

# Parliamentary Monitor 2021



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# About Parliamentary Monitor

Parliamentary Monitor is the Institute for Government's data-driven project examining the work of parliament to improve the effectiveness of government. It examines the resources involved in running the Houses of Parliament, how legislation is passed and how government is scrutinised. *Parliamentary Monitor 2021* is the fourth report in the series.

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## Foreword

This report, the fourth edition of our *Parliamentary Monitor* series, examines the operation of the UK parliament in the 2019–21 parliamentary session.

It was an extraordinary session. Following the 2019 election – and the 80-seat majority that allowed the Johnson government to leave the European Union in January 2020 – it seemed as though parliament would return to something approaching business as usual. But the coronavirus pandemic upended the government’s agenda, leading parliament to make changes to its working practices at a scale and speed previously unthinkable.

Returning from recess in September 2021, as this report is published, parliament is set to revert to normal ways of working, dispensing with its experiments in hybrid and virtual work. The government also seeks to move the agenda on from the receding pandemic, with a multi-year spending review and major initiatives on social care on the horizon. The latter promises to be especially difficult, and a stern test of the relationship between the government and in particular Conservative backbenches that grew increasingly strained in the 2019–21 session.

Within parliament itself the big question is whether the Johnson government will move away from the exceptional measures it got used to taking during the pandemic. The repeated use of emergency legislation, less justified as the crisis wore on, and a curtailing of Commons debating time shown most strikingly in the single day allocated to the long-awaited UK–EU trade deal spoke to a government all too willing to disregard the value of parliamentary scrutiny. This needs to change if parliament is going to be able to scrutinise the government properly and hold it to account.

Both the government and parliament should recognise that some of the problems experienced in the 2019–21 are not new, even if given extra gravity by the pandemic. We hope that parliament – and ministers – will explore these issues and how they could resolve them.



**Bronwen Maddox**, Director, Institute for Government

# Overview: the 2019–21 session

The 2019–21 parliamentary session was an extraordinary one. It marked the return of a substantial majority government to Westminster for the first time since 2010, with Boris Johnson's initial 80-seat majority larger than any enjoyed by a single party since 2001.\* But what looked in December 2019 like a return to government as usual was soon disrupted by the arrival of Covid-19. The novel coronavirus, first mentioned in the Lords on 22 January 2020 and in the Commons a day later, radically shifted the agenda of Johnson's new government.

Tackling the pandemic vastly increased the constituency workload of MPs, and precipitated dramatic changes in parliamentary procedures and working practices that were implemented at a speed previously unthinkable. Both the pandemic and a return to majority government highlighted the importance of parliament's representative and legislative roles, holding ministers to account and scrutinising their decisions. But these same factors also allowed government to repeatedly limit scrutiny, making it harder for parliament to do its job effectively.

## Key findings from the 2019–21 session

- **The government's approach to passing key Covid legislation reduced opportunities for timely and detailed parliamentary scrutiny.** An initial need for a quick response to the pandemic led ministers to pass the Coronavirus Act 2020 within days, and to introduce a raft of technical secondary legislation to implement policies – often with little opportunity for scrutiny. But this approach continued as the pandemic persisted and the initial urgency faded. More than one in 10 Covid-related statutory instruments came into force before parliamentarians even had sight of them, and dozens of others took effect before receiving parliamentary approval – despite the fact that some of this secondary legislation imposed fundamental restrictions on individual liberties.
- **Government also constrained opportunities for scrutiny of other issues.** Before the 2019 election, the government's fragile position in the Commons meant that Boris Johnson clashed often with parliament. After the election, his government chose to rely on its majority to limit opportunities for parliamentary scrutiny, exerting its power over what was debated and when, and avoiding votes on key aspects of its policy. Examples include the government's trade deal with the EU – the culmination of years of negotiations, debated for just one day – and cuts to overseas aid spending, on which the government tried to avoid a vote altogether before conceding a vote on a motion (albeit one that did not reflect the concerns of many backbenchers).

\* In 2001 Tony Blair was re-elected by a majority of 167 seats.

- **Despite the government's majority, backbench campaigns have succeeded in forcing concessions and U-turns.** The difficulty of scrutinising the government's response to Covid – and other issues – generated increasing frustration during the course of the session, including among Conservative backbenchers. We estimate that nearly a third of Conservative MPs rebelled at least once during the session. Concern about defeats meant that ministers at times had to make concessions and U-turns – including twice on free school meals – or water down plans to implement manifesto commitments, such as on planning reform. Backbench groups such as the Covid Recovery Group and Northern Research Group have also shown themselves to be highly influential on issues from Brexit to lockdown easing.
- **Select committees helped press the government on its response to the pandemic.** The recent trend towards MPs with recent ministerial experience being elected to the chairs of Commons committees continued, with a recent former health secretary chairing the Health and Social Care Committee. This helped committees to scrutinise the government's decisions – as did their increasing willingness to work collaboratively, allowing committees to pool their expertise on cross-cutting issues like Covid. Moves to hybrid and virtual hearings allowed committees to more easily hold hearings during parliamentary recesses.
- **The rapid move to hybrid and virtual working helped parliament continue much of its work, but the government's preference for in-person proceedings at times excluded some MPs.** Both Houses quickly adapted their work to be 'Covid-secure', with hybrid proceedings in the Commons and entirely virtual sittings in the Lords. These dramatic changes to parliament's ways of working happened within a matter of weeks and meant that key parliamentary business could continue. But a combination of early technological limitations – and government reluctance – meant that some forms of parliamentary business were put on hold, constraining opportunities for backbench-initiated proceedings. And ministers' desire to return to in-person working as soon as possible excluded MPs who were unable to be in Westminster for health reasons. By introducing widespread proxy voting rather than remote voting, the government also allowed party whips to exert greater control over their MPs: 95% of all proxy votes during the extended period of proxy voting were cast by whips.
- **Covid increased parliament's day-to-day running costs by £20 million.** As both Houses adjusted their ways of working, they were able to make some savings – though they also saw higher costs in other areas. All told, Covid cost parliament an extra £20m in day-to-day running costs. Separately, budget caps were increased on some aspects of MPs' and their staff's expenses, in recognition of their vastly increased constituency workload – though there were almost certainly savings from MPs' reduced travel costs, as fewer MPs commuted to Westminster. Some of the innovations during the session, such as remote voting, could offer long-term cost savings – including during the restoration and renewal of the Palace of Westminster – although the government's preference for in-person proceedings means these may not be realised.

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There were some positives for parliament from the session. The uncertainty and at times ill-tempered debates that characterised the previous parliament largely receded. And the staff of both Houses responded impressively quickly to Covid, allowing parliament to continue its work. Forced experimentation with new ways of working offered possible models for long-term change, with the potential to encourage a more diverse and inclusive parliament. At a time of considerable uncertainty and despite big practical challenges, parliament continued to carry out its work.

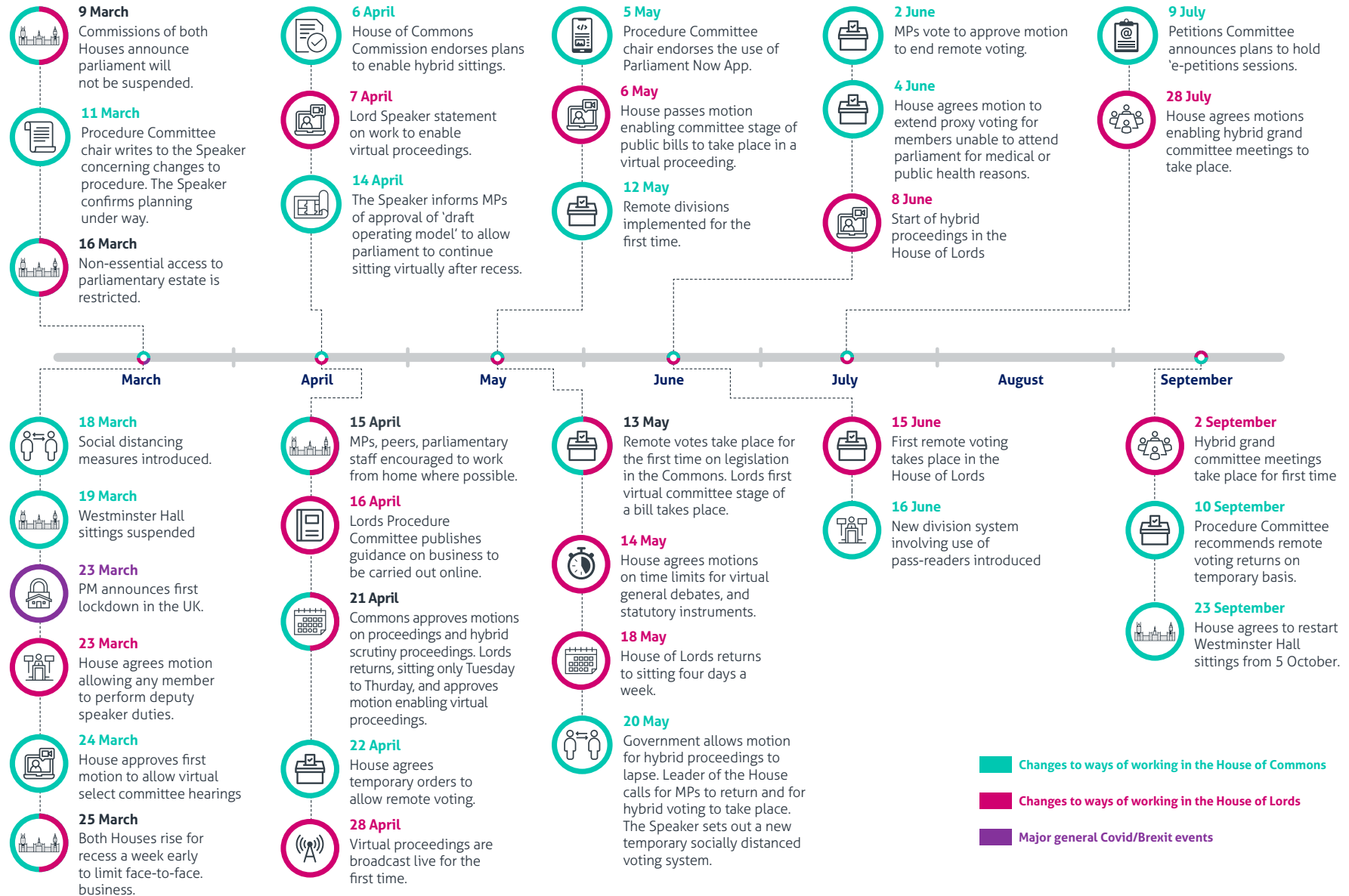
But the effectiveness of that work was restricted. Throughout the session, the Johnson government's frequently disdainful attitude to parliament – seen, for example, in its initial refusal to allow MPs a vote on controversial cuts to overseas aid – combined with its large majority, made it far harder for MPs and peers to hold government to account and scrutinise its work, on Covid and other issues. The problems inherent in remote working, alongside the government's choices about how parliament should be run in a pandemic, further limited the effectiveness of parliament's work.

There were signs in 2019–21 that the negative impact of this was becoming felt by the government, as increasingly restive backbenchers, particularly from within the Conservative Party, publicly indicated their concerns about ministers' treatment of parliament. If the government continues to behave as it has, it may find that patience among MPs wears even thinner and that parliament makes greater efforts to assert itself.

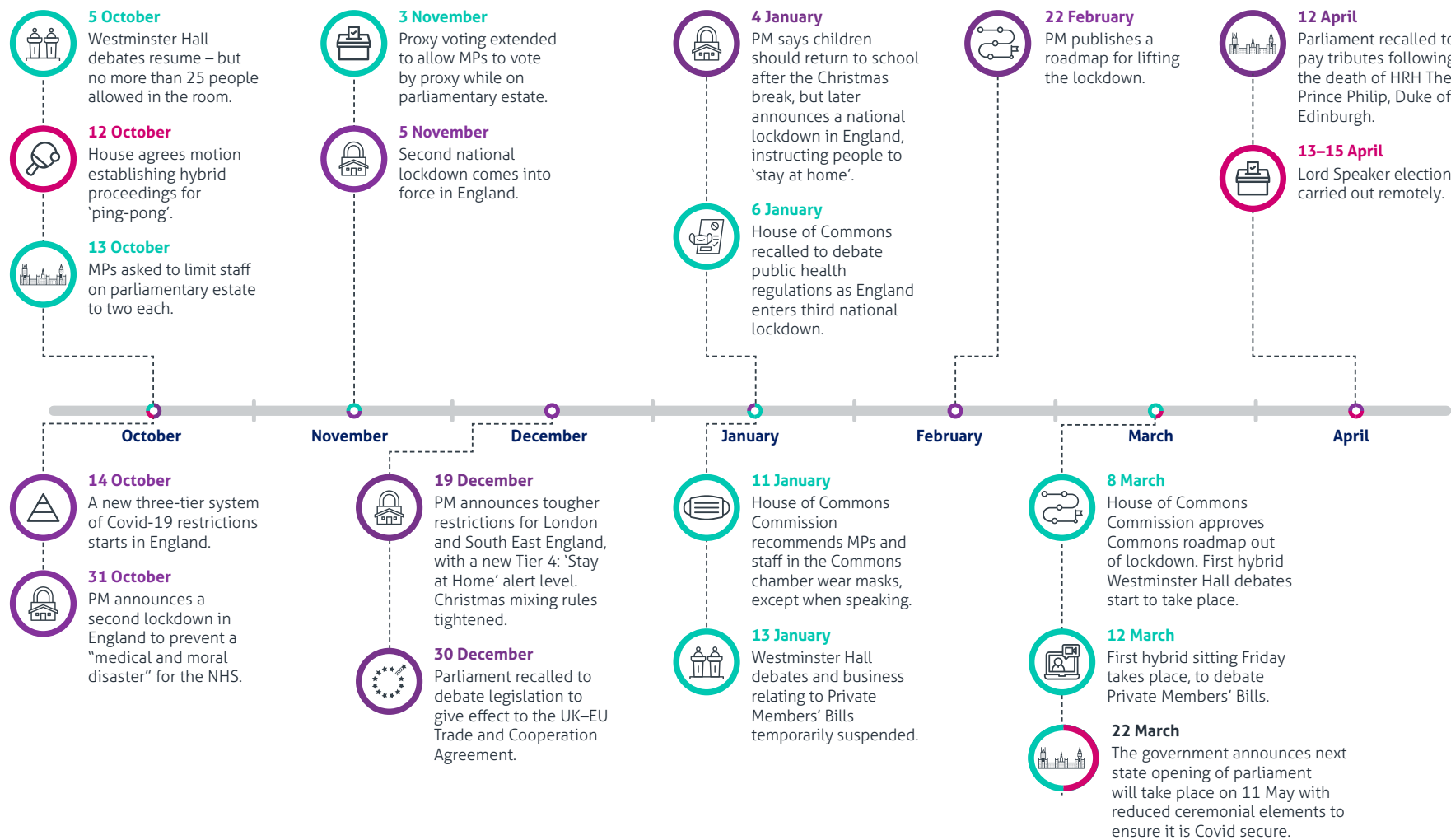
The government assured MPs and peers that any changes to parliament's ways of working would be only temporary. As both Houses return from recess, the Commons will operate again at full in-person capacity, while the Lords will revert to in-person proceedings (though some peers with long-term disabilities will remain able to contribute remotely). Unfortunately, there is little sign that the government intends to review the innovations made during the session to see whether any are worth retaining, although the two Houses' Procedure Committees will no doubt wish to do so.

