



HOUSE OF LORDS

Procedure and Privileges Committee

3rd Report of Session 2021–22

**Virtual participation in
Grand Committee
Divisions: pass-readers
Leave of Absence**

Ordered to be printed 20 October 2021

Published by the Authority of the House of Lords

Procedure and Privileges Committee

The Select Committee on Procedure and Privileges of the House is appointed each session to consider any proposals for alterations in the procedure of the House that may arise from time to time, and whether the standing orders require to be amended.

Membership

The members of the Procedure and Privileges Committee are:

[Lord Ashton of Hyde](#)

[Lord Bew](#)

[Lord Eames](#)

[Baroness Evans of Bowes Park](#)

[Lord Faulkner of Worcester](#)

[Lord Gardiner of Kimble](#) (Chair)

[Lord Geddes](#)

[Baroness Harris of Richmond](#)

[Lord Judge](#)

[Lord Kennedy of Southwark](#)

[Lord Mancroft](#)

[Lord McFall of Alcluith](#) (Lord Speaker)

[Baroness McIntosh of Hudnall](#)

[Lord Newby](#)

[Baroness Quin](#)

[Baroness Smith of Basildon](#)

[Lord Stoneham of Droxford](#)

[Baroness Thomas of Winchester](#)

[Viscount Ullswater](#)

Alternate members:

[Baroness Browning](#) (for backbench Conservative members)

[Baroness Finlay of Llandaff](#) (for Crossbench members, other than the Convenor)

[Baroness Goudie](#) (for backbench Labour members)

[Lord Alderdice](#) (for backbench Liberal Democrat members)

[Lord Turnbull](#) (for the Convenor)

Declaration of 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>

Publications

All publications of the Committee are available at:

<https://committees.parliament.uk/committee/191/procedure-and-privileges-committee/publications/>

Parliament Live

Live coverage of debates and public sessions of the Committee's meetings are available at:

<http://www.parliamentlive.tv>

Further information

Further information about the House of Lords and its Committees, including guidance to witnesses, details of current inquiries and forthcoming meetings is available at:

<http://www.parliament.uk/business/lords>

Contact details

All correspondence should be addressed to the clerk of the Procedure and Privileges Committee, House of Lords, London SW1A 0PW. Telephone 020 7219 8796/1624. Email

JohnsonC@parliament.uk

Third report

Virtual participation in Grand Committee

1. On 13 July 2021 the House agreed Standing Order 24A, ‘Arrangements for virtual participation by disabled members’. At that time it was anticipated that the technology to support virtual participation would be available only in the Chamber for the foreseeable future, and for that reason the scope of new Standing Order was limited to Chamber proceedings. Since July, however, the functionality needed to support virtual participation in Grand Committee has been delivered more quickly than expected. To allow this additional functionality to be used, the scope of the Standing Order needs to be broadened to include Grand Committee.
2. **The House is invited to agree the insertion, at the end of Standing Order 24A(1), of the words “or in Grand Committee”.**
3. The full text of the amended Standing Order is given in Appendix 1.

Divisions: pass-readers

Introduction

4. The House has not conducted a physical division since the start of the first lockdown in March 2020. Instead, divisions have been conducted remotely using PeerHub. In July the House agreed the recommendation of this Committee that PeerHub should remain in use following the resumption of physical sittings in September 2021, as an interim solution pending the rollout of a new voting system involving pass-readers.¹
5. Since July staff from across Parliament have been working to deliver a pass-reader voting system, which will ultimately be used by both Houses. This report addresses the procedural and practical consequences of introducing this new system. We provide an overview of how divisions will work, and we seek the House’s agreement to a number of key recommendations. We also outline the next steps in the roll-out, of which one of the most important is the registration of all Members’ security passes to the system. If our recommendations are agreed, we will issue guidance in the week beginning 25 October, ahead of pass-reader voting going live on 1 November 2021.
6. In the longer term, the Standing Orders governing the conduct of divisions will need to be substantially amended. We aim to complete this task before the end of 2021.
7. Some of the key benefits of the new system are as follows:
 - Accuracy—the system will eliminate the potential for human error in counting votes and recording the names of those who have voted.
 - Speed—the system has been configured with a simple user interface, allowing Members to vote much more quickly than was possible pre-pandemic.

