



House of Commons
Procedure Committee

Proxy voting: Review of illness and injury pilot

Third Report of Session 2022–23

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

*Ordered by the House of Commons
to be printed 8 March 2023*

Procedure Committee

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

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1 Review of illness and injury pilot

Introduction

1. In our First Report of the Session, we recommended that the House be given an opportunity to debate and express its view on whether proxy voting should be extended to include Members suffering from serious long-term illness or injury.¹ We proposed that any such extension would be temporary and undertook to review its operation if implemented by the House.² The Government responded to our report in October and tabled a motion to implement a pilot, which was agreed to by the House later that month.³

2. The Government's motion also amended Standing Order No. 39A to remove the bar on participation in proceedings while in possession of a proxy vote, to provide for greater equality and to make minor amendments to re-order provisions within the Standing Order arising from the way in which the motion was amended by the House when it was first made in January 2019.⁴

3. The pilot came into effect on 17 October and is set to last until 30 April. The House instructed us to review the operation of the pilot by 17 March. In this short report, we conclude that the pilot has been a success and that the extension of eligibility should be made on a permanent basis, subject to certain amendments being made to the scheme issued by the Speaker.

Our review

4. On 17 January, we invited all those Members who had held a proxy vote under either the permanent element of Standing Order No. 39A ('parental' proxies) or the temporary element extending eligibility to serious long-term illness or injury to comment on their experience. On 22 February, we extended this invitation to all Members. We received thirteen responses, which were supportive of the availability of proxy voting for serious long-term illness and injury. David Linden wrote:

I think the committee should be reassured that this particular reform has been hugely welcomed by those who need it and I believe its permanence would be no bad thing.⁵

As part of our review, we have considered what changes the House may wish to make to proxy voting if illness and injury proxies are to become a permanent feature alongside parental proxies.

5. One of the principal challenges during our previous inquiry was deciding where the threshold for a proxy should be set. Specifying medical conditions would have been arbitrary and could quickly have led to unjust or perverse outcomes. Our descriptions of 'serious' and 'long-term' were intended to indicate that proxy votes for illness and injury should be very much the exception rather than the norm. We made clear that nothing

1 Procedure Committee, [Proxy voting and the presence of babies in the Chamber and Westminster Hall](#), First Report, para 26

2 [First Report](#), para 29

3 Votes and Proceedings, [12 October 2022](#), item 12

4 Votes and Proceedings, [28 January 2019](#), item 11

5 PVR004 [David Linden MP]

in our proposals affected the existing informal mechanisms of pairing and nodding through, which continue to operate alongside proxy votes.⁶ This was supported in our written evidence by Ian Paisley:

I believe members should be, as a rule, in the House present and voting. The system of pairing should cover those who are absent and can be arranged in my experience with either opposition or government party at short notice.⁷

6. **The extension of eligibility for proxy voting to Members with a serious, long-term illness or injury has enabled several Members who would otherwise have been unable to discharge their responsibility to vote in divisions to do so.**

7. *We recommend that the House extends eligibility for a proxy vote to include serious long-term illness and injury on an ongoing basis.*

'Absence from the precincts'

8. In our First Report, we concluded that the House could provide greater flexibility to Members with a proxy vote if it removed 'absence from the precincts' from the wording of the Standing Order.⁸ Absence from the Estate had been a central element of the rationale for introducing proxy voting in 2019, but the wording of the Standing Order acted as a barrier in certain circumstances for Members participating in proceedings for which they could not give notice of their wish to suspend a proxy voting arrangement. We noted the risks associated with removing a requirement of absence,⁹ and called for the House to consider this point carefully.

9. Creating the possibility that a Member might both hold a proxy vote and also, in limited circumstances, participate does not however mean that this should be commonplace. The circumstances in which it was suggested to us that it might be appropriate were that of a Member in possession of a parental absence proxy who wished to participate in an urgent question of particular relevance to their constituency. While such a situation would be unlikely to occur very often, it did not seem consistent with the House's 2018 Resolution that the Member should by necessity be prevented from participating. We considered the possibility of a proxy vote being suspended during a sitting day (i.e. without notice being given), but decided against this on grounds of both principle and of practicality.

