

Procedure Committee

Sub judice resolution in the House of Commons

Second Report of Session 2026–27

HC 50

Procedure Committee

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Summary

In March 2025, the Speaker of the House of Commons asked the Procedure Committee to undertake a review of the sub judice resolution following concerns raised by Members of Parliament about the operation of the rule in the context of the Southport attacks in July 2024.

The sub judice resolution, agreed by the House of Commons on 15 November 2001, operates as a procedural constraint on Members of Parliament to prevent them from making reference to active legal proceedings (whether criminal, civil, or involving inquests or tribunals) in questions, motions and debates in the House of Commons. The application of the rule is from the point at which legal proceedings become ‘active’ until they are concluded (both defined in the resolution), and subject to the discretion of the chair who may permit discussion where it is judged that the public interest to be had in Parliament discussing the matter outweighs the potential risk to the integrity of legal proceedings. The rule does not apply when the House is legislating (this exemption applies equally to both primary and secondary legislation). It is grounded in parliamentary privilege, reflecting the House’s commitment to respecting judicial independence while maintaining its legislative and scrutiny functions, expressed through its voluntary self-denial, in certain circumstances, of the exercise of the absolute right to free speech in Parliament as protected under Article IX of the Bill of Rights.

In conducting our inquiry, we examined both the purpose and the operation of the resolution. We found that the resolution, as currently drafted, is effective at achieving its two core purposes, namely of maintaining ‘comity’ between the courts and Parliament by seeking to avoid appearing as an alternative forum for resolving matters which are properly before the courts, and concerning which it is proper for the courts to resolve, and of seeking to avoid prejudicing any individual cases before the courts by avoiding the airing any material that could influence the final decision in a legal case. In terms of its operation, we note that the rule operates as a ‘self-denying ordinance’, and that the successful operation of the rule requires, in practice, the active and effective participation of Members of Parliament, the House Administration, and the Speaker (or chairs in certain proceedings). We conclude that ultimately it is for Members of Parliament to make a conscious effort to be aware of the limitations on what they can and cannot say in certain parliamentary proceedings in relation to live matters before the courts and ensure that they do not breach the resolution either deliberately or accidentally. If a Member is unsure on whether a matter

is sub judice, or wants advice on how to raise certain matters, they can discuss the matter either with the House Administration for the purpose of seeking advice, or raise the matter with the Speaker for the purpose of seeking a potential waiver.

The sub judice resolution grants wide discretionary powers to the chair to waive the resolution if it is deemed to be of paramount public importance that Parliament be able to debate and discuss an issue which is currently before the courts. Our predecessors had often concluded that any perceived deficiencies in the wording of the resolution itself could mostly be overcome by the Speaker's discretion to issue a waiver. We concur with our predecessors' sentiments on this matter, and take the view that as the House has placed its trust in the Speaker to exercise the discretion to waive the sub judice resolution where it is deemed to be necessary to do so and in a way that is proportionate, that such discretion should not be unduly restricted. We therefore do not recommend setting out the circumstances in which a waiver might be granted on the face of the resolution or publishing accompanying guidance on this matter. We also do not recommend the ongoing publication of a list of waivers to build up a 'body of case law', deeming this as carrying a risk that doing so could, in effect, fetter the discretion inherent in the resolution. Moreover, we recommend that the resolution be amended to remove reference to "the economy, public order or the essential services" as this list has the potential to unduly restrict the Speaker's discretion or to undermine his or her reasoning when issuing a waiver.

We commend the Speaker for the way in which he handles the challenges posed by advising on and policing the sub judice rule under difficult circumstances. As regards the specific example of the Southport attacks, we are of the view that the way in which the Speaker navigated the sub judice resolution was exemplary, particularly given the strength of feeling across the House. The Speaker's actions in relation to that incident evidenced that the flexibility inherent in the resolution is sufficient to balance enabling as much discussion as possible of such a subject within Parliament against the need to avoid prejudicing individual cases.

We also examined the disciplinary powers available to the Speaker to respond to breaches of the sub judice resolution, in particular Standing Order No. 42A. While the provisions of Standing Order No. 42A have, to the best of our knowledge, never been formally used, and that in practice problems rarely arise either in debates or in committees, we found that the deterrent effect of the disciplinary powers currently appears to be effective, and recommend that the House continue to keep such powers under review to ensure that ongoing compliance with the resolution is maintained and that its provisions remain proportionate.

In conducting our inquiry, we also examined whether there was a case for changing the resolution in four main areas:

- The point of applicability in criminal cases;
- The applicability of the resolution to civil cases during the entire lifecycle of a case, including on appeal;
- The scope of the exemption relating to ministerial decisions; and
- Service courts and tribunals.

On criminal cases, we heard evidence relating to the potential of moving the point of applicability of the sub judice resolution to an earlier point, namely the point of arrest, given that discussions in Parliament could, from this point, prejudice any potential trial resulting from the arrest. We note several issues with such a proposition, including practical limitations of an early point of applicability. We take the view that comity is conceptualised as being between Parliament and the courts, not between Parliament and investigatory authorities. We also note the work being done by the Law Commission reviewing contempt of court, and the comparative situations in each of the devolved legislatures in the UK. Ultimately, we recommend that in criminal cases the sub judice rule should continue to apply at the point of charge, not arrest, but commend the developing practice of the Speaker to remind Members to exercise caution when discussing matters after arrest which are likely to lead to a formal charge being made. Applying the sub judice rule from the point of arrest would be a disproportionate restriction on the freedom of speech in Parliament and would undermine Parliament's central role as the focal point of national discourse.

On civil cases, we heard concerns about the length of time that such cases can be active, and therefore the potential for a significant restriction on the ability of Parliament to discuss such matters. We heard arguments that the risk of prejudice in civil cases is lower than in criminal trials, both because there is no jury in most civil trials, and because members of the judiciary are expected to be immune to influence and sufficiently experienced to decide cases solely on their merits. We note, however, that the risk of prejudice, even if it may be lower, cannot be excluded altogether. We also note that, in civil cases, the resolution can treat different phases of a case differently, applying prior to a decision at first instance only where arrangements for a hearing have been made, but applying on appeal from the point at which the application is lodged until a final decision is made on the appeal, despite the fact that there may be similar lengthy periods during which the case is 'dormant' as when the case is at first instance. We note, however, that the discretion contained in the resolution enables the chair to take these matters into account and, where there is an overriding public interest in Parliament discussing specific matters relating to a civil case in one of

these longer periods of inactivity, a waiver can be issued to enable such discussion. We therefore recommend that the resolution remain unchanged, but that the Speaker may wish to consider exercising the power to issue a waiver more freely in relation to civil cases, in particular at the appeals stage, where there is a clear public interest in enabling parliamentary discussion of the issues concerned. This should continue to be considered on a case-by-case basis and take into account the stage which proceedings have reached, the imminence of any hearing, and the lower risk of prejudice when matters have reached the appeal stage.

On ministerial decisions, we heard that judicial review of decisions made by certain government agencies or statutory regulators are not caught by the current exemption in the resolution for cases relating to ministerial decisions. This is particularly the case where operational delivery and responsibility lie with independent bodies but the overall policy direction is set by the government. While we do not recommend amending the sub judice resolution to clarify this point, we recommend that there should be a presumption that the Speaker will exercise his power to issue a waiver if such situations are drawn to his attention, with the decision being made on a case-by-case basis. The sub judice resolution should not be interpreted in a way which unduly restricts the House's ability to hold government (in the widest sense) to account.

On service courts and tribunals, we note the changes that have occurred in the law since the resolution was passed in 2001, in particular the passage of the Inquiries Act 2005 and the Armed Forces Act 2006. These Acts make certain aspects of the current resolution redundant. We therefore recommend that the reference to mandatory post-trial reviews in the context of courts martial in paragraph 1(a)(ii) be removed. We further recommend that paragraph 2 of the resolution relating to inquiries set up by a resolution of both Houses under the Tribunals of Inquiry (Evidence) Act 1921 also be removed.

Throughout this inquiry, we have been aware of the fact that both Houses of Parliament have a sub judice resolution in place, in identical terms (save for the process for issuing a waiver to take account of how each House governs its business), and that both Houses remain resolute in their support for the continued importance of the rule. We strongly support maintaining the current situation whereby both Houses are aligned in terms of the wording of the resolution in each House and in terms of its practical operation. It is important that the privileges of members of both Houses of Parliament are protected in the same way, and that they are exercised in the same manner. To that end, we recommend that the House of Lords Procedures and Privileges Committee take a view on the changes recommended in this report before either House proceeds to make any substantive changes to their sub judice resolutions.

Lastly, we consider that the sub judice resolution continues to be a necessary and proportionate restriction on the freedom of speech of Members of Parliament, and we are not of the view that the delicate balance that it strikes is currently under threat. We recommend, however, that any future concerns regarding the operation of the sub judice resolution should be investigated by a Joint Committee to ensure that both Houses of Parliament are aligned in their approach to sub judice.

1 Our inquiry

1. On 21 January 2025, the Speaker of the House of Commons made a statement to the House directly before a statement by the then Home Secretary, Rt Hon Yvette Cooper MP, relating to the Southport attack in July 2024:

Before we come to the Home Secretary's statement, I want to say that I appreciate that it has been most frustrating for the House that we have not been able to discuss the issues relating to this case because of ongoing prosecutions. Although the case is still technically sub judice until sentencing on Thursday, given that the accused has pleaded guilty to all charges and that there is strong public interest in the House being able to discuss these matters, I am granting a waiver so that Members may discuss it freely. I am confident that the House's sub judice resolution has been followed correctly, and I am grateful to Members for their patience in not discussing this case substantially before now. I am going to ensure that the House's sub judice resolution is reviewed to ensure it is fit for purpose.¹

2. On 20 March 2025, the Speaker wrote to the committee asking it to undertake a review of the sub judice review, and to conclude it later in the year.² The Speaker highlighted the two main issues that he thought the committee should investigate:

First, how the current arrangements balance the need for the House and its Committees to debate issues of public interest with the need to avoid undue or disproportionate influence or impact on current cases before the courts.

[...]

Second, what changes to the resolution are required given the changes in the legal system, the evolution of devolution in the UK and the wider social media context since the current resolution was adopted (in 2001) [...]

1 HC Deb, 21 January 2025, [col 873](#)

2 Letter from the Speaker of the House of Commons to the Chair regarding a review of the sub judice resolution in the House of Commons, [20 March 2025](#)

3. On 28 April 2025, the chair wrote to the Speaker indicating that the committee was willing to inquire into the matter, but indicating that, given the breadth of any potential inquiry and the importance to the House of ensuring that any potential conclusions and recommendations were underpinned by accuracy and careful consideration of the issues, a final report by the end of 2025 would not be possible.
4. On 22 May 2025, the committee launched its inquiry with the following terms of reference:

Operability of the sub judice resolution

- In its current form, does the design, operation and application of the sub judice resolution continue to strike the right balance between restricting Members from addressing matters of public interest and avoiding impact on live judicial proceedings?
- The risk of prejudicing court hearings is regulated outside of Parliament by the Contempt of Court Act 1981, and inside Parliament by the sub judice resolution. Are the two regimes working in tandem effectively? Should they be aligned to a higher or lower degree?
- Is the present distinction between how the sub judice resolution operates in relation to criminal cases and to civil cases effective?
- Has the Speaker's exercise of his/her discretion enabled MPs to effectively discuss matters of public interest where necessary without prejudice to legal proceedings?
- Are the Chair's current disciplinary powers for responding to breaches of the sub judice resolution sufficient? If not, how should breaches be dealt with?

Evolution of UK politics and constitution since 2001

- Has the constitutional evolution of the United Kingdom since 2001 impacted on the operability of the sub judice rule across all legislatures of the UK? Is there any difference in interpretation and application across the legislatures?
- Have House of Commons proceedings evolved in any way since 2001 that has impacted on the interpretation and application of the sub judice resolution?
- Has the role of an MP evolved since 2001 in such a way that the sub judice resolution impacts on the ability of MPs to effectively represent constituents in matters of public interest?

Legal developments since 2001

- Has the structure or practice of the courts since 2001 (for example, an increasing role for Tribunals; increased use of judicial review etc.) changed in ways which have affected how the sub judice resolution is or should be applied?
- Is it appropriate that the sub judice resolution does not apply to final injunctions? Is there a difference between interim injunctions and those that are no longer subject to ongoing proceedings?
- Could the Law Commission's proposals for reform of the Contempt of Court Act 1981 have any implications for the sub judice resolution?
- Are there any additional domestic legal developments since 2001 which have impacted the interpretation or application of the sub judice resolution?
- Should any international legal developments—including, but not limited to, the European Court of Human Rights judgment in *Green v United Kingdom*—be taken into account in the application of the sub judice resolution?
- How should any domestic or international legal developments, and their impact on the sub judice resolution, remain under review?

Changing media landscape since 2001

- What are the implications for the operability of the sub judice resolution from the emergence of social media and increased media attention on Parliamentary matters?

International comparison

- How have other legislatures across the world evolved in their practices in relation to the treatment of similar matters since 2001?

