



The Scottish Parliament
Pàrlamaid na h-Alba

Published 23 February 2021

SP Paper 953

2nd Report 2021 (Session 5)

Standards, Procedures and Public Appointments Committee

**Comataidh Inbhean, Dòighean-obrach is Cur-an-dreuchd
Poblach**

Standing Order Rule Changes - Inquiry into the resilience of the Scottish Parliament's practices and procedures in relation to its business



Published in Scotland by the Scottish Parliamentary Corporate Body.

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Standards, Procedures and Public Appointments Committee

The remit of the Standards, Procedures and Public Appointments Committee is to consider and report on—

- (a) the practice and procedures of the Parliament in relation to its business;
- (ab) a proposal for a Bill relating to the arrangements for financial assistance to non-Government political parties represented in the Parliament;
- (b) whether a member's conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;
- (c) the adoption, amendment and application of any Code of Conduct for members; and
- (d) matters relating to public appointments in Scotland;
- (e) matters relating to the regulation of lobbying; and
- (f) matters relating to Scottish general elections falling within the responsibility of the Cabinet Secretary for Government Business and Constitutional Relations.



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Introduction

1. Following the introduction of "lockdown" provisions in late March 2020 in response to the Covid-19 pandemic, the Scottish Parliament adapted its practices and procedures through the variation and suspension of some of the Rules in the Parliament's Standing Orders. After an initial hiatus, Chamber meetings began again after the Easter recess and since April 2020, the Chamber and committees of the Parliament have met in a mix of virtual, hybrid and socially-distanced formats to ensure that parliamentary business continues. In addition, technology has been developed to allow MSPs to participate in parliamentary votes in the Chamber via a virtual platform.
2. In undertaking this inquiry, the Standards, Procedures and Public Appointments Committee (the Committee) has sought to evaluate the changes made to the Parliament's practices and procedures with a view to recommending permanent and temporary rule changes to Standing Orders to ensure that the Scottish Parliament can continue to function as effectively as possible in the context of the ongoing public health situation. The Committee has also considered how the Parliament's practices and procedures can be changed to promote the resilience of parliamentary business in the future.
3. There are three key sections in this report: the first considers the challenges faced by legislatures globally as a result of the pandemic; the second examines how the Scottish Parliament has adapted its practices and procedures; and the third proposes specific changes to the Parliament's Standing Orders.

The challenges faced by legislatures in the context of the Covid-19 pandemic

The initial impact of the pandemic on legislatures

4. The Committee took evidence from experts on legislatures and from officials from the Senedd Cymru to understand how other legislatures had dealt with the challenges resulting from the Covid-19 pandemic.
5. The evidence heard by the Committee clearly indicated that the pandemic had a dramatic effect on legislatures all over the world. In the early days of the pandemic, one of the first impacts was on the respective roles of legislatures and executives. Legislatures struggled to meet fully in person due to social-distancing requirements and few legislatures were equipped in any meaningful way to work virtually and continue their scrutiny of governments.
6. Dr Hannah White, Institute for Government, commented on the ways in which governments extended their use of executive powers early in the pandemic, effecting a shift in power away from legislatures. She observed—

” Generally speaking, we saw at the beginning of the pandemic that there was a voluntary shift of power from legislatures towards their executives, because it was clear that those powers were needed. The executives had a tendency to take a maximalist view of the powers that they might need and, in some instances, legislatures are now finding that it might be slightly harder than they thought it would be to reclaim some of the powers that they think that they have given away. ¹
7. Professor Cristina Leston-Bandeira, University of Leeds, stated—

” The reactions that we have seen from Parliaments and executives ... have been to restrict core business to core emergency powers and essential powers, which executives have tended to maximise as much as possible. That has perhaps led to poorer scrutiny, but it has also led to a sideline of public engagement and listening more effectively to the public. ²
8. Nevertheless, many legislatures adapted over the situation. Emily Death, Global Partners Governance, told the Committee that, "The adaptations in several Parliaments, including the Scottish Parliament, that have allowed parliamentary and committee business to continue to an almost normal degree have been extremely impressive, considering the enormity of the challenge that the institutions have faced." ³

Legislatures and sitting patterns

9. The evidence heard by the Committee indicated that most legislatures have continued to meet in some form, albeit with restrictions in place to maintain social

distancing and comply with local health measures introduced to prevent or limit the spread of Covid-19.

10. Research prepared by SPICe for the Committee ⁴ showed that in the first months of the pandemic, legislatures typically had fewer sittings, fewer members participating physically in parliamentary business, altered voting arrangements, and limited parliamentary business to matters relating to Covid-19 or other urgent business.
11. In particular, legislatures struggled to ensure that plenary meetings could continue in the context of social-distancing requirements. For example, the German Bundestag temporarily modified its Rules of Procedure to lower the quorum from 50% of the 709 Members, to 25%.
12. Other legislatures were inhibited by their own rules which require elected Members to be physically present to participate in debates and vote. The SPICe research prepared for the Committee indicated that the rules in place in the Canadian and German federal parliaments, and in the Finnish parliament, did not permit virtual meetings.
13. Professor Leston-Bandeira told the Committee that some legislatures were better prepared than others, either because their procedures were more flexible or because the Parliaments were digitally more able. Similarly, Emily Death emphasised the point about procedures, explaining that "legislatures that did not have to amend legislation or the constitution to allow them to meet virtually had a bit of a head start on those that had to make those changes." ⁵
14. Two examples of legislatures that moved quickly to fully-virtual plenary sittings were Latvia's Saeima and Brazil's Chamber of Deputies. The Saeima developed a new IT platform (e-Saeima), which allows MPs to debate and vote in real time. The Brazilian Chamber of Deputies used a combination of videoconferencing software (Zoom) and a bespoke app to integrate with the Chamber's existing IT systems and allow full remote participation in the plenary process.
15. In the UK, the Senedd Cymru was the first legislature to hold a fully virtual plenary session. In evidence to the Committee, Siwan Davies, Senedd Cymru, explained that the motivation to deliver a virtual meeting came from the Llywydd (the Senedd Cymru Speaker), the Welsh First Minister and from across the parties. There was a recognition of the need for oversight given the "unprecedented powers being given to Welsh ministers" ⁶ and the importance of ensuring the Senedd could discuss matters specific to the situation in Wales. She explained the steps that were taken to allow the Senedd to meet—

” It was agreed that there would initially be a socially distanced emergency Senedd so that we could continue to meet when the lockdown hit us. At that point, we agreed a raft of changes to our standing orders that enabled us to continue to meet. The changes were premised on holding physical meetings, but they enabled us to go online. We then had a virtual meeting of the Senedd—as you say, the first such one in the UK, if not the very first. We were pipped at the post by the Maldives by a day; we went live on 1 April. Initially, it involved a small number of members but, by June, all members of the Senedd were able to participate, so we now have the ability for all members of the Senedd to meet on a virtual platform. ⁷

16. The Senedd was able to adapt quickly due to the provision in its standing orders to make temporary rule changes. Siwan Davies told that Committee that this provision for temporary rule changes enabled the Senedd to "make the changes to the standing orders to bring into force our emergency standing orders, which have stood us in good stead to meet as a virtual and now as a hybrid Senedd."⁸ She further explained—
- ” Our standing orders have a provision that enables the Senedd to agree to a rule that is of a temporary or time-limited nature. We have done that on several occasions, so introducing a whole new standing order and emergency provision for the continuity of Parliament was not extraordinary for us. Although not to do with the global pandemic, the Senedd is used to having to make time-limited changes.
- ” We had temporary rule changes on things such as having a reduced quorum, a temporary Presiding Officer and a temporary chair of the Senedd Commission. We made a decision with the Senedd Commission and the Business Committee to shut the building, so we made changes to the requirement for the public to have physical access to proceedings of the Senedd and committees, while making sure that access was available online. We also provided that the Llywydd could make determinations on not continuing with the normal pattern of business without requiring the suspension of standing orders.⁹
17. Due to social-distancing requirements, most legislatures have moved towards hybrid sessions over the course of the pandemic. This has involved some members attending physically and others virtually, or some items – such as legislation requiring votes – being considered by Members physically present and other matters being dealt with in a virtual setting.

Voting

18. Finding ways to enable voting, particularly in plenary sessions, has proved to be one of the most challenging adaptations to parliamentary procedures and practices, with technological and security issues making it difficult from a practical perspective.
19. Proxy voting has been used in a number of legislatures, particularly to assist elected members who are unable to attend the plenary chambers. Dr Hannah White told the Committee that the UK Government had initially proposed that the pairing system be used in the House of Commons, but this was rejected by MPs as unsatisfactory. In-person voting then became untenable for health and safety reasons due to the queuing involved. The UK Government therefore introduced a proxy-voting system, initially only for those who could not vote for health reasons, but which was later extended. By January 2021, 580 out of a total of 639 MPs who take part in divisions did so by means of a proxy. The Government Deputy Chief Whip held more than 300 proxy votes and his Opposition equivalent held more than 170 votes.¹⁰ In relation to the initial move to proxy voting, Dr Hannah White observed:

” ...the system puts a lot of power in the hands of the party whips and means that, potentially, MPs are less engaged in the decisions that they make because they have handed over the possibility of voting to their whip. That really strengthens the power of the executive in Parliament.

” My view is that Westminster has ended up in a pretty unfortunate position. MPs who are able to vote physically can do so, but they have to queue up for that, which is unsafe and inefficient and, as far as I am concerned, is a very poor example to the public. Hundreds of members are using proxy votes instead. ¹¹

20. While the House of Commons did not institute a system for digital voting, such a system was adopted by the House of Lords. Professor Leston-Bandeira emphasised the contrast in approach taken by the two Houses—

” There is a big contrast between the chambers. In the Lords, where the members are more elderly than the average in other Parliaments, remote voting is an obvious thing to use and might be an example of how that sort of tool can be an inclusive and progressive way of dealing with business in a situation such as the one we are in. ¹²

21. Emily Death indicated that there were some countries in which block-voting was already an established practice, but in others it had been adopted and had "raised some consternation." She stated—

” There are serious questions to answer about how the representatives are selected. ... there can be a risk that loyalty to the party is enhanced and we lose out on dissenting individual voices. There are also risks with those kinds of group voting mechanisms that underrepresented groups such as women might lose out even more and we lose the diversity of voices. ¹³

22. A further approach to voting is that adopted by the European Parliament. It agreed that the President could approve a derogation from the Rules of Procedure to enable an alternative electronic voting procedure. Under the new system, MEPs receive a voting paper by e-mail. This voting paper is then completed, signed, scanned or photographed and returned from their official European Parliament e-mail address. Once the result of the vote has been established, it is recorded in the minutes and published. Emily Death described this process to the Committee as a "rather low-tech but nonetheless secure system". ¹⁴

Interventions and debate

23. While those giving evidence recognised the scale of what had been achieved by many legislatures in a short period of time to ensure the ongoing scrutiny of the executive, there was also a concern about the changes to the ways in which elected members engaged with each other, particularly in plenary. This included the loss of the ability of members to challenge each other via interventions and enter into a debate. Professor Leston-Bandeira recognised that "allowing interventions and a more natural process of debate, such as would take place in a Parliament, is one of the key difficulties" ¹⁵ in virtual proceedings. Emily Death set out the challenges in

relation to debate and interventions—

” To be honest, trying to emulate on screen the environment that we would be able to have in real life has been a challenge—if not the biggest challenge—with which everyone has struggled. From the examples that I have seen, I do not think that anyone has cracked it to allow the natural exchange that people are able to have in person.