¹ Procedure and Privileges Committee, 2nd Report (HL Paper 41), agreed by the House on 13 July 2021. The House of Lords Commission had previously agreed on 15 June 2021 to mandate the development of a pass-reader voting system.

- Security—we propose that, with the exception of eligible disabled Members, only Members who present a valid security pass or day pass, which has been registered to the pass-reader voting system, should be entitled to vote in divisions.
- Resilience—this will be a bicameral system, and the Parliamentary Digital Service will hold a large stock of devices, which can be called on if an individual device fails. The Lords and Commons systems will also be interchangeable, so that if either House temporarily has to sit in the other House’s Chamber, it will be possible to conduct divisions in the other House’s division lobbies without significant disruption.
- Physical presence—while remote voting has been invaluable during the pandemic, many Members have welcomed the resumption of physical sittings, and the reaffirmation of the principle that Members wishing to participate in parliamentary proceedings should generally be present in or near the Chamber. The new system respects this principle.
- Reduction in over-crowding—while the system requires physical presence in or near the Chamber, the combination of being able to vote quickly, opening the doors from the lobbies from the start of a division, and providing additional pass-readers in Prince’s Chamber, will reduce over-crowding in the division lobbies.
- Accessibility—Members with long-term disabilities who are eligible to participate remotely under Standing Order 24A will continue to be able to vote remotely, using PeerHub.

8. **We commend these proposals to the House.**

Location and operation of pass-readers

9. Ten pass-readers have been installed in total: four in each division lobby, and two in Prince’s Chamber. Each has been configured to record either a ‘content’ or ‘not content’ vote. Those in the contents lobby will only record votes for the contents, as will the pass-reader located on that side (closer to the river) of Prince’s Chamber; those in the not-contents lobby will only record votes for the not-contents, as will the pass-reader located on the Old Palace Yard side of Prince’s Chamber.
10. The pass-readers are similar to those that are used on the London Transport network. As each pass-reader is configured to record votes for one side or the other, all Members need to do, once a division has started, is to bring their security pass close to the appropriate pass-reader. No physical contact or other interaction with the device is required.
11. It will be impossible for a Member to vote unless they present a valid security pass or day pass. It is already the case that all those on the parliamentary Estate, Members, staff, visitors and others, must be in possession of a valid security pass or day pass,² which they must present if challenged. It is vital that Members set an example by observing this rule, which will be reinforced by the new pass-reader voting system.

2 If a Member forgets their security pass, the Pass Office can issue a day pass to allow them access to the Estate. In future, all day passes will be registered to the pass-reader voting system at the point of issue.

12. We therefore propose that, with the exception of eligible Members with a long-term disability using PeerHub or the telephone (see paragraph 20 below), only Members who present a valid security pass or day pass, which has been registered to the pass-reader voting system, should be entitled to vote in divisions. Members who are unable to present a valid pass will be unable to vote, either in the lobbies or by seeking the assistance of the clerks. This rule will in due course be underpinned by a new Standing Order, which we will bring to the House for approval before the end of the year. Arrangements will be made to ensure members who have lost or forgotten their pass can obtain a day pass throughout each sitting day.
13. The pass-readers will be dormant when there is no live division. When a division is called, the Clerk at the Table will, within a few seconds, open the vote. At this point the pass-readers will be activated, and the message displayed on screen will change. They will remain active until the Clerk closes the division. When a Member records their vote, a message will appear on-screen confirming that they have voted and giving their name.
14. The pass-readers will record only one vote per Member per division. Members will not be able to vote twice; nor will they be able to vote in both lobbies. If a Member attempts to vote in both lobbies, their second vote will not be counted, and a message will appear directing them to the Clerk at the Table, who will be able to assist if they wish to change their vote.

