

Procedure Committee

Oral evidence: Voting by proxy in the House of Commons, HC 825

Wednesday 21 March 2018

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Members present: Mr Charles Walker (Chair); Bob Blackman; Dan Carden; Bambos Charalambous; Nic Dakin; David Evennett; Helen Goodman; Mr Ranil Jayawardena; Sir Edward Leigh; David Linden; Melanie Onn; Alison Thewliss; Mr William Wragg.

Questions 61-126

Witnesses

I: David Natzler, Clerk of the House of Commons.

II: Jo Swinson MP, Deputy Leader, Liberal Democrats.

Written evidence from witnesses:

– [David Natzler, Clerk of the House of Commons](#)

Examination of witnesses

Witness: David Natzler

Q61 **Chair:** David, hello, and good afternoon. Thank you for coming. It is always nice to have the principal clerk—the big cheese himself—before the Committee and that is you.

David Natzler: Yes. Thank you for the introduction.

Q62 **Chair:** We are happy to have you. David, we have asked a lot of questions about proxy voting. Is there anything you would like to say by way of introduction or shall we just start?

David Natzler: There was one thing, and I know you have questions. When I submitted this paper on the subject—about two years ago, I think, originally—the one thing that struck me when writing it was the importance of transparency. That applies to the existing proxy voting system—that is, nodding through—as it is not transparent. You do not need to have a huge new rule to make it so, even if you were not doing anything else, but it did seem offensive that in the lists of those voting someone is shown as having voted who was not actually there, with no sign that in fact they were voting by proxy. I know there may be reasons for that. That was the one thing, and I think it is an important principle in what you are looking at. That was all really.

Q63 **Chair:** Thank you for that. We have asked a number of questions about proxy voting. Have you considered whether there is a role for the Speaker or the whips in this, or do you think, as I do, that all Members are Honourable Members or Right Honourable Members? If I was asked, say by Helen, to act as her proxy, I would discharge that with great diligence and care. I could vote in my lobby and then, if Helen was in a different lobby, go and cast her proxy vote in her lobby. Would that create difficulties?

David Natzler: The question is whether you could have a proxy where on one occasion, or frequently, the person casting the proxy had to vote in two lobbies and whether that would cause difficulties. I think the honest answer is, yes, some difficulties. The difficulties would be merely practical. You would have to get out of lobby 1 in good time to get into lobby 2, which in a busy day is not always possible.

I am sure you would cause no confusion to the division clerks, who are perfect, but if they ever slip from that high level they might get confused as you went past saying, “I am not voting. I am casting a vote for Goodman”, especially as you are in a different bit of the alphabet. I think the tellers, who are also—seeing some ex and current Whips here—susceptible to human error, might also be confused.

To be honest, I think it is easier if, when they choose a proxy, they choose someone who is likely, for the vast bulk of the time, to be voting themselves and also casting the proxy the same way, but I do not think



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you could insist. I do not think you should make that a rule. If you were giving your proxy, I would suggest you might think of giving it to someone who was more frequently in the same lobby as you.

Q64 **Chair:** You would say it could pose difficulties but you would fall short of placing a prohibition on it.

David Natzler: Yes.

Q65 **Chair:** The reason I think it would be difficult to prohibit it would be that occasionally there are votes of conscience in this place. I think back to assisted dying. What we do not want people doing is swapping proxy horses for various individual votes. That would create complications in itself. On a vote of conscience it could be that your proxy was in one lobby but you wanted to be in the other lobby, which is why I think it would be difficult to have a prohibition.

David Natzler: I agree, although the swapping is not inconceivable as long as it is transparent. I do think the House technically, even if no one reads it, is entitled to know who holds a proxy. Therefore, with notice—for instance, you see the assisted dying vote coming up, and it is not a surprise—you could say to your general proxy, knowing that he or she did not share your view, “For this one, I am notifying the House through votes and proceedings that someone else is acting for my proxy on this occasion”. I am just saying that but I do not think you should prohibit it if pushed.

Q66 **David Linden:** I am interested in some of the difficulty associated with getting in and out of different lobbies. At the moment, because of the English votes for English laws and double majority, that is recorded electronically. Do you foresee that there would be any way that the proxy voting system would be made electronic and have a recorder?

David Natzler: The recording of votes is now carried out by clerks on electronic machines. That sounds very old fashioned, but I mean it is not the old bit of paper. I cannot see proxy votes would be any different. As I said, there is a very minor thing—which I am sure the clerk of divisions would be able to overcome—of the alphabetical lining up, so you are voting in three lanes. If you were casting a vote for a proxy for an absent Member who would normally be in another lane that would be a very minor difficulty, but I am confident we would find ways of overcoming it. I am not sure if that answers your question.

Q67 **David Linden:** The other question I have is: how would you be able to indicate that you are casting a proxy vote on behalf of someone? Would you be given a sheet of paper that was signed by the Member or would that be made known to the clerks?

David Natzler: I think it would be merely verbal. If a Member says, “I am voting for—” and because it is in the V and P, the division clerks would be aware who holds a proxy vote, which is why it is quite



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important for us to know not only who is absent but who is holding the proxy. I suspect that they would get used to it quite quickly.

It is worth pointing out that we already have not proxy voting but a Member acting for another in quite a few proceedings anyway. If one Member comes into the Table Office and wishes to table a question but in the name of another, we take their word for it. I recall from 35 years ago or more, when I was in the Table Office, the phrase, "One Member can act for another". That applies to quite a lot of not public proceedings but proceedings that have procedural significance. You are, as the Chair said, all Honourable Members so they would not argue.

When you are going past the tellers, of course, in nodding through I believe the whip says, "Myself and also Mr X" and the whip from either side records it as an extra one. It is not difficult.

Q68 David Linden: One of the reasons we are moving towards this is because of transparency. How would you envisage that it would be recorded? How would a proxy vote be cast? Would that be in the votes and proceedings or in Hansard?

