



House of Commons
Procedure Committee

Proxy voting: review of pilot arrangements

Fourth Report of Session 2019–21

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

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Procedure Committee

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Committee staff

The current staff of the Committee are Masrur Ahmed (Second Clerk), Martyn Atkins (Clerk), Paul Connolly (Media Officer), and Jim Lawford (Committee Assistant).

Contacts

All correspondence should be addressed to the Clerk of the Procedure Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 3351; the Committee's email address is proccom@parliament.uk.

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Summary

On 28 January 2019 the House approved pilot arrangements for proxy voting for parental absence and directed the Procedure Committee to review the pilot within 12 months. Owing first to the dissolution and early general election in late 2019, and then to the effect on the House's proceedings of the coronavirus pandemic in the spring and summer of 2020, the House extended the pilot and consequently the time given to the Committee to complete its review. The pilot—which had its scope expanded significantly in June 2020 to include proxy voting for absences due to the pandemic—now expires on 28 September 2020. We report here on our review of both aspects of the pilot.

Proxy voting for parental absence

We find that proxy voting for parental absence has been “to the benefit of parliamentary democracy”, to quote the aspiration from the February 2018 resolution of the House which first endorsed the principle.

The implementation of proxy voting, through a scheme agreed by the Speaker and the leaders of the three largest parties in the House, has enabled Members who are new parents to carry out the duty of representing their constituents, by having their votes on decisions of the House recorded. At the same time those members have been facilitated to participate fully in the earliest months of their children's lives, similar to the way that legislation provides new parents to take paid leave from employment.

In adopting the pilot, the House has also taken a step towards closing its ‘motherhood gap’: the number of new mothers in the House is increasing. We hope the availability of proxy voting has encouraged women who might have considered that a parliamentary career was incompatible with starting or continuing a family to think again and put themselves forward for election.

Throughout our evaluation we heard no arguments against the principles of proxy voting for parental absence, and encountered no fatal flaws in the scheme.

We recommend that the House make permanent arrangements for proxy voting for parental absence, taking into account some technical modifications to the pilot which we consider would improve the efficiency and effectiveness of the scheme.

Proxy voting for public health reasons

In early June the Government proposed, hurriedly and without consultation, to introduce proxy voting on a more substantial scale in order to allow Members who were obliged for coronavirus reasons to stay away from Westminster to have their votes recorded in divisions. This measure was introduced in place of the system for remote digital voting in divisions. Authority for that system lapsed at the start of the Whitsun recess in late May, when the Government declined to bring forward a proposal to renew it, and the House voted against its reintroduction when it returned in early June.

Proxy voting under the pilot arrangements is currently available to all Members unable to attend Westminster “for medical or public health reasons related to the pandemic”. Members who consider that they fall into this category can secure a proxy vote by writing to the Speaker to certify their eligibility. A Member who has certified an inability to attend Westminster, either for the purposes of voting by proxy or for the purposes of virtual participation in debate, is not eligible to participate physically in any proceeding on any day on which the certificate is in effect. There is evidence that these conditions are not fully understood, and we encourage Members to familiarise themselves with the obligations resulting from self-certification.

Coronavirus restrictions on individuals appear likely to be in effect for some time to come, in the form of official guidance to individuals on measures to protect their health, restrictions on activities outside the home and restrictions on travel outside certain areas. The current provision for proxy voting for pandemic reasons will expire on 28 September. We recommend that a proxy voting facility for Members subject to coronavirus restrictions should continue, though very careful consideration ought to be given to the design of eligibility criteria.

Overall, the arrangements which have had to be put in place for physical divisions under the pandemic are less than satisfactory. The pass reader system for recording names involves substantial manual work following each division to provide division data suitable for publication. The arrangements for recording proxy votes in each division have multiple potential points of failure. Physical distancing measures cannot be properly enforced, potentially increasing the risk of virus transmission.

We consider that the arrangements ought to be reviewed and replaced as soon as a more reliable alternative acceptable to the House can be found. If they are to continue, the IT system supporting the arrangements will require significant development work to ensure that it can properly support the House’s existing systems for recording votes cast, including proxy votes, and for publishing the outcome of divisions.

The system of remote digital voting which was in use in May 2020 was a more effective way of handling divisions in the House under the current exceptional conditions. It ought to be reinstated to replace the current temporary system. In any event, if lockdown conditions are reimposed in a way which prevents substantial numbers of Members from travelling to Westminster, the House ought to consider reverting to remote voting.

Eligibility for proxy votes on other grounds

Several Members consider that proxy voting ought to be available in other circumstances where Members are obliged to be absent from the House: for instance, where a colleague is seriously ill or has significant caring responsibilities. Others are opposed, arguing that introducing proxy voting for reasons other than parental absence would lead to the disclosure of private or personal information about the circumstances of a Member’s absence.

The sudden, albeit temporary, introduction of a very broad category of eligibility for proxy votes has complicated the situation. Our consistent position has been that procedural changes made to accommodate coronavirus restrictions ought to cease before any decisions are taken about introducing such changes on a permanent basis.

Once the proxy voting facility for coronavirus reasons has been ended, we will consider whether eligibility for proxy voting ought to be extended on a permanent basis, if it can be demonstrated that there is enough support in the House for the proposal to be given further consideration.

1 Introduction

1. Since January 2019 the House has been piloting a system of proxy voting, whereby under certain circumstances Members are eligible to have their votes cast in divisions by another Member standing as a proxy.
2. The pilot was introduced for an initial period of 12 months, whereupon it would expire if not renewed, extended or otherwise replaced. The Procedure Committee in the 2017 Parliament, which had reported on the feasibility of introducing a proxy voting system in May 2018, was charged by the House with reviewing the system before the end of the 12 month pilot period.
3. In November 2019 the House was dissolved for a general election and our predecessors' work on the review, initiated in September 2019, ceased. On 16 January 2020 the House agreed to a Government motion prolonging the pilot for six months, to 28 July 2020.
4. This Committee was appointed on 2 March 2020 and held its first meeting on 4 March. At that meeting we resolved to continue the review opened by our predecessors. In the aftermath of the substantial extension of proxy voting to allow for absences for reasons connected to the coronavirus pandemic, we sought and secured an extension of the pilot by two months, to 28 September 2020.
5. This report is our response to the commission from the House. In it we review the operation of proxy voting generally, as it has applied to parental absence and as it has applied to absences necessitated by the pandemic. We make a general recommendation as to its desirability, and make a number of proposals for changes to the current system of proxy voting, largely informed by the experiences of colleagues past and present who have experienced the pilot.
6. Our predecessor Committee's review of proxy voting for parental absence received 11 pieces of written evidence, and the Committee took oral evidence from two users of the scheme, Luciana Berger, then MP for Liverpool, Wavertree and Tulip Siddiq MP.¹ Our review received a further 7 pieces of written evidence. We took oral evidence from Rt Hon Harriet Harman MP and Darren Jones MP, Rt Hon Mrs Maria Miller MP, and Professor Sarah Childs and Sam Smethers, representing the Centenary Action Group.² This report has also been informed by the oral and written evidence to our ongoing inquiry into procedure under coronavirus restrictions.³ We are grateful to all those who have contributed to our inquiry.

1 The oral and written evidence received by the Committee in the 2017 Parliament (HC (2017–19) 134) is published here: <https://old.parliament.uk/business/committees/committees-a-z/commons-select/procedure-committee/inquiries/parliament-2017/inquiry12/publications/>

2 The oral and written evidence received during this inquiry is published here: <https://committees.parliament.uk/work/120/proxy-voting-review-of-pilot-arrangements/publications/>

3 Oral and written evidence to the Committee's inquiry into procedure under coronavirus restrictions is published here: <https://committees.parliament.uk/work/266/procedure-under-coronavirus-restrictions/publications/>

Proxy voting for parental absence

7. On 1 February 2018 the House debated a motion brought forward in backbench time by Rt Hon Harriet Harman MP:

That this House believes that it would be to the benefit of the functioning of parliamentary democracy that honourable Members who have had a baby or adopted a child should for a period of time be entitled, but not required, to discharge their responsibilities to vote in this House by proxy.⁴

The motion was agreed to without a division, and with no voices raised against it in debate. It therefore became the settled position of the House.

8. The Procedure Committee in the 2017 Parliament immediately launched an inquiry into the practical implications of establishing a scheme of proxy voting for parental absence along the lines endorsed by the House. In May 2018 the Committee issued a report which found that proxy voting for parental absence was procedurally feasible, and recommended the current proxy voting scheme as a means of implementing the House's resolution.⁵

9. In January 2019 the House endorsed the Procedure Committee's report and approved temporary modifications to standing orders to allow a proxy voting scheme to operate. The House also empowered the Speaker to give effect to a detailed scheme providing for Members to vote by proxy under certain circumstances once it had been approved by the leaders of the three largest parties represented in the House. The scheme was brought into force on 29 January 2019, the day after the House's decision.

