



HOUSE OF LORDS

Procedure and Privileges Committee

2nd Report of Session 2023–24

**Temporary exclusion;
Statements on trade
between Northern Ireland
and the rest of the United
Kingdom; Financial
Services Regulation
Committee**

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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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Second Report

Temporary exclusion

Introduction

1. On 4 December 2023 the Lord Speaker, on behalf of the House of Lords Commission, wrote to the Senior Deputy Speaker asking the Procedure and Privileges Committee to draft a Standing Order to give effect to the “precautionary” exclusion from the Estate of members charged with serious violent or sexual offences. This report responds to that request and recommends a new Standing Order to the House.

The need for temporary exclusion provisions

2. These proposals have been developed to address the potential risk to those in the parliamentary community that may arise from members who have been charged with serious violent or sexual offences having access to the Estate. The two Houses occupy a single Parliamentary Estate, and the lack of a formal mechanism in either House for excluding members accused of such serious offences from the Estate, pending the conclusion of the criminal process, raises significant safety concerns for the entire parliamentary community.
3. The House of Commons Commission requested a paper setting out options for responding to accusations of sexual misconduct as early as 13 June 2022.¹ That same month, the House of Lords Conduct Committee considered representations from members on the issue. The Conduct Committee acknowledged that the duty of care towards those on the parliamentary estate, including school parties, should be paramount, and that some form of exclusion might therefore be required. But the Conduct Committee considered that the Code of Conduct would not be the right vehicle for a scheme of temporary exclusion, given that members facing exclusion would at that point still be awaiting trial.²
4. The House of Lords Commission considered the question of exclusion in July 2022. Commission members agreed that, for both safety and reputational reasons, a system of temporary exclusion was needed, and accordingly instructed staff to work with colleagues in the House of Commons to examine ways in which members facing accusations of violent or sexual offences might be excluded from the Parliamentary Estate.
5. On 14 December 2022 the Commission considered the options. The Commission agreed in principle that there should be a new Standing Order to exclude members in certain circumstances from the Estate and from parliamentary-funded travel. The Commission considered that the trigger for exclusion should be charge, rather than arrest, and that it should cover serious offences carrying a maximum sentence of more than two years. The Commission also agreed that exclusion should be an automatic, administrative process, without a separate decision of the House, implying no guilt and preserving as far as possible the anonymity of the member concerned. The Commission asked for further work to be undertaken on

1 Decisions of the House of Commons Commission, 13 June 2022: <https://committees.parliament.uk/publications/22769/documents/167495/default/>

2 The chair of the Conduct Committee, Baroness Manningham-Buller, wrote to the Lord Speaker on 21 June 2022 outlining the committee’s views.

the range of offences that would engage the Standing Order, and on the parliamentary services that could remain available to excluded members.

6. In April 2023 the Commission launched a consultation, open to all members, which closed on 7 June. In parallel, the House of Commons Commission drew up separate proposals, which were debated in the Commons chamber on 12 June 2023.
7. The Commission considered the results of the consultation on 12 July and, in response to members' concerns, decided to limit exclusion to members charged with serious violent and sexual offences, rather than, as in the consultation document, any offence carrying a maximum sentence of more than two years. The Commission subsequently had further discussions with members of the Commons Commission, during which the two Commissions agreed to proceed with similar, but not identical, schemes.
8. The scheme proposed by the Commons Commission, published on 14 December 2023, provides, in summary, that whenever a member of that House faces serious allegations relating to violent or sexual offences (in practice on arrest), a Risk Assessment Panel comprising members of the House will be convened to undertake a full risk assessment. Having considered specified risk factors, the Panel will decide whether to impose full exclusion from the Estate and from Parliament-sponsored travel.³
9. The scheme agreed by the House of Lords Commission, reflected in the Standing Order that we are now putting before the House, differs in important respects from that proposed in the Commons. As noted above, it will be triggered only if a member is charged with a relevant offence (at which point the prosecuting authorities must be satisfied that there is a realistic prospect of conviction). At that point the process of exclusion will be automatic, avoiding any suggestion that members are assessing or judging their peers. Such a difference in approach between the two Houses is, in our view, entirely appropriate: it is for each House to agree its own procedures, taking account of existing practices, structures, culture and other relevant factors.
10. The proposed House of Lords scheme is as follows:
 - The trigger for temporary exclusion will be at the point of charge.
 - Exclusion will apply if a member is charged with a serious sexual or violent offence, that is to say one carrying a maximum sentence of more than two years.
 - A member charged with such offences will be required at the first opportunity to inform the Clerk of the Parliaments, who will then make arrangements to exclude the member from the Estate until the criminal process is concluded.⁴

3 House of Commons Commission, *A risk-based exclusion policy for the House of Commons—updated proposals*, HC 386, December 2023

4 Members are already required under the Code of Conduct to inform the Clerk of the Parliaments if they are arrested in connection with a criminal offence, and under a Protocol agreed with the Metropolitan Police Service, the Clerk of the Parliaments is meant to be informed by the police if a member of the House is arrested.