5. The committee received eleven written submissions (listed and linked at the end of this report). We also heard from five panels of witnesses in oral evidence:

- On 29 October 2025 from the House Administration: Dr Farrah Bhatti, Principal Clerk, Table Office; Tom Healey, Clerk of Legislation and former Principal Clerk, Table Office; Tom Goldsmith, Clerk of the House; Eve Samson, Clerk of the Journals; and Saira Salimi, Speaker's Counsel.
- On 12 November 2025 from former Attorneys General: Sir Michael Ellis KBE KC; Dominic Grieve KC; and Sir Jeremy Wright KC MP.

- On 3 December 2025 from two panels: The Rt Hon. the Baroness Scotland of Asthal KC, former Attorney General; and Professor Penney Lewis, Commissioner for Criminal Law at the Law Commission.
 - On 21 January 2026 from the then Attorney General, The Rt Hon. the Lord Hermer KC.
6. We would like to express our gratitude to all those who have taken an interest in the inquiry and shared their views with us, and thank them all for their time and assistance. In particular, we wish to express our sincere thanks to the Presiding Officers of each of the devolved legislatures for their engagement with the inquiry and for the evidence they submitted to us.
7. The committee has also benefitted from the work of our predecessors who have conducted work in this space, and in particular the work of the Procedure Committee in 2005 and 2006, and of the Joint Committee on Parliamentary Procedure in 1999 and 2013.³

3 Procedure Committee, First Report of Session 2004–05, [The Sub Judice Rule in the House of Commons](#), HC 125; Procedure Committee, Second Report of Session 2005–06, [Application of the sub judice rule to proceedings in coroners’ courts](#), HC 714; Joint Committee on Parliamentary Privilege, Report of Session 1998–99, [Parliamentary Privilege](#), HC 214-I; and Joint Committee on Parliamentary Privilege, Report of Session 2013–14, [Parliamentary Privilege](#), HC 100.

2 Background

History of the rule

8. The right of each House of Parliament to regulate speech within its own proceedings is absolute. While there are laws, particularly the Contempt of Court Act 1981, restricting what the public or the media can say about live cases, such rules do not apply in parliamentary proceedings. The sub judice resolution ('sub judice' being the Latin term for 'under a judge'), however, operates as a procedural constraint on Members of Parliament to prevent them from making reference to active legal proceedings (whether criminal, civil, or involving inquests or tribunals) in questions, motions and debates in the House of Commons. The application of the rule is from the point at which legal proceedings become 'active' until they are concluded (both defined in the resolution), and subject to the discretion of the chair who may permit discussion where it is judged that the public interest to be had in Parliament discussing the matter outweighs the potential risk to the integrity of legal proceedings. Importantly, the rule does not apply when the House is legislating (this exemption applies equally to both primary and secondary legislation). The rule is grounded in parliamentary privilege and reflects the House's commitment to respecting judicial independence while maintaining its legislative and scrutiny functions, expressed through its voluntary self-denial, in certain circumstances, of the exercise of the absolute right to free speech in Parliament as protected under Article IX of the Bill of Rights.
9. The sub judice rule developed from the mid-19th century onwards, through successive Speakers' rulings on the matter. The rule was first codified in a resolution of the House on 23 July 1963, following a report by our predecessor committee which traced the development of the rule from 1889 and recommended that it should be formalised.⁴ A further report from a predecessor committee led to a further resolution on 28 June 1972, which exempted civil cases from the scope of the resolution if the matter to be raised related to ministerial decisions or issues of national importance.⁵ The rule continued to evolve on the basis of individual rulings, which, for

4 Select Committee on Procedure, First Report of Session 1962–63, The Rule Relating to Reference in the House of Commons to Matters Considered as Sub Judice, HC 156.

5 Select Committee on Procedure, Fourth Report of Session 1971–72, Matters Sub Judice, HC 298.

instance, clarified its application to courts which were not specifically mentioned in the 1963 resolution,⁶ or considering that it should apply to select committee proceedings, particularly those taking place in public.

10. The Joint Committee on Parliamentary Privilege, established in 1997, considered the sub judice rule within the broader context of parliamentary privilege in which it sits. In its final report, it recommended that the rule should be updated and codified by way of a resolution in both Houses.⁷ The House of Lords agreed to its resolution on 11 May 2000, and the House of Commons followed suit on 15 November 2001. The full text of the 2001 resolution in the House of Commons is contained in [Appendix 1](#) below. The terms of each House's resolutions are identical, though in practice there are some differences in operation.⁸
11. Our predecessors revisited the sub judice resolution twice in the mid-2000s, first in 2005, in which the then committee conducted a detailed review of the rule following concerns raised by some Members about its perceived excessive restrictiveness,⁹ and again in 2006, in that instance looking specifically at the applicability of the rule to coroners' courts.¹⁰ In those reports, our predecessors re-emphasised the importance of the Speaker's discretion and recommended that Members liaise with the Speaker more closely on the potential for granting waivers in specific circumstances, rather than recommending any adjustment to the wording of the resolution itself.¹¹ Subsequent to those reports, the Joint Committee on Parliamentary Privilege in 2013, appointed to consider the then Government's Green Paper on Parliamentary Privilege,¹² touched on the sub judice resolution and its place in the broader ecosystem of parliamentary privilege in their final report, but did not look at the resolution itself in detail.¹³

6 For example, see ruling of 12 May 1992 which extended the rule to coroners' courts (see HC Deb Col. 494, 497).

7 Joint Committee on Parliamentary Privilege, Report of Session 1998–99, [Parliamentary Privilege](#), HC 214-I; paragraphs 189–202.

8 For example, members of the House of Lords must give the Lord Speaker 24 hours' notice if they intend to raise something which is sub judice (see: House of Lords, [Companion to Standing Orders](#), paragraphs 4.68 to 4.73 (accessed 26 August 2026)).

9 Procedure Committee, First Report of Session 2004–05, [The Sub Judice Rule in the House of Commons](#), HC 125.

10 Procedure Committee, Second Report of Session 2005–06, [Application of the sub judice rule to proceedings in coroners' courts](#), HC 714.

11 Procedure Committee, First Report of Session 2004–05, [The Sub Judice Rule in the House of Commons](#), HC 125, paragraphs 27, 35, 38 and 46; Procedure Committee, Second Report of Session 2005–06, [Application of the sub judice rule to proceedings in coroners' courts](#), HC 714, paragraphs 48, 54, 64, 83 and 87.

12 HM Government Green Paper, [Parliamentary Privilege](#), Cm 8318, 26 April 2012.

13 Joint Committee on Parliamentary Privilege, Report of Session 2013–14, [Parliamentary Privilege](#), HC 100.

Purpose of the rule

12. The sub judice resolution plays an important role in maintaining the constitutional balance between Parliament and the courts by acting as a fetter on the absolute right of free speech afforded to Parliament by the Bill of Rights. The Clerk of the House explained to us that the purpose of the rule is twofold:

It has two overriding functions. One is about preserving comity, which is the principle that within our constitution Parliament has a particular job to do, but the courts have a particular job too, and Parliament should not try to influence or put undue pressure on the courts as they go about their work. In other words, it should not act as an alternative forum for determining cases—that is a phrase that comes up quite a lot in the literature around this. The second function is to try to avoid prejudicing any particular case that is before the court [...].¹⁴

13. On the first of those overriding functions, ‘comity’ is the institutional ‘balance’ between the courts and Parliament, and in pursuit of this aim, Parliament should seek to avoid appearing as an alternative forum for resolving matters which are properly before the courts, and concerning which it is proper for the courts to resolve, thus leaving the courts the appropriate space to “get on with their own work”.¹⁵ This restraint by Parliament in respecting the role of the courts also seeks to avoid the appearance that the courts are influenced by politicians, with the aim of upholding public confidence in the judiciary as an independent constitutional institution. The relationship is, vitally, a two-way street, with the sub judice rule being one of the key methods by which Parliament seeks to maintain comity, but with the expectation of reciprocity:

The effective working of the constitution depends on the courts being ever sensitive to the need to refrain from trespassing upon the province of Parliament or even appearing to do so, and on Parliament being similarly sensitive to the need to refrain from trespassing upon the province of the courts.¹⁶

14. On preventing prejudice to individual cases, the sub judice rule is often viewed as acting so as to prevent Parliament airing any material that could influence the final decision in a legal case. Most of the discussion of this aspect of the rule focuses in particular on preventing prejudice in criminal trials by seeking to avoid influencing, or being seen to influence, a jury or lay

14 [Q2](#) [Tom Goldsmith]

15 Joint Committee on Parliamentary Privilege, Report of Session 1998–99, [Parliamentary Privilege](#), HC 214-I; paragraph 226.

16 Joint Committee on Parliamentary Privilege, Report of Session 1998–99, [Parliamentary Privilege](#), HC 214-I; paragraph 226.

magistrates in reaching a verdict in a case. However, the purpose of the rule is broader, seeking to avoid potential prejudice to individual cases, including interference with witnesses in civil or criminal cases, with members of the judiciary themselves, the disclosure of information which a court has ordered to be kept confidential during a case to avoid identifying parties or witnesses, including vulnerable witnesses, or the disclosure of information which relates to matters of national security.¹⁷

15. Both limbs of the rule are equally important, with no distinction being drawn between them. As we heard in oral evidence:

I would say that they are equally important, although for slightly different reasons. Comity is fundamental. The balance between, as one judge once put it, two constitutional sovereignties—Parliament and the courts—is really important in the constitutional balance. Also, in individual legal proceedings, particularly criminal legal proceedings, where somebody's liberty may be at stake, it is extremely important for the roles of Parliament and the courts to be clearly separated so that the courts can carry out their functions uninhibited.¹⁸

Operation of the rule

16. In practice, the rule operates as a 'self-denying ordinance', with Members of Parliament refraining from mentioning live cases before the courts during parliamentary proceedings, save for those exempted by the resolution itself or where the Speaker has issued a waiver to allow Members to discuss matters relevant to a particular case. The rule applies equally in the Chamber as in Westminster Hall, as well as to committee proceedings, though not explicitly mentioned in the resolution itself.
17. In the House of Commons, the successful operation of the rule requires, in practice, the active and effective participation of Members of Parliament, the House Administration, and the Speaker.

17 Procedure Committee, First Report of Session 2004–05, [The Sub Judice Rule in the House of Commons](#), HC 125, paragraphs 13 and 14; and Procedure Committee, Second Report of Session 2005–06, [Application of the sub judice rule to proceedings in coroners' courts](#), HC 714, paragraphs 10 and 11.

18 [Q4](#) [Saira Salimi]

Members of Parliament

18. The sub judice resolution places a restriction on the right of free speech in parliamentary proceedings for clear constitutional reasons. It is important to remember that the restriction is a self-imposed, self-denying ordinance; the House has chosen to restrict its own scope for action by way of passing a resolution binding upon itself.
19. The continued effectiveness of the rule rests on the actions of individual Members of Parliament. It is ultimately their responsibility to adhere to the resolution. As one witness told us:

We [Members of Parliament] all need to recognise that there is a good reason for this resolution, which the House has imposed on itself, of course, because only it can. It has said to itself, “We ought to do this because there is good reason for it, and if we fail to on an individual basis, the Chair is entitled to remind us of that.” But in the end, this is a self-sanctioning mechanism because we are the only ones who can sanction ourselves.¹⁹

20. While Members are ultimately responsible for ensuring the operation of the sub judice rule, they do not have to navigate the resolution without support. Any Members can, at any point, seek advice from the clerks on specific matters. Moreover, if a Member wishes to raise a matter that is clearly sub judice, they can always approach the Speaker (or a chair of a committee) and seek a waiver to allow them to discuss the matter in the House.

House of Commons Administration

21. Members can ask the Table Office or the clerks at the Table for advice on dealing with matters which may or may not be sub judice, as well as general advice on what the resolution is and how it operates. Moreover, the House Administration prepares and maintains the Members’ Guide to Procedure, which contains background information on the sub judice rule in an easily accessible format both online and in hard copy in the Vote Office. The Table Office undertakes research on matters which may be sub judice on an ongoing basis and liaises with key government departments (and the Houses’ own legal advisers) to enable them to advise the chair and individual Members on whether or not a matter raised in the moment may be sub judice. To provide these services, the Table Office monitors legal developments, something which requires dedicated resource and careful monitoring, and which can enable it to perform both of the tasks mentioned above:

19 [Q47](#) [Sir Jeremy Wright MP]

One person does it each week. It is probably equivalent to a day a week of somebody's time, but obviously not all in one day—it will be an hour or two every day. You watch what's in the news, looking for high-profile cases and for cases where you know a Member is going to raise something because they have told you.