David Natzler: It would be in the division lists and it would say behind the person who was not there—this is open and, in a sense, it is a micro issue—in brackets, I imagine, "Vote cast by proxy", not necessarily naming the proxy particularly if that was known anywhere but just in italics "proxy" after it or some such thing. It would similarly be on the electronic record, so that there was no doubt that this person had voted but through a proxy.

Q69 David Evennett: We are on a very narrow remit here of those people who take maternity leave. Do you think that if it were the will of the House to do this it would put pressure on for other radical changes for people who are sick, or for electronic voting or anything else? How do you view it? I am a traditionalist, as you know, but I do think this particular issue is very important—having been a whip—although I thought the system worked extremely well when we had people who were on maternity leave. I myself covered for Tracey Crouch for six months when she was on maternity and there was no particular problem. She wanted time off. My concern is—and I am very much in favour of this, I have to put on record—that we just keep on wanting to change things. Do you see that as a possible problem?

David Natzler: The House passed this resolution, so in a sense that is it. If it had passed a resolution about some other reason or criterion for giving leave, at paragraph 19 in the paper I sent you two years ago—I was just reminding myself of it—I set out eight possible categories of people who might be thought, not necessarily in descending order, to qualify for the possibility of some sort of proxy voting, including obviously the seriously ill, the recently bereaved and so on. It is entirely up to the House what to do.



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David Evennett: Of course.

David Natzler: As to increasing pressure, that is a political judgment. Evidently, if you make any change it may make people realise you can make other changes, but I am—

Q70 **David Evennett:** But from the point of view of you and your staff, do you think that increasing change would make it more difficult to operate under the system that we work with at the moment, which is actually physically voting through division lobbies?

David Natzler: No, I do not think it would. I have to say proxy voting itself will be perfectly straightforward. There are bound to be one or two glitches, and I would imagine after a year you might want to review how it has gone.

David Evennett: That is certainly what our aim would be, to take stock after a year.

David Natzler: If you do that and take stock we can then see where people change things, as we always do slightly—suck it and see—and you use experience. If you were then to introduce another category and say, “It is your judgment. This will increase pressure for people in other categories, for example away on international parliamentary business who would also like to cast by proxy”, is that a practical problem for staff of the House? No. It is a problem for the House as to whether they want to extend it.

Q71 **David Evennett:** Do you think when people have decided this and they have made their arrangement that the clerks ought to be told, so that you know yourself—

David Natzler: I do not think it is the clerks.

David Evennett: Well, no, the ones who—

David Natzler: Sorry, David, I was not being pedantic. What I mean is I think the House should be told. The way you tell the House is not orally or in answer. You put it in votes and proceedings, the same way as when a Member takes Chiltern Hundreds, a note appears appended to the votes and proceedings. I do not know if anyone notices it but until recently that was not the case, oddly enough, and no one theoretically knew.

David Evennett: That would be a way of highlighting it and the transparency issue that you raised.

David Natzler: Just so. That is exactly it.

Chair: I want to remind colleagues, and I always remind colleagues, that the motion passed by the House was very narrow and it is not my intention, as your Chairman—although you could decide otherwise—to open this out into whole other areas. We are dealing very specifically with the motion, and that is what we were asked to deal with by the proposer of the motion herself and then by the House.



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Q72 **Dan Carden:** I will put on record that I am in support of this change, but my understanding is that this is a choice, so if there is a Member who wishes to take baby leave they can use a proxy. Would there be a problem if a Member wants to use a proxy on one day or for one particular vote but then not use it, put in an appearance at that time and then perhaps return to wanting to use a proxy?

David Natzler: I suspect you are all better qualified than I am to answer that, to be honest. The problem will be if the person to whom you have given the proxy is unaware that you are turning up. As you lead such complicated lives, I suspect that might occasionally happen and, as you are about to cast a vote for Helen, you suddenly notice her, because she has forgotten to tell you that she is voting. I have thought about it, but that is just a practical thing. We must be very careful. This is quite an important system and you must tell your proxy if you are intending to come in.

Q73 **Dan Carden:** Would you have permission to have a proxy over a period?

David Natzler: You would have a standing proxy but you would not have to use them.

Q74 **Dan Carden:** You would not have to use them.

David Natzler: You would not have to use them. I think if you have given them up altogether there would be a note saying that, but they could resume it. Let us say after—and again I am not really the expert on childcare—four months you think, “That is fine. I am going to come back”, and then something happens and you want to resume your proxy for the remaining period, there should be a degree of transparency on that. But I cannot see a problem with the occasional use of coming in to vote because for whatever reason you want to be seen to vote yourself and not by proxy, as long as you tell the person.

Q75 **Dan Carden:** Following on from David’s question earlier and the alternative ways of perhaps doing this, we sometimes have deferred divisions on a piece of paper. Could it be that the proxy filled in a piece of paper with the votes and then handed that to—

David Natzler: Absolutely. Deferred divisions again would be no problem. I think the assumption—

Q76 **Dan Carden:** Sorry, when we are having a vote in the lobbies, perhaps another way of the Member voting for the proxy is they could walk through the lobby for their own vote, but would there be a way to fill in a piece of paper and perhaps hand that to an official?

David Natzler: Yes, with a deferred division you will get the—

Q77 **Dan Carden:** No, sorry, if we are having a vote in the lobbies.

David Natzler: An ordinary vote, yes, sorry.

Q78 **Dan Carden:** I am just thinking of another way for the Member to record



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the proxy's vote. They might walk through the lobby themselves but then want to hand a piece of paper, like we would in a deferred division to an official.

David Natzler: This is probably best left to the clerk of divisions. I think she would find that awkward, possibly, because I am not sure to whom you are handing the bit of paper. I do not think the division clerks, who are trying to get through X Members per minute, will welcome any bit of paper being handed to them. I think if you come up there, Dan, and say, "I am voting for Nic Dakin", who is in your alphabetical group, that is the simplest thing. Once you start having bits of paper or tickets or whatever, personally I think anything that complicates it is going to make it more likely to go wrong.

