

PROCEDURE AND PRIVILEGES COMMITTEE**Minutes of the meeting held via Microsoft Teams
on Tuesday 26 January 2021**

[Items highlighted will be redacted before publication of the Minutes]

Present:

Lord McFall of Alcluith (Chair)	Lord McAvoy
Lord Ashton of Hyde	Lord Morris of Aberavon
Lord Eames	Lord Newby
Baroness Evans of Bowes Park	Baroness Smith of Basildon
Lord Fowler	Lord Stoneham of Droxford
Lord Geddes	Baroness Thomas of Winchester
Baroness Harris of Richmond	Viscount Ullswater
Lord Judge	Baroness Warwick of Undercliffe
Lord Mancroft	Lord Whitty

with the Clerk of the Parliaments.

1. Hereditary Peer by-elections

Duncan Sagar introduced the paper which asked the Committee to decide whether they wished to proceed with, or recommend a further suspension of, hereditary peers by-elections, and, if they wanted to proceed, by which method the by-elections should be run.

The Leader of the Opposition felt that by-elections should not proceed while the House continues to meet in hybrid form due to the pandemic. She said that physical hustings would be preferable because members do not know the members who would be standing. The Leader of the Liberal Democrats agreed and thought it would not be right to conduct any by-elections until after public elections have taken place, which would not be before May 2021. The Convenor and some other members agreed that the suspension should continue but argued for this to be reviewed after the Easter recess, noting the legal position that any suspension could only be temporary.

The Government Chief Whip and the Lord Speaker thought that there was no reason to continue to delay the by-elections and they should go ahead. Some other members agreed. It was noted that the Committee divided on the issue at its meeting on 1 December and that members' views had not changed since that meeting.

The Committee *agreed* to recommend a further suspension of hereditary peers' by-elections until their first meeting following the Easter recess.

2. Breaches of court injunctions by members of the House

Chloe Mawson introduced the paper which asked the Committee to agree new and more strongly-worded guidance in the Companion regarding the importance of respecting court orders, and also asked to highlight that guidance in the Brief Guide to Procedure, in an article in Red Benches, and at the members' open day.

The Convenor of the Crossbench Peers thought that the House should go further than the paper proposed and should mirror the sub-judice rule by requiring a member to inform the Lord Speaker at least 24 hours before any attempt to breach legislation or a court order by naming someone in a parliamentary proceeding. Others expressed reservations about going this far given the indications that the House of Commons was not keen and the importance of the two Houses having the same rules about the relationship between parliamentary privilege and the Courts.

The Committee *agreed* to the proposals in the paper and asked the Clerk to speak to officials in the House of Commons to see whether any further proposals could be brought to the Committee.

3. Changes to the terms of reference of the Secondary Legislation Scrutiny Committee

Duncan Sagar introduced the paper which asked the Committee to amend the SLSC's terms of reference to allow for sifting of new instruments under the EU (Future Relationship) Act 2020 (and therefore to be able to appoint a sub-committee for the period in which instruments under the 2020 Act can be laid); and to amend Standing Order 72 to include instruments under the 2020 Act in the category of negative instruments which can be laid during recess.

The Committee *agreed* the changes as proposed in the paper.

4. Updated edition of the Standing Orders for Public Business

Chloe Mawson introduced the paper which proposed stylistic changes to the Standing Orders for Public Business.

The Committee *agreed* all the changes.

5. Hybrid proceedings: trialling interventions and other adjustments

Duncan Sagar introduced the paper which set out different options for enabling further interventions in hybrid House, as well as some other adjustments.

Regarding interventions, the Government Chief Whip felt that it would be a significant change which would be complicated and difficult to trial. He pointed out that hybrid House was never designed to be a perfect representation of the physical house and said he would instead be in favour of considering re-introducing physical interventions when it is safe to do so.

The Leader of the Opposition felt that the options for increased interventions, as laid out in the paper, would be open to abuse by members.

The Liberal Democrat Chief Whip said he would be in favour of trialling the proposed new system for the types of interventions which are already allowed in hybrid House so that members no longer have to email the clerk. Some other members supported this suggestion.

The Government Chief Whip did not support the proposal for the Chair to have the discretion to add an extra 10 minutes to the end of debates when necessary. He said that this would have the effect of asking the Chair to override the decision that the House has made. The Leader of the Opposition thought it was good to allow the Chair some flexibility in these matters.

The Committee *agreed* that the Clerk should draft a new paper on how the proposals could be applied if it were simply to replace the existing process for members seeking to intervene after the Minister to allow the Committee to decide on whether to proceed to a trial on that basis. The Committee *did not* agree to allow the Chair to add extra time to the end of debates but to revisit this in future if it became a problem again. The Committee *agreed* to confirm that the default limit on virtual participants is now 75 per item of business, not 50; and to limit automatically being placed on a speakers' list for a group to the lead signatories of amendments, with the other signatories being able to submit an EoI as all other members can.

6. Restructured Hybrid House guidance

Chloe Mawson introduced the paper which proposed amendments to the hybrid House guidance to make it shorter and easier to read.

The Committee *agreed* the changes.

7. Cessation of Membership due to non-attendance

Chloe Mawson introduced the paper which asked the Committee to address a potential issue so that new members who have not yet been introduced are not inadvertently caught by the provisions of the House of Lords Reform Act 2014, which mean that a member who does not attend during a session of at least six months and is not otherwise disqualified ceases to be a member at the end of the session.

The Committee *agreed* to invite the House to resolve that the provisions of section 2(1) of the House of Lords Reform Act 2014 do not apply to members who have not been introduced. They further *agreed* that the Clerk of the Parliaments should write to all members who have not yet set a date for their introduction to remind them that they are expected to do so in a timely manner.

8. Confidential Item

[Redacted]

9. Any Other Business



The Government Chief Whip asked the Committee to consider allowing the usual channels to set a time limit for a debate of either 90 minutes, 3 hours or 5 hours without having to have a Business of the House motion. The Committee *agreed* this.

The Chief Whip asked the Committee to consider setting advisory backbench speaking times of four minutes for speeches during amending stages of bills. Members of the Committee suggested that any such change could only be considered after consultation with members.

The Chair announced that it was Lord Morris of Aberavon and Baroness Warwick of Undercliffe's last meeting and thanked them for their contributions.

Chloe Mawson
Clerk to the Procedure Committee