Extension of the pilot to coronavirus-related absences

10. As a consequence of the outbreak of the novel coronavirus COVID-19 in the UK, the House has adopted a number of temporary practices which have enabled it to continue its work under the restrictions which have governed public and private life in England and across the UK since the end of March. We have already reported on the proposals to introduce several of these measures.⁶

11. On 12 May the Leader of the House announced the Government's intention not to renew the temporary orders made on 22 and 23 April. These had established so-called 'hybrid' proceedings, whereby Members were able to participate in proceedings in person in the Chamber and remotely via videolink under strict parity of treatment. They had also allowed for a system of remote voting in divisions via mobile phone, tablet or other digital device instead of voting in person through the lobbies.⁷

4 [Votes and Proceedings](#), 1 February 2018, item 5

5 Procedure Committee, [Proxy voting and parental absence](#), Fifth Report of Session 2017–19, HC 824.

6 The reports of the Committee's inquiry to date into procedure under coronavirus restrictions in the 2019–21 Session are: [Procedure under coronavirus restrictions: proposals for remote participation](#) (First Report, HC 300); [Procedure under coronavirus restrictions: remote voting in divisions](#) (Second Report, HC 335); [Procedure under coronavirus restrictions: the Government's proposals to discontinue remote participation](#) (Third Report, HC 392), and [Procedure under coronavirus restrictions: the Government's proposal for proxy voting for shielding Members](#), (First Special Report, HC 429). The Government response to the first three of these reports has been published as the Committee's [Second Special Report](#) of Session 2019–21, HC 565.

7 A system of remote voting was authorised for use on [6 May 2020](#) and first used on [12 May 2020](#).

12. These temporary orders lapsed during the Whitsun adjournment. On 2 June the House rescinded its resolution of 22 April stipulating parity of treatment and made provision for physical divisions to resume in the Commons Chamber under social distancing conditions, the division lobbies having been declared unfit for normal use during the pandemic. Members unable to travel to Westminster, either because they were following public health advice and shielding at home, or because caring or other responsibilities restricted their ability to travel away from their constituencies, were thus unable to participate in divisions (or indeed any proceeding of the House).

13. On 3 June the Prime Minister announced the Government's intention to revise the proxy voting scheme to allow proxy votes for 'shielding' Members only.⁸ The House authorised this change on 4 June, and subsequently amended the provision to allow a proxy vote to any Member unable to attend the House for a coronavirus-related reason. An amended proxy voting scheme was brought into effect on 10 June, and the first proxy votes under the additional provision were cast on 17 June.

Our review

14. We have sought to evaluate how the proxy voting arrangements have worked in practice. This includes evaluating the procedural framework for proxy voting contained in the temporary order of 28 January 2019, together with the detailed arrangements for administration of proxy voting contained in the scheme signed by the Speaker and party leaders.

15. We examine whether the experience of the pilot has demonstrated that proxy voting has in principle been "to the benefit of the functioning of parliamentary democracy", and how the arrangements have operated in practice, both under the scheme as originally envisaged and under the recent extension of proxy voting for coronavirus-related absences.

16. It will in practice be for the Government to propose to the House any amendments to standing orders which might establish proxy voting on a more permanent basis, and to propose a text to govern in detail the operation of any scheme. The decision on whether to establish any system to succeed the pilot arrangements rests with the House.

2 Proxy voting for parental absence

Overall evaluation

17. In its resolution of February 2018 the House asserted that it would be “to the benefit of parliamentary democracy” if a system of proxy voting were established to facilitate the absence of new parents from attendance in the House for a defined period.

18. The specific and most evident benefits claimed for proxy voting for this purpose have been the promotion of inclusivity and gender equality in the House. The most comprehensive recent study of gender equality in the House identified “a sizeable ‘motherhood gap’”: fewer women MPs have children relative to male MPs, to women in comparable professions, and to women more widely in society.⁹ Among the study’s proposals on inclusiveness and gender equality in the House was a recommendation aimed at making express provision for the needs of Members who are new parents. Because Members are office-holders and not employees, they are not eligible for the benefits of parental leave which Parliament has established in statute for those in employment. The case made for a modification to the House’s procedure and practice to facilitate greater representation of new mothers in the House went unchallenged in the debate of 1 February 2018 and appears to have been broadly accepted across the House.

19. The pilot has been popular and well used. 30 Members have claimed eligibility for proxy votes for parental absence to date: 12 expectant mothers and 18 new fathers.¹⁰ Among these are three women elected to the House for the first time in December 2019. Ministers, and Members who have gone on to become Ministers, have used the scheme, demonstrating that parental absence is not a barrier to achieving or continuing in Ministerial office.

20. Those who supported the introduction of proxy voting for this purpose claim that it has enabled Members who are new parents to fulfil their role more effectively during parental absence, without having to seek approval from party managers through pairing arrangements. Harriet Harman told us:

Proxy voting has helped MPs do the job that they were elected, and want, to do, and that their constituents want them to do. It has enabled them to vote when otherwise they would not be able to vote. It has helped family life as well, but it has also helped MPs to do their job, so it is a double benefit.¹¹

21. Darren Jones told us that he had identified a change in “how this place appeals to the type of people we want to put themselves forward to be Members of Parliament”. He suggested that the introduction of a proxy voting facility under certain circumstances would now attract those who might otherwise have been concerned that their votes on crucial issues would go unrecorded:

I can tell you that before proxy voting there was a pressure, whether you were a mum or a dad—but more importantly for women MPs—that you

9 Professor Sarah Childs, *The Good Parliament*, July 2018, p. 20.

10 No Member has claimed eligibility for a proxy vote on the other grounds provided for in the temporary order, namely adoption or miscarriage.

11 [Q1](#) (HC 10, 11 March 2020)

wanted to be here to vote. Certainly in the last Parliament, when every single vote was so close and constituents were so interested in the outcome of every vote, you wanted to be able to be part of that and to explain it and show that your constituents were being adequately represented.¹²

22. This House is not the first chamber on the Westminster model to adopt proxy voting for parental absence: our predecessors received evidence on how these matters are facilitated in the Australian and the New Zealand House of Representatives. Nevertheless, the pilot scheme adopted by the House has attracted interest in other Chambers. Harriet Harman told us that on a recent visit to Ottawa she had been struck by the interest among members of the Canadian House of Commons in the model of proxy voting adopted here:

They have got a very young, diverse Parliament, and they are trying to work out how they deal with MPs having babies, especially with an enormous land size—sometimes it takes a day and a half to get from the Northwest Territories over to Ottawa. [...] I shared copies of our Standing Orders and the Procedure Committee report, and they all fell upon them.¹³

23. From the formal evidence we have received, and in less formal discussions with relevant authorities in the House, we have formed the view that the experience of the pilot has been broadly positive. No issues of principle or major flaws have been raised during our inquiry or in the evidence taken by our predecessors. The Leader of the House has indicated that he supports the permanent establishment of a system of proxy voting for parental absence.¹⁴

24. The system adopted for the pilot was generally well understood: we make proposals for certain technical improvements in its operation below. When the pilot was introduced in January 2019 the House was exceptionally finely balanced. The system was in operation for the many highly contested decisions taken by the House during 2019, including one high-profile division in which the then Speaker was required to use his casting vote. Its use was accepted by all sides and on the rare occasion that an issue arose from the exercise of a proxy vote, it was settled swiftly by agreement between the parties. The use of proxy voting as a means of accommodating parental absence appears to us to have been more transparent than the use of pairing, which, for instance, gave rise to highly acrimonious discussions following a closely-contested division in July 2018.¹⁵

25. Our overall evaluation is that the system of proxy voting for parental absence has benefitted the House and the broader objectives of parliamentary democracy, by making the House a more inclusive place for new mothers and fathers. We recommend that provision for proxy voting for parental absence be made in the standing orders of the House, subject to the recommendations made in this report.

12 [Q2](#) (HC 10, 11 March 2020)

13 [Q1](#) (HC 10, 11 March 2020)

14 [Q161](#) (HC 300, 1 July 2020)

15 HC Deb, 18 July 2018, [col. 427 ff](#)

Elements of the scheme

Eligibility requirements

26. The terms of the pilot scheme for proxy voting for parental absence require pregnant Members to produce, as evidence of eligibility, a certificate of pregnancy from a registered practitioner, midwife or health visitor. Members intending to adopt are required to produce a ‘matching certificate’ from a registered adoption agency. The requirement in the pilot was proposed by our predecessors on the basis of a recommendation from the then Speaker’s Reference Group on Representation and Inclusion.¹⁶

27. We heard that this requirement was overly bureaucratic. Luciana Berger found it “quite entertaining that I had to present my NHS maternity card, because it was very obvious that I was pregnant”:

[W]e trust Members of the House on many things, so if they look like they are pregnant we could take them at their word and they should not have to present the evidence [...].¹⁷

The Leader of the House, Rt Hon Jacob Rees-Mogg MP, thought the requirement to show certification “onerous bordering on the impertinent”.¹⁸ He indicated that the Government would “look sympathetically” on a recommendation to remove any requirement for the production of pregnancy certificates.

