



House of Commons  
Procedure Committee

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# Procedure under coronavirus restrictions: the Government's proposal to discontinue remote participation

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**Third Report of Session 2019–21**

*Report and Appendix, together with formal  
minutes relating to the report*

*Ordered by the House of Commons  
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## Procedure Committee

The Procedure Committee is appointed by the House of Commons to consider the practice and procedure of the House in the conduct of public business, and to make recommendations.

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## Summary

The Procedure Committee is making this emergency report to the House as soon as possible in advance of the recall of the House on 2 June which was announced by the Speaker on Thursday 28 May. The Government has sought the recall for the purpose of reconsidering the resolution on *Proceedings during the pandemic* agreed to by the House on 21 April, and to enable the House to take a decision on the arrangements it wishes to use for divisions while coronavirus restrictions continue. The Speaker has announced that, on public health advice, the division lobbies cannot be used for physical divisions for the foreseeable future, and the authorisation for the use of a remote division system expired on 20 May.

The belated recognition by the Government that these matters are for the House to decide is welcome. The Committee had already recommended that a review of the hybrid proceedings model introduced after the Easter recess should be undertaken by the end of the week after the Whitsun recess. It is unfortunate that the arrangements for remote proceedings were allowed to lapse on 20 May and that it has been necessary to recall the House to allow it to decide on how to conduct its proceedings while the restrictions on its work continue.

The lapsing of the hybrid procedures, in effect from 22 April to 20 May, have caused considerable concern among Members and the general public. An unprecedented number of Members have made their views known to the Committee by submitting written evidence to its ongoing inquiry into *Procedure under coronavirus restrictions*, by correspondence and by direct representations to Committee members. The Committee's inquiry into the effectiveness of House procedures under pandemic conditions will continue, and further representations are welcome. This report focuses on the decisions likely to face the House on 2 June, as represented in the Leader of the House's letter to all Members on 28 May.

The UK Government set out its overall COVID-19 recovery plan on 10 May. The plan stated that Parliament ought to set a national example of how businesses should return to work, and as a consequence the House ought to move towards physical proceedings and away from the hybrid system of virtual and physical participation in effect since 22 April. The House's work is certain to be affected by coronavirus restrictions on the Chamber and division lobbies and in committee rooms for some time to come. NHS advice on shielding, for the clinically extremely vulnerable, and social distancing, for the clinically vulnerable, remains in effect until 30 June at least.

Changes in House procedure and practice in the light of the pandemic are intended to be strictly temporary, time-limited and subject to regular review. The first opportunity for the House to review the changes in depth comes on 2 June. The Government proposes to rescind the resolution of 21 April acknowledging the effect of the pandemic on House proceedings. The resolution ought to be revised in the light of experience and the changes in restrictions.

The principle of strict parity of treatment between those participating physically and virtually ought to be dropped from the resolution: but it ought to maintain a commitment to allowing virtual participation by Members prevented from attending the House in person because of the pandemic. The resolution ought also to recognise a principle that House and Digital Service staff supporting the House's work should be facilitated to work from home wherever possible.

The operation of the Chamber under physical distancing conditions will continue to have a considerable impact on the House's practice. Amendments to Standing Orders will be necessary to amend the current rights of Members to occupy seats, and significant consideration will have to be given to the basis on which Members are entitled to the small number of places available. Some form of speakers' list seems inevitable in order to provide certainty over when Members ought to come to the Chamber.

Proposed arrangements for divisions, now that the division lobbies are unusable, ought to cause particular concern. The proposed arrangements, involving socially-distanced queuing from the Chamber down to Westminster Hall, appear to have significant practical deficiencies, and as matters stand Members will have to use the new system for any division on a decision on whether to adopt it while the lobbies are unusable. If introduced on 2 June it ought to be regarded as strictly interim until a more workable arrangement can be found. An alternative arrangement for voting during the period the lobbies are unavailable could combine the remote voting system used between 12 and 20 May with a system of Chamber voting for Members present in the House who wish to cast votes in person.

It is proposed that general committees on legislation should meet physically only in the committee rooms which are large enough to accommodate a socially distanced committee. No additional procedural changes are required to allow this. Public bill committees meeting physically have always been able to take evidence from witnesses not present at Westminster in the same way as select committees, but have not chosen to do so in the past. From mid-June the necessary equipment to allow them to do so over Zoom will be available in the Boothroyd Room. Bill committees are encouraged to take every opportunity to use these new facilities.

Experience of select committees deliberating virtually using Microsoft Teams and taking evidence in public virtually over Zoom has generally been positive. The Liaison Committee has recommended that the facility to allow Committees to meet virtually should be extended to the summer recess at least. The Procedure Committee supports this proposal.

# 1 Ceasing remote participation in House proceedings

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1. On 21 April 2020 the House agreed to a motion, made without notice, for a resolution which committed the House to making certain variations to its procedure and practice during the period of the COVID-19 pandemic.

*Resolved*, That this House is committed to taking all steps necessary to balance its responsibilities for continuing scrutiny of the executive, legislating and representation of the interests of constituents with adherence to the guidance issued by Public Health England and the restrictions placed upon all citizens of the United Kingdom, and is further committed, in pursuit of that aim, to allowing virtual participation in the House's proceedings, to extending the digital capacity of those proceedings to ensure the participation of all Members, and to ensuring that its rules and procedures are adapted to permit as far as possible parity of treatment between Members participating virtually and Members participating in person.

2. On the same day, the House agreed to a motion giving effect to certain orders governing the detailed operation of hybrid scrutiny proceedings—questions, urgent questions and statements—for a period ending on 12 May 2020. The following day the House agreed to a motion giving effect to orders governing the operation of hybrid substantive proceedings for the same period, and also agreed a motion to facilitate the introduction of remote divisions.

3. On 12 May the Leader of the House moved a motion providing for the extension of the effect of all these temporary orders until 20 May 2020. The motion was agreed to; at the same sitting the House agreed that at the end of proceedings on 20 May it would adjourn until Tuesday 2 June, in effect extending by one day the periodic Whitsun adjournment already agreed upon.

4. When moving the motion on 12 May, the Leader of the House announced that he did not envisage tabling a further motion to extend the effect of the temporary orders. Consequently the temporary orders ceased to have effect once the House rose on Wednesday 20 May. When the House sits next, it will initially do so using the procedures and practices which were in effect before the Easter adjournment.

