great expert at this and many of you on this Committee are. You look through the procedural book and work out what to do. Then you up the ante until you get the answer that you want. That doesn't always



HOUSE OF COMMONS

work—of course it doesn't—but it gives you the best chance of getting what you want for your constituent.

Q160 **Nigel Mills:** But that's something that is procedurally allowed for—

Mr Rees-Mogg: I will defer to the Clerk, but I think you could put down a Humble Address as a Backbench Business motion. I am not aware of any restriction. You cannot use it for legislation. There are limits on Backbench Business, but I do not think that is one of them, mainly—or, at least, not least—because when the Backbench Business Committee was set up, people had forgotten that Humble Addresses existed.

Q161 **Nigel Mills:** You could be right. Can I just switch then? I think you have seen that we are doing an inquiry on the potential to extend the limit of proxy voting. Do you have any initial views, before you see our report, on whether there should be proxy votes for Members suffering ill health?

Mr Rees-Mogg: I am very glad you are doing the report, because I think it is a very difficult issue, where it is easy to see both sides of the argument. It is easy to see why you want to be helpful to people who have long-term illness, who are unable to come in, but who none the less wish their vote to be recorded. It is also easy to see the difficulties of forcing people to reveal medical conditions. And there is the question of what is an MP. What do we expect of our Members of Parliament? How do you think proxy voting is meant to work? What limits would you put on? What would you expect from a Member who was ill? Does the Member have to give an instruction for every vote, or is there a standing instruction? What if, at the time of the vote, the Member was under anaesthetic and therefore not able to give an instruction? Does the standing instruction always to vote with the Whips carry?

It is really straightforward with maternity and paternity leave. There is a very clear objective. It is a very public event. As the father of six, it is an event that one is usually extremely proud and excited by. But ill health is different; you do not necessarily want people to know, and some people take a different view from others.

Are there other ways of doing it? Is nodding through good enough on those votes that really matter and that may determine the future of the nation? I am obviously thinking of the 1979 vote of no confidence. James, even you weren't here for that, were you?

James Gray: I wasn't here, no.

Mr Rees-Mogg: Are there points at which it is so important that you need people to at least be physically well enough to turn up? I think these are very difficult questions, so I am glad that you are doing this inquiry.

Q162 **Nigel Mills:** One of the phrases you used there was "long-term illness". Are you suggesting that you may be more amenable if somebody was off with cancer or something "long-term" than you would be for somebody who was off for a couple of weeks because of a hip replacement? Are you thinking that is a criterion?



HOUSE OF COMMONS

Mr Rees-Mogg: I suppose what I am really worried about is the Minister who is travelling abroad, who at 9 o'clock develops a cold for a vote at 10 o'clock that is going to be very tight. I think it is really important that, whatever you do, Ministers have to turn up, and indeed the leading Opposition figures.

That is because turning up in Parliament is not what every Minister wants to do at the end of a busy day, but it is fundamental to the power of Parliament that Ministers are here regularly—all the Ministers and all the most senior figures in our parties. Why? Because there are issues that one wants to raise with them. It is a very effective way of dealing with constituency problems. I have seen Opposition Members hanging outside the Division Lobby to try to get the Home Secretary—not actually the current one—about an important immigration case in his or her constituency. Once the Home Secretary does not have to turn up, how often will the Home Secretary be here? I am not talking about the current, individual Home Secretary; I am talking generically. The Leader of the Opposition is also very busy. He would probably like to be getting around the country and meeting potential voters, rather than being in the Division Lobby, but then how Parliament works get steadily undermined.

Q163 **Nigel Mills:** Do you have any more sympathy for the idea of an electronic vote rather than a proxy vote somehow being allowed for somebody who is off with a long-term illness? In that situation, the Member basically has to do their own vote, but are just not doing it from here. Do you think that that is an even larger leap than a proxy vote for ill health?

