

HOUSE OF LORDS

Select Committee on the Constitution

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1st Report of Session 2021–22

# COVID-19 and Parliament

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### *Select Committee on the Constitution*

The Constitution Committee is appointed by the House of Lords in each session “to examine the constitutional implications of public bills coming before the House; and to keep under review the operation of the constitution and constitutional aspects of devolution.”

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The Members of the Constitution Committee are:

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Evidence is published online at <https://committees.parliament.uk/work/298/constitutional-implications-of-covid19/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence

## SUMMARY

### Parliament's response to the pandemic

The Committee has previously drawn attention to the difficulties facing Parliament, in particular the House of Lords, in fulfilling its constitutional responsibilities of holding the Government to account and scrutinising legislation adequately. Parliament is under increased scrutiny about the way it works. It is against this backdrop that the Committee began its inquiry into the impact of COVID-19 on Parliament.

The onset of COVID-19 presented a significant challenge for the operation of Parliament, including its ability to continue meeting to carry out its constitutional functions. The Government used a range of emergency powers and introduced a significant quantity of legislation, the scope of which had not been seen since the Second World War. Parliament's ability to scrutinise these important measures in its usual manner was limited by time constraints and the physical restrictions introduced in response to the pandemic, which meant that Parliament could not meet in the usual way.

Between March and June 2020, the House of Lords moved from physical to virtual then to hybrid proceedings. The significant efforts by staff across Parliament and the members of the House of Lords Commission and Procedure and Privileges Committee ensured that the House continued to meet despite difficult and unprecedented circumstances. We commend everyone involved.

### Impact on scrutiny in the House of Lords

The principle that the Government should first make significant policy announcements to Parliament, which is a key part of the Ministerial Code, was already under strain before the pandemic and was further undermined during it. While it is important for the Government to keep the public informed during the pandemic, the Government must adhere to the Ministerial Code and prioritise Parliament when making significant policy announcements, on the pandemic and more generally. Only then can Parliament's centrality in holding the Government to account be respected.

The high volume of statutory instruments laid by the Government in response to the pandemic, and the use of fast-track procedures, severely limited Parliament's ability to scrutinise significant powers. The blurring of legislation and guidance undermined public understanding of the rules.

In order to keep working through the pandemic Parliament, like many other organisations, moved quickly to adopt new technologies. Members were advised to work from home, and most did so. However, changes to House of Lords procedures as a result of hybrid proceedings, particularly the loss of spontaneity in members' interactions during debates, has resulted in Parliament's essential scrutiny role becoming less effective, including its capacity to hold the Government to account. This presents significant problems for both members and ministers.

Speaking times of one or two minutes per backbencher, which has sometimes occurred during COVID-19, do not allow members to make a meaningful contribution. It may be necessary for alternative approaches to be considered, particularly if some debates continue to be over-subscribed after the House

emerges from COVID-19. This could include introducing a limit on the number of speakers and minimum speaking times for certain items of business.

Notwithstanding the limitations of hybrid proceedings, we accept that they have been necessary while a significant number of members are unable to attend the House of Lords in person. We welcome the benefits that remote proceedings appear to have had for members with disabilities, health concerns or caring responsibilities, or who are geographically distant from Westminster.

### **Emerging from COVID-19**

As Parliament emerges from COVID-19, the House of Lords should reflect on its experiences during the pandemic and consider how it can fulfil its role more effectively once things return to ‘normal’, including responding to forthcoming challenges.

As a first step, and following the experience of hybrid proceedings and remote voting, the House must carefully consider what form the proceedings of the House should take after COVID-19. As a next step, we hope the Procedure and Privileges Committee will publish draft proposals for further debate, before the House is invited to make a final decision. These proposals should take into account the impact on the effectiveness of the House in discharging its constitutional roles of scrutinising legislation and holding the Government to account, public perception, inclusivity and business continuity, as well as the overall dynamic of the House of Lords.

House of Lords select committees have operated effectively as virtual committees during the pandemic; the value of their work has been underlined. At a time of profound national reflection prompted by COVID-19, the expertise and longer-term perspective of the House’s committees will further enhance their role in holding the Government to account and engaging with the public as the UK emerges from the pandemic. We recommend that committees continue to allow virtual participation by members and witnesses, where appropriate, including to receive evidence from a more diverse range of witnesses from across the UK and abroad, and should receive the necessary resources to fulfil their role to full effect.

### **Longer-term resilience of Parliament**

Parliament’s experiences in responding to the COVID-19 pandemic raise issues for the longer-term resilience of Parliament, including the long-running discussion about the need to restore the Palace of Westminster.

It is regrettable that the potential impact of social-distancing requirements to tackle a pandemic had not been considered in Parliament’s business continuity planning. However, the lack of planning for this was not unique to Parliament; many other organisations faced the same dilemma of operating in a different manner without any plans for doing so. We recommend the House of Lords Commission conducts a lessons-learned exercise on Parliament’s response to the pandemic as part of revising business continuity plans. In doing so it should seek input from members and take into account the importance of Parliament continuing holding the Government to account whatever the circumstances.

We recommend that the House administration should continue to develop its capacity to support virtual proceedings, in case this is required to support

Parliament's future business continuity arrangements or the restoration of the Palace of Westminster.

We welcome the House of Lords Commission's ongoing support for the Restoration and Renewal programme. We regret the continued delays in delivering the works to restore the Palace of Westminster. While some delays have inevitably resulted from the COVID-19 pandemic, the apparent lack of support from the Government for the programme continues to be regrettable. Parliament has demonstrated resilience in the face of the pandemic, yet the continued deterioration of the Palace of Westminster increases the risk of both Houses being forced to resort to virtual methods of working in future.

# COVID-19 and Parliament

## CHAPTER 1: INTRODUCTION

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1. The COVID-19 pandemic challenges every area of British society. Its health and economic implications, in particular, are profound. The constitutional impact of the pandemic has also been significant. Soon after the start of the pandemic we began an inquiry into the constitutional implications of COVID-19 in three areas:
  - the effect on the courts;
  - the impact on Parliament; and
  - the use and scrutiny of emergency powers.<sup>1</sup>
2. Our first report, on the effect on the courts, was published on 30 March 2021.<sup>2</sup>
3. In this second report on the inquiry, we consider the impact of COVID-19 on Parliament, with a particular focus on the House of Lords.
4. The House of Lords is the second chamber of the UK Parliament. It is independent from, and in some respects complements the work of, the elected House of Commons. The House shares the task of making and amending legislation, the majority of which is proposed by the Government, and scrutinising and challenging the work of the Government, including questioning ministers who are members of the House of Lords; and it provides a forum for expertise.
5. Most of the House’s business takes place in the chamber but some is considered in Grand Committee, which is the secondary debating chamber. The House also has a number of select committees, which meet outside the chamber and consider specific policy areas, hearing evidence from a diverse range of witnesses, including ministers.
6. The onset of COVID-19 presented a significant challenge for the operation of Parliament, including its ability to continue meeting to carry out its constitutional role of holding the Government to account. Lord Norton of Louth, Professor of Government at the University of Hull, said:

“Limiting the capacity of the legislature to meet and deliberate enhances the position of the executive. The government continues and has at its disposal both prerogative powers (exercised through prime ministerial advice to the sovereign) and statutory powers, including those embodied in measures designed to cover emergencies. It can therefore govern without the legislature coming together to debate and challenge it. If the legislature is not meeting, ministers may avoid being subject to questioning.”<sup>3</sup>

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1 Constitution Committee, ‘Constitutional implications of COVID-19 Inquiry’: <https://committees.parliament.uk/work/298/constitutional-implications-of-covid19/>. See Appendix 3 for the call for evidence for the Parliament strand of the inquiry.

2 Constitution Committee, *COVID-19 and the Courts* (22nd Report, Session 2019–21, HL Paper 257)

3 Written evidence from Lord Norton of Louth (CIC0002)

7. In order to keep working through the pandemic Parliament, like many other organisations, moved quickly to adopt new technologies. The requisite software had to be rolled out to members at pace, many of whom had limited experience of using such technology. The procedures of the House needed to be flexed, sometimes significantly, to align with the new technology and to enable participation so far as possible.
8. The impact of virtual proceedings on the conduct of parliamentary business was significant and raised questions about Parliament's ability to hold the Government to account. However, some of the short-term changes to procedure have presented an opportunity to do things differently and better in the longer-term. As a result, the response to COVID-19 presents a challenge and an opportunity. Procedural matters are the responsibility of the Procedure and Privileges Committee, and the House as a whole; our recommendations in this respect are offered as a contribution to that important debate.
9. In Chapter 2, we consider how Parliament responded to the COVID-19 pandemic, including the role of the House of Lords administration,<sup>4</sup> the usual channels and the Government.<sup>5</sup> We also consider the impact on the House's ability to engage with the public, including its public profile.
10. In Chapter 3, we explore the impact of virtual and hybrid proceedings on scrutiny and procedure in the House of Lords and consider whether any elements should be retained when parliamentary business returns to normal.
11. In Chapter 4, we cover lessons for the longer-term resilience of the Palace of Westminster, including the role of Parliament in planning for this.
12. We are grateful to all who assisted our work by providing oral or written evidence. All the written evidence and transcripts of the oral hearings are on our webpages.<sup>6</sup>

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4 The House of Lords Administration provides the corporate leadership for the House of Lords.

5 The usual channels consist of the Leaders and Whips of the three main political parties. For certain purposes the usual channels include the Convenor of the Crossbench Peers. The usual channels are primarily responsible for making decisions about the arrangement of parliamentary business, as well as contributing to discussions about changing the procedure of the House through their membership of the House of Lords Procedure and Privileges Committee. The usual channels also play a key role in decisions about the governance and administration of the House, including on facilities and services for members, through their membership of the House of Lords Commission, the House of Lords Services Committee and the House of Lords Finance Committee.