5. On Thursday 28 May the Speaker announced that he had agreed to the Government's request for a recall of the House under Standing Order No. 13. The House is to be recalled at 11.30 am on Tuesday 2 June: under Standing Order No. 13 the Government will give notice of the business to be transacted at the recall sitting in the Order Paper to be published on that day.

6. The purpose of the Government's request, as stated by the Leader of the House in a letter sent to all Members on 28 May, is

to bring forward a motion so that the House can take a decision on the approach to physical divisions and social distancing in the Chamber, now that the [temporary orders] on hybrid proceedings have lapsed.<sup>1</sup>

The Leader explains that the Government's motion

will seek to rescind this resolution [of 21 April, on Proceedings during the pandemic] and will give the House the opportunity to take a view on the new procedures for physical divisions and agree measures to help to enforce social distancing in the chamber.

7. In a letter sent to all Members on 28 May, the Speaker explained that

I have been clear to the Government and to Opposition parties that I would prefer cross-party agreement to be reached about the way in which the House should conduct its proceedings when the House returns—including on how divisions should take place. I have given the Government until Monday morning to table its motion, to maximise the time available for such an agreement to be reached and to provide an opportunity for it to take account of the views of the Procedure Committee.

If agreement cannot be reached, I will want to ensure that Opposition parties and backbenchers have a chance to table amendments to the motion on Monday. I will also write to you setting out temporary arrangements under my own authority for the sole purpose of enabling the House to come to a decision on future arrangements.<sup>2</sup>

8. **The temporary facilities for virtual participation in the proceedings of the House, and for wholly remote divisions, all lapsed on 20 May. Several of the coronavirus conditions—which threatened to hamper the effective operation of the House in the weeks before the Easter adjournment—are nevertheless expected to be current when the House returns on 2 June.**

9. **The House is to be recalled at 11.30 am on Tuesday 2 June to consider a Government motion to rescind the resolution of the House of 21 April on *Proceedings during the pandemic*, to make new arrangements for physical divisions to take place and to put measures in place to enforce social distancing in the Chamber.**

10. **We make this interim report to the House before its return to inform Members about the continued effect of coronavirus conditions on House procedure and practice, and to assist the House in coming to a view on the procedures under which it should operate while coronavirus restrictions continue to affect its work.**

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1 The text of the Leader's letter is set out in full in the Appendix.

2 The text of the Speaker's letter is set out in full in the Appendix.

**11. The Committee intends to continue its general inquiry into procedure under coronavirus restrictions, and to hold the matter under review for as long as those restrictions continue. As part of that inquiry it will assess all temporary procedures and practices which have been introduced, to establish whether there is any merit in adapting them for use by the House once coronavirus restrictions have ceased.**

**12. The Committee is grateful to all those who have contributed, formally or informally, to its work to date, by submitting written evidence or by sharing their observations with Committee members. We will continue to receive written evidence to this inquiry, and we plan to hold oral evidence sessions on the continued effect of coronavirus restrictions on House procedure and practice.**

## 2 Coronavirus restrictions and their effect on House procedure and practice

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13. The Committee first reported on the effect of coronavirus restrictions on House procedure and practice on 21 April. In that report, we set out the restrictions which affected participation in proceedings and the way the business of the House is conducted in the Chamber and in committees. The three principal restrictions were:

- Government advice to certain individuals to self-isolate;
- legislative restrictions on freedom of movement in each part of the United Kingdom, and
- public health guidance on social distancing, to minimise the risk of onward transmission of the coronavirus.<sup>3</sup>

14. Under the resolution adopted by the House on 21 April, the House committed itself to balancing its legislative, scrutiny and representative responsibilities with adherence to public health guidance and to the restrictions applying to citizens across the United Kingdom. The resolution continues in effect until it is rescinded or amended.

15. In practice there has been no change since 21 April to two of the three restrictions set out above.

- The Speaker has made it clear that the guidance on social distancing issued by Public Health England in respect of the Parliamentary estate—including the Chamber and committee rooms—continues in effect. The capacity of the Chamber is therefore reduced to a total of some fifty seats: the Speaker has said that he is “quite prepared to suspend a sitting if I believe that the safe number of hon. Members in the Chamber risks being exceeded.”<sup>4</sup>
- NHS advice to those at high risk from coronavirus (termed ‘clinically extremely vulnerable’) is that they should ‘shield’ until 30 June at the earliest: this means that they should stay at home at all times.<sup>5</sup> This group includes those with severe respiratory conditions or conditions which place them at high risk of contracting infections.
- NHS advice to those at moderate risk from coronavirus (‘clinically vulnerable’) is that they should stay at home unless it is not possible to work from home. This group includes those who are 70 or older, those with diabetes and those who have lung conditions not considered severe.<sup>6</sup>

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3 Procedure Committee, First Report of Session 2019–21, *Procedure under coronavirus restrictions: proposals for remote participation*, HC 300.

4 *Official Report*, 13 May 2020, [col 268](#)

5 The advice, current on 29 May 2020, is published at <https://www.nhs.uk/conditions/coronavirus-covid-19/people-at-higher-risk-from-coronavirus/if-youre-at-very-high-risk-from-coronavirus/>

6 The advice, current on 29 May 2020, is published at <https://www.nhs.uk/conditions/coronavirus-covid-19/people-at-higher-risk-from-coronavirus/whos-at-higher-risk-from-coronavirus>

- NHS advice to anyone who has coronavirus symptoms, or who lives with somebody with coronavirus symptoms, is to self-isolate for a period of 7 or 14 days, depending on the circumstances. Self-isolation means not leaving the home for any reason.<sup>7</sup>

16. With effect from 27 May those told by the NHS Test and Trace service that they have been in contact with someone with coronavirus are to be required to self-isolate for 14 days.<sup>8</sup> This poses a potential additional restriction on the work of the House in circumstances where tracing identifies individuals with coronavirus who have been on the Parliamentary estate and in contact with Members and staff.