Alongside changes in parliamentary working practices, the government has got used to working differently in the pandemic, and in many ways, on its own terms. As an extraordinary period in UK politics comes to a close, there is no longer any justification for ministers to continue to act in extraordinary ways – using emergency powers to pass legislation or failing to adequately facilitate scrutiny. Just as the government has restored parliamentary ways of working to the previous norms, it must reset its own working practices.

## Timeline 2019–21 parliamentary session key events







- Changes to ways of working in the House of Commons
- Changes to ways of working in the House of Lords
- Major general Covid/Brexit events

Source: Institute for Government analysis.

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# 1 Cost and administration

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Coronavirus forced parliament to change its ways of working as both the Commons and Lords moved to virtual proceedings. The pandemic generated some savings for parliament – for example, through delayed recruitment or reduced parliamentary travel – but these were more than offset by the costs of adapting parliamentary workspaces and losses of retail and commercial income. All told, the pandemic cost parliament a net £20 million in higher running costs.

The two Houses also estimate an additional net £21m in capital expenditure due to Covid. It is less clear how the pandemic affected other costs associated with parliament’s work not borne by either House. For example, MPs’ travel expenses are likely to have been reduced by virtual working – though their office budgets have been increased.

## **Covid increased parliament’s day-to-day running costs by a net £20m**

The pandemic forced both Houses of Parliament to adapt their ways of working to follow public health and social distancing guidelines. Both the Commons and the Lords quickly moved to hybrid proceedings (a mixture of in-person and virtual working) – and the Lords eventually began to work entirely virtually.\* Adapting both Houses to make this possible – for example, by ensuring that the parliamentary broadcast services had the capacity to livestream multiple parliamentary activities at once – incurred costs that parliament could not have anticipated before the pandemic. Broader adaptations across the whole parliamentary estate, which closed to visitors, entailed further unanticipated costs and income losses.\*\*

Both Houses had spending increases in the 2020/21 financial year, as set out in Table 1.1 (overleaf), with savings more than offset by higher costs and lost income. The Commons spent a net of £13.7m on running costs due to Covid, and the Lords a net of £6.1m (discussed more below). This meant that the day-to-day spending of parliament increased by a net £19.8m due to Covid.

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\* The timeline at the beginning of this report gives more details of changes made to both Houses’ ways of working.

\*\* Unless otherwise stated, figures quoted in this chapter cover only the costs and expenditure of the House of Commons and House of Lords. This means that the cost of the salaries and expenses of MPs and their staff – all of which is separately administered and paid by IPSA – is not included in our headline figures, although it is briefly discussed. However, the cost of peers’ allowances and expenses, which are paid by the House of Lords, are included. For further details, see the methodology.

Table 1.1 Covid-related costs to the House of Commons and House of Lords; and other costs associated with the functioning of parliament, 2020/21 financial year

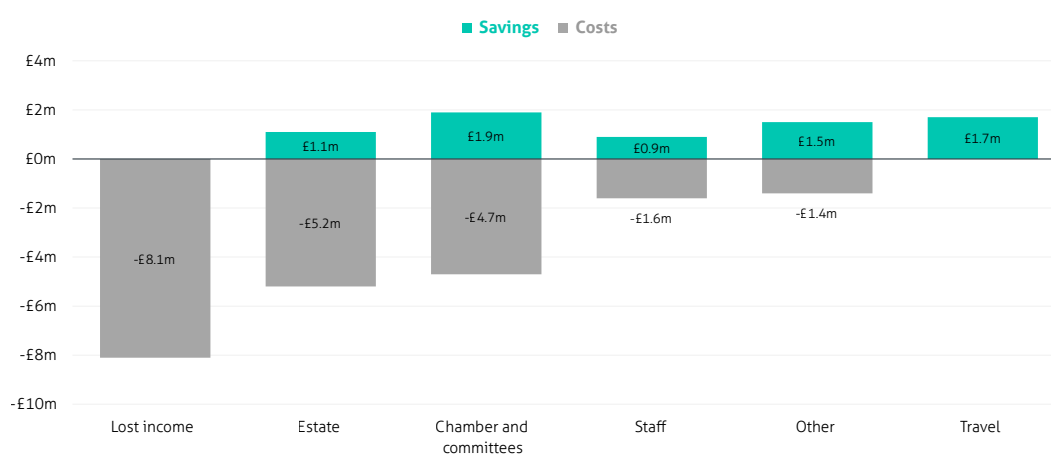
Spending by parliament			Spending by external bodies contributing to the work of parliament
	Net resource expenditure due to Covid	Net capital expenditure due to Covid	MPs' and staff expenses
<b>Commons</b>	<p><b>Additional expenditure</b></p> <ul style="list-style-type: none"> <li>• Lost income £8.1m</li> <li>• Estate £5.2m</li> <li>• Chamber and committees £4.7m</li> <li>• Staff £1.6m</li> <li>• Other £1.4m</li> </ul> <p><b>Savings</b></p> <ul style="list-style-type: none"> <li>• Estate £1.1m</li> <li>• Chamber and committees £1.9m</li> <li>• Staff £0.9m</li> <li>• Other £1.5m</li> <li>• Travel £1.7m</li> </ul> <p><b>Total net resource £13.7m</b></p>	<b>£16.3m</b>	<ul style="list-style-type: none"> <li>• Higher cap on MPs' staffing budgets</li> <li>• Higher cap on MPs' office budgets (max. £10,000 per MP)</li> <li>• Anticipated fall from £5.1m spend on MPs' travel and subsistence costs in 2019/20</li> </ul>
<b>Lords</b>	<p><b>Additional expenditure</b></p> <ul style="list-style-type: none"> <li>• Staff £0.5m</li> <li>• Digital and broadcasting £3.9m</li> <li>• Estates £1.4m</li> <li>• Lost income (amount unclear)</li> </ul> <p><b>Savings</b></p> <ul style="list-style-type: none"> <li>• Outreach activity (amount unclear)</li> <li>• Lower sales costs (amount unclear)</li> </ul> <p><b>Total net resource £6.1m</b></p>	<b>£5.1m</b>	<b>N/A</b>
<b>Total</b>	<b>£19.8m</b>	<b>£21.4m</b>	<b>N/A</b>

Source: House of Commons and House of Lords, Annual Reports and Accounts, FY2020/21. MPs' and staff expenses are illustrative only: selected expenses where data exists. External bodies include the Independent Parliamentary Standards Authority (IPSA), which pays MPs' salaries. We use the £19.8m of net resource cost as our headline figure for the cost of Covid to parliament because of the difficulties in accounting for capital costs. The Lords Annual Accounts do not break down all aspects of the net resource cost of Covid – the ones they do give are included here. There is also currently only patchy data on costs associated with parliament but borne by external organisations including IPSA so it is discussed for illustrative purposes but excluded from our headline figure. For more details see the methodology.

Separate to day-to-day running costs, both Houses also saw their capital spending rise – for example, through changes and delays to long-term refurbishment plans (creating prolongation costs) or the provision of new IT to support virtual working. The Commons has estimated higher capital expenditure of £16.3m in 2020/21, and the Lords £5.1m.

While Covid-related costs to parliament were considerable, they were not as high as expected. In February 2021, the Commons’ funding for the financial year was increased in light of several anticipated costs, including from the pandemic. A £14.3m budget for Covid contingencies was established, but in the end cost increases were covered by existing budgets (due to underspends in some areas) and this went untouched.<sup>1</sup>

Figure 1.1 **Additional running costs and savings for the House of Commons due to Covid, by area of spending, 2020/21 financial year**



Source: Institute for Government analysis of House of Commons, Annual Report and Accounts 2020/21, July 2020. Resource only.

As Figure 1.1 shows, the Commons spent an extra £5.2m in day-to-day running costs on the parliamentary estate due to Covid – for example, because work took longer than planned, or because the estate had to be made Covid-secure. At the same time, with fewer people around the estate, less maintenance work was carried out than planned, leading the Commons to underspend its maintenance budget by £1.1m, so overall the net cost was £4.1m. Similarly, delays in recruitment meant the Commons underspent its staff budget by £0.9m, though the overtime paid to staff helping the Commons quickly adapt to Covid cost an extra £1.6m, resulting in a net staff cost of £600,000.\*

The Commons also made a saving of £1.7m on travel costs as committees and delegations cancelled trips. But this was more than offset by loss of income of £8.1m as visitors stopped paying for tours and visiting cafés and shops on the parliamentary estate. It is possible that, outside of this, there were further savings for the taxpayer resulting from lower MPs’ expenses claims (for example, on travel) though these would have come through the budget of the Independent Parliamentary Standards Authority (IPSA), which regulates and administers MPs’ pay and expenses, rather than the House of Commons.

\* Numbers may not sum due to rounding.

In the previous financial year MPs’ travel and subsistence costs totalled £6.9m – an amount likely to be lower in 2020/21, though this data has yet to be published, and the different circumstances of all 650 MPs (for example, some continued to attend parliament regularly, while others did not) makes it difficult to estimate any potential savings.<sup>\*2</sup>

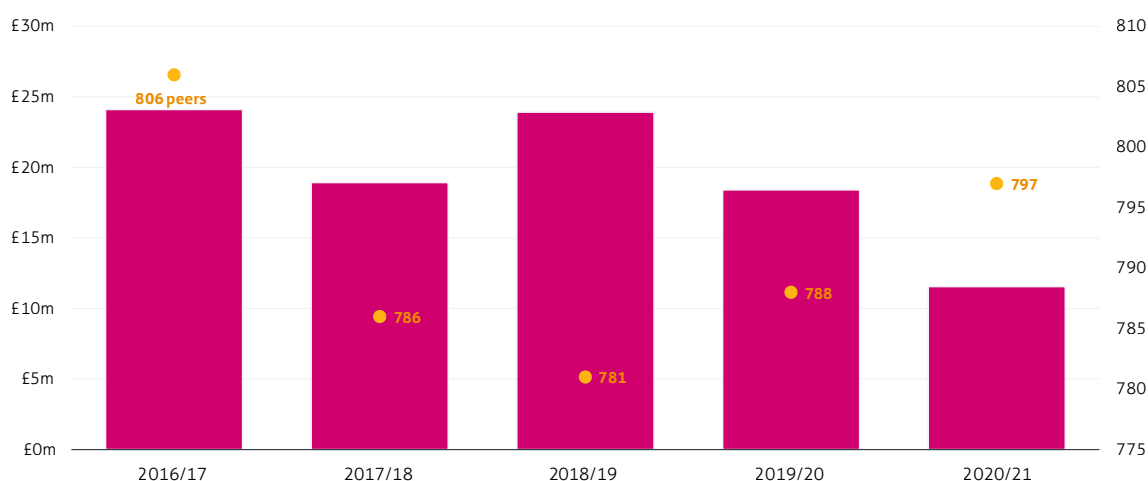
The overall picture was similarly mixed in the Lords. Fewer visitors meant a loss of income – and again, an effective cost – of £1.1m, as well as a knock-on loss from retail and catering activity. Some of this was offset by an underspend on education and outreach work during the pandemic, though overall the House saw its day-to-day spending rise by £6.1m due to Covid.

The Commons returned to normal operation from September 2021 and the Lords will largely do the same (though some peers with long-term health conditions will be able to continue participating remotely), meaning both Houses’ day-to-day spending is likely to return to normal levels. But the Commons and Lords have both acknowledged that Covid-related delays to major building works “will impact and increase the long-term cost of these projects”.<sup>3</sup>

In theory, parliament’s experience of hybrid and virtual working offers models for how it might work in the future – and particularly how it could function during the major renovation of the Palace of Westminster (for which timescales are unclear, as discussed below). But given the Johnson government’s clear preference for in-person working where possible, as well as continued uncertainty around the ‘restoration and renewal’ (R&R) programme, it is unclear whether the changes forced by Covid will change ways of working in the longer term, or remain a one-off experiment.

## The cost of peers’ allowances and expenses fell by 37%

Figure 1.2 **Cost of peers’ allowances and expenses, and number of peers, 2016/17 to 2020/21 financial years**



Source: Institute for Government analysis of House of Lords, Annual Report and Accounts, 2016/17 to 2020/21.

\* This includes claims for travel, hotels, food and drink, training and parking, budgets that are not capped by IPSA.

Though most peers do not receive salaries – unlike MPs – they are able to claim a daily allowance for each day that they attend the House of Lords, in recognition of their work as parliamentarians. Peers can claim a flat-rate allowance of £323 per day (in 2020/21), or a reduced flat-rate allowance of £162 per day.\* In the 2020/21 financial year, changes to the allowance system made in response to Covid meant that the total cost of peers' allowances was £11.5m – a 37% fall on the previous year, even though the number of peers has remained broadly the same.

In April 2020, as the Lords moved to hybrid and then virtual working, the House of Lords Commission, which oversees the running of the upper House, decided to make two major changes to the allowance system. First, peers would be able to claim only the reduced rate daily allowance; second, they would have to actively participate in Lords proceedings to receive this (for example, by speaking in a debate, casting a vote, or taking part in a committee session). These changes remained in place for five months. Then, from September 2020, peers were able to claim the full allowance if they attended the House in person, or physically or virtually participated in chamber or committee business – and claim the reduced allowance for voting or participating in debates remotely.<sup>4</sup>

As anticipated when these decisions were announced, the changes to the allowance system dramatically reduced its cost. The Lords' pre-pandemic financial plan for 2020/21 budgeted £23.8m for peers' allowances – but in the end the cost was roughly half that, at £11.5m.<sup>5</sup>

More complicated is the question of how changes to the allowances system affected peers' work. The decision to allow claims only at the reduced rate was made partly in response to concerns that, while the Lords was meeting virtually, some peers might watch a short section of a debate and then claim they had taken part in the House's proceedings.

What happened in reality was that average daily attendance dropped (to 320) – much lower than the average of 462 in the previous four years, suggesting that fewer peers attended the House each day, but a higher proportion of them voted: an average of 493 per division in 2020/21 compared to an average of 330 across divisions between 2015 and 2019.<sup>6</sup> The fact that voting enabled peers to claim the attendance allowance may have influenced this. But it also appears that peers' activity increased in other areas: for example, twice as many written questions were tabled as in the previous year.<sup>7</sup>

As the House of Lords returns largely to usual from September, the cost of peers' allowances is likely to increase to more normal levels. Despite commitments from all parties to reduce the size of the upper chamber, efforts to do this have stalled and even reversed, and numbers in the House have continued to expand. This, combined with the savings made from reduced allowances during the pandemic, may yet encourage broader reform of the allowances system.<sup>8</sup>

\* In theory, the reduced rate applies to days when peers' parliamentary work takes them outside Westminster. Peers can choose to claim at the full or reduced rate.