Mr Rees-Mogg: I think the default should be that people should be here to vote in person. That is very important for how Parliament functions and how we interact with each other, but it is also a reminder that what we are doing has an effect on people's lives. We have recently voted to put the most extraordinary restrictions on people. You would want people to turn up, think that through seriously and say, "Yes, I think that is reasonable and proportionate" or "No, I don't".

I slightly worry that if people are not doing it in person and do not have the inconvenience of having to be here physically, they do not necessarily take it as seriously. I think that there was some evidence with electronic voting that people were going for nice walks and then voting in Parliament. Some peers were even supposed to have been abroad when they were voting electronically, and they have now changed their system so that they have to be in a place of work within the precincts to vote electronically, which is quite nicely phrased to prevent them from voting from the Bishops' Bar.

This is a really important thing that we do; it affects our constituents. The fact that we have to be here is important, but I have sympathy for people who have a serious illness, who are in a category that deserves more sympathy than people who just find it slightly inconvenient to be here.

Q164 **Chair:** Before I bring in Mr Charalambous, may I just ask a question? In my role as Chair, I am curious about attendance and being here. You are



HOUSE OF COMMONS

obviously very aware that there has recently been quite the debate around the baby proxy voting system, with the Member for Walthamstow making clear her views very robustly, as she has every right to do. I wonder whether you have a view on colleagues who are on parental leave proxy and who attend the estate, and this idea of turning off the proxy and turning it back on again—specifically on whether they can come on to the estate to work, which would not necessarily be the normal process if you were on maternity or paternity leave more generally. Do you have a view?

Mr Rees-Mogg: I am personally very sympathetic to the suggestion by the Member for Walthamstow that if there is an urgent question or a statement that directly affects her constituents and that she wants to be involved in, it does not make a lot of sense then to say that she must also be here at 10 o'clock in the evening when she has a very small baby. I do not see the logic of that. I do, however, understand the counter-argument that it may put unfair pressure on people with more remote constituencies. If you had a Northern Ireland constituency, you would not have the option of coming in at short notice. But I am always reluctant to penalise somebody because somebody else cannot do the same thing. It is for you as a Committee to think about, but my personal sympathy is with being flexible because the point of the proxy is to be helpful to new mothers and new fathers, not to stop them doing something that they want to do.

Q165 **Bambos Charalambous:** My questions are on the issue of proxy voting for people with ill health or other medical needs. One of the reasons why we had proxy voting for maternity and paternity in the first place was that one former MP was vilified in the press for her voting record. She was branded as lazy. That was one of the reasons why the status quo being deemed unacceptable was inevitable. As MPs, we are scrutinised by the public, and one of the things that we get scrutinised for is our voting record. I can see similar things applying to people who have serious medical conditions, because even if they are paired, they are not classified as voting. That causes the problem. What are your thoughts on that?

Mr Rees-Mogg: That is the difficulty. As MPs, of course we expect to be subject to scrutiny. I tend to think that the electorate has more sense than to be taken in by these campaigns—if someone has had a child or if someone is ill, the electorate is likely to be sympathetic. People running those sorts of campaigns are likely to find them counterproductive, but I see why people worry.

This opens up the whole issue of online abuse and so on, which is a worry for MPs and can be very unpleasant. I do not think that the debate you will be having in this Committee is an easy one. As I said at the beginning, I can see both sides of the argument with a good deal of clarity, and I have a great deal of sympathy for people with long-term illness who might have to be off for several months. In particular, cancer is important, because of people's vulnerability—they may feel that they cannot come in, not because they physically would not be able to, but because they might be



HOUSE OF COMMONS

at high risk of infection, regardless of covid, given the treatment they are receiving.

This is a difficult and balanced judgment. The confidentiality of medical treatment is something that you need to bear in mind, but the risk to people's reputations—if they are accused of being lazy—is also one you need to bear in mind, because the answer to that undermines confidentiality too, doesn't it? If you are attacked for not turning up and you say, "Actually, I have been ill for the past six months," though your voters would be sympathetic, if you did not want people to know you had been ill, you would still have lost that degree of confidentiality. I think you have a finely balanced choice.

