



HOUSE OF LORDS

Procedure and Privileges Committee

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5th Report of Session 2021–22

**Debates before second  
reading in Grand  
Committee**

**Update on pass-reader  
voting**

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### *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.

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### *Contact details*

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# Fifth Report

## Debates before second reading in Grand Committee

1. The Leader of the House and the Government Chief Whip have proposed a new procedure to allow uncontroversial bills to be debated before second reading in Grand Committee, followed by a second reading in the Chamber, which would probably be taken without debate (see Appendix).
2. This procedure has already been used for the Social Security (Up-rating of Benefits) Bill on 13 October 2020 and the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill on 19 October 2021. We agree with the Leader of the House that the procedure should be formalised before being used again. We expect the procedure to be used infrequently, in order to assist in business management—for instance to avoid the need for a very late sitting. It would only be deployed after consultation within the usual channels, and with the agreement of the House.
3. **Accordingly the Committee recommends as follows:**
  - (a) **With agreement of the House, bills may be referred to Grand Committee for debate before second reading.**
  - (b) **Such agreement should be sought through a Business of the House motion of which the usual notice would be given on the Order Paper.**
  - (c) **The House would then be invited to give the Bill a formal second reading in the Chamber, any time from the next sitting day. An italic notice of this may appear in Lords Business once a Business motion is agreed, and formal notice should be annotated “(Debated in Grand Committee on [date])”. It is not expected that this would be the occasion of further debate, but any member may speak and amendments to the motion may be tabled.**
  - (d) **It is not expected that this procedure will be used frequently. Any such debate would require consultation with the Usual Channels and agreement by the House.**
  - (e) **It is expected that this procedure will be more appropriate for shorter, less complex and less controversial bills. Where a speakers’ list is expected to exceed the capacity of the Moses Room, the procedure is unlikely to be appropriate.**
  - (f) **Recommended minimum intervals are as follows:**
    - (i) **two weekends between first reading and debate before second reading;**
    - (ii) **14 days from formal second reading to the first day of Committee stage.**
  - (g) **The rule that no more than one bill may be considered in Grand Committee on a single day should apply.**

- (h) **This should be added to the list of types of business a Grand Committee can conduct (Companion to Standing Orders paragraph 3.15).**
  - (i) **Debate in Grand Committee should count as part of second reading for the purposes of Standing Orders 44 (no two stages on one day) and 48 (notice of second reading of Commons bills).**
4. The House already has a procedure for uncontroversial Law Commission Bills to be debated in ‘Second Reading Committee’; the proposed procedure is not intended to build on this procedure because different considerations apply. Setting up an unplanned Grand Committee for this purpose at very short notice might be impossible in practical terms. Second Reading debates are not formally time limited but the overall time limit for Grand Committee would apply; if it were reached, debate would have to be adjourned. Amendments to the bill could not be tabled until after formal second reading.

### Update on pass-reader voting

5. In our third report, published on 20 October 2021,<sup>1</sup> we recommended the adoption of pass-reader voting, using pass-readers located in the two division lobbies and in Prince’s Chamber. We also recommended a number of consequential procedural changes, including the removal of Tellers.
6. The report was debated on 25 October. Lord Taylor of Holbeach, Lord Rooker and Lord Cormack all tabled amendments relating to the use of pass-readers, and after a lengthy debate the Senior Deputy Speaker agreed to withdraw his motion to agree the report, and to refer the issue back to the committee.<sup>2</sup>
7. The debate exposed considerable unhappiness at the haste with which the report was published and the debate tabled. This haste was needed to ensure that pass-reader voting could go live on 1 November, but it left some Members feeling ‘bounced’. We understand this unhappiness, and have taken steps to ensure that Members of the House are better informed about our work and have more time to reflect on our reports before they are debated.
8. Insofar as the debate demonstrated a consensus on the conduct of divisions, it seemed to be that the House should continue to use the existing electronic voting system, which relies on PeerHub, for as long as there are concerns over returning to crowded division lobbies. There also appeared to be broad if not universal support for installing pass-readers to record the names of members voting in the lobbies, alongside Tellers who would oversee the conduct of the division and provide their own manual count of the votes. We note in this context that pass-reader voting was successfully rolled out in the House of Commons on Monday 22 November, where Tellers continue to be appointed.
9. At our meeting on 25 November we reflected on the debate, and on the future of the pass-reader voting project. We noted the concerns expressed over our earlier recommendation to dispense with Tellers, and the resulting loss of the opportunity to cancel a division after three minutes. We do not intend to pursue this recommendation, and any proposals we bring forward in future will include provision for the appointment of Tellers. It follows from this that

<sup>1</sup> Procedure and Privileges Committee, *Third Report of Session 2021–22* (HL Paper 81)

<sup>2</sup> The Hansard report of the debate is at: HL Deb, 25 October 2021, [cols 522–543](#)

voting will have to take place in the division lobbies: the pass-readers that were temporarily placed in Prince's Chamber have been removed, and there are no plans to reinstate them.

10. We remain convinced of the benefits of using pass-readers, which will speed up divisions and ensure greater accuracy in recording the names of those voting. We will next meet on 17 January 2022, after which we will bring forward detailed proposals for the future conduct of divisions, taking into account the wider public health situation.
11. Finally, we note that while the House continues to vote using the PeerHub system, there have been significant delays, with some divisions taking almost 30 minutes. The main cause of delay is the number of Members of the House voting in person by going to the Table Office rather than using PeerHub, with some Members doing so repeatedly. This behaviour is causing significant disruption to the work of the House.
12. We therefore remind all Members that they should vote using the PeerHub system. The Table Office is there to assist only where a Member encounters a genuine technical issue: not being equipped with a device, or being unwilling to use it, are not acceptable reasons for voting via the Table Office or via the clerk at the Table.
13. We also urge Members to log into the PeerHub system at the start of the week, without waiting for the first division to be called. The simplest way for Members to do this is to take part in the test division that is run by the Table Office each Monday morning. Members do not need to be on-site to take part in the test.
14. Finally, we remind Members that the Parliamentary Digital Service is available to advise in cases of difficulty, and Members can seek advice either by going in person to Room 21 on the First Floor West Front, or by calling the helpdesk on x2001.

