



House of Commons
Public Administration
and Constitutional Affairs
Committee

**Coronavirus Act
2020 Two Years On:
Government response
to the Committee's
Seventh Report of
Session 2021–22**

**First Special Report of Session
2022–23**

*Ordered by the House of Commons
to be printed 17 May 2022*

Public Administration and Constitutional Affairs Committee

The Public Administration and Constitutional Affairs Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration and the Health Service Commissioner for England, which are laid before this House, and matters in connection therewith; to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service; and to consider constitutional affairs.

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First Special Report

The Public Administration and Constitutional Affairs Committee published its Seventh Report of Session 2021–22, [Coronavirus Act 2020 Two Years On](#) (HC 978) on 18 March 2022. The Government's response was received on 11 May 2022 and is appended below.

Appendix: Government Response

Introduction

The Government welcomes the Public Administration and Constitutional Affairs Committee's report on its inquiry into the 'Coronavirus Act 2020 Two Years On', published on 18 March 2022. We thank the Committee for their comprehensive review and scrutiny of the Act and their recommendations. This document sets out the Government's response to the Committee's report.

As a general point, the Government recognises the importance of identifying important lessons learned from the pandemic, including the legislative response to emergency scenarios. We continue to review the legal framework and lessons learned from COVID-19, to make sure we are well-equipped to respond to future health risks. We also look forward to the outcomes of the independent UK COVID-19 Inquiry, which will launch once the terms of reference are finalised and agreed.

We would like to take this opportunity to note an addendum within the twelfth two-monthly report, published on 24 March 2022.¹ This addendum addresses an omission in previous reports on the Coronavirus Act 2020 ("the Act"), which came to light after our written and oral evidence to the Committee. Those reports should have included information on sections 42 and 43 of the Act, which are temporary provisions relating to Statutory Sick Pay in Northern Ireland only. The addendum provides information about the status of these provisions over the course of the pandemic and updates on the status of these provisions have also been provided in the Status Table in the latest two-monthly report on the Act.¹ We assure the Committee that this reporting omission has not impacted on the policy relating to these provisions. The Department of Health and Social Care apologises for this omission in previous reports.

We would also like to update the Committee on the status of the temporary, non-devolved provisions within the Act. Since the Committee's report was published, the Government has extended five provisions within the Act for up to six months. These are section 30, which deals with the suspension of the requirement to hold an inquest with a jury in England and Wales; sections 53–55 which relate to court services; and section 43 which relates to Statutory Sick Pay in Northern Ireland. A Statutory Instrument extending these provisions was laid on 23 March 2022 and came into force the next day.² Further information about these provisions is provided in the twelfth two-monthly report on the Act.¹

1 [Coronavirus Act report: March 2022 - GOV.UK \(www.gov.uk\)](#)

2 [The Coronavirus Act 2020 \(Delay in Expiry: Inquests, Courts and Tribunals, and Statutory Sick Pay\) \(England and Wales and Northern Ireland\) Regulations 2022 \(legislation.gov.uk\)](#)

Procedural Mechanisms of the Coronavirus Act

1. *The Committee noted that sunset clauses, including their appropriate length, should be considered carefully for any future legislation. Whilst a useful legislative tool, they can allow for stronger and broader powers than would otherwise be passed by Parliament, and the Government recognised in their evidence that, without the sunset clause, this legislation, as a whole, might not have been approved by Parliament in the way it was. (Paragraph 27)*
2. *Any future use of sunset clauses in relation to emergency legislation should come with a clear explanation about why the Government believes that the length of the sunset being proposed is proportionate to the emergency being addressed. (Paragraph 28).*

The Government notes the Committee's concerns about the use of sunset clauses in emergency legislation and agrees that sunset clauses, including their length, should be considered carefully and explained to Parliament. We note that the Committee accepts the justification provided by the Secretary of State for Health and Social Care in evidence to the inquiry on the length of the sunset clause within the Act (paragraph 36).

