



Procedure Committee

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From the Rt Hon Karen Bradley MP, Chair of the Committee

Rt Hon Sir Lindsay Hoyle MP
Speaker of the House of Commons
House of Commons

6 April 2020

Mr Speaker —

Your letter to all Members of 27 March addressed several significant and pressing issues about adaptations to the House's procedures and practices to ensure that all colleagues can continue to fulfil their constitutional duties "without putting themselves, their families or the public at risk". You will have seen that Charles Walker and I, as chairs of our respective committees, put out a joint statement on 31 March in support of the measures put in place to date.

The Procedure Committee considered your letter at its virtual meeting on 1 April. The Committee fully supports the measures outlined in your letter to reduce the number of Members required in the Chamber: we recognise the steps which have already been taken in this respect and we applaud the cooperation across the House which enabled business to proceed in accordance with the current social distancing norms.

The extent of procedural change required to enable Members to fulfil their responsibilities, and to enable the Government to secure its essential business, will become clearer over the next fortnight as preparations are made to resume the work of the Chamber. Since it was established on 4 March this Committee has given the utmost priority to advising on such changes, in accordance with its remit from the House: the Committee's recommendations on select committee remote working which were made on 18 March were brought to the House for approval on 24 March. The temporary order made on that date provides the basis for the continued operation of committees by virtual means.

The Committee will continue to evaluate proposals for temporary procedural modifications and will make recommendations as required. As Charles Walker and I have pointed out, any such modifications must be capable of being supported by a House Service which does not have unlimited resource or facilities.

Committee members have now had the chance to consider your letter to the Leader of the House of 31 March, published on the evening of 1 April, in which you proposed further measures to allow Members to continue to fulfil their current responsibilities both during the present adjournment and should current conditions continue after 21 April. I address these, together with the matters raised in your 27 March letter, below.

Written questions to Ministers during adjournments

As you point out, questions to Ministers are not tabled during adjournments (recesses). Questions sent in by Members during an adjournment are typically not printed and sent to Departments for answer until the weekday before the House returns.

Evidently this practice ought to be changed for the duration of the present emergency. Standing Order No. 22B, in abeyance since the House adopted September sittings, provides one model for how this might be achieved, with days for the printing and answering of questions determined in advance. Ministers would naturally have to ensure that their departments were adequately resourced to answer questions from Members, and expectations about the timeliness of answers during adjournments would have to be clearly set.

Proposals for these changes ought to be brought to the House as soon as is practicable, and ought to be put in place before any proposals to vary recess dates from those already agreed are put to the House. The Committee would be happy to offer a draft motion for a temporary order.

Other mechanisms for accountability during the adjournment

The Committee recognise the difficulties being experienced by all Members trying to press Government departments for answers and actions during the present adjournment. We support your urgent request to the Leader to ensure that Ministers and officials are fully available over the coming fortnight to deal with concerns raised by Members on behalf of their constituents.

Presence of Members in the Chamber

You will have observed the sharp division of opinion among colleagues on how the House should continue to operate during this period. The Committee is acutely aware that several of our colleagues cannot be present at Westminster while Government advice on self-isolation is in place, and while there is substantial disruption to travel to certain parts of the UK.

Many colleagues consider that Members ought to be setting an example, and reducing the risk of onward spread of the virus, by staying away from the House while Government advice on social distancing is in place, and finding ways to participate in proceedings remotely. Others consider that much of the work done in the House which is essential to the continued good governance of the country cannot be replicated by virtual means, and therefore believe it is necessary to take the risk of travelling to work at Westminster in the same way as other key workers are continuing to travel to their place of work.

You have been adamant that the work of the House and of Members should be facilitated to continue. In your letter to the Leader of the House you propose that “should the presence of Members, or too many Members in the Palace be inappropriate”, a means should be found for Members to participate in the House’s key accountability proceedings — oral questions to the Prime Minister and other Ministers, urgent questions and Ministerial statements — by virtual means.

I know that substantial work is being undertaken at a rapid pace across the House Service and with key external partners on how these proceedings can be facilitated by virtual means and made readily accessible to the public. The Committee is ready to advise on any temporary changes to practice and procedure which would allow the fullest possible participation by Members away from Westminster. However, these changes should not be made to the disadvantage of Members who are able to be present in the Chamber on any sitting day.