Q79 **Chair:** That is quite a good point—alphabetical. You go through one of the channels and you have to come back around and go through the other channel.

David Natzler: That is a serious issue that—

Chair: Yes, we had not thought of that. Daniel's probing has got to an issue that we had not thought of that we will now give great attention to. Well done.

Q80 **Bambos Charalambous:** This is kind of linked to that point. It is the issues with the proxy, whether, because of the time limitation and walking through the lobbies, they should get priority or whether they should have the chance to go to the very front of the queue.

David Natzler: I just cannot see how that would work, but that is up to the organisation by the whips and by the Members concerned. But I think if you were holding someone's proxy and you wanted to go and vote in the other lobby as well, but owing to your own arrangements you turned up too late and you shove to the front saying, "I am casting somebody's proxy in another lobby, would you let me through?", it would be up to your colleagues as to whether they were willing to let that happen.

Q81 **Chair:** Ultimately, though, it does come down to the discipline of the person with the proxy.

David Natzler: Correct.

Chair: I would be more than happy to act as a proxy for anybody in any party because I would respect the fact that I have to be there when the bell goes, go through and manage my time well, so it is not an insurmountable issue.

Q82 **Bambos Charalambous:** There are problems if you have to vote in two lobbies.

David Natzler: Exactly.

Q83 **Bambos Charalambous:** Obviously it would be down to the whips to make sure that if they wanted the vote recorded—



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David Natzler: I think it is up to the individual holding one of their colleague's proxies to hustle their way to the front. I am sure some of your colleagues would say, "Look, do you mind if I get to the front because I have to nip into the no lobby after this because she wants me to vote this way?" or "she wants me to vote—"

- Q84 **Bambos Charalambous:** I think part of the issue is that the votes of people who are on leave because they have children are not recorded at all, then when we are scrutinised to the nth degree about which amendments we have signed, it just shows that they are not as active as other—

David Natzler: I understand the motivations, or some of them.

- Q85 **Bambos Charalambous:** Making it simpler would be a great help and also, on the issue of a trial period, I think three Members are currently pregnant and I think they are all on the front bench of their particular parties.

David Natzler: As the Clerk of the House, I do not—I am conscious that there may be more than that. This is public. There may be more who are pregnant, but there are at least three who have declared for June, July, I believe, so there is indeed a degree of urgency if you want to introduce it.

Chair: Our colleagues who want to register positive abstentions, as they call them, have no trouble voting in both lobbies, so we must not over-dramatise the difficulty of getting into two lobbies in eight minutes. It is not that difficult, particularly if you have sharp elbows.

- Q86 **Helen Goodman:** It does raise the question of who is responsible for the vote, the proxy or the Member. This comes into sharp relief on those occasions when the proxy and the Member, who is absent, would vote in different lobbies. Imagine a situation where you chose as a proxy a person close to you in the alphabet, who is in the same party, and you usually vote together but there is something that is either an issue of conscience or, more likely, you want to rebel against the whip. Do you not think that we need to have a system for recording that? The absent Member has told the proxy on this occasion—

David Natzler: That is what I thought we were discussing about the two lobbies. If you hold a Member's vote—if you hold the proxy—and you and the proxy disagree on the subject, and the absent Member has told you that, I assume anyone holding the proxy would do their best to fulfil the request. I am trying to think of someone in the same party and in the same alphabetical group as you—possibly Bambos, I don't know. If you were holding his proxy or he was holding your proxy and you said, "Actually, you are not rebelling but I am on this", I am sure he would try to vote in both lobbies.

We are back to the both lobbies thing. In one lobby it would just be his name when he is voting and in the other lobby it would be your name.



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You would be responsible for the vote. The absent Member is responsible for the way their vote is cast and for ensuring that the proxy follows their instructions, but they cannot, of course, enforce it. That is true but no more than—

Q87 Helen Goodman: Obviously I have not made my question clear. What I am saying is, don't we need an audit trail to show what you told the proxy on this occasion? For example, suppose it is something very controversial and I say to Bambos, "I am going to rebel. I want you to rebel for me on this", and Bambos gets a lot of grief from the whips. He then has to explain why he went into both lobbies, and on which occasion he was voting with the whip and on which occasion not. That would need to be written down.

David Natzler: Helen, if he votes it will be quite apparent. His name will not be in the rebellious lobby. It will be your name in the rebellious lobby. He happens to have cast it. We have had votes cast by clerks on the nodding through. When we have written ballots, a senior clerk has gone down to talk to a Member in New Palace Yard to get their ballot paper, and then they come into the lobby and they cast a vote but the only name that appears is the person whose vote is cast, not the person casting the vote. If you are the one who wants to rebel and he has done as you asked, he will have gone and put your name in. If they say, "We saw you coming out of the wrong lobby", he says, "Yes, I was casting Helen's vote as you will see in the list when it comes out".

Q88 Helen Goodman: I know, but my concern is that unless there is an audit trail, who is to know that the conversation took place in which the Member asks the proxy?

David Natzler: There has to be a trusting relationship. I do not think—

Q89 Chair: We can send an e-mail, "Dear Helen, can you vote for me in this lobby?" and if you don't I have got the e-mail.

David Natzler: You must argue it out between the two of you. I do not think the standing orders or the rules of the Speaker would want to come between a Member and her proxy. I think you have to have a relationship of trust. Whether you do it in writing, it would be between you to decide. If you appoint a proxy you can say, "I will be sending you a daily e-mail" or whatever. I think that should be left to the Member who is setting this up. Maybe at the end of the year, if there have been misunderstandings and you think there should be a system, one can be proposed, but I would be hesitant to suggest it should be anything to do with the official regime.

Q90 Chair: I have to say, I think there is something to be said for sending e-mails because you do not want there to be a terrible misunderstanding, and that would probably be a recommendation we will put in. It would be helpful for the proxy, to make sure the proxy always got it right, if they were informed in writing, if that was possible—it will not always be possible—that that is what you wish them to do.