6 See Appendix 2 for details.



## CHAPTER 2: PARLIAMENT'S RESPONSE TO THE PANDEMIC

13. The Committee has previously drawn attention to the difficulties facing Parliament, and in particular the House of Lords, in fulfilling its constitutional responsibilities of holding the Government to account and scrutinising legislation adequately. Parliament is under increased scrutiny about the way it works. It is against this backdrop that the Committee embarked on its inquiry into the impact of COVID-19 on Parliament.
14. The onset of COVID-19 presented a significant challenge for the operation of Parliament, including its ability to continue meeting to carry out its constitutional functions. The Government used a range of emergency powers and introduced a significant quantity of legislation, the scope of which had not been seen since the Second World War. Parliament's ability to scrutinise these important measures in its usual manner was limited by time constraints and the physical restrictions introduced in response to the pandemic, which meant that Parliament could not meet in the usual way.
15. Both Houses of Parliament were compelled to make significant changes to their sitting arrangements and procedures in response to the COVID-19 pandemic, many of which were driven by the need to respect social distancing. Members of the House of Lords, like the public more generally, were encouraged to work from home and avoid travelling, as much as possible.
16. Between March and June 2020, the House of Lords moved from physical to virtual then to hybrid proceedings. Decisions about these changes were mainly taken by the House of Lords Commission, which is responsible for the governance and administration of the House,<sup>7</sup> and the House of Lords Procedure and Privileges Committee, which considers changes to the House's procedures. The decisions to move to virtual, and then hybrid, proceedings were taken by the House as whole.
17. Box 1 summarises the timeline of COVID-19 and the response of the House of Lords.

### Box 1: COVID-19 and Parliament's response—a timeline

- **13 and 17 March 2020:** Speakers of both Houses send joint letters to all members about restrictions on parliamentary travel and access to the parliamentary estate.
- **23 March 2020:** First national lockdown began.
- **24 March 2020:** A system of “e-messages” was used for the first time, replacing the physical delivery of messages between the Houses by clerks. A system of “e-laying” of parliamentary papers was introduced.
- **25 March 2020:** The House adjourned earlier than planned for the Easter recess. Over the recess the political leadership of the House agreed that virtual proceedings should begin from when the House resumed on 21 April.

<sup>7</sup> The House of Lords Commission provides high-level strategic and political direction for the House of Lords administration. The Commission is also responsible for agreeing the House's annual estimate, business and financial plans, supervising the arrangements relating to financial support for members and agreeing business continuity and resilience arrangements, among other matters.

- **21 April 2020:** Virtual proceedings of the House were introduced using Microsoft Teams, alongside some limited physical proceedings. Committee meetings began to take place virtually.
- **5 May 2020:** More developed virtual proceedings introduced using Zoom.
- **8 June 2020:** Hybrid House model, which allows members to take part virtually or physically at the same time, commenced.
- **15 June 2020:** Remote voting introduced.
- **2 September 2020:** Hybrid Grand Committee proceedings commenced.
- **31 October 2020:** Second England-wide lockdown began.
- **6 January 2021:** Third England-wide lockdown began.
- **22 February 2021:** Prime Minister announced roadmap to ease lockdown restrictions in England.
- **26 March 2021:** House of Lords Commission agreed a plan safely and steadily to reintroduce services on the parliamentary estate in line with the Government’s roadmap and Public Health England advice.<sup>8</sup>
- **21 June 2021:** No earlier than this date, and subject to adequate progress with vaccine deployment and reduction in infection rates, all legal limits on social contact expected to be removed in England.

Source: House of Lords Library, *Timeline of response to Covid-19 pandemic (27 October 2020, as updated)*: <https://lordslibrary.parliament.uk/house-of-lords-timeline-of-response-to-covid-19-pandemic/>

### House administrations

18. There was a broad consensus among witnesses that Parliament had responded well to the pandemic in operational terms.<sup>9</sup> Lord Norton described “remarkable achievements in a small space of time”.<sup>10</sup>
19. Professor Meg Russell, Director of the Constitution Unit at University College London, told us:
 

“in the early stages, Parliament responded admirably. ... Indeed, to coin a phrase, we were somewhat world-leading at the early stages in the rapidity with which we got proceedings online. There was fantastic leadership from the Speakers in the two Chambers and a huge amount of work done by the staff behind the scenes to set up the hybrid Parliament.”<sup>11</sup>
20. While Baroness Evans of Bowes Park, the Leader of the House, and Baroness Smith of Basildon, the Leader of the Opposition, acknowledged “frustrations” among members about the impact on the House’s business early on in the response to the pandemic, they considered that the House of Lords had been able to function well in unprecedented circumstances.<sup>12</sup> We

8 For the Commons roadmap see House of Commons Commission, ‘Commission approves Commons roadmap out of lockdown’ (8 March 2021): <https://committees.parliament.uk/committee/348/house-of-commons-commission/news/150524/commission-approves-commons-roadmap-out-of-lockdown/>

9 [Q 49](#) (Lord Harris of Haringey, Lord Hunt of Wirral), [Q 66](#) (Baroness Smith of Basildon), [Q 79](#) (Sir David Natzler), [Q 79](#) (Dr Hannah White), [Q 119](#) (Lord McFall of Alcluith) and [Q 157](#) (Baroness Evans of Bowes Park)

10 Written evidence from Lord Norton of Louth ([CIC0002](#))

11 [Q 79](#) (Professor Meg Russell)

12 [Q 65](#) (Baroness Smith of Basildon) and [Q 152](#) (Baroness Evans of Bowes Park)

examine some of the continued frustrations with the current arrangements in Chapter 3.

21. Many witnesses complimented the staff of the two Houses, including the Parliamentary Broadcasting Unit and the Parliamentary Digital Service, in making virtual and hybrid sittings possible. There was praise for the Clerk of the Parliaments in keeping members informed of developments.<sup>13</sup>

### Usual channels

22. Most witnesses also praised the usual channels in the House of Lords, including for their work in the House of Lords Commission and Procedure and Privileges Committee, during the pandemic.<sup>14</sup> Baroness Smith said it took “hours and hours of discussions” to reach consensus on how to respond to the pandemic; while it had been “quite tense and frustrating” at times, she thought the usual channels had agreed the right outcome.<sup>15</sup> Lord Ashton of Hyde, the Government Chief Whip, paid tribute to the opposition parties in the House: “everyone has tried to put the needs of the House first, and they have had that uppermost in their minds.”<sup>16</sup>
23. However, while Baroness Walmsley, Co-Deputy Leader of Liberal Democrat Peers, praised the efforts taken to ensure that the House could continue meeting virtually in the early stages of the response to the pandemic, she was more critical about the initial changes to the system of financial support for members which had been agreed by the House of Lords Commission.<sup>17</sup> We do not consider financial support for members in this report but note that the arrangements were subsequently changed by the House of Lords Commission, with the agreement of the House.
24. Some witnesses considered that the House of Lords had handled the pandemic better than the House of Commons.<sup>18</sup> Professor Russell thought that the arrangements in the House of Lords had allowed the response to proceed more smoothly than in the House of Commons:

“in the Lords, things have been more consensual, as far as I can see. That is partly by necessity, because the Government do not have a majority, but you also have those mechanisms that back up the fact that the Government do not have a majority. You have forums in which you can get cross-party agreement, which many other parliaments have.”<sup>19</sup>

25. **Despite the restrictions imposed in response to the COVID-19 pandemic, the efforts of staff from across Parliament and the members of the House of Lords Commission and Procedure and Privileges Committee ensured that the House of Lords continued fulfilling its constitutional role so far as circumstances permitted. We commend everyone involved.**

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13 [Q 49](#), [Q 52](#) (Lord Harris of Haringey), [Q 52](#) (Lord Hunt of Wirral), [Q 69](#) (Lord Newby), [Q 70](#) (Baroness Smith of Basildon) and [Q 35](#) (Baroness Walmsley)

14 [Q 35](#) (Lord Judge), [Q 51](#) (Lord Harris of Haringey), [Q 69](#) (Lord Newby) and [Q 120](#) (Lord McFall of Alcluith)

15 [Q 69](#) (Baroness Smith of Basildon)

16 [Q 157](#) (Lord Ashton of Hyde)

17 [Q 35](#) (Baroness Walmsley)

18 Written evidence from the Equality and Human Rights Commission ([CIC0034](#)), [Q 79](#) (Professor Meg Russell), [Q 79](#) (Dr Hannah White) and [Q 120](#) (Lord McFall of Alcluith)

19 [Q 86](#) (Professor Meg Russell)

### Public engagement

26. Parliament's response to COVID-19 had a significant impact on its public-facing role, including the House of Lords' objective of promoting public understanding of and engagement with the House. From March 2020, non-essential visitors were no longer permitted to visit the Palace of Westminster to view proceedings. Parliament's various public engagement activities became virtual rather than physical.
27. Social distancing and virtual proceedings in both Houses have meant that there are no longer familiar scenes of Parliament in the news or on television—for example, there has been no crowded and lively House of Commons chamber during Prime Minister's Questions. Therefore, the inability of Parliament to conduct the same degree of scrutiny as it did before the pandemic may have increased public scepticism of Parliament's role and how each House carries out its functions.
28. While it was not possible for the public to attend proceedings in person, proceedings continue to be livestreamed on parliamentlive.tv. For the benefit of the public, members presiding over proceedings from the Woolsack provided further information about the nature of the business being discussed. However, the number of viewers of Lords proceedings on parliamentlive.tv declined by 7% in 2020 compared to 2019.<sup>20</sup>
29. The restrictions meant that schoolchildren were no longer able to visit the parliamentary education centre and members of the Lords were no longer able to visit schools, through the Peers in Schools programme, or engage in person with members of other legislatures in the UK and internationally.
30. However, a new House of Lords engagement programme has allowed members to connect virtually with pupils from across the UK about the role and work of the House. We understand that this programme has received positive feedback from participating schools.<sup>21</sup>
31. **We welcome the continued engagement by members of the House of Lords with pupils at a time when many other activities and services have been postponed or cancelled, and young people have had so much disruption to their education. We trust the House will continue to develop its important work in this area, particularly as the restrictions introduced in response to the COVID-19 pandemic are eased.**

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20 Information provided by the Parliamentary Broadcasting Unit. The number of viewers is an aggregate of both chamber and committee proceedings.

21 Information provided by the House of Lords Communications Office. The engagement programme has two strands which are delivered through Microsoft Teams: Learn with the Lords Online reached 4,168 pupils at 116 schools, making this one of the largest legislator-to-pupil programmes in the world; and Learn with the Lords Question Time reached 3,254 pupils at 117 schools.