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## Outside the Commons, constituency workloads led to increases in MPs' budgets

For several years, MPs have spoken about constituency casework growing in volume and complexity, increasing their workloads. In March 2020, IPSA published the findings of a review into this issue. Acknowledging the “huge volumes of correspondence” and casework facing MPs' offices, it decided to increase the funding cap for MPs' staffing costs by an estimated £19.7m per year from 2020/21 – equivalent to over £25,000 per MP, and a 13% increase on the 2019/20 budget (though not all MPs will necessarily claim the full additional amount).<sup>9</sup> IPSA envisaged that this would help MPs to recruit staff, as well as to train and support existing staff.<sup>10</sup>

IPSA's review took place well before the pandemic hit the UK. Since then, the amount of casework received by MPs' offices increased still further. No standardised data is collected on the amount of correspondence or casework that MPs receive but, anecdotally, members have reported a vast increase since the start of the pandemic. One staffer described “an absolute flood of requests for help, advice, or information – around five times more correspondence than we usually receive per day” during the first lockdown.<sup>11</sup> Other MPs reported that their caseload quadrupled.<sup>12</sup>

In light of the pandemic and the move to remote working for MPs and their staff, a number of additional temporary changes to MPs' expenses were made by IPSA in March 2020. Each MP's office budget cap was increased by £10,000 until March 2021 to help set up remote working and rules around the timeliness of claims were relaxed. For the remainder of the 2020/21 financial year, MPs' staffing budgets were temporarily increased even further, to allow the recruitment of one additional staff member (though again, not all MPs will necessarily have made use of the increased office and staffing budgets). Staff numbers over the period eventually rose by 4%, and between February and July, claims for overtime from MPs' staffers tripled.<sup>13</sup>

## Continued uncertainty over its 'restoration and renewal' programme led parliament to write off £70m

After years of concerns about the state of the Palace of Westminster, in 2018 both Houses agreed plans – known as 'restoration and renewal' (R&R) – to carry out a major programme of work across the parliamentary estate. Under these plans, both Houses were expected to temporarily “decant” into alternative venues, allowing renovation work to be completed as quickly and cost-effectively as possible.

But unease among many parliamentarians – including the current Leader of the Commons, Jacob Rees-Mogg, and many in the cabinet – has stalled plans and cast the future of R&R into doubt.<sup>14</sup> A strategic review of the options for R&R launched in 2020, and confirmed in March 2021 that “a period of full vacation of the Palace is necessary” to minimise disruption to parliament's work and keep costs lower.<sup>15</sup> But the costs of the work, which a 2018 estimate placed at £4 billion, are difficult to justify to the public, especially in the current economic climate.

But R&R is so complex that prevarication has financial consequences too. Work had already got under way, for example, on preparations for the expected “decant” of both Houses, but the uncertainty about the future of R&R means that the value of continuing this work is unclear. Citing this, the Commons authorities opted to



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end one aspect of the works – the Northern Estate Programme, which included the development of a temporary chamber in Richmond House – as parliament “could no longer be sure that the work undertaken so far has an economic value”. This led it to write off the £70.2m cost of this work.<sup>16</sup>

Continued delay is also likely to increase costs further in the long term. The longer that work to renovate parliament takes, the more it will cost. And in the meantime, more and increasingly complex ongoing maintenance work will be necessary on mechanical and electrical systems that have passed their expected lifespan. The National Audit Office (NAO) found that between 2015/16 and 2018/19, maintenance spending on the Palace of Westminster rose from £62m to £127m per year.<sup>17</sup> Indeed, the R&R Sponsor Body has confirmed that “the Houses of Parliament are falling apart faster than they can be fixed”.<sup>18</sup>

It is understandably difficult for politicians to make the case for spending billions on renovating parliament given the context of the economic strains of the pandemic. But the government has also yet to offer any alternative plan to R&R. It has been similarly unenthusiastic about the technological innovations adopted due to Covid, emphasising their temporary nature over any recognition of their potential ongoing benefits. It has given no detailed indication of considering how they could change R&R, for example. In the absence of any other plan, continued delay of R&R is a false economy that will only push up costs in the long run.

In the meantime, while some essential fire safety work has been completed, the risk grows of “catastrophic” failures of the infrastructure or further instances of falling masonry that could cause injuries or even death, risk the future of a UNESCO World Heritage Site, and severely disrupt parliament’s work.<sup>19</sup>

## Looking ahead

As parliament returns to normal, it must consider the lessons from the hybrid and virtual working that it was forced to experiment with in the 2019–21 session. These innovations may offer helpful ideas for how both Houses can continue to work during the long-overdue renovation of the parliamentary estate and might help reduce costs. But politicians also need to accept that the longer R&R is delayed – and absent any new plan – the more it will ultimately cost.

Additional funding from IPSA for MPs’ staff seems warranted, given their higher caseloads. Although the pandemic is receding, the effects on the economy and on public services may continue to be felt for some time, meaning that the volume of casework could remain high. Ensuring that this is monitored, and that MPs and their staff have access to the resources they need, will be vital to keeping MPs working effectively for their constituents.

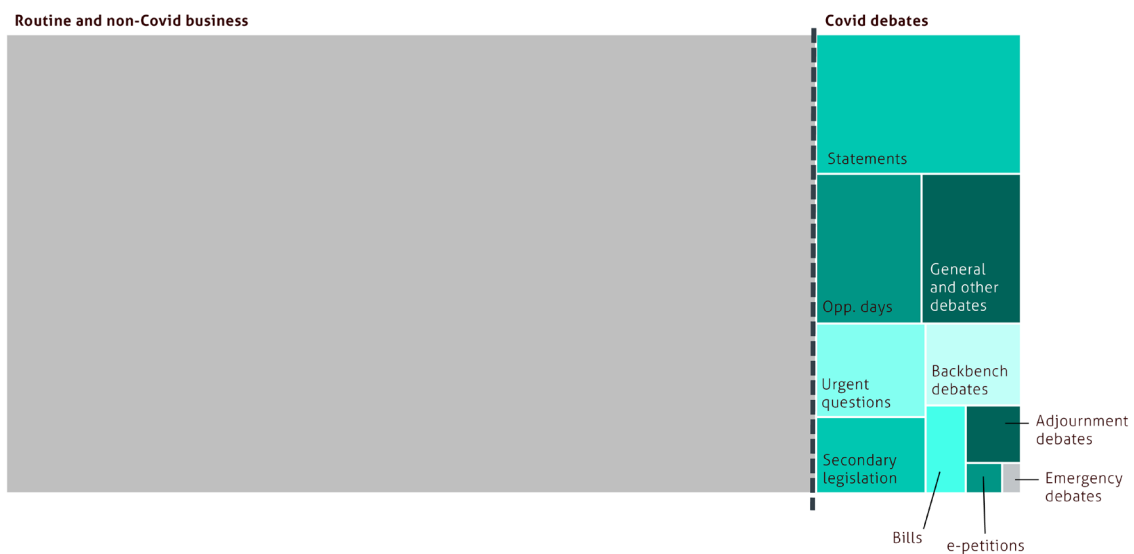


## 2 Time

MPs spent more than a fifth of their time debating coronavirus – comparable to the proportion of time spent on Brexit in the tumultuous 2017–19 session. Unlike Brexit, though, relatively little of the Commons’ time on Covid was spent debating legislation, with MPs instead focusing on ministerial statements and general debates. Parliament was also less of a focal point for Covid than it was for Brexit, with the government opting to prioritise direct communication with the public during the pandemic – something it kept up even as the pandemic waned, in the face of criticism from the Speaker. Changes to working practices driven by the pandemic shaped how parliamentarians spent their time, sometimes limiting the opportunities that MPs had to initiate legislation or debates.

### More than a fifth of the Commons’ time was spent on Covid

Figure 2.1 **Estimated proportion of time (hours) spent debating Covid in the House of Commons main chamber (by type of parliamentary business), 2019–21 session**



Source: Institute for Government analysis of House of Commons, *Hansard*. Business taken off the floor of the House is excluded.

Across the whole session, more than a fifth of all the time in the Commons chamber was spent debating Covid – almost 330 hours, equivalent to a little over an hour and a half per day.\* This reflected the fact that the pandemic cut across almost every aspect of government policy – and that its two most severe waves, in spring 2020 and winter 2020–21, fell within the session.

\* We count debates that would not have happened without the pandemic – meaning that this figure will be a slight underestimate, as Covid will also have featured in other routine aspects of the Commons’ business, such as Budgets and oral questions. For further details, see the methodology.

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But this also meant that the Commons spent most of its time on matters other than Covid; other topics did not disappear. Brexit continued to feature – parliament had a brief opportunity to scrutinise the trade deal reached by the UK and EU, then spent considerably more time probing the consequences of the controversial Northern Ireland protocol attached to the Withdrawal Agreement. As always, there were external events for parliament to respond to, including the crackdown on pro-democracy protests in Hong Kong and Belarus. Parliament was twice recalled, but neither time due to the pandemic: first to pass legislation implementing the EU–UK trade deal, and then to allow parliamentarians to pay tributes on the death of the Duke of Edinburgh. The routine business of parliament, such as passing financial legislation, also continued.

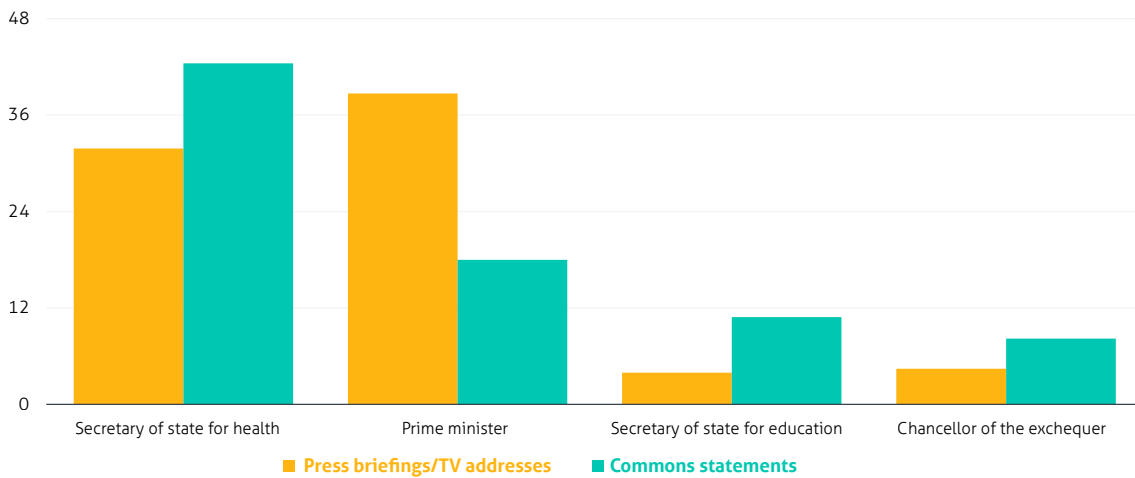
To put the time spent by MPs on Covid into perspective, we can compare it to the time they spent debating Brexit in the 2017–19 parliamentary session. In that tumultuous parliament Brexit also occupied just over a fifth of the Commons' time.<sup>1</sup> Like Covid, Brexit affected every aspect of policy and was the dominant issue of the day. In both sessions this had the potential to crowd out other issues – as one journalist observed: "It has been more than five years since politics was not dominated by one central issue; first Brexit, then the pandemic. It has been a long time since it was possible to discuss, say, education policy."<sup>2</sup> But despite these similarities, the ways that Covid and Brexit took up the Commons' time differed in two important ways.

First, this is because the pandemic was totally unexpected. Following the June 2017 election that narrowly returned Theresa May's government to power, parliamentarians knew that Brexit would be the dominant issue and would require large amounts of primary and secondary legislation. In stark contrast, following the December 2019 election, MPs expected to spend their time debating and legislating for the new government's manifesto commitments, only to have the agenda for the session abruptly shifted to focus on the biggest public health crisis in a century.

Second, the kinds of procedures that MPs in the Commons used to debate Covid differed from Brexit. Because Brexit required so much legislation, debates over primary bills were the main avenues for debate. As Covid required far less primary legislation, it was instead addressed in the House through ministerial statements (100 hours), as well as through scrutiny proceedings such as opposition days (55 hours).

## Parliament was less of a focal point for Covid than for Brexit

Figure 2.2 **Time (hours) spent on Covid-related press conferences and statements in the House of Commons by selected cabinet ministers, 2019–21 session**



Source: Institute for Government analysis of House of Commons, *Hansard*; and GOV.UK. Press conferences includes televised addresses.

Between 2017 and 2019, minority government and competing views over Brexit combined to make parliament the focal point of UK politics, with the May government repeatedly failing to pass key Brexit legislation, often in heated Commons votes. But after the 2019 election, the return to majority government (the largest outright majority since Tony Blair's in 2001) and the passage of the EU Withdrawal Agreement Act meant that the daily ins and outs of parliamentary activity appeared less important. This was reinforced by Covid, which led the government to spend much of its time and energy on direct communication with the public – via press conferences and televised addresses.

As Figure 2.2 shows, the prime minister spent more time directly communicating with the public (almost 39 hours) than he did updating the Commons (18 hours). Other senior ministers spent more time in the Commons than in Downing Street press conferences – but much of their attention was still taken up with direct communication with the public, rather than parliament. The health secretary, for example, spent 32 hours giving press conferences – over 70% of the time he spent in the House.

Clearly, the government needed to ensure that as many members of the public as possible received guidance about the pandemic and restrictions, especially early on when the situation was rapidly changing. Ministers prioritised televised addresses and introduced daily Downing Street press conferences. The regular press conferences by ministers allowed journalists to ask questions, and to present graphs and data that they could not do in the Commons, where visual aids are prohibited.

But it was not the time spent on these televised addresses but the timing of them that was notable: often, major announcements were first made in press conferences, or through briefings to the media, before being delivered to the House. This broke a key convention of the relationship between government and parliament – set out in the Ministerial Code – that the most important announcements of government policy “should be made in the first instance in parliament”.<sup>3</sup> This gives members the opportunity to scrutinise government decisions, reflect the views of their constituents to ministers, and help build public understanding of major policy shifts.

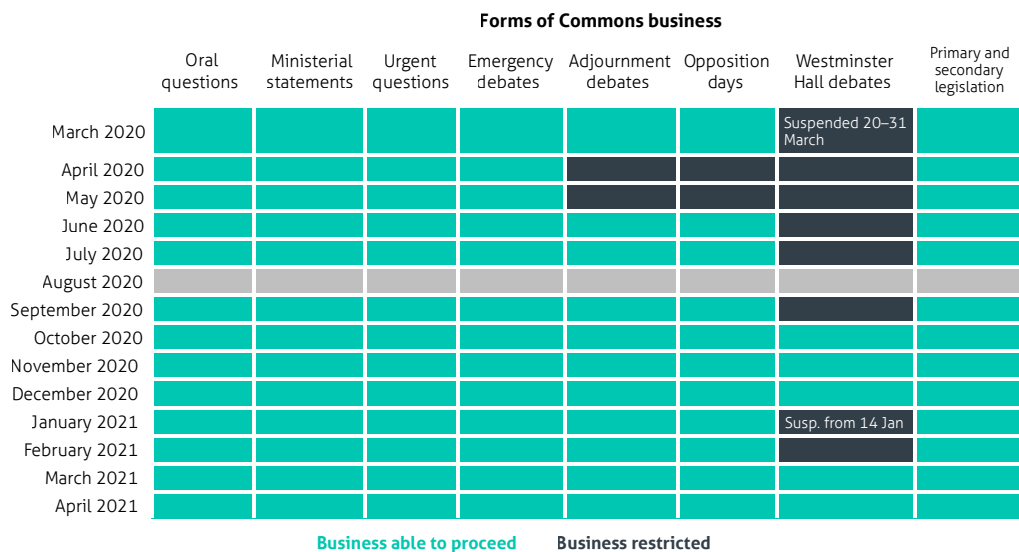
This led to repeated criticism from Sir Lindsay Hoyle, the Commons Speaker. In September 2020, after the 'rule of six' – limiting gatherings to a maximum of six people – was announced in a press conference, the Speaker stated: "It is really not good enough for the government to make decisions of this kind in a way that shows insufficient regard to the importance of major policy announcements being made first to this House and to Members of this House wherever possible."<sup>4</sup>

The Johnson government's tendency to make announcements outside of parliament continued even beyond the 2019–21 session, and well into the pandemic. In June 2021, Hoyle again described the announcement to the media before parliament of changes to restrictions for weddings and other events as "entirely unacceptable". He suggested that he had been "misled" by ministers over the timing of the announcement and reminded the government that "members of this House are elected to serve their constituents here, not via Sky or the BBC. Questions should be answered here."<sup>5</sup>

A subsequent meeting between the Speaker and the prime minister committed ministers only to ensuring that announcements in public and in the House were made "at the same time". This highlighted the extent to which, in the words of one journalist, "parliament was the epicentre of the action over Brexit, but not over COVID-19".<sup>6</sup>

## Non-government business in the Commons was restricted

Figure 2.3 Restrictions on different forms of Commons business, by month, 2019–21



Source: Institute for Government analysis.