10. The basis on which the House agreed to the principle of proxy voting in 2018 and then the implementation of the original arrangements in 2019 was that Members would be using a proxy vote because they could not be present on the Estate. We believe that the presumption of absence is a principle to which the House should return. Doing so would not necessitate restoring 'absence from the precincts' to the wording of the Standing Order, but could be captured in the Scheme issued under the Speaker's authority:¹⁰

5. The existence of proxy voting in the House of Commons is predicated on absence from the Estate, by virtue either of parental responsibilities or the severity and duration of an illness or injury. Members should not apply

6 [First Report](#), para 25

7 PVR002 [Rt Hon Ian Paisley MP]

8 [First Report](#), para 36

9 [First Report](#), para 36

10 [Proxy Voting Scheme](#) (updated 13 October 2022) [accessed 2 March 2023]

for or retain a proxy vote if they intend to or become able to attend the Estate on a regular basis. Short term absences should be dealt with by non-procedural means.

It is for hon. and Rt hon. Members to decide whether making an application for a proxy vote on the grounds of serious long-term illness and injury is the best way to discharge their responsibilities to their constituents and the House.

11. There may be circumstances where a Member attends the Estate on a regular basis but would struggle through illness, injury (or pre-existing disability) to participate in divisions, which can take place successively over the course of an hour or so during the evening or later into the night.

12. We believe that the solution may lie in informal arrangements such as pairing and ‘nodding through’.¹¹ This was a point discussed in our oral evidence on 28 February 2022 by William Wragg:

As the Committee knows, I often speak up for Whips Offices of all variety, but one of the most humane things that we do as a Parliament is that accommodation through pairing. There might well be future scope to look at how nodding through might be used.¹²

13. Nodding through has historically been used in cases where severely ill Members have been brought on to the Estate for the purposes of being counted in a division in which numbers were expected to be tight, but not required to pass through the lobbies. The practice of bringing severely ill Members onto the Estate to vote has been considered by previous Procedure Committees,¹³ although until the start of the present pilot last year no provision for proxy voting in such cases was made. As was suggested to us in our oral evidence, we believe that there is scope for informal means to be used in a wider variety of circumstances. This can involve Members, who for medical reasons need to leave the Estate before divisions, being nodded through when they have been on the Estate earlier in the sitting. We emphasise that this is an informal agreement between Whips.

14. The conventions and practice of the House should be applied flexibly to ensure an inclusive environment in which Members’ participation is enabled rather than inhibited.

15. In order to enable flexibility, we have chosen not to define exactly the length of time for which a proxy vote arrangement should be used. We note, however, that IPSA provides funding to enable Members to maintain a family life and support Members who require time away from work for other reasons. IPSA’s Parental Leave & Absence budget allows Members to recruit additional capacity into their office if they expect to be absent from work for an extended period, normally expected to be more than three months. This additional funding is provided on the basis that the Member is absent and the additional funding is required to increase office staffing capacity for the period during which the Member is absent.

11 If the tellers from both sides agree, an MP who is within the precincts of the Palace of Westminster but not well enough to vote in person, may be ‘noddod through’. This means their name is added to the list of those voting even though they have not gone through the lobby in person.

12 [Q189](#)

13 Fourth Report of Session 1994–95, *Voting by sick Members*, HC 490; Fifth Report of Session 1964–65, *Voting arrangements for sick Members*, HC 361; Report of Session 1958–59, HC 92—I, para 37

16. We considered the period for which a proxy vote arrangement would be appropriate during the oral evidence sessions leading to our First Report,¹⁴ and noted that:

any extension to the proxy voting scheme should not include provisions for short-term, non-serious medical conditions. In the case of non-serious illness which could cause short-term absence, Members should use existing informal mechanisms such as pairing or, if appropriate, ‘nodding through’.¹⁵

17. *Members should not apply for proxy votes if they intend to be present on the Estate during times when divisions can be reasonably expected to take place on a regular basis and should end their proxy vote arrangement if they do so.*

18. *Members should not have active proxy voting arrangements during any official parliamentary or ministerial travel.*

19. *We recommend that the Proxy Voting Scheme, issued under the authority of the Speaker, is amended to reinforce the link in principle between absence from the Estate and proxy voting.*

Precautionary exclusion

20. On 14 November, the House of Commons Commission agreed to launch a consultation on a policy of ‘precautionary exclusion’, under which Members who had been charged with a serious sexual or violent offence would be excluded from the parliamentary estate and prevented from participating in overseas visits and delegations funded by the House. Alongside other relevant committees, we were invited to comment on the proposals, including specifically the question of whether a Member so excluded should be granted a proxy vote.