Q166 Bambos Charalambous: There may be situations in which you do not want to disclose that you have, say, PTSD following an attack or something like that, which you are receiving counselling for, or there may be things that you do not want anyone to know.

Mr Rees-Mogg: I completely agree. That is why there is not an easy answer.

Over the pandemic, TheyWorkForYou has been less rigorous in recording how MPs have voted. It may be that people are getting a little more mature about that, and thinking that MPs are not just carelessly not here—I cannot think of any such circumstances. Most MPs have a pretty good voting record, unless there is a good reason for not being here.

My perhaps rather pious hope, having gone from a period when no one knew whether their MP voted or not, because unless they looked through *Hansard*, there was no way of finding out, to a position in which every vote is noted and your attendance record looked at, is that we are maturing. Perhaps people are beginning to realise that most of the time MPs want to be here—they feel that it is their duty—and if they are not here, there is a good reason for it.

Chair: Mr Mills, do you want to come back at all on anything?

Nigel Mills: No.

Chair: Mr Gray.

Q167 James Gray: I think you have answered most of the questions that the Clerks kindly provided us with, apart from a couple of things. You were hoping, I think, to see the Standing Orders regarding proxy voting changed in several other ways. Are there general things that you would like to see us proposing that we have not touched on already with regards to proxy voting?

Mr Rees-Mogg: No. I am interested in your report, and I think the Standing Orders are working well for maternity and paternity leave. There is the issue of whether presence on the estate should be prohibited if you have a proxy vote. I think even if you were to say that people should not take part in proceedings, presence on the estate seems a pretty all-



HOUSE OF COMMONS

encompassing rule when you might need to come in on a Monday morning because you had left something behind, you needed to see your parliamentary assistant or you just wanted to keep in touch with your parliamentary assistant, and there was a vote at 10 that you had no need to be about for because you were on maternity or paternity leave. Presence on the precincts is a pretty tough rule.

Q168 **James Gray:** How would you react to the Cabinet Minister I was having dinner with in the Members' Dining Room on one occasion? When the bell went, I got up and said, "Aren't you voting?", and they said, "No, no, no, we've all got proxies. I shan't go. I'll carry on with my dinner while you go and vote."

Mr Rees-Mogg: That was the special rule during covid. It may not surprise you to know that I was similarly with other MPs and went to vote. I had a proxy very briefly when one of my children was being tested and I had to stay at home because those were the rules at the time. This is where I would be cautious, to come back to the question of health. I did not want to have a proxy, but if proxies are available, you are told to have one. As a Minister, you certainly cannot refuse, can you? I would have preferred to be paired, but that option goes if proxies are available. If proxy becomes the norm, people with ill health will find it very difficult to say to the Whips, "I don't want to have a proxy. I just want to be paired."

Q169 **James Gray:** Absence from the precincts would prevent that kind of abuse. If it were the absolute rule that you may not be here while you have a proxy, would not that prevent such abuse?

Mr Rees-Mogg: But when it is maternity and paternity leave, it is one or two people, whereas the covid proxies partly represented a desire to minimise the number of people on the estate. That was very different—I do not think anyone would want to go back to that level of proxy. I very much hope not.

Q170 **James Gray:** If a proxy regime were to be brought in for very ill people, do you think there should be a different regime for them from that for the parental proxy? Is there room for different rules for two categories of people?

Mr Rees-Mogg: I think you have got to make a basic decision about whether the aim of the proxy is to be helpful to the people who need it or to set up a complex system whereby people have to jump through lots of hoops. If you come to the conclusion that the proxy system is basically there to help people who have particular concerns, you should be as flexible as possible. I don't see the point in setting up a system that will trip people up.