28. The requirement to produce certificates of pregnancy or adoption to demonstrate eligibility for a proxy vote has proved onerous. The experience of the pilot demonstrates that the requirement is unnecessary. It is difficult to think of a situation where a Member would consider it feasible or advantageous to misinform the Speaker and the House about impending parenthood in order to secure a proxy vote.

29. We recommend that any permanent scheme providing for proxy voting for parental absence should not have as a condition of eligibility a requirement to produce a certificate of pregnancy or a matching certificate. Members who meet the eligibility criteria for the scheme ought to be required to self-certify.

Certification of eligibility

30. The temporary order governing the operation of proxy voting during the pilot specifies that a proxy vote cast is only valid if the Speaker has issued a certificate confirming eligibility. In practice the requirement that the Speaker must issue a certificate before the rise of the House in order for a proxy vote to be valid on the following sitting day has caused difficulties in administering the pilot in respect of proxy votes for parental absence: the substantial increase in applications for the grant and variation of proxy votes for coronavirus reasons has exacerbated these difficulties, particularly when the Speaker is not immediately available to endorse certificates.

31. Such difficulties could be alleviated by authorising any Deputy Speaker to sign a certificate. Deputy Speakers regularly carry out several functions assigned to the Speaker,

16 Commons Reference Group on Representation and Inclusion ([PVG 02](#)), para 11

17 [Q2](#) (HC 134, 30 October 2019)

18 [Qq162–63](#) (HC 300, 1 July 2020)

and when the Speaker is absent from the Chamber a Deputy Speaker invariably presides (and is therefore available to undertake this function). Each Deputy Speaker ought to be authorised to consider applications to grant or vary the terms of a proxy vote and to certify eligibility under the authority of the Speaker.

32. *We recommend that any future arrangements for proxy voting by Members should include provision for any Deputy Speaker to certify eligibility for a proxy vote, under the Speaker's authority.*

Eligibility on other grounds

33. Several colleagues are known to support the extension of proxy voting to allow Members absent from Westminster because of serious illness or caring responsibilities to cast votes in divisions by proxy. Others have argued against such an expansion, contending that it would oblige absent Members to disclose the circumstances of their absence.

34. The matter was extensively considered by our predecessors when examining how proxy voting could be implemented. The report of that Committee in May 2018 concluded that

For a proxy voting system to operate transparently, the House must formally give Members leave to be absent from divisions. Publishing this information could place Members in a position where they may be pressured to disclose private personal or family information. We do not think that this is an acceptable position.¹⁹

35. The introduction, without prior consultation, of a temporary facility for proxy voting for public health reasons during the coronavirus restrictions is considered in greater detail later in this report. The facility has introduced substantial additional complexity to the issue. Coronavirus restrictions introduced a unique and unforeseeable set of circumstances which warranted exceptional flexibility.

36. Any proposal for a permanent proxy voting scheme to facilitate absences for illness and caring responsibilities will need very careful consideration. The Committee has consistently maintained that all adaptations to procedure and practice necessitated by coronavirus restrictions should be made on a strictly temporary basis: proposals for the permanent introduction of any such adaptations ought to be considered in full only after the use of all temporary adaptations has ceased.

37. **Once the present temporary arrangements for proxy voting for public health reasons has ended, the Committee will examine whether, and how, eligibility for proxy voting might be extended to other categories of absent Member, should it be demonstrated that the support in the House for such measures merits such an inquiry.**

Notification

38. During the pilot scheme, applications for the grant or variation of a proxy vote have had to be made one sitting day before they are due to take effect: a proxy vote, or a change in the operation of a proxy vote, cannot take effect until the relevant Speaker's certificate

19 Procedure Committee, [Proxy voting and parental absence](#), Fifth Report of Session 2017–19, HC 824, para 40.

has been published in the Votes and Proceedings for the day that notice has been given. This requirement provides certainty as to the arrangements in effect for voting throughout any sitting day.

39. We received a number of representations arguing that the requirement for a sitting day’s notice caused unreasonable difficulties. Luciana Berger told our predecessors that expectant mothers “cannot plan for unforeseen circumstances”:

I put forward the dates when I expected to have my baby [...] but it turned out that I had to be absent sooner than expected, so I missed out on one or two votes. They were not knife-edge votes, but they could have been. There have to be circumstances where there can be immediate notification to the Speaker to ensure that votes can be registered.²⁰

40. We heard suggestions that there should be provisions to give notice on the same day. We do not think this is practicable. It is essential that at the start of each sitting day the details of Members eligible to exercise proxy votes during that sitting, and the Members carrying each proxy, are clear to all parties and set down in a published document. It cannot be guaranteed that changes made during a sitting will be adequately communicated in every event. Any breakdown in communication risks causing significant confusion during a division and runs the risk of reducing confidence in the outcome of a division.

41. While changes to proxy votes ought not to be facilitated during a sitting, present arrangements have imposed significant constraints on notification which ought to be alleviated. The requirement to provide notification of any changes by the end of the sitting day before they are to take effect significantly disadvantages Members who find that they have to change their arrangements for the following sitting week on a non-sitting Friday, for instance because their nominated proxy is not available to cast votes in the House the following Monday. It causes particular issues during recesses, when decisions on voting arrangements on the first day back have to be taken before the House rises for the recess, and on days during recesses when the House may be recalled.

42. We recommend that in any permanent arrangement for proxy voting for parental absence the notification requirements are changed to provide that a certificate relating to a proxy vote which is issued on a day on which the House does not sit shall have effect as if it had been published in the Votes and Proceedings for the previous sitting day, and shall be published in the Votes and Proceedings for the next sitting day.

Maximum duration

43. The proxy voting scheme in operation during the pilot specifies the maximum duration for parental absence as six months for the biological mother of a baby, or for the primary or single adopter of a baby or child, and two weeks for the biological father of a baby, the partner of the person giving birth or the second adopter of a baby or child. The scheme also provides that “Any period of absence taken by a mother or primary adopter shall start at or before the due date or adoption date [...]”.

44. In order to maximise the time spent with their newborn, Members have generally applied for eligibility for a proxy vote to start on the due date. We heard that the stipulation

in the scheme caused undue difficulties, since experiences of pregnancy in the days and weeks leading up to the due date will inevitably vary. Pregnancies are not predictable, as Tulip Siddiq MP indicated:

When I was making quite a song and dance [about the implementation of proxy voting proposals], I had some sneering comments from people saying, “I worked right until I gave birth and then went home. I did my day at the office and then I went home and had the baby.” I said, “If I could do that, I would,” but medically I was not in a good position at that moment.²¹

45. We recognise that no two pregnancies are the same, and we consider that the House will not wish to increase stress for Members approaching birth by imposing requirements around eligibility for a proxy vote which prove challenging to meet. Any permanent proxy voting scheme ought therefore to make allowances for Members to claim eligibility for a proxy vote from some time before the estimated due date. We note that the pilot scheme already provides for an additional four weeks to be taken before the due date for pregnant Members who by reason of their condition are not able travel to Westminster by air.

46. We recommend that the maximum duration of eligibility of a proxy vote for maternity absence should include a period of up to four weeks before the due date, together with a period of no more than six months commencing on the due date or the date of the birth, whichever is the later.

47. The proxy voting scheme for parental absence provides two weeks for a father, partner or second adopter. The scheme does not specify a time period within which this must be taken. The Clerk of the House pointed out that:

The scheme currently allows for mothers to apply for a proxy vote for six months starting “at or before the due date”. There is no similar restriction on fathers who can take their two weeks proxy voting period at any point (with the restriction that it “shall be taken in one continuous period of two weeks”). Members may wish to consider whether the scheme should specify a point beyond which a father cannot apply for a proxy vote. Under a literal interpretation of the scheme as currently drafted, a father, partner or second adopter, can apply for a proxy vote for parental absence at any point—be their child six weeks, six months or six years old. The scheme does refer at other points to “new fathers” but it is not clear precisely what “new” means in this context.²²

For reference, the UK Government’s guidance for statutory paternity leave places a limit on the period after birth during which such leave may be taken, requiring it to end by 56 days (eight calendar weeks) after the birth. The statutory entitlement “must end within 56 days of the birth.”²³

48. The proxy voting scheme ought to be as clear and explicit as possible, and in this respect the existing scheme is not: while facilitating flexibility it ought not to invite abuse. **We recommend that a Member who is a new father, partner or second adopter ought, when certifying eligibility for a proxy vote, give the date of birth or adoption. Any**

21 [Q6](#) (HC 134, 30 October 2019)

22 House of Commons Service ([PVR 05](#)), para 12

23 GOV.uk, [Paternity Pay and Leave](#) [accessed 4 August 2020]

permanent scheme for proxy voting for parental absence ought to provide that eligibility for a proxy vote for new fathers, partners or second adopters ceases six months after the stated date of birth.