” A lot of Parliaments have very sophisticated systems—such as the one that we are using—that enable people to have a good-quality discussion, but it is challenging to have an in-and-out debate and, in particular, the discussions or negotiations that people might be able to have on the side of a debate. That has been challenging for everyone. We have seen technological challenges that have affected everyone and all workplaces, not just Parliaments.¹⁶

24. In its written evidence to the Committee, the Scottish Parliament Corporate Body (SPCB) suggested that over time ways should be explored of capturing the "essence" of physical meetings—

” While it is clear that these measures should remain as options at our disposal to be considered for use in certain circumstances, it is worth noting that the arrangements currently in place have been introduced at speed to suit the particular circumstances we currently find ourselves in. It may be that further work is required to identify any future improvements that could be made to capture the essence of physical meetings where proceedings are often more lively and engaging, scrutiny can be more probing and direct, and members are better able to read the mood of the Chamber.¹⁷

Committees

25. Partly due to their smaller size, the evidence suggested that committees had been more successful in continuing to meet during the pandemic. Professor Leston-Bandeira explained the reasons for this—

” Committees were much quicker to adapt to the pandemic, so we have seen them using really good practice. If you want to see how Parliaments have reacted well to the pandemic, you need to look at committees. Because they are much smaller units, they are much more flexible. They are also much more theme focused, or issue focused, so they can focus straight away on the issues. Their members have the expertise and interest in their area, so committees were able to understand the problems of the pandemic straight away.¹⁸

26. Emily Death noted that, "We have seen examples of certain Parliaments that, because of their constitutional rules or legislative arrangements, have not been able to move the seat of their plenary but which have, nonetheless, been able to move their committee practices online—that is the case in Germany, for example."¹⁹
27. Many committees quickly started using platforms such as Zoom to enable remote participation and evidence taking in Committee meetings. Dr Hannah White posited

that virtual meetings had led to greater participation by members. She said, "More members in each committee have been able to attend committee meetings that are held virtually because the fact that they do not have to get to Westminster to attend those meetings means that they have been better able to balance their other responsibilities, such as their constituency commitments." ²⁰

Conclusions on the challenges faced by legislatures in the context of the Covid-19 pandemic

28. **The Committee concludes that the impact of the pandemic on legislatures has been profound throughout the world. The evidence heard by the Committee suggests that sudden lockdowns that were implemented in many countries throughout the world resulted in a shift of power from legislatures to executives as the former struggled to meet and conduct their normal parliamentary business and hold governments to account.**
29. **The Committee notes that many legislatures were constrained by their own practices and procedures which reduced their flexibility in meeting in other formats. In some legislatures, practices such as block-voting or significant levels of proxy-voting were adopted to ensure that legislative functions could still be carried out. While many legislatures were able to adapt quickly, and most have adapted over the course of the pandemic, the Committee recognises that a number are still not able to fulfil all of their functions in the way that they could before the pandemic.**
30. **The Committee notes that many legislatures have had to adopt practise such as block voting or proxy-voting on a significant scale to ensure that plenary business can continue. It has generally been easier for committee business to continue, albeit primarily on virtual platforms. The Committee considers that the use of virtual platforms, while playing a crucial role in enabling parliaments to sit, has constrained the potential for debate which it considers as being a vital characteristic of parliamentary procedures. The Committee therefore recommends that methods for facilitating interventions in hybrid and virtual meetings should be developed in order to refine the process and allow interventions in the future. In particular, this would be beneficial in allowing Members to interrogate Ministers or a Member in charge of a Bill.**

The Scottish Parliament's response to continuing parliamentary business during the Covid-19 pandemic

31. Following the first "lockdown" at the end of March 2020, the Scottish Parliament adapted its practices and procedures in order to support parliamentary business. By mid-September, the Chamber has returned to its core pre-lockdown sitting pattern of three afternoons a week and committees were meeting in their former slots on Tuesday, Wednesday and Thursday mornings. Both committees and the Chamber were able to meet in a hybrid or virtual format.
32. The approach to parliamentary business was led by the Parliamentary Bureau, which is responsible for proposing parliamentary business, with sitting arrangements agreed by the Parliament. In mid-March, the Parliamentary Bureau proposed that the priorities for parliamentary business in the coming weeks should be the response to Covid-19 and other time-bound legislation. The Parliament agreed a number of temporary procedural changes to allow it to focus on these priorities, including:
 - Removing the obligation to schedule a minimum number of afternoons for opposition and committee debates and to schedule members' business;
 - Enabling the election of an additional Deputy Presiding Officer by electronic voting (while maintaining a secret ballot);
 - Variation of committee substitutes and Temporary Convener rules.
33. The written evidence from the Parliamentary Bureau emphasised that its overriding objective has been "to ensure that parliamentary scrutiny could continue to the greatest extent possible, to support efforts to tackle the virus and to hold the government to account."²¹ In the early part of the pandemic, the Bureau explained that the focus of parliamentary business was on the Covid-19 response in Scotland as well as consideration any time-bound legislation."²² To facilitate this the Bureau agreed not to schedule certain 'special cases of parliamentary business' that are provided for under Standing Order rule 5.6, including committee business, opposition business and Members' business. It also temporarily suspended referral of members' bill to committees.
34. The physical constraints resulting from social-distancing requirements required the reduction of the seating capacity in the Chamber, with it initially being reduced to 79 in March 2020. To accommodate that change, the Bureau explained that "Business Managers came to a political agreement to reduce their numbers participating in the chamber at any given time accordingly."²³ The Chamber seating capacity was later further reduced to ensure that social distancing was in place for Members sitting and moving around the Chamber.
35. The model of a numerically reduced Chamber was the operating norm in April 2020, supplemented by virtual question times. During the Easter recess, three virtual question times were held to provide opportunities for opposition leaders to question

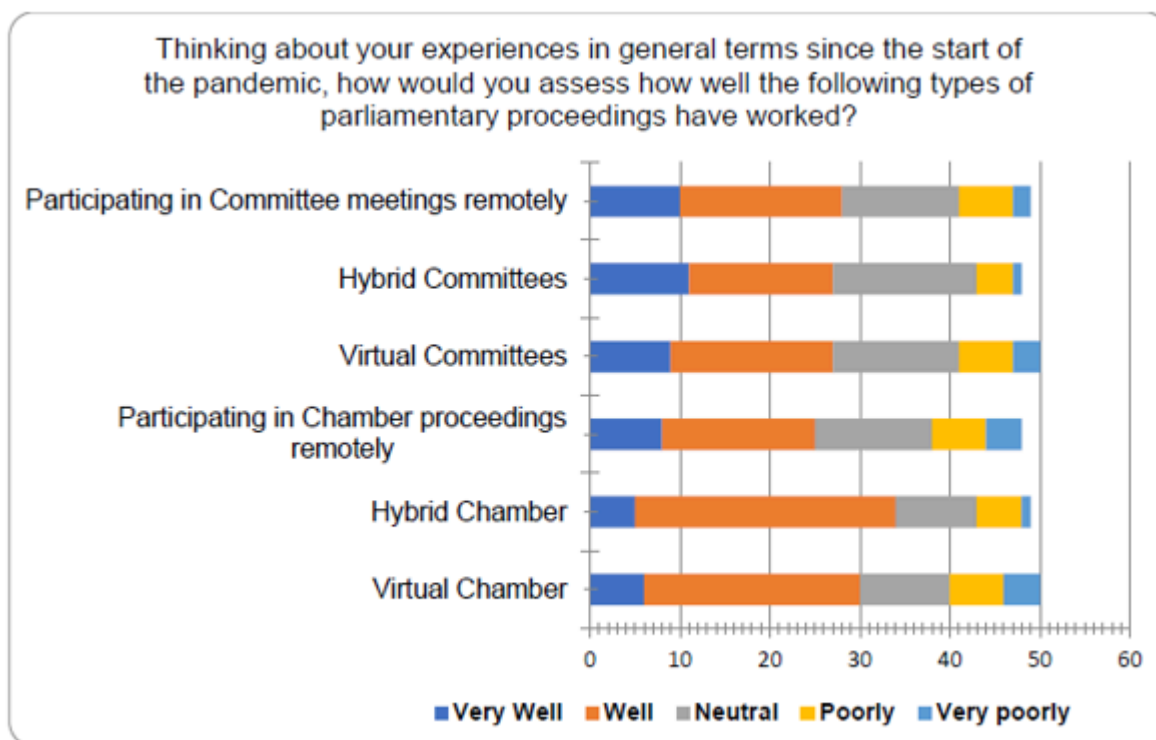
the First Minister and for Members to hold the Scottish Government to account on its response to Covid-19. Following early discussions with other legislatures, the Scottish Parliament decided to use Bluejeans as a video conferencing facility. All of the virtual and hybrid meetings were livestreamed on Scottish Parliament TV.

36. At the end of April 2020, a series of further changes were announced. First Minister's Questions were extended to one hour, providing the opportunity for more Members to participate. In addition, the capacity for virtual meetings was extended so that by early May up to 16 meetings could be supported over four days, including both meetings of the Parliament and committee meetings. In addition, full virtual meetings of the Parliament could be held, involving all MSPs. The intention was to develop a 'hybrid' style Parliament in which all members could ask questions, speak in debates, and vote remotely in all business taking place at Holyrood.
37. The hybrid meetings provided Members with the option to participate from the Chamber or remotely. Members could speak in debates, participate in the consideration of legislation and take part in question times. The general pattern for the remainder of May and June was for hybrid meetings on Tuesday and Wednesday afternoons, with virtual meetings of the Parliament taking place on Thursday afternoons.
38. In order to ensure that Members were scrutinising the Scottish Government within the bounds of formal proceedings, a number of Rule changes were agreed. As the Scottish Parliament's Standing Orders only allow for the variation and suspension of Standing Orders, changes to the Rules within these constraints were agreed by the Parliament on proposals agreed by the Parliamentary Bureau.
39. The Rule changes were agreed "for the duration of the public response to the Novel Coronavirus COVID-19" with an initial period from 17 March up to and including 26 June, and then further periods "determined by the Presiding Officer from time to time following consultation with the Bureau." Key early changes including allowing meetings of the Parliament to "be held either in the Debating Chamber of the Parliament, Holyrood, or remotely by video conference in a virtual Debating Chamber hosted on such platform as may be provided by the Parliamentary corporation" and to change the reference from "the electronic voting system" to "an electronic voting system".²⁴
40. The length of the Scottish Parliament's summer recess was reduced to reduce the impact on parliamentary business. There were four meetings of the Parliament (two hybrid and two virtual) held over the summer recess to allow consideration of matters relating to Covid-19 and a range of other issues including education and the economy. The Covid-19 Committee also met during recess to consider secondary legislation related to the easing of lockdown restrictions.
41. By the end of June, a digital voting system had been developed and work continued over the summer to ensure that this was reliable and operational. The Presiding Officer, in a letter to MSPs confirmed to Members that remote voting would be possible in the Chamber after the summer recess to allow all Members taking part in Chamber business to vote. The Presiding Office recognised that the priority in the first months of the pandemic had been to continue to undertake parliamentary scrutiny and to ensure Members felt supported in carrying out all of their duties. He also indicated that as the changes would have an impact in the longer term, it was important that the Parliament continued to provide new opportunities to support