Q91 Mr Ranil Jayawardena: Could I deal with a couple of specifics? In Australia proxy voting is not permitted on certain Bills, particularly on the third reading of a Bill that proposes an alteration to the constitution. Clearly we do not have the same constitutional arrangements, but can you envisage that this scheme could potentially provide that there are certain instances when a proxy vote would not be appropriate, when a proxy vote should not be permitted?

David Natzler: Yes. One over which I have puzzled, and it is obviously for your judgment, is the closure. Personally, I think that it should be allowed in the closure, but in a closure vote you need, as you know, at least 100 Members. If it is discovered that there are 99 plus a proxy, how would people feel? They might say, "They did not hear the arguments. How can they know?" I do not suppose a high proportion of the other Members will have actually heard the arguments either but, none the less, there is a slight propriety angle on the closure vote.

There are two instances where I think we would have to say that the proxy cannot be cast. The first is the so-called quorum count. Well, it is not a quorum count anymore. If there is a vote and fewer than 40 people are shown as being present and voting, the question stands over. I think that standing orders say "present and voting". It would be odd if absent people constituted what is effectively a quorum, although that is the old-fashioned phrase.

The second is, inevitably, under our Fixed-term Parliaments Act where two-thirds of Members have to vote in favour. Why? I will tell you partly why. It is a statutory provision and it would be open to judicial review, potentially, if there was any doubt about it. I would not want to expose the House to any greater risk of that, so there would need to be no doubt about what had happened. I would exclude those two categories.

It may well be that you, or indeed your clerks, think of other things to be decent exemptions, but those are the two that I can think of.

Q92 Mr Ranil Jayawardena: That is very helpful and is in line with the points that I was going to pick up on. One point you did not touch on was English votes for English laws.

David Natzler: I have written down "EVEL", and obviously I read the EVEL standing orders on a weekly basis. I think that there will be an issue with EVEL but I am sure your Committee can solve it. I think the issue is if your Chair were to give his proxy to a Member not normally able to vote or to have their vote recorded, which is slightly different, because they came from—I have to get the right phrase—one of the devolved nations where they have devolved legislatures, that could cause an immediate problem and uncertainty as to, "What are they doing in the lobbies?", but I think that would be solved. I do not think that is a problem. It is possibly a problem for the counting, but I think it is a minor problem, to be honest, on EVEL. I think it is soluble because, basically, a



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Member is simply acting as almost an official then and not as an individual in their own right.

- Q93 **Mr Ranil Jayawardena:** That is helpful, thank you. Can I just turn to—heaven forbid—a Member behaving improperly? In New Zealand the clerk noted that ultimately deliberate misuse of a proxy would constitute contempt of the House. Is it your view that that would happen here?

David Natzler: I do not think so. The New Zealand example has been very influential in people's thinking about proxies. We have discovered more about it, and it is totally different.

Mr Ranil Jayawardena: In terms of 25% turn up and—

David Natzler: Yes, in terms of this, exactly, and the whip has to affirm something: that lots of these people are within the precincts. I think what it means is that if it is discovered that nothing like the number of people claimed by the person casting the vote are in the precincts, that is a misuse. But I cannot immediately see how an individual proxy in these forms could be misused.

- Q94 **Mr Ranil Jayawardena:** Not on the sorts of arguments we are hearing, but in terms of the audit trail of someone expressly saying, "I want your vote to be voted this way". Heaven forbid. I am not accusing anyone here of being—

David Natzler: Heaven forbid. Let's see if that happens. The answer then would be, I think, "You chose the wrong proxy". I appointed a parent of mine as proxy in the 1970s referendum on the European Union, and I don't think she obeyed my instructions. I appointed the wrong parent.

Mr Ranil Jayawardena: Very good.

- Q95 **Sir Edward Leigh:** Apologies if this has been asked before, because I have just started to serve on the Committee, but in the early part of this Parliament, when the Government lost its majority, having trooped through division lobbies on Opposition day debates for 30 years under the impression that motions had some importance in this place, the Government announced that they would have no effect and they could safely be ignored. The Labour Party has regularly been moving motions and they have just been ignored by the Government. What is the nature of this motion, as passed by the House? I know it is House business, so I am under the impression that it has more force, but despite the fact that the House has passed this motion, could the Government ignore it?

David Natzler: I do not think it was addressed to the Government.

Sir Edward Leigh: It was addressed to the House.

David Natzler: Yes. It was not addressed to the Government. It is nothing to do with the Government, so it is not a matter of them either ignoring it or not ignoring it. They presumably have no position on it or, if



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they do, Ministers can try to persuade those who follow them, when an effective motion comes back to the House, to implement it, to vote one way or another, but it is not addressed to the Government. It is an expression of opinion by the House as to its own voting procedures, so it is nothing to do with the Government.

Q96 **Sir Edward Leigh:** It is nothing to do with the Government, so the House would implement it.

David Natzler: I understand you are being asked to provide the implementing tools. The motion was, I believe, deliberately framed as an expression of opinion to test the opinion of the House, which backed the resolution without a division. It can be taken to be an expression of the House's view and that is sufficient, but it evidently does not immediately have any practical consequences until the House passes it.

Q97 **Sir Edward Leigh:** But who implements it? Does the Leader of the House implement it? How does it work?

Chair: It has to be a motion. We table a motion, which is an amendment and the House will have a vote on whether to accept the recommendations of the Procedure Committee or amend them.

David Natzler: That may include a suggested standing order, or whatever is in your report. That will be up to the House to decide. Plainly the Government may have a role, not least in bringing forward a motion, but the original motion as passed on the Back-Bench day was addressed to the House, so there is no question of the Government ignoring it or not ignoring it. I assume they are just watching it on this occasion.