17. The condition which has changed is that in relation to freedom of movement. On 10 May the Prime Minister announced the UK Government's COVID-19 recovery strategy: the strategy was presented to the House on 11 May.<sup>9</sup> The Government's overall guidance is that

- for the foreseeable future, workers should continue to work from home rather than their normal physical workplace, wherever possible; and
- all workers who cannot work from home should travel to work if their workplace is open.<sup>10</sup>

The regulations restricting movement outside the home which are in effect in England during the period of the pandemic provide that “no person may leave or be outside of the place where they are living without reasonable excuse”. On 13 May the regulations were amended, in consequence of the policy objective set out by the UK Government, to provide that it is a reasonable excuse to leave a place where one is living in order to work.<sup>11</sup> Prior to that date, the regulations provided that leaving one's home *in order to travel to work* [emphasis added] was a reasonable excuse.

18. These regulations apply to England only. In the devolved jurisdictions, the respective governments have made regulations which make separate and different provisions in terms of the reasonable excuses which may be offered for leaving one's home during the pandemic.

19. The Government's strategy makes specific reference to the House:

It is vital that Parliament can continue to scrutinise the Government, consider the Government's ambitious legislative agenda and legislate to support the COVID-19 response. Parliament must set a national example of how business can continue in this new normal; and it must move, in step

7 The advice, current on 29 May 2020, is published at <https://www.nhs.uk/conditions/coronavirus-covid-19/what-to-do-if-you-or-someone-you-live-with-has-coronavirus-symptoms/when-to-self-isolate-and-what-to-do/>

8 The advice, current on 29 May 2020, is published at <https://www.nhs.uk/conditions/coronavirus-covid-19/testing-for-coronavirus/nhs-test-and-trace-if-youve-been-in-contact-with-a-person-who-has-coronavirus/>

9 *Our plan to rebuild: The UK Government's COVID-19 recovery strategy*, CP 239, May 2020

10 *Ibid*, p. 25

11 The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (SI 2020/350), regulation 6, as amended by the Health Protection (Coronavirus, Restrictions) (England) (Amendment No. 2) Regulations 2020 (SI 2020/500).

with public health guidance, to get back to business as part of this next step, including a move towards further physical proceedings in the House of Commons.<sup>12</sup>

On 12 May the Leader of the House, when moving the motion to extend hybrid proceedings to the Whitsun recess, said:

Although we must move in step with public health guidance, it is vital that when we are asking other people to work and to go to their places of work if they cannot do so from home, we should not be the ones who are exempt from that. Indeed, we should be leading by example. It is my expectation that I will not have to renew the temporary [ ... ] orders again.<sup>13</sup>

No further proposal to extend the effect of the temporary orders was made by the Government, and in consequence the temporary arrangements facilitating virtual participation in House proceedings lapsed at the rise of the House on 20 May.

20. The Government's policy is that Members ought to return to work at their workplace. For Members who wish to participate in any proceedings in the Chamber or who wish to record votes in divisions, that means travelling to Westminster, since it is not now possible for Members to do those things by virtual participation. Members who are appointed to general committees considering primary and secondary legislation will not be able to participate other than by attending in person.

### The operation of the resolution of 21 April and hybrid proceedings

21. On 28 May the Leader of the House announced the Government's intention to move a motion to rescind the House's resolution of 21 April. That resolution:

- recognised the House's continuing responsibilities in respect of scrutiny, legislation and representation
- committed the House to balancing these responsibilities with observing the restrictions imposed by Public Health England and the restrictions placed on all UK citizens, and
- further committed the House to
  - allowing virtual participation in its proceedings,
  - extending the digital capacity of those proceedings to ensure the participation of all Members, and
  - ensuring that its procedures were adapted to permit—as far as possible—parity of treatment between Members participating virtually and Members participating in person.

22. The resolution went hand in hand with the operating model for hybrid proceedings, which has underpinned the 'virtual Parliament' arrangements in operation from 22 April to 20 May. The Committee considered the initial draft of the operating model, which was

<sup>12</sup> [CP 239](#), p. 25

<sup>13</sup> *Official Report*, 12 May 2020, [col. 213](#)

subsequently endorsed with amendments by the House of Commons Commission. In our report of 21 April we recommended the amendment of House procedures to enable the operating model to be implemented for a temporary period.

23. The Committee did not set out explicit conditions to be met before the arrangements facilitated by the 21 April resolution should cease, though in a subsequent report we recommended that the operating model be reviewed not later than the first week of June. We had expected that, as a House matter, the issue would be put before the House in sufficient time to enable a considered decision to be taken on the matter, following debate.

24. The Government did not provide a means for the House to take any such decision following the announcement on 12 May that no extension of temporary arrangements was envisaged. The Government's decision to seek a recall of the House on 2 June, to provide an opportunity for the House to consider the matter and to reach a decision, is welcome, albeit that the lateness of this decision has constrained the Committee's ability to advise the House as fully as it would have wished.

25. All authorities in the UK are now moving to a new stage of dealing with the pandemic, and are arranging for certain restrictions put in place in late March to be modified or relaxed. The restrictions nevertheless continue, and several will continue to affect the House's proceedings until they are relaxed further or ceased altogether:

- Social distancing prescriptions will continue to limit the maximum number of Members present in the Chamber;
- The Speaker has announced that, on the basis of current advice given by Public Health England, the House cannot conduct divisions safely through the existing division lobbies;
- Until 30 June at the earliest, Members in the extremely clinically vulnerable category cannot now participate in proceedings in the Chamber and in general committees without disregarding NHS advice not to leave their home. Members in the clinically vulnerable category have also been given NHS advice about the circumstances in which they should leave their home.

26. In the light of the changes to coronavirus restrictions, the House may consider it appropriate to revisit the 21 April resolution: on current plans the Government is likely to facilitate a decision by the House on 2 June. In our view such a debate is timely and in line with the perspective for review of temporary procedures which we have already recommended.

27. In the Committee's view, the operation of hybrid scrutiny and hybrid substantive proceedings between 22 April and 20 May enabled the House to discharge its scrutiny and legislation responsibilities during that period to a degree which would not have been possible had it used physical means only to transact its business. We have indicated in an earlier report those areas where the outcomes from hybrid proceedings were not ideal, and we looked forward to a review of the arrangements to ensure that the issues identified by many Members were addressed.