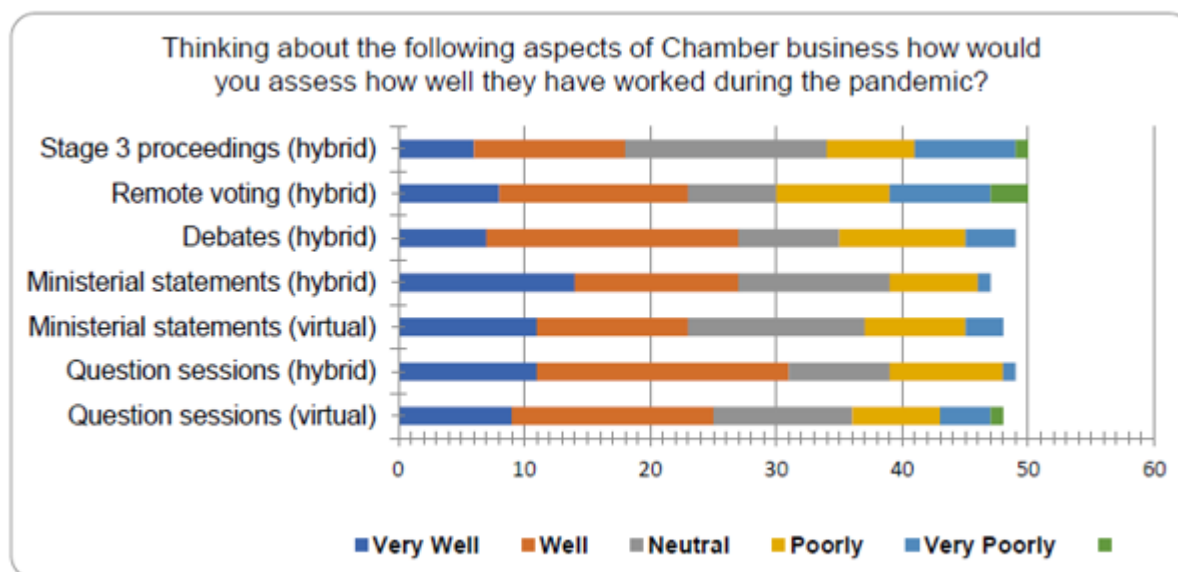
Members in their work.

42. From early September, the Scottish Parliament moved to holding three hybrid meetings a week with a remote voting system, thus returning to its pre-lockdown sitting pattern with all Members able to vote, notwithstanding whether they were physically present in the Parliament or not. In addition, business in the Chamber has largely returned to its pre-lockdown pattern, including time being provided for opposition and Members' business.
43. The written evidence from the SPCB explained that the gradual approach to developing remote participation allowed the Parliament "to build familiarity with the various platforms used for remote business and remote voting."²⁵ The SPCB further explained that—
 - ” The aim of restoring full capacity was particularly important for those Members who fell into the shielding category in the early months and those who had underlying conditions or caring responsibilities making travel to Edinburgh either not possible or difficult. The SPCB was mindful of the need to ensure that no Member felt unable to participate in parliamentary proceedings and that no part of the electorate felt disenfranchised by their Member or Members being unable to do so.²⁶
44. The SPCB also emphasised that the question of voting has been particularly important in driving its response:
 - ” The SPCB felt strongly that being able to take part in parliamentary business was not enough and that all Members should be able to take part in parliamentary decision-making through casting their votes. The identified solution has taken time to bed in, but it is a secure system which is producing reliable results that would withstand legal challenge. The SPCB also recognises the need to build remote voting into our new sound and voting system as and when the time comes for it to be replaced.²⁷
45. The SPCB concluded that, "Taking everything into consideration, the SPCB is content that the Parliament was able, from a standing start, to build up its capacity to hold the Government fully to account in a short space of time."²⁸
46. Over the autumn of 2021, Chamber and committee business was largely maintained in its pre-pandemic pattern, albeit with business taking place in either a fully virtual or a hybrid format. The evidence submitted by the SPCB included a survey of Members undertaken in September and October 2021 on their views on the new ways in which parliamentary business was taking place. 51 MSPs - approximately 40% of all MSPs - responded to the survey.
47. The survey indicated that MSPs' experience was mixed, with differing assessments from Members. Around 50-60% of the MSPs who responded considered that the arrangements had worked well or very well for various forms of parliamentary proceedings, while a significant minority of 10-20% considered that the arrangements had worked poorly or very poorly.
48. The table below from shows in more detail the assessment made by the MSPs who responded on how well the arrangements had worked for various forms of

parliamentary proceedings.²⁹



49. The views of MSPs on how well specific forms of Chamber business worked are shown in the table below:

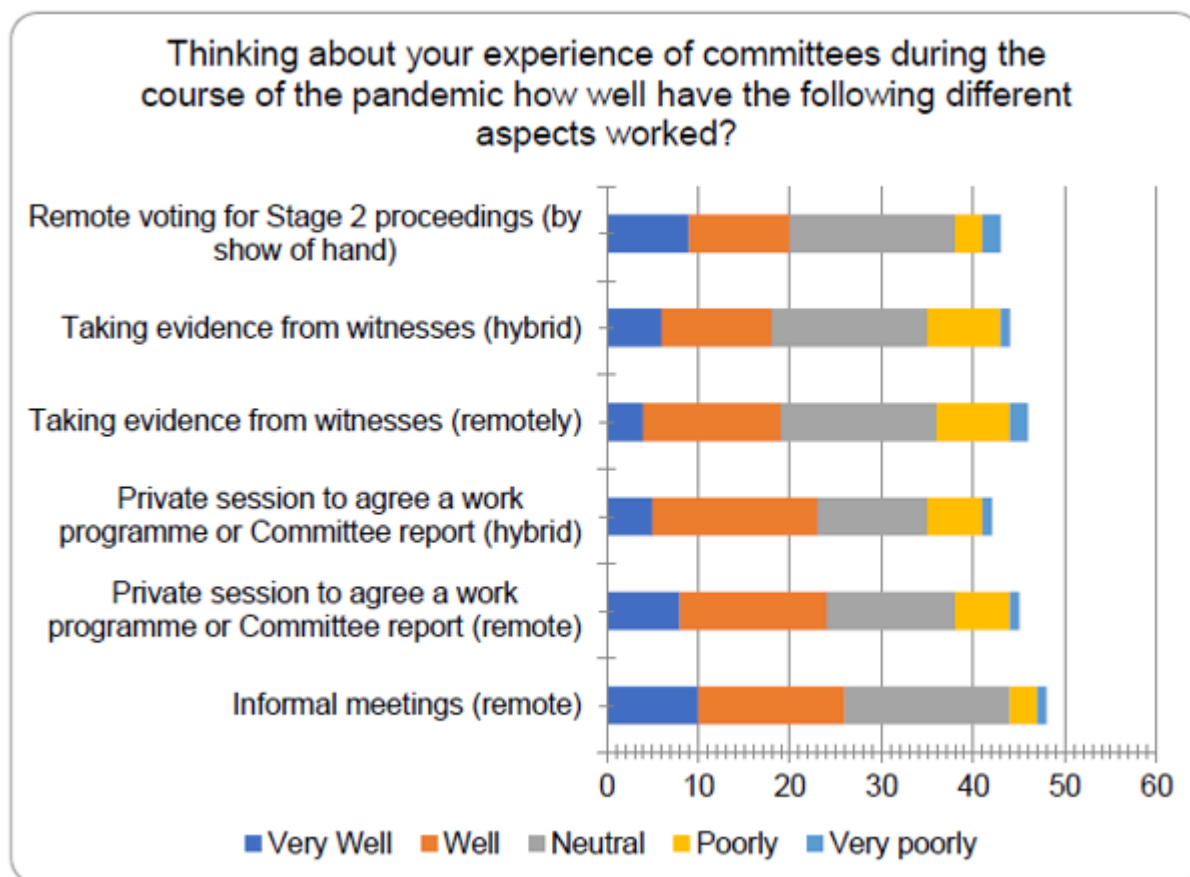


50. The responses from members highlighted frustrations with the voting system that was at the time that the survey was conducted, with specific concerns being raised about the amount of time involved and how stressful it could be for Members when considering a Stage 3 with a large number of amendments. However, there was also a recognition that while the system had flaws, most issues were due to individuals and user error as well as connectivity issues.³⁰
51. In January 2021, following the introduction of a further lockdown in mainland Scotland, the pattern of Chamber business changed again with a move to predominantly virtual meetings. Continued work had been undertaken to improve

the voting systems, including the provision for voting at completely virtual meetings.

The Committees

52. As a unicameral parliament, the Scottish Parliament's committees have had a key role to play in the continuation of essential business during the pandemic. This has included the scrutiny of emergency legislation as well as the usual business of scrutinising legislation at the first two stages of the legislative process and scrutiny of the Scottish Government and its agencies.
53. Committees halted shortly before the Easter recess in 2020 before moving to more informal meetings held via Microsoft Teams after Easter. On 23 April 2020, the first, formal, remote meeting of a parliamentary committee was held, with Members, staff and witnesses attending remotely from their homes. This was followed over the coming weeks by more and more committees following suit. By May and June, most committees were back to their usual schedule of weekly or fortnightly meetings, with around 12 to 15 committee meetings taking place weekly.
54. Over the summer recess, as restrictions lessened, the Parliament's committee rooms were adapted to allow for hybrid meetings so that some MSPs and witnesses could attend meetings in person. By September 2020, of the approximately 15-18 committees held in any given week, around one-third were meeting in a hybrid format and a little under two-thirds were meeting virtually. A few of the smaller committees also met in person.
55. A number of changes were made to Standing Orders to allow for committees to meet either virtually or in a hybrid format. The question over whether the 'seat of a meeting' was where the committee convener was present or where the streaming platform was being hosted was addressed, as were the rules regarding voting to enable this to be done electronically. Changes were also made to allow for more flexibility on other Members substituting for a member of a particular committee due to a reason relating to the pandemic.³¹
56. The survey of Members undertaken in October and November 2020 provided mixed views on how well committees were functioning following these adaptations, as shown in the graphic below:³²



57. While the net results were positive, there was some frustration with issues such as not being in the same room as those that were giving evidence and the reduction of personal interaction between committee members and witnesses. There was also a feeling that committee meetings were more stilted and it was harder for Members to ask supplementary questions.