## CHAPTER 3: IMPACT ON THE HOUSE OF THE LORDS

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### Changes to parliamentary procedure

32. Parliamentary procedure is derived from a number of sources, including custom and practice, precedents, standing orders (rules under which each House conducts its business), Acts of Parliament, Speakers' rulings in the House of Commons and agreed recommendations of the Procedure and Privileges Committee in the House of Lords. The purpose of parliamentary procedure is to provide structure, clarity, certainty and fairness to proceedings in each House.
33. The House of Lords' tradition of 'self-regulation', whereby the House is collectively responsible for maintaining order in the chamber, rather than the Lord Speaker (in contrast to arrangements in the House of Commons), was curtailed by the new arrangements.
34. In order for the House to continue functioning within the constraints of social distancing, and to allow members to participate virtually in the business of the House and for it to be broadcast, there was a need for greater scheduling and certainty in chamber proceedings. The introduction of the principle of parity of treatment between members participating in person and those participating remotely also increased the requirement for greater predictability, further reducing the scope for self-regulation and spontaneity of interventions by members.
35. Trade-offs had to be made between ensuring operational continuity and digital capability, and the effectiveness of the House in discharging its constitutional roles of scrutiny and holding the Government to account.
36. Sir David Beamish, a former Clerk of the Parliaments, wrote that the "impact of COVID-19 on the manner of operation of the House of Lords has been dramatic. Procedural changes which previously might well have been controversial have been adopted with little or no ceremony."<sup>22</sup>
37. Since 5 June 2020 detailed guidance on virtual and hybrid proceedings has been published and regularly updated by the Procedure and Privileges Committee.<sup>23</sup> The House of Lords agreed to give this guidance the same status as the *Companion to the Standing Orders of the House of Lords*,<sup>24</sup> thus delegating to the Procedure and Privileges Committee the ability to make rapid changes to procedures. This has allowed a flexible approach to be taken to sometime fast-moving events.
38. Table 1 summarises the key changes to House of Lords procedures resulting from the pandemic.

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22 Study of Parliament Group, *Parliaments and the Pandemic* (January 2021), p 11: <https://studyofparliamentgroup.org/wp-content/uploads/2021/01/Parliaments-and-the-Pandemic.pdf> [accessed 11 May 2021]

23 To date ten editions of guidance had been produced. See House of Lords Procedure and Privileges Committee, 'Guidance on Hybrid House and Hybrid Grand Committee from the Procedure and Privileges Committee' (10th edition, 19 April 2021): <https://committees.parliament.uk/publications/5499/documents/54837/default/>

24 The *Companion to the Standing Orders of the House of Lords* is an authoritative guide to procedure in the House of Lords. The first edition was published in 1862. See 25th edition (2017): <https://www.parliament.uk/globalassets/documents/publications-records/house-of-lords-publications/rules-guides-for-business/companion-to-standing-orders/companion-to-standing-orders-2017.pdf>

**Table 1: House of Lords procedure—before and after (correct as of 29 April 2021)**

<b>Pre-COVID-19 pandemic</b>	<b>Post-COVID-19 pandemic</b>
No restriction on number of members in the chamber and participating in business	Maximum of 33 members physically allowed in the chamber at any one time to observe social distancing rules; members participating virtually capped at 75
No restriction on number of members who could participate in Grand Committee (but seating limited)	Maximum of 29 members physically allowed in Grand Committee room; members participating virtually capped at 50. Physical attendees speak seated
No restriction on members participating in brief items of business in the chamber, such as business of the House motions	Only members physically present may participate in brief items of business in the chamber, such as business of the House motions
Different items of business considered back-to-back	Short adjournments between items of business may take place to enable different groups of members to exit and enter the chamber and Grand Committee while observing social distancing, and to allow onboarding of members remotely for the next item of business
Voting conducted by members walking through division lobbies and being recorded by clerks and counted by tellers	Votes cast through remote voting system ('PeerHub'). <sup>25</sup> No tellers
Select committees met, and took evidence, in person (while evidence could be taken from witnesses virtually, this was uncommon)	Select committees meet, and take evidence, virtually as a matter of routine <sup>26</sup>
Speakers lists produced only for second readings, general debates and questions for short debate. Only members on the list may speak but other members may speak in the 'gap' at the end of the debate (if there is one). Chair did not call members to speak	Speakers lists required for most items of hybrid business, including amendments to bills, with members required to indicate whether they wish to participate physically or remotely. Only members on the list may speak. Chair calls on each member to speak

25 While initially developed in May and June 2020 to enable remote voting by the House of Lords, PeerHub now includes information on sittings of the House and links to further information about the key business of the House. A 'My Attendance' feature was launched in March 2021, which allows members to check that their attendance has been recorded for any given day.

26 With the exception of the select committee on the High Speed Rail (West Midlands-Crewe) Bill and some joint committees which include members of both Houses.

<b>Pre-COVID-19 pandemic</b>	<b>Post-COVID-19 pandemic</b>
Backbench members may draw attention to breaches of order or custom. There is no role for the chair	Backbench members may not draw attention to breaches of order or custom; only frontbenchers or the whips may
Members allowed to intervene on other speakers spontaneously	Members not allowed to intervene on other speakers, but on some business there is provision to speak after the minister's initial response by informing the clerk
Oral questions normally allocated on a first-come-first-served basis. Members stand up in the chamber to ask supplementary questions and are selected through self-regulation, but it was generally accepted that questions would rotate between each main party or group. Proceedings on all four oral questions limited to 30 minutes	Oral questions allocated by ballot. Questioners list produced for members asking supplementary questions (maximum of 10). Proceedings on each oral question extended to 10 minutes
Private notice questions <sup>27</sup> received and selected by the Lord Speaker on the same day they are asked in the House. Proceedings limited to 10 minutes	Private notice questions have to be submitted the day before the question is asked in the House. Proceedings extended to 15 minutes
Questions for short debate allocated on an ad hoc basis through the usual channels, often taking place as dinner or lunch break business	Questions for short debate allocated by ballot for one Thursday every five weeks in Grand Committee. No dinner or lunch break business in the chamber
Topical questions for short debate allocated by ballot	Topical questions for short debate suspended
Amendments to bills may be tabled after publication of marshalled list, with the option of tabling manuscript amendments. Amendment groupings advisory. Reasons committees meet to agree justification for disagreeing to House of Commons amendments	Marshalled list of amendments published earlier; late and manuscript amendments not permitted. Amendment groupings binding. Reasons committees dispensed with; instead, a standard reason is offered

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27 Private notice questions are the equivalent of urgent questions in the House of Commons.

Pre-COVID-19 pandemic	Post-COVID-19 pandemic
No restriction on number of members participating in ‘ping pong’ <sup>28</sup>	When there are no counter propositions to the minister’s motion or Commons message, the only speakers are the mover of the original Lords amendment (or alternate), members who put their names to and spoke on the amendment when it was made and frontbenchers. These members may participate remotely or physically  When there are counter propositions, in addition to members above, the movers of counter propositions may participate either physically or remotely. Other members may participate only physically
No time limit on debates on statutory instruments	Debates on statutory instruments limited to 1 or 1½ hours
Messages between the Houses, including on bills, physically delivered by clerks. Both Houses must be sitting to receive a message	Messages conveyed electronically irrespective of the sitting of the House
Parliamentary papers physically laid in the Printed Paper Office	Papers laid electronically

Source: *House of Lords Journal Office*

39. The House of Commons also agreed changes to its procedures in response to the pandemic, which are in place on a temporary basis. Like the House of Lords, these changes limited the Commons’ ability to scrutinise the Government in the usual manner but differ from the changes introduced in the Lords in some respects.<sup>29</sup>
40. After introducing hybrid proceedings and remote voting for a brief period at the beginning of its response to the pandemic, by 2 June 2020 the House of Commons had placed more emphasis on physical proceedings and discontinued remote voting. The increased reliance on physical proceedings was subject to social distancing, the use of call lists<sup>30</sup> for most proceedings and using a system of card readers to record votes in the division lobbies.

28 ‘Ping pong’ refers to the exchange of amendments to bills between the House of Commons and House of Lords.

29 For an overview of the changes to the procedure of the House of Commons during the pandemic by Sir David Natzler, see The Constitution Unit, ‘COVID-19 and Commons procedure: back to the future?’ (30 March 2021): <https://constitution-unit.com/2021/03/30/covid-19-and-commons-procedure-back-to-the-future/>. [accessed 11 May 2021]. For a more critical overview see Hansard Society, ‘The marginalisation of the House of Commons under Covid has been shocking; a year on, Parliament’s role must urgently be restored’ (21 April 2021): <https://www.hansardsociety.org.uk/publications/briefings/the-marginalisation-of-the-house-of-commons-under-covid-has-been-shocking-a> [accessed 11 May 2021]

30 Call lists are lists of speakers on motions and on legislation, which are published in advance of business. Like the introduction of speakers lists for some items of business in the House of Lords, call lists were introduced in the House of Commons to increase certainty during proceedings under the temporary arrangements.



There has been greater scope for proxy voting. A majority of members now vote via a proxy, mainly their whip.<sup>31</sup> Virtual participation in proceedings has remained possible during this period, with most restrictions on the type of proceedings, and all restrictions on eligibility, removed from 30 December 2020.

41. On 14 March 2021 the House of Commons Procedure Committee recommended extending the temporary procedural arrangements until 21 June 2021 but further recommended that the House of Commons “reverts to all aspects of its pre-pandemic practice and procedure” in due course.<sup>32</sup> On 25 March 2021, the House of Commons agreed to extend the temporary arrangements to 21 June 2021.<sup>33</sup> The arrangements in the House of Lords were introduced without time limit so will persist until the House decides otherwise.

### Impact on parliamentary scrutiny

#### *Government press conferences*

42. The Ministerial Code, which sets out standards of conduct ministers are expected to abide by, states: “When Parliament is in session, the most important announcements of Government policy should be made in the first instance, in Parliament.”<sup>34</sup> Parliament’s precedence in this regard is important as it allows such announcements to be subjected to greater scrutiny and testing than would be the case in alternative forums, such as a press conference. This commitment was already under strain before the pandemic and appears to have been further undermined during it.
43. From the outset of the pandemic, the Government has provided regular updates to the public about the pandemic and its response. While it is important for the public to be kept informed, the Government’s reliance on press conferences to make more significant policy announcements from time to time, before any announcement to Parliament, was criticised by witnesses.<sup>35</sup> The Speaker of the House of Commons has, in the past, criticised the Government for not prioritising Parliament in this respect.<sup>36</sup>
44. Baroness Smith and Lord Judge, the Convener of the Crossbench Peers, agreed that upholding this principle was important and emphasised that, apart from maintaining the Government’s accountability to the House, making such announcements to Parliament enabled the Government’s approach to be tested by the opposition.<sup>37</sup>
45. ***While it is important for the Government to keep the public informed during the COVID-19 pandemic, the Government must adhere to the Ministerial Code and prioritise Parliament when making significant***

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31 Proxy voting involves a member voting on behalf of other members who are not physically present. While permitted in the House of Commons, proxy voting is prohibited in the House of Lords by Standing Order 59.