28. **The Committee has been consistently of the view that the temporary arrangements should not be continued longer than strictly necessary to handle coronavirus restrictions, should be time limited and should be subject to regular review. We maintain this position.**

29. The Leader of the House has paid due regard to the House's responsibilities to scrutinise the Executive and to examine the Executive's proposals for legislation, the third responsibility of the House explicitly enumerated in the resolution—representation—has been less well provided for. The temporary orders governing hybrid substantive proceedings provided that only Government business could be taken: no days could be allocated to the Backbench Business Committee or to the Opposition parties for scheduling of debates. No debates on the adjournment have taken place since the House rose for Easter on 25 March. While the Committee recognises the Government's legitimate claim to legislative time in the House to complete its announced programme, the Government must commit to providing early opportunities for backbenchers to initiate debates on matters affecting their constituents.

### *The principle of parity of treatment*

30. The resolution of 21 April stipulates that there should as far as possible be parity of treatment between Members participating in proceedings by physical and by virtual means. This is in line with the position expressed by the Chair in her letter to the Speaker of 6 April,<sup>14</sup> and by the Committee in a key recommendation of our report on proposals for remote participation in proceedings:

We recognise that many Members find it incredibly challenging to travel to Westminster to participate in proceedings under current conditions. Of those able to travel, some will feel obliged to: equally, others will feel obliged to participate from home. The form of proceedings should not incentivise physical over virtual participation, or vice versa: no Member ought to be disadvantaged in their ability to participate in House proceedings under any temporary procedural modification made in consequence of coronavirus restrictions.<sup>15</sup>

31. The principle of parity was a fundamental principle underlying the operating model for hybrid proceedings. In pursuit of that principle, Members in the Chamber were not allowed to participate in ways which Members participating virtually could not. Thus spontaneous supplementary questions were disallowed, interventions on all contributions were not permitted, all requests to speak on any urgent question or statement and in any debate had to be submitted in advance, and no points of order could be accepted unless by prior arrangement.

32. The representations we have received, formally and informally, from other Members on the operation of hybrid proceedings indicate, to a significant degree, that the application of the parity principle has had a negative effect on the overall quality of proceedings.

14 Letter from the Chair of the Committee to the Speaker dated 6 April 2020. "The Committee is ready to advise on any temporary changes to practice and procedure which would allow the fullest possible participation by Members away from Westminster. However, these changes should not be made to the disadvantage of Members who are able to be present in the Chamber on any sitting day."

15 Procedure Committee, First Report of Session 2019–21, [Procedure under coronavirus restrictions: proposals for remote participation](#), HC 300, para 11

Assertions made during debate and in response to questions have been allowed to pass unchallenged; Members have been unable to follow up swiftly on matters of concern to them; and debates have become recitals of prepared texts rather than lively exchanges of view. Many Members chosen in advance to participate in debates have prepared fruitlessly because the operation of the hybrid model requires a substantial number of potential speakers to be held in reserve over and above the time allocated for hybrid proceedings, though the situation improved as the hybrid operating model was revised in the light of experience and feedback.

33. It does not necessarily follow that the principle of allowing virtual participation under continuing coronavirus restrictions ought to be abandoned. As we have set out above, there are several Members who, being over the age of 70, are in a group identified as clinically vulnerable to coronavirus. Some will consider that, since they can no longer participate in proceedings from home, they should travel to the House. Others may, quite reasonably, decide otherwise. Those in the clinically extremely vulnerable category will, as matters stand, face a rather starker choice on 2 June: to travel to Westminster against NHS advice that they should not leave their house, or forgo any participation in proceedings.

**34. We do not think it is reasonable for Members, and by extension the constituents they represent, to be excluded from proceedings of the House because they choose or have been advised to follow Government advice on how to protect their health during a pandemic. We therefore recommend that the House make provision for virtual participation in its proceedings for those Members who consider themselves unable to travel to Westminster for as long as the pandemic persists.**

**35. In the light of this recommendation the House may find it appropriate to discontinue the strict principle of parity of treatment.** To do so would allow a far more flexible operating model to be developed for any future arrangements for virtual participation, with greater day to day discretion given to the Speaker over how it might operate in accordance with prevailing circumstances. There would still be an incentive for Members to come to Westminster to participate in proceedings, since the range of opportunities to participate in debate would be greater for those physically present; but those unable to be physically present as a result of the impact of the coronavirus pandemic would not be excluded.

36. The Leader of the House has indicated that on 2 June the Government proposes to table a motion to rescind the 21 April resolution. In the Committee's view, it would not be appropriate to rescind the resolution governing proceedings during the pandemic in its entirety before the pandemic has ceased.

**37. The resolution of 21 April made no explicit mention of the staff of the House or of the Digital Service. The Committee has been given assurances about the number of staff members who will be required in order to facilitate a physical return of Members to the House. We recommend that this is kept under review: should an increase in staffing levels be required in consequence of any changes to House procedures, guidance should be sought from public health authorities on safe levels. We welcome the Speaker's assurance that, if it is considered at any stage that proceedings are unsafe for staff or Members, immediate action should be taken to halt proceedings and make changes to protect all those on the Estate.**

38. *We recommend that the resolution of 21 April be amended to make provision as follows:*

- *Recognition, as before, of the House's continuing responsibilities in respect of scrutiny, legislation and representation;*
- *A commitment, as before, to balancing these responsibilities with observance of the restrictions imposed by Public Health England and the restrictions placed on all UK citizens;*
- *A commitment that the House will as far as possible allow virtual participation in its proceedings by Members who, by virtue of the coronavirus pandemic, are prevented from attending the House in person;*
- *A commitment to maintaining the digital capacity of those proceedings to ensure the participation of such Members, and*
- *An explicit recognition that staff of the House and the Parliamentary Digital Service who support it in the discharge of its responsibilities ought to be facilitated to work from home wherever possible in line with continuing public health guidance.*

39. *We further recommend that the Speaker, on the basis of appropriate public health advice and in consultation with the Government and the opposition parties, set a date for review of the resolution. Not later than that date the Leader of the House ought to make arrangements for the House to consider proposals to maintain, amend or rescind the resolution.*

### 3 The continued impact of restrictions

40. Whatever decisions the House takes on 2 June, the procedure and practice of the House will continue to be significantly affected by coronavirus restrictions. The conditions under which the House is expected to operate at least until the summer recess are such that ‘back to normal’ working is not possible in any meaningful sense. We set out briefly below our initial assessment of the likely impact on certain key proceedings. **We will continue to review the impact of coronavirus restrictions on the work of the House in the light of the decisions the House makes on 2 June, and will make further recommendations as appropriate.**