In cases where there is a debate coming up, such as a knife crime debate in Westminster Hall, you might say, "Let's have a look at any high-profile knife crime cases at the moment." It is a reasonably big piece of work. It largely involves consultation with the MOJ. We basically ring them up and say, "This has been reported in the media. Can you confirm whether anybody has been charged?"²⁰

- 22.** The Table Office will also proactively contact Members where there is a possibility of a topic touching on live cases, for instance where a Member has an oral question or an adjournment debate relating to a specific topic, to ascertain whether the Member intends to raise any live cases, or to proactively offer advice on how a Member may still raise the issues that they wish to raise in such a way that does not risk infringing the resolution:

But as has been alluded to by colleagues, the team do a lot of work to proactively look ahead at future business—to look at the debates happening and the questions tabled for the week ahead—and to proactively contact Members where issues that are sub judice might be raised in those debates.

[...]

Beyond that, there is the contact that goes on with Members, and the reactive work that happens day to day. For example, if there is an urgent question that might have a sub judice angle to it, we will be doing a bit of quick research in the morning ahead of discussions around whether the UQ might be granted.²¹

- 23.** There is a list of which waivers are in place at any one time, which Members can consult by asking the Table Office. There are, however, limitations on what the House Administration can do. First, there are hundreds of thousands of live cases, and moreover both civil and criminal cases can change status from active to inactive as time moves on.²² It would be impossible for the House Administration to monitor every case:

20 [Q10](#) [Tom Healey]

21 [Qq21-22](#) [Dr Bhatti]

22 The Ministry of Justice publishes statistics on the number of live cases on a quarterly basis. For example, according to the [Criminal court statistics quarterly: January to June 2026](#) (published 25 June 2026) there were over 450,000 active criminal cases before the courts (approximately 80,000 before the Crown Court and approximately 370,000 before the Magistrates Court).

In civil proceedings, it is usually reasonably obvious—although if we know that there are likely to be a number of claims against a particular person or entity, but we do not yet know who any of the potential claimants are, that is hard to track. Similarly, if we know that charges are likely to be brought, but we do not yet know the name of the potential defendant, that also makes the Table Office’s job much more difficult.²³

- 24.** Second, increasing the number of cases monitored would have diminishing returns after a certain point in terms of being able to advise the chair in the moment, or to provide quick and accessible evidence to individual Members. As the House Administration told us:

We track this to help the Clerks at the Table and the Chair. Once you have a document with more than 50 cases on, none of which is likely to be used, and somebody says a name, there is nowhere you can find the name. It has to be small enough, and focused on things that Members are likely to be interested in, to help.²⁴

- 25.** Thirdly, and perhaps more importantly, if a Member wishes to raise a matter which is before the courts, they will always be in a superior position in terms of knowledge as to what stage the case is at, the issue at stake in the case, and those involved in it. There is no way in which the House Administration can be more knowledgeable about a particular case than the individual Member who wishes to raise it:

[...] there is a responsibility for Members here as well. On the whole, they will have a lot of knowledge about the case they want to raise—more than we do sitting at the Table, especially if it is just raised impromptu. It is quite interesting that the Canadians say that the responsibility of the Chair in protecting the convention during Question Time should be quite limited. The reason, they say, is that, “the responsibility should principally rest upon the Member who asks the question and the Minister to whom it is addressed. Should a question to a Minister touch upon a matter sub judice, it is likely that the Minister involved will have more information covering the matter than the Speaker, and the Minister might be better able to judge whether answering the question might cause prejudice.”

Now, we always alert the Speaker if we spot something that is clearly sub judice, but I think there is something in what the Canadians say in their guide to procedure. Members have to take responsibility for this, and we will not ever capture every instance.²⁵

23 [Q23](#) [Saira Salimi]

24 [Q23](#) [Eve Samson]

25 [Q23](#) [Tom Goldsmith]

26.

CONCLUSION

The sub judice resolution is a constitutionally important principle which seeks to maintain comity between Parliament and the courts and to avoid prejudicing individual cases before the courts. The actions of the House Administration in proactively identifying potential sub judice issues and providing timely advice to Members is to be commended, however it is impossible for them to be over the detail of all cases before the courts. It is therefore incumbent upon all Members to ensure they fully understand the resolution and take responsibility for their adherence to it.

27.

RECOMMENDATION

Members should make a conscious effort to make themselves aware of the limitations on what they can and cannot say in certain parliamentary proceedings relating to live matters before the courts and ensure they do not breach the resolution either deliberately or accidentally. If a Member is unsure on whether a matter is sub judice, or wants advice on how to raise certain matters, they are encouraged to seek the advice of the House Administration in good time, or to discuss the matter with the Speaker for the purpose of seeking a potential waiver.

Role of the Speaker

28. The 2001 resolution starts with the caveat that everything else contained within is “subject to the discretion of the chair”. This discretion, described by the Joint Committee on Parliamentary Privilege as the “key to the successful operation of the sub judice rule in the House of Commons”,²⁶ is most usually exercised by the Speaker.
29. In undertaking this key role, the Speaker can be approached by individual Members for advice on sub judice matters, makes the decision on whether or not to grant a waiver and announces the terms of a waiver to the House, and reminds the House as a whole of the importance of adhering to the rule. The Speaker also polices the rule, ensuring that the House does not breach the terms of the resolution, and has disciplinary powers to respond to any such breaches. The Speaker also has the difficult task of deciding whether or not a waiver is appropriate in certain situations and determining the scope of any such waiver. The importance of the Speaker in issuing waivers is discussed in detail in paragraphs 80 to 90 below.

26 Joint Committee on Parliamentary Privilege, Report of Session 1998–99, [Parliamentary Privilege](#), HC 214-I, paragraph 200.

30.

CONCLUSION

The House itself has recognised the need to regulate discussion of live cases and has given the Speaker authority to do so. We commend the Speaker for the way in which he handles the challenges posed by advising on and policing the sub judice rule under difficult circumstances.

Chairs in Committees

31. In addition to the Speaker, the wording of the resolution also provides the power to issue a waiver to others involved in chairing parliamentary proceedings, including select committee chairs and members of the Panel of Chairs (who chair Westminster Hall debates and general committees). We heard evidence from the Chair of the Northern Ireland Affairs Committee, Tonia Antoniazzi MP, about how she approaches the sub judice resolution, given that that committee's inquiries can often touch on sensitive issues which are subject to legal proceedings. In particular, we noted the process she follows with regards to interaction with the Speaker:

On behalf of my Committee, I seek to anticipate proceedings where the resolution might be engaged and, therefore, aim to write to the Speaker in good time before the relevant meeting with a request to waive the resolution. This usually relates to a case that I think is of national importance and which it would be remiss of members not to refer to.²⁷

32. We also understand that the same process occurs on other select committees, where there is a dialogue between the relevant chair(s) and the Speaker as far in advance as is possible. Our predecessors have made clear their view that, even though the resolution empowers them to do so, chairs in select committees in particular should be cautious about exercising that discretion without prior discussion with the Speaker:

It is clear that under the terms of the resolution, the chairman of a select committee has the power to waive the sub judice resolution. It is our strong view, however, that wherever practicable, chairmen should first consult the Speaker, both to ensure that they have correctly understood their responsibilities, and so that consistency between the implementation of the rule in the House and in its committees can be maintained.²⁸

27 Tonia Antoniazzi MP, Chair of the Northern Ireland Affairs Committee (SJ0011).

28 Procedure Committee, Second Report of Session 2005–06, [Application of the sub judice rule to proceedings in coroners' courts](#), HC 714, paragraph 86.

33.

CONCLUSION

The wording of the resolution empowers individual chairs to grant sub judice waivers, but we note that in most circumstances the Speaker is consulted ahead of a decision on whether to grant a particular waiver being taken, either doing so explicitly himself, or discussing it with the relevant chair. We, like our predecessors, believe that the present approach is appropriate and encourage individual chairs faced with potential sub judice issues to liaise with the Speaker as soon as possible to discuss whether a waiver would be appropriate. This should ensure that the approach to granting waivers is uniform in all circumstances.

Enforcement of the rule

34. As part of our inquiry, we examined whether there were sufficient powers in place to both encourage compliance with and to adequately respond to breaches of the resolution. Following a recommendation from our predecessor committee in 2006,²⁹ Standing Order No. 42A was introduced to give the Speaker a specific power to order Members breaching the sub judice resolution to resume their seats. The power can be exercised by the Speaker, or the chair in Committee of the whole House, Westminster Hall, or a general committee which is not considering legislation (as the rule does not apply when the House is legislating). This is different from some of the other disciplinary powers provided for in Standing Orders, which can only be exercised by the Speaker.
35. In addition to the specific disciplinary powers relating to breaches of the sub judice resolution, the Speaker also has the “standard set of disciplinary powers” under other Standing Orders which can be drawn upon by the Speaker (or a chair) to respond to a continued or persistent disregard for the rule by a Member,³⁰ including Standing Order No. 43 (ordering a Member to withdraw for the remainder of the day), Standing Order No. 44 (‘naming’ a Member, leading to a five day suspension), and Standing Order No. 10(11) (allowing a chair to order a Member to withdraw from Westminster Hall). We were told that, to date, the disciplinary power contained in Standing Order No. 42A has not been used which, in our view, provides evidence of the efficacy of its deterrent effect.³¹

29 Procedure Committee, Second Report of Session 2005–06, [Application of the sub judice rule to proceedings in coroners’ courts](#), HC 714, paragraph 48.

30 [Q20](#) [Dr Bhatti]

31 [Q20](#) [Tom Goldsmith]

36.

CONCLUSION

We agree with our predecessors that it is important for Standing Orders to contain a specific disciplinary provision relating to breaches of the sub judice resolution, as this highlights the importance of adherence to the rule. We are nevertheless pleased to note that the provisions of Standing Order No. 42A have, to the best of our knowledge, never been formally used, and that in practice problems rarely arise either in debates or in committees. Members should be commended for their ongoing adherence to the terms of the resolution.

37.

RECOMMENDATION

While the deterrent effect of the disciplinary powers currently appears to be effective, the House should continue to keep such powers under review to ensure that ongoing compliance with the resolution is maintained and that its provisions remain proportionate.

3 Should the sub judice rule be revised?

38. There have been significant cultural, political, and legal developments since the wording of the current resolution was agreed to by the House in 2001, and since the last in-depth review of the resolution by our predecessors. When launching this inquiry, we set out to assess whether the sub judice rule remained fit for purpose in its current iteration or whether any of those developments have necessitated a further evolution of the resolution. In this chapter, we discuss the following areas of concern which emerged during our inquiry:

- Maintaining the relevance of Parliament in national debate;
- Scope of the restrictions imposed by the resolution; and
- Clarity in the operation of the rule.

Maintaining the relevance of Parliament in national debate

- 39.** The sub judice resolution is a voluntary restriction on Members’ freedom of speech for the twin purposes of maintaining comity with the courts and avoiding prejudice to individual cases. This restriction, however, should not be used in a way which diminishes the central role that Parliament plays as the primary forum for scrutiny and political debate. Parliament must be—and be seen to be—able to discuss matters of national importance in a timely manner to maintain its relevance in national debate. However, as was stated in evidence to us, in reacting to the public’s “right to see salient issues debated by their representatives”, this must also be achieved in such a way that it “[maintains] the integrity of the judicial process and [ensures] the rights of the parties involved in that process are upheld”.³²
- 40.** The rise of social media and the rolling 24-hour news cycle was not foreseen at the time that the present resolution was adopted in 2001. We heard that there is an increased expectation of topicality placed on Parliament, with a public expectation of a speedier and more comprehensive access

32 HM Government ([SJRO002](#))

to information than in the past.³³ There is a correspondingly greater expectation placed on individual Members of Parliament to comment on matters almost immediately, often before there is certainty about the facts or details of emerging matters, and certainly before there is clarity as to whether or not there may be legal proceedings. As one witness told us:

Absolutely, the pressures are greater—no question. The demands of the 24-hour news media, as well as social media, mean that we are all being invited routinely to make immediate comment on everything. That does not mean that we have to accept the invitation, and the sub judice resolution is a helpful reminder that there are reasons why we might want to decline.³⁴

41. To a certain extent, the House itself has responded to these developments, and its procedures are often used to react to developing events much more so than in the past. For instance, it has been well documented that the number of Urgent Questions has increased significantly since the 2010s,³⁵ as well as a rise in emergency debates.³⁶ However, reacting to the increased demands placed on Parliament to be more topical, and to maintain the relevance of its proceedings to guiding public debate, has the potential to lead to a corresponding rise in the risk of infringing the sub judice resolution. We heard that the increase in reactive proceedings such as Urgent Questions and emergency debates can test the “agility” of the resolution.³⁷ While it is important that proceedings in the House respond to current issues, it is equally important that Members are alive to the risk that, without due care, such responses may prejudice legal proceedings, which would not only be harmful in itself, but would damage the House’s reputation. As one witness told us:

But then we have to remember that, in Parliament, we still have a powerful voice that people listen to. Where people may disregard things that are said on social media—you will know that lots of people now go behind walls, so you do not even know who they are, and they could have been caught by the contempt but they are not—the privilege that we have as parliamentarians is that we have immunity, so if we say something, there is no consequence to us personally, but there can be huge consequences to others.³⁸

33 Elliot Wilson ([SJR0005](#))

34 [Q49](#) [Sir Jeremy Wright MP]

35 House of Commons Library, Research Briefing, [Urgent Questions in the House of Commons since 1997](#), published 13 July 2026 (accessed 23 July 2026).