- Temporary exclusion will be clearly distinguished from suspension under the terms of the House of Lords (Expulsion and Suspension) Act 2015. The member's name will not be disclosed; there will be no implication of guilt; and the member's constitutional right to a writ of summons at the start of a new Parliament will be unaffected. Excluded members will continue to be described as active members on the parliamentary website.
- Excluded members will be prevented from physically accessing the Estate, except to take the oath of allegiance or make the solemn affirmation.
- Members subject to exclusion will not be able to take part either in person or remotely in proceedings of the House or of its committees; nor will they be allowed to vote in any election (such as hereditary peer by-elections or elections of the Lord Speaker).
- They will, however, continue to be able to table Questions for Written Answer; sponsor existing staff passes; access the Parliamentary network, to use Parliamentary email, and to call on the help of the Parliamentary Digital Service (PDS) support desk; commission advice or research from the Library via email; and receive Parliamentary papers.
- Excluded members will remain subject to the Code of Conduct, including the requirement to keep their registered interests up to date. Failure to comply with the terms of the Standing Order (e.g. by notifying the Clerk of the Parliaments of any charge) will be a breach of the Code.
- Excluded members will not be subject to section 2 of the House of Lords Reform Act 2014, which provides that any member who does not attend the House for an entire session ceases to be a member.
- Exclusion will apply regardless of when and where charges are brought. But if charges are brought overseas, the exclusion will lapse after a period of two calendar months or ten sitting days, whichever is less, unless within that time the Leave of Absence Sub-Committee of the Procedure and Privileges Committee resolves that the exclusion should remain in force. This will allow exclusion to be waived if a member is charged in another country with an offence that is not regarded as unlawful in the United Kingdom.
- Exclusion will continue until a) charges are dropped, b) the member is acquitted, or c) the member is convicted and sentenced.
- A member convicted and sentenced to a term of imprisonment of more than one year ceases to be a member of the House, under section 3 of the House of Lords Reform Act 2014. A member sentenced to a term of imprisonment, whether suspended or not, that does not engage section 3 is deemed to have breached of paragraph 25 of the Code of Conduct, and exclusion will remain in force until the House has decided on any sanction recommended by the Conduct Committee.
- The Leave of Absence Sub-Committee will keep the operation of the Standing Order under review.

11. **To give effect to the scheme agreed by the House of Lords Commission, we recommend the following new Standing Order on temporary exclusion to the House:**

21A Temporary exclusion

- (1) This Standing Order applies to any member of the House who has been charged with a serious violent or sexual offence.
- (2) The term “serious violent or sexual offence” means any offence against the person or any sexual offence which carries a maximum sentence of more than two years’ imprisonment.
- (3) The member shall, at the first opportunity following charge, notify the Clerk of the Parliaments of the charge or charges.
- (4) The Clerk of the Parliaments, upon receiving notification either from the member or by other means, shall immediately make arrangements to exclude the member from the Parliamentary Estate either until any criminal proceedings are completed or, if the member is convicted and sentenced to a term of imprisonment, whether suspended or not, that does not engage the provisions of the House of Lords Reform Act 2014, until the House has decided on any sanction recommended by the Conduct Committee.
- (5) Notwithstanding paragraphs (4) and (6), the Clerk of the Parliaments shall allow a member subject to temporary exclusion under this Standing Order to have escorted access to the Parliamentary Estate in order to take the oath of allegiance or make the solemn affirmation.
- (6) During the period of temporary exclusion, the member may not:
 - (a) enter the Parliamentary Estate;
 - (b) participate in proceedings of the House or its committees, whether in person or remotely;
 - (c) vote in any election conducted in accordance with Standing Order 9 or 18;
 - (d) undertake any external visits or other activities supported or funded by Parliament.
- (7) Other rights enjoyed by the member shall be unaffected by exclusion, including the following:
 - (a) the right to transact other business (such as tabling Questions for Written Answer) that does not require personal presence on the Estate;
 - (b) access to services that can be provided remotely by the House of Lords Administration or the Parliamentary Digital Service;
 - (c) the rights of existing staff sponsored by the member.