The pandemic forced both Houses of Parliament to change their ways of working in major ways – and at a speed that would previously have been unthinkable.\* To ensure that parliament could continue to play its role without endangering members and staff, both Houses quickly moved to new forms of remote working – something never attempted before. This was not as straightforward as simply asking parliamentarians to work from home or dial into meetings. Both Houses had to consider numerous practical questions, including technological and broadcast capacity.

\* For a detailed description of changes to both Houses' procedures, see the timeline at the front of this report.

The changes made to the Commons' working practices – at least early on in the pandemic – had the effect of strengthening the government's control of the lower House's agenda. Initially, the Commons authorities and Speaker decided to ensure that scrutiny proceedings, such as oral questions, would work in a hybrid format. They also prioritised substantive government business to ensure that it could continue to get legislation through the House.<sup>7</sup>

The effect of these decisions was to suspend some forms of non-government business, including opposition day and adjournment debates, as well as all debates in Westminster Hall, an effective second Commons chamber used for debating backbench-decided business and e-petitions. 'Sitting Fridays', normally used to allow MPs to bring forward private members' bills (PMBs), were also halted. This "reinforced government control, effectively limiting debatable motions to those moved by a Minister of the Crown. Opposition and backbench business were effectively removed from the agenda."<sup>8</sup>

Although opposition day and adjournment debates returned by the early summer of 2020, other forms of business remained suspended until after the summer recess. When the second wave of Covid hit the UK in early 2021, Westminster Hall debates and sitting Fridays were again suspended. In all, in the 13 months between Covid beginning to spread rapidly in the UK in March 2020 and the end of the 2019/21 session in April 2021, Westminster Hall debates and discussion of PMBs were not possible for almost half the time.\*

Prioritising scrutiny proceedings and legislative debates for hybrid working was a welcome decision, made at a difficult time – but, coupled with further choices made to adapt the House's business in response to Covid, this firmly reasserted government control over the Commons' order paper, severely limiting the ability of backbenchers to initiate debates or legislation.

## Looking ahead

Both Houses have returned to their usual ways of working following recess (though with continued remote participation for some peers), and in August the Commons was at capacity for an emergency sitting to debate the US and UK's withdrawal from Afghanistan. But the fact that the prime minister, chancellor and leader of the opposition were all required to self-isolate in the weeks before summer recess illustrates how quickly parliament may once again need to adapt its working practices. As such, parliamentarians should ensure that both Houses retain their ability to revert quickly to hybrid or virtual proceedings.

Calls for reform of who controls the Commons order paper (noted in previous editions of *Parliamentary Monitor*) have been renewed during this session, particularly by those backbenchers, including from Johnson's party, frustrated by a lack of opportunities to scrutinise key government decisions on Covid. But, as ever, change will not happen without the support of ministers – and there are no signs that the Johnson government is likely to give up an important source of parliamentary power willingly.

\* Excluding August, when both Houses were on recess for the whole month.

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## 3 Primary legislation

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The government was defeated almost every other sitting day in the House of Lords in the 2019–21 session. In the House of Commons, it was able to avoid defeats on legislation because of its 80-seat majority and some last-minute concessions to backbenchers. But voting data suggests ministers still saw nearly a third of their own backbenchers rebel at least once in the session – on issues from Covid regulations to trade legislation. As ministers prepared for the end of the transition period in December 2020, Brexit legislation took up a large part of the agenda – though parliament’s ability to scrutinise this legislation was limited by restrictive timetables imposed by government.

### **Despite Covid-19, Brexit remained a core part of the government’s legislative agenda**

As an issue, Covid-19 dominated the 2019–21 parliamentary session. But it was Brexit that took up most of the legislative agenda – because Brexit required far more primary legislation than Covid-19.

Boris Johnson sought the 2019 election because his legislative agenda – in particular, the bill implementing the deal he had reached with the EU – was stalled in the Commons. When the Conservatives were returned to government with a working majority of 80, it became far easier for the government to pass legislation. Within weeks, the EU Withdrawal Agreement Act was passed, meaning that the UK formally left the EU on 31 January 2020.

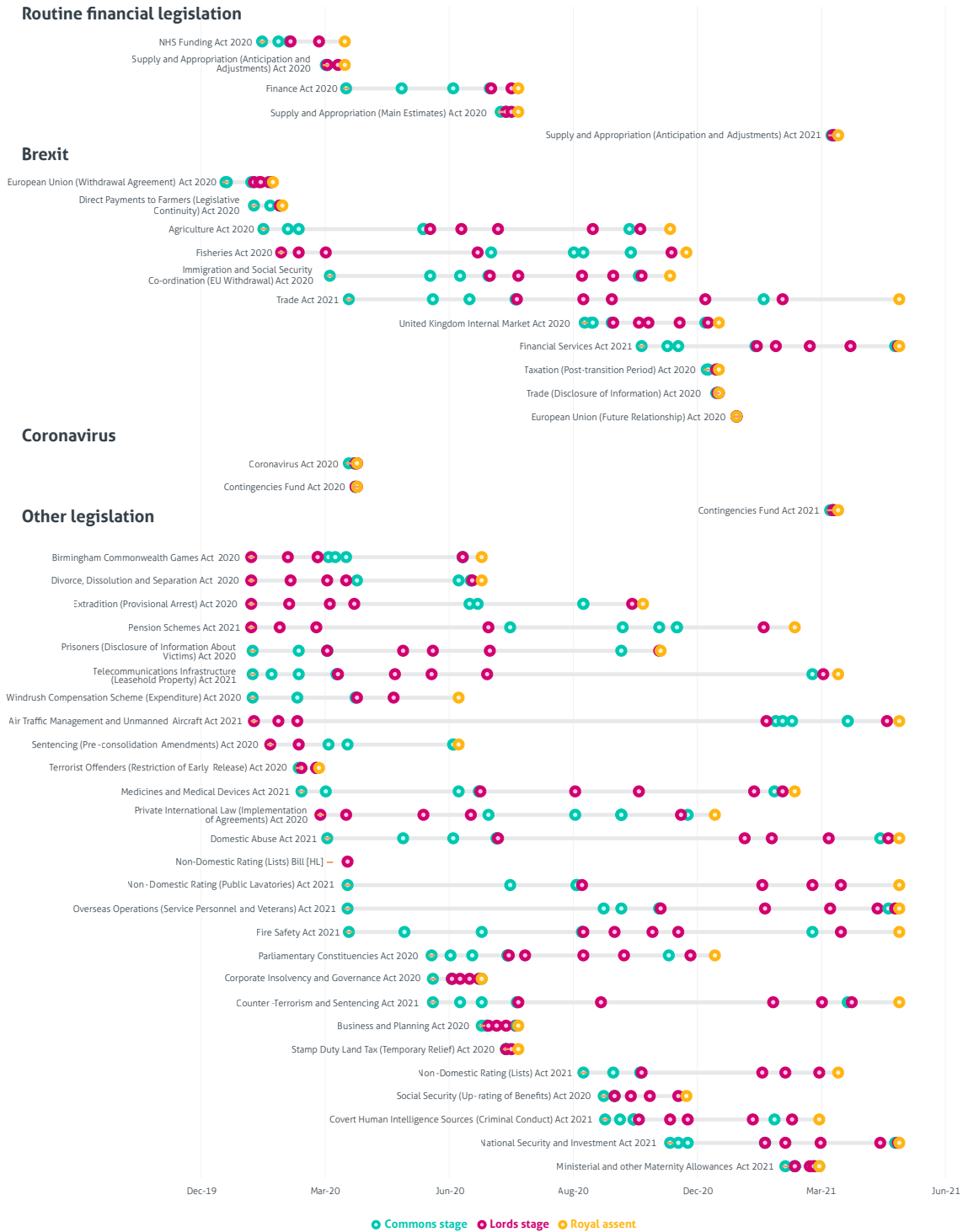
But further Brexit legislation was required: to implement aspects of the deal and future relationship, and to prepare for the end of the transition period at the beginning of 2021. This meant that Brexit remained the single largest subject in the government’s 2019–21 legislative agenda: almost a quarter (11) of the 46 bills passed in the session dealt with Brexit. Of these bills, five were not entirely new. They had stalled in the previous parliament owing to the government’s fragile Commons position, and therefore had to be reintroduced after the 2019 election.\*

Just three bills in the session dealt directly with the coronavirus pandemic. Two of these (the Contingencies Fund Acts 2020 and 2021) allowed the government to use cash advances to help deal with the costs of the pandemic. The third bill, the Coronavirus Act 2020, gave ministers a range of powers to address the pandemic; although, as discussed in detail in the following chapter, the government ended up making less use of this legislation than it had anticipated.

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\* Although bills can be carried over between parliamentary sessions (if they meet certain criteria), they cannot be carried over between different parliaments.

Figure 3.1 Government bills passed in the 2019–21 session, by date of legislative stage



Source: Institute for Government analysis of data from <https://bills.parliament.uk>.

Beyond Brexit and Covid-19, the government passed routine financial legislation (including Finance and Supply and Appropriation Acts). It also made progress on some of its manifesto commitments, including passing the Parliamentary Constituencies Act (which redrew constituency boundaries to equalise their size) and the Fire Safety Act (to address problems with cladding on high-rise buildings).<sup>1</sup> In all, the number of bills passed by the government (46) was comparable with the quantity of legislation passed in other recent double-length sessions: 52 bills in 2017–19 and 47 in 2010–12. Five further bills were carried over into the 2021–22 session, and one was lost at prorogation.



## Six government bills received fewer than five days of parliamentary debate

There is no 'usual' amount of parliamentary time spent on primary legislation. The time taken to pass bills varies considerably, from hours to months, depending on factors including how detailed the bill is, how controversial it is, and whether there are any circumstances that mean it needs to take effect urgently. But in general, the longer a bill takes to pass through both Houses, the greater the opportunity for detailed scrutiny – meaning that mistakes or problems with the legislation are more likely to be spotted.

In the 2019–21 session, six government bills (almost one in seven) completed all their stages in just five (Commons) sitting days or fewer. This gave MPs and peers little opportunity to conduct timely scrutiny. Some of this legislation was urgently required. The Coronavirus Act 2020 (passed within four sitting days) was introduced to parliament in the early stages of the pandemic, when the situation was changing quickly and there was widespread uncertainty about the powers that ministers might need to address the situation.

But other bills had compressed timetables because the government chose not to prioritise time for scrutiny, especially on Brexit. The government's willingness to keep negotiating details of the future relationship with the EU right up to the end of the transition period in December 2020 meant that parliamentary scrutiny of necessary legislation was inevitably curtailed. Parliament was recalled on 30 December 2020 to debate and pass the 80-page EU (Future Relationship) Bill – which gave effect to the deal reached with the EU on 24 December – within just one day. Such a short amount of time – combined with the Covid restrictions in place in parliament – meant that MPs had only a few minutes each to speak. Dozens more did not have time to speak at all.<sup>2</sup>

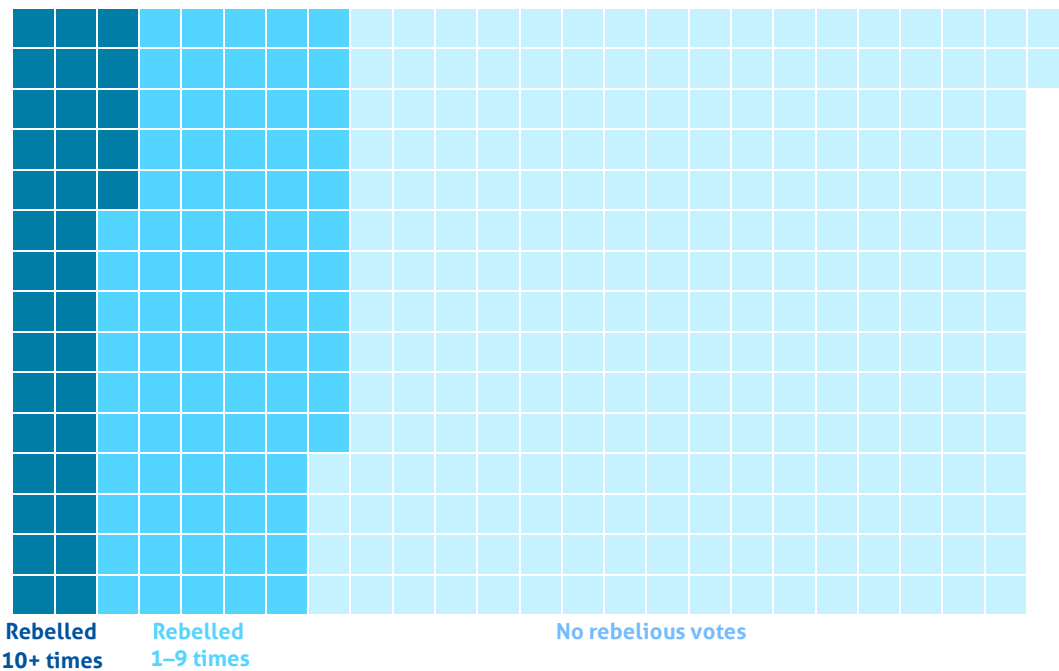
Similarly, the Taxation (Post-Transition Period) Bill and Trade (Disclosure of Information) Bill were introduced to parliament only on 8 and 15 December 2020, with just days remaining until the end of the transition period. Facing this hard deadline, there was little realistic possibility of parliamentarians being able to make amendments to the legislation. The EU took a very different approach to ratification. They agreed to provisionally apply the deal, but asked for more time to formally ratify it to ensure the European Parliament could conduct adequate scrutiny.<sup>3</sup>

The government's readiness to pass highly significant legislation at high speed is worrying because parliamentary scrutiny legitimises and helps to improve legislation. Matt Hancock, the then health and social care secretary, acknowledged this during the passage of the Coronavirus Act, when he thanked the opposition for helping spot problems in the quickly drafted bill. It also stands in stark contradiction to the position taken by the current leader of the House, Jacob Rees-Mogg, who during the 2017–19 session criticised speedily passed backbench legislation to prevent a no-deal Brexit, stating MPs "should be very careful about emergency legislation, for they may find they are at the wrong end of it in the future".<sup>4</sup>



## Almost a third of government backbenchers rebelled at some point

Figure 3.2 Voting behaviour of Conservative MPs, 2019–21 session



Source: Institute for Government analysis of division lists taken from *Hansard*. Excludes non-voting Conservative MPs (e.g. deputy Speakers). Definitively determining whether MPs have rebelled is not straightforward. See the Methodology for further details. Votes on private members' bills and free votes excluded, where known.

The fragile Commons arithmetic of the 2017 parliament meant that backbench MPs held the balance of power. Both the Theresa May and Boris Johnson governments struggled to pass legislation without defeats or unwelcome amendments. Following the Conservatives' large majority at the 2019 election, most commentators assumed that legislation would become easier and that ministers would not need to worry as much about their own backbenchers.