32 See House of Commons Procedure Committee, *Back to the future? Procedure after Coronavirus restrictions* (Eighth Report, Session 2019–21, HC 1282), p 10

33 HC Deb, 25 March 2021, cols 1109–70

34 Cabinet Office, *Ministerial Code* (August 2019), para 9.1: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/826920/August-2019-MINISTERIAL-CODE-FINAL-FORMATTED-2.pdf) [accessed 11 May 2021]

35 Q 58 (Lord Harris of Haringey, Lord Hunt of Wirral) and Q 80 (Dr Hannah White)

36 HC Deb, 9 September 2020, col 619

37 Q 78 (Baroness Smith of Basildon) and Q 32 (Lord Judge)

***policy announcements, on the pandemic and more generally. Only then can Parliament’s centrality in holding the Government to account be respected. All concerned, including those responsible in Parliament, must continue to take steps to uphold this important principle.***

*Statutory instruments*

46. At the end of the 2019–21 session, 424 Coronavirus-related statutory instruments had been laid before Parliament since January 2020. These have involved using delegated powers derived from 120 Acts of Parliament, five orders and five EU regulations (which are now retained EU law in the UK).<sup>38</sup>
47. A number of witnesses said that the volume of statutory instruments introduced by the Government in response to COVID-19 made it difficult for Parliament to perform effectively its scrutinising function.<sup>39</sup> Baroness Smith said that the number of statutory instruments was “unacceptable. We have accepted this because we are in a crisis, but it is in a crisis that you really most need to be able to do the work.”<sup>40</sup>
48. It is not simply the volume or frequency of Coronavirus-related statutory instruments which has created challenges for parliamentary scrutiny. There are several other reasons why effective scrutiny has been made more difficult and at times almost impossible, which have been identified by the Secondary Legislation Scrutiny Committee:
  - (a) Fast-track legislative procedures were frequently used, with the vast majority of statutory instruments (397 of 424) subject to the ‘made negative’<sup>41</sup> procedure or ‘made affirmative’<sup>42</sup> procedure. This meant these instruments became law prior to being laid before, and scrutinised by, Parliament.<sup>43</sup>
  - (b) The policy explanation and justification for each statutory instrument, contained in the accompanying explanatory memoranda, was too often inadequate or unclear.<sup>44</sup>
  - (c) A significant number of statutory instruments (including instruments unrelated to COVID-19) were drafted incorrectly and therefore had to be withdrawn and re-introduced.<sup>45</sup>
49. This approach made it difficult for the general public, whose behaviour is regulated by so many of these statutory instruments, to understand the

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38 Hansard Society, ‘Coronavirus Statutory Instruments Dashboard’ (2 May 2021): <https://www.hansardsociety.org.uk/publications/data/coronavirus-statutory-instruments-dashboard#list-of-coronavirus-sis> [accessed 4 May 2021]

39 Q 71 (Baroness Smith of Basildon), written evidence from the Public Law Project (CIC0041) and the Equality and Human Rights Commission (CIC0034)

40 Q 71 (Baroness Smith of Basildon)

41 Under the made negative procedure a statutory instrument is laid before Parliament after it has been made law. It may be annulled if a motion to do so is passed by either House within (normally) 40 days of it being laid before Parliament.

42 Under the made affirmative procedure a statutory instrument is laid before Parliament after it has been made law. It cannot remain law unless it is approved by the House of Commons and in most cases the House of Lords within a set period—usually 28 or 40 days.

43 See Secondary Legislation Scrutiny Committee, *Interim report on the Work of the Committee in Session 2019–21* (39th Report, Session 2019–21, HL Paper 200), paras 24–28

44 *Interim report on the Work of the Committee in Session 2019–21*, paras 8–15

45 *Ibid.*, paras 40 and 43

regulations; and this has been made worse by the widespread confusion between what is legislation and what is guidance.<sup>46</sup>

50. **The high volume of statutory instruments laid in response to the pandemic, and the use of fast-track procedures, have severely limited Parliament’s ability to scrutinise significant powers. The blurring of legislation and guidance undermined public understanding of the rules. We will consider this further in our third report into the constitutional implications of COVID-19, on the use and scrutiny of emergency powers.**

*Written questions*

51. Since the start of the pandemic the number of questions for written answer (‘QWAs’) asked by members of the Lords to the Government has increased. On average 67 QWAs were tabled per sitting day in the 2019–21 session<sup>47</sup> (224 sitting days) compared with 39 QWAs per sitting day in the 2019 session (15 sitting days) and 52 QWAs per sitting day in the 2017–19 session (352 sitting days).<sup>48</sup> The impact of hybrid proceedings on business in the chamber, including the consequential reduction in spontaneity, may have led to an increase in the number of QWAs being tabled.
52. As the lead department the Department of Health and Social Care has experienced a great increase in the number of questions asked of it. This has resulted in a number of QWAs to the department remaining unanswered after the standard deadline of 10 working days.
53. On 22 February 2021 there was an oral question in the House of Lords about the steps the Government was taking to ensure it provided timely answers to questions for written answer. Earl Howe, the Deputy Leader of the House of Lords, acknowledged the importance of members receiving timely and substantive responses and confirmed that in the case of the Department of Health and Social Care, it had expanded its parliamentary team to address its high workload.<sup>49</sup>
54. Before the pandemic, many members were already concerned about the quality of responses to QWAs. Baroness Smith recognised that the workload of Government departments had increased because of the pandemic but said this had been exacerbated by “the fact that the responses that come back are slow, and often inadequate in answering the question. That spawns more questions.”<sup>50</sup>
55. The introduction of topical QWAs in April 2020 was considered to be a positive development in theory but not a successful one in practice.<sup>51</sup> The Procedure and Privileges Committee discontinued this practice in autumn 2020.
56. **We acknowledge the challenges faced by the Government in responding to the increased number of questions for written answer during the pandemic, but this does not justify poor, partial or non-answers,**

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46 *Ibid.*, paras 20–21

47 Not including the 151 topical QWAs tabled between April and July 2020

48 Figures provided by the House of Lords Journal Office

49 HL Deb, 22 February 2021, [cols 607–10](#)

50 [Q 66](#) (Baroness Smith of Basildon)

51 [Q 50](#) (Lord Harris of Haringey) and [Q 129](#) (Lord McFall of Alcluith)

**which was a concern before the pandemic. It is incumbent on the Government to ensure that departments are adequately resourced to respond fully to questions, including by providing information beyond that already in the public domain, in a timely manner. Doing so is an important part of ministers’ accountability to Parliament.**

### **Impact of hybrid proceedings**

57. Before the procedural changes in response to the pandemic, a general principle applied that members must be physically present in the House of Lords to participate in proceedings in the chamber, Grand Committee or select committees.
58. The introduction of hybrid proceedings therefore allowed members, including those unable to attend for health reasons related to the pandemic, to continue fulfilling their constitutional role whether they are physically present or participating remotely. The departure from the general principle of physical attendance by members was a significant development for the House. It underlies many of the matters considered in this report. We acknowledge that members will hold differing views on the merits of hybrid proceedings.

### *Participation*

59. Lord McFall of Alcluith, then Senior Deputy Speaker, said the House was “experiencing very high levels of participation, and that the system is delivering a higher number of individual contributions than we would normally experience.”<sup>52</sup>
60. Analysis of virtual and hybrid proceedings in the House of Lords indicates that the total number of contributions has increased since before the pandemic, although with a slight decline in the number of different members contributing.<sup>53</sup> The analysis suggests that there has been a modest increase in the number of female members participating. Baroness Smith attributed this to the introduction of speakers lists for some business, including oral questions: “I know of a number of colleagues who say they very much like the list system in questions, because it gives more members a chance to get in, you do not have to have the loudest voice to come in on a question”<sup>54</sup>
61. We heard that hybrid proceedings supported the participation of members who were geographically distant from Westminster, had disabilities, needed to shield or self-isolate or had caring responsibilities, or “who, in normal times, find it difficult to get in.”<sup>55</sup>

### *Technology*

62. Baroness Walmsley said the performance of the technology used to support hybrid proceedings was sometimes “patchy” and it had been challenging for some members to learn the requisite digital skills to participate

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52 [Q 124](#) (Lord McFall of Alcluith)

53 House of Lords Library, ‘House of Lords: Impact of virtual and hybrid proceedings in 2020’, 25 February 2021: <https://lordslibrary.parliament.uk/house-of-lords-impact-of-virtual-and-hybrid-sittings-in-2020/>

54 [Q 75](#) (Baroness Smith of Basildon)

55 Written evidence from Lord Lucas ([CIC0004](#)), written evidence from the Equality and Human Rights Commission ([CIC0034](#)) and [Q 66](#) (Lord Newby)

effectively.<sup>56</sup> However, Lord McFall and Lord Newby, Leader of the Liberal Democrat Peers, concluded that a majority of members, regardless of how much they had used the technology previously, had settled into the virtual arrangements satisfactorily.<sup>57</sup> We received this evidence in summer 2020. We understand that the digital systems were redeveloped in autumn 2020, in line with feedback from members. We note there now appears to be few unresolved issues with the use of this technology and how members work remotely.

### *Remote voting*

63. Before COVID-19 the use of remote voting by legislatures internationally was rare. It became less so in response to the pandemic.<sup>58</sup> The only other legislature in the UK to adopt remote voting is the Welsh Senedd.
64. Remote voting was introduced in the House of Lords on 15 June 2020. Since then, until the end of the 2019–21 session, there have been 167 divisions held using the remote voting system, with 82,800 votes cast by members across those divisions.<sup>59</sup>
65. When divisions are called members receive text and email alerts via PeerHub. They have 10 minutes to vote, rather than the eight minutes which applied to physical divisions. The result of the division can be published online as soon as it has been announced in the chamber.<sup>60</sup>
66. The introduction of remote voting was welcomed by some witnesses and appears to have resulted in an increase in participation in divisions by members.<sup>61</sup>
67. Analysis of the largest turnouts in divisions in the House of Lords indicate that since 1999, there have been 108 divisions where 500 or more members voted. While 13 of these took place in 2018, 78 occurred between January 2020 and 10 February 2021, the vast majority of which were since remote voting was introduced.<sup>62</sup>

### *Possible advantages of remote voting*

68. The possible advantages of remote voting include:
  - (a) More efficient than members queuing up in a division lobby, making back-to-back votes easier to manage, and saving a modest amount of time in most instances.

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56 [Q 31](#) (Baroness Walmsley)

57 [Q 65](#), [Q 68](#) (Lord Newby) and [Q 119](#) (Lord McFall of Alcluith)

58 See European Parliament Briefing, *Parliaments in emergency mode*, (April 2020): [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649396/EPRS\\_BRI\(2020\)649396\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649396/EPRS_BRI(2020)649396_EN.pdf) [accessed 11 May 2021]. According to the briefing, in 2018 only Paraguay and Spain permitted remote voting in plenary sessions. Members of the Spanish Parliament were eligible to vote remotely only if they were unable to attend plenary sessions because of certain justified circumstances.