Legislation and other votable business

In his business statement on 25 March the Leader of the House announced a number of high profile items of business to be taken in the two weeks after the Easter break. These include the second readings of two important Government bills and the committee stage of those parts of the Finance Bill to be considered by a committee of the whole House. Under normal circumstances, there would be at least one division on the questions associated with each second reading, and there would be several divisions in committee on the detail of the Finance Bill provisions.

In the period before the House adjourned, the opposition parties agreed not to divide the House on the budget resolutions proposed by the Chancellor which were moved by the Government. Similarly, there were no divisions on the passage of the Coronavirus Bill.

The Committee does not consider that these arrangements will be sustainable in the period after the House returns. The House's tradition of democratic accountability relies on the government of the day seeking support from the House for its proposals. Every colleague is entitled to express an opinion on those proposals as they see fit, in debate and in the lobbies. Members of the Committee have expressed concerns that the time taken in divisions under the social distancing procedures which you have announced will inhibit colleagues from testing the will of the House as they are entitled to do.

There are some measures which can be taken to reduce the number of Members passing through the lobbies. Several members of the Committee have suggested that the present proxy voting arrangements for parental absence ought to be extended to those colleagues who are obliged to self-isolate under medical advice related to COVID-19. Whilst this may be desirable for some colleagues, I expect that many will be happy to maintain the use of pairing to deal with this issue. Colleagues absent from Westminster because they wish to observe social distancing norms or because travel to Westminster is simply not feasible, can, I expect, be paired in the usual way. Business managers will of course have to take care that the numbers participating in divisions are above the minimum specified in Standing Order No. 41, and it will be necessary to ensure that all parties represented in the House are able to express their views on matters on which the House divides.

We doubt that with the time and resource available during the present emergency it will be feasible to commission, build, test and implement a system which will allow secure, remote, digital voting on House proceedings.

An alternative, which the Committee has raised before, would be to extend the deferred division procedure to certain items of legislative business: for instance, questions on new clauses and new schedules selected by the Chair for separate decision in committee of the whole House could be suitable for deferred division, as long as subsequent questions in committee were not consequent on the outcome.

I expect the Leader of the House will be reviewing the Government's plans for House business in the light of the developing situation. In the Committee's view it would be prudent for the business to be arranged to give the highest priority to the Government's core business — securing authorisation for its revenue and expenditure — together with authorisation for any further measures required to protect the national interest during the current emergency.

Since the House rose on 25 March, Ministers have made and brought into force a number of statutory instruments which require approval by the House within a certain period, including the legislation governing the current lockdown period. It ought to go without saying that the House ought to have the fullest opportunity possible to discuss this legislation before its retrospective approval is sought.

I note that the Government has scheduled five delegated legislation committees for the week of 21 April, for approval of instruments which are not connected with the present coronavirus emergency. The staff resource required to support these committees is significant and could potentially be better deployed elsewhere in current circumstances: approval of these instruments could be sought following short debates on the floor of the House rather than convening a number of committees.

Elections for positions in the House

At present, elections for select committee chairs and other House positions are carried out by secret ballot, requiring paper ballots to be cast in a specified location. Proxy votes are allowed only to those who have registered for a parental absence proxy vote: no other form of remote voting is possible.

It is now clear that you will be announcing at least one vacancy for a select committee chair when the House returns on 21 April and will be giving directions for the conduct of an election. If held under current rules, there is a significant risk that Members unable to be present at Westminster will be disenfranchised, to an extent which must put the validity of the outcome in doubt.

The Committee therefore recommends that work be commissioned urgently on a system which will allow a form of remote voting in an election to fill any vacancy which occurs during the emergency period, and that temporary orders are drafted to put the system in place should it be required.

Future arrangements

The Committee has noted with approval your intention to convene a working group to examine how to increase the resilience of the House's procedures against future emergencies.

I expect the working group will wish to consider a means whereby the introduction of temporary procedural changes to handle emergency situations can be streamlined. Saving a recall, or a motion moved without notice on 21 April, as matters stand the earliest date on which the House can be asked to consider further procedural changes is Wednesday 22 April. It will be worth examining how other parliaments, especially those on the Westminster model, have managed to introduce temporary procedural amendments, and what role committees on rules and procedures have had in implementing them.

The Committee would like to express its appreciation for your work, and the work of the House Service and the Parliamentary Digital Service, in response to the exceptional challenges which the current situation presents for the House and for the country.

I am copying this letter to the Deputy Speakers, the Leader of the House, the Clerk of the House and the Clerk Assistant.

Yours ever —



Karen Bradley MP