Public Engagement

58. The pandemic posed particular challenges for the public engagement activities of legislatures due to the restrictions on meetings and the use of parliamentary buildings. Professor Leston-Bandeira told the Committee that legislatures that already had "more embedded engagement practices – such as the Scottish Parliament" ³³, were more innovative in responding to the situation presented by the pandemic. She stressed the importance of continuing public engagement activities in the pandemic. She told the Committee:

” If there is a time for listening to the public and using that for better scrutiny, that time is during a pandemic—a time of crisis that affects many citizens in many different ways, from health and economics to all sorts of areas of society. The public engagement role that Parliament can perform can be really important in improving scrutiny and keeping an eye on the Government. ³⁴

59. The SPCB's written submission set out an increase in the use of digital engagement tools, using tools such as CitizenSpace, as well as the use of online consultations and discussions with stakeholders. Early in the pandemic, the SPCB took the

decision that the parliamentary estate should be closed to visitors, including the public gallery in the Chamber and committees. The SPCB stated:

” It is however worth noting that face-to-face interaction with the public is and will always be an important facet of our parliamentary democracy and we hope to be able to reopen our doors to visitors and resume all aspects of our face-to-face public engagement as soon as it is safe to do so. ³⁵

60. The Committee held two public engagement events with representatives of community bodies and third sector organisations. ³⁶ The participants highlighted that the pandemic had meant that in addition to much of the Parliament's work being conducted virtually, there were no longer the opportunities for engagement that had been available at Holyrood itself, this having an impact - for example - on the Scottish Youth Parliament which was not able to sit at the Parliament.
61. There was a consensus among the participants that virtual meetings had facilitated a broader participation of organisations over a wider geographical area with more witnesses participating from outwith the central belt. However, there was also a concern that virtual engagement could exclude those with poor quality broadband or those who did not own or could not access the digital devices to participate online. The participants recognised the efforts made by the Parliament but highlighted the importance of ensuring that virtual engagement was accessible to all.
62. While the participants did not want engagement on digital platforms to become the primary or only means of engaging with the Parliament in the future, they recognised the potential it had to bring together people from a range of geographical locations at one event. However, connectivity issues remained a key problem in rural and remote areas leading to an inability to participate virtually to the same extent as those from areas with better connectivity, particularly in the central belt.
63. The participants also highlighted accessibility problems associated with virtual platforms, particularly for people with disabilities or learning difficulties. They explained that the use of multiple platforms meant that there was not one standard platform with which people would feel familiar. Many of the participants provided positive examples of the opportunities that they had had to engage with the Parliament and the ways in which parliamentary staff had supported their involvement via virtual platforms but emphasised that it could be a very daunting prospect to participate in an evidence session or public engagement activity virtually.
64. In response to the Committee's call for evidence, the Bòrd na Gàidhlig indicated that virtual meetings could be more inclusive and called on the Parliament to continue opportunities for virtual participation once the pandemic had ended—

” Tha sinn den bheachd gu bheil coinneamhan air-loidhne/measgaichte math air adhbharan co-ionannachd agus iad a’ toirt cothrom do dhaoine is buidhnean ann an coimhearsnachdan dùthchail, coimhearsnachdan is luchd-labhairt na Gàidhlig sna h-Eileanan agus air a’ Ghàidhealtachd nam measg, pàirt a ghabhail ann an coinneamhan Pàrlamaid na h-Alba. Air an adhbhar seo, bu chòir dhan Phàrlamaid beachdachadh am bu chòir cothroman mar seo a chumail às dèidh suidheachadh làithreach a’ Choròna-bhiorais.

” We believe that online and hybrid meetings are beneficial as regards equalities as they enable people in rural communities, including Gaelic speakers and Gaelic communities in the Highlands and Islands, to more easily take part in the work of the Scottish Parliament. For these reasons, we would call upon the Scottish Parliament to consider continuing opportunities of this type after the Coronavirus pandemic.³⁷

65. The Committee considers that it is important that there should still be opportunities for stakeholders and the public to engage with the Parliament and to inform the scrutiny of legislation and policy. In particular, the Committee would highlight the importance of promoting equity in that process, being mindful of ways in which the most marginalised, the disabled, those without access to or experience of the necessary equipment and those in rural and remote areas can all participate in virtual proceedings and engagement activities.

Future ways of working

66. The evidence on the experience of other legislatures set out in the first section of this report demonstrated that they all faced challenges in continuing their business at the beginning of the pandemic; all of them were required to make adaptations in order for plenary and committee business to take place. Few legislatures – if any – were sufficiently prepared in a way that allowed them to continue parliamentary business fully in the early period of the pandemic.

67. In its written submission to the Committee, the SPCB reflected on the preparedness of the Scottish Parliament for the challenges posed by the Covid-19 pandemic:

” Parliament exercised plans for a health pandemic which included reduced numbers of Members available to transact parliamentary business. What that exercise did not cover, however, was a full-scale switch to digital ways of working. In that regard, the Parliament has had to learn what it can and cannot do in a live environment, rather than this being planned over an extended period of time. Prior planning had, however, ensured that a large number of Members and staff had the necessary IT equipment to work remotely through our most recent technology refresh.³⁸

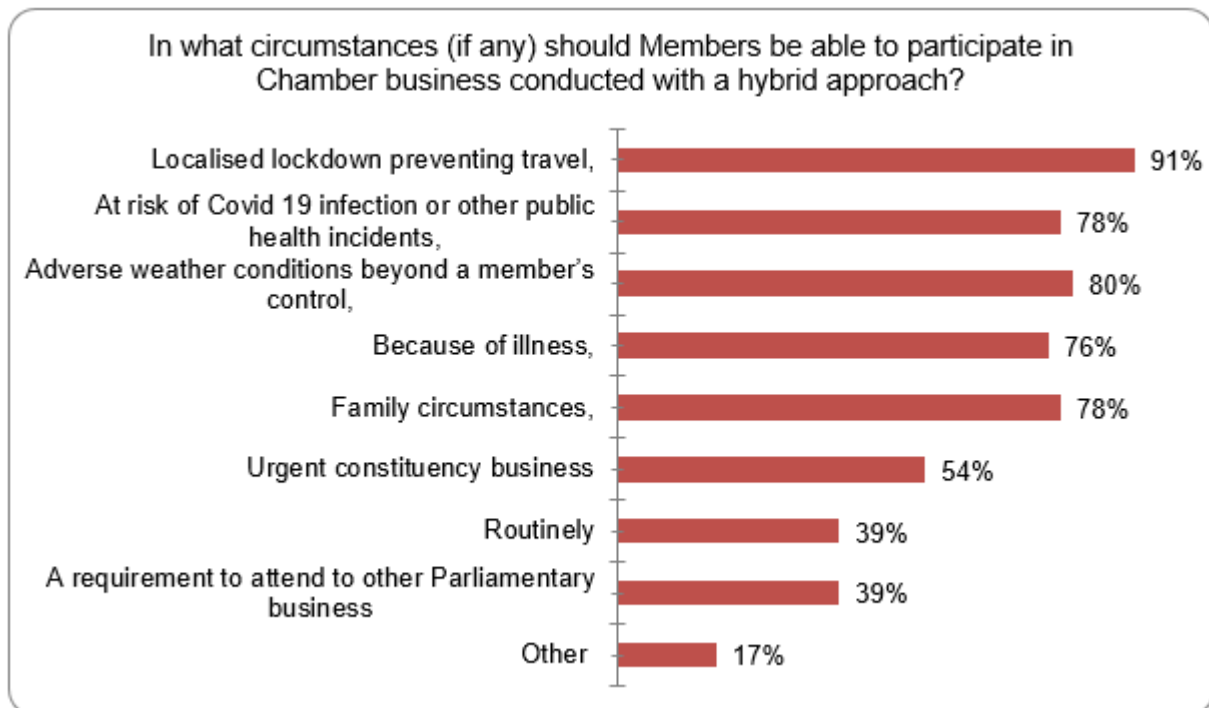
68. The SPCB also explained the rationale behind its approach to supporting parliamentary business since the beginning of the pandemic:

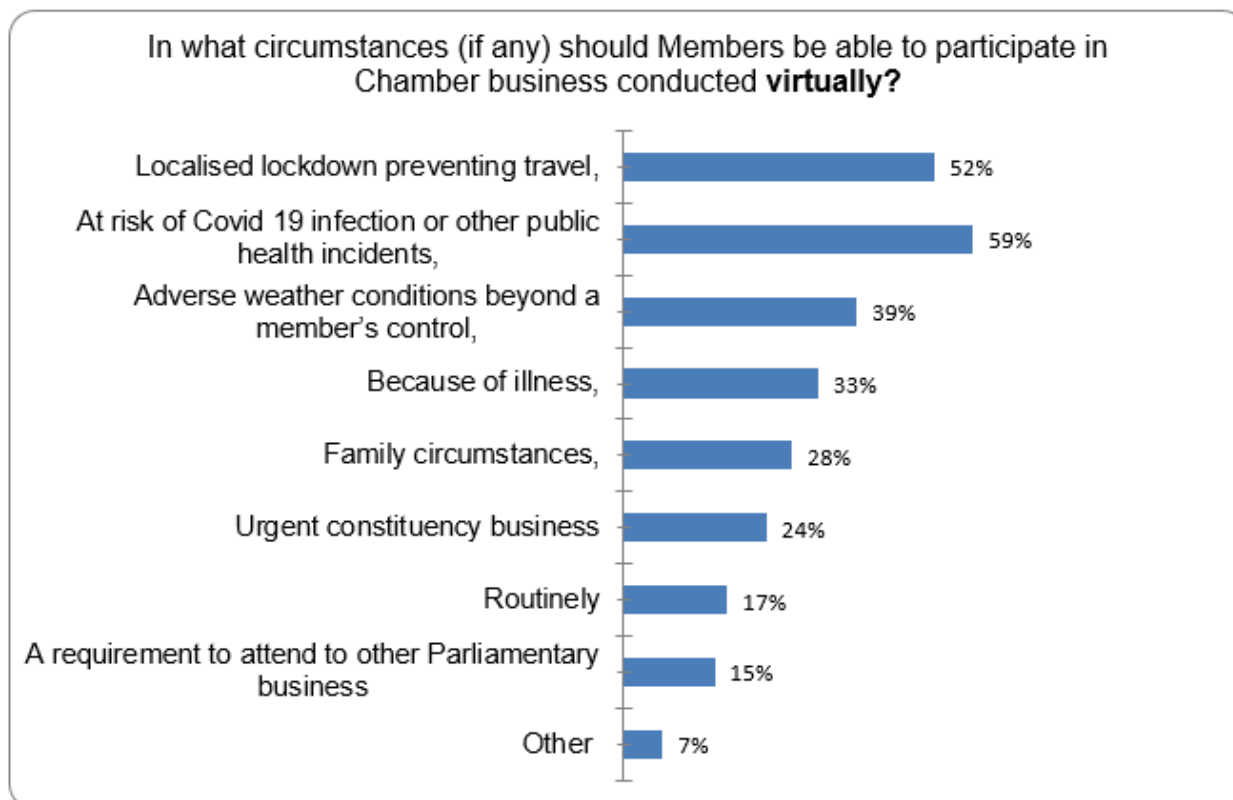
” Holding the Government to account and scrutinising its decisions is never more important than when the Government is exercising emergency powers and doing so on occasion with little or no notice. The SPCB was clear right from the outset that it had a duty to provide the Parliament with the resources required to ensure that Parliamentary scrutiny was not compromised and was able to continue in extremely challenging circumstances.³⁹

69. The Committee considers that the SPCB's commitment to ensuring parliamentary business could take place has resulted in the Scottish Parliament now having the infrastructure and expertise to ensure both the Chamber and the committees can meet in a hybrid and virtual formats. The development of the Parliament's capacity

over the course of the pandemic has served to improve its resilience in the face of any future situations that undermine its ability to meet.