Shared parental leave

49. We also received representations arguing that the proxy voting arrangements ought to reflect the provisions for shared parental leave in employment legislation. The Centenary Action Group wrote:

Parliament needs to reflect the real world in which parenting is a valued role and this applies to men as well as to women. Shared parental leave provisions should be in place for both men and women, as this will challenge the pervasive stereotype of women are primarily responsible for childcare, which makes life in the workplace harder for women.²⁴

50. Our predecessor Committee had considered the issue in its initial report and came to the conclusion that:

Members are office-holders and cannot take leave from the responsibilities of their offices in the same way as those in paid employment can take statutory maternity leave.²⁵

51. We appreciate the sentiments of those who have proposed extending proxy voting to encompass shared parental leave. Nevertheless, we do not consider that it is appropriate to determine the practices of the House with express reference to employment statutes: an entitlement to participation in divisions by proxy in certain circumstances cannot be equivalent to a statutory entitlement to paid leave from employment. The proposal for proxy voting to facilitate shared parental leave arguably goes beyond the scope of the House's original intention, as set out in the resolution of February 2018, which focused on proxy voting as a means to address the "motherhood gap" in the House rather than the broader objective of promoting shared parenting.

52. In many cases, facilitation of a longer period of proxy voting for parental absence for a Member would be done for the purposes of allowing the other partner to return to employment outside the House earlier than would otherwise be the case. That Member would not, indeed could not, cede any of the other duties and obligations of membership of the House and representation of constituents to another in order to benefit a partner who was not a Member, no matter how desirable the objective.

53. We have had no representations from Members seeking modification of the proxy voting entitlement to allow the sharing of parental leave of a partner who is not a Member. Should circumstances change to the extent that Members begin to require this degree of flexibility in proxy voting arrangements, it would be possible to amend the proxy voting scheme to provide this facility without further reference to the House. We would if necessary be happy to advise on how this amendment might be achieved.

24 Centenary Action Group ([PVX 008](#))

25 Procedure Committee, [Proxy voting and parental absence](#), Fifth Report of Session 2017–19, HC 824, para 38.

Eligibility over periods when the House does not sit

54. The pilot proxy voting scheme provides that the duration of eligibility for a proxy vote should be taken as a continuous period, including “periods when the House is adjourned, prorogued or dissolved.” During the pilot period the House has been through several adjournments, periods of prorogation and a period of dissolution. None of these periods had any effect on the reckoning of periods of eligibility for proxy votes. During such periods no votes of course take place and no divisions are held.

55. Some have contended that the maximum period of eligibility for proxy voting ought to be extended so as not to reckon any period where the House is prorogued or dissolved, though none have suggested that the period ought to be extended so as not to reckon periodic adjournments (or recesses). Ellie Reeves MP said:

My baby was due on 3rd November (the latest I could commence my proxy under the scheme) and Parliament was dissolved on 5th November, at which stage I was no longer an MP. Due to being in the middle of an election campaign I worked right up until my baby was born on 11th November. I returned to some work within a day or two of having my baby and two weeks after he was born, I was back.²⁶

56. In introducing proxy voting for parental absence, the House facilitated Members who are new parents to exercise their entitlement to vote in divisions by proxy, without having to attend the House. The House did not introduce a regime of maternity and paternity leave to replicate the statutory provision for time off from employment.

57. Part of the unique role of a Member is having to deal with the relative unpredictability of periods of adjournment, prorogation and dissolution. Prorogation and dissolution are periods in which no votes are cast. Suspending the six months of eligibility over these periods would create an element of inequality between Members eligible for a proxy vote depending on due dates. Those Members who had a baby close to, or during, a prorogation recess or a dissolution would have the *de facto* advantage of an extension of the period of eligibility. Modifying eligibility periods so as to standardise the number of sitting days on which each Member is eligible for a proxy vote would prove exceptionally complex to administer and would no doubt introduce other elements of inequality.

Requirements at the start of a Parliament

58. Ellie Reeves also urged us to “remove the need for an MP on maternity leave to physically attend Parliament to swear in” as she had been required to at the start of the present Parliament.²⁷

59. Swearing-in is a statutory requirement. The Parliamentary Oaths Act 1866 provides that each Member must swear the oath or make the affirmation prescribed by law at the Table of the House.²⁸ Any Member who sits in the House for a debate or who votes in a division after the Speaker has been chosen without having sworn in or affirmed is liable

26 Ellie Reeves MP ([PVX 001](#))

27 *Ibid.* Stella Creasy MP and Kemi Badenoch MP also swore in, both accompanied by their infants.

28 Parliamentary Oaths Act 1866, [section 3](#)

to a fine of £500 for each offence and vacation of their seat.²⁹ A Member who cast a proxy vote for a Member who had not yet sworn in would potentially make the latter liable to incur both penalties.

60. While the Act is capable of being amended, it is not within the power of this Committee, nor indeed the House acting unilaterally, to do so. The House introduced a proxy voting pilot in order to facilitate new mothers and fathers in being absent from divisions in the House for a period of time, but it did not facilitate the suspension of other duties and obligations of membership of the House. While making provision for parental absence from swearing in may be desirable, it does not fall within the scope of the arrangement originally envisaged by the House. It is for the Government to bring forward proposals to change the law in a way which would excuse new mothers who are Members from the requirement to attend the House in person to swear in. We also consider that the House should approach with caution any proposal to facilitate participation in its proceedings by Members who have not sworn in.

Informing Members and the public

61. Some Members who had a proxy vote told us that the end date of their eligibility for a proxy vote was not clear, and contended that the House authorities should have reminded them in advance that the facility was due to expire. Tulip Siddiq said:

I called the Speaker's Office the day that my son turned six months and I was told that my proxy voting was over. I should have been told about that slightly earlier. I was only notified when I inquired, "When is this over?" [...].³⁰

62. The start and end date of eligibility for each proxy vote is provided in the Speaker's certificate which is issued in each respect, and is published in the Votes and Proceedings for the day the certificate is issued. We consider that it is first and foremost the responsibility of each Member to record the date on which it has been agreed that their eligibility will expire. We nevertheless acknowledge that it is not always easy to find this information. A page on the Parliament website indicating current proxy votes would assist in this regard. It would provide clarity for Members and staff seeking information on active proxy votes.

63. We recommend above a system whereby a certificate can be issued on a non-sitting workday. A web page containing information on current proxy votes could of course carry this information in the absence of an edition of the Votes and Proceedings.

64. We recommend that, under any permanent proxy voting scheme to be established by the House, the information contained in every proxy voting certificate issued under the Speaker's authority ought to be made available on a dedicated page on the Parliament website.

²⁹ *Ibid.*, section 5

³⁰ [Q8](#) (HC 134, 30 October 2019)

Designating and exercising a proxy

65. The current proxy voting scheme reads “the Member eligible for proxy voting shall name the Member who has agreed to carry her or his proxy vote”. The Clerk of the House pointed out:

One of the Members who applied for a proxy vote asked House officials whether they could appoint multiple proxies. They had read the scheme, but did not think it was clear from the scheme that multiple proxies were not allowed. Having multiple proxies would be confusing for the tellers and division clerks, who would not know who was casting the proxy in any given division.³¹

66. The scheme refers to the Member carrying the proxy vote in the singular, which implies that there can only be one proxy at a time. Nonetheless, if there is a possibility for confusion, it should be clarified. We agree with the Clerk that multiple proxies would cause confusion. ***Any permanent proxy voting scheme should be amended to clarify that a Member may nominate only one proxy at any one time.***

67. We heard concerns about the practicalities of casting a proxy vote in the division lobbies. During the pilot some Members casting a proxy vote used a self-produced card as a visual aid to the division clerks and the tellers.³² This helped clarify, for the benefit of division clerks, the identity of the Members for whom they were casting a proxy vote. As well as assisting tellers when counting the Members who walk out of a division lobby, it serves as a reminder to the Member exercising the proxy that they must tell the tellers about the additional vote being cast.

68. The scale of the current use of proxy votes for coronavirus absences, and the fact that a small number of Members are at present carrying several dozen proxies, makes the use of this system impractical under the current temporary arrangements for divisions. We nevertheless consider that the system is worth introducing for parental absence proxy voting, once the temporary coronavirus proxy arrangements have ceased.

69. ***We recommend that under any permanent system of proxy voting for parental absence the House Service should issue a proxy voting card to each Member carrying a proxy to aid confirmation that the Member is carrying a proxy vote.***

70. Members casting a proxy vote may have to cast their own vote in one lobby and their proxy’s vote in another lobby. There was a slight concern about this requirement as there are no special arrangements to facilitate this. Many Members have cast votes in this way without any reported issues. As such, we do not think any special arrangements are necessary. It could cause more confusion if the time period before the doors are locked were extended or if Members carrying a proxy were allowed to enter a division lobby after the doors had been locked. It is part of the Member’s responsibility as being a proxy that they ensure they can cast votes appropriately, in both lobbies if necessary.