41. *We recommend that the operation of physical proceedings with social distancing in place be kept under review. We do not know yet how the situation will change as the progress of the pandemic evolves. We will continue to seek the views of all Members on these arrangements, particularly where colleagues believe procedure and practice during the coronavirus pandemic could be improved in order to provide increased scrutiny and representation or better access for Members.*

#### Operation of the Chamber

42. While the numbers of Members able to be present in the Chamber at any one time are restricted to no more than 50, the Chamber cannot function as a debating chamber in its proper sense. Members have raised with us the differences they have found in debating in the Chamber under hybrid proceedings. Those differences are likely to persist even if the House chooses to remove all virtual participation from its proceedings. To cite just two examples:

- the restrictions on attendance make it difficult for any Member contributing to a proceeding to take the sense of the House as they would if Members were able to attend and participate freely.
- Ministers answering questions or responding to debates will not be able to ‘read the room’ properly if only a fraction of the room is there to be read.

43. The 50-Member limit on presence in the Chamber, arising from the advice given to the Speaker by Public Health England, raises a number of practical issues. We do not propose any solution to these issues at this stage, though we are prepared to advise the House further as required. The House of Commons Commission has requested a copy of the advice in writing. Once that advice is available to the Committee we may be in a position to advise the House further.

- The basis on which Members are to be admitted to the Chamber, and the conditions under which Members will be expected to leave the Chamber to make way for others, are not set out. Between 18 and 25 March, presence in the Chamber was managed by whips on a voluntary basis. Now that places are demarcated, and a strict limit imposed, those informal arrangements will be less easy to manage.

- We do not consider that Standing Orders Nos. 7 and 8, which govern the reservation of seats in the Chamber at Prayers, are appropriate to continue in effect while coronavirus restrictions on the Chamber persist: their operation should be suspended.
- Any backbencher successful in the daily ‘shuffle’ for oral questions to Ministers and others ought to be able to claim a place in the Chamber for the appropriate question time, but should be encouraged to relinquish the place at the end of the relevant proceeding.
- We envisage that some advance indication will have to be given to Members whom the Speaker intends to call early for supplementaries to urgent questions, observations on statements and contributions to debate, to enable them to be able to take their place in the Chamber in good time. This might necessitate the preparation and dissemination of a list setting out the order in which Members might be expected to be called, though without the rigidity of the call lists which were in operation under hybrid proceedings.
- Successive Speakers have been reluctant to publish any form of speakers’ list in advance, since it does not encourage Members to stay in the Chamber to listen to debates for an extended period. The Speaker may wish to balance this objective, and his operation of conventions about being present to hear opening speeches, responses to urgent questions and statements, with the very strict overall limit on Chamber numbers.
- The Speaker will have the usual range of disciplinary powers available to him to maintain order in the Chamber. In our view the Speaker would be entirely justified in exercising these powers to remove a Member or Members from the Chamber in circumstances where their continued presence prevented him from calling any Member he chose to participate in a debate.
- We envisage that if the House were to agree to continued virtual participation by certain Members, arrangements could be made for their participation during periods set out in advance. A discretionary ‘right of reply’ period could be provided at the end of each proceeding which would allow Members participating virtually to respond to points made in debate which they would otherwise have addressed through intervention.

## Divisions

44. As the Speaker has set out, the current division lobbies cannot be used for that purpose for as long as Public Health England advice as to their safety is in effect. Alternative plans for the conduct of divisions have been drawn up. Although plans have not yet been published, the Committee understands that they involve Members passing through the Chamber in a socially-distanced queue.

45. Members voting Aye<sup>16</sup> would pass to the left of the Table (as seen from the bar of the House) and those voting No would pass to the right: arrangements would be made for clerks to record the names of those voting via cameras trained on each despatch box, and tellers in the officials' boxes either side of the exit to the Speaker's Lobby would record the numbers voting. It is estimated that each division taken in this way would last some 30 minutes from the time of calling of the vote to the announcement of the result.

46. Between 500 and 600 Members can be expected to participate in a division on whipped business on a normal sitting day. While some suggest that the parties will manage the numbers of Members present on the estate to ensure that a maximum of 400 Members will be present, a socially distanced queue for a division would be as long as 800 metres if all Members wishing to vote joined at once.

47. Quite apart from the challenges in managing a socially-distanced queue of that length on the Estate, the conduct of a division in this way has none of the benefits which are claimed for double-lobby voting. Members queuing will be socially distanced, and presumably discouraged from changing places in a queue in order to strike up conversations with colleagues. It will not be possible for most Members to approach Ministers for discussions. Members with disabilities will be allowed to the front of the queue, but no other prioritisation is likely to be possible. Each division is therefore likely to claim a substantial proportion of a Member's working time during the sitting day—considerably more than has hitherto been taken up by double-lobby voting. In practice, while coronavirus restrictions continue as they are, Members will find that much of their time at Westminster is spent either in queues for divisions or in their own offices without the support of their staff.

48. The proposed division model is likely to have other negative effects. A desire to avoid a succession of lengthy divisions may increase the pressure on Members not to test the will of the House on points of principle—an effect which will be disproportionately felt, for instance, by backbenchers seeking decisions of the House on amendments to bills. Members at Westminster participating in any select or general committee proceeding will have to leave the meeting to vote, for at least 30 minutes: this is likely to have significant negative effects on the work of committees.

49. It has been argued by the Leader of the House and others that many of the issues arising from the Chamber voting system can be addressed by systematic, broad and accommodating pairing arrangements. That may be true in many cases: but paired votes are of course not recorded. A Member wishing to have a vote recorded on a particular issue will have to travel to Westminster, even if not intending to participate in any debate, in order to ensure that the vote on a question is duly recorded.

**50. The Chamber voting system as described to us appears to many Committee Members to have significant deficiencies as opposed to the double-lobby division system. We note that as matters stand the Speaker proposes, under his own authority, to put these arrangements in place, for the duration of the recall sitting on Tuesday, until the House has authorised alternative arrangements to double-lobby voting.**

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16 To enable the clerks recording divisions via videolink to hear accurately, Members will be required to say 'Yes' when voting Aye.