### **Leave of absence**

15. Our third report recommended 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.”
16. We further recommended that a new paragraph 1.38A be added to the Companion to the Standing Orders when it is next reissued (see our recommendation below).
17. When the report was debated on 25 October Lord Forsyth of Drumlean tabled an amendment to replace “shall”, in the first line of the proposed new provision, with “may”. Following the Senior Deputy Speaker's undertaking to withdraw his motion to agree the report, Lord Forsyth's amendment was not moved, and there was little discussion of leave of absence in the wider debate, which focused on the conduct of divisions.

18. We have reflected further on this issue and on Lord Forsyth's amendment. In inviting the House to come to a decision we remind Members of the underlying rationale for our recommendation, which is that the House should put in place a procedural mechanism to give effect to the provisions of the Code of Conduct on terminating leave of absence in certain limited circumstances—provisions that were agreed by the House as long ago as 2016.
19. We are content to accept Lord Forsyth's amendment, on the basis that use of the word 'may' will bring the wording of the new provision into line with the wording of SO 21(1), which states that Members unable to attend sittings of the House are to obtain leave of absence, "which the House may grant at pleasure". It is important to emphasise, though, that the House has never itself considered or decided leave of absence requests. The application of the Standing Order is delegated to the Clerk of the Parliaments, as set out in SO 21(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." This will remain the case in future—the Clerk of the Parliaments will consider requests, including from the Commissioners for Standards or the Conduct Committee. If he has concerns over a particular request, he will exercise his judgement, consulting the members of the Leave of Absence Sub-Committee (the Senior Deputy Speaker, the Chief Whips of the three main parties and the Convenor) as appropriate.
20. **We recommend that the following new paragraph 7A be added to Standing Order 21:**
- "21(7A) The House may 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."**
21. **We further recommend that 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.<sup>3</sup> 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.<sup>4</sup> In such circumstances the House may, on the application of the Commissioner for Standards or the Conduct Committee, refuse or end leave of absence.<sup>5</sup>"**

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3 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.

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

5 SO 21(7A)

## APPENDIX: LETTER FROM THE LEADER OF THE HOUSE AND GOVERNMENT CHIEF WHIP

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### Letter from the Leader of the House and Government Chief Whip to the Senior Deputy Speaker, 15 November 2021

On two occasions in the last 12 months the House has held ‘debates before second reading’ in Grand Committee.<sup>1</sup> These were a debate on the principles of each Bill held in Grand Committee, before the formal second reading motion on the floor of the House.

On both occasions the decision was agreed in the Usual Channels to ensure the smooth running of business in the House and prevent very late sittings. We were grateful to House Authorities for their flexibility and work to accommodate these changes at short notice.

Going forward we would like to put this practice, even if continues only occasionally, on a more regular footing and agreed by the Committee and the House, in accordance with advice from the Clerks, before doing it again. This would also provide greater clarity for members of the House about the process. As this is a new procedure it is also right, we consider, that certain safeguards are put in place.

With the agreement of the Usual Channels, we would propose the following to the Committee:

1. With agreement of the House, ‘debates before second reading’ may take place in Grand Committee. Such agreement would be sought through a business of the House motion of which the usual notice would be given on the Order Paper.
2. Following such a debate, the House would then give the Bill a formal second reading in the Chamber. It is not expected that this would be the occasion of a debate, but of course any member may speak if they so wish. This procedure is broadly analogous to that followed for secondary legislation that is considered in the Moses Room before formal approval in the Chamber.
3. As stated above, it is not expected that debates before second reading will be used frequently. Any such debates would require consultation with the Usual Channels and agreement by the House. Whilst it is not possible to set out every circumstance in which ‘debates before second reading’ might occur, it is suggested that the following parameters would be reasonable and would guide the Government and opposition parties when making arrangements.
  - (a) Where a speakers’ list is expected to exceed the capacity of the Moses Room (49 members), then a debate before second reading in Grand Committee is unlikely to be appropriate.
  - (b) It is expected that this procedure will be more appropriate for shorter, less complex and controversial bills.
4. To ensure that the time the House has to prepare for second reading and committee is not curtailed, the minimum intervals between stages could run as follows:

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<sup>1</sup> The Social Security Up-rating Act 2020 on 13 October 2020 and the Ratings (Coronavirus) and Director Disqualifications (Dissolved Companies) Bill on 19 October 2021

- (a) Two weekends between the first reading of the Bill and the debate before second reading.
  - (b) 14 days from the formal second reading of the Bill in the Chamber to the first day of Committee stage.
5. As at present, no more than one Bill would be considered in Grand Committee on a single day.

We have considered whether to build on the existing procedure for Law Commission Bills (such as the current Charities Bill) to be debated in “Second Reading Committee”. We suggest the two procedures should be kept separate, since different considerations apply. What we propose would be an addition to the list of types of business a Grand Committee can conduct.<sup>2</sup>

We would be grateful if the Committee could give this matter consideration either by correspondence, or at a future meeting, and make a recommendation to the House. We are of course happy to discuss this further with you or any members of the Committee.

EVANS OF BOWES PARK

ASHTON OF HYDE

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<sup>2</sup> *Companion* para 3.15; the *Companion* treats Second Reading Committee separately in paragraph 3.16.