Q171 **James Gray:** A moment ago, you said that you would not like to see a situation whereby some Minister suddenly discovered that he had caught something, had a proxy but it turned out to be more of a sniffle.

Mr Rees-Mogg: That is absolutely right.

Q172 **James Gray:** What you suggested a moment ago were quite significant



HOUSE OF COMMONS

hurdles to jump through.

Mr Rees-Mogg: Because it has got to be something serious. Maternity and paternity leave is easy because there is a baby around and that is very straightforward. The difficulty with health is how you judge it.

Q173 **James Gray:** And who judges it.

Mr Rees-Mogg: And who judges it. Are you going to expect Members to produce health certificates? I would have thought not. You certainly want to make sure that the system is not used for trivial reasons. How would you police that? That is one of the difficulties you face with thinking up a system. For the people you want it to be available to, you want it to be as easy to use as possible, without encouraging lots of people, who you never wanted it to be available to, to use it. That will not be an easy drafting challenge.

Q174 **James Gray:** That is why I was asking whether we want two regimes: one for the obvious—mothers and fathers—and a different one for those who are ill. Before you answer that, let me ask you a supplementary question. Can you imagine a situation in which the Clerk of the House was the person who decided whether somebody was ill enough to deserve a proxy?

Mr Rees-Mogg: I would have thought it should be the Speaker. I have not spoken to the Speaker about this, but I would have thought it would be—

Q175 **James Gray:** If that were the case, let us imagine that there were 20 or 50 people. The Speaker would not be doing much apart from having telephone conversations with very ill people and/or malingerers.

Mr Rees-Mogg: I am not expecting the Speaker to be a doctor.

James Gray: That is what I mean.

Mr Rees-Mogg: I think most of the rules around Divisions are either set out in Standing Orders or in the hands of the Speaker. This is one of the difficulties. What proof would you expect that people were ill? I have a feeling that we would take it on the honour of a Member that the Member was ill. I do not think we would be expecting a doctor's—surely we are all honourable Members, and therefore we have to trust each other. The problem is that we are also all politicians, and that may raise some suspicions in cynical media.

Q176 **James Gray:** So it is a small majority, and the Minister is required by the Whips to ring up from wherever he is and say that he is awfully sorry, but he's got a bit of a sniffle.

Mr Rees-Mogg: I would urge you not to set up a system that would allow that to happen. You might say that Ministers and Front Bench spokesmen cannot have proxies.

Q177 **James Gray:** Well, never mind Ministers; what if I fall off my horse hunting in Wiltshire and slightly sprain my ankle, and I ring up and say,



HOUSE OF COMMONS

"I'm awfully sorry. I'm not going to make it in."?

Mr Rees-Mogg: This is where it gets so difficult, because the definitions become hard and the policing of definitions becomes even harder. And yet with the issue of remote appearances last year, when the late Dame Cheryl Gillan wanted to appear but was not well enough to come in, everybody wanted to facilitate it for her. We eventually changed the rules so that she could. One has incredible sympathy with the people who want to carry on working—want to continue doing their bit for Parliament—but are too ill to do so or at risk from doing so, without opening up a system that can be abused.

Q178 **James Gray:** Let me come back to my question. Could you imagine a situation where it is for the Clerk of the House to decide? We are laying out all sorts of difficulties here with regards to illnesses: is bad flu an excuse? Is a broken leg? Your answer to that was, "The Speaker must decide." When I pointed out that that would take up a disproportionate amount of the Speaker's time, you said you would have to leave it to the honour of Members to decide. It is the dishonourable ones who are going to get it wrong; the honourable ones will hobble in here straight off their horses in Wiltshire, as it were. Surely there has to be some means—some person, some system, some mechanism—that decides whether or not a person does or does not get a proxy?

Mr Rees-Mogg: I would have thought that if you go down the proxy route, you need to do it on the basis that honourable Members will tell the truth. To say to the Speaker that he must decide whether people are ill enough is not something the Speaker would welcome. I do not see how he could make that judgment, or reasonably be expected to make that judgment about the type of illness. For a Clerk, I think it would be even harder.