31 House of Commons Service (PVR 05), para 10

32 Mr Christopher Leslie MP (PVR 04), para 1

71. Some Members also flagged that it is easier to cast a proxy vote if both Members' surnames are in the same division group (A-F, G-M, N-Z).³³ It can be difficult to cast a proxy vote at one desk and then move to the queue for another desk to cast the proxy. Moving to another desk to cast a proxy is not strictly necessary. Division clerks are instructed to accept proxy votes on behalf of other desks in the same lobby. The name can be communicated to the other desks towards the end of the division. Nonetheless, we encourage Members nominating a proxy to try and choose a Member whose surname is in the same division group. This would make the process easier. We do not think any formal changes need to be made to accommodate this.

Perinatal complications

72. When the motion for the temporary order to facilitate proxy voting was moved on 28 January 2020 it did not include the provisions in paragraph 8. The paragraph was proposed as an amendment by Philip Davies MP and was agreed by the House. It reads:

The Speaker may also make provision for the exercise of a proxy vote for Members who have suffered a miscarriage.

73. This paragraph was agreed by the House after the detailed proxy voting scheme had been agreed in principle between the Speaker and the leaders of the three largest parties, prior to formal signature and entry into force. As such, the scheme does not make any explicit provision for the exercise of a proxy vote under these circumstances.

74. The term “miscarriage” has a specific definition. A literal interpretation of the current provision would mean that a Member who suffered a miscarriage would be entitled to a proxy vote, but an expectant parent who experienced other perinatal complications leading to fatality would not be eligible. We consider that the spirit and intention of the proxy voting system is to provide the facility in all instances of perinatal fatality. ***We recommend that any proposed standing order ought to provide for eligibility for a proxy vote for reasons related to complications in or associated with childbirth.***

75. Any Speaker's certificate issued under this provision does not need to specify that the provision is being used. As the Clerk of the House suggested, “The wording of the certificate could, as with other proxy voting certificates, simply say “is eligible to have a proxy vote cast” without specifying any further reason.”³⁴ It is also possible that the Member concerned will not want to take a proxy vote and may choose to be ‘paired’ instead. This will of course be an individual and personal decision.

76. Each and every fatality arising from perinatal complications represents a personal tragedy. We do not think that under such circumstances it is appropriate to make detailed and specific recommendations about additional provisions for such events in any scheme without the benefit of further consultation. In the circumstances, where a Member wishes to use the proxy voting facility for such reasons, it may be most appropriate for the Speaker to be given discretion to establish the period of eligibility in each case, in consultation with the Member concerned.

33 Tracey Crouch MP ([PVR 07](#)),

34 House of Commons Service ([PVR 05](#)), para 13

3 Proxy voting for public health reasons

77. On 21 and 22 April 2020 the House agreed temporary Orders to facilitate hybrid scrutiny and substantive proceedings. On 22 April the House also agreed provisions for remote voting, which had effect until 12 May. On 12 May all three provisions were extended until 20 May. On 20 May the orders expired, at the same time as the House adjourned for the Whitsun recess.

78. On 2 June the House was recalled at an earlier time than the one appointed, specifically to allow decisions to be taken on how it would conduct its proceedings following the expiry of the temporary orders, and in the light of the decision of the Speaker, on the advice of Public Health England, to restrict the maximum number of Members allowed in the Chamber at any one time and to prohibit the use of the division lobbies for the conduct of divisions in the traditional way. The House rescinded the earlier resolution requiring a parity of treatment between Members participating virtually and physically, and did not revive the order authorising the use of a remote division system. Divisions on these decisions were made using a temporary method established under the Speaker's authority, entailing Members passing through the Chamber individually at socially distanced intervals to record their votes.

79. On 3 June the Prime Minister announced that the Government would table a motion that evening to provide that certain classes of Member prevented from attending Westminster for coronavirus reasons would be entitled to a proxy vote.³⁵ The Committee considered the Prime Minister's announcement, of which the Chair and the House authorities had been given very limited prior notice, and issued a factual special report on the matter to aid the House's consideration of any motion to be moved the following day.³⁶

80. On 4 June the House agreed to the Leader of the House's proposal to amend the temporary order for proxy voting to include Members where were "clinically extremely vulnerable" and "clinically vulnerable" and to direct that the proxy voting scheme be amended in consequence. On 10 June the House agreed to a further proposal to modify the criteria for proxy voting eligibility, this time to include Members who were unable to attend Westminster "for medical or public health reasons related to the pandemic".

81. This chapter of our report contains observations, conclusions and recommendations regarding proxy voting for public health reasons.

Eligibility and notification

82. The proxy voting scheme currently sets out the eligibility for a proxy vote for medical and public health reasons related to the pandemic. The scheme reads "A Member shall demonstrate eligibility for part (b) of the scheme by writing to the Speaker to assure the Speaker that they are unable to attend at Westminster for medical or public health reasons related to the pandemic." Members can self-certify that they believe they are unable to attend Westminster and are therefore eligible for a proxy vote. There is no requirement for Members to prove eligibility for the scheme or specify their reasons.

35 HC Deb, 3 June 2020, [col. 839](#)

36 Procedure Committee, [Procedure under coronavirus restrictions: the Government's proposal for proxy voting for shielding Members](#), First Special Report of Session 2019–21, HC 429

83. The ability of Members to self-certify is reasonable and proportionate, under present circumstances, and should not be changed. Members should not be in a position where they have to disclose medical, caring or other personal responsibilities in order to be eligible for a proxy vote.

Proxy voting and virtual participation

84. Members are also able to participate virtually during scrutiny proceedings, under the terms of a separate order agreed to by the House on 4 June. The arrangements concerning eligibility for virtual participation are made by the Speaker.

85. The processes for applying for a proxy vote and for virtual participation in scrutiny proceedings are separate, though both processes require a Member to self-certify that they are unable to attend Westminster. It naturally follows that if a Member is applying and eligible for virtual participation, they may also be eligible for a proxy vote. If a Member has self-certified that they are unable to participate physically in the Chamber for public health reasons, they ought not to be present on the Estate and certainly ought not to attempt to vote in person. Similarly, if a Member has self-certified to the Speaker that they are eligible for a proxy vote for public health reasons connected with the pandemic, they are self-evidently ineligible to participate in physical proceedings on the Estate.

86. The Clerk of the House, Dr John Benger, observed that there had been initial issues about the requirements entailed in any application to participate or to vote remotely, though he said that on the whole such issues were diminishing:

There were a couple of instances of Members thinking that it was a matter of choice whether or not they participated virtually or physically, whereas in fact there are criteria laid down for the self-certification based on a number of principles. [...] We notice occasionally there are Members down for proxy voting and to participate virtually and then still seeking to speak in the Chamber, and that cannot be right. That is specifically proscribed. But we have had only a couple of examples where we have needed to intervene.³⁷

87. Under the directions published by the Speaker it is clear that a Member's self-certification for proxy voting, virtual participation or both on any sitting day ought to preclude attendance on the Estate that day. Attendance in the House when either dispensation is active flies in the face of the undertaking formally given to the Speaker when self-certifying. ***We encourage all colleagues participating in self-certifying arrangements to familiarise themselves thoroughly with the obligations entailed in self-certification.***

88. ***Should proxy voting for medical and public health reasons relating to the pandemic be continued beyond 28 September, we recommend that the processes for self-certifying for the purposes of virtual participation and for proxy voting be aligned.***

Duration

89. The revised proxy voting scheme states that “A proxy vote under part (b) of the scheme (medical or public health reasons related to the pandemic) shall last until the expiration of the temporary Standing Order (Voting by proxy) or until the House otherwise orders.” At present, the provisions of this temporary order lapse on 28 September 2020.

90. Coronavirus restrictions, including official guidance to individuals on measures to protect their health and general restrictions on activities outside the home, are susceptible to frequent adjustment, particularly as the authorities in each nation of the UK respond to evidence of increased transmission and infection in certain areas. The reopening of schools to pupils is likely to decrease the pressure on colleagues who had to take on childcare responsibilities when schools were closed and may now be able to attend the House in person.

91. It is nevertheless likely that conditions requiring a number of Members to stay away from Westminster will persist for some time to come. No reliable prospect has been given of a date on which the majority, or indeed all, coronavirus restrictions which inhibit travel to Westminster can be expected to cease.

92. The House will have to give careful consideration to the dispensations it wishes to allow to Members who, when the current proxy voting arrangements expire, continue to find themselves unable to attend the House because of restrictions deriving from the pandemic. Party managers are best placed to know which Members have genuine issues, directly related to coronavirus restrictions, which prevent them from attending.

93. We note the increased use of “local lockdowns” where specific districts or urban areas have been made subject to bespoke statutory restrictions in response to heightened rates of disease transmission. Any Member representing such a district, or ordinarily resident there, will be subject to statutory provisions, breach of which is a criminal offence. We do not consider that the ancient privilege of the House to require the attendance of its Members at Westminster without hindrance is capable of being exercised to exempt any Member from the requirement of the criminal law, and on public policy grounds we do not think it is appropriate for Members to be exempted from such restrictions.