- (8) The member shall remain subject to the provisions of the Code of Conduct and the rules on access to facilities, and any failure by the member to comply with the terms of this Standing Order shall be deemed to be a breach of the Code of Conduct.
- (9) In accordance with section 2(3)(b) of the House of Lords Reform Act 2014, the House, in agreeing this Standing Order, resolves that section 2(1) of that Act shall not apply to a member subject to temporary exclusion under this Standing Order.
- (10) This Standing Order applies regardless of whether a) the alleged offence occurred before or after the member became a member of the House of Lords, and b) the charges were brought inside or outside the United Kingdom; except that if the charges were brought outside the United Kingdom, the exclusion shall lapse after a period of two calendar months or ten sitting days, whichever is less, unless within that time the Leave of Absence Sub-Committee of the Procedure and Privileges Committee resolves that the exclusion should remain in force.
- (11) The operation of this Standing Order shall be kept under review by the Leave of Absence Sub-Committee.

12. **If this Standing Order is agreed, we further recommend that Standing Order 18(5) (Election of Lord Speaker) be amended, by including a cross-reference to temporary exclusion. The amendment would be as follows (new text in bold):**

18(5) All members of the House shall be entitled to stand for election and to vote, save that (a) Lords who have not taken the oath in the current Parliament, who are subject to statutory disqualification, who are suspended from the service of the House, **who are subject to temporary exclusion**, or who are on leave of absence, may not stand or vote...

13. **Finally, if these changes are agreed, we recommend the following new text, to be added to *The Companion to the Standing Orders*, to be inserted after existing paragraph 1.46:**

Temporary exclusion

1.46A Any member who is charged with a serious violent or sexual offence must, at the first opportunity, notify the Clerk of the Parliaments of the charge or charges. The member will then be excluded from the Parliamentary Estate until criminal proceedings are completed.

1.46B An excluded member may not enter the Parliamentary Estate, participate in proceedings of the House or its committees, vote in any election conducted under SOs 9 or 18, or undertake any external visits or other activities supported or funded by Parliament. They may transact business not requiring their personal presence on the Estate, and they may continue to access services provided remotely. The rights of existing staff sponsored by an excluded member are unaffected.

1.46C Excluded members remain subject to the Code of Conduct and the rules on access to facilities.

Statements on trade between Northern Ireland and the rest of the United Kingdom

14. On 31 January the Government laid the Windsor Framework (Constitutional Status of Northern Ireland) Regulations 2024 (the Regulations) before Parliament. The Regulations were approved by the Commons on 1 February, and an approval motion will be tabled for consideration by the Lords on 13 February. Once the Regulations have been approved by both Houses they will come into force the day after they are made.
15. Regulation 3 amends the European Union (Withdrawal) Act 2018 to require the Minister in charge of a Bill to make a statement before second reading about any Bill that would affect trade between Northern Ireland and the rest of the UK.
16. The Leaders of the two Houses have written to the two Speakers, and the Chairs of the Lords and Commons Procedure Committees, proposing a straightforward procedure to give effect to this requirement, similar to that used for ministerial statements relating to human rights compatibility and environmental law (see Appendix 1).
17. A statement will be required where the minister in charge of a bill in either House of Parliament considers that it contains provisions that affect trade between Northern Ireland and the rest of the UK.
18. In such a case, the minister must state that this is so and also state either that the provisions will not have a significant adverse effect on such trade, or that they are unable to make a statement to that effect but that the Government nevertheless wishes the House to proceed with the bill. Such a statement will be required before Second Reading in either House, and in practice is likely to be signed by the minister before the publication of the bill. It may be recorded on the front of the bill when it is published and reflected in the Explanatory Notes.
19. The duty applies only to ministers: it will extend to all new Government bills, but not Private Members' bills. For any bills that have been introduced but are awaiting second reading at the time the Regulations come into force, the minister will make a written ministerial statement; the same will apply to bills that are not reprinted in the Lords (as is already the case for other types of statement).
20. Assuming that the House agrees to the motion to approve the Regulations on 13 February, a new paragraph 8.28A will be inserted after paragraph 8.28 of the *Companion to the Standing Orders*, to reflect the new statutory requirement:

“8.28A Under section 13C of the European Union (Withdrawal) Act 2018, the minister in charge of a government bill must make a statement before second reading if in their view the bill contains provision which, if enacted, would affect trade between Northern Ireland and other parts of the United Kingdom. The statement is usually set out on the cover page of a bill as first published for each House; where bills are not published for the Lords the statement is publicised by means of a written statement.”