51. **We do not at present have a detailed system to recommend as an alternative to the system proposed to be used for physical divisions on 2 June which the House is likely to be invited to adopt. Members should nevertheless recognise that we have serious concerns over the operation of this system in practice: it should be treated as strictly interim and for replacement as soon as agreement can be found on an alternative method of voting. *We recommend that urgent consideration be given to implementing an alternative system on the basis of the arrangement we outline below.***

52. **The system of remote voting in divisions in effect between 12 and 20 May was itself recommended by the Committee as a strictly time-limited measure. While the system as introduced did not allow Members present at Westminster to participate physically in divisions, we understand that it could be combined with a Chamber voting arrangement to allow Members away from Westminster or not present in the Chamber to record their votes remotely, while Members who wished to participate in a socially-distanced division could use the Chamber voting method described above. *In the absence of a form of physical voting that the House is prepared to accept, we recommend that hybrid arrangements for remote voting as set out above should be introduced as a matter of urgency.***

53. We also suggest that the use of deferred divisions on categories of business other than those defined in the relevant Standing Order may mitigate difficulties with divisions in person in Chamber. Greater use of deferred divisions on business on days other than Wednesdays would reduce the pressure on Members to attend the House on those days just in order to vote. However, this in itself would result in a significant number of members being required to be on the estate at a fixed point in the week, and may place additional pressures on the ability of the House to manage social distancing in line with Public Health England guidelines on social distancing. The method of conducting deferred divisions would itself have to be compliant with those guidelines.

## General committees

54. The detailed legislative work of the House depends to a very great extent on general committees: public bill committees and delegated legislation committees. While the Committee of Selection has recently begun to nominate Members to sit on such committees, no committees of this type have sat since the end of the Easter adjournment. Seven Government Bills are either part way through consideration in public bill committee or are awaiting the committee's first meeting.<sup>17</sup> Several statutory instruments requiring approval by the House are also awaiting consideration in committee.

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17 The Domestic Abuse Bill, the Environment Bill, the Finance Bill, the Fire Safety Bill, the Immigration and Social Security Co-ordination (EU Withdrawal) Bill, the Medicines and Medical Devices Bill and the Trade Bill.

### ***Proposed arrangements for public bill committees***

55. The House has not been asked to approve any changes to general committee procedure and practice to allow virtual participation by Members in such committees. We understand that the Government proposes to have such committees meet in a physical-only setting, using the two general committee rooms on the Committee Corridor large enough to accommodate the minimum membership of a public bill committee under socially distanced conditions.<sup>18</sup>

56. While no changes to House procedure or practice are required to allow a general committee to operate under coronavirus restrictions, the convening of such committees, typically for morning and afternoon sittings twice a week, creates an additional requirement on House staff to attend: in addition to one or two Committee clerks and a member of Hansard staff to log proceedings, staff are required to prepare the room for each sitting, to supply the committee with relevant papers and to arrange for an audio webcast of proceedings. In addition, staff of Government departments are required to attend in support of the Minister taking the bill through Committee. Bill committees therefore add to the number of Members and staff required to be physically present on the Estate.

### ***Public bill committees and oral evidence***

57. Some Members have raised concerns about the ability of public bill committees taking oral evidence to take evidence from witnesses via videolink. Evidence given to select committees in public over the Zoom platform has become commonplace since the House agreed, for a temporary period, to allow Members to participate in select committee meetings virtually. There has never been a procedural bar to witnesses giving evidence to select committees, or public bill committees, remotely: for select committees, the barrier has been the availability of appropriate videoconferencing technology and equipment.

58. We understand that the Boothroyd Room is to be installed with appropriate equipment to allow Members of a committee meeting in that room to hold a public evidence session with witnesses who would participate using a videoconferencing platform. The equipment is to be installed and ready for use by mid-June by any public bill committee. **We welcome the installation of videoconferencing equipment in the Boothroyd Room. Public bill committees will be able to use this room for evidence-taking sessions with witnesses participating virtually. The facility is likely to be particularly useful to take evidence from witnesses unable to attend Committee meetings at Westminster because of coronavirus restrictions or for other reasons. We encourage public bill committees to take every opportunity to use the new facilities to hear evidence from witnesses.**

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18 Committee Rooms 10 and 14. The minimum number of Members the Committee of Selection may nominate to a public bill committee is sixteen (Standing Order No. 86(1)). The Chair is appointed by the Speaker from the Panel of Chairs (Standing Order No. 85).

### **Delegated legislation committees**

59. The Government has not made any statement to the House about its plans to have delegated legislation considered in committee. There is a risk that, given the limited resources available and the inevitable prioritisation of primary legislation, the scrutiny of delegated legislation in committee will suffer.

60. We do not intend in this report to rehearse the deficiencies in the delegated legislation scrutiny process identified by many previous Procedure Committees. The Government must ensure that its scheduling of consideration of instruments required to be approved by the House is not compromised by other demands on scarce resources. Proposals have already been made for better use of the House's resources and expertise in examining delegated legislation,<sup>19</sup> and we plan to conduct further work in this area.

### **Select committees**

61. On 24 March the House agreed to a temporary order of the House facilitating remote participation of Members in select committee meetings, and the reporting to the House of certain matters by Chairs alone without the need for a committee meeting. This followed a recommendation made directly to the Government by the Committee. The order expires on 30 June but may be extended for a further period by the Speaker acting alone.

62. Members who have sent in observations on virtual working have generally commended the arrangements made for select committees to meet remotely using Microsoft Teams (for private meetings) and Zoom (for evidence sessions in public). Opinions differ on whether deliberative meetings held remotely can substitute for deliberations held in a committee room. The overall impression is nevertheless positive.