The conduct and duration of divisions

15. The key difference between the conduct of divisions using pass-readers and the practice pre-pandemic is that Tellers will no longer be required to count the votes—indeed, the presence of pass-readers in Prince’s Chamber as well as in the lobbies means that they would not be able to count all the votes cast in a division. This change means that the former requirement for two Tellers to be appointed for each side, within three minutes of the division starting,³ will no longer apply. It also means that the option of aborting a division after three minutes, because of non-appointment of Tellers, will not be available, and for this reason we propose that the former practice of repeating the Question after three minutes, and taking the voices a second time, should cease.
16. Instead, the Lord on the Woolsack will, as hitherto, take the voices and, if there are voices on both sides, instruct the Clerk at the Table to launch a division. This will take a few seconds, after which the Clerk will rise and bow. The Lord on the Woolsack will then rise and say: “My Lords, the division is now open. The Contents will go to the right by the Throne, the Not-Contents to the left by the Bar. Clear the Bar.”
17. The launching of the division by the Clerk will activate the pass-readers, and Members will be able to vote from this moment on. As there will be no Tellers, Members’ votes will be counted, and their names simultaneously recorded, when they touch their passes to the pass-readers. To prevent crowding in the lobbies, the exit doors will be open from the start of the division, and Members who have voted are encouraged either to re-enter the Chamber, or to disperse.

18. The four pass readers in each lobby are staggered, two on each side. There will, at least initially, be tensile barriers down the centre of each lobby, but there will be no separation by alphabetical order. The first pass-reader in each lobby will be somewhat lower than the others, to facilitate use by Members in wheelchairs.
19. Members will also be able to vote in Prince's Chamber, with or without entering the Chamber. The two pass-readers in Prince's Chamber are located either side of the doors into the Royal Gallery, thereby allowing a separation between those Members either exiting the not-content lobby or entering the Chamber, and those Members wishing to vote in Prince's Chamber. This separation will be reinforced by means of a tensile barrier across the Prince's Chamber. Members who wish to vote in the Prince's Chamber will be able to enter from the direction of either the Library or the Printed Paper Office, or from the Royal Gallery.
20. Standing Order 24A, agreed by the House in July 2021, states that Members eligible to participate virtually "may vote electronically or by telephone whether on or off the Parliamentary Estate". They will continue to be able to use PeerHub to vote; if the PeerHub system fails, they will be requested to telephone the Table Office to vote. Only eligible members may use this service, which will not be open to Members who have not been approved by the Additional Support Group.
21. Standing Order 53 provides that "Any Lord may, on the ground of infirmity, have the privilege of being told in their seat"—that is to say, they may give their vote to the Clerk in the Chamber, without having to pass through the lobbies. We propose that this arrangement should continue, but that it should not be available to Members who are unable to present a valid security pass or day pass. We will in due course propose amendments to Standing Order 53.
22. The time allowed for divisions before the pandemic was eight minutes, sufficient to allow Members wishing to vote to reach the Chamber from offices or meetings around the Parliamentary Estate. Standing Order 52(4) states that after eight minutes, "or longer at the discretion of the member on the Woolsack or in the Chair, the doors of the Chamber shall be locked, and the member on the Woolsack or in the Chair shall inform the House or the committee of the Question which is the subject of the division". The element of discretion was important when there were large divisions, allowing the doorkeepers to keep the doors open beyond eight minutes, so that Members who had joined the queue to vote before eight minutes were admitted, but no Members arriving after that point were allowed to join the queue.
23. The PeerHub voting system, on the other hand, allows Members 10 minutes in which to vote—but 10 minutes is a 'hard' deadline, after which the electronic vote is closed.
24. The new system would allow the House to revert to eight minutes for divisions, though we recommend a slightly longer period of 10 minutes initially, while Members familiarise themselves with the new system. We will review this early in 2022.
25. At the end of the allotted time the Clerk at the Table will bow to the Lord on the Woolsack, who will then stand and inform the House that the voting

period has elapsed, before repeating the Question without taking the voices. This will mark the end of the division for those eligible Members voting on PeerHub, who will no longer be able to vote.