36 House of Commons Library, Research Briefing, [Emergency debates in the House of Commons since 1979](#), published 30 April 2026 (accessed 24 August 2026).

37 Hleb Buziuk ([SJR0001](#))

38 [Q68](#) [The Rt Hon the Baroness Scotland of Asthal KC]

42. Indeed, we also heard evidence that Parliament should not be seen to be ‘too reactive’ to developing matters. Parliament is a respected forum of national debate and a key part of the nation’s governance, and the impact of discussions in Parliament can be more significant than similar discussions in a different forum. Parliamentary discussion can add a “high level of legitimacy” to the information discussed, which makes it important that such debate avoids “engagement with gossip”.³⁹ The sub judice resolution, and the caution that it encourages Members of Parliament to exercise, can therefore be conceptualised not as an undue restriction preventing Parliament from commenting on matters of national importance, but rather as a method for preventing mis- or disinformation from “seeping into Parliamentary debate”, enabling Parliament to maintain its position as a respected voice in national debate.⁴⁰
43. Part of ensuring that this delicate balance is being struck appropriately, and that Parliament is able to discuss matters of national importance in a timely manner, is also about ensuring that Members of Parliament understand the scope of the resolution. In some instances, it may be the case that Members may consider the rule too restrictive due to the fact that they are not fully aware of its scope. As one witness told us:

A Member of Parliament, however, may be concerned that they are going to get into some difficulties and might be overly self-restrictive. Although I agree with Dominic [Grieve KC] that the rule as laid out in 2001 is fine and comprehensive to lawyers, I would be concerned that MPs are sometimes overly restricted or feel overly restricted.⁴¹

44. Undoubtedly, however, Parliament should and must remain at the centre of national debate, and undue restrictions on this risks undermining or eroding its relevance. The Speaker can and should take this into account to a certain degree when using the discretion contained in the resolution to issue waivers. In the course of this inquiry, we were conscious that much of the context for the Speaker’s request for us to review the sub judice resolution was as a result of substantial public debate over whether the rule unduly fettered Parliament from discussing the attack in Southport in July 2024. It is helpful to consider the operation of the sub judice resolution in that case.

Southport attack

45. In his letter to us of 20 March 2025, the Speaker raised the specific difficulties that the operation of the resolution could pose in situations such as the Southport attack. We appreciate the frustration that some Members

39 Constitutions, Rights & Justice Research Group, University of Worcester ([SJRO003](#))

40 Constitutions, Rights & Justice Research Group, University of Worcester ([SJRO003](#))

41 [Q40](#) [Sir Michael Ellis KBE KC]

may have felt during that period at not being able to freely and openly discuss the situation due to the operation of the resolution, given the public knowledge of the alleged identity and characteristics of the perpetrator and the press coverage of the matter. We also note the media coverage specifically highlighting the perceived restrictions on Members imposed by the sub judice resolution as effectively ‘banning’ them from discussing the matter in Parliament.⁴² We also recognise that, at the time, a large proportion of the House (335 of 650 MPs) had only recently been elected to Parliament for the first time, and that therefore the nature and purpose of the sub judice rule will have been new to many of them, let alone its day-to-day operation, and therefore its application may have felt unduly restrictive. We expect that many of those Members who expressed such frustrations at the time now understand and appreciate the vital importance that the sub judice rule plays in such situations to ensure that commentary in Parliament does not in any way pose even the slightest risk of collapsing high profile criminal trials such as that of the Southport attacker and denying the victims justice. In situations such as the Southport attack, the power of the chair under the resolution to issue a waiver to enable parliamentary discussion of a topic becomes the paramount method of striking that difficult and delicate balance.

46. However, it is worth noting that the resolution gives significant scope for a nuanced approach to be taken towards issuing a waiver in such difficult circumstances, depending on what is appropriate at any given juncture:

One thing to explain is that a waiver is not a binary thing—it is not a yes/no. It is granted in specific terms. The Speaker might grant a waiver for a particular statement. When there was public disorder following the Southport attacks, the Speaker granted a very limited waiver for a specific statement by the Home Secretary so that Members could talk about the public disorder but not refer to the criminal case. Sometimes waivers are granted for a very specific proceeding and then they expire, or they could be very general. [...]

Sometimes a waiver is limited to a particular proceeding. Sometimes a waiver is otherwise constrained because Members are allowed to talk about a case in some respects but not in others. Formally, under the resolution, a criminal case is caught until sentencing, but in the case of Southport, the Speaker allowed Members to discuss the case after the person pleaded guilty but before sentencing had happened, but he did

42 See, for example: The Telegraph (online version), Gordon Rayner, “Reform was banned from discussing Southport ‘attacker’ in Parliament, Nigel Farage reveals”, published 1 November 2024 at 2.18pm GMT (<https://www.telegraph.co.uk/news/2024/11/01/reform-banned-discussing-southport-attacker-parliament/>) (accessed 24 August 2026)

say [...] that Members should not speculate about the sentence itself or apply pressure as to what kind of sentence would be appropriate, because that was still properly a matter for the courts.⁴³

In the context of the Southport attack, the Speaker used this ability flexibly and effectively to enable debate at certain junctures in while avoiding prejudice to criminal proceedings. For instance, the Speaker issued specific and limited waivers at several points:

- On 30 July 2024 to enable the Home Secretary to make statements to the House on the Southport attacks, waiving the rule for those items of business only and encouraging Members to avoid speculation.
- On 2 September 2024 so that the House could discuss the resulting disorder while reminding the House not to make reference to any individual cases.
- On 21 January 2025 to waive the rule following the conviction of the attacker, but prior to sentencing, to enable discussion to take place, while reminding the House not to refer to sentencing matters in their discussions.

47. CONCLUSION

The two Houses of Parliament must be able to discuss matters of national importance and public interest in a timely manner. The courts must also be allowed to do undertake their tasks unimpeded, and trials should not be prejudiced. The sub judice rule must be operated in a way which balances these two imperatives. In fact, successive Speakers have been effective in using their waiver to ensure that the House is able to debate matters of national importance without undue restriction while preventing prejudice to cases before the courts.

48. CONCLUSION

As regards the specific example of the Southport attacks, we are of the view that the way in which the Speaker navigated the sub judice resolution was exemplary, particularly given the strength of feeling across the House. The Speaker's actions in relation to that incident evidenced that the flexibility inherent in the resolution is sufficient to balance enabling as much discussion as possible of such a subject within Parliament against the need to avoid prejudicing individual cases, in this instance both in relation to the initial attacks and to the subsequent public disorder.

43 [Q17](#) [Tom Healey; Tom Goldsmith]

Scope of the restrictions imposed by the resolution

49. In order for the sub judice rule to receive and maintain support from Members of Parliament, and to remain effective in its operation, it must be recognised and accepted as being a necessary and proportionate restriction on freedom of speech. We did not hear any evidence which indicated it was considered unnecessary; indeed, quite the opposite. However, throughout our inquiry, we heard evidence relating to the exact scope of the restriction contained in the resolution in relation to both criminal and civil proceedings, noting that the restrictions imposed by the resolution on the ability of Members of Parliament to discuss certain matters must not be more than is necessary to achieve the twin aims of the resolution of maintaining comity with the courts and of avoiding prejudicing legal proceedings. Striking the right balance in this area requires a careful consideration of whether the current resolution is too restrictive, or indeed not sufficiently restrictive, to achieve those aims.

Criminal cases

50. The restrictions on criminal proceedings are greater than on civil cases. Criminal proceedings are deemed to be active, and therefore the resolution applies, “when a charge has been made or a summons to appear has been issued, or, in Scotland, a warrant to cite has been granted” and continues to be active until “they are concluded by verdict and sentence or discontinuance” or, in criminal appellate proceedings, “from the time when they are commenced by application for leave to appeal or by notice of appeal until ended by judgment or discontinuance”.⁴⁴
51. In the course of our inquiry, it was suggested to us that we consider whether the sub judice resolution should apply from an earlier point in criminal cases, namely from the point of arrest. Part of the reason for such suggestions stems from the fact that statements made in Parliament at this time still have the potential to prejudice legal proceedings. It was also pointed out to us that statements made following arrest but prior to charge outside of Parliament—for example in the media or on social media—can give rise to contempt of court proceedings under the Contempt of Court Act 1981 if they have a substantial risk of seriously impeding or prejudicing the proceedings. Indeed, liability under common law contempt can apply even before there is an arrest, if a future prosecution is foreseeable and there is intent on the part of the publisher.⁴⁵ Therefore, public or media speculation

44 See paragraph 1(a)(i), paragraph 1(a)(ii) and paragraph 1(c)

45 See: Law Commission, [Contempt of Court Consultation Paper](#), 9 July 2024, paragraphs 2.37 and 2.8.

during this period can in principle lead to a significant punishment under the Act, including a potential custodial sentence, but there is no such remedy if the prejudicial statements are made in Parliament. This has been viewed by some as being a lacuna in the current arrangements, which could undermine public confidence that the justice system operates independently and is free from political influence.⁴⁶ On the other hand, we also heard that the sub judice resolution is more restrictive than the contempt of court regime in other ways, since it prevents any reference to live cases whatsoever, whereas contempt of court only prohibits references which would have a substantial risk of causing serious prejudice, allowing cases which cannot be discussed in Parliament to be discussed freely in the outside world.⁴⁷

52. The issue of whether the sub judice rule should apply from the point of arrest rather than the point of charge has arisen previously. The Joint Committee on Parliamentary Procedure considered this in its 1999 report, and concluded that the practical difficulties of the sub judice resolution biting at an earlier point (such as arrest) could be insurmountable, given the difficulties inherent in ascertaining with enough certainty whether someone had or had not been arrested, or whether they had been released without charge, and particularly doing so at pace.⁴⁸ We also note that our predecessors considered this point and came to the same conclusion.⁴⁹ This was supported by evidence we heard that moving the point of applicability forward to the point of arrest would create significant practical difficulties for the House Administration in terms of monitoring active cases if it were to include investigations, making the giving of advice to Members wishing to raise certain topics and chairs attempting to police the boundaries of the resolution significantly more difficult:

There would be a practical implication if we were to adopt that practice: it is simply more difficult to know the details about an arrest than about a charge.

[...]

One of the things the Table Office does is keep an eye on live cases before the courts. If you had to expand that to cover everybody who had been arrested for something, there would be a much bigger group of things that we would have to monitor.⁵⁰

46 Constitutions, Rights & Justice Research Group, University of Worcester ([SJRO003](#))

47 [Q6](#) [Saira Salimi]

48 Joint Committee on Parliamentary Privilege, Report of Session 1998–99, [Parliamentary Privilege](#), HC 214-I, paragraph 195–196

49 Procedure Committee, First Report of Session 2004–05, [The Sub Judice Rule in the House of Commons](#), HC 125, paragraph 8.

50 [Q9](#) [Tom Goldsmith; Tom Healey]

53. Moreover, as we have noted in paragraphs 12 to 15 above, one of the main aims of the sub judice resolution is to maintain comity with the courts. In a situation where an arrest has been made, the courts have not (yet) been called upon to adjudicate on a matter and indeed may not be called upon to do so once investigations have run their course. We heard evidence that extending the applicability of the sub judice rule forward to the point of arrest would be to move outside the purpose of the rule:

The other thing is that it is about comity between Parliament and the courts. It is not about comity between Parliament and the police, or Parliament and the CPS. The courts are not involved until the charge is made. The current position where it applies from the point of charge is defensible in terms of the purpose of the rule, and it is also relatively easy to police and apply in the Chamber in real time.⁵¹

54. We note that even if the resolution does not bite at the point of arrest, many Members may choose to refrain from commenting from this point onwards anyway “in an abundance of caution”,⁵² despite the fact that the matter is not yet sub judice. As one witness told us, part of the reason for this caution may stem from the longevity of such statements in the digital and social media age:

Things that we may say about something when someone has been arrested could actually now be much more prejudicial, because in the past you could not do a Google search on the person’s name, but now everything you have ever said since Noah was a boy is there to be used. So if you think about the possible prejudice of what we say and how we say it, that gets greater.⁵³

55. Indeed, we also note the current practice of the Speaker to advise the House in certain circumstances that even though a matter is not yet sub judice as no charge has been brought, caution should nevertheless be exercised by Members in commenting on certain matters under active investigation.⁵⁴ One witness explained the potential justification for Members exercising caution in this space even though the rule does not apply:

We might want to consider whether [charge] is the right starting point, but as things stand, there is likely to be a period of time immediately post incident when the sub judice resolution doesn’t apply. That doesn’t, in my view, mean that we should not exercise some self-denying ordinance to make sure none of us says things that might

51 [Q9](#) [Tom Healey]

52 [Q47](#) [Sir Michael Ellis KBE KC]

53 [Q68](#) [The Rt Hon the Baroness Scotland of Asthal KC]

54 See, for example, HC Deb (25 February 2026) Col. [315](#): “As this is a live investigation, Members will understand that it would not be appropriate to make any further comment, and I caution Members from doing so.”

prejudice an emergent prosecution. At the end of the day, we would be horrified to think that condemnatory comments that we may want to make as Members of Parliament on something would undermine the prospect of the individual we are criticising being held to account in a criminal proceeding.⁵⁵

56. As regards the differences between the sub judge resolution and the operation of contempt of court rules, we note the Law Commission's recent work reviewing the Contempt of Court Act 1981.⁵⁶ In particular, we note that in its Part 1 Report,⁵⁷ the Law Commission recommended amending the point of application in contempt of court proceedings to when a suspect is charged rather than when they are arrested. This proposed change is in response to changes made to the law following a 2022 decision of the Supreme Court which resulted in the police no longer routinely providing information regarding the identity of those who have been arrested, increasing the risk of the public or media falling foul of contempt of court rules without being aware that they were doing so as they were unaware that proceedings were active (i.e. that an arrest had indeed been made and the contempt of court regime was applicable).⁵⁸
57. We also looked at the situation in each of the devolved legislatures to assess whether there were any differences in how they approach sub judge matters compared to the Commons. We note from the evidence we received from the Presiding Officers in the devolved legislatures that their rules of procedure each have a rule which broadly mirrors the sub judge resolution (as is required by the devolution statutes).⁵⁹ ⁶⁰ We also note that, while the Presiding Officer in each legislature has a similar discretion to that enjoyed by the Speaker to disapply the rule to certain proceedings by way of a waiver, the applicability of the rule is wider than in the House of Commons, aligning with the rules established under the Contempt of Court Act 1981 for the purposes of determining when a case is 'active'. This is due to the fact that, unlike proceedings in the House of Commons, proceedings in the devolved legislatures are not covered by the protection of Article IX of the Bill of Rights.