63. The Liaison Committee was established on 20 May and held its first meeting on 21 May. That committee, comprising the chair of each select committee in the House and chaired by Sir Bernard Jenkin, has a significant role to play in determining procedure and practice in the House's select committees. At its first meeting the Committee agreed that its Chair should write to the Speaker to request an extension of the remote meeting provisions until at least the summer recess. The Committee agreed that this was "the only way to ensure that members of select committees can continue to participate in their proceedings on a fair and equal basis during the current pandemic."<sup>20</sup>

**64. We note with approval the generally positive reception for virtual working arrangements for select committees. We support the Liaison Committee's proposal that these arrangements be continued until at least the summer recess.**

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19 [CVR 01](#) (Paul Evans)

20 Letter from the Chair of the Liaison Committee to the Speaker, dated 28 May 2020

## Conclusions and recommendations

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### Ceasing remote participation in House proceedings

1. The temporary facilities for virtual participation in the proceedings of the House, and for wholly remote divisions, all lapsed on 20 May. Several of the coronavirus conditions—which threatened to hamper the effective operation of the House in the weeks before the Easter adjournment—are nevertheless expected to be current when the House returns on 2 June. (Paragraph 8)
2. The House is to be recalled at 11.30 am on Tuesday 2 June to consider a Government motion to rescind the resolution of the House of 21 April on *Proceedings during the pandemic*, to make new arrangements for physical divisions to take place and to put measures in place to enforce social distancing in the Chamber. (Paragraph 9)
3. We make this interim report to the House before its return to inform Members about the continued effect of coronavirus conditions on House procedure and practice, and to assist the House in coming to a view on the procedures under which it should operate while coronavirus restrictions continue to affect its work. (Paragraph 10)
4. The Committee intends to continue its general inquiry into procedure under coronavirus restrictions, and to hold the matter under review for as long as those restrictions continue. As part of that inquiry it will assess all temporary procedures and practices which have been introduced, to establish whether there is any merit in adapting them for use by the House once coronavirus restrictions have ceased. (Paragraph 11)
5. The Committee is grateful to all those who have contributed, formally or informally, to its work to date, by submitting written evidence or by sharing their observations with Committee members. We will continue to receive written evidence to this inquiry, and we plan to hold oral evidence sessions on the continued effect of coronavirus restrictions on House procedure and practice. (Paragraph 12)

### Coronavirus restrictions and their effect on House procedure and practice

6. The Committee has been consistently of the view that the temporary arrangements should not be continued longer than strictly necessary to handle coronavirus restrictions, should be time limited and should be subject to regular review. We maintain this position. (Paragraph 28)
7. We do not think it is reasonable for Members, and by extension the constituents they represent, to be excluded from proceedings of the House because they choose or have been advised to follow Government advice on how to protect their health during a pandemic. *We therefore recommend that the House make provision for virtual participation in its proceedings for those Members who consider themselves unable to travel to Westminster for as long as the pandemic persists.* (Paragraph 34)
8. *In the light of this recommendation the House may find it appropriate to discontinue the strict principle of parity of treatment.* (Paragraph 35)

9. The resolution of 21 April made no explicit mention of the staff of the House or of the Digital Service. The Committee has been given assurances about the number of staff members who will be required in order to facilitate a physical return of Members to the House. *We recommend that this is kept under review: should an increase in staffing levels be required in consequence of any changes to House procedures, guidance should be sought from public health authorities on safe levels.* We welcome the Speaker's assurance that, if it is considered at any stage that proceedings are unsafe for staff or Members, immediate action should be taken to halt proceedings and make changes to protect all those on the Estate. (Paragraph 37)
10. *We recommend that the resolution of 21 April be amended to make provision as follows:*
- *Recognition, as before, of the House's continuing responsibilities in respect of scrutiny, legislation and representation;*
  - *A commitment, as before, to balancing these responsibilities with observance of the restrictions imposed by Public Health England and the restrictions placed on all UK citizens;*
  - *A commitment that the House will as far as possible allow virtual participation in its proceedings by Members who, by virtue of the coronavirus pandemic, are prevented from attending the House in person;*
  - *A commitment to maintaining the digital capacity of those proceedings to ensure the participation of such Members, and*
  - *An explicit recognition that staff of the House and the Parliamentary Digital Service who support it in the discharge of its responsibilities ought to be facilitated to work from home wherever possible in line with continuing public health guidance.* (Paragraph 38)
11. *We further recommend that the Speaker, on the basis of appropriate public health advice and in consultation with the Government and the opposition parties, set a date for review of the resolution. Not later than that date the Leader of the House ought to make arrangements for the House to consider proposals to maintain, amend or rescind the resolution.* (Paragraph 39)

### The continued impact of restrictions

12. We will continue to review the impact of coronavirus restrictions on the work of the House in the light of the decisions the House makes on 2 June, and will make further recommendations as appropriate. (Paragraph 40)
13. *We recommend that the operation of physical proceedings with social distancing in place be kept under review. We do not know yet how the situation will change as the progress of the pandemic evolves. We will continue to seek the views of all Members on these arrangements, particularly where colleagues believe procedure and practice during the coronavirus pandemic could be improved in order to provide increased scrutiny and representation or better access for Members.* (Paragraph 41)

14. The Chamber voting system as described to us appears to many Committee Members to have significant deficiencies as opposed to the double-lobby division system. We note that as matters stand the Speaker proposes, under his own authority, to put these arrangements in place, for the duration of the recall sitting on Tuesday, until the House has authorised alternative arrangements to double-lobby voting. (Paragraph 50)
15. We do not at present have a detailed system to recommend as an alternative to the system proposed to be used for physical divisions on 2 June which the House is likely to be invited to adopt. Members should nevertheless recognise that we have serious concerns over the operation of this system in practice: it should be treated as strictly interim and for replacement as soon as agreement can be found on an alternative method of voting. *We recommend that urgent consideration be given to implementing an alternative system on the basis of the arrangement we outline below.* (Paragraph 51)
16. The system of remote voting in divisions in effect between 12 and 20 May was itself recommended by the Committee as a strictly time-limited measure. While the system as introduced did not allow Members present at Westminster to participate physically in divisions, we understand that it could be combined with a Chamber voting arrangement to allow Members away from Westminster or not present in the Chamber to record their votes remotely, while Members who wished to participate in a socially-distanced division could use the Chamber voting method described above. *In the absence of a form of physical voting that the House is prepared to accept, we recommend that hybrid arrangements for remote voting as set out above should be introduced as a matter of urgency.* (Paragraph 52)
17. We welcome the installation of videoconferencing equipment in the Boothroyd Room. Public bill committees will be able to use this room for evidence-taking sessions with witnesses participating virtually. The facility is likely to be particularly useful to take evidence from witnesses unable to attend Committee meetings at Westminster because of coronavirus restrictions or for other reasons. *We encourage public bill committees to take every opportunity to use the new facilities to hear evidence from witnesses.* (Paragraph 58)
18. We note with approval the generally positive reception for virtual working arrangements for select committees. We support the Liaison Committee's proposal that these arrangements be continued until at least the summer recess. (Paragraph 64)

## Appendix: Correspondence with Members concerning the recall of the House on 2 June 2020

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### Letter to all Members from the Speaker, dated 28 May 2020

The Government has requested that the House be recalled for an earlier sitting on Tuesday 2 June 2020, to sit from 11.30am. The main purpose of the Government's proposed recall is to bring forward a motion so that the House can take a decision on the form divisions should take - now that the temporary Standing Orders on hybrid proceedings have lapsed.