26. After the allotted time has elapsed, and once they have confirmed that all Members have voted, the doorkeepers will lock the doors into the Chamber and the lobbies. They will also, having again confirmed all Members have voted, close the entrances into Prince's Chamber, which will be for these purposes be treated as an extension of the lobbies. This will cause some temporary disruption of traffic into and through Prince's Chamber whenever a division is called.
27. When the lobbies are clear and all Members have voted in Prince's Chamber, the doorkeepers will alert the Clerk at the Table who will deactivate the pass-readers. No more votes will be cast from this point.
28. We have also considered the process for announcing the result of a division. Our expectation is that for whipped votes a Whip from each side (or in some cases the Member calling the division) will come to the Table at the end of the division, and that the representative of the winning side will take the result from the Table and present it to the Lord on the Woolsack, who will then announce the result in the usual way. For unwhipped votes, the Member in whose name the amendment or motion has been tabled, or a Member who has spoken in opposition, would be responsible for presenting the result. If no Member is available to take the result to the Lord on the Woolsack, and to avoid unnecessary delay, the Clerk at the Table will do so. The Clerk will also, as hitherto, take up the result in the event of a tied vote.

Propriety and oversight of divisions

29. Although there will be no Tellers, the Whips of the main parties will be present whenever there is a division on whipped business. They will provide support to staff of the House in managing the movement of Members and in dealing with any problems that arise.
30. Nonetheless, it is clear that under the new system additional responsibility will be placed upon staff of the House, particularly the doorkeepers, to ensure that divisions run smoothly. In the spirit of self-regulation, we trust that all Members of the House will support staff in these tasks.
31. We note in this context that the fact that the presentation of a security pass is all that is required to cast a vote means that it would in principle be possible for a Member to present another Member's pass, or several passes, along with their own. We remind Members, though, that the practice of proxy voting has been prohibited in the Lords since 1868.⁴ That prohibition remains in force—indeed, one of the main reasons for the new system is to ensure that Members, with narrowly drawn exceptions, must be physically present in or near the Chamber in order to vote.
32. More importantly, any attempt to manipulate or circumvent the pass-reader voting system to influence the result would, in our view, be a serious breach of the standards of behaviour required of Members by the House in their conduct of their parliamentary duties, striking at the heart of the integrity of the House's proceedings. Members or staff observing impropriety should

4 Standing Order 59

report it, and if an allegation were to be proved, we would expect sanctions to follow.

Contingency arrangements

33. We have given thought to contingency arrangements, should the pass-reader voting system fail. Members are currently familiar with the PeerHub voting system, which will be kept operational to allow eligible Members to vote remotely. We therefore recommend that voting via PeerHub, in accordance with our First Report and subject to the existing rules on presence in the Parliamentary Estate, should initially be retained as a contingency system for all Peers. But we are aware that, apart from those eligible Members who will continue to use PeerHub for voting, most Members' familiarity with the PeerHub system will diminish as time passes. We will therefore review the longer-term contingency arrangements and bring forward further recommendations no later than January 2022.

Recommendations

34. We make the following recommendations to the House. If agreed, we will issue guidance covering the conduct of divisions before the pass-reader system goes live on 1 November 2021. We will review and revise this guidance as necessary in the first few weeks, and conduct a full review in January 2022, when we will look again at the length of divisions, as well as other issues. We will also propose the necessary amendments to Standing Orders before the end of the year.