The sunset clause for the temporary provisions within the Act aimed to strike a balance between introducing necessary provisions to tackle the pandemic, whilst ensuring they remained in force for only as long as they were needed. The Act was introduced during a period of uncertainty. When the Act was being drafted in March 2020, the future course and impacts of the pandemic were unknown and, therefore, it was not possible to predict with a high degree of certainty the length of time the measures in the Act might be needed. As such, a two-year lifespan for the temporary provisions within the Act was deemed proportionate and was approved by Parliament.

The Government has always been clear that the temporary powers in the Act would only remain in place for as long as they were needed. The Act includes powers (section 90 and section 88) to enable temporary provisions to be expired or suspended before the sunset date. This provided much needed flexibility to react once more was known about the virus and the legislative powers required to respond. As the pandemic progressed and we learned more about the virus, the Government expired 20 temporary, non-devolved provisions early and suspended a total of four provisions, which have since expired. The Government has extended five provisions within the Act for up to six months beyond the 24 March 2022. Four of these provisions (sections 30 and 53–55) have enabled innovations in the delivery of public services and the Government is making them permanent through other primary legislation, which has recently been passed by Parliament, and is due to come into force over the spring and summer 2022. A fifth provision (section 43) relates to Statutory Sick Pay in Northern Ireland and has been extended on the formal request of the Department for Communities in Northern Ireland.

Parliament has had the opportunity to scrutinise the Act and the Government's use of these powers on an ongoing basis. Section 98 of the Act requires that temporary provisions within the Act are subject to six-monthly reviews and renewal votes in the House of Commons. Section 99 also provides for a review to be held at the one-year point in both Houses. The Statutory Instrument to extend five temporary provisions within the Act beyond 24 March 2022 was approved by Parliament.

The Government continues to review the legal framework and lessons learned from COVID-19, to make sure we are well-equipped to respond to future health risks. Learning lessons from the legislative and regulatory response to the pandemic has also been identified as a key topic for review in the independent UK COVID-19 Inquiry's draft terms of reference.

3. *Whilst we accept the Secretary of State for Health and Social Care's defence of the length of the sunset clause, we have concerns over the lack of ability to amend provisions at subsequent points. The Committee welcomes Mr Javid's acknowledgment that Parliament not being able to amend at least some individual provisions after the initial passing of the Act should be included as part of the 'lessons learned' process. The Committee urges the Government to ensure that greater consideration is given in future to Parliament's ability to scrutinise and amend emergency provisions whilst not affecting the overall integrity of the legislation. (Paragraph 36)*

The Government recognises the vital importance of Parliamentary scrutiny. The Government's view is that each of the powers in the Act has been subject to in-depth Parliamentary scrutiny throughout the lifespan of the Act.

The arrangements for Parliamentary scrutiny of the Act were approved by Parliament. Part 2 of the Act includes arrangements to facilitate accountability and transparency over the use of the powers. The Government listened carefully to concerns expressed during the debates on the Act as it made its way through Parliament and included many of the measures requested. This includes the provision for a regular vote on the continuance of the temporary provisions provided for in section 98 of the Act.

The Government notes the Committee's view, and that of some of their witnesses, that what has been described as a 'take it or leave it' renew/reject motion does not allow Parliament to have a defining say on individual provisions. Parliament approved the arrangements for Parliamentary scrutiny of the Act. The issue of which provisions could or should be retained on a 'pick and mix' basis is, as the Speaker's ruling sets out,³ problematic, if some parts become inoperable as a result of interdependencies with other provisions. It is standard legislative process that Parliament is not able to amend primary legislation once an Act has gained Royal Assent.

We continue to review the effectiveness of our legal framework, including the lessons learned from our response to COVID-19, as part of our preparedness for future pandemics and other health emergencies. A key component of this will be to understand better what concerns Parliamentarians have had about the response to the pandemic.

4. *The Committee noted the improvement in the content of the two-monthly reports and welcomes the Government committing to identify further improvements that could be made as part of a 'lessons learned' inquiry. We look forward to seeing these improvements in the report of March 2022 which will cover the four provisions that are due to be renewed and the reasons behind that. (Paragraph 41)*

The Government thanks the Committee for their recognition of improvements we have made to the two-monthly reports on the non-devolved provisions in the Act over the past two years.