94. We recommend that proxy voting for public health reasons relating to the pandemic continue for as long as public health guidance or statutory provisions in any part of the UK has the effect of restricting the ability of Members to travel to Westminster. The House’s provision in this respect ought to take into account guidance and statutory restrictions in effect in all four nations of the UK and the statutory imposition of “local lockdowns”.

95. We recommend that the Leader of the House conduct urgent discussions through the usual channels to ascertain the current position in respect of Members prevented from attending the House for public health reasons. This will facilitate the design of eligibility criteria which are appropriate to current requirements and sufficiently flexible to take future changes in restrictions in all four nations into account.

Exercising the proxy

96. Under the current temporary arrangements for voting in divisions, Members walk through the relevant division lobby, exercising social distancing, and tap their parliamentary passes on designated card readers to record their name. They then record their vote by being counted by the tellers as they pass out of the lobby. Members carrying proxies tap their pass on the card reader to register their own vote (if they are voting in the same way as the proxy vote they are casting), and when passing the tellers inform them of the number of proxy votes they are casting. They are then required to email the Public Bill Office with the names of the absent Members for whom a proxy is being cast.

97. The name information from the card reader system and the proxy voting emails is collated in the House's division information system and tallied with the number of votes recorded and subsequently released to the CommonsVotes app and to Hansard for publication.

98. The current system, rapidly designed from available resources to meet the urgent requirements of the House, has a number of evident points of failure, despite the best efforts of the House authorities to establish all possible mitigations. The numbers reported to the Chair by a designated teller after each division represent the agreed result of that division, which may be corrected only following a report from the tellers. We are aware that, on occasion, delays in submitting the information about the names of those casting proxy votes has led to significant delays in the publication of accurate division lists, and when Members casting proxy votes have omitted to submit names to the Public Bill Office it has been very difficult to produce accurate lists.

99. The current system for recording votes in divisions appears to be the best available given the will of the House and the facilities and resources available. Effective operation of that system, particularly in relation to proxy votes, relies significantly on the cooperation of Members, and in particular on the prompt and accurate submission of names of those voting by proxy so that accurate division lists can be compiled swiftly.

Designation of proxy

100. After the House agreed the expansion of eligibility for proxy voting on 10 June there were a significant number of proxy voting certificates. The Votes and Proceedings of 11 June recorded 135 proxy voting certificates. The vast majority of designated proxies were whips.

101. Our predecessor Committee considered this issue in general in its initial report on proxy voting for parental absence, when of course contemplating the exercise of a dozen proxies at most:

Members ought to be free to choose any other Member of the House who is eligible to vote in divisions to act as a proxy. That Member will be named in the certificate issued by the Speaker.³⁸

102. In the current circumstances it is easier to administer the proxy voting scheme if proxies are held by whips. This is due to the large number of active proxy votes. If each were designated to a different Member there would be a heightened risk of error and confusion.

103. Given the method of casting the proxy in the current method of divisions, it is easier if a handful of people are emailing the Public Bill Office with proxies as opposed to individual entries. However, designating a whip as a proxy should not become the norm. It is only due to the current exceptional circumstances that we consider it remotely acceptable and compatible with the House's custom and practice. We note with approval the instances when a party whip carrying a proxy has observed the wishes of the instructing Member and has cast that proxy against the directions of the relevant chief whip: this honourable exercise of an individual Member's vote is in the best traditions of the House.

Resilience arrangements

104. The present system of lobby voting with pass readers, combined with the mass extension of proxy voting to as many as 150 Members at any one time, has resulted in a deeply unsatisfactory situation. While good progress has been made in reducing the time taken in divisions, we fear that this has been at the expense of social distancing requirements, which are difficult to observe under the conditions which currently prevail for divisions and the pressure to complete divisions swiftly.

105. In an earlier report we identified a number of potential issues in any division system that requires queuing.³⁹ Many of these concerns are equally applicable to the current pass reader division method. Some of the issues we raised included concerns that Members would spend much of their time in Westminster queuing for divisions and an unfair pressure to minimise the number of divisions, which would disproportionately affect backbenchers seeking to press their amendments. We also stressed that these alternative division methods should be temporary.

106. The situation that arose on 2 June was thoroughly unsatisfactory. The Government had allowed the remote division order to lapse on 20 May. As such, when the House returned on 2 June, there was no provision for Members who were unable to attend Westminster to cast their vote. It is in that context, where a significant number of interested Members were excluded, that the Government proposed a return to physical divisions. The Chair of this Committee proposed an amendment which would retain remote divisions. This amendment was defeated.

107. Only two days later, on 4 June, the Government proposed extending proxy voting *en masse* to those Members who were "clinically extremely vulnerable" or "clinically vulnerable". This was done without any prior consultation and with the barest prior notice to the Chair of this Committee and to the House authorities. The Government's lack of consultation is evident in the fact that the Government had to return on 10 June to change the narrow criteria it had set for coronavirus proxy votes.

39 Procedure Committee, *Procedure under coronavirus restrictions: the Government's proposals to discontinue remote participation*, Third Report of Session 2019–21, HC 392, paras 44–52

108. **The present infrastructure supporting the pass-reader division system is barely adequate, especially in respect of proxy voting: significant development work is required to establish a system which provides sufficient support to the House's existing system for recording and publishing the outcome of divisions.**

109. On 2 June the House of Commons rejected a proposal to continue the system of remote voting in divisions. In our view, expressed in our report on the Government's proposals for ending remote participation in the House's proceedings, remote voting provided the most reliable and accurate means of conducting divisions while the division lobbies could not be used as normal and while a substantial number of Members were obliged to be absent from Westminster for public health reasons.

110. The Committee will in due course be considering the overall resilience of House procedures to large-scale disruption of the type experienced in March 2020. It would be prudent to plan for the effect on participation in House proceedings of further restrictions on freedom of movement later in the year if such restrictions are necessary to prevent or mitigate a 'second wave' in coronavirus infections and deaths.

111. *The present system of proxy voting for coronavirus absences, as it is required to be operated under the current system of lobby voting, is barely adequate, is potentially unreliable and imposes disproportionate administrative burdens on staff. We recommend that the system be reviewed and replaced as soon as a more reliable alternative which is acceptable to the House can be found.*

112. We also have significant concerns about the current system of lobby voting under physical distancing, which potentially increases the risk of virus transmission between Members.

113. *In our view, the system of remote voting used in May was a more effective means of handling divisions in the House under conditions where the division lobbies could not be used in the traditional way and where a large number of Members were unable to attend for public health reasons. We recommend that the remote voting system be reinstated as a means of conducting divisions for as long as the division lobbies are unavailable for use in the traditional way.*

114. *In any event, should coronavirus conditions be reimposed in a way which again prevents attendance at Westminster on a substantial scale, the House ought to consider conducting divisions by the electronic remote system previously developed.*

4 Technical amendments required

115. In addition to the situation-specific amendments discussed above, we have considered a number of general issues arising from the provisions of the temporary order of the House governing the operation of proxy voting under the pilot.

Proxy votes and motions under the Fixed-term Parliaments Act 2011

116. The current temporary order governing proxy voting excludes voting for motions under section 2(2) of the Fixed-term Parliaments Act 2011. This is a motion “That there shall be an early parliamentary general election” which requires a two-thirds majority to pass. It is this specific form of motion on which proxy votes are currently unavailable.

117. It was initially thought that allowing a proxy vote for such a decision, which requires a certain majority specified in legislation, might leave a decision of the House on such a motion open to judicial review if the decision turned on the use of proxy votes. Our predecessor Committee said:

The Clerk of the House of Commons observed that the two-thirds majority was a statutory provision. A decision taken on the basis of proxy votes [...] 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.

*We recommend that no vote shall be cast by proxy in any division on a motion ‘That there shall be an early parliamentary general election’ pursuant to section 2(1) of the Fixed-term Parliaments Act 2011.*⁴⁰

118. Three motions for an early general election under the provisions of section 2(2) of the 2011 Act were tabled in 2019.⁴¹ Notice of each motion was typically given shortly before the rise of the House on the previous sitting day. The interaction of this practice with the proxy voting scheme was unclear and cumbersome and led to significant inconvenience and confusion. It was not immediately clear whether a proxy vote in operation had to be formally suspended, through a Speaker’s certificate, to allow the Member carrying the proxy vote to vote in person in any division on the no confidence motion. In the circumstances it proved difficult to administer the necessary arrangements smoothly.

119. Subsequent written evidence from the Clerk of the House suggests that the risk of a successful application for judicial review are very low. He wrote:

My own view is that the likelihood of this matter being actively considered by a court is extremely low, but it is not zero. The Procedure Committee itself expressed the view that there might be some issues on which it would not be appropriate that proxy votes should be cast (see paras 81–83 of their report).