Q179 **James Gray:** I agree with you that it is ultimately up to the discretion of honourable Members. Are you confident that all 650 of us would constantly be as well-mannered, honest and well-disciplined as you hope?

Mr Rees-Mogg: I think Members would take a different view of what was serious enough. I am sure they would. Some, as you say, would be determined to come in regardless, and others would not. It is why your

Q180 **James Gray:** Is there not room for extension in the nodding-through procedures? Couldn't we change them? At the moment, they are very constrained to a very particular use. Would it be impossible to increase nodding through?

Mr Rees-Mogg: I think that sounds like a very interesting way of proceeding. I do not know what you are proposing, but I think it is perfectly sensible to be reasonably generous with nodding through.

Q181 **Mr Jones:** You have outlined that what we are discussing is a very difficult thing: "How do you define illness?" Like you, I have huge sympathy with people who have long-term illnesses. Do you not think that if someone is, say, suffering from cancer or has some other illness, at the end of the day most people—most of our constituents—would be



HOUSE OF COMMONS

sympathetic to that Member not being in attendance? Aren't we in danger if we aren't careful here? Voting is just one aspect of the many roles that we have, both in our constituency and in Parliament. Aren't we in danger of forcing people who may want to be away from here and try to get better to think they have to take part in proceedings, when from their point of view, to get a swift recovery, it might be better to just have time away from the place?

Mr Rees-Mogg: I think that the good sense of our voters is enormous, and their kindness. We all know that in our individual constituencies. I think there would be only sympathy for a Member who was ill and that if their political opponents at the ensuing election had a go at them, it would be counterproductive. I think the British electorate is broadly good natured. So yes: I completely agree with you and I think what you are saying is extremely reasonable.

Q182 **Chair:** Can we move on to House business and have a brief discussion on that? I will bring in Mr Bell in a moment. Under "Erskine May" and indeed Standing Orders, it is not clear what House business is. Clearly it is talked about frequently, by you, Ministers and Opposition Front-Bench spokespeople. "Erskine May" makes the point that public business is Government business and Opposition day debates, and other business is unopposed private business and so on, but nothing is clearly defined. Harriet Harman is a very good example of a Member who used Backbench Business time to get a debate on proxy voting for baby leave, which meant that this Committee, at the time, could bring forward an inquiry. Obviously, the rest is history, and we are having this conversation now. There have been reports, including the "Taking back control" report from the Constitution Unit, which made the point that maybe the balance is not correct in terms of the amount of requests that you receive for debates that could be House business, but—to use the famous phrase—in Government time. I am reading back through issues that you have announced as being matters for the House, such as amending the code of conduct, single-use plastic in the Chamber, the Independent Complaints and Grievance Scheme and the suspension of sittings in Westminster Hall. I wondered what your definition of House business is. Unusually, the Standing Orders are silent on that. What do you think it means in practical terms for how we can manage House business moving forward?

Mr Rees-Mogg: First, I would say that the Government may well have views on House business, and that is not unreasonable. During the pandemic—the Westminster Hall point is particularly relevant here—I was very conscious that, as a Government Minister, standing at the Dispatch Box and saying that we were suspending the right of Back Benchers to hold the Government to account was not a good thing to be doing without the support of the House for doing it. The Government did not want to say, "You must not hold us to account," because that way, ultimately, lies dictatorship. The House must be allowed to determine how it has the ability to meet. Once we meet, whether it is Government business or whatever is less important than the fact that we can meet. That is why I have been going on and on about our absolute and ancient right to turn up



HOUSE OF COMMONS

at Parliament. Only by primary legislation could that be adjusted. To my mind, that is fundamental to our constitution. As I say, I was very nervous about doing anything that took away the ability to hold the Government to account.