Q98 **Melanie Onn:** I wanted to follow up on Ranil's comments about the kinds of occasions when you have envisioned proxy voting being able to take place. Are you primarily thinking about votes on the floor of the House on big issues? You are not considering things like Select Committees or delegated legislations, or SI Committees, or anything like that?

David Natzler: That is correct. The suggestion from the reference group and others was that, at least at first, we should stick to the big votes, the large numbers, on the opinion of the House, including the committee of the whole House. Also, personally, I think it is quite important that if you are going to do it, you do it absolutely clearly for the written ballots, particularly for Select Committee chairs at the beginning of a Parliament. In 2015 and again in 2017 there were Members who were not able to vote in the written ballots, which was ridiculous because there would have been no practical difficulty in getting a copy of the written ballot to them and then returning it with the crosses against their names. However, there was simply no provision to do so. That is not by proxy, but it would be simpler to do it by proxy so that the individual can say, "I would like you to cast these names and here is my list". It did seem really bad that they could not do it. To me it just seemed wrong.



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Q99 **Melanie Onn:** Do you think that it is feasible for one individual to act as a proxy for multiples of their colleagues?

David Natzler: Yes.

Q100 **Melanie Onn:** Would that involve them going round and round the lobby repeatedly to go through the right channel?

David Natzler: No. They would go to one lobby, assuming they are voting themselves, and say, "I also hold these three proxies", which would be a fact recorded in votes and proceedings, and hopefully known to the division clerks and by reputation to the tellers, the same way as if you are nodding through. I have never seen it done, but you could obviously nod through more than one Member at a time. If you are nodding through two Members—heaven forbid, because it is obviously a bad sign—then you nod through two Members, so I do not see a problem with multiple Members.

Q101 **Nic Dakin:** You began by talking about the problem with transparency in the current proxy system of nodding through. Anything is possible, I suppose, but as there are some practical difficulties that can be overcome, which we have explored, it may be that within any system the current nodding through—for instance the whip system—could still be an option as that will have the lowest risk of something going wrong.

David Natzler: I do not think it is envisaged that nodding through will be prohibited. The Speaker describes it as a private arrangement between Members. It is not transparent at the moment, but it is an irregularity that has been long blessed by practice. After all, this would only apply to those with very small children, as I understand it, and not those who are now nodded through who are in the precincts but too infirm to come through the lobbies. It would be a great pity if that were stopped just because this is a system that applies to a different category of people.

Thought might be given by your Committee to recommending at the same time, just to tidy things up, that the same degree of transparency be applied to nodding through as will be applied to the new baby leave proxy votes. That simply means that for the person shown as voting but not there it might say—and that is for your judgment—"by proxy" or "not present in chamber". I appreciate that that is awkward for those Members who are nodded through who do not want their infirmity to be known, and you have to think about how we strike a balance between privacy and transparency.

Q102 **Nic Dakin:** If the Member wished to give their proxy to the pairing whip, for example, the pairing whip as they did the all clear could simply add—

David Natzler: Yes, but my understanding is the proxy we are proposing now is only for those who are on baby leave of some sort or child leave to cover adoptions.

Nic Dakin: Yes, I am talking about that.



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David Natzler: I see, on that. Yes. You want to separate out in your mind the existing nodding through and think either “Leave it alone” or “Is it wise to tidy it up while you are about to do this?”

Nic Dakin: Thank you.

Q103 **Sir Edward Leigh:** To go back to what I was asking, the whip officers are infinitely resourceful. Whatever the House has voted, is there any way this process could be frustrated by the Government?

David Natzler: Once the House has agreed it under the standing orders they can obviously —

Q104 **Sir Edward Leigh:** You think it is absolutely written in stone—that it happens.

David Natzler: No. As we may be discussing, 20 Opposition days do not always happen just because they are written in standing orders, but it would be quite a brave person who interfered between an absent Member who was entitled to appoint a proxy and the proxy.

Q105 **Sir Edward Leigh:** I am just talking about the principle. If we make the report and the House votes on it, if the Government does not want this to happen—

David Natzler: Then they must persuade Members to vote against it.

Q106 **Sir Edward Leigh:** They may have more subtle means. You are the expert on procedure and implementation. That is why I am asking you.

David Natzler: I am not the expert on what the whip’s officers, if they were hostile—

Sir Edward Leigh: I suspect you are.

Q107 **Chair:** No doubt the Leader of the House will be there when we vote on it, and if it is passed it happens. I cannot see that there is any way—

David Natzler: Obviously somebody could be persuaded not to appoint a proxy for some reason, or somebody could be persuaded, “Do not trust Mr Walker with your proxy. Please give it to me, the pairing whip”. I do not know if that is interfering with it. Members will be free to exercise their choice as to whom to give their proxy. There are understood to be three Members who are expecting in June and July, and I think they are all strong minded enough to resist the blandishments of whips to give their proxy other than to someone they trust.

Q108 **Sir Edward Leigh:** But in this respect we are masters in our own House on procedure, how votes are taken, all that sort of thing, unlike Government policy, and once we definitively pass something it happens.

David Natzler: Once the House has agreed this, I would have thought that is it, yes. I cannot see a problem.

Q109 **Chair:** David, we were going to talk about other things but you are going



to have to come back and do that, if you wouldn't mind.

David Natzler: Right. Can I make one plea, which is that you keep this as simple as possible and that you do not tie us up in a complicated scheme, when we want to change it, with exact numbers of days and months for adoption or bereavement? You might allow Mr Speaker, within your constraints, as wide a margin of dealing with personal circumstances as is possible.

Q110 **Chair:** No, the motion is clear. We are not going to start expanding into a huge variety of other areas.

David Natzler: No, I did not mean that, I am sorry. I am saying within that, please try to leave as much scope as possible within the concept of baby leave for the Speaker to determine in an individual complicated case—and there will be some—exactly when that Member can exercise a proxy. Do you see what I mean? Try not to tie it down too closely because then there will be a case where it does not work, and everybody will say, "Oh, bother, but we have just passed this complicated set of rules".