The question for the committee is whether that small, but not entirely negligible, risk is worth taking in order to provide a proxy voting regime which allows Members absent from the House by reason of childbirth or

40 Procedure Committee, [Proxy voting and parental absence](#), Fifth Report of Session 2017–19, HC 824, para 72

41 The motions were moved on 4 and 9 September and 28 October 2019 respectively.

care of an infant or newly adopted child (or, if the scheme is to be widened in scope, absent for other reasons) to participate equally with Members present on the estate in decisions of great importance.⁴²

120. We are confident that the courts will not seek to question the outcome of any votes which utilised the proxy voting scheme. It is clear that this would constitute a proceeding in Parliament and is covered by parliamentary privilege.

121. We recommend that any standing order making permanent provision for proxy voting for parental absence should not exclude votes on motions under section 2(2) of the Fixed-term Parliaments Act 2011 from the scope of that provision.

Use of proxy votes in the election of Committee Chairs

122. Paragraph 2(c) of the temporary order of 28 January 2019 makes provision for the exercise of proxy votes in the election of the Speaker, Deputy Speakers, and select committee chairs elected under Standing Order No. 122C. It does not provide for the exercise of a proxy vote for the election of the Chair of the Backbench Business Committee.

123. We recommend that any standing order making permanent provision for proxy voting for parental absence should, in addition to the provision in the temporary Order of 28 January 2019, provide that proxy votes may be exercised in any election for the position of Chair of the Backbench Business Committee under Standing Order No. 122D.

Conclusions and recommendations

Proxy voting for parental absence

1. Our overall evaluation is that the system of proxy voting for parental absence has benefitted the House and the broader objectives of parliamentary democracy, by making the House a more inclusive place for new mothers and fathers. *We recommend that provision for proxy voting for parental absence be made in the standing orders of the House, subject to the recommendations made in this report.* (Paragraph 25)
2. The requirement to produce certificates of pregnancy or adoption to demonstrate eligibility for a proxy vote has proved onerous. The experience of the pilot demonstrates that the requirement is unnecessary. It is difficult to think of a situation where a Member would consider it feasible or advantageous to misinform the Speaker and the House about impending parenthood in order to secure a proxy vote. (Paragraph 28)
3. *We recommend that any permanent scheme providing for proxy voting for parental absence should not have as a condition of eligibility a requirement to produce a certificate of pregnancy or a matching certificate. Members who meet the eligibility criteria for the scheme ought to be required to self-certify.* (Paragraph 29)
4. *We recommend that any future arrangements for proxy voting by Members should include provision for any Deputy Speaker to certify eligibility for a proxy vote, under the Speaker's authority.* (Paragraph 32)
5. Once the present temporary arrangements for proxy voting for public health reasons has ended, the Committee will examine whether, and how, eligibility for proxy voting might be extended to other categories of absent Member, should it be demonstrated that the support in the House for such measures merits such an inquiry. (Paragraph 37)
6. *We recommend that in any permanent arrangement for proxy voting for parental absence the notification requirements are changed to provide that a certificate relating to a proxy vote which is issued on a day on which the House does not sit shall have effect as if it had been published in the Votes and Proceedings for the previous sitting day, and shall be published in the Votes and Proceedings for the next sitting day.* (Paragraph 42)
7. *We recommend that the maximum duration of eligibility of a proxy vote for maternity absence should include a period of up to four weeks before the due date, together with a period of no more than six months commencing on the due date or the date of the birth, whichever is the later.* (Paragraph 46)
8. *We recommend that a Member who is a new father, partner or second adopter ought, when certifying eligibility for a proxy vote, give the date of birth or adoption. Any permanent scheme for proxy voting for parental absence ought to provide that eligibility for a proxy vote for new fathers, partners or second adopters ceases six months after the stated date of birth.* (Paragraph 48)

9. We have had no representations from Members seeking modification of the proxy voting entitlement to allow the sharing of parental leave of a partner who is not a Member. Should circumstances change to the extent that Members begin to require this degree of flexibility in proxy voting arrangements, it would be possible to amend the proxy voting scheme to provide this facility without further reference to the House. We would if necessary be happy to advise on how this amendment might be achieved. (Paragraph 53)
10. *We recommend that, under any permanent proxy voting scheme to be established by the House, the information contained in every proxy voting certificate issued under the Speaker's authority ought to be made available on a dedicated page on the Parliament website.* (Paragraph 64)
11. *Any permanent proxy voting scheme should be amended to clarify that a Member may nominate only one proxy at any one time.* (Paragraph 66)
12. *We recommend that under any permanent system of proxy voting for parental absence the House Service should issue a proxy voting card to each Member carrying a proxy to aid confirmation that the Member is carrying a proxy vote.* (Paragraph 69)
13. *We recommend that any proposed standing order ought to provide for eligibility for a proxy vote for reasons related to complications in or associated with childbirth.* (Paragraph 74)

Proxy voting for public health reasons

14. *We encourage all colleagues participating in self-certifying arrangements to familiarise themselves thoroughly with the obligations entailed in self-certification.* (Paragraph 87)
15. *Should proxy voting for medical and public health reasons relating to the pandemic be continued beyond 28 September, we recommend that the processes for self-certifying for the purposes of virtual participation and for proxy voting be aligned.* (Paragraph 88)
16. *We recommend that proxy voting for public health reasons relating to the pandemic continue for as long as public health guidance or statutory provisions in any part of the UK has the effect of restricting the ability of Members to travel to Westminster. The House's provision in this respect ought to take into account guidance and statutory restrictions in effect in all four nations of the UK and the statutory imposition of "local lockdowns".* (Paragraph 94)
17. *We recommend that the Leader of the House conduct urgent discussions through the usual channels to ascertain the current position in respect of Members prevented from attending the House for public health reasons. This will facilitate the design of eligibility criteria which are appropriate to current requirements and sufficiently flexible to take future changes in restrictions in all four nations into account.* (Paragraph 95)
18. The current system for recording votes in divisions appears to be the best available given the will of the House and the facilities and resources available. Effective operation of that system, particularly in relation to proxy votes, relies significantly

on the cooperation of Members, and in particular on the prompt and accurate submission of names of those voting by proxy so that accurate division lists can be compiled swiftly. (Paragraph 99)

19. The present infrastructure supporting the pass-reader division system is barely adequate, especially in respect of proxy voting: significant development work is required to establish a system which provides sufficient support to the House's existing system for recording and publishing the outcome of divisions. (Paragraph 108)
20. *The present system of proxy voting for coronavirus absences, as it is required to be operated under the current system of lobby voting, is barely adequate, is potentially unreliable and imposes disproportionate administrative burdens on staff. We recommend that the system be reviewed and replaced as soon as a more reliable alternative which is acceptable to the House can be found.* (Paragraph 111)
21. We also have significant concerns about the current system of lobby voting under physical distancing, which potentially increases the risk of virus transmission between Members. (Paragraph 112)
22. *In our view, the system of remote voting used in May was a more effective means of handling divisions in the House under conditions where the division lobbies could not be used in the traditional way and where a large number of Members were unable to attend for public health reasons. We recommend that the remote voting system be reinstated as a means of conducting divisions for as long as the division lobbies are unavailable for use in the traditional way.* (Paragraph 113)
23. *In any event, should coronavirus conditions be reimposed in a way which again prevents attendance at Westminster on a substantial scale, the House ought to consider conducting divisions by the electronic remote system previously developed.* (Paragraph 114)

Technical amendments required

24. *We recommend that any standing order making permanent provision for proxy voting for parental absence should not exclude votes on motions under section 2(2) of the Fixed-term Parliaments Act 2011 from the scope of that provision.* (Paragraph 121)
25. *We recommend that any standing order making permanent provision for proxy voting for parental absence should, in addition to the provision in the temporary Order of 28 January 2019, provide that proxy votes may be exercised in any election for the position of Chair of the Backbench Business Committee under Standing Order No. 122D.* (Paragraph 123)

Annex 1: text of proposed Standing Order

Words proposed to be added to the temporary Order of 28 January 2019, as amended, appear highlighted in green.

Provisions expected to be temporary are highlighted in yellow.

Words proposed to be removed are struck through.

- 1) A Member may, by reason of absence from the precincts of the House—
 - a) for childbirth or care of an infant or newly adopted child, or
 - b) because they are unable to attend at Westminster for medical or public health reasons related to the pandemic,

arrange for their vote to be cast in accordance with this order

by one another Member acting as a proxy (a proxy vote).