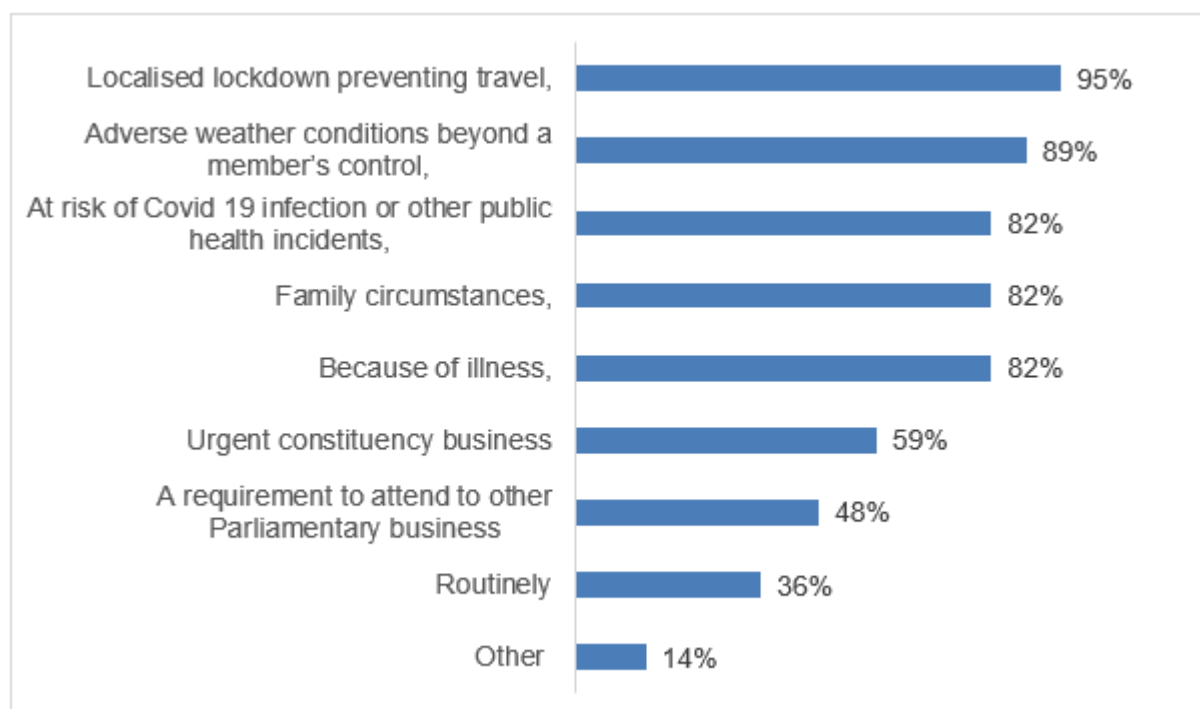
70. The development of hybrid and virtual meetings also raises questions about the Parliament's practices and procedures over the longer term and the circumstances in which the Chamber or committees might meet in a hybrid or virtual format in the future, once social-distancing requirements are no longer in place.
71. The survey of Members provides an insight into the views of current MSPs. The two graphics below show Members views on the circumstances in which Chamber business should be conducted in hybrid and virtual formats respectively.⁴⁰



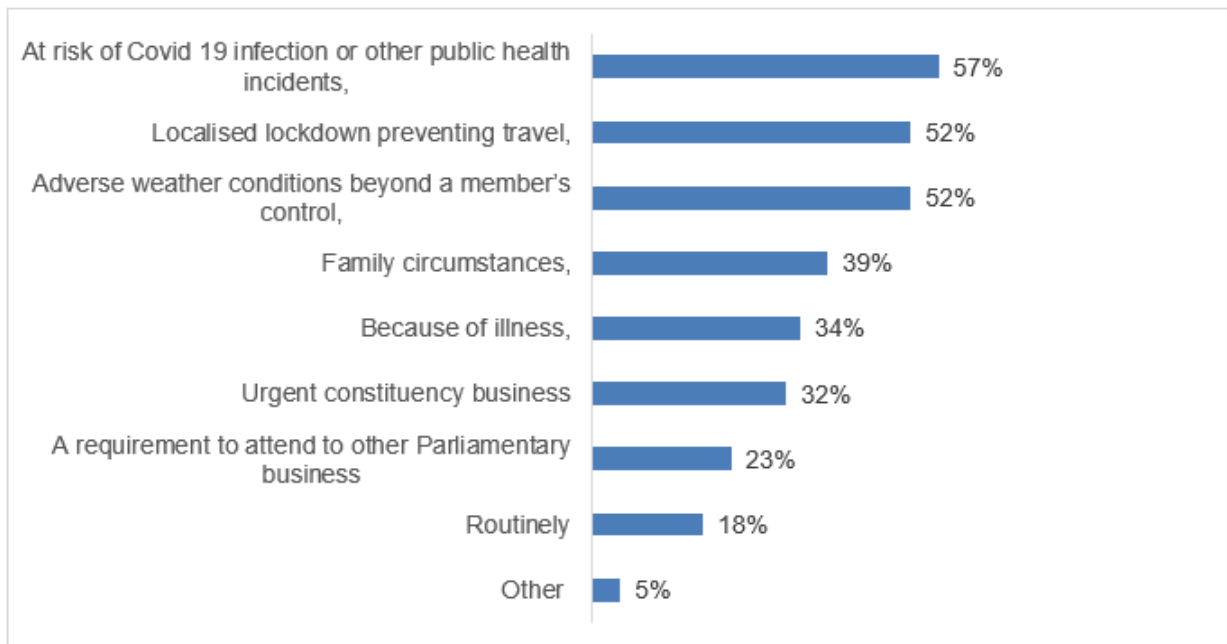


72. Similarly, the following two tables show the circumstances in which committees should meet in a hybrid and virtual format respectively.⁴¹

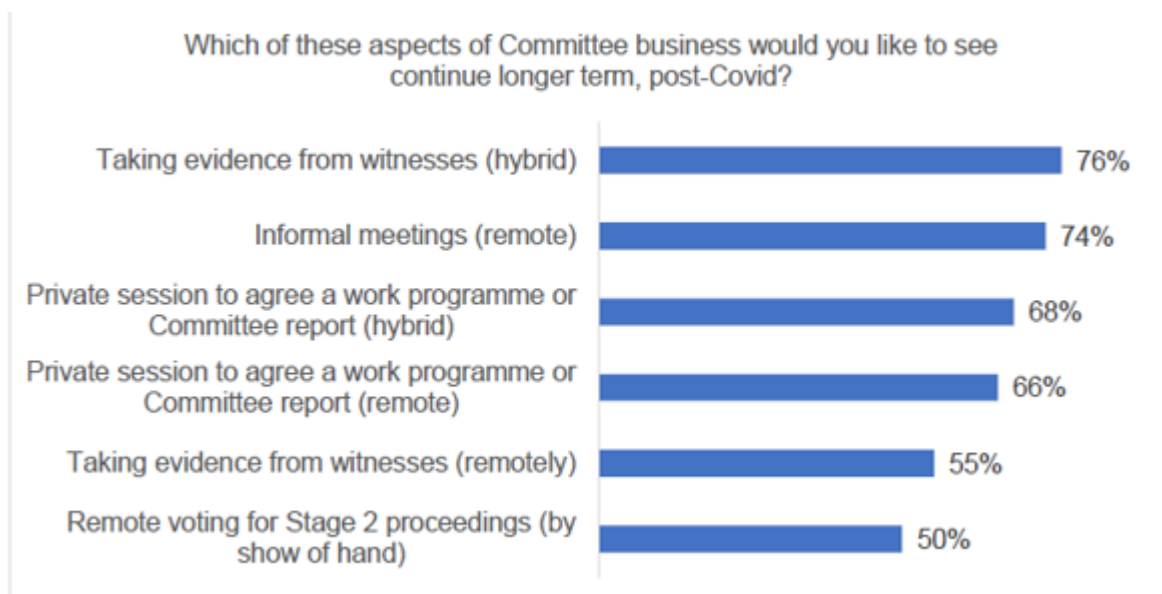
Circumstances for meeting on a hybrid basis



Circumstances for meeting virtually



73. In response to questions about the aspects of business that members would like to see continue over the longer-term, it is notable that there was support for various types of business to be possible either in a hybrid format or virtually as the following graphic shows.⁴²



Conclusions on the Scottish Parliament's response to continuing parliamentary business during the Covid-19 pandemic

74. While further improvements are possible and necessary, the Committee concludes that the Scottish Parliament has been relatively successful in developing the infrastructure to support hybrid and virtual meetings of both

the Chamber and committees. The Parliament adapted sufficiently by September 2020 to ensure that almost all types of Chamber and committee business could be conducted in a hybrid or virtual way. Since then, further refinements have improved voting procedures and the manner in which meetings can be conducted. While there are still glitches and relating to issues such as connectivity, the Committee concludes that this is a major achievement and a testament to the commitment and flexibility of Members, the parliamentary authorities and parliamentary staff. The Committee also considers that there will be a need for ongoing training, resource and support for Members, particularly new Members, in Session 6.

- 75. Since September, the Scottish Parliament has been able to continue its scrutiny of the Scottish Government in relation to legislation by conducting all normal parliamentary business. Notably, it has not had to reduce either the type or quantity of parliamentary business that can take place. Over the course of the pandemic, steps have been taken to improve the potential for scrutiny of the Scottish Government's handling of the Covid-19 pandemic, notably by the extension of the time available for First Minister's questions and the establishment of a Covid-19 Committee to consider and report on the Scottish Government's response to Covid-19.**
- 76. Individual MSPs, notwithstanding their own personal circumstances, have been able to participate and exercise their own vote in parliamentary proceedings, as well as continue to represent the interests of their constituents.**
- 77. The Parliament's adaptation over this period has led to the development of practices and procedures that promote its resilience. The next section of this report identifies the permanent and temporary rule changes that the Committee consider are necessary to ensure the resilience of the Parliament's Rules in the face of any future challenge which would make it difficult for the Chamber and committees to meet at Holyrood.**

Proposed rule changes

78. Based on a consideration of the evidence heard and received, the SPPA Committee is proposing the changes to Standing Orders set out in the following section to strengthen the resilience of the Scottish Parliament's practices and procedures.
79. The Committee recommends both permanent rule changes as well as a limited number of temporary rule changes to support the establishment of the Session 6 Parliament in the context of the ongoing Covid-19 restrictions
80. The changes proposed have been developed following a call for views, evidence sessions, public engagement sessions and a consultation of all MSPs. The changes take into account the views of the Parliamentary Bureau, the Conveners Group and the SPCB. The rule changes proposed were also the subject of a specific consultation.
81. The majority of the proposed permanent changes give effect to the variations and suspensions made in the context of the Covid-19 pandemic. In addition, a change is proposed to allow for temporary Standing Order Rule changes.
82. Each rule change is set out individually below.