55 [Q44](#) [Sir Jeremy Wright MP]

56 Law Commission, [Contempt of court project](#), launched 9 July 2024.

57 Law Commission, [Contempt of Court: Report \(Part 1\) on Liability](#), HC 1433 (Law Com No 423), published 17 November 2025.

58 [Q83](#) [Professor Penney Lewis]

59 Rt Hon Alison Johnstone MSP, Presiding Officer, Scottish Parliament ([SJRO007](#)); Rt Hon Elin Jones AS/MS, Llywydd (Presiding Officer), Senedd Cymru/Welsh Parliament ([SJRO008](#)); and Edwin Poots MLA, Speaker, Northern Ireland Assembly ([SJRO009](#)).

60 See: Northern Ireland Act 1998, schedule 6, paragraph 1; Scotland Act 1998, section 22(1) and schedule 3, paragraph 1; and Government of Wales Act 2006, section 31(2)(b).

58.

CONCLUSION

We appreciate that, as it currently stands, there is a distinction between when the sub judice resolution applies to parliamentarians in criminal cases—namely from the point of charge—and to the public and the media under contempt of court rules. However, we believe that this distinction is justified for several reasons.

59.

CONCLUSION

First, as noted by our predecessors, there are practical limitations which would make the operation, monitoring and enforcement of the sub judice rule from an earlier point impossible. We concur with our predecessors that these limitations cannot be overcome to a satisfactory degree.

60.

CONCLUSION

Secondly, we note that comity is conceptualised as providing the framework for maintaining the relationship between Parliament and the courts, as two important and distinct institutions under the UK constitution, rather than between Parliament and any arresting or investigatory authorities. At the point of arrest, there are no active legal proceedings, and therefore the courts are not involved, so Parliament does not need to restrict its scope for action in the name of comity. The hypothetical possibility of impacting on potential court proceedings is not a sufficiently strong causal nexus to justify the restriction on freedom of speech that extending the sub judice rule to the point of arrest would entail.

61.

CONCLUSION

Thirdly, we note the ongoing work by the Law Commission reviewing the current contempt of court regime, and their November 2025 Part 1 Report which recommends moving the applicability of this regime from the point of arrest to the point of charge to take account of developments in the law since 2022. It would be premature to consider any changes to the applicability of the sub judice rule before this work has been completed.

62.

CONCLUSION

Fourthly, we note the situation in the devolved legislatures, but recognise that their adherence to the definitions in the Contempt of Court Act 1981 for the purposes of determining when criminal cases are ‘active’ is necessitated by the fact the elected members of those legislatures do not enjoy parliamentary privilege in the same way as Members of the House of Commons, and could be liable of contempt of court for statements made in the period between an arrest being made and charges being brought. This difference necessitates a distinct approach to sub judice matters between the legislatures.

63.

CONCLUSION

Lastly, we note the evolving practice of the Speaker of urging Members of Parliament to exercise caution, but falling short of preventing discussion, where there has been an arrest in a matter of national importance or public interest, but charges are yet to be brought, to avoid the appearance of influencing any potential legal proceedings. We consider this to be a prudent and proportionate development over extending the scope of the resolution.

64.

CONCLUSION

We therefore consider that applying the sub judice rule from the point of arrest would be a disproportionate restriction on the freedom of speech in Parliament and would undermine Parliament’s central role as the focal point of national discourse.

65.

RECOMMENDATION

We recommend that in criminal cases the sub judice rule should continue to apply at the point of charge, not arrest. Nevertheless, we commend the developing practice of the Speaker to remind Members to exercise caution when discussing matters after arrest which are likely to lead to a formal charge being made so as to avoid any potential prejudice to any eventual criminal proceedings and recommend that all Members recognise the importance of exercising their rights under Article IX with caution in such circumstances.

Civil cases

66. Before 1972, civil cases were not covered by the sub judice resolution. The applicability of the sub judice rule was first extended to civil proceedings in 1972, with a specific focus on civil cases where the matter to be raised related to ministerial decisions or issues of national importance, following

on from a report recommending this from our predecessors.⁶¹ In that report, our predecessors had, however, suggested that reference should be applied to cases in all civil courts (excluding defamation cases) unless it appeared to the chair that “there is a real and substantial danger of prejudice to the proceedings”.⁶² The House instead extended the rule to all civil cases, but distinguished between the way it applied in civil and criminal cases.

67. Civil proceedings are deemed to be active, and therefore the resolution applies, “when arrangements for the hearing, such as setting down a case for trial, have been made “and continues to be active until “they are ended by judgment or discontinuance” or, in criminal appellate proceedings, “from the time when they are commenced by application for leave to appeal or by notice of appeal until ended by judgment or discontinuance”. For civil cases, a further clarification is included in the resolution making clear that “any application made in or for the purposes of any civil proceedings shall be treated as a distinct proceeding”.⁶³ The effect of this is that civil cases are not automatically sub judice, and even when there has been a preliminary hearing, they only remain sub judice if a further hearing has been scheduled. In contrast, the rules on appeal apply equally to both civil and criminal cases, and a case is sub judice from the moment an application for appeal or equivalent has been lodged.

68. We heard arguments that the risk of prejudice in civil cases is lower than in criminal trials, both because there is no jury in most civil trials, and because members of the judiciary are expected to be immune to influence and sufficiently experienced to decide cases solely on the merits of the evidence in front of them:

There is a reason that judges are undoubtedly more robust than juries. It is not about judges being clever and juries not; it is about their experience of determining what evidence is relevant and what is not. That is what we train judges to do; they do it every day. They can discount things that they do not think are relevant more easily than juries can.⁶⁴

69. However, we also heard that the risk of prejudice, even if it may be lower, cannot be excluded altogether:

In terms of the risk of prejudice in civil proceedings, I think judges are robust enough not to be influenced by what people say. But the point was made earlier that if a climate is generated, particularly in

61 Select Committee on Procedure, Fourth Report, Session 1971–72, Matters Sub Judice, HC 298.

62 Select Committee on Procedure, Fourth Report, Session 1971–72, Matters Sub Judice, HC 298, paragraph 24.

63 See paragraph 1(b)(i), paragraph 1(c), and paragraph 1(b)(ii)

64 [Q54](#) [Dominic Grieve KC]

Parliament, which is a very important body, saying that a party to civil proceedings is effectively bad, witnesses who might otherwise say something contrary to that might be deterred from doing so. One has to bear in mind that it can have an impact on civil proceedings, but I accept that it is likely to be much more subtle and rather different.⁶⁵

- 70.** It should be noted that, in civil cases as well as criminal cases, it is not just arguments relating to potential prejudicial impact on a case that are important; indeed, the arguments relating to comity are equally strong. Viewing the sub judice rule as it relates to civil proceedings through the lens of the risk of influencing the outcome of such proceedings alone is not sufficient. The resolution is intended to preserve ‘comity’ between the courts and the House, to avoid Parliament influencing, or appearing to attempt to influence, the outcome of any court proceedings, and to avoid Parliament acting as an alternative forum for resolution of matters that are before the courts. This includes in civil cases, where the courts are adjudicating on the rights of the parties involved in a case, just as much as it does in criminal cases. The courts are better placed to hear and assess the evidence between individual parties and to decide on the matter on the basis of the laws set down by Parliament or the common law, rather than Parliament itself attempting to do so. Parties to civil cases should be confident that the decisions—both at first instance and on appeal—have been decided independently, without any pressure being applied by anything occurring in Parliament. As noted by the Joint Committee on Parliamentary Privilege in 1999:

The proper relationship between Parliament and the courts requires that the courts should be left to get on with their work. No matter how great the pressure [...] Parliament should not permit itself to appear as an alternative forum for canvassing the rights and wrongs of issues being considered [by the courts] on evidence yet to be presented and tested.⁶⁶

- 71.** We also heard that one of the primary differences between civil and criminal cases can be the length of time that they are active. Civil cases can often last for many years, with significant complex matters at stake and often large numbers of parties involved in proceedings. The resolution does, however, take account of this to ensure that the ability of Members of Parliament to raise matters is not unduly restricted:

For civil cases, [the resolution] does not bite until the case is set down for hearing, which may happen quite a long time into the life of a civil case. Typically, in a civil case, somebody issues proceedings and there

65 [Q99](#) [The Rt Hon the Lord Hermer KC]

66 Joint Committee on Parliamentary Privilege, Report of Session 1998–99, [Parliamentary Privilege](#), HC 214-I, paragraph 192.

is a defence. At that stage, there is no trial date; there may be no trial date for quite a long time after that. It is not until it is set down for hearing—either for trial of the whole case or for a hearing on a preliminary point—that the resolution starts to bite, and usually that will happen a few months before the hearing actually comes around. If a trial is going to take place in October, it will probably be listed by, say, the start of that year. Although it may apply for months, it does not usually apply for years, and it does not apply for the lifespan of the case.⁶⁷

- 72.** Nevertheless, concerns were raised with us about the amount of time that certain civil cases can, under certain circumstances, remain sub judice, thus hampering the ability for the matters raised in those cases to be discussed in parliamentary proceedings. For instance, the House Administration noted in its evidence to us that when a case is set down for a hearing, often this can be quite a long time in advance of any “substantive hearing” but the resolution nevertheless bites, and that such long gaps may in fact be between simple case management hearings.⁶⁸
- 73.** With civil cases, as with criminal cases, we also note that the resolution applies from the point at which an application to appeal has been made, rather than the point at which permission to appeal is granted or before a case is heard. In civil cases, this could again be a significant period of time after the conclusion of the initial trial, with the sub judice resolution continuing to apply to the case and the matters raised by it. As with criminal cases, the risk of prejudice in relation to appeals is usually lower due to the matters in play being of a legal rather than factual nature and the higher level of the judiciary at which the case is heard. As one witness told us, in such circumstances, “the risk of effective interference is absolutely minuscule”.⁶⁹
- 74.** Moreover, the way in which the sub judice resolution bites in civil cases can appear confusing. Civil cases may have several distinct phases before they are decided at first instance. The resolution only applies to those cases when arrangements for a hearing have been made. Once a hearing has been held, but if the case has not yet been finalised, the sub judice ceases to apply to the case from after this point until arrangements for a further hearing can be made. Therefore, there may be phases of significant lengths where the case is still very much ‘alive’ before the courts but not considered to be ‘active’ for the purposes of the resolution. By contrast, when it comes to appeals in civil cases, the resolution applies from the point at which the application is lodged until a final decision is made on the appeal, despite

67 [Q11](#) [Saira Salimi]

68 House Administration ([SJR0006](#))

69 [Q54](#) [Sir Michael Ellis KBE KC]

the fact that there may be similar lengthy periods during which the case is ‘dormant’ as when the case is at first instance. This leads to the situation where the House may therefore be able to discuss a case more substantially before it has been decided at first instance than after it has been appealed, despite the fact that the risk of prejudicial impact is lower on appeal as witness statements have already been made (and thus the risk of witness interference is no longer present). This, coupled with the points raised above regarding appeals being heard before senior members of the judiciary and relating to points of law rather than of fact, creates a discrepancy of treatment by the resolution of different phases of the lifecycle of a civil case (which is not mirrored in criminal cases)—namely between the first decision in a case and any subsequent appeal—which is difficult to justify.