59 Figures provided by the House of Lords Journal Office.

60 The remote voting arrangements have worked successfully since their introduction on 15 June 2020, except on 30 September 2020 when the technology failed. In response the division was deferred, a procedure which had existed in a different format in the House of Commons. A division was also deferred on 15 March 2021 due to a global Microsoft issue.

61 [Q 31](#) (Baroness Walmsley) and [Q 68](#) (Lord Newby, Baroness Smith of Basildon)

62 House of Lords Library, House of Lords: Largest Votes Recorded, Research Briefing, [LLN 2018/0048](#), 10 February 2021.

- (b) Allows members living further away from Westminster more easily to participate in divisions.
- (c) Allows members with disabilities, health issues or caring responsibilities, which prevent them from travelling to Westminster, to continue participating in divisions.
- (d) May encourage greater participation by members in divisions.
- (e) It could be suggested that members from the main parties may be subject to less influence by their whips.
- (f) Voting data becomes available more quickly and miscounts may be less likely to occur (they occasionally happen in the division lobbies).

*Possible drawbacks of remote voting*

69. The possible drawbacks of remote voting include:

- (a) Erodes the traditional principle that members must be physically present to participate in divisions.<sup>63</sup>
- (b) May discourage members from paying attention to proceedings in the House and participating in debates, before voting.
- (c) Reduced opportunities for members to speak to each other or lobby senior colleagues, including ministers.
- (d) It could be suggested that members of the main parties may be more dependent on the whips to provide information about divisions.
- (e) Potential for members to vote the wrong way, which is less likely to occur in designated division lobbies with whips present.<sup>64</sup>
- (f) Risk of someone else casting a vote on a member's behalf, although the House has agreed that this would constitute a serious breach of the Code of Conduct.<sup>65</sup>
- (g) Risk of technology failure.<sup>66</sup>

**Limitations of hybrid proceedings**

70. An increase in the number of members participating in hybrid proceedings does not necessarily entail improved quality of that participation. A number of witnesses provided examples of the shortcomings of hybrid proceedings. Lord Norton summarised the overall effect as being “to limit the capacity of members to behave in a manner that facilitates the legislature fulfilling its

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63 Lord Moore of Etchingham has written about ‘The strangeness of voting in the Lords from my bed’, *The Spectator* (14 November 2020): <https://www.spectator.co.uk/article/the-strangeness-of-voting-in-the-lords-from-my-bed> [accessed 11 May 2021]

64 In May 2020 the Chancellor of the Exchequer inadvertently voted against the Government in a remote House of Commons division. See Sky News, ‘Sunak slips up – how chancellor voted against his own government’, (13 May 2020): <https://news.sky.com/story/chancellor-votes-against-government-and-blames-online-teething-issues-11987864> [accessed 11 May 2021]

65 House of Lords Conduct Committee, *Remote voting and the Code of Conduct* (2nd Report, Session 2019–21, HL Paper 67)

66 This risk also applies to the use of tablets to record divisions under the pre-pandemic system (and which retained the older paper voting lists as a contingency measure).

core functions in relation to the executive. In the relationship, the balance has tipped notably in favour of the executive.”<sup>67</sup>

71. However, Lord Hunt of Wirral, Chair of the Association of Conservative Peers, was “pleasantly surprised by the degree to which a virtual debate can replicate some of the advantages of being present in the Chamber”; he did not think that remote proceedings “had a negative impact on meaningful scrutiny by the House of Lords.” However, he acknowledged that the House had lost its “sense of theatre” as a result, but not to the significant detriment of the substance of its proceedings.<sup>68</sup>

*Lack of interventions and spontaneity*

72. Constraints on the ability of members to intervene during hybrid proceedings and the loss of spontaneity were of concern to many witnesses as having affected the ability of members to press ministers for better answers or to tease out explanations during a bill’s committee stage.<sup>69</sup>
73. The pre-pandemic procedures which applied to a bill’s committee stage enabled members to intervene on, and enter into a dialogue with, the minister, to ensure a bill received detailed scrutiny and the Government was able to justify its position. Committee stage was intended to be more informal than other stages of a bill, with members allowed to speak more than once to any amendment. These procedures have significantly changed in hybrid proceedings. The tighter time limits on tabling amendments, the shift from advisory to binding amendment groupings, and the introduction of speakers lists on amendments, the impact of which is considered below, have curtailed the informality and spontaneity of these proceedings and consequently the intensity of scrutiny by the House.
74. A number of witnesses spoke about the importance of interventions and reactions in understanding the mood of the House.<sup>70</sup> Baroness Smith told us:

“We do not get a sense of the mood of the House and I think some ministers have taken advantage of that. When a minister gives a poor response to a debate in the Chamber, the House will make its view known—it might be a collective groan or sigh, because we are very well behaved—but a mood of the House is recognised. We cannot replace that at the moment.”<sup>71</sup>

75. When asked about this, Baroness Evans said:

“Some of that dialogue which would allow a minister to go away and reflect and perhaps fine-tune what they were saying becomes a lot more difficult. I do not think that ministers are thoroughly enjoying this time; I think they are very much looking forward to coming back and getting into the cut and thrust of things.”<sup>72</sup>

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67 Written evidence from Lord Norton of Louth ([CIC0002](#))

68 [Q 50](#), [Q 60](#) (Lord Hunt of Wirral)

69 Written evidence from Lord Norton of Louth ([CIC0002](#)), [Q 31](#) (Baroness Walmsley), [Q 49](#) (Lord Harris of Haringey), [QQ 66–67](#) (Baroness Smith of Basildon) and [Q 32](#) (Lord Judge)

70 Written evidence from Lord Norton of Louth ([CIC0002](#)) and Lord McFall of Alcluith ([CIC0043](#)), [Q 82](#) (Professor Meg Russell) and [Q 124](#) (Lord McFall of Alcluith)

71 [Q 66](#) (Baroness Smith of Basildon)

72 [Q 155](#) (Baroness Evans of Bowes Park)

Lord Ashton agreed and pointed to the wider effects on self-regulation:

“If a backbench member is going on too long or being irrelevant, of if on a group of amendments members are repeating themselves one after the other, in virtual proceedings you do not get the House groaning as another person makes a repetitive speech and there are no calls for a minister to answer. We definitely do not get the benefit of that self-regulation. Self-regulation does not really work if you do not have a House to regulate itself.”<sup>73</sup>

76. Some witnesses suggested that the technology could have been adapted to facilitate interventions or to allow members and ministers to gauge the reaction to ministerial responses more effectively.<sup>74</sup> We understand that the Procedure and Privileges Committee is keeping under review the scope for using the developing technology to facilitate more interventions. **The hybrid procedures during a bill’s committee stage would benefit from further review.**

*Lack of informal discussions in person*

77. In addition to the lack of interventions and spontaneity, witnesses observed that remote proceedings inhibit the informal interactions between members that take place around physical proceedings and which can sometimes play an important role in determining the outcome of those proceedings.<sup>75</sup> Lord Norton wrote:

“Working remotely strengthens the position of the party leadership ... [as] there is far greater reliance on information sent by the whips. Use of social media and watching proceedings online may help offset this reliance to some degree, but the party leadership enjoys a decided edge in the supply of regular information ... There is no opportunity for a quick conversation with those sat on the benches by you.”<sup>76</sup>

*Speaking times*

78. Lord McFall acknowledged that limited individual speaking times, which result from a large number of members registering to speak on an item of business, had been a source of frustration for some members, although he emphasised that it was incumbent on ministers and backbench members not to speak for too long, particularly during questions.<sup>77</sup>
79. Some witnesses thought that long speakers lists had prevented members with relevant expertise being able to share this with the House, undermining one of the House’s strengths.<sup>78</sup> Baroness Walmsley cited a question for short debate about Hong Kong, which was asked on 4 June 2020, as a “case in point ... where two former [Hong Kong] Governors, whose experience in

73 [Q 155](#) (Lord Ashton of Hyde)

74 Written evidence from Lord Lucas ([CIC0004](#)), written evidence from Lord McFall of Alcluth ([CIC0043](#)), and [Q 74](#) (Baroness Smith of Basildon)

75 Written evidence from Lord Norton of Louth ([CIC0002](#)) and Lord McFall of Alcluth ([CIC0043](#)), and [Q 82](#) (Professor Meg Russell)

76 The Norton View blog, ‘Problems of a Hybrid House-2’ (14 November 2020): <https://nortonview.wordpress.com/2020/11/14/problems-of-a-hybrid-house-2/> [accessed 11 May 2021]

77 [Q 121](#), [QQ 125–26](#) (Lord McFall of Alcluth)

78 [Q 50](#) (Lord Harris of Haringey), [Q 49](#) (Lord Hunt of Wirral), [Q 66](#) (Lord Newby) and [Q 31](#) (Lord Judge)



the matter is second to none, were given only one minute to share their experience. This is an exercise in absurdity, and it is not the only example.”<sup>79</sup>

80. Other examples of limited speaking times include the debate on the EU–UK trade and cooperation agreement on 8 January 2021, which involved 120 speakers with a speaking time of two minutes for each backbencher,<sup>80</sup> and the budget debate on 12 March 2021, which involved 118 speakers with a speaking time of two minutes per backbencher.<sup>81</sup>
81. Frustration with speaking times among members was also a feature of the pre-pandemic procedural arrangements, with the sort of debates referred to above all being time limited, which also resulted in short speaking times when there was a high number of speakers. Therefore, it appears that the pre-existing frustrations have been exacerbated by more members being able to sign up to speak in debates remotely. The size of the House may also be a contributing factor.
82. Lord McFall noted the tension between the desire of members for more debating time and the Government’s desire to get its business through the House.<sup>82</sup> However, Lord Ashton emphasised that the current arrangements were less efficient and limited how much business the Government could transact.<sup>83</sup> Baroness Evans agreed: “We find it slightly ironic that people say that this makes it easier for government to do its business. I can tell you that neither the Chief Whip nor I feel that way in terms of what we are looking at from our side. I think there is frustration on all sides.”<sup>84</sup>
83. **The changes to House of Lords procedures as a result of hybrid proceedings, particularly the loss of spontaneity in members’ interactions during a bill’s committee stage and the need for speakers lists on more business, has resulted in the House’s essential scrutiny role, including its capacity to hold the Government to account, which was already in need of strengthening, becoming less effective. We consider that this presents significant problems for both members and ministers.**
84. **We note that before the pandemic the number of members wishing to participate in some items of business, particularly questions and debates, meant that it was not always possible for every member who wanted to contribute to do so. There were also instances of regrettably short speaking times in debates. It might be that hybrid proceedings have simply exacerbated underlying issues, including occasions when members who have significant expertise in a matter not having an opportunity to make a meaningful contribution. Speaking times of one or two minutes per backbencher, which has sometimes occurred during COVID-19, do not allow members to make a meaningful contribution.**
85. **It may be necessary for alternative approaches to be considered, particularly if some debates continue to be over-subscribed after the House emerges from COVID-19. This could include introducing a**