We will continue to strive to improve the quality of these reports, taking on board feedback received from the Committee and others. The most recent two-monthly report on the temporary, non-devolved provisions within the Act was published on 24 March 2022.⁴ This report includes detailed updates on the status of the provisions within the Act over this reporting period and the extension of five temporary provisions for up to six months. The Secretary of State for Health and Social Care will continue to publish two-monthly reports during this period to fulfil the reporting requirements under Section 97 of the Act. The level of detail in these reports will be proportional to the provisions which remain in force.

Lessons Learned and preparedness for the future

5. *The Committee welcomes the Government's commitment to a thorough and wide-ranging inquiry to learn the lessons from the Government's response to the Covid-19 pandemic. The Committee welcomes that the inquiry's draft terms of reference are being put for public consultation, and that bereaved families and other affected groups are being consulted specifically.* (Paragraph 46)

6. *In order to provide clarity to the public, the Committee calls on the Government to set out in more detail the timetable for the inquiry. We also call on the Government to require that the inquiry proceeds in a thorough but timely manner, while the experiences of the pandemic and the Government's response are fresh in the mind and to avoid institutional knowledge being lost.* (Paragraph 47)

7. *We also recommend that the UK Covid-19 Inquiry include a comprehensive analysis of the necessity and proportionality of each section of the Coronavirus Act 2020 to better aid in the future development of similar emergency legislation. Should the public inquiry not cover this, we recommend that the Department of Health and Social Care undertake this analysis and report back to this Committee and to Parliament on its findings.* (Paragraph 48)

As the Committee has noted, the Government has committed to an independent, statutory public inquiry into COVID-19. The inquiry has two aims: to find the facts and to learn lessons for the future.

Draft terms of reference for the inquiry were published by the Prime Minister on 10 March 2022. They describe a broad scope covering preparedness; the public health response; the response in the health and care sector; as well as the economic response. The draft terms of reference incorporate central, devolved and local public health decision-making and its consequences, including in relation to legislative and regulatory control. Importantly, the draft terms of reference ask the inquiry to listen to the experiences of those most affected by the pandemic - including bereaved families - and to investigate any disparities evident in the impact of the pandemic and our response.

To ensure those most affected by the pandemic, including those who had sadly lost loved ones, had the opportunity to contribute, the inquiry's chair, Baroness Hallett, held a period of public consultation and engagement on the draft terms of reference. This closed on 7 April 2022 and the Government awaits Baroness Hallett's recommendations.

Under the Inquiries Act, the inquiry's procedure – including the timing of various steps – is a matter for its independent Chair. In starting the consultation on the terms of reference, Baroness Hallett set out that her investigations will begin once those terms of reference are finalised. She has said that she intends to gather evidence throughout this year, with public hearings beginning in 2023. Baroness Hallett has made clear that she will do everything in her power to deliver recommendations as soon as possible.

It is still to be determined whether any additional centrally-coordinated review will take place on the individual provisions in the Act and the value this might serve beyond that being undertaken by the independent UK COVID-19 inquiry.

8. *The Committee noted the existence of the draft Pandemic Flu Bill and believes that, although appreciating that the uncertainty around the future make it difficult, conducting pre-legislative scrutiny to provide an update and improved version of previous work would be of considerable benefit to the preparedness to respond to the next emergency.* (Paragraph 58)

9. *The Committee urges the Government to look again at the possibility of introducing a piece or range of draft legislation to allow for prior scrutiny of plans before an emergency occurs. Whilst the Committee appreciates the point made by the Secretary of State that we cannot predict what a future emergency might look like, we believe that there is still a lot of vital scrutiny work that can be done in advance to create a flexible framework which looks at parliamentary processes, best practices etc. It should be laid in Parliament and robust enough to cover a range of eventualities with only small add-ons needed to address specific emergencies.* (Paragraph 59)

As noted by the Committee, the Act was built on a draft emergency bill developed for an influenza (or similar) pandemic. The Pan Flu Bill set out the core elements of a response to the threat of a transmissible respiratory disease. Having this pre-existing legislation facilitated the quick drafting of the Act as the pandemic emerged in the UK in early 2020. However, the legislation still needed to be tailored to ensure the Act provided the appropriate powers to respond to the societal impact of the specific threat posed by COVID-19, which has different properties to an influenza pandemic. Any future emergency legislation, even for another transmissible respiratory disease, would always need to be tailored to address the specific threat posed at the time.