A new Rule to allow for temporary changes to Standing Orders

83. Currently, Rule 17.2 of Standing Orders provides for the variation and suspension of the existing Rules rather than more substantive temporary changes. Typically, the Rules are suspended for relatively straightforward matters such as the consideration of a Bill in a compressed timeframe.
84. When the Committee proposes permanent changes to the Rules, this is often the final step in a long process. The development of rule changes involves the consideration of the policy objective, the drafting of rules to deliver this, and a consultation of all MSPs and relevant bodies. Once the Rules have been finalised, a report proposing the changes is considered by the Chamber.
85. While the use of Rule 17.2 has enabled provision to be made to allow business to continue during the pandemic, the circumstances have required more substantial and extensive variations and suspensions of the Rules to be made than would normally be the case. The timeframe for these variations and suspensions being in place has been extended on three occasions⁴³ by a determination of the Presiding Officer due to the ongoing Covid-19 pandemic restrictions and these changes have been in place for a significant period of time.
86. In its evidence to the SPPA Committee, the Bureau recognised the constraints of Rule 17.2, stating that the "ability to suspend or vary rules is limited by the need to specify particular items of business or specific meetings or time periods."⁴⁴ The Bureau argued that a provision for temporary rule changes:

” ...should make the exercise of making temporary changes to procedures simpler from a drafting perspective and, consequently, more transparent. If the committee is minded to pursue this proposal, it may of course wish to ensure than any new temporary rules are subject to periodic review.⁴⁵

87. As noted earlier in this report, the House of Commons and the Senedd Cymru have a provision for temporary rule changes. In the House of Commons this provision was used to facilitate a trial of proxy voting. In the Senedd Cymru it was used in the context of the Covid-19 situation to make temporary rule changes. In both legislatures, the temporary rule changes are made accessible so that there is clarity on the relevant rules in place.
88. The Committee considers that such a provision would be beneficial as it would allow for temporary rule changes in emergency situations as well as for changes that are time-limited, such as for a pilot. In addition, it would provide for a more transparent process than the current provisions for variations and suspensions. By including the temporary rule changes as an annexe to Standing Orders, there would be greater transparency in relation to the change made, enabling Members and the public to establish more easily the rules that are in place.
89. The Committee consulted all MSPs on the proposal to develop a temporary rule change provision, as well as the factors that should be taken into account in the development of such a provision, and no issues were raised.
90. The Committee proposes that a new Rule 17.1A on the temporary amendment to standing orders be agreed by the Parliament that provides for the following:
- The SPPA Committee to propose temporary rule changes for a specified period of time. Any such rule changes must comply with the requirement in Rule 17.1 that any decision of the Parliament on such a change would require an absolute majority and that the changes must be consistent with the requirements of the Scotland Act 1998.
 - That any temporary rule change made under this provision is subject to review by the SPPA Committee, which may recommend further revisions to it including recommendations as to its duration.
 - In an emergency, where time precludes the normal procedure of the SPPA Committee recommending a temporary rule change or revisions to that rule change, the Parliamentary Bureau may recommend such a change. The Parliamentary Bureau would be required to inform the SPPA Committee prior to the motion being moved.
 - The member moving the motion on behalf of the Parliamentary Bureau would be required to explain the need for such a change to the Parliament. Any temporary rule change is to be annexed to the Stranding Orders.
91. The Committee considers that the proposed rule change would ensure that its role in considering and reporting on the practices and procedures of the Parliament was preserved for all but emergency changes. Where emergency changes were proposed by the Bureau, the Committee would remain informed of those changes. The Committee would also have the role of reviewing any such changes, including

the length of time that such changes were in place (except in an emergency, where that could be done by the Parliamentary Bureau).

92. The Committee believes that this proposed rule change provides a balanced approach; protecting its role in relation to the rules while also providing flexibility in an emergency. In both situations, any rule changes would be subject to review by the SPPA Committee thereby ensuring that there is built-in scrutiny of any changes made.
93. The Committee considers that this provision would also allow a future SPPA Committee to pilot potential rule changes before making any recommendation as to whether the rule changes should be made on a permanent basis.
94. The proposed new Rule 17.1A is set out in the rule below:

Rule 17.1A Temporary amendment to standing orders

1. The Parliament may, on a motion of the committee mentioned in Rule 6.4 to this effect, amend these standing orders on a temporary basis (and specify the duration of any such amendment). The requirements set out in Rule 17.1 shall apply also in relation to any temporary amendment [under this paragraph](#), and to the outcome of any review of it under paragraph 2.
2. Any temporary amendment made under Rule 17.1A shall be subject to review by that committee, which may, on a motion, recommend any revisions to it (including its duration).
3. In an emergency, the Parliamentary Bureau may, on a motion, recommend that these standing orders are amended on a temporary basis, or that revisions are made to any existing temporary amendment made under them (including the duration of such amendment). In these circumstances, the Parliamentary Bureau shall notify the committee mentioned in Rule 6.4 prior to the motion being moved. The Member moving the motion on behalf of the Parliamentary Bureau shall explain the need for the temporary amendment.
4. Any temporary amendment to the rules shall be annexed to these standing orders.

The location of meetings of the Parliament (including virtual and hybrid meetings)

95. In response to the Covid-19 pandemic, Rule 2.7.1 - which describes the location and arrangements for meetings of the Parliament - was suspended and varied to allow for virtual and hybrid meetings of the Parliament to take place. The variation to this Rule did not prescribe which format the Chamber should meet in and decisions about the most appropriate meeting format were taken by the Bureau based on the circumstances.
96. Over the course of the pandemic, the Parliament has met physically with reduced

numbers, in a hybrid format or fully virtually depending on the circumstances at the relevant point in time. This rule change has allowed for that flexibility, with the Bureau taking decisions in the context of the restrictions in place.

97. In response to the Committee's initial consultation on the resilience of the Parliament's practices and procedures, the Bureau indicated that it considered that this rule change had been fundamental to allow the Parliament to continue to meet. It stated—

”...the facilities for virtual and hybrid meetings, as well as the new remote voting arrangements, have been vital in ensuring that the Parliament can fulfil its statutory functions throughout these difficult months. They have made it possible for all Members to undertake their representative roles and scrutinise the government, while the capacity of the Chamber and committee rooms have necessarily been reduced and a number of Members have been actively shielding. The Bureau has not taken a view about whether these practices should continue other than as a means to ensure business continuity. It would note, however, there are limits on the remote participation in that Members participating by video link are unable to make or take interventions during debates.”⁴⁶

98. The SPCB concurred that there was a value in retaining this change to Standing Orders:

”At the very least, the SPCB is of the view that the current use of hybrid and virtual meetings in both plenary and committee sessions would be a useful addition to our business continuity response to major incidents. Permanent changes to the Rules to allow these methods of working to be adopted quickly would increase the resilience of the Parliament when faced with the types of challenges we have experienced this year.

”While it is clear that these measures should remain as options at our disposal to be considered for use in certain circumstances, it is worth noting that the arrangements currently in place have been introduced at speed to suit the particular circumstances we currently find ourselves in. It may be that further work is required to identify any future improvements that could be made to capture the essence of physical meetings where proceedings are often more lively and engaging, scrutiny can be more probing and direct, and members are better able to read the mood of the Chamber.”⁴⁷

99. The SPCB also highlighted the additional resource required to support hybrid and virtual meetings of the Chamber and committees:

”There are significantly higher running costs associated with hybrid and virtual arrangements in the Chamber and committees, as a result of the extra staffing support required for technical facilitation, as well as support to Members and witnesses in conducting parliamentary business. These costs principally impact on Clerking, Broadcasting and BIT. There will also be routine refresh costs associated with hard and software. The SPCB's view is that a full resource assessment would need to be carried out prior to the Parliament being asked to take a decision on whether hybrid and virtual arrangements should become permanent formats for parliamentary business.”⁴⁸

100. In its consultation on proposed rule changes, the SPPA Committee suggested that the variation to Rule 2.7.1 that has been in place for the duration of the Covid-19 pandemic be made permanent. There were no issues raised as a result of the consultation about this proposed change.
101. The Committee would emphasise that this proposed rule change is permissive, providing for virtual and hybrid meetings to take place in the Chamber. It does not prescribe which format the Chamber should meet in; a decision which is taken by the Bureau based on the circumstances. The Committee also highlights that the drafting of the permanent change proposed in this report has sought to provide greater clarity than was possible in the variation that has been in place during the pandemic.
102. **The Committee recommends that Rule 2.7.1 be permanently changed to allow for meetings of the Chamber to take place in a virtual and a hybrid format, as well as physically in the Chamber, Holyrood. It also suggests that further consideration could be given by the Session 6 Parliament as to how hybrid and virtual meetings can be improved and whether there is a need for the development of criteria and/or guidance relating to the circumstances in which such meetings are held once the Covid-19 pandemic situation has improved.**
103. **In addition, the Committee notes the SPCB's recommendation that a full resource assessment should be carried out in relation to hybrid and virtual arrangements. While these arrangements are currently necessary to allow the Chamber and committees to meet in the context of ongoing restrictions, the Committee agrees that such a resource assessment should be conducted in Session 6 when there is greater clarity on the regular meeting format to be used in the Chamber going forward.**
104. The following change is proposed to Rule 2.7.1:

Rule 2.7**Rule 2.7.1 is deleted:**

1. Meetings of the Parliament shall be held in the Debating Chamber of the Parliament, Holyrood, subject to the following provisions.

and replaced with:

1. Subject to Rule 2.7.2 and 2.7.3, meetings of the Parliament shall be held—
 - (a) in the Debating Chamber of the Parliament, Holyrood (all members meeting there collectively, or in part remotely by video conference hosted on such platform as may be provided by the Parliamentary corporation); or
 - (b) wholly remotely by video conference hosted on such platform as may be provided by the Parliamentary corporation.

References in the Rules to the “the Chamber” are to be interpreted accordingly.

Meetings of the Parliament – electronic voting system

105. In response to the Covid-19 pandemic, Rule 11.7.1 was varied to allow for voting to take place using "an" electronic voting system, rather than referring solely to "the" electronic voting system in the Chamber. This has allowed other voting systems provided for the purpose to be used in the Chamber.
106. The Bureau recommended that this Rule change should be made permanent to support the resilience of the Parliament. It explained the value of this rule change in the current context:
- ” ...the introduction of a remote voting function has allowed all Members to participate in parliamentary proceedings, including consideration and amendment of legislation. This has been particularly important from the perspective of Members who have been shielding, whether due to age or underlying health condition. In some cases, it may have supported participation by Members who would have had to travel long distances at a time when travel was being discouraged.
107. The Committee consulted Members on the proposal that the variation of Rule 11.7.1 should be made permanent. No issues were raised in relation to this proposal.
108. **The Committee recommends that the change to Rule 11.7.1 to replace "the" electronic voting system with "an" electronic voting system. This change means that the rule no longer only refers to the use of the single voting system that is used to run votes when all Members are in the Chamber.**

In Rule 11.7.1

Rule 11.7.1 is deleted:

1. Normally members shall vote at a meeting of the Parliament or of a Committee of the Whole Parliament using the electronic voting system.

and replaced with:

1. Normally members shall vote at a meeting of the Parliament or of a Committee of the Whole Parliament using an electronic voting system.

Virtual and hybrid Committee meetings

109. Over the course of the period since the Covid-19 pandemic started, Rule 12.3.2 - which relates to the location of a committee meeting - has been varied twice: initially to allow for committee meetings to take place virtually and then subsequently to allow for hybrid meetings. These variations have been crucial to allowing committees to continue the full range of their scrutiny role, including evidence sessions and Stage 2 consideration of amendments.