With regard to matters being debated in Government time, I think that in business questions that is simply formulaic, so that people can get their point across. I have noted that the Chairman of the Backbench Business Committee has pointed out that lots of people who ask me for a debate will never ask him for a debate. They may feel that all they wanted to do was raise the point at business questions, using the correct words, rather than have a full debate on a subject. I do not think there is an absolute definition of House business, because House business can intrude into public business.

Q183 Aaron Bell: You mentioned just now that the Government may well take a view on House business. I was going to refer back to the amendment in the name of Dame Andrea Leadsom. You are obviously speaking as a member of the Government as well as the Leader of the House. Do you think that the Government got that wrong, and if so, what would stop that sort of thing happening again?

Mr Rees-Mogg: I made it clear that I got it wrong. I do not need to say it was the Government; I am, of course, part of the Government, and I conflated the specific case with concerns that were more generally held, and that was a mistake. I hope that one always learns from one's mistakes.

Q184 Aaron Bell: Do you think if something similar came up again, the Government would allow it to be unwhipped and let the House take its own view on a similar sort of case?

Mr Rees-Mogg: Having just said that I hope we learn from our mistakes, I hope that that would be the case. But it is always very difficult to answer hypothetical questions, because no two circumstances are identical. If the Government thought that it was the same case, I am sure the Government would act differently with the hindsight that we now have.

Q185 Aaron Bell: In your discussions with the Whips Office when business that will be in your name is brought to the House, how do you decide—you or the Whips—whether it is something that the Government should take a view on or not?

Mr Rees-Mogg: I think, as a general rule, many Members quite welcome the Government taking a view. Even when there is a free vote, it has not been unknown for Members to say, "Yes, I know it is a free vote, but which way should I go?" Of course, technically, all votes are free votes, as we all know. Whips are attendance Whips, not voting Whips—which I think is oddly constitutionally important, but I am probably the only person who still thinks that, so you can probably brush over that. The Government will have a view on things that affect the Government.

Q186 Chair: Leader of the House, by convention, House internal regulation—



HOUSE OF COMMONS

standards, for example—is given time for discussion, with clearly very good reasons. Even ignoring recent events, historically it has always had that time. Would you consider reports from this Committee, and indeed the Liaison Committee, being given that same sort of regulated time on the Floor of the House? In the fairly recent past, with the pandemic, some of this Committee's reports have been some months after Government have made decisions. In fairness to you, you have then corresponded with this Committee to say that you have taken many of our recommendations forward, and that there has simply not been the allotted time.

I may not be alone in this, because you may share my views, but I find procedure interesting and have done ever since I joined the House six years ago. Increasingly, over recent times, I think people have realised the importance of this Committee and the work it does in relation to Standing Orders or emergency procedures, working with you and your offices. Is that proposal something that you would consider, if we were to put it to you in some sort of formal way?

Mr Rees-Mogg: I was on the Procedure Committee for my first five years in Parliament, and I share your view that procedure is important. Everything we do is dependent upon procedure, and our ability to get things done for our constituents depends on our ability to work through the procedures to do these things. This is the difficulty of the role of any Leader of the House: there are many things that you want to debate, but there is not necessarily time to do it. My bias in favour of debate is in spending time on legislation, because I think that is the fundamental thing that we do, and my responsibility is to make sure that there is sufficient time for legislation. Even if it is not then used, it should at least be available. That makes it very difficult to promise specific time for Committee debates.

The Standards Committee debates are in a different category, and very often they are provided extra time and the House sits longer when those debates come up. The Backbench Business Committee has a lot of time, however, which we are pretty good at delivering to it, so I am afraid I am rather going to disappoint you and point to the Backbench Business Committee. I think it would be hard to extend the Standards Committee expectation and convention to other Committees.

Chair: I am sure the Chair of the Committee is listening, and we can take that forward in a different guise. Leader of the House, we are very grateful to you for your time today, and we appreciate the frequency with which you come and speak to us.