The pandemic has shown that an effective legal framework is essential to allow the Government and other responders to move quickly and decisively to save lives and keep essential services running. We continue to review the legal framework and lessons learned from COVID-19, to make sure we are well-equipped to respond to future health risks. This includes reviewing the Public Health (Control of Disease) Act 1984 and other relevant Acts of Parliament and Statutory Instruments. Legal preparedness and lessons learned from the legislative and regulatory response to the pandemic has also been identified as a key topic for review in the UK COVID-19 Inquiry's draft terms of reference.

10. *The Committee welcomes the Government's willingness to consider whether the publication of data in future emergencies could be improved.* (Paragraph 66)

11. *We urge the Government to include this in the inquiry looking at the pandemic response and commit to set out a more consistent approach to publishing all data that inform decision making, including how those data have been utilised, in any future emergency.* (Paragraph 67)

The Government recognises the importance of sharing COVID-19 data and set up a wealth of surveillance systems across Government to publicly report on the status of the pandemic, with this data collated and presented through the public COVID-19 Dashboard, in the Government's COVID-19 response publications and at regular press conferences during the height of the pandemic. All Scientific Advisory Group for Emergencies (SAGE) papers and minutes are published by the Government Office for Science; these detail how a variety of different factors such as cases and hospitalisations were considered as part of the data-led approach to informing decisions on restrictions.

The UK Health Security Agency (UKHSA) has been working closely with the Office for Statistics Regulation to ensure the accessibility and transparency of their statistical outputs throughout the pandemic. This includes voluntarily applying the Code of Practice for Statistics to statistical products developed during the pandemic, to ensure they are trustworthy, of good quality, are valuable for informing decisions and equally available to all.

The independent UK COVID-19 Inquiry plans to examine the availability and use of data and evidence for public health decision-making during the pandemic and identify lessons learned from the response for future emergencies as part of its review.

12. We welcome the commitment from the Secretary of State to learn lessons from the way the Government legislated during this pandemic and expect it to be a subject of investigation within the upcoming inquiry into the Government's COVID-19 response. The Committee has noted that the use of guidance to change the law and thus avoiding Parliament is concerning and not a practice that should continue. (Paragraph 74)

13. The Committee calls on the Government to carefully consider the use of guidance in future emergencies to ensure maximum clarity and minimal complexity for the public and law enforcement. The Government should ensure that future legislation of this type doesn't allow for the ability to use guidance to overrule key elements of legislation, as this leads to confusion. (Paragraph 75)

The Government recognises the different roles that guidance and legislation play in supporting the public in responding to the pandemic. The Government also recognises the importance of Parliamentary scrutiny; for example, the Government committed to debating regulations of national significance in Parliament before they came into force, wherever possible.

Throughout the pandemic, the Government has aimed to ensure changes to guidance and law were communicated clearly and simply through public information campaigns. This included publishing the guidance and law separately and distinguishing between actions the public “must” take (under law) and “should” take (under guidance).

Owing to the fast-changing and unpredictable nature of the pandemic, the measures to tackle the virus were also changed to protect people. Guidance published on the gov.uk and NHS websites has helped people and businesses understand what behaviours they should be undertaking to reduce the risk of transmission at any particular time.

The Government has sought to learn lessons on its communications approach. We have also responded to feedback from the general public, businesses and Parliament, for example, when we were told, at the beginning of the pandemic, that greater clarity was needed on what people should and should not do.

As with other parts of the response to the pandemic, we will look to learn lessons on the use of legislation during the pandemic, as well as on how we have communicated public health regulations and guidance to the public. The draft terms of reference for the independent UK COVID-19 Inquiry include examination of the legislative and regulatory response to the pandemic as well as on communication and implementation of decisions. We will look to take forward the outcomes of these various evaluations to help plan for future pandemics.