21. We considered practice in a range of parliaments and legislative assemblies whose practice and procedure has a common ancestry with our own. We found little evidence of analogous processes in other parliaments, and what examples there were followed a different process to the one being consulted upon by the Commission. Our full response to the Commission’s consultation is published as an annex to this Report. On the matter of whether a Member excluded from the estate should be able to vote by proxy, we commented that:

(a) Proxy voting is still relatively newly established within the practice and procedure of the House. One of the concerns expressed at the introduction of proxy voting was that it would be the ‘thin end of the wedge’ and while suggestions have been made for how eligibility could be further extended (to include, for example, Members with caring responsibilities or Members undertaking ministerial or parliamentary visits), the House has only recently agreed to a narrow pilot extension in circumstances for which we found widespread support.

(b) In the circumstances under consideration, a Member may well find themselves subject to a form of informal or voluntary exclusion at an earlier stage and without the ability to take part in divisions. If charges were

14 [First Report](#), para 22

15 [First Report](#), para 23

brought and their exclusion became formal and procedural (rather than political) and a proxy vote became available, they would then have greater rights of participation than they did prior to the point of charge. We would question whether the Member against whom charges had not been brought should not also have the option of a proxy vote.

(c) In terms of the representation of constituents, we would question whether the loss of vote is more significant than the loss of voice. Participation in proceedings runs far more broadly than voting in divisions: we are just as challenged if not more so by any circumstances in which Members are prevented for one reason or another from speaking on behalf of their constituents, every bit as much as we are from them being unable to vote in divisions.

The Commission is yet to publish its response to the consultation.

22. *Members should only apply for a proxy vote on the grounds of absence caused by parental leave or serious long-term illness or injury. A Member not attending the estate for another reason should neither apply for nor expect to be granted a proxy vote.*

23. *If the House decides to introduce a formal mechanism for the exclusion of Members, it should also decide whether they should be able to vote by proxy during the period of their exclusion.*

Publication arrangements

24. In our First Report, we considered the concerns raised previously and as part of that inquiry that extending eligibility for proxy voting to include illness and injury would place Members in a position where their privacy might be intruded upon. It was for this reason that we noted that:

every effort should be made to make sure [a Member's] right to privacy is respected. From a transparency perspective, if the proxy voting scheme were extended, only the fact of (rather than detail of the need for) a proxy arrangement is essential. This is why we recommend that any extended scheme should be recorded in the same way as a parental proxy: through a Speaker's certificate recorded in the Votes and Proceedings stating that the Member had exercised their right under the Standing Order, giving the dates and name of the nominated proxy.¹⁶

25. It has been put to us that the publication of the fact of a proxy and the circulation of a list of Members with active proxies to officials and Whips could be a breach of privacy. We believe that there are good reasons why a wide range of Members and officials within the House should be aware of what proxy voting arrangements are in place on any given day. Under Standing Order No. 39A, votes may not be cast by proxy in any division under Standing Order No. 41(1) (Quorum) or Standing Order No. 37 (Majority for closure or for proposal of question). A Member with a proxy voting arrangement may not vote in person if a division takes place on a day during which they are, by exception, participating in proceedings.

16 [First Report](#), para 20

26. We propose no change to these arrangements, and reiterate the fact that taking up a proxy voting arrangement is voluntary. Applications for proxy votes on the grounds of serious long-term illness or injury should continue to be made directly to the Speaker's Office, as set out in paragraph 8 of the Proxy Voting Scheme.¹⁷ If the House decides to make the extension of eligibility for proxy voting a permanent change, no distinction should be drawn in the Votes and Proceedings between the different grounds for eligibility for proxy votes.

Conclusions and recommendations

Our review

1. The extension of eligibility for proxy voting to Members with a serious, long-term illness or injury has enabled several Members who would otherwise have been unable to discharge their responsibility to vote in divisions to do so. (Paragraph 6)
2. *We recommend that the House extends eligibility for a proxy vote to include serious long-term illness and injury on an ongoing basis.* (Paragraph 7)

'Absence from the precincts'

3. The conventions and practice of the House should be applied flexibly to ensure an inclusive environment in which Members' participation is enabled rather than inhibited. (Paragraph 14)
4. *Members should not apply for proxy votes if they intend to be present on the Estate during times when divisions can be reasonably expected to take place on a regular basis and should end their proxy vote arrangement if they do so.* (Paragraph 17)
5. *Members should not have active proxy voting arrangements during any official parliamentary or ministerial travel.* (Paragraph 18)
6. *We recommend that the Proxy Voting Scheme, issued under the authority of the Speaker, is amended to reinforce the link in principle between absence from the Estate and proxy voting.* (Paragraph 19)