110. The Committee noted that in response to its initial consultation on the resilience of the Parliament's practices and procedures, a number of conveners felt that it was too soon "to take a decision about whether Standing Orders should be permanently changed to allow virtual meetings on a longer-term basis at this point of time".⁴⁹
111. The Conveners Group considered that the changes to allow committees to meet virtually, either on a remote or hybrid basis "had worked well, aside from a few technical issues". They agreed that these changes had allowed committees to continue to carry out much of their work programmes and had provided the following benefits:
- increased opportunities for witnesses from across Scotland to participate in committee business without needing to travel to Edinburgh;
 - supports the Parliament's 'family friendly' values by enabling those members who live at a distance from Holyrood to take part in proceedings virtually; and
 - evidence sessions with Scottish Ministers could take on a different dynamic in instances where they were not accompanied by Scottish Government officials 'in the room'.⁵⁰
112. The Conveners Group also highlighted a number of challenges associated with chairing virtual meetings, including:
- difficulties in managing remote or hybrid meetings with 11 members;
 - concerns around how the dynamics of evidence taking from witness differs during a virtual meeting compared to 'in person' engagement. Some felt that virtual meetings could encourage witnesses to make statements rather than generate a discussion and the opportunities for sessions to "gain momentum" can be lost in virtual meetings;
 - difficulties faced when managing larger panels of evidence, for example, around witnesses' speaking order, and less traditional forms of gathering evidence, such as round tables;
 - losing the nuances of body language, which is more difficult to read during virtual meetings. It was felt this made it less easy to intervene during contributions or press a witness without cutting them off; and
 - managing meetings during contentious Stage 2 proceedings or considering draft reports.
113. The responses to the survey of members set out earlier in this report showed support for certain types of committee business to take place either in a hybrid or virtual format, particularly evidence sessions and private items of business.
114. The Parliamentary Bureau considered that permanent rules to allow committees to meeting in virtual and hybrid meetings would support resilience.
115. Given the differing views among Members on the circumstances in which virtual and hybrid meetings should be allowed to take place set out earlier in this report, and the reservations of the Conveners Group, the Committee sought the views of Members on whether this rule should have permanent effect or whether a further

temporary change should be made at the beginning of Session 6. However, no views were provided by Members as to whether this rule change should be made permanently or at the beginning of Session 6.

116. In light of the ongoing Covid-19 pandemic, the Committee is of the view that this rule should be changed permanently to allow for virtual or hybrid meetings to take place, with criteria and/or guidance developed for this situation in which such meetings would take place in Session 6. The Committee believes that this would allow committees to initiate their scrutiny role without any delays at the beginning of Session 6.
117. Furthermore, the Committee is of the view that the proposed Rule change - like the one proposed for meetings of the Chamber - is permissive, providing for virtual and hybrid committee meetings to take place. It does not prescribe which format a committee should meet in: a decision which is for the Convener and committee to take. In practice, this would mean that that a committee would have the flexibility to decide its own approach to the format of its meetings, as has been the case since last September when hybrid committees were added to physical and virtual meetings as a way of meeting.
118. **The Committee notes the SPCB's comments set out earlier in this report in relation to the higher running costs associated with hybrid and virtual arrangements in committees. It considers that a full assessment of the resources is required, including costs to Members related to their full participation in their parliamentary work and changes to work patterns for staff members. While these arrangements are currently necessary to allow committees to meet in the context of ongoing restrictions, the Committee agrees that a resource assessment should be conducted in Session 6 when there is greater clarity on the regular meeting format to be used in committees going forward.**
119. **The Committee recommends that Rule 12.3.2 be permanently changed to provide for hybrid and virtual meetings of committees. In light of the concerns expressed by the Conveners Group and some individual members, the Committee suggests that the Session 6 Parliament may wish to review this rule change when committees are able to meet fully again in a physical capacity.**
120. The drafting of this rule has been revised to improve its clarity and ensure that the language is consistent with rule 2.7.1 on meetings of the Parliament.
121. The Committee recommends the permanent rule change to 12.3.2 set out below.

Rule 12.3.2**Rule 12.3.2 is deleted—**

2. A committee shall meet in Scotland at such place as it may decide, with the approval of the Parliamentary Bureau and the Conveners Group. A decision under this Rule shall, in the event of any disagreement between the Parliamentary Bureau and the Conveners Group, be referred to the Parliamentary corporation for a determination. The Parliamentary Bureau may require the Conveners Group to make a decision under this Rule within a specified period. If the Conveners Group does not make a decision within that period, the decision on the approval shall be made by the Parliamentary Bureau.

and replaced with—

2. A committee shall meet—

(a) in Scotland at such place as it may decide, with the approval of the Parliamentary Bureau and the Conveners Group (all members meeting collectively at such place, or in part remotely by video conference hosted on such platform as may be provided by the Parliamentary corporation) or

(b) wholly remotely, by video conference hosted on such platform as may be provided by the Parliamentary corporation.

2A. A decision under Rule 12.3.2(a) shall, in the event of any disagreement between the Parliamentary Bureau and the Conveners Group, be referred to the Parliamentary corporation for a determination. The Parliamentary Bureau may require the Conveners Group to make a decision under Rule 12.3.2(a) within a specified period. If the Conveners Group does not make a decision within that period, the decision on the approval shall be made by the Parliamentary Bureau

Committee voting procedure

122. For the duration of the Covid-19 pandemic, Rule 11.8.3 has been varied to enable committees to vote in a number of different ways (show of hands, roll call or electronic voting). This variation has been particularly valuable to committees in considering amendments at Stage 2.
123. The SPPA Committee consulted on this change, seeking the views on Members on whether it should be a permanent change or whether it could be made at the beginning of Session 6 if required. No responses were received indicating a preference for either course of action.
124. Given the continuation of the pandemic, the Committee considers that this rule change should be made permanent to allow for electronic voting in the context of virtual or hybrid meetings.
125. This rule change would be permissive, providing flexibility should it be required. The decision as to the method of voting rests with the Convener.
126. **The Committee recommends Rule 11.8.3 be permanently changed to allow for**

an electronic voting system to be used in committees at the discretion of the convener. It also recommends that consideration be given to developing criteria and/or guidance in Session 6 to determine the circumstances in which different ways of voting would be used.

127. The Committee recommends the permanent rule change to Rule 11.8.3 set out below:

Rule 11.8.3

Rule 11.8.3 be deleted:

3. Except as provided in any direction given to a committee by the Parliament, members of a committee (other than a Committee of the Whole Parliament) or subcommittee shall vote by show of hands unless, before they do so, a member of the committee or sub-committee requests a roll call vote, as described in Rule 11.7.4, and the convener agrees to that request.

and replaced with:

3. Except as provided in any direction given to a committee by the Parliament, members of a committee (other than a Committee of the Whole Parliament) or subcommittee shall vote either by show of hands, or by means of a roll call vote as described in Rule 11.7.4, or by an electronic voting system. The convener shall determine at the start of each meeting which of those methods of voting the convener considers it appropriate, in all the circumstances of the meeting, to use for that meeting.

Proposed future temporary rule changes

128. The Committee also considered whether the procedures for the election of the Presiding Officer (PO) and the Deputy Presiding Officers (DPOs) and on the admission of the public to the public gallery should be changed.

Election of the Presiding Officer and Deputy Presiding Officers

129. Early in the pandemic, Rules 11.9.4, 11.9.5, 11.9.13 and 11.9.16 were suspended to allow for the virtual election of an additional deputy Presiding Officer in case any of the Presiding Officers became unavailable during the course of the pandemic.
130. For the election of the additional DPO, the Bureau took steps to allow the secret ballot to be conducted using the electronic voting system in the chamber. To preserve the secrecy of the ballot, the results were not published and were destroyed immediately after the outcome had been announced. In the case of the election of the additional DPO, there was only one candidate and so the exercise was uncontentious. In addition, not all Members could participate due to the reduction in numbers of seats in the Chamber for social distancing.

131. The SPPA Committee considers that as social distancing measures are likely to still be in place at the beginning of May, this could limit the number of Members able to be in the Chamber at one time and potentially those able to attend Parliament. The Committee also recognises that some Members might be unable to attend in person due to the need to self-isolate, as they are shielding or as they are unwell.

132. In its consultation of Members on proposed rule changes, the Committee highlighted that it would be necessary to ensure that there is sufficient flexibility for the elections for the PO and DPOs to take place given that the elections form part of the first meeting of the Parliament. The Committee recommended changes to Standing Orders to allow for the remote participation of any Members who are ill, self-isolating or unable to participate due to Covid-19 restrictions in the secret ballot for the PO and DPOs at the beginning of Session 6. It proposed that any changes to the rules be designed to allow the elections to take place in accordance with the existing rules to the maximum extent possible given the unique nature of the ballot and the importance of the elections for the integrity of the Session 6 Parliament.

133. The Committee also highlighted to Members in its consultation that it might take longer to conduct the elections and a number of voting locations might be required within the Parliament to ensure that social distancing requirements are respected and gatherings avoided. The Committee emphasised that as the Presiding Officer has a number of significant responsibilities, as well as a key role in relation to parliamentary business and the management of the Parliament, it is important that whatever measures are put in place, the integrity of the election is preserved and Members are satisfied with and have trust in the process. Therefore, the SPPA Committee considered that the current procedures to provide for a secret ballot should be followed as far as possible. No responses were received from Members raising any issues with the position and approach set out by the Committee.

134. The Committee considers that it is of paramount importance that the principles underpinning the method for the election of the PO and DPOs should be maintained. The election is the only decision-making process in which a secret ballot is used in the Parliament. The Committee is of the view that this testifies to the importance of the elections taking place anonymously without it being possible to determine the way in which any individual Member voted.

135. The Committee recognises that there might be circumstances in which not all Members are able to participate in the election of the PO and DPOs as they might be ill, shielding, self-isolating or unable to attend the Parliament due to restrictions. The Committee therefore recommends that the Rules should be changed temporarily to ensure that no Member is prevented from participating in these elections for reasons outwith their control. The Committee does not believe that a permanent change is appropriate in the circumstances as it believes that the existing provisions should remain the process for electing the PO and DPOs in future sessions.

136. **Given the fluidity of the current situation, the Committee recommends that if the temporary rule change provision proposed earlier in this report is agreed by the Parliament, that the Bureau should recommend an emergency change of a time-limited nature to provide for the PO and DPO election to take place at the beginning of Session 6 in a manner which provides for the participation of all members and respects the principles of a secret ballot. The rule change proposed by the Bureau should take into account the circumstances that are**

likely to prevail at the beginning of Session 6 and should be agreed by Business Managers in consultation with the members of their party.

Public gallery

137. Following the SPCB's decision that the public should not access the Parliament for health and safety reasons, Rule 15.2.1 was suspended. This rule allows for members of the public to be admitted to the public gallery during any meeting of the Parliament.
138. In response to the Committee's initial consultation, the Bureau noted that the suspension of this rule reflected the SPCB's decision in relation to the building, and that while members of the public could no longer physically attend either the Chamber or a committee meeting, it was possible to follow live-streamed proceedings on various channels. The Bureau did not recommend a permanent change to this rule.
139. All committee rooms have been reconfigured to allow for social distancing when committees are able to meet, with the public gallery used to provide additional space.
140. The current suspension of this Rule will end at dissolution but it is anticipated that it may not be safe for the public to enter the Parliament at the beginning of Session 6.
141. **The Committee recommends that if the Parliament agree to the provision for temporary rule changes proposed earlier in this report, that the Parliamentary Bureau should propose a temporary rule change suspending this provision until such time in Session 6 as the newly established SPCB has taken a decision in relation to the admission of the public into the building. The Committee considers that given the time-limited nature of this suspension, it is appropriate for it to be made as a temporary rule change. In addition, it recognises that there may be insufficient time left in the current session for the Committee to recommend this change in accordance with the normal procedure so it would be appropriate for the temporary change to be proposed by the Bureau as an emergency temporary change. This would also allow a decision to be taken as close to the beginning of the campaign period as possible**

Variations and suspensions that the Committee does not consider should be made permanent

142. There are two rule changes that the Committee does not consider should be made permanent, instead it is of the view that it is for the Session 6 Parliament to agree these changes should it consider them necessary.
143. The Committee's position reflects that expressed by the Bureau in response to the Committee's initial consultation on the resilience of the Parliament's practices and procedures.