Apologies for the long letter but I would like to set out why I have decided, after careful consideration and on balance, that the public interest test has been satisfied and therefore I agree to this request.

This is the situation the House finds itself in:

- the temporary orders for remote divisions have lapsed;
- the previous and established method of voting using the division lobbies has been condemned as not meeting social distancing standards by Public Health England;
- although I made a statement on 23 March about a method of carrying out divisions in the lobbies, that was based on the advice provided then by Public Health England. The new advice is very different. There is currently no other method for divisions sanctioned by the House.

Based on the latest professional advice from Public Health England, it is clear to me that the House simply cannot conduct divisions safely via the lobbies. There are pinch points in the lobbies where MPs are recorded by Clerks and counted by Tellers where it would be difficult to maintain social distancing, even though Perspex booths were prepared for two of the division desks. Nor can we follow the strict letter of Standing Order No. 38 which forms part of the House's normal practice for the conduct of divisions and sets out particular requirements about timings. That is my view and that of the Clerk of the House as Corporate Officer, who has a duty to ensure, so far as possible, the safety of all of those on the Parliamentary Estate. As safety is my paramount consideration for MPs and staff—alongside the need for constituents to be properly represented through voting—we need to consider practical alternative arrangements.

Now that I have agreed to a recall on Tuesday, it is for the Government to decide what proposal for voting it wishes to put forward. I have been clear to the Government and to Opposition parties that I would prefer cross-party agreement to be reached about the way in which the House should conduct its proceedings when the House returns - including on how divisions should take place. I have given the Government until Monday morning to table its motion, to maximise the time available for such an agreement to be reached and to provide an opportunity for it to take account of the views of the Procedure Committee.

If agreement cannot be reached, I will want to ensure that Opposition parties and backbenchers have a chance to table amendments to the motion on Monday. I will also write to you setting out temporary arrangements under my own authority for the sole purpose of enabling the House to come to a decision on future arrangements.

It is not good enough for the House to meet as planned on Tuesday, 2 June and be unable to come to decisions on contested matters of any kind. It is in the public interest that the House should have its say and determine at the earliest convenient moment how it wishes to come to formal decisions for the immediate future. That is why I have agreed to the recall.

It may be that the motion tabled by the Government will also say something about arrangements to ensure appropriate physical distancing within the Chamber, and compliance with public health requirements more generally. However, I wish to restate that I remain willing, under my own authority, to take the steps I think are essential in that regard. In particular, I repeat my view that the limit of around 50 Members present in the Chamber must not be exceeded.

I will write to colleagues again on Monday when the Government has tabled its motion about the shape of Monday's proceedings. I understand that the recall will mean that Justice questions will not take place on Tuesday, but the opportunities for urgent questions and statements are unaffected. It is for the Government to set out its proposals for the remaining business of the day. Further guidance will be available as soon as the House reaches its decision on Tuesday.

*28 May 2020*

## **Letter to all Members from the Leader of the House, dated 28 May 2020**

### ARRANGEMENTS AFTER THE WHITSUN RECESS

During the current covid-19 pandemic, the Government has been committed to working closely with members on all sides of the House of Commons and ensuring proper scrutiny by the House. I am writing to update you that, following a request to Mr Speaker, the House will now return early on Tuesday 2 June 2020 (sitting from 11.30).

The purpose of this earlier sitting is to bring forward a motion so that the House can take a decision on the approach to physical divisions and social distancing in the Chamber, now that the motions on hybrid proceedings have lapsed.

On 21 April, the House agreed a resolution to provide parity between those attending the House in person and those participating remotely. The Government's motion on 2 June will seek to rescind this resolution and will give the House the opportunity to take a view on the new procedures for physical divisions and agree measures to help to enforce social distancing in the chamber. I judge these steps are needed to provide certainty to our proceedings after the Whitsun recess. They are also in the public interest as the House must be able to take formal decisions through divisions in order to operate as an effective legislature. Any uncertainty about the House's ability to take decisions must therefore be

resolved as soon as possible and we must also be in a position to ensure we continue to work in line with public health advice, as required across the country. I hope that members will welcome the opportunity for the House itself to take the decision on these matters.

Those MPs returning to Westminster for the first time in two months will see significant differences, thanks to Mr Speaker's thoroughness in ensuring the Commons adheres to public health guidance. Social distancing is practised rigorously, not least in the chamber. The division lobbies will be replaced by a more appropriate alternative. The motion on 2 June will ensure that the House has been able to agree its approach.

Despite the important steps that have been taken, we do accept that some Members may feel reluctant to return because of their particular circumstances. For those MPs with underlying health conditions who have been told to shield or are receiving specific government advice about their health, the government is working with the House authorities to see how they can safely continue to contribute to proceedings within the House. This situation will remain under continued review and all relevant authorities, including the Procedure Committee, will be consulted.

May I take this opportunity to thank all members for their diligent work during this pandemic and to wish them and their families well.

*28 May 2020*

## Formal minutes

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**Friday 29 May 2020**

Members present:

Karen Bradley, in the Chair

Kirsty Blackman	Nigel Mills
Sir Christopher Chope	Owen Thompson
Chris Elmore	Liz Twist

The Committee deliberated.

Draft Report (*Procedure under coronavirus restrictions: the Government's proposal to discontinue remote participation*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 64 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Second Report of the Committee to the House.

Papers were appended to the Report as an Appendix.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Monday 1 June at 2.30 pm.]

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2019–21

First Report	Procedure under coronavirus restrictions: proposals for remote participation	HC 300
Second Report	Procedure under coronavirus restrictions: remote voting in divisions	HC 335