But Conservative MPs defied these assumptions. Working out definitive figures on rebellions is difficult, as MPs may be more or less explicitly whipped, or sometimes allowed a free vote – and the details of party whips are rarely made public.\* But our analysis of all votes in the 2019–21 session suggests that 32% (116) of all voting Conservative MPs appeared to vote against the government at least once,\*\* and 49 (14%) rebelled between two and five times. These rebels came from across the party. More than 20 of the 2019 intake of Conservatives rebelled, as did a number of senior MPs, including seven of those who served in or attended cabinet under May or Johnson. (Subsequent to the 2019–21 session, more backbench Conservative MPs have rebelled – including former prime minister Theresa May, on a vote on overseas aid spending in June 2021.)

Rebellions took place on secondary legislation, government and non-government motions, and government bills. The government suffered backbench rebellions over the Trade Bill, the Fire Safety Bill, and on its efforts to renew the Coronavirus Act. On no occasion during the session were rebellions enough to actually defeat the

\* For details of how we have defined and calculated backbench Conservative rebellions, see the methodology.

\*\* 'Voting Conservative MPs' excludes the two Conservative deputy Speakers (who by convention do not vote) as well as MPs stripped of the whip during the session.

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government on legislation; a sharp contrast to the May and Johnson governments in the previous parliament.\* But they did force ministers into making concessions in order to avoid defeat. For example, in September 2020 the government agreed to give MPs a vote if they planned to use measures contained in the Internal Market Bill to breach international law.<sup>5</sup> And on the Trade Bill, ministers saw off a potential defeat on the 'genocide amendment' by agreeing a compromise with rebels.<sup>6</sup>

The level of backbench rebellion against the government was highly unusual for a majority government at the beginning of a parliament. In 2015, for example, the last time that a government began a new parliament with a clear majority, just 18% of its backbenchers rebelled, and most of them did so only once. That government had a majority of 15; far less than the Johnson government has.

The willingness of so many Conservative MPs to rebel reflected some of the contentious decisions that the government had to make during the session. At times, it also reflected backbench frustration with ministers' apparent disregard for parliamentary scrutiny, especially on Covid-19. But it further suggested that the experience of the previous parliament, where even small numbers of backbenchers wielded considerable power, has made MPs more conscious of their power to press their case.

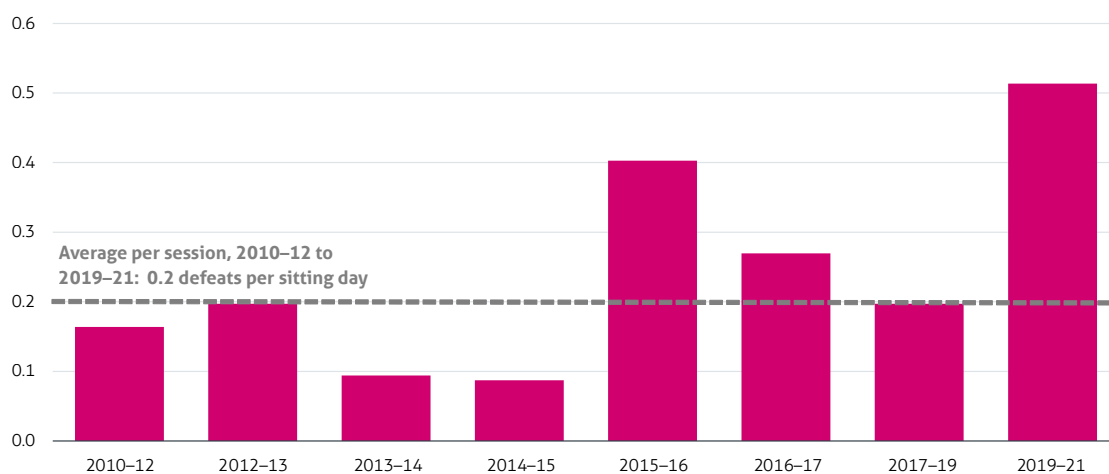
While effective on some issues, MPs were still not always able to make the government change course. The government avoided putting its cuts to the overseas aid budget to a vote, knowing it would likely lose. In the face of backbench anger and attempts to use legislation to overturn the cuts – and after condemnation from the Speaker – the government instead allowed a vote on a narrowly drafted motion that did not offer MPs the option of overturning the cuts.<sup>7</sup> But it was not just the government's backbenchers who were restive. Labour also saw several rebellions, for example on the Overseas Operations Bill. And two frontbenchers resigned their roles over Labour's position on the EU Future Relationship Bill.

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\* In one vote on standards, the government did not explicitly whip its MPs, though it did make clear to them which way the chief whip would vote. The de facto government position was defeated.

## Peers defeated the government every other sitting day

Figure 3.3 Number of government defeats in the House of Lords per sitting day, per session, 2010–12 to 2019–21



Source: Institute for Government analysis of 'Government defeats in the House of Lords', [www.parliament.uk/about/faqs/house-of-lords-faqs/lords-govtdefeats](http://www.parliament.uk/about/faqs/house-of-lords-faqs/lords-govtdefeats). 2019 session excluded (1 defeat in 15 sitting days).

Governments are more likely to be defeated in the House of Lords than the House of Commons. This is because since reforms in 1999, governments do not usually have a majority in the upper House, making them more vulnerable to defeat.<sup>8</sup>

Over the past decade, governments have been defeated an average of 0.2 times per sitting day, per session; equivalent to a defeat every six sitting days. In the 2019–21 session, the frequency of government defeats was far higher. The government was defeated 114 times in 222 sitting days; equating to 0.5 defeats per sitting day, or a loss every two sitting days.

These defeats took place on many pieces of legislation including the Trade Bill, Domestic Abuse Bill, Fire Safety Bill and Internal Market Bill. Although the government has usually been able to overturn defeats in the Lords during 'ping-pong', thanks to its large majority in the Commons, defeats in the upper House can slow down the progress of legislation.

While government defeats in the Lords have generally become more common since the abolition of most hereditary peerages in 1999, they have been particularly high since 2015–16. This partly reflects changes in the make-up of the House, as well as salient political issues of the day: for example, peers were particularly active on Brexit. And there are signs that groups of MPs and peers are more likely to work together to try to influence government bills across the two Houses; something visible on Brexit legislation and in debates over aid spending.<sup>9</sup> If these trends continue, business managers will have to work even harder in both Houses to ensure the passage of government bills.

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## Looking ahead

Usually, parliaments get more rebellious over time. That, and the fact that the government has plans to introduce contentious legislation (for example, on planning reform), means that the government is likely to suffer a legislative defeat at some point, unless it is willing to make concessions to backbenchers. Ministers will also have to continue to pay close attention to the House of Lords and consider how it will manage amendments to legislation passed in the upper House.

As the pandemic recedes, and with no firm Brexit deadlines looming, ministers should acknowledge that there are no longer any exceptional circumstances to justify limited legislative scrutiny. Parliament should be given enough time to do its job, and ministers should not seek to evade the scrutiny that legislation can bring by finding other ways to change its policy, as it did on overseas aid.

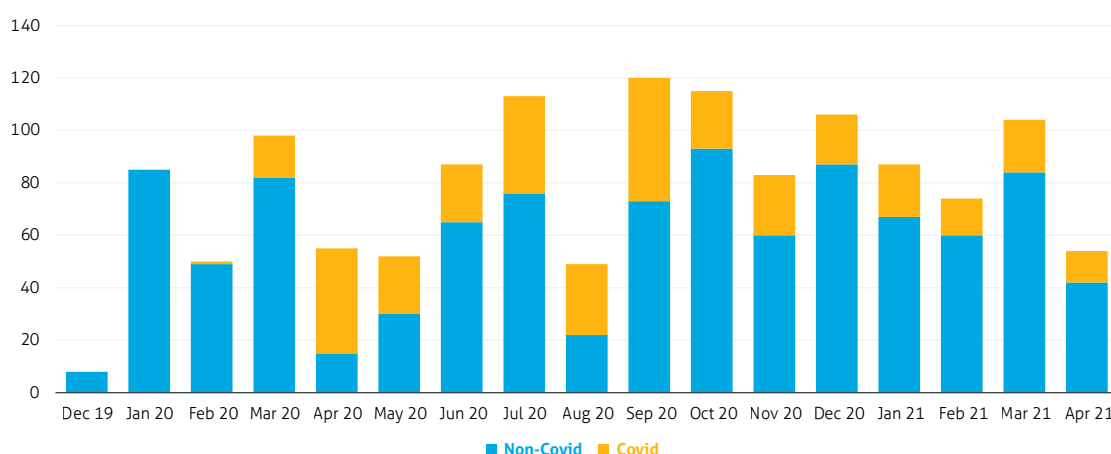
All governments find legislative scrutiny uncomfortable. But when parliament is not given enough time to scrutinise legislation, the chance of mistakes and poorly thought out law increases. And levels of irritation among backbenchers also increase. Sidestepping scrutiny now may be attractive, but it only stores up problems for the government in the future.

# 4 Secondary legislation

The government relied heavily on secondary legislation to respond to the coronavirus pandemic, using it to implement extraordinary measures including lockdowns and travel restrictions. Parliament was unable to provide detailed and timely scrutiny of much of this legislation, despite the severe limitations it placed on people’s personal liberties and the dramatic economic restrictions it imposed. Ministers opted to use unusual emergency powers – both in the initial stages of the pandemic and subsequently – meaning legislation frequently came into force before MPs and peers had had a chance to approve it, or sometimes to even see it.

## A quarter of all statutory instruments in the session related to Covid

Figure 4.1 Number of Covid and non-Covid statutory instruments, by month, 2019–21



Source: Institute for Government analysis of UK parliament, SI tracker, <https://statutoryinstruments.parliament.uk>

Across the 2019–21 session, the government laid 1,340 statutory instruments (SIs; the most common form of secondary legislation);\* equivalent to 6.4 SIs each day the Commons sat. This was more than in any other session since 2010–12, including the exceptional 2017–19 session in which ministers laid a huge swathe of secondary legislation (5.7 SIs per sitting day) to give effect to Brexit.\*\*

The higher volume of secondary legislation in the 2019–21 session was driven by the response to Covid, which represented more than a quarter (342) of all SIs laid in the session. Ministers relied heavily on secondary legislation both to implement their direct response to Covid (for example, to give legal force to lockdowns) and to manage the indirect effects of the pandemic (such as making changes to benefits claimed by people whose income was affected by lockdowns).

\* Although there are forms of secondary legislation other than SIs, for ease we use the two terms interchangeably in this report.

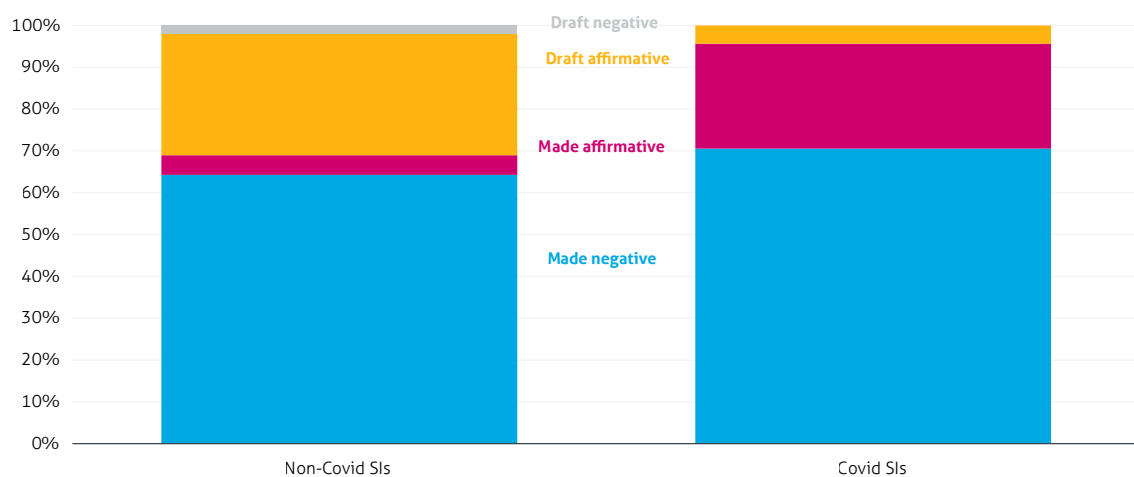
\*\* In part, the 2010–12 figure may be higher due to reclassification of Road Traffic Orders in 2015. Prior to 2015, they were classified as SIs.

In contrast to Brexit, which required extensive use of secondary legislation but which the government could plan for, the pandemic was unexpected, took hold quickly and changed rapidly. The first SI related to Covid was laid by ministers in February 2020, but within just two months, 73% of all SIs laid by the government were dealing with the pandemic. The need for legislation to be drafted at great speed made detailed parliamentary scrutiny all the more important, so that errors or unintended consequences could be spotted.

At the same time, the scope of Covid-related SIs – many of which curtailed individual freedoms and affected people’s incomes to an extent unparalleled in modern history – lent greater constitutional significance to parliamentary scrutiny, to ensure the measures were legitimate in the eyes of the public who were being asked to adhere to them and bear their economic effect.

## Parliament was given little opportunity for detailed scrutiny of Covid-related secondary legislation

Figure 4.2 **Proportion of Covid and non-Covid statutory instruments subject to different scrutiny procedures, 2019–21**



Source: Institute for Government analysis of UK parliament, SI tracker, <https://statutoryinstruments.parliament.uk>

The speed with which the government passed secondary legislation related to Covid, as well as the kind of powers that ministers chose to use to make SIs, limited parliament’s opportunities to conduct detailed scrutiny. In the early months of the pandemic, when the government was responding to a rapidly changing situation, this was seen as completely legitimate. But even as the urgency of the crisis faded, ministers continued to introduce and pass secondary legislation with little opportunity for scrutiny.

In normal times, most SIs are subject to the ‘negative’ scrutiny procedure, under which the legislation comes into effect within a set period unless either House of Parliament objects. A smaller number of SIs are made using the ‘affirmative’ procedure, which requires both Houses to actively approve the legislation. Usually, affirmative SIs do not come into effect until approved by both Houses; what is known as the ‘draft affirmative’ procedure. More rarely, a small number of affirmative SIs, known as ‘made affirmatives’, come into force before they are approved by parliament, and remain in force as long as parliament gives retrospective approval within a set time.