Precautionary exclusion

7. *Members should only apply for a proxy vote on the grounds of absence caused by parental leave or serious long-term illness or injury. A Member not attending the estate for another reason should neither apply for nor expect to be granted a proxy vote.* (Paragraph 22)
8. *If the House decides to introduce a formal mechanism for the exclusion of Members, it should also decide whether they should be able to vote by proxy during the period of their exclusion.* (Paragraph 23)

Annex: Response to House of Commons Commission consultation on precautionary exclusion

Mr Speaker

Thank you for your letter of 5 December relating to the Commission's consultation on a policy of precautionary exclusion from the parliamentary estate and parliamentary-funded visits of Members of Parliament who have been charged with a serious or violent offence. The Committee discussed the matter in detail at its meeting of 12 December and agreed this letter at its meeting on 11 January. The Committee's views fall under three headings: (1) General observations (2) Specific matters for further consideration and (3) Proxy voting.

(1) General observations

(a) We recognise that this is a complex area in which to bring forward proposals, and that excluding at the point of charge rather than arrest or allegation goes some way to address the issues raised in the Clerk's memorandum to us of April 2022 such as preventing vexatious complaints and minimising disenfranchisement. However, we believe that this comes at the cost of being truly 'precautionary', as a significant period of time may pass before charges are brought. This need not prevent a measure being introduced, but the House should consider whether it would achieve the stated policy aims.

(b) We requested information from a number of Parliaments and legislative assemblies whose procedures share a common history with our own. We found little evidence of similar procedures having been adopted elsewhere, other than in the New South Wales Legislative Assembly and the Senate of Canada. The Senate "may order a leave of absence for or the suspension of a Senator where, in its judgment, there is sufficient cause". This is described as a 'preventive measure' "solely to protect the dignity and reputation of the Senate and public trust and confidence in Parliament". Senators are required by standing order to notify the House when they are charged with a serious offence, following which they are automatically granted a leave of absence during which they cannot vote or participate in proceedings. They are not automatically barred from the precincts, although their access to services and premises can be restricted by the Standing Committee on Internal Economy, Budgets and Administration. In the New South Wales Legislative Assembly, "Provision exists for the suspension of a Member pending a criminal trial. The consequences of the suspension are that the Member is not permitted to participate in proceedings of the House or its committees, nor are they able to enter the parliamentary precincts." We noted that under the Assembly's Standing Order No. 255, this only applies in cases where "the House decides not to proceed on a matter which has been initiated in the House concerning the alleged misconduct of a Member on the grounds that the Member may be prejudiced in a criminal trial" rather than in any case where a Member is charged with a sexual or violent offence.

(c) It is suggested in the Commission's consultation that a Member excluded from the precincts under the proposed policy would be able to take part in 'virtual activity'. Since the end of changes to the House's procedure brought about by the pandemic, this is not

a category of parliamentary activity that we recognise. There are limited opportunities to carry out parliamentary activities in the House without being physically present,¹ but they are by no means a coherent package. We believe that the House should consider carefully what activities (if any) a Member excluded under such a measure should have access to, and if necessary make further provision for wider participation or none at all.

(2) Specific matters for further consideration

(a) We note the Commission's proposals for an official panel to have its risk assessment and recommendation ratified by a panel led by Members and subsequently implemented by the Speaker. We have reservations about such a process, however carefully designed. In the absence of a specific decision to exclude by the House, this places great weight both on the role of the official assessment and ultimately your ability to give effect to it. We recommend that the Commission considers again whether the recommendation of a single panel incorporating both internal and external expertise put to the House in the form of a specific resolution would be more robust.

(b) Whichever process for the panel is proposed, it is not clear to us that the desired information would in fact be available on which an evidence-based risk assessment could be made. It would assist any consideration by the House if a draft protocol on the sharing of information between the Crown Prosecution Service and the House of Commons Commission could be agreed and published. One alternative approach that the House could adopt would be for the process not to be based on case-by-case consideration and decide to exclude any Member charged with a sexual or violent offence.

(c) If such a protocol were agreed, we believe that the House should carefully consider the potential implications for a fair trial of a decision either to exclude or not based on a risk assessment informed by the evidence on which charges were brought. (This risk would not apply were exclusion applied at an earlier stage.) We also believe that the House should be clear on when any exclusion would cease.