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79 [Q 31](#) (Baroness Walmsley) and HL Deb, 4 June 2020, [cols 1502–1520](#)

80 HL Deb, 8 January 2021, [cols 361–444](#)

81 HL Deb, 12 March 2021, [cols 1903–83](#)

82 [Q 124](#) (Lord McFall of Alcluith)

83 [Q 155](#) (Lord Ashton of Hyde)

84 [Q 155](#) (Baroness Evans of Bowes Park)

**limit on the number of speakers and minimum speaking times for certain items of business.**

86. **Notwithstanding the limitations of hybrid proceedings, they are a necessary solution to maintaining business continuity while a significant number of members are unable to attend the House of Lords in person. We welcome the benefits remote proceedings have brought for members with disabilities, health concerns or caring responsibilities, or who are geographically distant.**
87. **Whatever members' views on the merits of retaining remote voting in the longer-term, the introduction of this facility in the House of Lords during the pandemic has been successful in allowing all members to continue participating in divisions.**

### **Emerging from COVID-19**

88. While the COVID-19 pandemic has had a significant impact on the House's ability to fulfil its constitutional roles, its experiences during the pandemic provide a valuable opportunity to reflect on how it can fulfil its roles more effectively once the business of the House returns to normal. We do not know when this will be, but in the meantime it will be important for the House to debate the next steps and the implications of what has been learned from the experience of the pandemic.
89. There is a risk that without proper reflection the House will either revert to its pre-COVID-19 procedures, including the imperfections identified in this report, or that some of the temporary changes introduced in response to the pandemic will become permanent. Neither outcome is desirable without first allowing an opportunity for proper consideration by the House.
90. **As Parliament emerges from COVID-19, the House of Lords should reflect on its experiences during the pandemic and consider how it can fulfil its role more effectively once things return to 'normal', including responding to forthcoming challenges.**

### *Future of hybrid proceedings and remote voting*

91. Reflecting on the longer-term consequences of the procedural changes, Sir David Beamish has suggested that "there will be a lasting effect on the operation and atmosphere of the House, with the 'self-regulation' of proceedings perhaps a thing of the past."<sup>85</sup> As a self-regulating chamber, it will be important for the House to consider the longer-term consequences of these procedural changes.
92. There was support among some witnesses for the House of Lords to consider retaining hybrid proceedings and remote, or electronic,<sup>86</sup> voting after the pandemic, particularly for members with disabilities, health issues or caring

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85 Study of Parliament Group, *Parliaments and the Pandemic*, page 15

86 In this report 'electronic voting' is used to describe voting by members in the division lobbies using pass readers, and 'remote voting' is used to describe members using an application to vote outside the division lobbies.

responsibilities.<sup>87</sup> Noting that the introduction of electronic voting had been discussed by the House in the past,<sup>88</sup> Lord Hunt said:

“I suspect and hope that [remote voting] will now be a permanent feature of our lives. Ever since we have been able to watch proceedings in both Houses from the comfort of our offices, the packed benches of legend have become an infrequent sight, and I think that trend will continue.”<sup>89</sup>

93. However, Baroness Smith was more sceptical about retaining remote voting in the longer-term.<sup>90</sup> Lord Ashton was keen to return to physical voting as he considered that voting in person was a “key part of being a parliamentarian”, and that remote voting made the job of the whips, both in Government and opposition, more difficult as “the Chief Whip cannot sit next to [a] backbencher and have a quiet word.” However, he accepted that it might be worthwhile to explore the introduction of electronic voting, citing the use of pass readers in the House of Commons.<sup>91</sup> Lord Newby also highlighted the use of pass readers as an option worth exploring, particularly to reduce the amount of time members spend in division lobbies.<sup>92</sup>

94. While welcoming the ease of remote voting, Lord Norton wrote about his view that members had a moral obligation to contribute to the work of the House, which before the pandemic required them to arrange their time to be in London and on the parliamentary estate when divisions are called. He wrote:

“with [remote] voting, one can be anywhere in the country and no great effort is entailed in pressing a button once a vote takes place. You hardly have to interrupt what you are doing. I appreciate that when divisions are held physically, peers will come to vote who have been doing things elsewhere in the Palace ... but at least they are in the Palace. There is a sense of commitment. Now, peers who have contributed little or nothing to the proceedings of the House ... can simply press a button and affect outcomes.”<sup>93</sup>

95. Professor Russell cautioned that:

“The House of Lords, unlike the House of Commons, has always worked on an expectation that daily participation falls well short of membership. If that changes, it could have profound consequences. So ... you need to think very carefully through the long-term consequences of keeping some of these arrangements. It does not mean that you should not, but you do need to think it through.”<sup>94</sup>

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87 [Q 63](#) (Lord Hunt of Wirral), [Q 60](#), [Q 63](#) (Lord Harris of Haringey), [Q 38](#) (Lord Judge), [QQ 38–39](#) (Baroness Walmsley), [Q 85](#) (Dr Hannah White) and [Q 68](#) (Lord Newby)

88 A proposal to use pass readers to record members’ votes in the division lobbies, as is current practice in the House of Commons, was considered by the then House of Lords Administration and Works Committee in 2013 but did not proceed further. See ‘Piloting an electronic system for divisions’ in Administration and Works Committee papers, 29 October 2013: <https://www.parliament.uk/globalassets/documents/lords-committees/admin-and-works/AgendaandPaper29Oct2013.pdf>

89 [Q 60](#) (Lord Hunt of Wirral)

90 [Q 68](#) (Baroness Smith of Basildon)

91 [Q 162](#), [Q 165](#) (Lord Ashton of Hyde) and [Q 162](#) (Baroness Evans of Bowes Park)

92 [Q 68](#), [Q 75](#) (Lord Newby)

93 The Norton View blog, ‘Voting electronically is easy, but should it be?’ (16 June 2020): <https://nortonview.wordpress.com/2020/06/16/voting-electronically-is-easy-but-should-it-be/> [accessed 11 May 2021]

94 [Q 85](#) (Professor Meg Russell)

96. **The experience of the House of Lords during the COVID-19 pandemic has drawn attention to pre-existing issues regarding its size, self-regulation and the ability of members to participate in proceedings.**
97. **As a first step, and following the experience of hybrid proceedings and remote voting, the House must carefully consider what form the proceedings of the House should take after COVID-19.**
98. **As a next step, we hope the Procedure and Privileges Committee will publish draft proposals for further debate, before the House is invited to make a final decision.**
99. *We recommend that those considerations should take into account any impact on the effectiveness of the House in discharging its constitutional roles of scrutinising legislation and holding the Government to account, public perception, inclusivity and business continuity. It will also be important to consider what the longer-term consequences of any changes to proceedings might be for the overall dynamic of the House of Lords.*

### Select committees

100. Before April 2020 a virtual meeting of a Lords select committee had never taken place. Despite occasionally hearing evidence from witnesses by video-link, usually from abroad, committee members always attended meetings in person. Dr Philippa Tudor, Clerk of Committees, wrote that feedback from committee chairs on virtual committee meetings had been largely positive, with such meetings considered a success, particularly as they allowed continuity of committee activity throughout the pandemic.<sup>95</sup>
101. Many witnesses agreed that committees had worked well during the pandemic,<sup>96</sup> especially as their ways of working had been less affected than chamber business.<sup>97</sup> Lord Judge told us: “The reason select committees work so well, or much better than the Chamber, is not to do with technology; it is to do with the fact that they are focused.”<sup>98</sup> Witnesses agreed that virtual proceedings had made it easier for committees to receive a greater range of evidence from abroad and across time zones.<sup>99</sup>
102. However, Lord Harris of Haringey, Chair of the Labour Peers, Sir David Natzler, former Clerk of the House of Commons, and Dr Tudor all observed that the same issues with judging the mood of the chamber may apply to committees.<sup>100</sup>
103. While many committees have considered the impact of COVID-19, including our own, the House appointed a temporary COVID-19 committee in June

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95 Study of Parliament Group, *Parliaments and the Pandemic*, p 65

96 Q 50 (Lord Hunt of Wirral) and Q 122 (Lord McFall of Alcluith)

97 Q 32 (Baroness Walmsley) and Q 66 (Lord Newby)

98 Q 32 (Lord Judge)

99 Q 160 (Baroness Evans of Bowes Park) and Q 82 (Dr Hannah White)

100 Q 50 (Lord Harris of Haringey), Q 84 (Sir David Natzler) and Study of Parliament Group, *Parliaments and the Pandemic*, p 65

2020 to consider the longer-term implications of the COVID-19 pandemic on the economic and social wellbeing of the UK.<sup>101</sup>

104. *House of Lords select committees have operated effectively during the pandemic and the value of their work has been underlined. At a time of profound national reflection prompted by COVID-19, the expertise and longer-term perspective of the House's committees will further enhance their role in holding the Government to account and engaging with the public as the UK emerges from the pandemic. We recommend that committees should continue to allow virtual participation by members and witnesses, where appropriate, including to receive evidence from a more diverse range of witnesses from across the UK and abroad, and should receive the necessary resources to fulfil their role to full effect.*

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101 See COVID-19 Committee: <https://committees.parliament.uk/committee/460/covid19-committee/>. The COVID-19 Committee's first report was published on 23 April 2021, COVID-19 Committee, *Beyond Digital: Planning for a Hybrid World* (1st Report, Session 2019–21, HL Paper 263)

## CHAPTER 4: LONGER-TERM RESILIENCE OF PARLIAMENT

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### Business continuity planning

105. The speed of Parliament’s response to the pandemic was all the more remarkable considering that its plans had to be developed from scratch. Lord Newby observed: “Just as the Government were pretty unprepared to deal with coronavirus in a sensible manner, Parliament was completely unprepared for the concept of no one being able to come [to the Palace of Westminster] for a period. There was no contingency planning.”<sup>102</sup> Although business continuity plans existed for a range of circumstances, they did not cover the introduction of social distancing requirements. Lord McFall told us that the House of Lords administration was revising its business continuity plans in light of the experience.<sup>103</sup>
106. *It is regrettable that the potential impact of social-distancing requirements to tackle a pandemic had not been considered in Parliament’s business continuity planning. We note that such an omission was not unique to Parliament; many other organisations faced the same dilemma of operating in a different manner without any plans for doing so being in place. We recommend the House of Lords Commission conducts a lessons-learned exercise on Parliament’s response to the pandemic as part of revising its business continuity plans. In doing so it should seek input from members and take into account the importance of Parliament continuing to hold the Government to account whatever the circumstances.*