Q111 **Melanie Onn:** Do you mean just bear it in mind that if somebody wants to take their baby leave and appoint a proxy, do not say, "You can only appoint a proxy for seven and a half weeks for the period of time that you have decided to take baby leave", because there may be some complications and so on?

David Natzler: Life, as we know, is really complicated here, and strange things happen. I just think you want to leave it as open as you can within constraints, and within the baby leave constraints, to cope with unexpected circumstances.

Q112 **Chair:** People were discussing six months.

David Natzler: Yes, but that is what I meant. Do we mean six months from the estimated time of delivery or do we mean six months from the actual delivery? Again, you are going to be talking to a bigger expert than I am.

Chair: I think this is probably the point to end it. Thank you very much.

Examination of witnesses

Witness: Jo Swinson MP

Q113 **Chair:** Would you like to make an opening statement before you give evidence?

Jo Swinson: First of all I would like to say that I am delighted that the Procedure Committee is considering this issue, and indeed that we had the vote in the House that we did. I think that as we become a Parliament that is more fit for the 21st century, it is incredibly important that we are inclusive and accessible to Members in a whole range of



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circumstances. We know that parents are underrepresented in Parliament, interestingly both men and women. The bigger missing cohort is definitely mothers but fathers are also underrepresented in the House.

While I do not think anybody would ever suggest that there was any way to make this job entirely family friendly, given a lot of the constraints that apply, I think it is incumbent on us to look at what we can do to make the responsibility of being a Member of Parliament more compatible with the responsibility of being a parent. Looking at a more formalised system for baby leave, as it has been called—although rightly more extensive if you look at adoption, which would not always be of very small infants—and finding ways to make that leave possible in the same way that we try to make sure our constituents are protected in their parenting responsibilities and combining those with work, seems like a very sensible way forward.

Q114 Chair: Is it your experience that women too often feel that it is an either/or option? It is either a vocation in Parliament or a family, or even when they get to Parliament they feel that Parliament does not leave room for a family or as large a family as they would like.

Jo Swinson: I think that this is an issue that affects both men and women. In my time in the House I have seen many of my male colleagues struggle with the challenge of adapting to a new baby in the family and how they have felt constrained about the time they have been able to spend with their new child. It is certainly an issue for women as well, and I think my own research and experience in my own party has found that it is more likely for women to be elected either before they have children or when their children are much more significantly grown up. That points to a particular pattern of challenge of doing the job of Member of Parliament with small children, particularly but not exclusively if you have a constituency that is some distance from Parliament.

It can be a deterring factor, but there is a lot that can be done to make it better and more easily compatible. What is most frustrating is not the times when there is a reason for why it is so difficult. Those of us who are parents and have a constituency hundreds of miles away understand that it is important to be here physically and to vote, and therefore that is just one of those difficulties that get managed. It is when for no good earthly reason a difficulty is put in the way, like when you are voting so late at night because there is a filibuster and you are sitting there thinking, "This is such an inefficient way of using my time". As a working parent, time is precious. It is problematic.

I would also put on the record that this is not unique to this job. There are many jobs that our constituents do that are incredibly difficult to combine with family life. I think of people who are working away on oil rigs, in the armed forces or travelling regularly for business purposes. The key should always be to try to minimise those difficulties, not to just



shrug and say, “Well, tough, that is the way it is”. We should always try to make it more possible to combine family life with work.

- Q115 **Chair:** Looking through the lens of representation though, Parliament has never had a problem attracting men, ever. It has had a problem attracting women, so there is a more fundamental issue here. Yes, all these things are nice and you would argue important to have, and I would agree with you. But fundamentally if we are serious about increasing female representation, that is probably one of the overriding reasons why we need to look at this. We do not want women deterred from coming to Parliament because they feel it is not compatible with starting a family either before they get here or, more relevantly, once they are here.

Jo Swinson: It is important, I would totally agree, for representation reasons, and there is clearly a gender element to that because we have such a significant underrepresentation in this House even still. We should not overlook the fact that fathers as a group are also underrepresented in Parliament. We can say that Parliament has no difficulty attracting men—that is true—but Parliament does have a difficulty attracting, or perhaps keeping, fathers, because fathers compared to the general population are underrepresented in Parliament too. It is not only an issue of women.

- Q116 **Alison Thewliss:** To pick up on the point about travelling from Scotland, travelling for those MPs is a different consideration than it is for London MPs or for MPs who can travel in by train or car. Some of the airline carriers—BA—will not let you fly after 36 weeks. Flybe will not let you fly after 34 weeks. Do you think there needs to be something built into the system to recognise that even before birth women might not be able to travel?

Jo Swinson: I think so. It is an issue I have been looking into in quite a lot of detail recently. Indeed, you are right to say that the cut-off, for example for BA, is 36 weeks, but after 30 weeks, interestingly enough, you have to provide a letter that you are in a low-risk pregnancy and that everything is well. I am shortly going to be getting my midwife to issue me with such a letter. Last time I was pregnant that meant my final commute between my constituency and London was done by train, which from Glasgow is certainly doable with a five-hour commute, although at eight and a half months pregnant five hours on a train is not wonderful. I was absolutely determined that my husband came with me on that one because I had this intense fear of the wrong kind of virgin birth, which thankfully did not come to pass—the frantic Googling of maternity services down the west coast main line.

These are genuine and real concerns that have to be managed, particularly for MPs from the north of Scotland where you are not talking about five hours on a train, but about 10 hours on a train, or for MPs from Northern Ireland, where you would be talking about a ferry. It is sensible to consider that this might need to start at an earlier point. I suppose that goes to the last point that David Natzler was making about



being too rigid about timing. There might be circumstances where something that is pregnancy-related constrains an ability to travel and might need to be considered or accommodation made for that eventuality.

Q117 Bambos Charalambous: Do you envisage there being any votes on which you would want to vote in person rather than by proxy? I am thinking if there is a big vote coming up before the end of the year about leaving the European Union, deal or no deal. Would you want to cast that in person rather than in proxy?