144. These changes include the suspension of Rules 5.6(a), (b) and (c) relating to special categories of business, which included oral question times and Members' business. These rules were suspended to accommodate the challenges of delivering meetings of the Parliament in the early days of the pandemic.
145. The Committee consulted on the proposal that the suspension of these rules should be allowed to fall at dissolution. No comments from Members were received on these Rules.
146. In addition, the variations to Rules 6.3A and 12.1.15 on committee substitutes have provided flexibility where committee members could not participate in committee meetings for reasons related to the pandemic by allowing other members to substitute in committee meetings. The Conveners Group indicated that while this variation had been valuable in the context of the pandemic, there was not a need to retain these changes in the longer term. The Parliamentary Bureau was of the view that permanent effect should not be given to these Rules, although the Parliament might wish to continue this temporary change while the pandemic is ongoing.
147. The Committee consulted on the proposal that the variation and suspension of these rules should be allowed to fall at dissolution. No responses were received from Members in relation to these Rules.
148. **The Committee therefore concludes that the variations and suspensions referred to above should be allowed to fall at dissolution. Should the Session 6 Parliament consider that these changes are again necessary, it could agree to a proposal to change these rules on a temporary basis.**

Recommendation

149. **The Committee recommends to the Parliament the changes to Standing Orders set out at Annexe A of this report.**

Annexe A: Standing Order rule changes

The Committee recommends a new Rule 17.1A as set out below:

Rule 17.1A Temporary amendment to standing orders

1. The Parliament may, on a motion of the committee mentioned in Rule 6.4 to this effect, amend these standing orders on a temporary basis (and specify the duration of any such amendment). The requirements set out in Rule 17.1 shall apply also in relation to any temporary amendment under this paragraph, and to the outcome of any review of it under paragraph 2.
2. Any temporary amendment made under Rule 17.1A shall be subject to review by that committee, which may, on a motion, recommend any revisions to it (including its duration).
3. In an emergency, the Parliamentary Bureau may, on a motion, recommend that these standing orders are amended on a temporary basis, or that revisions are made to any existing temporary amendment made under them (including the duration of such amendment). In these circumstances, the Parliamentary Bureau shall notify the committee mentioned in Rule 6.4 prior to the motion being moved. The Member moving the motion on behalf of the Parliamentary Bureau shall explain the need for the temporary amendment.
4. Any temporary amendment to the rules shall be annexed to these standing orders.

The Committee recommends the following change to Rule 2.7.1:

Rule 2.7.1 is deleted:

1. Meetings of the Parliament shall be held in the Debating Chamber of the Parliament, Holyrood, subject to the following provisions.

and replaced with:

1. Subject to Rule 2.7.2 and 2.7.3, meetings of the Parliament shall be held—
 - (a) in the Debating Chamber of the Parliament, Holyrood (all members meeting there collectively, or in part remotely by video conference hosted on such platform as may be provided by the Parliamentary corporation); or
 - (b) wholly remotely by video conference hosted on such platform as may be provided by the Parliamentary corporation.

References in the Rules to the "the Chamber" are to be interpreted accordingly.

The Committee recommends the following change to Rule 11.7.1:

Rule 11.7.1 is deleted:

1. Normally members shall vote at a meeting of the Parliament or of a Committee of the Whole Parliament using the electronic voting system.

and replaced with:

1. Normally members shall vote at a meeting of the Parliament or of a Committee of the Whole Parliament using an electronic voting system.

The Committee recommends the following change to Rule 12.3.2:

Rule 12.3.2 is deleted—

2. A committee shall meet in Scotland at such place as it may decide, with the approval of the Parliamentary Bureau and the Conveners Group. A decision under this Rule shall, in the event of any disagreement between the Parliamentary Bureau and the Conveners Group, be referred to the Parliamentary corporation for a determination. The Parliamentary Bureau may require the Conveners Group to make a decision under this Rule within a specified period. If the Conveners Group does not make a decision within that period, the decision on the approval shall be made by the Parliamentary Bureau.

and replaced with—

2. A committee shall meet—

(a) in Scotland at such place as it may decide, with the approval of the Parliamentary Bureau and the Conveners Group (all members meeting collectively at such place, or in part remotely by video conference hosted on such platform as may be provided by the Parliamentary corporation) or

(b) wholly remotely, by video conference hosted on such platform as may be provided by the Parliamentary corporation.

2A. A decision under Rule 12.3.2(a) shall, in the event of any disagreement between the Parliamentary Bureau and the Conveners Group, be referred to the Parliamentary corporation for a determination. The Parliamentary Bureau may require the Conveners Group to make a decision under Rule 12.3.2(a) within a specified period. If the Conveners Group does not make a decision within that period, the decision on the approval shall be made by the Parliamentary Bureau.

The Committee recommends the following change to Rule 11.8.3:

Rule 11.8.3 is deleted:

3. Except as provided in any direction given to a committee by the Parliament, members of a committee (other than a Committee of the Whole Parliament) or subcommittee shall vote by show of hands unless, before they do so, a member of the committee or sub-committee requests a roll call vote, as described in Rule 11.7.4, and the convener agrees to that request.

and replaced with:

3. Except as provided in any direction given to a committee by the Parliament, members of a committee (other than a Committee of the Whole Parliament) or subcommittee shall vote either by show of hands, or by means of a roll call vote as described in Rule 11.7.4, or by an electronic voting system. The convener shall determine at the start of each meeting which of those methods of voting the convener considers it appropriate, in all the circumstances of the meeting, to use for that meeting.

Annexe B: Extract from minutes

20th Meeting 2020 (Session 5), Thursday 12 November 2020

Resilience of the Scottish Parliament's practices and procedures: The Committee took evidence from—

Emily Death, Director, Global Partners Governance;

Dr Hannah White, Deputy Director, Institute for Government;

Professor Cristina Leston-Bandeira, Professor of Politics, University of Leeds;

Siwan Davies, Director of Senedd Business, and Sian Wilkins, Head of Chamber and Committee Service, Senedd Cymru.

24th Meeting 2020 (Session 5), Thursday 10 December 2020

Resilience of the Scottish Parliament's practices and procedures (in private): The Committee consider a note by the clerk.

25th Meeting 2020 (Session 5), Thursday 17 December 2020

Resilience of the Scottish Parliament's practices and procedures (in private): The Committee considered a note by the clerk. The Committee agreed a survey of all MSPs regarding Standing Order Rule changes.

4th Meeting 2021 (Session 5), Thursday 18 February 2021

Resilience of the Scottish Parliament's practices and procedures (in private): The Committee agreed a draft report and draft Standing Order Rule changes.

Annexe C: Evidence

Oral evidence

- [Meeting on 12 November 2020](#)

Written evidence

- [Clare Adamson MSP \(116KB pdf\)](#)
- [Alasdair Allan MSP \(62KB pdf\)](#)
- [Bòrd na Gàidhlig \(131KB pdf\)](#)
- [Bill Bowman MSP \(114KB pdf\)](#)
- [Conveners Group \(106KB pdf\)](#)
- [Ian Davidson \(123KB pdf\)](#)
- [Liberal Democrat Group \(205KB pdf\)](#)
- [Parliamentary Bureau \(169KB pdf\)](#)
- [SPCB \(434KB pdf\)](#)

Public engagement events - list of attendees

- Maureen Spence – Democratic Services, Orkney Islands Council
- Kirsty Morrison – Policy and Public Affairs Manager – Scottish Youth Parliament
- Rhona Willder – Development Officer – Scottish Independent Advocacy Alliance
- Anthea Coulter – Chief Officer and Business Manager, Clackmannanshire Third Sector Interface
- Colin Oliver – Public Affairs Officer, Stroke UK
- Catriona Burness – Policy and Parliamentary Manager - RNIB
- Kim Sibbald – Edinburgh and Lothians Greenspace Trust
- Maddy Halliday – Voluntary Action North Lanarkshire
- Lori Hughes – Perth and Kinross Association of Voluntary Services
- Kerry Spence – Orkney Islands Council

- Vicki Yuill – Arran Council for Voluntary Services
- Nicoletta Primo – Girlguiding Scotland
- Maria Doyle – Together Scotland

Standards, Procedures and Public Appointments Committee

Standing Order Rule Changes - Inquiry into the resilience of the Scottish Parliament's practices and procedures in relation to its business, 2nd Report 2021 (Session 5)

- 1 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Cols 2-3.
- 2 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 3.
- 3 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 2.
- 4 SPICe briefing. Coronavirus (Covid-19): How other Parliaments have adapted their rules and procedures during the pandemic. Available at: https://www.parliament.scot/S5_Standards/Meeting%20Papers/SPPAPublic_20201112.pdf
- 5 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 5.
- 6 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 21.
- 7 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 21.
- 8 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 22.
- 9 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 27.
- 10 Clerk's Commonwealth Newsletter, January 2021. House of Commons.
- 11 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 7.
- 12 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 8.
- 13 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 7.
- 14 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 14.
- 15 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 12.
- 16 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 17.
- 17 Scottish Parliamentary Corporate Body. Written submission.
- 18 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 8.
- 19 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 10.

- 20 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 10.
- 21 Parliamentary Bureau, Scottish Parliament. Written submission.
- 22 Parliamentary Bureau, Scottish Parliament. Written submission.
- 23 Parliamentary Bureau, Scottish Parliament. Written submission.
- 24 [Suspension and variation of Standing Order rules in response to the Novel coronavirus COVID-19.](#)
- 25 Scottish Parliamentary Corporate Body. Written submission.
- 26 Scottish Parliamentary Corporate Body. Written submission.
- 27 Scottish Parliamentary Corporate Body. Written submission.
- 28 Scottish Parliamentary Corporate Body. Written submission.
- 29 SPICe. Analysis of MSP Survey on New Ways of Working. Scottish Parliament Corporate Body. Written submission.
- 30 SPICe. Analysis of MSP Survey on New Ways of Working. Scottish Parliament Corporate Body. Written submission.
- 31 [Suspension and variation of Standing Order rules in response to the Novel coronavirus COVID-19.](#)
- 32 SPICe. Analysis of MSP Survey on New Ways of Working. Scottish Parliament Corporate Body. Written submission.
- 33 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 4.
- 34 Standards, Procedures and Public Appointments Committee. *Official Report*, 12 November 2020, Col 4.
- 35 Scottish Parliamentary Corporate Body. Written submission.
- 36 Annexe C contains a list of those who participated in these meetings.
- 37 Bòrd na Gàidhlig. Written submission.
- 38 Scottish Parliamentary Corporate Body. Written submission.
- 39 Scottish Parliamentary Corporate Body. Written submission.
- 40 SPICe. Analysis of MSP Survey on New Ways of Working. Scottish Parliament Corporate Body. Written submission.
- 41 SPICe. Analysis of MSP Survey on New Ways of Working. Scottish Parliament Corporate Body. Written submission.
- 42 SPICe. Analysis of MSP Survey on New Ways of Working. Scottish Parliament Corporate Body. Written submission.

- 43 The variations and suspensions were initially agreed until the beginning of the 2020 summer recess. They were subsequently extended from 26 June 2020 until 9 October 2020, then from 9 October 2020 until 24 December 2020, and finally from 23 December 2020 until the dissolution of the Parliament in advance of the 2021 Scottish general election.
- 44 Parliamentary Bureau. Written submission.
- 45 Parliamentary Bureau. Written submission.
- 46 Parliamentary Bureau. Written submission.
- 47 The Scottish Parliamentary Corporate Body. Written submission.
- 48 The Scottish Parliamentary Corporate Body. Written submission.
- 49 Conveners Group. Written submission.
- 50 Conveners Group. Written submission.