As Figure 4.2 shows, Covid-related secondary legislation was five times more likely than non-Covid-related secondary legislation to be subject to the made affirmative procedure (5% of non-Covid SIs, compared to 25% of Covid SIs), meaning that it was more likely to come into legal force before parliament had the chance to debate or approve it. Ministers passed many such SIs using powers granted to them under section 45R of the 1984 Public Health (Control of Diseases) Act. This includes a so-called 'urgency procedure', allowing ministers to make regulations that come into effect rapidly, prior to parliamentary approval. It is largely left to ministers to decide whether regulations are 'urgent' or not.<sup>1</sup>

In some cases, the government's reliance on the urgency procedure appeared to have little justification. For example, between June and August 2020 several sets of regulations mandating the use of face masks came into force before being laid before parliament, despite the fact that the government had been advising the use of face masks since mid-May.<sup>2</sup> As the Lords Constitution Committee has argued: "Although there were circumstances where the urgency of the situation required the use of urgent procedures, their use was not always justified, and this must not become the norm."<sup>3</sup>

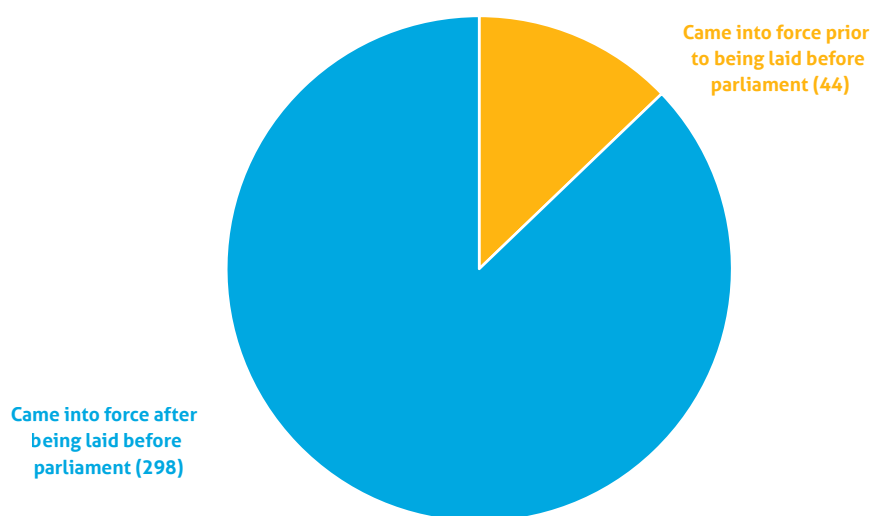
The government could have drawn on other pieces of primary legislation to make Covid regulations, including the 2004 Civil Contingencies Act – designed for use in unforeseen emergencies – or the Coronavirus Act, which was passed at speed in March 2020. The Hansard Society found that ministers drew on powers contained in 131 acts in its response to Covid, though they chose to largely rely on the Public Health Act because of its urgency procedure.<sup>4</sup>

This was understandable in the early stages of the pandemic, as the government responded to a fast-changing situation. But as the pandemic wore on, the government's continued use of emergency powers that limit opportunities for parliamentary scrutiny was driven more by expediency than urgency. The Joint Committee on Human Rights (JCHR) criticised the government for relying heavily on the Public Health Act, arguing that use of other laws would have "offered for proper parliamentary scrutiny [which is] particularly important when human rights are engaged on such a massive scale".<sup>5</sup>

While Covid-related secondary legislation was far more likely to use the made affirmative procedure, the majority of Covid-related SIs were subject to the negative scrutiny procedure. But here too parliament was constrained from offering timely scrutiny. Convention dictates that negative scrutiny SIs should not become law until 21 days after being laid before parliament, so that MPs and peers, as well as businesses or organisations affected by the legislation, have time to scrutinise and understand it. Analysis by the Hansard Society found that more than half (56%) of negative scrutiny Covid-related SIs breached this convention.<sup>6</sup> Ministers claimed in some cases that this was because they could not afford to wait longer, although these claims have been disputed.<sup>7</sup>

## More than one in 10 Covid-related SIs came into force before parliament had sight of them

Figure 4.3 **Proportion of Covid-related secondary legislation that came into force before being laid before parliament, 2019–21 session**



Source: Institute for Government analysis of UK parliament, SI tracker, <https://statutoryinstruments.parliament.uk>

For parliamentarians to scrutinise secondary legislation, they need to be able to see it. Yet 13% of all Covid-related SIs laid by the government in the 2019–21 session came into legal force before they were even formally laid before parliament.

It is so unusual for this to happen that, when it does, the government must formally notify the Speakers of both Houses: a requirement designed to ensure ministers do this only in exceptional circumstances. There were 44 such notifications made by ministers during the 2019–21 session, prompting the JCHR to warn that what should be an exceptional practice was “becoming routine”, which “creates risks for the rule of law and the separation of powers”.<sup>8</sup> Nonetheless, ministers have continued to lay regulations only after they have come into force, including during the new 2021–22 parliamentary session.<sup>9</sup>

Parliamentarians also need time to conduct scrutiny. But the government’s decision to routinely lay Covid-related SIs late at night or during parliamentary recesses has limited MPs’ and peers’ ability to conduct timely scrutiny. The JCHR highlighted an example in summer 2020, when secondary legislation to require face masks to be worn in shops was laid before parliament the day after summer recess began, despite the policy having been announced to the public 10 days earlier. The legislation required parliamentary approval within 28 sitting days, but recess meant that those 28 days did not begin until September, by which time the law had already been in force for more than a month.<sup>10</sup> Months later, changes to Covid restrictions over Christmas were announced after parliament had risen for recess, prompting a senior backbencher, Sir Charles Walker, to accuse the government of a deliberate delay to avoid scrutiny.<sup>11</sup>



## Backbenchers repeatedly expressed frustration with their limited opportunities for scrutiny

The extraordinary accusation made by Walker against the government reflected a broader backbench frustration, among all parties, with the limited opportunities available to scrutinise Covid-related secondary legislation.

In September 2020, Sir Graham Brady, chair of the influential Conservative 1922 Committee, tabled an amendment to a motion that renewed the powers that the Coronavirus Act gave ministers to make secondary legislation. Brady's amendment would have required the government to give parliament a debate and vote on significant secondary legislation prior to it coming into effect. Dozens of MPs signalled their support for the amendment. Although the Speaker did not allow the amendment to be put to a vote for procedural reasons, he admonished the government:

"The way in which the government have exercised their powers to make secondary legislation during this crisis has been totally unsatisfactory. All too often, important statutory instruments have been published a matter of hours before they came into force, and some explanations why important measures have come into effect before they can be laid before this House have been unconvincing; this shows a total disregard for the House."<sup>12</sup>

The government subsequently pledged that it would allow votes on England-wide secondary legislation "where possible". But ministers persisted in limiting opportunities for scrutiny: on 6 January 2021, for example, a national lockdown came into effect just hours after the regulations were laid before parliament.<sup>13</sup> Backbench frustration continued to mount: in March 2021, 35 Conservative MPs rebelled against another extension to the government's powers under the Coronavirus Act.

## Covid has highlighted long-standing weaknesses in parliament's scrutiny of secondary legislation

The government's decision to make frequent use of unusual procedures as part of its response to the pandemic posed specific challenges to parliament's ability to scrutinise secondary legislation. But Covid has also highlighted long-standing problems with more common scrutiny procedures, problems that had already been thrown into sharp relief by Brexit.

One indication of the effectiveness of parliament's scrutiny processes is the frequency with which SIs are rejected by either House, indicating that they have spotted problems with the quality or scope of the legislation. With around 1,000 SIs passed in each parliamentary session, occasional errors are to be expected. Specialist committees in the Commons and Lords examine and write reports on SIs, including drawing to the attention of the House any that contain errors. The Lords Secondary Legislation Scrutiny Committee (SLSC) found that 119 SIs laid during the 2019–21 session (10%) required corrections – double the rate they would expect. Although recognising that the pandemic placed stress on the government, the committee noted that "the checking and quality assurance processes should by now have been adapted to cope with the new demands upon them".<sup>14</sup>

The high rate of errors identified by the SLSC strongly suggests that the government's rush to legislate has led to mistakes, demonstrating the practical value that better parliamentary scrutiny can bring.

Anecdotally, there is evidence to suggest that committees' examination of secondary legislation represents a form of pre-emptive scrutiny, encouraging the government to assure the quality of the SIs it lays because it knows that committees will look at them in detail. But there are limits to this and, as the high error rate in the 2019–21 session shows, allowing time for specialist scrutiny is important if problems are to be identified.

In theory, MPs and peers can object to SIs if they disagree with them, but in practice the last time a negative scrutiny SI was objected to by MPs was in 1979, and the Commons has not rejected an affirmative SI since 1978 (although the Lords did, controversially, reject an affirmative SI in 2015).<sup>15</sup> Amendment is not an option, and though the Lords can pass a 'motion to regret' an SI – indicating to the government they are unhappy with it – it does not block the SI from coming into force. Part of the problem is that, with negative scrutiny SIs (the most common form of secondary legislation), the government is under no obligation to find time for MPs to debate any objections. There is therefore little incentive for MPs to table a motion objecting to an SI (a 'prayer') as they know it may not be debated.

In the 2019–21 session, among all 902 negative scrutiny SIs laid by ministers, fewer than 2% (17) had prayers tabled in the Commons, and only five of those led to a debate. These very low numbers, which are broadly in line with figures for recent sessions, illustrate the lack of incentive for parliamentarians to engage in serious scrutiny of secondary legislation.

## **Governments have little incentive to improve parliament's capacity for scrutiny**

For reforms to be made to secondary legislation scrutiny procedures, the government would have to bring forward proposals to be debated and voted on. But there is no real incentive for any government to do this, meaning major reform is unlikely. Ministers know that parliamentarians have little opportunity or time to scrutinise hundreds of SIs each session, especially when many of them are highly technical. For all governments, SIs are a good way of quietly making changes that would attract much more attention if included in primary legislation, as admitted by the prime minister's former adviser, Dominic Cummings, who when tweeting about planning reform in July 2021 noted "important SECONDARY legislation changes pushed thro last year, which we barely discussed publicly so MPs wdn't get excited".<sup>16</sup>

Given the inadequacies of parliamentary scrutiny of secondary legislation, it is all the more important for MPs and peers to focus their attention on scrutiny of primary legislation and any new powers it creates for ministers to make SIs. Such upstream scrutiny may not compensate for weaknesses in parliament's ability to scrutinise secondary legislation made under powers that ministers already have, but it may restrict the extent of new powers granted for ministers to use in future.

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## Looking ahead

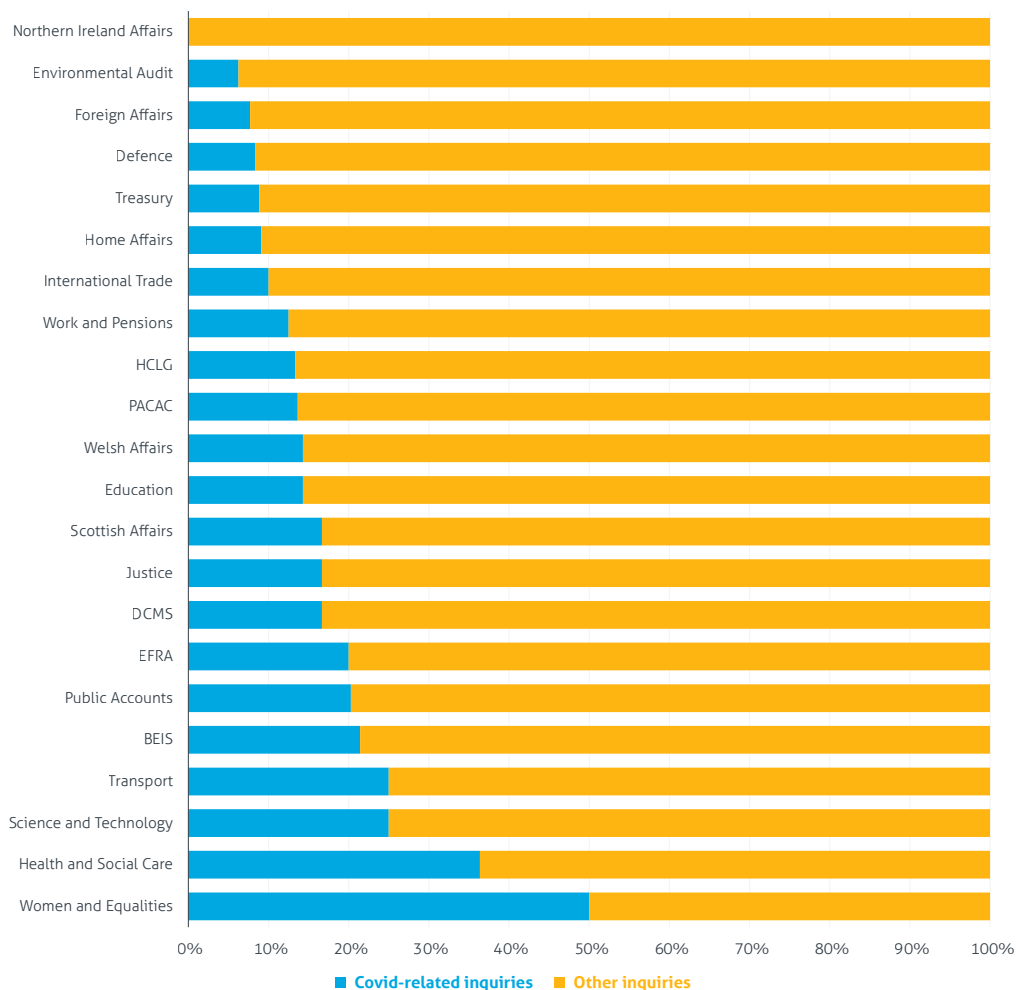
As the pandemic fades, parliament must reassert its role in the legislative process – doing all it can to help ministers to break the habits they have formed during the Covid emergency and to urge the government to return to a more appropriate balance between urgency and scrutiny of secondary legislation. The lessons of this period should be identified for future emergencies, to help ensure that parliament does not find itself sidelined to the same extent again. If the government has to implement new restrictions during the winter of 2021/22, these lessons will need to be implemented sooner rather than later.

# 5 Select committees

Coronavirus dominated the work of select committees in the 2019–21 session, with almost one in five Commons committee inquiries directly focusing on an aspect of the pandemic. At a time when parliament struggled to scrutinise Covid legislation, committees were able to push ministers and officials for more details on the evidence underpinning their decisions and ask questions of the government’s pandemic response. This was helped by the number of committee chairs with recent ministerial experience. The move to virtual proceedings also enabled committees to draw on a broader pool of witnesses. Outside Covid, the structure of select committees in both Houses changed in response to the end of the EU transition period, with new committees created, and others retired or reformed.

## Almost one fifth of all Commons committee inquiries directly focused on the pandemic

Figure 5.1 Proportion of select committee inquiries related to coronavirus by Commons committee, 2019–21 session



Source: Institute for Government analysis of select committee webpages. Includes one-off evidence sessions listed as inquiries.

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Categorising the topics covered by committee inquiries is not straightforward, as some are very broad and may touch on multiple issues. But we estimate that of the 334 inquiries conducted by departmental and cross-cutting committees in the House of Commons, 56 (17%) dealt explicitly with the impact of the pandemic.\* Almost every committee held at least one inquiry on the topic, reflecting the extent to which Covid affected nearly every aspect of policy. This is likely to be an underestimate as many other inquiries will have addressed Covid despite being focused on other issues.

The Women and Equalities Committee had the highest proportion of Covid-related inquiries (six of 12, 50%). This was driven by four inquiries focused on the unequal impact of the pandemic on groups with protected characteristics\*\* – an area of particular concern during Covid. The Health and Social Care Committee had the second highest proportion of inquiries related to Covid (four of 11, 36%). These ranged from inquiries into the short-term response to the pandemic to the longer-term implications for the NHS.

The Northern Ireland Affairs Committee was the only one that did not hold any Covid-related inquiries. This is partly due to the number of issues Brexit continued to raise throughout the 2019–21 session that directly related to Northern Ireland: for example, the committee held inquiries into the Northern Ireland protocol, as well as post-Brexit customs arrangements. The fact that much of the pandemic response was devolved may also have played a part – though the Commons Welsh and Scottish Affairs Committees did conduct a small number of inquiries related to areas where the UK government has responsibility for the Covid response in the devolved nations.

In the House of Lords, which has a different committee structure to the Commons, a number of sessional committees focused on Covid. In July 2020, the Lords established a time-limited Covid-19 Committee to consider the long-term implications of the pandemic, in particular looking at the acceleration of digital trends.<sup>1</sup> The committee, chaired by tech entrepreneur Baroness Lane Fox, has taken particular steps to hear from a wide range of witnesses and members of the public, convening a youth panel<sup>2</sup> and allowing witnesses to submit evidence in different formats including on social media – receiving 500 submissions – and conducting surveys via the Parliamentary Office of Science and Technology.<sup>3</sup> Other Lords inquiries focused on the impact of the pandemic on the constitution, public services and the economy.