### Restoration and renewal of the Palace of Westminster

107. Parliament’s response to the COVID-19 pandemic is pertinent to the long-running discussion about restoring the Palace of Westminster. In 2018 both Houses agreed resolutions to proceed with the works on the basis of a full decant of the Palace of Westminster, as the quickest, cheapest and safest option.<sup>104</sup>
108. Some witnesses suggested that Parliament should consider the impact of pandemic ways of working on plans to restore the Palace of Westminster.<sup>105</sup> Lord Hunt emphasised that should not result in a delay to the works,<sup>106</sup> as did Lord Harris, who told us:

“There is a great danger that people will say that because things have worked reasonably well, we either do not need to worry about restoration and renewal or that the decant arrangements could be much more rough and ready than was previously envisaged. I think that would be a mistake ... I would be very concerned if the people who cannot face the idea of restoration and renewal and moving out of the Palace see this as an opportunity to put the whole thing off. The building is falling to bits. We may no longer be quite so aware of it because we are not going in, but the dangers remain.”<sup>107</sup>

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102 [Q 65](#) (Lord Newby)

103 [Q 131](#) (Lord McFall of Alcluith)

104 HC Deb, 31 January 2018, [cols 878–939](#) and HL Deb, 6 February 2018, [cols 1916–2000](#)

105 Written evidence from Lord Norton of Louth ([CIC0002](#)) and Lord Lucas ([CIC0004](#)), and [Q 75](#) (Lord Newby)

106 [Q 64](#) (Lord Hunt of Wirral)

107 [Q 64](#) (Lord Harris of Haringey)

109. The Sponsor Body, which was established by the Parliamentary Buildings (Restoration and Renewal) Act 2019<sup>108</sup> to oversee the restoration works on Parliament’s behalf, conducted a strategic review of the restoration and renewal programme in 2020. The review explored the possibility that working practices adopted during the COVID-19 pandemic might result in a reduction of Parliament’s accommodation requirements, particularly in the light of the potentially high cost of constructing temporary decant accommodation for both Houses.
110. The outcome of the strategic review was published on 11 March 2021. On the possibility of relying on virtual proceedings during the works it said:
- “While both Houses have demonstrated that it is possible for their core proceedings (chamber and committees) to be undertaken remotely, in general terms the feedback received from members of both Houses suggested that there is a low appetite among Members ... to consider continuing with these arrangements post-COVID-19. Thus, planning for decant should not rely on ... virtual or hybrid arrangements, which cannot fully replace the value of face-to-face working, including voting in person.”<sup>109</sup>
111. The House of Commons Procedure Committee has recommended that the House of Commons administration should “develop the capacity and capability of virtual participation, in case it becomes of future value for business continuity purposes or Restoration and Renewal.”<sup>110</sup>
112. The review confirmed that the condition of the Palace is deteriorating faster than it can be fixed, and that a period of full decant is still likely to be necessary to complete the works. The Public Accounts Committee had previously criticised the lack of progress with the programme considering its urgency.<sup>111</sup> The National Audit Office had also previously cautioned that the lack of consistent political support for the programme posed a significant risk to its successful delivery.<sup>112</sup>
113. While it is a parliamentary rather than a government programme, the progress and success of the programme will, in part, depend on the Government’s support. Despite both Houses agreeing to proceed with the works on the basis of a full decant, and the programme’s long-established planning assumptions that both Houses will be decanted elsewhere on the parliamentary estate during the works, the Prime Minister wrote to the chief executives of the Sponsor Body and Delivery Authority in July 2020 to suggest that all options for progressing the works, including the possibility of both Houses remaining in the Palace or a partial decant, should be reconsidered as

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108 [Parliamentary Buildings \(Restoration and Renewal\) Act 2019](#)

109 Restoration and Renewal Programme, *Strategic Review* (March 2021), para 131

110 [Back to the future? Procedure after Coronavirus restrictions](#), p 11

111 Public Accounts Committee, [Restoration and renewal of the Palace of Westminster](#) (Nineteenth Report, Session 2019–21, HC 549)

112 National Audit Office, [Palace of Westminster Restoration and Renewal Programme](#) (Report, Session 2019–21, HC 315)

part of the strategic review, including the possibility of relocating Parliament outside London.<sup>113</sup>

114. We note that the House of Lords Commission considers the programme on a regular basis, including close working with the Sponsor Body, and remains supportive of the resolution agreed by the House of Lords on 6 February 2018.<sup>114</sup>
115. *We recommend that the House administration consider how its temporary accommodation requirements during decant may change, given that remote working may be more common by the time that both Houses need to decant from the Palace of Westminster.*
116. *We recommend that the House administration should continue to develop its capacity to support virtual proceedings, in case this is required to support Parliament's future business continuity arrangements or the restoration of the Palace of Westminster.*
117. **We welcome the House of Lords Commission's ongoing support for proceeding with the Restoration and Renewal programme on the basis of the resolutions endorsed by both Houses, including a full decant of the Palace of Westminster as the quickest, cheapest and safest option. However, we regret the continued delays in delivering the programme. While some delays have inevitably resulted from the COVID-19 pandemic, the apparent lack of support from the Government for the programme is regrettable. Parliament has demonstrated resilience in the face of the pandemic, yet the continued deterioration of the Palace of Westminster increases the risk of both Houses being forced to resort to virtual methods of working in future.**

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113 See letter from Prime Minister to Sarah Johnson and David Goldstone, CEOs of the Sponsor Body and Delivery Authority, 15 July 2020: [http://data.parliament.uk/DepositedPapers/Files/DEP2020-0426/Letter\\_PM\\_to\\_Mr\\_David\\_Goldstone\\_CBE\\_and\\_Ms\\_Sarah\\_Johnson.pdf](http://data.parliament.uk/DepositedPapers/Files/DEP2020-0426/Letter_PM_to_Mr_David_Goldstone_CBE_and_Ms_Sarah_Johnson.pdf). The CEOs' response, 18 August 2020: [http://data.parliament.uk/DepositedPapers/Files/DEP2020-0504/Letter\\_to\\_Prime\\_Minister\\_Scope\\_of\\_Strategic\\_Review\\_R\\_R.pdf](http://data.parliament.uk/DepositedPapers/Files/DEP2020-0504/Letter_to_Prime_Minister_Scope_of_Strategic_Review_R_R.pdf) confirmed that the Speakers of both Houses, who were consulted on the possibility of locating Parliament outside London, agreed that it would not be appropriate for the programme to consider this possibility as it was a matter for Parliament rather than the programme.

114 See HL Deb, 12 March 2020, [col 1093](#) and House of Lords Commission minutes: [15 September 2020](#), [6 October 2020](#) and [30 November 2020](#)



## SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

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Below is a list of all of the Committee's conclusions and recommendations (recommendations appear in italics).

### Parliament's response to the pandemic

1. Despite the restrictions imposed in response to the COVID-19 pandemic, the efforts of staff from across Parliament and the members of the House of Lords Commission and Procedure and Privileges Committee ensured that the House of Lords continued fulfilling its constitutional role so far as circumstances permitted. We commend everyone involved. (Paragraph 25)
2. We welcome the continued engagement by members of the House of Lords with pupils at a time when many other activities and services have been postponed or cancelled, and young people have had so much disruption to their education. We trust the House will continue to develop its important work in this area, particularly as the restrictions introduced in response to the COVID-19 pandemic are eased. (Paragraph 31)

### Impact on scrutiny in the House of Lords

3. *While it is important for the Government to keep the public informed during the COVID-19 pandemic, the Government must adhere to the Ministerial Code and prioritise Parliament when making significant policy announcements, on the pandemic and more generally. Only then can Parliament's centrality in holding the Government to account be respected. All concerned, including those responsible in Parliament, must continue to take steps to uphold this important principle.* (Paragraph 45)
4. The high volume of statutory instruments laid in response to the pandemic, and the use of fast-track procedures, have severely limited Parliament's ability to scrutinise significant powers. The blurring of legislation and guidance undermined public understanding of the rules. We will consider this further in our third report into the constitutional implications of COVID-19, on the use and scrutiny of emergency powers. (Paragraph 50)
5. We acknowledge the challenges faced by the Government in responding to the increased number of questions for written answer during the pandemic, but this does not justify poor, partial or non-answers, which was a concern before the pandemic. It is incumbent on the Government to ensure that departments are adequately resourced to respond fully to questions, including by providing information beyond that already in the public domain, in a timely manner. Doing so is an important part of ministers' accountability to Parliament. (Paragraph 56)
6. The hybrid procedures during a bill's committee stage would benefit from further review. (Paragraph 76)
7. The changes to House of Lords procedures as a result of hybrid proceedings, particularly the loss of spontaneity in members' interactions during a bill's committee stage and the need for speakers lists on more business, has resulted in the House's essential scrutiny role, including its capacity to hold the Government to account, which was already in need of strengthening, becoming less effective. We consider that this presents significant problems for both members and ministers. (Paragraph 83)

8. We note that before the pandemic the number of members wishing to participate in some items of business, particularly questions and debates, meant that it was not always possible for every member who wanted to contribute to do so. There were also instances of regrettably short speaking times in debates. It might be that hybrid proceedings have simply exacerbated underlying issues, including occasions when members who have significant expertise in a matter not having an opportunity to make a meaningful contribution. Speaking times of one or two minutes per backbencher, which has sometimes occurred during COVID-19, do not allow members to make a meaningful contribution. (Paragraph 84)
9. It may be necessary for alternative approaches to be considered, particularly if some debates continue to be over-subscribed after the House emerges from COVID-19. This could include introducing a limit on the number of speakers and minimum speaking times for certain items of business. (Paragraph 85)
10. Notwithstanding the limitations of hybrid proceedings, they are a necessary solution to maintaining business continuity while a significant number of members are unable to attend the House of Lords in person. We welcome the benefits remote proceedings have brought for members with disabilities, health concerns or caring responsibilities, or who are geographically distant. (Paragraph 86)
11. Whatever members' views on the merits of retaining remote voting in the longer-term, the introduction of this facility in the House of Lords during the pandemic has been successful in allowing all members to continue participating in divisions. (Paragraph 87)