75. We also heard, however, that the discretion contained in the resolution enables the chair to take these matters into account and, where there is an overriding public interest in Parliament discussing specific matters relating to a civil case in one of these longer periods of inactivity, a waiver can be issued to enable such discussion:

[...] we find ourselves advising a lot more often that it would be appropriate to exercise a waiver in a civil case, because there might be questions about the timing or because of the absence of a jury, so in practice there can be quite a difference in treatment.⁷⁰

76. **CONCLUSION**

We note that civil cases can last significantly longer than criminal cases and it can be difficult to establish whether a civil case is at a stage when the sub judice rule bites. We also note the arguments that the risk of causing prejudice to a civil trial could be perceived as being lower than in criminal cases, as the vast majority of civil cases do not involve a jury and are heard before experienced members of the judiciary. However, we are of the view that there is still a residual risk of prejudice in these cases, for instance by influencing witnesses in civil cases, and so there is a continued need for the rule.

77. **CONCLUSION**

We also note the discrepancy as to how the resolution bites in civil cases between those being heard at first instance and on appeal during phases where the case is dormant. This discrepancy does not seem to have any clear justification and has the potential to cause confusion to Members.

70 [Q12](#) [Tom Goldsmith]

78.

CONCLUSION

Nevertheless, any attempt to exempt certain phases of civil proceedings from the scope of the resolution has the potential of causing unforeseen adverse effects and making the resolution more difficult for Members to readily understand. We also note that the Speaker’s discretion to issue a waiver applies equally in relation to civil cases, and that the Speaker can take account of the stage of proceedings and the potential for lengthy delays when making a decision.

79.

RECOMMENDATION

The wording of the resolution in relation to civil cases should not be amended, as it continues to have a strong justification in terms of both comity and in preventing prejudice to live cases. However, we recommend that the Speaker may wish to consider exercising the power to issue a waiver more freely in relation to civil cases, in particular at the appeals stage where there is a clear public interest in enabling parliamentary discussion of the issues concerned. This should continue to be considered on a case-by-case basis and take into account the stage which proceedings have reached, the imminence of any hearing, and the lower risk of prejudice when matters have reached the appeal stage.

Clarity in the operation of the rule

80. The wording of the resolution provides clarity on what is covered by the sub judice resolution and what is not when it comes to types of proceedings, stages of proceedings, and setting out exemptions to the rule. However, the resolution also grants the Speaker significant discretion to issue a waiver, but the breadth of this discretion is difficult to clearly set out. We heard calls for guidance to be issued setting out when and how the Speaker’s discretion will be exercised, in order to provide more clarity and predictability as to when a waiver may be issued.⁷¹ We also heard calls for the resolution to be amended to include a list of “material considerations” which the Speaker may take into account when considering issuing a waive, again for reasons of clarity and predictability.⁷²
81. In the course of our inquiry, we looked in depth at the Speaker’s role in the issuing of waivers, given that our predecessors had often concluded that any perceived deficiencies in the wording of the resolution itself could

71 HM Government ([SJRO002](#))

72 The Bar Council ([SJRO004](#))

mostly be overcome by the Speaker's discretion to issue a waiver.⁷³ The Speaker regularly issues waivers to allow for discussion of cases that touch on matters of "national importance". They can include a full waiver, allowing references to a case in any proceeding; for example a waiver was issued in 2022, and reissued following the election in 2024, to allow for discussions of the policy issues arising from the Grenfell Tower tragedy, but not the details of any individual cases or inquests.⁷⁴ Waivers can also be granted for a single proceeding, rather than for the case itself as a whole.⁷⁵

- 82.** We heard evidence that the Speaker's discretion is very wide, to allow for waivers to be issued in as wide a range of circumstances as possible:

At the moment, the Speaker has very wide discretion. The discretion to grant a waiver in the sub judice resolution basically applies if he thinks it is in the national interest to do so. It goes on to give some specific examples: the economy, public order and essential services. Those are examples, not an exhaustive list of the areas where he can grant a waiver.⁷⁶

- 83.** Moreover, we heard arguments in favour of the discretion remaining that wide, and the Speaker having the trust of the House to exercise the discretion effectively to enable debate and to avoid prejudicing legal cases:

The clearer we are about the sorts of things that might entail the better, but in the end, discretion has to be just that. If you try to set out every conceivable scenario in which you might exercise discretion, it is no longer discretion. To some extent, we have to trust the Speaker to decide what the appropriate approach is. That is the way in which the resolution is currently drafted, and it is probably the right balance because it is very hard to anticipate every conceivable circumstance.⁷⁷

- 84.** In reaching a decision on whether to issue a waiver, the Speaker must balance a range of factors. The resolution itself contains some grounds which may guide the Speaker in his decision:

[...] in the opinion of the Chair a case concerns issues of national importance such as the economy, public order or the essential services, reference to the issues or the case may be made in motions, debates or questions.

73 See, for example: Procedure Committee, First Report of Session 2004–05, [The Sub Judice Rule in the House of Commons](#), HC 125, paragraphs 27, 45 and 46; Procedure Committee, Second Report of Session 2005–06, [Application of the sub judice rule to proceedings in coroners' courts](#), HC 714, paragraphs 48, 54, 64 and 83.

74 [HC Deb \(27 June 2022\) 717, col 2](#)

75 See, for example: [HC Deb \(19 May 2025\) 767, col 759](#)

76 [Q18](#) [Tom Healey]

77 [Q42](#) [Sir Jeremy Wright MP]

- 85.** Some witnesses considered that additional guidance beyond those examples should be included on the face of the resolution to set out the considerations that the Speaker should take into account before issuing a waiver.⁷⁸ By contrast, others suggested that the current list of potential reasons why the Speaker may grant a waiver should be removed from the face of the resolution, given that they do not constrain the Speaker’s discretion in deciding what is or is not an ‘issue of national importance’. It has been argued that an outmoded conception of the type of matters which could be considered of national importance dating from the early 1970s may not be particularly helpful.⁷⁹ The balance between providing certainty and predictability to outside observers concerning when a waiver may be granted, and ensuring that the Speaker has adequate discretion to issue a waiver when one is truly needed, is difficult to strike. However, we heard broad support for ensuring that in any event the Speaker was not unduly constrained:

The only thing that you need to be a bit careful about is that discretion should be exercised, dependent on the facts to which they pertain. No two cases are the same, so you have to make the principles broad enough to make sure the Speaker is able to do justice to the circumstances of every case. One of the suggestions is that we should take out some of the examples and just have principles, because the examples could restrict when you can waive. What is really fascinating is that events that you have never thought about come up, and you have not provided for them. Therefore, having broad discretion is really helpful, albeit you can have guidelines about the sort of things that should be taken into account.⁸⁰

- 86.** We also appreciate the fact that when discussion turns to whether a waiver is granted, the Speaker may be coming under significant political pressure to issue—or indeed not to issue—a waiver on a highly politicised topic. It will, at times, be intensely difficult for the Speaker to hold the line in striking the balance between enabling discussion in the House and preventing prejudice to ongoing cases. Nonetheless, it should be for the Speaker to decide, based on the information and advice available, whether or not to exercise the power to issue a waiver. A list of reasons for waiver on the face of the resolution (even if explicitly non-exhaustive) would risk restricting the scope for decision-making or providing grounds for challenging the decision after it had been made.

78 The Bar Council ([SJR0004](#)); HM Government ([SJR0002](#))

79 House Administration ([SJR0006](#))

80 [Q76](#) [The Rt Hon the Baroness Scotland of Asthal KC]

87. We also heard evidence that an up-to-date list of existing waivers should be kept internally available to the House Administration and Members for easier access and reference.⁸¹ We also explored whether this list should be made publicly available, which we heard could, over time, build up a “body of case law” that could be used to understand what sort of criteria were in play when waivers were issued.⁸²

88. **CONCLUSION**

We commend the Speaker for the way in which he handles the challenges posed by advising on and policing the sub judice rule under difficult circumstances. We recognise that a core part of this is having the scope to issue a waiver, and that reaching those decisions should not be unduly constrained by any external factors.

89. **CONCLUSION**

We heard evidence suggesting that there should be more transparency around when and under what circumstances the Speaker may issue a waiver, to introduce predictability into the operation of the resolution and to provide additional certainty both to Members and to the public more widely. However, the House has given the Speaker the discretion to waive the sub judice resolution where it is deemed to be necessary to do so and in a way that is proportionate. The Speaker needs to be able to use that discretion in a wide range of circumstances. Setting out circumstances in which a waiver might be granted on the face of the resolution or publishing accompanying guidance on this matter, or the ongoing publication of a list of waivers to build up a ‘body of case law’, could, in effect, fetter that discretion. The House has placed its trust in the Speaker, and there is no reason to change that.

90. **RECOMMENDATION**

We recommend that the resolution be amended to remove reference to “the economy, public order or the essential services” as this list has the potential to unduly restrict the Speaker’s discretion or to undermine his or her reasoning when issuing a waiver.

81 Hleb Buziuk ([SJRO001](#))

82 [Q19](#) [Tom Healey]

4 Proposals for change

Service courts and public inquiries

91. In the course of our inquiry, we examined whether there had been developments in UK law that have had a material impact on the sub judge resolution since its present incarnation was adopted by the House in 2001. We have heard that there are two areas where the law has moved on in such a way as to make certain aspects of the resolution redundant, namely in relation to service courts and to public inquiries.
92. On the first matter, paragraph 1 (a)(ii) of the 2001 resolution explicitly refers to cases dealt with by courts martial being active until the completion “of the mandatory post-trial review”. Mandatory post-trial reviews, whereby the Reviewing Authority within the military would review the findings and sentence of a court martial before they were valid or until the sentence took effect fully, were abolished as part of a package of reforms of the service justice system introduced in the Armed Forces Act 2006. As such, as one witness told us, that provision is currently simply “beating the air”.⁸³
93. Service courts themselves have been considered to be covered by the resolution, even though not explicitly mentioned in paragraph 3 of the resolution. For the avoidance of doubt, we would continue to consider this to be the case, and do not expect this change to have any material impact on the application or operation of the resolution to cases before service courts.
94. On the second matter, paragraph 2 of the resolution provides that the rule covers “matters which the House has expressly referred to any judicial body for decision and report” until any such report is laid. The power to set up an inquiry by way of a resolution of both Houses under the Tribunals of Inquiry (Evidence) Act 1921 has since been repealed by the Inquiries Act 2005. Inquiries set up under the 2005 Act or otherwise established by Ministers—despite having powers resembling those of a court and often being led by a current or former member of the judiciary—are not, however, judicial bodies capable of determining legal liability, and therefore are not covered by the resolution. Given that such inquiries are likely to be high profile and dealing with matters of national importance, this is entirely appropriate.

83 [Q27](#) [Saira Salimi]

95.

CONCLUSION

While it is not strictly necessary to remove reference to outdated matters on the face of the resolution, given that the provisions are inoperative owing to developments in the law, it is nevertheless an unhelpful anomaly that the resolution contains provisions which no longer have any active effect.

96.

RECOMMENDATION

Given the development in the law in since 2001, in particular the passage of the Armed Forces Act 2006, we recommend that the reference to mandatory post-trial reviews in the context of courts martial in paragraph 1(a)(ii) of the resolution be removed. Any such change should not, however, be deemed to impact on the continued general applicability of the resolution to service courts.

97.

RECOMMENDATION

Moreover, in light of the passage of the Inquiries Act 2005, we recommend that paragraph 2 of the resolution be removed.

Ministerial decisions

98. Ministerial decisions have not always been exempted from the sub judice rule. In 1972, coinciding with the growth of administrative law and of judicial review following the decision of the courts in *Anisminic*,⁸⁴ the resolution was amended to include a limited exemption for cases involving ministerial decisions that could not be challenged except “on grounds of misdirection or bad faith”, following a recommendation of the then Procedure Committee.⁸⁵ The current wording of the resolution goes further, setting out an exemption for all challenges to ministerial decisions: “where a ministerial decision is in question [...] reference to the issues or the case may be made in motions, debates or questions”.⁸⁶ This exemption of ministerial decisions from the scope of the resolution reflects the fact that the resolution is not intended to restrict or frustrate one of the House’s core functions:

[The sub judice resolution] does not stop the House doing that core scrutiny function of looking at what the Government is doing, even if there is a live case on a ministerial decision.⁸⁷

84 [Anisminic Ltd v Foreign Compensation Commission](#) [1969] 2 AC 147

85 CJ, (28 June 1972) 227, p 408; Procedure Committee, Fourth Report of Session 1971–72, Matters Sub Judice, HC 298

86 Paragraph (1) (see Appendix 1).

87 [Q3](#) [Eve Samson]

- 99.** Broadly speaking, this exemption will cover most cases of judicial review, whereby a ministerial decision is being challenged before the courts. The then Attorney General, The Rt Hon. the Lord Hermer KC, was clear that in his view this is an important principle in our constitution:

Yes, as I understand it, there is an exemption for ministerial decisions, and that strikes me as constitutionally appropriate because Ministers are answerable to Parliament. Ministers should not be able to hide around court proceedings to justify to Parliament decisions that they have taken.⁸⁸

- 100.** However, we have heard that judicial review of decisions made by certain government agencies or statutory regulators are not caught by this exception, and could only be discussed if a waiver were granted.