35. **We therefore recommend:**

- **That the House should adopt the new system for voting using pass-readers, with effect from 1 November 2021.**
- **That the length of divisions should initially be set at 10 minutes, reverting to eight minutes in due course.**
- **That it should be a requirement for Members wishing to vote in a division to present a valid security pass or day pass, and that staff should be mandated to refuse to accept the votes of Members who are unable to present a pass.**
- **That the provisions of Standing Order 24A, allowing eligible Members to vote remotely, and Standing Order 53, allowing Members to vote in the Chamber on grounds of infirmity, should be maintained.**
- **That the role of tellers in counting votes should cease, and that the requirement in Standing Order 52(2) for the appointment of tellers within three minutes of a division being called should be abolished.**
- **That voting should begin as soon as the Clerk at the Table has activated the pass-readers, and that at the same point the Lord on the Woolsack should use the formula: "My Lords, the division is now open. The Contents will go to the right by the Throne, the Not-Contents to the left by the Bar. Clear the Bar."**

- **That the exits from the lobbies should be open from the start of voting.**
- **That the Question should not be repeated after three minutes.**
- **That at the end of a division a Member representing the winning side, normally a Whip, but in some cases the Member whose name is on the amendment or motion or a leading opponent, should take the result to the Lord on the Woolsack. If no Member is available, the Clerk at the Table would take up the result. The Clerk would continue, as hitherto, to take up the result if the vote is tied.**
- **That the House endorses the view of this Committee that any attempt to manipulate or circumvent the pass-reader voting system to influence the result of a division would be a serious breach of the standards of behaviour required of Members by the House in their conduct of their parliamentary duties.**
- **That Standing Orders 52, 53 and 54 should continue to be suspended, and that the conduct of divisions under the pass-reader voting system should be governed by guidance, to be issued by this Committee in the week beginning 25 October. We will keep the guidance under review, and will propose amendments to Standing Orders before the end of the year.**

Next steps

36. Before Members can vote using the new system, they will need to register their passes. A message announcing registration events, taking place in Millbank House and the Royal Gallery on 19 to 21 October, was sent to all Members on Monday 18 October. Further opportunities to register passes will be scheduled if required, and Members who miss these will continue to be able to register their passes in the Table Office.
37. **We also note plans for a rehearsal, open to all Members, which will be held on Wednesday 27 October (exact time to be confirmed). We encourage as many Members as possible to attend.**

Leave of absence

38. The *Guide to the Code of Conduct* states that, in certain circumstances, leave of absence may be refused or ended to enable the Code to be enforced. Paragraph 138 states that if a member applies for leave of absence to avoid an impending investigation or while an investigation is underway, “the request may be refused”. Furthermore, if the Commissioner for Standards decides to investigate a complaint about a member who has been granted leave of absence, but which relates to conduct that occurred when the member was not on leave, the leave “may if necessary be ended with immediate effect”.
39. Paragraph 204 of the *Guide* states that if a Member applies for leave of absence in order to avoid an impending sanction, the request may be refused. If the Conduct Committee imposes a sanction on or recommends a sanction in relation to a Member who is on leave of absence, the leave may also be ended with immediate effect.

40. These provisions have been in place since 2016, but there is currently no mechanism to implement them in practice. Standing Order 21—which sets out the process by which Members can apply for leave of absence and the restrictions placed on Members when they are on leave of absence—fails to address the issue.
41. We have therefore concluded that an amendment to Standing Order 21 is required, to provide a formal process by which leave of absence could be refused or ended for conduct purposes. Our proposed amendment confirms that the House will, on the application of the Commissioner for Standards or the Conduct Committee, refuse or terminate leave of absence where this is necessary to enable an investigation to be undertaken or a sanction imposed. In practice this task will be performed by the Clerk of the Parliaments, who under Standing Order 21(8) is responsible for applying the provisions of the Standing Order.
42. We have also agreed a new paragraph for inclusion in the next edition of the *Companion to the Standing Orders*, which provides additional context, underlining that the Code of Conduct does not apply to Members on leave of absence, but that the new provisions will apply if a Member seeks leave of absence in order to avoid an impending investigation under the Code of Conduct, while an investigation is under way, or to avoid an impending sanction imposed or recommended by the Conduct Committee.
43. **We therefore recommend that, to establish a formal process for ending or refusing leave of absence for conduct purposes, the following new paragraph 7A be added to Standing Order 21:**

“21(7A) The House shall refuse or end leave of absence on the application of the Commissioner for Standards or the Conduct Committee, where this is necessary either to enable the Commissioner to conduct an investigation under the Code of Conduct, or to enable the Conduct Committee to impose or recommend the imposition of a sanction on a member of the House.”