Jo Swinson: I think it is fair to say that I am strongly in favour of us having the ability to have proxy votes, but I can certainly see from a personal preference that there would be particular votes that I would want to be here to cast in person. Obviously there might be some circumstances where that is physically literally impossible. If you are in labour, you are in labour; you are not going anywhere. Clearly, you want things to go well, but sometimes you can have significant complications and problems after birth, either as the mother or sometimes with the baby, which again would make you take a different view on that. I remember bumping into an MP, who was the mother of a newborn, not long after the election who had been asked to come to vote. I would have understood if it had been the Queen's speech. It was some vote on a Monday night about what the rules should be about Private Members' business on Fridays, and I thought that is not the kind of vote you want to be coming in with a newborn to vote on.

There are different votes in Parliament—votes of confidence and so on. I would not exclude them from proxy arrangements for the reason that I gave about timing or complications from giving birth, but I also think that the ability for a Member of Parliament to make the decision about whether there were specific votes they wanted to be there in person for would be one that many MPs would want to take up for specifically serious or significant votes.

Q118 Nic Dakin: Just looking at the terminology and language, are you comfortable with it being said that you are on "baby leave" or is it better to say that this is just a reasonable adjustment to working practices, a fairly small part of the work of an MP, when describing it to the outside world?

Jo Swinson: "Baby leave" is shorthand that people understand. A very strong case is given for the issue of adoption leave, where we have very clear rights for our constituents on adoption that are not solely about babies, and "parental leave" might be a better term. But I think it being commonly known as baby leave is not problematic.

Q119 Nic Dakin: My constituents take parental leave all the time, but they take leave from their job and no longer do their job during that leave, whereas at the moment this is not being looked at as leave from the job. I would see it, in my former existence leading an organisation, as making



the sort of reasonable adjustments I made on a daily basis to allow people to do their work because the barriers to work had changed.

Jo Swinson: I can see the distinction you are making. I think it is probably in reality less important exactly what it is called. It is more important to have the facility there. My experience—and I think from speaking to others this holds true more widely—is that the way in which you combine the job of an MP through parental leave is quite different, because you do not have that cover.

For example, while I took six months leave from being a Minister and a colleague covered my ministerial brief—that was all being done by somebody else—my first constituency engagement after having my son was about six or seven weeks in. I was not doing the kind of hours a week that I would normally be doing, but I was doing some engagements, not least because it was in the run up to a significant referendum campaign in Scotland that I cared very deeply about; it was a huge issue. I was doing some of my engagements and some of my duties while still having some mechanisms and systems in place, through dealing with correspondence and so on and surgeries being covered by staff, for example, to enable me to still have that time to bond with my baby.

That sort of almost hybrid approach is likely to continue, but I also know that MPs have done it very differently and have even done it differently during different pregnancies. Bluntly, the first time you become a parent it is a very significant shock to the system, and I am hoping it is not quite so significant the second time around. I know of one MP who, when she had her third or fourth child, did it in a very different way, because you are perhaps more in your stride with it by then. We still need to have the capacity for individuals to make those decisions about how they juggle it, but I do not think leave in itself is a massive problem in terms of wording. I also think that we should defend the right of new parents to take leave.

Q120 **Dan Carden:** I hope we get this through in time for your second birth, and best wishes for that.

Jo Swinson: Thank you.

Dan Carden: We asked lots of officials about the difficulties that proxies might face as they race through the lobbies, but in your position how do you think you will manage the relationship with your proxy? Do you think you will be following what is going on here and texting them? Have you thought who your proxy might be and those sorts of practical issues?

Jo Swinson: Yes, I have given some thought to it. I have not asked anyone yet, so I probably do not want to name names in Committee in public. I think MPs will generally be more likely to appoint a proxy from their own party, and probably one who is fairly close to their constituency, but they would also typically want it to be somebody who they have a good personal relationship with. One of the reasons that my



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maternity leave as a Minister worked so well was the person who took over my brief was Jenny Willott, who was a very trusted colleague and a pretty good friend. As I was starting to come back we were able to have plenty of conversations about what had been happening so that I was filled in.

Probably there will be a difference between the contact you have when your baby is two weeks old and you are just trying to get through the day—the chaos of those newborn days when it is major jubilation to get to the end of the day and everybody is still alive; they might not all be showered and clean, but everybody is still there—compared to when baby is four months old and, touch wood, hopefully sleeping in chunks that are longer than four or five hours at a time. It will vary, but the key thing I would encourage for any system that is created is that that is not tightly regulated in any way. It needs to be up to the individual Members to choose somebody that they trust and, if necessary, to have a facility so that if there is any need to change that individual they can by perhaps sending an e-mail or making a new notification. They need to be able to manage that themselves in the way in which they want to.

Chair: Jo, we have to see another witness who is patiently waiting. We have lots of questions, but we will rattle through them quickly.

Q121 **Bob Blackman:** Two quick questions, one of which you will have personal experience of: if two MPs are mother and father of a child do you think the same arrangements on proxy voting should apply to both parents who happen to be MPs?

Jo Swinson: Yes, I do. I think that this arrangement should not be exclusively for mothers, or indeed for fathers. It should not be confined to two weeks of statutory paternity leave. We have in this House legislated for shared parental leave, an issue very close to my heart as the Minister who took that through. At the same time as the Government are running a strong awareness campaign about encouraging take-up, we should be walking the walk too and making sure that men who are MPs and become fathers have these arrangements made available to them in the same way that they would be entitled to share parental leave.

Q122 **Bob Blackman:** The other issue is: do you think that a proxy provided should be for all votes in the House? You mentioned, for example, that just after a baby has arrived you are thinking about things other than what voting is going on. As you will appreciate, votes can be on all types of technical issues. Should they be restricted to a certain category of votes?