- 101.** This is an anomalous situation as those bodies, which are operationally independent and make decisions under their own legal powers, often make those decisions in line with a policy set by ministers, and are exercising public policy functions, some of which may be controversial and important. We also heard that this rests on a narrow distinction that may be hard to justify:

We can sometimes get into a difficulty about what is a ministerial decision and what is a Government decision that is nonetheless ministerial. The flavour of the resolution is that the House should be able to ask Ministers about things for which they are accountable to Parliament, so I can see that you could formulate the resolution differently to capture that.⁸⁹

- 102.** We also heard, however, that while such decisions may be outside of the scope of the exemption as currently framed, the power of the chair to issue a waiver makes the issue less acute:

The issue may be in the language that is used for the waiver. Even then, I think there probably is enough flexibility to allow for what you are describing. It says, “where a ministerial decision is in question”, which obviously would not cover your point, but then it says, “or in the opinion of the Chair a case concerns issues of national importance such as the economy, public order or the essential services”. In those circumstances, whether the decision in question was taken by a Minister or another body, you would still be entitled to ask for that waiver to apply.

88 [Q106](#) [The Rt Hon the Lord Hermer KC]

89 [Q29](#) [Tom Healey]

Subject to what my learned friends believe, I do not think that the situation you are describing needs any further adjustment in the wording, because it seems to me that you would be able to get it within the confines of what is already there.⁹⁰

103. CONCLUSION

While we recognise the challenge in ensuring that the wording of the resolution captures every conceivable situation, the current situation whereby judicial review cases relating to decisions by certain bodies, agencies and organisations are not covered creates a distinction between some types of decisions on state policy attracting ministerial responsibility (and therefore accountability to Parliament) and others where the lead is taken by an arm's length body without a strong rationale for doing so. The sub judice resolution is a significant self-denying ordinance. It should not be interpreted in a way which unduly restricts the House's ability to hold Government (in the widest sense) to account.

104. CONCLUSION

Nevertheless, we note that the power of the Speaker to issue a waiver in such situations prevents this lacuna from being unduly restrictive on Members' ability to discuss such matters in the course of parliamentary proceedings.

105. RECOMMENDATION

We do not recommend amending the sub judice resolution to clarify that the exemption for ministerial decisions covers judicial review of all decisions for which Ministers are ultimately responsible and accountable to Parliament, even where operational delivery and responsibility lie with independent bodies. We recommend, however, that there should be a presumption that the Speaker will exercise his power to issue a waiver if such situations are drawn to his attention, with the decision being made on a case-by-case basis.

90 [Q45](#) [Sir Jeremy Wright MP]

5 Alignment between the House of Commons and the House of Lords

106. Throughout this inquiry, we have been aware of the fact that both Houses of Parliament have a sub judice resolution in place, in identical terms (save for the process for issuing a waiver to take account of how each House governs its business) and that both Houses remain resolute in their support for the continued importance of the rule. We also heard that, at an official level, there is regular communication between the two Administrations on sub judice matters and on the operation of the resolution across both Houses.⁹¹

107. It was suggested to us that the Commons, as the democratically elected chamber, should have an enhanced ability to react to and respond to current events to maintain its relevance in national discourse. However, we also received evidence which emphasised the importance of maintaining the same approach across both Houses:

I can see an argument for why there would be a difference. I think where I would land on that is ultimately there is a benefit in having a single standard, because if you have a single standard, everybody knows where they are. Again, if you go back to the basic principles for why the sub judice rule exists—which is to respect the role that the courts have to play and to avoid prejudice to trials—I think that ultimately the rationale for keeping that standard uniform is met.⁹²

108. We also heard that ensuring parity between the two Houses not only prevents confusion on which rules apply in which place, but also prevents resentment between Members and Peers arising from the rule applying differently in one House compared to in the other:

What was clear was that the two Houses being governed by same approach, which is what has happened as a result of the change, was really important, so that there is respect between the Houses. One House does not think, “Well, they can do this, and they can have this information, but we can’t.”

91 [Qq24–25](#) [Dr Bhatti, Tom Healey and Eve Samson]

92 [Q94](#) [The Rt Hon the Lord Hermer KC]

I have seen the way in which the new rules have worked—the rules that we currently have—and they are sound and good.⁹³

109. We understand that there exists a perception that peers in the House of Lords are more willing to breach the sub judice resolution than Members of the Commons who are perhaps exercising additional restraint out of an abundance of caution. However, we heard no specific evidence on this fact.

110. **CONCLUSION**

The evidence we heard strongly supports maintaining the current situation whereby both Houses are aligned in terms of the wording of the resolution in each House and in terms of its practical operation. It is important that the privileges of members of both Houses of Parliament are protected in the same way, and that they are exercised in the same manner.

111. **CONCLUSION**

We are grateful for the support and insights of the House of Lords Procedure and Privileges Committee throughout the course of our inquiry and are keen for their views on the changes to the sub judice resolution that we put forward in this report.

112. **RECOMMENDATION**

We recommend that the House of Lords Procedures and Privileges Committee take a view on the changes recommended in paragraphs 90, 96 and 97 of this report before either House proceeds to make any substantive changes to their sub judice resolutions.

93 [Q65](#) [The Rt Hon the Baroness Scotland of Asthal KC]

6 Concluding remarks

- 113.** As noted above, the sub judice resolution plays an important role in our constitution. It operates within the wider ecosystem of parliamentary privilege as a key element of maintaining comity between Parliament and the courts.
- 114.** Moreover, we were struck by the point made by one of our witnesses that in many countries—in particular in the Commonwealth of Nations—what happens in this Parliament is seen as an exemplar of good governance and sound constitutional management:

The fact that this country has been good at maintaining that balance has been incredibly important to all our members [of the Commonwealth]. We learn from other member states, but they learn from us. The principles that we hold dear are, therefore, enhanced by all the different parties playing together and respecting each other. This is an incredibly important part of who we are and how our systems work.

Keeping that balance and respect is difficult in many jurisdictions. If we blink, other people can potentially suffer, because people say, “Well, if the United Kingdom thinks this is okay and good, it may be okay for us.” We know that all our countries are in different situations. Holding fast is not just important for us but for those of us who love the rule of law and want to see good governance everywhere.⁹⁴

- 115.** The sub judice resolution is an important element in striking the balance between asserting Parliament’s ancient privileges and ensuring that the exercise of those privileges does not impede the judiciary from effectively undertaking its vital role within the UK constitution. We have undertaken this work in the full knowledge that not only does Parliament have a duty to ensure that the balance struck in this subject area is right, but that it is seen to be right.
- 116.** We understand that, at times, Members of Parliament may feel that the resolution places an undue restriction on their ability to discuss important matters affecting the country. As noted above, we undertook this inquiry in part to respond to concerns that the balance being struck by the sub judice

94 [Q64](#) [The Rt Hon the Baroness Scotland of Asthal KC]

resolution may have been lost, particularly in light of the Southport attack, and to examine whether the lines needed to be redrawn. We are not the first committee to do so, nor shall we be the last.

- 117.** In the sub judice rule, the two Houses have voluntarily modified their freedom of speech to balance the public interest in the absolute freedom of speech in Parliament with the public interest in comity and justice. They should be prepared to reconsider from time to time whether that balance is struck appropriately in the light of developments in the law or general social expectations. The sub judice rule should be kept under review to ensure that it still serves its dual purposes of maintaining comity with the courts and preventing prejudice to cases before the courts, while at the same time ensuring that the House is not frustrated from performing its role as the central forum for discourse and debate on matters of national importance and public interest. That centrality of Parliament in national life cannot in any way be eroded, either in perception or in fact. It is for the two Houses of Parliament themselves to ensure that the rules in place do not undermine the centrality of parliamentary work.

118. CONCLUSION

The sub judice resolution continues to be a necessary and proportionate restriction on the freedom of speech of Members of Parliament, and we are not of the view that the delicate balance that it strikes is currently under threat.

119. RECOMMENDATION

Nonetheless if, at any point, Members of the House of Commons (or, indeed, members of the House of Lords) are of the view that the sub judice resolution is no longer operating as intended, the matter should be investigated by a Joint Committee to ensure that both Houses of Parliament are aligned in their approach to sub judice moving forward.

Conclusions and recommendations

Background

1. The sub judice resolution is a constitutionally important principle which seeks to maintain comity between Parliament and the courts and to avoid prejudicing individual cases before the courts. The actions of the House Administration in proactively identifying potential sub judice issues and providing timely advice to Members is to be commended, however it is impossible for them to be over the detail of all cases before the courts. It is therefore incumbent upon all Members to ensure they fully understand the resolution and take responsibility for their adherence to it. (Conclusion, Paragraph 26)
2. Members should make a conscious effort to make themselves aware of the limitations on what they can and cannot say in certain parliamentary proceedings relating to live matters before the courts and ensure they do not breach the resolution either deliberately or accidentally. If a Member is unsure on whether a matter is sub judice, or wants advice on how to raise certain matters, they are encouraged to seek the advice of the House Administration in good time, or to discuss the matter with the Speaker for the purpose of seeking a potential waiver. (Recommendation, Paragraph 27)
3. In undertaking this key role, the Speaker can be approached by individual Members for advice on sub judice matters, makes the decision on whether or not to grant a waiver and announces the terms of a waiver to the House, and reminds the House as a whole of the importance of adhering to the rule. The Speaker also polices the rule, ensuring that the House does not breach the terms of the resolution, and has disciplinary powers to respond to any such breaches. The Speaker also has the difficult task of deciding whether or not a waiver is appropriate in certain situations and determining the scope of any such waiver. The importance of the Speaker in issuing waivers is discussed in detail in paragraphs 80 to 90 below. (Conclusion, Paragraph 29)

4. The House itself has recognised the need to regulate discussion of live cases and has given the Speaker authority to do so. We commend the Speaker for the way in which he handles the challenges posed by advising on and policing the sub judice rule under difficult circumstances. (Conclusion, Paragraph 30)
5. The wording of the resolution empowers individual chairs to grant sub judice waivers, but we note that in most circumstances the Speaker is consulted ahead of a decision on whether to grant a particular waiver being taken, either doing so explicitly himself, or discussing it with the relevant chair. We, like our predecessors, believe that the present approach is appropriate and encourage individual chairs faced with potential sub judice issues to liaise with the Speaker as soon as possible to discuss whether a waiver would be appropriate. This should ensure that the approach to granting waivers is uniform in all circumstances. (Conclusion, Paragraph 33)
6. We agree with our predecessors that it is important for Standing Orders to contain a specific disciplinary provision relating to breaches of the sub judice resolution, as this highlights the importance of adherence to the rule. We are nevertheless pleased to note that the provisions of Standing Order No. 42A have, to the best of our knowledge, never been formally used, and that in practice problems rarely arise either in debates or in committees. Members should be commended for their ongoing adherence to the terms of the resolution. (Conclusion, Paragraph 36)
7. While the deterrent effect of the disciplinary powers currently appears to be effective, the House should continue to keep such powers under review to ensure that ongoing compliance with the resolution is maintained and that its provisions remain proportionate. (Recommendation, Paragraph 37)

Should the sub judice rule be revised?