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\* House of Commons select committees in existence at end of the 2019–21 session, excluding the Liaison Committee, Petitions Committee and European Scrutiny Committee.

\*\* Characteristics such as age, disability or sexuality (among others) on which it is illegal to discriminate under the Equality Act 2010.

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## Committees have played a key role in scrutinising the government's Covid response

The government's approach to Covid legislation gave parliament little opportunity for scrutiny, as discussed earlier in this report. This meant that committees became a key forum through which parliamentarians held ministers to account, and gathered information about the evidence underpinning their decisions.

Regular oral evidence sessions with a range of ministers, advisers and officials were a key source of information about the government's Covid policy. For example, the chief medical officer (CMO) and chief scientific adviser (CSA) appeared before Commons committees four and five times respectively, helping improve understanding of the evidence informing government decision making.

Other examples of committee impact include the Commons Science and Technology Committee's work on publishing the scientific advice received by ministers. In March 2020, the committee led calls for greater transparency over the membership and minutes of the Scientific Advisory Group for Emergencies (SAGE), and the government agreed to publish more information in response.<sup>4</sup> The government also adopted the committee's recommendation to publish SAGE advice given at COBRA meetings and committed to do so within two weeks of it being given, exceeding the timeline of two months the committee initially proposed.<sup>5</sup>

At other times, though, committees struggled to get the government to engage. In July 2021, the Lords Covid-19 Committee took the unusual step of publishing a report criticising the government's response to its inquiry on hybrid working. The committee noted that the government had failed to respond to a third of its recommendations.<sup>6</sup>

The move to virtual and hybrid working helped committees to scrutinise the government's pandemic response. They were able to hold evidence sessions during recess – for example, during the Easter 2020 recess, when the virus was spreading rapidly across the UK.<sup>7</sup> Virtual proceedings have also made it easier for those from outside London, and with other commitments such as childcare, to attend oral evidence sessions.<sup>8</sup> It also meant that witnesses did not need to travel to Westminster to give evidence, helping committees quickly and easily hear from witnesses based in Afghanistan, the US, Taiwan, Japan, South Korea, Hong Kong, Germany and Austria.

## Former ministers raised the profile of Commons committees

Figure 5.2 Experience of Commons select committee chairs at end of the 2019–21 session

Committee	Chair	Previous experience?				
		Secretary of state	Other ministerial role	Shadow SoS	Shadow minister	Other frontbench
Home Affairs	Cooper	✓	✓	✓	✓	✓
Welsh Affairs	Crabb	✓	✓			✓
Science and Technology	Clark	✓	✓	✓	✓	
Health	Hunt	✓		✓	✓	
Environmental Audit	Dunne		✓			✓
Defence	Ellwood		✓		✓	✓
Treasury	Stride		✓			
Work and Pensions	Timms		✓		✓	
Education	Halfon		✓			
Women and Equalities	Nokes		✓			
Public Accounts	Hillier		✓	✓	✓	
Justice	Neill		✓		✓	
HCLG	Betts		✓			✓
International Trade	MacNeil					✓
Scottish Affairs	Wishart					✓
Northern Ireland Affairs	Hoare					
EFRA	Parish					
BEIS	Jones					
PACAC	Wragg					
Transport	Merriman					
Foreign Affairs	Tugendhat					
DCMS	Knight					

Source: Institute for Government analysis of UK parliament member pages. Darker shading denotes that experience is relevant to current select committee. 'Other ministerial role' includes whips, parliamentary under-secretaries and parliamentary secretaries. 'Other frontbench' includes shadow whip. HCLG = Housing, Communities and Local Government. EFRA = Environment, Food and Rural Affairs. BEIS = Business, Energy and Industrial Strategy. PACAC = Public Administration and Constitutional Affairs Committee. DCMS = Digital, Culture, Media and Sport.

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The start of a new parliament in 2019 brought the election of a new cohort of committee chairs. Several of these positions went to former ministers, continuing a trend over the last decade. By the end of the session, 12 of the 22 chairs (54%) of Commons departmental and cross-cutting committees had ministerial experience, and four of these were former secretaries of state (in the 2017–19 session, 8 of 25 – or 32% – departmental and cross-cutting chairs were former ministers).

Crucially, many Commons committee chairs had recent ministerial experience – including in areas that their committee oversees. Jeremy Hunt, the longest serving health secretary (2012 to 2018), was elected chair of the Health Committee, scrutinising a department he led until just three years ago. Similarly, the Science and Technology Committee helps scrutinise the Department for Business, Energy and Industrial Strategy (BEIS), of which its new chair, Greg Clark, was secretary of state between 2016 and July 2019. And Mel Stride was elected chair of the Treasury Committee in January 2020 – a department he left in May 2019. There are a number of other committee chairs who have as relevant if not as recent ministerial experience – for example, Stephen Crabb, chair of the Welsh Affairs Committee and a former secretary of state for Wales.

Former ministers can benefit the committees they chair by bringing with them a higher public and media profile than the average MP, helping the work of their committee cut through in political debate. They should also have a good understanding of how government works, and therefore how to influence decision making, as well as insight into the functioning of particular departments, where their experience is relevant to the committee's subject matter.

Some have expressed concern that MPs scrutinising the departments they used to oversee could amount to a conflict of interest.<sup>9</sup> Decisions made by ministers while they are in office will have implications long beyond their tenure, which could hamper their ability to be impartial when scrutinising the current work of the department. For example, Jeremy Hunt was responsible for much of the pandemic preparation and planning – including Exercise Cygnus, an (influenza) pandemic simulation exercise carried out in 2016 – that the government later relied upon in its early coronavirus response. Nonetheless, the former health secretary has been a vocal critic of the government's Covid response, while also admitting to his own failings from his time in office.<sup>10</sup>

Despite the trend towards greater crossover between committee and ministerial positions, there are seven committee chairs, six of whom are Conservative MPs, without any ministerial or shadow ministerial experience. Some, such as Tom Tugendhat as chair of the Foreign Affairs Committee, have developed specialisms in their chosen policy areas, reinforcing the idea that some backbenchers may see committees as an alternative career to seeking ministerial office – at least for as long as a government role remains a distant prospect.<sup>11</sup>



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Commons committee chairs – including a number of Conservatives – have in recent years been some of the most vocal critics of the government. But following Boris Johnson’s landslide 2019 election, ministers created controversy by attempting to use their majority to exert control over committees:

- First, after the senior Conservative backbencher Bernard Jenkin failed in his bid to be elected chair of the Defence Committee, the government laid a motion proposing him as chair of the Liaison Committee. This important committee, which plays a key role directly scrutinising the prime minister and joining up the work of other committees, comprises the elected chairs of all the other committees – who would normally elect a chair from among their number. Many MPs including committee chairs opposed Jenkin’s installation, and felt that his imposition would undermine the credibility of the committee.
- Second, the government attempted to install former minister Chris Grayling as chair of the Intelligence and Security Committee. However, following concerns that Grayling was too close to the government, Conservative MP Julian Lewis stood against him. Lewis secured the support of opposition MPs and won the nomination by 5–4 votes. Shortly after, the Conservative whip was withdrawn from Lewis (though was later restored) and Grayling stood down from the committee.

These efforts angered a number of MPs across the Commons – and do not appear to have had the effect that ministers hoped for: Johnson has faced difficult questioning by the Liaison Committee, and its chair has pointedly emphasised his belief in scrutiny.

### **Committees worked together to pool resources and share expertise**

The pandemic had implications for nearly all areas of the government’s responsibility, requiring high levels of cross-departmental working and a joining up of various government functions. In response, some committees have worked together to conduct scrutiny.

In October 2020, the Science and Technology and Health and Social Care committees launched a joint inquiry, “Coronavirus: lessons learnt”, to examine key aspects of the UK government’s response including the deployment of lockdown and government communications; impact on the care sector; use of evidence; testing and contact tracing; and the vaccine roll-out.<sup>12</sup> The joint nature of the inquiry meant the committees were equipped to scrutinise both the scientific advice ministers received and the actions taken as a result in a joined-up manner, avoiding duplication of resources and witnesses.

Committees have also made use of the practice of ‘guesting’, where the chair or members of other committees are invited to attend specific committee meetings or oral evidence sessions. For example, the chairs of the three territorial office committees, and the Health and Social Care Committee attended the Science and Technology Committee’s session with the chief medical and scientific officers of the four UK administrations, in April 2020.<sup>13</sup> The Public Accounts Committee also invited the chairs of the Treasury, Science and Technology, HCLG, Defence and BEIS committees to its “whole of government response to Covid-19” oral evidence session in June 2020 (the Defence and BEIS chairs attended).<sup>14</sup>

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House of Commons committees also held several joint evidence sessions on non-Covid issues. The Women and Equalities and Petitions Committees held a number of evidence sessions on Black history and cultural diversity in the national curriculum, also attended by members of the Education Committee.<sup>15</sup> This prevented duplication on an issue of interest both to the public and to departmental committees.

Some work has spanned both Houses, with the Lords Economic Affairs Committee and Commons Work and Pensions Committee holding a joint session with the welfare minister on Universal Credit. This is a more effective use of government time, ensuring that ministers need appear in front of committees only once, rather than on many days.<sup>16</sup>

Changes in what was the Commons Committee Office (now the Select Committee Team, following governance changes in the House Service) have helped to encourage greater cross-committee working. For example, a new 'UK nations unit' serves the Scottish, Welsh and Northern Ireland Affairs Committees and, now the UK has left the EU, a European Affairs Unit provides expertise to committees conducting relevant inquiries alongside the pre-existing cross-cutting support from the Scrutiny Unit.

## **The end of the Brexit transition period led to a shake-up of committee structures**

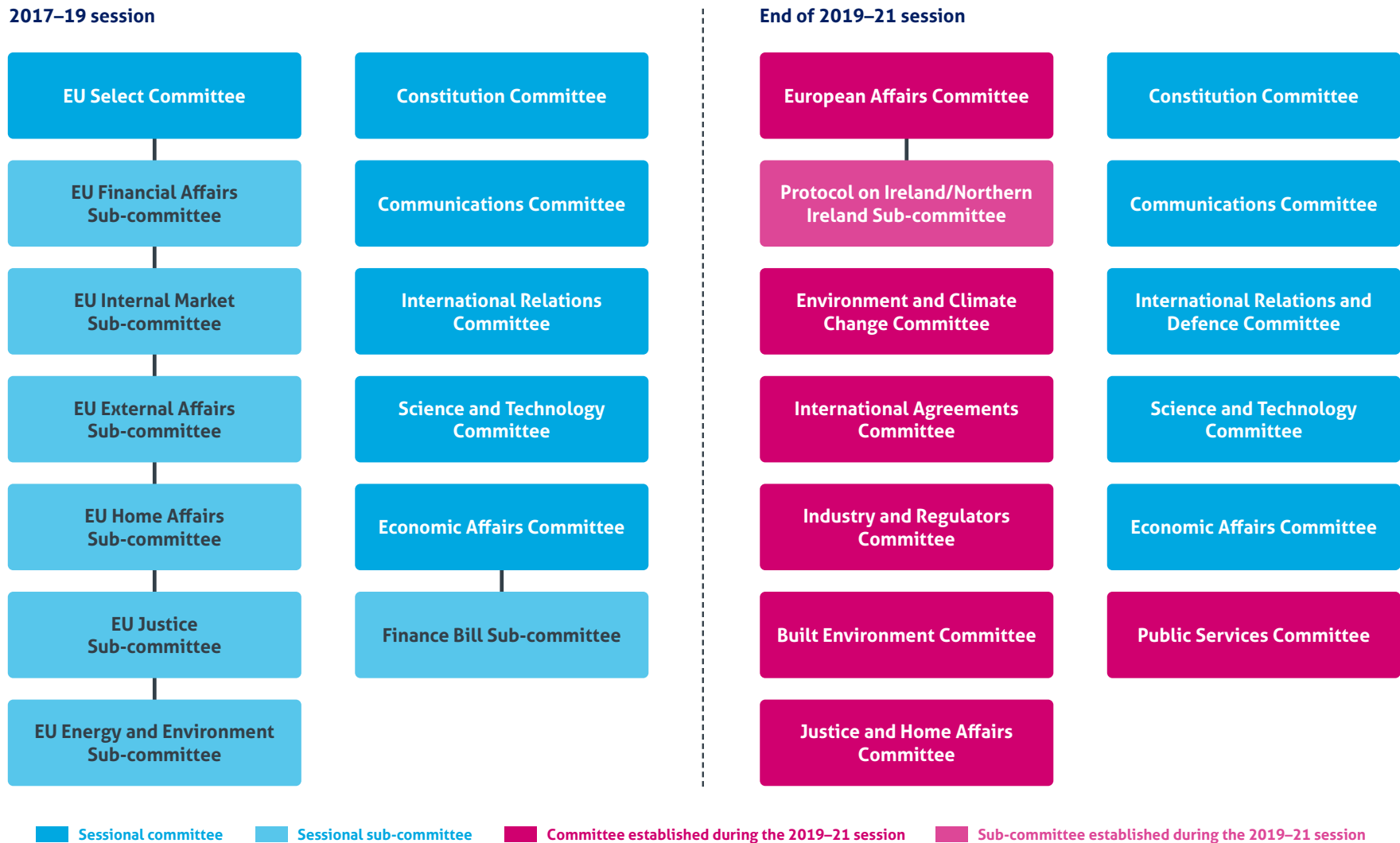
Although Covid dominated the 2019–21 session, the implications of Brexit were still felt by parliament. The end of the transition period meant an end to the application of EU law in Great Britain – although under the Northern Ireland protocol, more than 300 EU acts will continue to apply in Northern Ireland.<sup>17</sup> This changed the scrutiny needs and requirements of the UK parliament, and the committee structure in both Houses changed in response.

In the Commons, the committee on the future relationship was disbanded on 16 January 2021, just a few weeks after the Trade and Cooperation Agreement (TCA) was agreed. Its former chair, Hilary Benn, expressed frustration that this meant there was little time for the committee to scrutinise the content of the deal in any detail and so gain a better understanding of the implications of the end of the transition period.<sup>18</sup>

The European Scrutiny Committee remains in place and will continue to monitor EU documents, their implications, and the functioning of the two UK–EU agreements. However, it is not clear what information and documents – such as explanatory memoranda, and UK–EU Joint Committee papers – the government plans to provide to facilitate this scrutiny.

In the House of Lords, following a Liaison Committee review of its committee structure,<sup>19</sup> the European Union Select Committee, which previously scrutinised EU proposals and documents, was retired. It was replaced in April 2021 by a new European Affairs Committee, to oversee the UK's relationship with the EU and structures set up by the TCA, and a sub-committee on the Northern Ireland protocol, which among other things will scrutinise EU law that continues to apply in Northern Ireland. Like in the Commons, negotiations with the government as to the information it will provide to the committees remain ongoing.

Figure 5.3 House of Lords sessional committees in the 2017–19 and 2019–21 sessions



Source: House of Lords Liaison Committee, *Review of House of Lords Investigative and Scrutiny Committees: towards a new thematic committee structure*, HL398, 17 July 2019, retrieved 12 August 2021, <https://publications.parliament.uk/pa/ld201719/ldselect/ldliaison/398/398.pdf>; House of Lords Liaison Committee, *Review of House of Lords Investigative and Scrutiny Committees: towards a new thematic committee structure*, HL 193, 20 September 2020, retrieved 12 August 2021, <https://committees.parliament.uk/publications/3974/documents/40047/default>.