(3) Proxy voting

Your letter asked specifically for the Committee's view on whether a Member who has been excluded from the estate under any new mechanism should be given a proxy vote. This would, of course, be a matter for the House to decide. We would, however, make the following observations:

(a) Proxy voting is still relatively newly established within the practice and procedure of the House. One of the concerns expressed at the introduction of proxy voting was that it would be the 'thin end of the wedge' and while suggestions have been made for how eligibility could be further extended (to include, for example, Members with caring responsibilities or Members undertaking ministerial or parliamentary visits), the House has only recently agreed to a narrow pilot extension in circumstances for which we found widespread support.

(b) In the circumstances under consideration, a Member may well find themselves subject to a form of informal or voluntary exclusion at an earlier stage and without the ability to take part in divisions. If charges were brought and their exclusion became formal and procedural (rather than political) and a proxy vote became available, they would then

have greater rights of participation than they did prior to the point of charge. We would question whether the Member against whom charges had not been brought should not also have the option of a proxy vote.

(c) In terms of the representation of constituents, we would question whether the loss of vote is more significant than the loss of voice. Participation in proceedings runs far more broadly than voting in divisions: we are just as challenged if not more so by any circumstances in which Members are prevented for one reason or another from speaking on behalf of their constituents, every bit as much as we are from them being unable to vote in divisions.

We hope you find our comments helpful in your further consideration of this difficult issue. If, following the consultation period, the Commission decides to make specific proposals then the Committee stands ready to assist the House in providing advice on any matters within its remit. We believe that the House should have an opportunity to debate the principle of the matter before any such detailed consideration takes place.

Formal minutes

Wednesday 8 March 2023

Members present

Karen Bradley, in the Chair

Tonia Antoniazzi

Aaron Bell

Jack Brereton

Sir Christopher Chope

Chris Elmore

Patrick Grady

Nigel Mills

James Sunderland

Proxy voting: Review of illness and injury pilot

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

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

Paragraphs 1 to 26 read and agreed to.

Annex 1 agreed to.

Resolved, That the Report be the Third 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 (Standing Order No. 134).

Published written evidence

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

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

- 1 Catherine West MP ([PVI001](#))
- 2 Rt Hon Ian Paisley MP ([PVI002](#))
- 3 Amy Callaghan MP ([PVI003](#))
- 4 David Linden MP ([PVI004](#))

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.

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Number	Title	Reference
1st Report	Proxy voting and the presence of babies in the Chamber and Westminster Hall	HC 383
2nd Report	Written parliamentary questions: Departmental performance in Session 2021–22	HC 385
1st Special Report	Proxy voting and the presence of babies in the Chamber and Westminster Hall: Government Response to the Committee's First Report	HC 691
2nd Special Report	Written parliamentary questions: Departmental performance in Session 2021–22: Government Response to the Committee's Second Report	HC 806

Session 2021–22

Number	Title	Reference
1st Report	Written parliamentary questions: Departmental performance in Session 2019–21	HC 532

Session 2019–21

Number	Title	Reference
1st Report	Procedure under coronavirus restrictions: proposals for remote participation - First Report of Session 2019–21	HC 300
2nd Report	Procedure under coronavirus restrictions: remote voting in divisions	HC 335
3rd Report	Procedure under coronavirus restrictions: the Government's proposal to discontinue remote participation	HC 392
4th Report	Proxy voting: review of pilot arrangements	HC 10
5th Report	Written Parliamentary questions: Departmental performance in the 2017 Parliament	HC 790
6th Report	Procedure under coronavirus restrictions: virtual participation in debate	HC 905
7th Report	Procedure under coronavirus restrictions: call lists and time limits on speeches in debates	HC 1031

Number	Title	Reference
8th Report	Back to the future? Procedure after coronavirus restrictions	HC 1282
1st Special Report	Procedure under coronavirus restrictions: the Government's proposal for proxy voting for shielding Members	HC 429
2nd Special Report	Procedure under coronavirus restrictions: Government Responses to the Committee's First, Second and Third Reports	HC 565
3rd Special Report	Proxy voting: review of pilot arrangements: Government Response to the Committee's Fourth Report of Session 2019–21	HC 836
4th Special Report	Procedure under coronavirus restrictions: Government Responses to the Committee's Sixth and Seventh Reports	HC 1165
5th Special Report	Back to the future? Procedure after coronavirus restrictions: Government Response to the Committee's Eighth Report	HC 1389