The heading for that section of the *Companion* will be changed to “Statements on public bills”.

Financial Services Regulation Committee

21. In its report, *A committee on financial services regulation*,⁵ the Liaison Committee recommended the establishment of a new, freestanding sessional committee to scrutinise consultations under the Financial Services and Markets Act 2023. The House agreed the report on 4 December 2023.
22. **We therefore recommend the following consequential changes to Standing Order 63 and to the *Companion*:**

In Standing Order 63, insert “Financial Services Regulation Committee” after “Finance Committee”.

In the *Companion*, paragraph 11.5, insert “Financial Services Regulation Committee” after “Finance Committee”.

In the *Companion*, after paragraph 11.61, insert new paragraph 11.61A as follows:

“Financial Services Regulation Committee

“11.61A This committee is appointed ‘to scrutinise financial services regulatory consultations, and financial services regulation generally.’”

**APPENDIX 1: LETTER FROM RT HON PENNY MORDAUNT MP,
LEADER OF THE HOUSE OF COMMONS, AND LORD TRUE,
LEADER OF THE HOUSE TO LORD GARDINER OF KIMBLE,
SENIOR DEPUTY SPEAKER, 31 JANUARY 2024**

Section 13C European Union (Withdrawal) Act 2018 (The Windsor Framework (Constitutional Status of Northern Ireland) Regulations 2024) Statements

Further to the Command Paper that the Government has laid today on Safeguarding the Union, the Government has also today laid the Windsor Framework (Constitutional Status of Northern Ireland) Regulations 2024 (the Regulations) which amend the European Union (Withdrawal) Act 2018 (EU Withdrawal Act) and require the Minister in charge of a Bill to make a written statement about the consistency of that Bill with the UK internal market. In most instances, we would expect this to take the form of a change to the front page of a bill or a paragraph to be included in the Explanatory Notes.

New section 13C of the EU Withdrawal Act states:

13C.— (1) This section applies where a Minister of the Crown in charge of a Bill in either House of Parliament is of the view that the Bill as introduced into that House contains provision which, if enacted, would affect trade between Northern Ireland and other parts of the United Kingdom.

(2) The Minister in charge of the Bill must, before Second Reading of the Bill in the House in question, make—

(a) a statement to the effect that, in the Minister’s view the Bill does not contain provision which, if enacted, would have a significant adverse effect on trade between Northern Ireland and the rest of the United Kingdom, or

(b) a statement to the effect that the Minister is unable to make such a statement but His Majesty’s Government nevertheless wishes the House to proceed with the Bill.

(3) A statement under this section must be in writing and be published in such manner as the Minister considers appropriate.

Therefore, the minister must determine whether the bill contains provisions that affect trade between Northern Ireland and the rest of the UK. If there is, the minister must state that this is so and also state either that the provision(s) will not have a significant adverse effect on such trade or that they are unable to make a statement to such effect but that the Government nevertheless wishes the House to proceed with the bill. This duty applies before Second Reading in either House and does not need to be reconsidered if the bill is amended during passage through the second House.

The statement must be made in writing and in practical terms it is likely to be signed by the minister before the publication of the bill in each House. Where the duty applies, this statement may be recorded on the front of the bill when it is published and reflected in the Explanatory Notes. If the bill in question does not include relevant trade provision, this position may be recorded in the Explanatory Notes.

The duty will extend to primary legislation that has not received a Second Reading in each House before the day the regulations come into force. The duty will not, however, apply to Private Members' Bills as the section applies to ministers in charge of a bill. For those Bills where the duty applies that are between First and Second Reading at the time the duty comes into force, the minister will make a written ministerial statement.

The measures will not take effect until the day after the Regulations are made and we will update further once the new duty comes into force.

I am copying this letter to the Chairman of the Northern Ireland Affairs Select Committee in the House of Commons.

The Rt Hon Penny Mordaunt MP, Lord President of the Council, Leader of the House of Commons

The Rt Hon the Lord True, Lord Privy Seal, Leader of the House of Lords