- 2) A proxy vote may be cast:
 - a) in a division in the House, in Committee of the whole House, or in any legislative grand committee, in relation to the business specified in paragraph (3) below;
 - b) on business specified in paragraph (3) below recorded in a division under Standing Order No. 41A (Deferred divisions), and
 - c) in a ballot cast in an election under Standing Order No. 1B (Election of Speaker by secret ballot), Standing Order No. 2A (Election of the Deputy Speakers), Standing Order No. 122B (Election of select committee chairs) and Standing Order No. 122(d) (Election of Chair of the Backbench Business Committee).
- 3) ~~Subject to paragraph (4) below,~~ a proxy vote may be cast on all public and private business of the House.
- 4) ~~No proxy vote shall be cast in a division on any motion in the form specified in section 2(2) of the Fixed-term Parliaments Act 2011.~~
- 5) No proxy vote shall be reckoned in the numbers participating in a division for the purposes of (a) Standing Order No. 41(1) (Quorum), and (b) Standing Order No. 37 (Majority for closure or for proposal of question).
- 6) A proxy vote may be cast only if the Speaker (or a Deputy Speaker, acting on the Speaker's behalf) has certified that the Member for whom the vote is to be cast is eligible under the terms of this order and the Resolution of the House of Monday 28 January 2019 and if that certificate, including the name of the Member nominated as a proxy, has been published in the Votes and Proceedings.
- 7) A vote cast by a proxy shall be clearly indicated as such in the division lists published under the authority of the House.

8) The Speaker may also make provision for the exercise of a proxy vote for Members who have suffered a miscarriage in circumstances where there have been complications relating to childbirth.

Annex 2: text of proposed proxy voting scheme

Words proposed to be added to the June 2020 scheme appear highlighted in green.

Provisions expected to be temporary are highlighted in yellow.

Words proposed to be removed are struck through.

A. Eligibility

- 1) Proxy voting shall be available to
 - a) new mothers, new fathers and adoptive parents,
 - b) Members who are unable to attend at Westminster for medical or public health reasons related to the pandemic.
- 2) A Member shall demonstrate eligibility for part (a) of the scheme (parental leave) by **self-certifying that they meet the eligibility requirement**, ~~producing the following documents to the Speaker:~~

- ~~• A certificate of pregnancy from a registered practitioner, midwife or health visitor, or~~
- ~~• A 'matching certificate' from a registered adoption agency;~~

~~The production of such a certificate shall be a sufficient requirement to register for the scheme, and no further validation shall be required.~~

- 3) **A Member shall demonstrate eligibility for part (b) of the scheme by writing to the Speaker to assure the Speaker that they are unable to attend at Westminster for medical or public health reasons related to the pandemic.**

- 4) The entitlement to a proxy vote, and to its use, is personal to the eligible Member.
- 5) It shall not be compulsory to take up eligibility for the scheme.

B. Duration

- 6) The maximum duration of the dispensation to vote by proxy for part (a) of the scheme (parental leave) shall be as follows:
 - **Seven** Six months for the biological mother of a baby, or for the primary or single adopter of a baby or child
 - Two weeks for the biological father of a baby, the partner of the person giving birth or the second adopter of a baby or child.
- 7) Any period of absence taken by a mother or primary adopter shall start at or before the due date or adoption date and should be taken as a continuous period of up to six months, including periods when the House is adjourned, prorogued or dissolved.

- 8) A mother may claim an additional four weeks' absence before the due date. The six months of absence shall commence from the due date.
- 9) The absence claimed by the father, partner or second adopter shall be taken in one continuous period of two weeks. The absence claimed by the father, partner or second adopter shall be taken within six months of the birth or date of adoption.
- 10) ~~Where it is certified that a Member is unable, because of pregnancy, to travel to Westminster by air, the maximum period may be extended by no more than four weeks, to include the period before the due date where travel to Westminster is not possible.~~
- 11) [A proxy vote under part (b) of the scheme (medical or public health reasons related to the pandemic) shall last until varied or rescinded or until [the expiry of any relevant order made by the House / the House otherwise orders]].
- 12) A Member eligible for the scheme shall specify in writing to the Speaker the dates on which the absence shall begin (and, in the case of parental leave absence, end), subject to the maximum durations set out in the scheme. During that period the Member shall be entitled to cast a vote by proxy.
- 13) If the specified start (or end) date of absence given is not a sitting day, the period of entitlement shall begin (or end) when the Speaker takes the Chair on the next sitting day.
- 14) A Member may apply for a proxy vote on any day before the specified start day. Applications may be taken until [time] on any non-sitting day. The period of entitlement shall begin when the Speaker takes the Chair the next sitting day.

C. Designation of proxy

- 15) When applying for a proxy vote, the Member eligible for proxy voting shall name the Member who has agreed to carry her or his proxy vote, thereby vouching that an agreement has been entered into.
- 16) A Member shall be free to choose any Member of the House who is eligible to vote in divisions to act as a proxy.
- 17) A Member may nominate no more than one proxy at any given time.

D. Publishing the arrangement

- 18) On receipt of the specified information the Speaker, or a Deputy Speaker acting under the Speaker's authority, shall issue a certificate, and cause it to be entered in the Votes and Proceedings.

E. Varying the arrangement

- 19) A Member who wishes to change the Member who is their proxy, to end their period of proxy voting earlier than originally notified, or to cast a vote in person on a specific item of business, shall give written notice to the Speaker as early as possible, and at the very latest by either (a) the scheduled rise of the House on the sitting day before the day on which the change is to take effect or (b) [time] on a non-sitting day before that day.

20) The Speaker shall issue a new certificate if required under paragraph 16 above, which shall appear in the Votes and Proceedings either on the day that it is issued or on the first sitting day after issue if the day of issue is a non-sitting day.

21) Changes of proxy made for a specified period shall take effect when the Speaker takes the Chair on the first sitting day specified, and shall end when the House rises on the last sitting day specified.

F. Exercising the proxy vote

22) A Member eligible to vote by proxy must agree with the Member nominated as their proxy when the proxy vote will be cast and how it will be exercised.

23) A proxy vote may be cast according to the provisions of [the relevant order of the House].

24) A Member designated as a proxy will be expected to act in strict accordance with the instruction given by the absent Member.

25) A Member designated as a proxy may cast their own vote one way and the proxy vote the other, and may cast a proxy vote without casting their own vote at all.

26) A Member registered as voting by proxy who wishes to vote in person shall be entitled to do so, provided that the Speaker has been notified by the end of the previous sitting day that the proxy arrangement is to be suspended (see paragraph 16).

27) In divisions in legislative grand committees, a Member who is not a member of the committee shall be entitled to cast a proxy vote for a committee member.

G. Recording a proxy vote in a division in the House or Committee of the whole House

28) A Member casting a proxy vote in a division shall inform the Tellers, and shall notify the division clerks, under arrangements authorised by the Speaker, of the name of the Member for whom they are proxy voting.

29) At the same time, the Member casting the proxy vote shall make it clear whether that Member is also casting his or her own vote.

30) When listing the result of divisions, both online and in its printed edition, the Official Report (Hansard) shall note votes cast by proxy, including the Member who cast the proxy vote.

31) The record of a proxy vote shall be treated as part of the digital record of the Commons.

Formal minutes

Monday 7 September 2020

Members present:

Karen Bradley, in the Chair

Kirsty Blackman	Andrew Griffith
Jack Brereton	Nigel Mills
Bambos Charalambous	Rob Roberts
Ms Angela Eagle	Douglas Ross
Chris Elmore	James Sunderland
James Gray	Suzanne Webb

The Committee deliberated.

Draft Report (*Proxy voting: review of pilot arrangements*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 112 read and agreed to.

Motion made and Question put, That paragraph 113 stand part of the Report.

The Committee divided.

Ayes, 6	Noes, 2
Bambos Charalambous	Jack Brereton
Ms Angela Eagle	Suzanne Webb
Chris Elmore	
James Gray	
Nigel Mills	
Rob Roberts	

Question agreed to and paragraph 113 accordingly agreed to.

Paragraphs 114 to 123 agreed to.

Annexes and summary agreed to.

Resolved, That the Report be the Fourth Report of the Committee to the House.

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 Wednesday 16 September at 2.30 pm.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 11 March 2020

Ms Harriet Harman MP; Darren Jones MP

[Q1–9](#)

Professor Sarah Childs; Sam Smethers; Mrs Maria Miller MP

[Q10–21](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

PVX numbers are generated by the evidence processing system and so may not be complete.

- 1 Centenary Action Group ([PVX0008](#))
- 2 Electoral Reform Society ([PVX0011](#))
- 3 House of Commons Service ([PVX0010](#))
- 4 Independent Parliamentary Standards Authority (IPSA) ([PVX0006](#))
- 5 mySociety ([PVX0009](#))
- 6 Ellie Reeves MP ([PVX0001](#))
- 7 Women's Parliamentary Labour Party (Ms Rosie Duffield, Chair) ([PVX0007](#))

List of Reports from the Committee during the current Parliament

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
Third Report	Procedure under coronavirus restrictions: the Government's proposal to discontinue remote participation	HC 392
First Special Report	Procedure under coronavirus restrictions: the Government's proposal for proxy voting for shielding Members	HC 429
Second Special Report	Procedure under coronavirus restrictions: Government Responses to the Committee's First, Second and Third Reports	HC 565