Jo Swinson: I think proxies should be available for all votes and it should be left up to the individual MPs to work that out. It may be that some MPs would say, "I want to text you every time that I want you to cast a proxy vote, and if I have not texted you then please do not do it", or it may be that if they are in the same party they say, "Please follow the party whip unless I say that I have a problem with that". I think it



should be available for all votes, but if the MP decides that there is a particularly significant vote that they want to come back for, there should be a fairly low-bureaucracy way of notifying clerks and the Speaker, through e-mail for example, and the proxy that on Tuesday evening next week, because that is going to be a particularly significant vote, it will not be the proxy voting, it will be the Member in person.

- Q123 Bob Blackman:** One example of what I have just raised would be where the party whips are not being applied so it is a matter of conscience, for example Private Members' Bills on a Friday. Should a proxy be applicable to those sorts of votes? Say you have just had a child, you are in the middle of worrying about breastfeeding the child, not worrying about what is going on in Parliament, and you do not issue instructions to your proxy. What happens then?

Jo Swinson: The basic rule should be that you appoint a proxy and then it is up to the relationship between the MP and the proxy to resolve those issues. That is not something that the House needs to get involved in. Even if you were in the middle of labour, if it had been a Private Member's Bill that you had been a co-signatory of, for example, it would not matter that you were in the middle of labour. It would be absolutely obvious to anybody that you would want to support that Bill.

You may well, before due date, sit down with your proxy and go through business and Private Members' Bills and things that are likely to come up. I think there are different ways in which MPs could manage that and it should not be for the House to get too hands-on and bureaucratic in how that relationship should work. We are Honourable Members; people should be able to choose somebody they trust, and then it is up to them. Ultimately, the MP who has appointed the proxy remains accountable for their votes because they will be accountable to their electorate, so it is in their interest to choose a proxy whom they trust and to make sure that they have rules of engagement with that proxy that are clear so that difficulties do not arise from it.

- Q124 Sir Edward Leigh:** I have one practical point. You have appointed your proxy, but we all know that for many reasons we ask to be slipped, perhaps to attend the Council of Europe, or are ill ourselves, and because we do not really like a thing, it would be easier to be away and abstain. What happens if you appoint a proxy and your proxy is in the position of not wanting to be here? I can see there is a problem there, isn't there? How do you overcome that?

Jo Swinson: It is no more of a problem than the Member might face themselves being in that situation, and it is just their accountability that is the issue there. There might be a couple of different solutions to that. First, in choosing a proxy in the first place, people might quickly check our voting records in deciding who they approach. Secondly, if there is a specific and important vote that affects a constituency but the proxy MP has a competing commitment, there could be a low-bureaucracy way of making a substitution for a particular event—and in the age of e-mail that



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really should not be too difficult to arrange. A Member would be able to arrange that by saying, "Next Wednesday I am going to be back to vote on that particular issue". That ought to be possible.

In appointing a proxy you would not necessarily anticipate that every single vote would be voted on because, with the best will in the world, sometimes people have constituency business on a Friday, for example.

Q125 Sir Edward Leigh: This leads me on. What I am worried about—I might ask this of our next witness also—is that there is going to be tremendous pressure for sheer convenience to appoint a whip as a proxy holder because the whips are always here. Of course, the whips would love this system.

Jo Swinson: I do not think I would feel under any pressure to do so whatsoever. That accountability lying with the Member is what gives you the confidence about that, and I would be surprised if lots of people decided to do that, but they might well if they happened to have a particularly good, trusted relationship with their whip, who may be from a neighbouring constituency. This should be up to Members to decide. It should not be up to the House to get overly involved in deciding what it should be.

Sir Edward Leigh: No, I agree.

Jo Swinson: If you are trying to suggest that this is some kind of conspiracy by the whips to make their life easier, there is not much evidence to back that up.

Q126 Chair: Jo, can I ask you one last question, because it is something we are going to have to deal with and we are wrestling with: why should your constituents be entitled to a greater level of representation when you are not in the House due to giving birth than someone's constituents where that individual is undergoing treatment for a serious illness or is just simply out of the country on a Select Committee trip? Do you see what I am saying? It is not targeted at you. It is a question that we need to answer, because it will be something that our constituents will ask us, and obviously you have thought about this a lot. Can you help us answer this?

Jo Swinson: There are a couple of answers to that, and it is a fair question. First of all, there is a scope for what this particular issue is looking at, and if the House wishes at some future point to look at the wider issue of illness it can certainly do so. That is very different to a Select Committee trip. You have a pairing system that works for one-offs or somebody who is away for a week on a Select Committee trip. Typically on a Select Committee you have people from different sides of the House away together anyway.

If you have pairing, you either have an individual who is paired or you have to do it on an ad hoc basis every time. There is a big difference saying to somebody, "Will you be paired with this individual for the next



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three votes this week?", and saying to somebody, "Someone is going on parental leave. Will you agree you will not vote for the next six months?" That raises different constitutional issues for the representation for the MP who is being asked to pair in those circumstances, but if you have it on a very ad hoc basis it becomes difficult to be certain that you can pair the MP. Plus it is much less transparent; the constituents are not having their voice in the House for that period of time.

You are right, if there is a significant period of illness that is also an issue, but the fact that there is a group of constituents for whom we have not yet been able to solve a problem does not mean we should not try to solve this problem. This is also not an illness. We as a country would have a bit of a problem if people stopped having children. The House would have a problem if it did not have parents represented within it because it would be poorer in the decisions that it made.

In the same way that within the workplace we outlaw discrimination—although unfortunately it is not enforced sufficiently given that we know, from the Government's own figures, that 54,000 women a year lose their jobs due to pregnancy and maternity discrimination—we should be proactively putting in place mechanisms to reduce any views out there that people might have that if they elect somebody who might become a parent there will be some detriment accorded to that constituency. Taking a step to remedy that is important from that perspective. Employment discrimination is not something that can be regulated within an electoral system, but this is something that we can do to minimise that risk.

Chair: Beautifully put. Thank you very much. We are now going to meet in private. Thank you, Jo.