### **Emerging from COVID-19**

12. As Parliament emerges from COVID-19, the House of Lords should reflect on its experiences during the pandemic and consider how it can fulfil its role more effectively once things return to 'normal', including responding to forthcoming challenges. (Paragraph 90)
13. The experience of the House of Lords during the COVID-19 pandemic has drawn attention to pre-existing issues regarding its size, self-regulation and the ability of members to participate in proceedings. (Paragraph 96)
14. As a first step, and following the experience of hybrid proceedings and remote voting, the House must carefully consider what form the proceedings of the House should take after COVID-19. (Paragraph 97)
15. As a next step, we hope the Procedure and Privileges Committee will publish draft proposals for further debate, before the House is invited to make a final decision. (Paragraph 98)
16. *We recommend that those considerations should take into account any impact on the effectiveness of the House in discharging its constitutional roles of scrutinising legislation and holding the Government to account, public perception, inclusivity and business continuity. It will also be important to consider what the longer-term consequences of any changes to proceedings might be for the overall dynamic of the House of Lords.* (Paragraph 99)
17. *House of Lords select committees have operated effectively during the pandemic and the value of their work has been underlined. At a time of profound national reflection prompted by COVID-19, the expertise and longer-term perspective of*

*the House's committees will further enhance their role in holding the Government to account and engaging with the public as the UK emerges from the pandemic. We recommend that committees should continue to allow virtual participation by members and witnesses, where appropriate, including to receive evidence from a more diverse range of witnesses from across the UK and abroad, and should receive the necessary resources to fulfil their role to full effect. (Paragraph 104)*

### **Longer-term resilience of Parliament**

18. *It is regrettable that the potential impact of social-distancing requirements to tackle a pandemic had not been considered in Parliament's business continuity planning. We note that such an omission was not unique to Parliament; many other organisations faced the same dilemma of operating in a different manner without any plans for doing so being in place. We recommend the House of Lords Commission conducts a lessons-learned exercise on Parliament's response to the pandemic as part of revising its business continuity plans. In doing so it should seek input from members and take into account the importance of Parliament continuing to hold the Government to account whatever the circumstances. (Paragraph 106)*
19. *We recommend that the House administration consider how its temporary accommodation requirements during decant may change, given that remote working may be more common by the time that both Houses need to decant from the Palace of Westminster. (Paragraph 115)*
20. *We recommend that the House administration should continue to develop its capacity to support virtual proceedings, in case this is required to support Parliament's future business continuity arrangements or the restoration of the Palace of Westminster. (Paragraph 116)*
21. *We welcome the House of Lords Commission's ongoing support for proceeding with the Restoration and Renewal programme on the basis of the resolutions endorsed by both Houses, including the full decant of the Palace of Westminster as the quickest, cheapest and safest option. However, we regret the continued delays in delivering the programme. While some delays have inevitably resulted from the COVID-19 pandemic, the apparent lack of support from the Government for the programme is regrettable. Parliament has demonstrated resilience in the face of the pandemic, yet the continued deterioration of the Palace of Westminster increases the risk of both Houses being forced to resort to virtual methods of working in future. (Paragraph 117)*

## APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

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### Members

Lord Beith (Member of the Committee until 28 January 2021)  
 Baroness Corston  
 Baroness Doocey (Member of the Committee from 28 January 2021)  
 Baroness Drake  
 Lord Dunlop  
 Lord Faulks  
 Baroness Fookes  
 Lord Hennessy of Nympsfield  
 Lord Hope of Craighead (Member of the Committee from 28 January 2021)  
 Lord Howarth of Newport  
 Lord Howell of Guildford  
 Lord Pannick (Member of the Committee until 28 January 2021)  
 Lord Sherbourne of Didsbury  
 Baroness Suttie (Member of the Committee from 28 January 2021)  
 Baroness Taylor of Bolton (Chair)  
 Lord Wallace of Tankerness (Member of the Committee until 29 April 2021)

### Declarations of interest

Lord Beith  
*Honorary Bencher of the Middle Temple*  
 Baroness Corston  
*No relevant interests*  
 Baroness Doocey  
*No relevant interests*  
 Baroness Drake  
*No relevant interests*  
 Lord Dunlop  
*No relevant interests*  
 Lord Faulks  
*Chair of the Independent Review of Administrative Law and practising barrister*  
 Baroness Fookes  
*No relevant interests*  
 Lord Hennessy of Nympsfield  
*No relevant interests*  
 Lord Hope of Craighead  
*No relevant interests*  
 Lord Howarth of Newport  
*No relevant interests*  
 Lord Howell of Guildford  
*No relevant interests*  
 Lord Pannick  
*Practising barrister*  
 Lord Sherbourne of Didsbury  
*No relevant interests*  
 Baroness Suttie  
*No relevant interests*

Baroness Taylor of Bolton (Chair)

*Chair, Hansard Society*

Lord Wallace of Tankerness

*No relevant interests*

A full list of members' interests can be found in the Register of Lords' Interests: <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests/>

Professor Jeff King, University College London, and Professor Stephen Tierney, University of Edinburgh, acted as legal advisers to the Committee. They both declared no relevant interests.

## APPENDIX 2: LIST OF WITNESSES

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Evidence is published online at <https://committees.parliament.uk/work/298/constitutional-implications-of-covid19/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with \* gave both oral evidence and written evidence. Those witnesses marked \*\* gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

### Oral evidence in chronological order

- |    |  |                            |
|----|--|----------------------------|
| ** | Lord Judge, Convenor of Crossbench Peers, and Baroness Walmsley, Co-Deputy Leader of Liberal Democrat Peers  | <a href="#">QQ 3–39</a>    |
| ** | Lord Harris of Haringey, Chair of Labour Peers, and Lord Hunt of Wirral, Chair of the Association of Conservative Peers  | <a href="#">QQ 49–64</a>   |
| ** | Baroness Smith of Basildon, Leader of the Opposition, and Lord Newby, Leader of Liberal Democrat Peers   | <a href="#">QQ 65–78</a>   |
| ** | Sir David Natzler, former Clerk of the House of Commons, Professor Meg Russell, Director of The Constitution Unit, UCL, and Dr Hannah White, Deputy Director, Institute for Government | <a href="#">QQ 79–90</a>   |
| *  | Lord McFall of Alcluith, former Senior Deputy Speaker  | <a href="#">QQ 119–131</a> |
| ** | Baroness Evans of Bowes Park, Leader of the House of Lords and Lord Privy Seal, and Lord Ashton of Hyde, Government Chief Whip   | <a href="#">QQ 152–168</a> |

### Alphabetical list of all witnesses

- |    |   |                         |
|----|---|-------------------------|
| ** | Lord Ashton of Hyde, Government Chief Whip<br>( <a href="#">QQ 152–168</a> )                                  |                         |
|    | Daniel Braby, University of Strathclyde   | <a href="#">CIC0032</a> |
|    | The Equality and Human Rights Commission  | <a href="#">CIC0034</a> |
| ** | Baroness Evans of Bowes Park, Leader of the House of Lords and Lord Privy Seal ( <a href="#">QQ 152–168</a> ) |                         |
| ** | Lord Harris of Haringey, Chair of the Labour Peers<br>( <a href="#">QQ 49–64</a> )                            |                         |
| ** | Lord Hunt of Wirral, Chair of the Association of Conservative Peers ( <a href="#">QQ 49–64</a> )              |                         |
| ** | Lord Judge, Convenor of the Crossbench Peers<br>( <a href="#">QQ 31–39</a> )                                  |                         |
|    | The Law Society of Scotland   | <a href="#">CIC0033</a> |
|    | Lord Lucas  | <a href="#">CIC0004</a> |

- \* Lord McFall of Alcluith, Senior Deputy Speaker [CIC0043](#)  
([QQ 119–131](#))
- \*\* Sir David Natzler, former Clerk of the House of Commons ([QQ 79–90](#))
- \*\* Lord Newby, Leader of Liberal Democrat Peers ([QQ 65–78](#))
- Professor Lord Norton of Louth [CIC0002](#)
- Public Law Project [CIC0041](#)
- Pupils 2 Parliament [CIC0003](#)
- \*\* Professor Meg Russell, Director of The Constitution Unit, UCL ([QQ 79–90](#))
- Dr Mark Shephard, University of Strathclyde [CIC0032](#)
- \*\* Baroness Smith of Basildon, Leader of the Opposition ([QQ 65–78](#))
- \*\* Baroness Walmsley, Co-Deputy Leader of Liberal Democrat Peers ([QQ 31–39](#))
- \*\* Dr Hannah White, Deputy Director, Institute of Government ([QQ 79–90](#))

## APPENDIX 3: CALL FOR EVIDENCE

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The House of Lords Constitution Committee is undertaking an inquiry into the constitutional implications of COVID-19.

It is exploring the impact of the pandemic, and the Government's response to it, in relation to the operation of the courts, the ability of Parliament to function effectively and hold the Government to account, and the use and scrutiny of emergency powers.

The Committee is calling for evidence on the workings of Parliament and Government in response to the pandemic and what the future of parliamentary scrutiny might look like as a result.

The Committee welcomes written submissions on any aspect of this topic, and particularly on the issues and questions set out below. You need not address all the questions in your submission. We welcome contributions from all interested individuals and organisations. The deadline for submissions is Thursday 20 August at 12 noon.

### Questions

#### *Virtual proceedings*

1. What effect have virtual proceedings had on different types of parliamentary business? Have some things worked better than others? E.g. Oral questions, statements and debates, bills and statutory instruments, committees.
2. Have virtual proceedings changed which members participate and the form and style of debates? Have they become more, or less, inclusive?

#### *Parliament during a crisis*

3. If the ability of Parliament to operate normally is compromised for an extended period, what are the core tasks that are required to maintain (a) the business of government, and (b) effective democratic scrutiny?
4. Are the processes for considering and agreeing a recall of the House of Lords satisfactory?

#### *Government and the usual channels*

5. How effectively do you think the Government has engaged with Parliament during the pandemic?
6. Has consultation between the parties and groups in the House of Lords about the management of business, and new procedural arrangements, worked satisfactorily?

#### *Legislation*

7. What lessons can be learned from the parliamentary scrutiny of the Coronavirus Bill, as a substantial and complex piece of emergency legislation?
8. To what extent are the safeguards on emergency powers (such as provisions for 21-day reviews) compromised when Parliament is not sitting or sittings are restricted? How might these laws—or the parliamentary procedures to scrutinise their use—need to adapt?



*The future*

9. What does Parliament need to do to operate effectively in the short-term? What further procedural or practical changes should be considered?
10. What aspects of virtual or hybrid proceedings should be retained after the end of social distancing and for what purposes?