44. The full text of the amended Standing Order is given in Appendix 1.
45. **We further recommend that the following new paragraph 1.38A be added to the Companion to the Standing Orders when it is next reissued:**

“1.38A) The Code of Conduct does not apply to members on leave of absence, but complaints relating to members’ conduct before they took leave of absence may still be investigated.⁵ Members are also not to apply for leave of absence in order to avoid an impending investigation under the Code of Conduct, while an investigation is under way, or to avoid an impending sanction imposed or recommended by the Conduct Committee.⁶ In such circumstances the House will, on the application of the Commissioner for Standards or the Conduct Committee, refuse or end leave of absence.⁷”

5 Under SO21(7A) leave of absence may be terminated where necessary to enable the Commissioner to conduct an investigation or enable the Conduct Committee to impose or recommend the imposition of a sanction.

6 Guide to the Code of Conduct, paragraphs 138 and 204.

7 SO 21(7A)

APPENDIX 1: AMENDMENTS TO STANDING ORDERS

Standing Order 24A

The full text of the amended Standing Order will be as follows (with the added words in **bold**):

24A Arrangements for virtual participation by disabled members [13 July 2021]

- (1) Members who may be physically unable to attend the House on grounds of long-term disability and may be eligible under the procedure agreed by the Commission can apply for eligible member status and if granted they may choose to participate virtually in proceedings in the Chamber **or in Grand Committee**.
- (2) Eligible members may choose to participate virtually in all business of which there is sufficient notice:
 - (i) in business with a speakers' list, eligible members should indicate that they wish to take part remotely when signing-up to speak;
 - (ii) in business without a speakers' list, eligible members should indicate their wish to take part remotely by a given time the previous working day. In such business there will be a fixed point at which eligible members participating remotely are called to speak by the Chair.
- (3) Eligible members may vote electronically or by telephone whether on or off the Parliamentary Estate.

Standing Order 21

The full text of the amended Standing Order will be as follows (with the added words in **bold**):

21 Leave of absence [16 June 1958]

- (1) Members of the House are to attend the sittings of the House or, if they cannot do so for reasons of temporary circumstance, obtain leave of absence, which the House may grant at pleasure.
- (2) A member of the House may apply for leave of absence at any time during a session for the remainder of that session.
- (3) When applying for leave of absence, a member of the House should state in their written application the date by which they expect to return, the reason for their leave of absence and that they have a reasonable expectation that they will be in a position again to take part in the proceedings of the House.
- (4) The provisions of paragraph (3) do not apply to the Earl Marshal and the Lord Great Chamberlain.
- (5) At the end of a session of Parliament, the Clerk of the Parliaments shall in writing ask every member of the House who was on leave of absence at the end of the preceding session whether they wish to resign under the House of Lords Reform Act 2014 or, if they expect to attend again in the future, apply for leave of absence for the new session.

- (6) A member of the House who has been granted leave of absence should not attend the sittings of the House until the period for which the leave was granted has expired or the leave has sooner ended, unless it be to take the Oath of Allegiance.
- (7) If a member of the House having been granted leave of absence, wishes to attend during the period for which the leave was granted, they should give notice to the House accordingly at least three months before the day on which they wish to attend; and at the end of the period specified in the notice, or sooner if the House so direct, the leave shall end.
- (7A) The House shall refuse or end leave of absence on the application of the Commissioner for Standards or the Conduct Committee, where this is necessary either to enable the Commissioner to conduct an investigation under the Code of Conduct, or to enable the Conduct Committee to impose or recommend the imposition of a sanction on a member of the House.**
- (8) In applying the provisions of this Standing Order the Clerk of the Parliaments may seek the advice of the Leave of Absence Sub-Committee of the Procedure and Privileges Committee.”