8. The two Houses of Parliament must be able to discuss matters of national importance and public interest in a timely manner. The courts must also be allowed to do undertake their tasks unimpeded, and trials should not be prejudiced. The sub judice rule must be operated in a way which balances these two imperatives. In fact, successive Speakers have been effective in using their waiver to ensure that the House is able to debate matters of national importance without undue restriction while preventing prejudice to cases before the courts. (Conclusion, Paragraph 47)
9. As regards the specific example of the Southport attacks, we are of the view that the way in which the Speaker navigated the sub judice resolution was exemplary, particularly given the strength of feeling across the House. The Speaker's actions in relation to that incident evidenced that

the flexibility inherent in the resolution is sufficient to balance enabling as much discussion as possible of such a subject within Parliament against the need to avoid prejudicing individual cases, in this instance both in relation to the initial attacks and to the subsequent public disorder. (Conclusion, Paragraph 48)

10. We appreciate that, as it currently stands, there is a distinction between when the sub judice resolution applies to parliamentarians in criminal cases—namely from the point of charge—and to the public and the media under contempt of court rules. However, we believe that this distinction is justified for several reasons. (Conclusion, Paragraph 58)
11. First, as noted by our predecessors, there are practical limitations which would make the operation, monitoring and enforcement of the sub judice rule from an earlier point impossible. We concur with our predecessors that these limitations cannot be overcome to a satisfactory degree. (Conclusion, Paragraph 59)
12. Secondly, we note that comity is conceptualised as providing the framework for maintaining the relationship between Parliament and the courts, as two important and distinct institutions under the UK constitution, rather than between Parliament and any arresting or investigatory authorities. At the point of arrest, there are no active legal proceedings, and therefore the courts are not involved, so Parliament does not need to restrict its scope for action in the name of comity. The hypothetical possibility of impacting on potential court proceedings is not a sufficiently strong causal nexus to justify the restriction on freedom of speech that extending the sub judice rule to the point of arrest would entail. (Conclusion, Paragraph 60)
13. Thirdly, we note the ongoing work by the Law Commission reviewing the current contempt of court regime, and their November 2025 Part 1 Report which recommends moving the applicability of this regime from the point of arrest to the point of charge to take account of developments in the law since 2022. It would be premature to consider any changes to the applicability of the sub judice rule before this work has been completed. (Conclusion, Paragraph 61)
14. Fourthly, we note the situation in the devolved legislatures, but recognise that their adherence to the definitions in the Contempt of Court Act 1981 for the purposes of determining when criminal cases are ‘active’ is necessitated by the fact the elected members of those legislatures do not enjoy parliamentary privilege in the same way as Members of the House of Commons, and could be liable of contempt of court for statements made in the period between an arrest being made and charges being brought. This difference necessitates a distinct approach to sub judice matters between the legislatures. (Conclusion, Paragraph 62)

15. Lastly, we note the evolving practice of the Speaker of urging Members of Parliament to exercise caution, but falling short of preventing discussion, where there has been an arrest in a matter of national importance or public interest, but charges are yet to be brought, to avoid the appearance of influencing any potential legal proceedings. We consider this to be a prudent and proportionate development over extending the scope of the resolution. (Conclusion, Paragraph 63)
16. We therefore consider that applying the sub judice rule from the point of arrest would be a disproportionate restriction on the freedom of speech in Parliament and would undermine Parliament's central role as the focal point of national discourse. (Conclusion, Paragraph 64)
17. We recommend that in criminal cases the sub judice rule should continue to apply at the point of charge, not arrest. Nevertheless, we commend the developing practice of the Speaker to remind Members to exercise caution when discussing matters after arrest which are likely to lead to a formal charge being made so as to avoid any potential prejudice to any eventual criminal proceedings and recommend that all Members recognise the importance of exercising their rights under Article IX with caution in such circumstances. (Recommendation, Paragraph 65)
18. We note that civil cases can last significantly longer than criminal cases and it can be difficult to establish whether a civil case is at a stage when the sub judice rule bites. We also note the arguments that the risk of causing prejudice to a civil trial could be perceived as being lower than in criminal cases, as the vast majority of civil cases do not involve a jury and are heard before experienced members of the judiciary. However, we are of the view that there is still a residual risk of prejudice in these cases, for instance by influencing witnesses in civil cases, and so there is a continued need for the rule. (Conclusion, Paragraph 76)
19. We also note the discrepancy as to how the resolution bites in civil cases between those being heard at first instance and on appeal during phases where the case is dormant. This discrepancy does not seem to have any clear justification and has the potential to cause confusion to Members. (Conclusion, Paragraph 77)
20. Nevertheless, any attempt to exempt certain phases of civil proceedings from the scope of the resolution has the potential of causing unforeseen adverse effects and making the resolution more difficult for Members to readily understand. We also note that the Speaker's discretion to issue a waiver applies equally in relation to civil cases, and that the Speaker can take account of the stage of proceedings and the potential for lengthy delays when making a decision. (Conclusion, Paragraph 78)

21. The wording of the resolution in relation to civil cases should not be amended, as it continues to have a strong justification in terms of both comity and in preventing prejudice to live cases. However, we recommend that the Speaker may wish to consider exercising the power to issue a waiver more freely in relation to civil cases, in particular at the appeals stage where there is a clear public interest in enabling parliamentary discussion of the issues concerned. This should continue to be considered on a case-by-case basis and take into account the stage which proceedings have reached, the imminence of any hearing, and the lower risk of prejudice when matters have reached the appeal stage. (Recommendation, Paragraph 79)
22. We commend the Speaker for the way in which he handles the challenges posed by advising on and policing the sub judice rule under difficult circumstances. We recognise that a core part of this is having the scope to issue a waiver, and that reaching those decisions should not be unduly constrained by any external factors. (Conclusion, Paragraph 88)
23. We heard evidence suggesting that there should be more transparency around when and under what circumstances the Speaker may issue a waiver, to introduce predictability into the operation of the resolution and to provide additional certainty both to Members and to the public more widely. However, the House has given the Speaker the discretion to waive the sub judice resolution where it is deemed to be necessary to do so and in a way that is proportionate. The Speaker needs to be able to use that discretion in a wide range of circumstances. Setting out circumstances in which a waiver might be granted on the face of the resolution or publishing accompanying guidance on this matter, or the ongoing publication of a list of waivers to build up a ‘body of case law’, could, in effect, fetter that discretion. The House has placed its trust in the Speaker, and there is no reason to change that. (Conclusion, Paragraph 89)
24. We recommend that the resolution be amended to remove reference to “the economy, public order or the essential services” as this list has the potential to unduly restrict the Speaker’s discretion or to undermine his or her reasoning when issuing a waiver. (Recommendation, Paragraph 90)

Proposals for change

25. While it is not strictly necessary to remove reference to outdated matters on the face of the resolution, given that the provisions are inoperative owing to developments in the law, it is nevertheless an unhelpful anomaly that the resolution contains provisions which no longer have any active effect. (Conclusion, Paragraph 95)

26. Given the development in the law in since 2001, in particular the passage of the Armed Forces Act 2006, we recommend that the reference to mandatory post-trial reviews in the context of courts martial in paragraph 1(a)(ii) of the resolution be removed. Any such change should not, however, be deemed to impact on the continued general applicability of the resolution to service courts. (Recommendation, Paragraph 96)
27. Moreover, in light of the passage of the Inquiries Act 2005, we recommend that paragraph 2 of the resolution be removed. (Recommendation, Paragraph 97)
28. While we recognise the challenge in ensuring that the wording of the resolution captures every conceivable situation, the current situation whereby judicial review cases relating to decisions by certain bodies, agencies and organisations are not covered creates a distinction between some types of decisions on state policy attracting ministerial responsibility (and therefore accountability to Parliament) and others where the lead is taken by an arm's length body without a strong rationale for doing so. The sub judice resolution is a significant self-denying ordinance. It should not be interpreted in a way which unduly restricts the House's ability to hold Government (in the widest sense) to account. (Conclusion, Paragraph 103)
29. Nevertheless, we note that the power of the Speaker to issue a waiver in such situations prevents this lacuna from being unduly restrictive on Members' ability to discuss such matters in the course of parliamentary proceedings. (Conclusion, Paragraph 104)
30. We do not recommend amending the sub judice resolution to clarify that the exemption for ministerial decisions covers judicial review of all decisions for which Ministers are ultimately responsible and accountable to Parliament, even where operational delivery and responsibility lie with independent bodies. We recommend, however, that there should be a presumption that the Speaker will exercise his power to issue a waiver if such situations are drawn to his attention, with the decision being made on a case-by-case basis. (Recommendation, Paragraph 105)

Alignment between the House of Commons and the House of Lords

31. The evidence we heard strongly supports maintaining the current situation whereby both Houses are aligned in terms of the wording of the resolution in each House and in terms of its practical operation. It is important that the privileges of members of both Houses of Parliament are protected in the same way, and that they are exercised in the same manner. (Conclusion, Paragraph 110)

- 32.** We are grateful for the support and insights of the House of Lords Procedure and Privileges Committee throughout the course of our inquiry and are keen for their views on the changes to the sub judice resolution that we put forward in this report. (Conclusion, Paragraph 111)
- 33.** We recommend that the House of Lords Procedures and Privileges Committee take a view on the changes recommended in paragraphs 90, 96 and 97 of this report before either House proceeds to make any substantive changes to their sub judice resolutions. (Recommendation, Paragraph 112)

Concluding remarks

- 34.** The sub judice resolution continues to be a necessary and proportionate restriction on the freedom of speech of Members of Parliament, and we are not of the view that the delicate balance that it strikes is currently under threat. (Conclusion, Paragraph 118)
- 35.** Nonetheless if, at any point, Members of the House of Commons (or, indeed, members of the House of Lords) are of the view that the sub judice resolution is no longer operating as intended, the matter should be investigated by a Joint Committee to ensure that both Houses of Parliament are aligned in their approach to sub judice moving forward. (Recommendation, Paragraph 119)

Appendix 1: Sub judice resolution, 15 November 2001

Resolved, That, subject to the discretion of the Chair, and to the right of the House to legislate on any matter or to discuss any delegated legislation, the House in all its proceedings (including proceedings of committees of the House) shall apply the following rules on matters sub judice:

(1) Cases in which proceedings are active in United Kingdom courts shall not be referred to in any motion, debate or question.

(a)(i) Criminal proceedings are active when a charge has been made or a summons to appear has been issued, or, in Scotland, a warrant to cite has been granted.

(ii) Criminal proceedings cease to be active when they are concluded by verdict and sentence or discontinuance, or, in cases dealt with by courts martial, after the conclusion of the mandatory post-trial review.

(b)(i) Civil proceedings are active when arrangements for the hearing, such as setting down a case for trial, have been made, until the proceedings are ended by judgment or discontinuance.

(ii) Any application made in or for the purposes of any civil proceedings shall be treated as a distinct proceeding.

(c) Appellate proceedings, whether criminal or civil, are active from the time when they are commenced by application for leave to appeal or by notice of appeal until ended by judgment or discontinuance.

But where a ministerial decision is in question, or in the opinion of the Chair a case concerns issues of national importance such as the economy, public order or the essential services, reference to the issues or the case may be made in motions, debates or questions.

(2) Specific matters which the House has expressly referred to any judicial body for decision and report shall not be referred to in any motion, debate or question, from the time when the Resolution of the House is passed until the report is laid before the House.

(3) For the purposes of this Resolution—

- (a) Matters before Coroners Courts or Fatal Accident Inquiries shall be treated as matters within paragraph (1)(a);
- (b) 'Motion' includes a motion for leave to bring in a bill; and
- (c) 'Question' includes a supplementary question.

Formal minutes

Wednesday 14 October 2026

Members present

Bambos Charalambous, in the Chair

Mr Lee Dillon

Tracy Gilbert

John Lamont

Kenneth Stevenson

Sub judice resolution in the House of Commons

Draft Report (*Sub judice resolution in the House of Commons*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 119 read and agreed to.

Summary agreed to.

A paper was appended to the Report as Appendix 1.

Resolved, That the Report be the Second 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).

Adjournment

Adjourned till Wednesday 21 October 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 29 October 2025

Tom Goldsmith, Clerk of the House, House of Commons; **Tom Healey**, Clerk of Legislation, House of Commons, Clerk of Legislation, House of Commons; **Eve Samson**, Clerk of the Journals, House of Commons; **Dr Farrah Bhatti**, Principal Clerk, Table Office, House of Commons; **Saira Salimi**, Speaker's Counsel, House of Commons

[Q1–39](#)

Wednesday 12 November 2025

Rt. Hon. Dominic Grieve KC, former Attorney General; **Rt. Hon. Sir Michael Ellis KBE, KC**, former Attorney General; **Rt Hon Sir Jeremy Wright KC MP**, former Attorney General

[Q40–61](#)

Wednesday 3 December 2025

The Rt Hon. the Baroness Scotland of Asthal KC, former Attorney General

[Q62–78](#)

Professor Penney Lewis, Commissioner for Criminal Law, Law Commission

[Q79–90](#)

Wednesday 21 January 2026

The Rt Hon. the Lord Hermer KC, Attorney General, Attorney General's Office

[Q91–116](#)

Published written evidence

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

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

1	Antoniazzi MP, Tonia	SJR0011
2	Buziuk, Hleb (Immigration lawyer, Merges Global Ltd.)	SJR0001
3	Constitutions, Rights & Justice Research Group, University of Worcester	SJR0003
4	HM Government	SJR0002
5	House Administration	SJR0006
6	Johnstone, Rt Hon Alison	SJR0007
7	Jones, Rt Hon Elin	SJR0008
8	Poots MLA, Edwin	SJR0009
9	The Bar Council	SJR0004
10	The Lady Chief Justice	SJR0010
11	Wilson, Mr Eliot	SJR0005

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.

Session 2026–27

Number	Title	Reference
1st	Written Parliamentary Questions	HC 49

Session 2024–26

Number	Title	Reference
5th	Elections within the House of Commons	HC 535
4th	Call lists	HC 536
3rd	Status of independent Members of Parliament	HC 534
2nd	Proxy voting: Review of arrangements introduced in Session 2024–25	HC 489
1st	Written parliamentary questions: Departmental performance in Session 2023–24	HC 461
6th Special	Elections within the House of Commons: Government Response	HC 1829
5th Special	Call lists: Government Response	HC 1814
4th Special	Status of independent Members of Parliament: Government and House Administration Responses	HC 1314
3rd Special	Proxy Voting: Review of arrangements introduced in the 2024–25 Session: Government Response	HC 1353
2nd Special	Written Parliamentary Questions – Departmental performance in Session 2023–24: Government Response	HC 793

Number	Title	Reference
1st Special	Written Parliamentary Questions: Departmental performance in Session 2022–23: Government responses	HC 325