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The post-Brexit changes to the House of Lords committee structure have freed up much scrutiny capacity – the EU Committee and its six sub-committees previously had total membership of more than 70 peers. As a result, the Lords has established six new sessional committees (Figure 5.3). Their salience and cross-cutting subject matter offers the opportunity to complement departmental select committees in the Commons – we will assess the performance of this new committee structure in future editions of *Parliamentary Monitor*.

## Looking ahead

Committees are likely to maintain their high profile in the rest of the parliament. It is possible that some Commons chairs might be offered ministerial roles in any government reshuffle – but committees increasingly appear to be viewed by MPs as an important source of power. As the worst of the pandemic recedes, the number of inquiries into immediate aspects of the government’s response to it will fall – though there are likely to be inquiries across most committees into the long-term effects of the pandemic on their policy areas. Brexit, as well as events such as the COP26 UN climate summit to be held in Glasgow in November and the upcoming spending review, will take up considerable amounts of committees’ time.

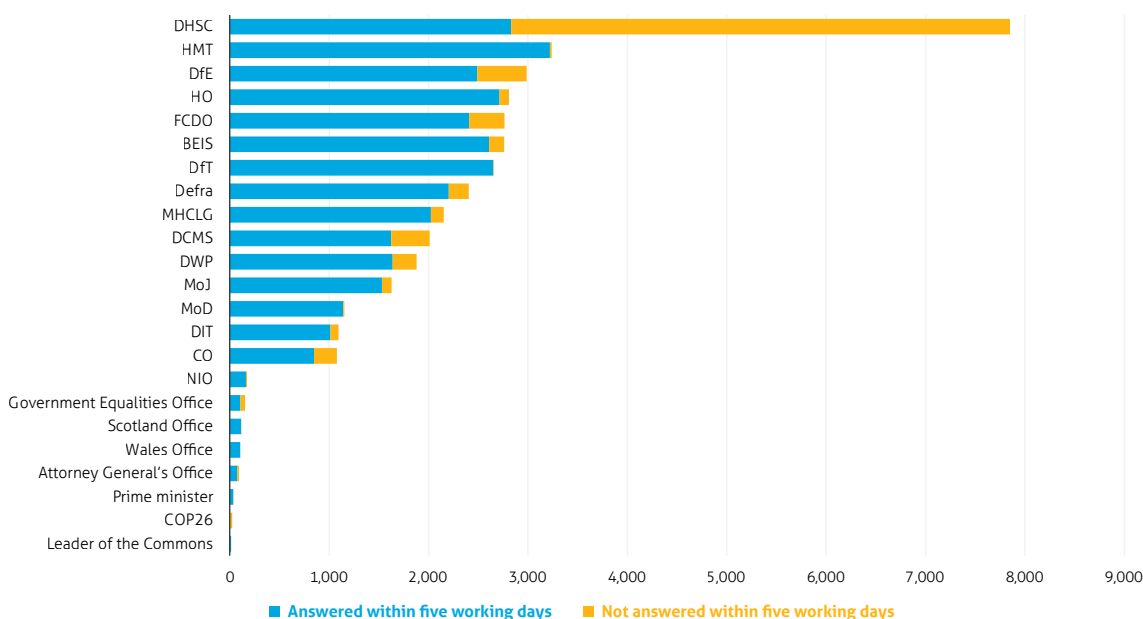
The move to hybrid and virtual working helped committees to more easily access a range of witnesses, as well as to quickly organise evidence sessions during recess. Although both Houses will be returning largely to normal from September, they should consider the value in maintaining virtual capabilities.

# 6 Backbench activity

Backbenchers of all parties used an array of parliamentary procedures to hold ministers to account on Covid and other issues. During the 2019–21 session, rates of urgent questions in the Commons remained high, while the number of private notice questions asked by peers rose dramatically. Members of both Houses also tabled more written questions, although they were frustrated by slow departmental responses as the government struggled to deal with the dramatically increased workload. The temporary expansion of proxy voting in the Commons strengthened the oversight of backbench activity by MPs' parties, with more than 90% of proxy votes controlled by whips.

## Backbenchers asked more questions of government, but were frustrated by slower answers

Figure 6.1 Number of written questions (for ordinary answer) tabled per government dept, 2019–21 session, and proportion answered within five working days



Source: Institute for Government analysis of House of Commons Procedure Committee, 'Written Parliamentary Questions: Departmental performance in 2019/21' report, 19 July 2021.

Across the 2019–21 session, MPs asked more written questions of government departments per sitting day (331) than in any session since 2010–12 (333). Compared with the previous parliament, MPs asked 18% more questions in the 2019–21 session.<sup>1</sup>

Usually, departments that deal with the delivery of key public services receive the highest number of questions, reflecting the kinds of issues that MPs deal with on a day-to-day basis through their constituency casework. The Department of Health and Social Care (DHSC) usually receives the most questions in a session, and this trend continued in 2019–21 – unsurprisingly, given the coronavirus pandemic.

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DHSC received 7,850 questions for 'ordinary answer' (where there is no set time period within which the government should reply, though convention is that ordinary questions are answered within seven days).<sup>2</sup> In addition to this, it received 5,862 'named day' questions, which the department is bound to respond to by a specific date. In total, DHSC received more than twice as many questions as the next highest department, the Treasury (3,238 ordinary and 2,657 named day questions), which also played a key role in the government's pandemic response.

The pressing policy issues arising from the pandemic drove this increase and it is likely that Covid-related changes to parliamentary procedures also contributed to the rise. Covid restrictions in parliament meant that the usual system of oral questions to ministers was disrupted, potentially encouraging parliamentarians to opt to table written questions instead. In the Commons, where most government departments normally take it in turns to answer questions for an hour per day, the time was divided (at least initially) between two departments, each answering questions for 30 minutes. While this meant MPs could question departments more regularly than usual, the number of oral questions that could be asked in each session was reduced.<sup>3</sup>

But as MPs asked more questions of government departments, they were also increasingly frustrated by delays in receiving responses. The Speaker of the Commons, Sir Lindsay Hoyle, picked up on these concerns and called on the government to improve, telling the House in May 2020: "It is unacceptable that the business of answering written questions in a timely and substantive way has not continued. The Government simply must do better."<sup>4</sup> But even months after this, MPs were still reporting delays in receiving answers.<sup>5</sup> Frustration was such that MPs raised 12 points of order and one urgent question on the delays, and the Speaker made three statements on the subject.<sup>6</sup>

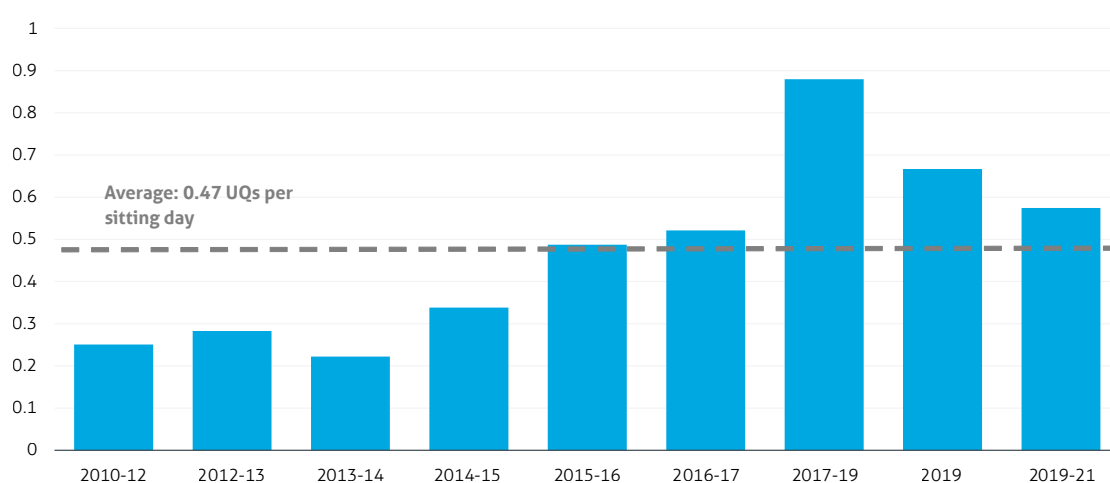
Data compiled by the Commons Procedure Committee, which monitors government responses to written questions, bears out MPs' frustrations. Taking 'ordinary' questions, which, as they don't have a set timetable for response, offer a good indication of how departments are managing their workload, the speed of government responses notably declined in the 2019–21 session. In the 2017–19 and short 2019 parliamentary sessions, between 91% and 92% of all ordinary questions were answered by the government within five working days (the measure the committee uses), but in the last session, this fell to just 79%.

As the Procedure Committee recognised, this decline in the overall performance of government was driven by "a collapse in answering performance" at DHSC.<sup>7</sup> If DHSC was excluded from the data, then the figures for the government's performance in 2019–21 were comparable with most previous sessions. As Figure 6.1 shows, of the almost 8,000 ordinary questions that DHSC received during the session, just 2,831 (36%) were answered within five working days. This poor performance was the result of the far higher number of questions that the department received, which they had to manage at the same time as responding to the pandemic. Acknowledging MPs' frustration with their slower responses, DHSC put in place a number of steps to improve the timeliness of their responses, including increasing staff numbers and sending monthly letters to the Procedure Committee outlining their progress.<sup>8</sup>

As the Speaker pointed out in the early stages of the pandemic, MPs should be mindful of the number of questions they ask of departments because of the burden imposed in responding to them.<sup>9</sup> But written questions are a vital means through which members can hold ministers to account, as the chair of the Procedure Committee has emphasised.<sup>10</sup> The steps that the DHSC has taken to improve its performance are welcome. So too is the idea raised by both the Procedure Committee and the Leader of the House that more real-time data on departments' speed in answering questions might help drive performance.<sup>11</sup> At the same time, it is crucial that efforts to give MPs timely answers do not come at the expense of lower-quality answers.

## The new Commons Speaker continued to grant high numbers of urgent questions

Figure 6.2 Number of urgent questions per sitting day, per session, 2010–12 to 2019–21



Source: Institute for Government analysis of UK parliament, <https://search-material.parliament.uk>

When Lindsay Hoyle replaced John Bercow as Speaker of the Commons shortly before the 2019 election, the big question was which innovations made during his predecessor's controversial tenure he would dispense with and which he would retain.

So far, Hoyle has been a less controversial Speaker than Bercow, although he has sought to continue his predecessor's emphasis on upholding backbench rights. In particular, he has continued to grant high numbers of urgent questions (UQs). The number and rate of UQs granted increased dramatically during the last decade under Bercow, who made clear he saw them as a vital means for backbenchers to quickly hold ministers to account on the major issues of the day.<sup>12</sup> In 2010–12, MPs were permitted to ask 74 UQs; almost 0.3 per sitting day, or one every four sitting days. By 2016–17, this had risen to 0.52 UQs per sitting day, or one every other day. In the 2017 parliament, dominated by Brexit, the number of UQs granted reached its highest point, with close to one UQ asked every sitting day in the 2017–19 session (307 in 347 sitting days).

As Figure 6.2 shows, during 2019–21, Hoyle granted 120 UQs; a rate of 0.6 per sitting day, equivalent to more than one UQ every two sitting days. While this was a lower rate than amid the turmoil of the Brexit years, the rate of UQs in 2019–21 remained above the average for the past decade. Partly this was the result of the pandemic, with Covid



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affecting virtually every aspect of government policy; 39 UQs (almost a third) related to the crisis. The rate of UQs is also down to the attitude of the Speaker granting them. Although no data on the number of requests for UQs is published (so it is impossible to calculate the success rate of applications), the numbers demonstrate that Hoyle sees UQs as an important scrutiny tool.

This has been backed up by his public statements. For example, in September 2020, after changes to lockdown rules were leaked to the media prior to an announcement in the Commons, Hoyle threatened the health secretary with a “UQ every day”.<sup>13</sup>

The pandemic also drove a dramatic increase in the number of private notice questions (PNQs) asked by peers of ministers – the Lords’ equivalent of UQs. Generally, only small numbers of PNQs have been asked in each session; between 2014–15 and 2016–17, for example, there were nine per session on average. In 2017–19, amid the turbulence of Brexit, peers asked 70 PNQs. But in 2019–21, the number rose by 60%, with peers asking 112 PNQs.

## **The government continued to undermine opposition days**

Covid restrictions in the House of Commons, and the government’s decision to prioritise certain kinds of business for hybrid proceedings, meant that opposition days were disrupted. As discussed in Chapter 2, there was a period of two months in spring 2020 when opposition days could not be held. But even more disruptive to opposition parties’ ability to set the agenda and hold ministers to account has been the government’s dismissive approach to opposition days when they do take place.

Since 2017, the governments of both Theresa May and Boris Johnson have repeatedly opted not to force opposition motions to a vote or to abstain, noting that the motions are non-binding and “purely political”.<sup>14</sup> When these governments held precarious positions in the Commons, this approach also allowed them to avoid being defeated on opposition motions.

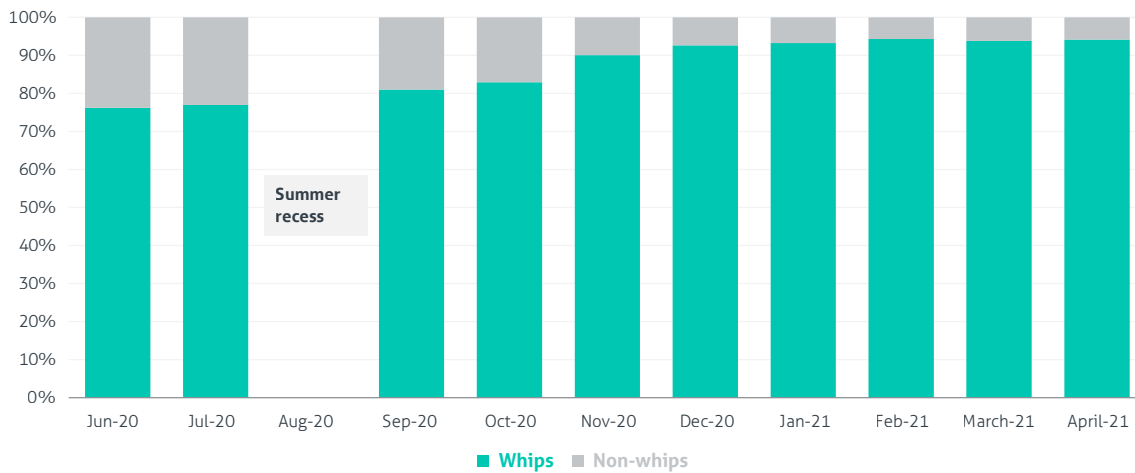
Following the 2019 election, the government’s large majority has meant it has felt comfortable to contest some opposition motions and press them to a vote. But on at least 10 occasions, the government has either allowed an opposition motion to pass without a vote, or whipped its MPs to abstain.<sup>15</sup> In January 2021, the government abstained on two Labour motions, on free school meals and Universal Credit, meaning that both motions passed. The government noted, once again, that the motions were not binding and suggested that they were being used to “bully” government MPs by forcing them into politically difficult positions, citing the widespread criticism of some Conservative MPs after they voted against an earlier Labour motion on free school meals in late 2020.<sup>16</sup> Ministers further undermined the significance of opposition motions by implying that it would no longer respond to any passed by the House, stating that “the government’s position is set out from the Dispatch Box”.<sup>17</sup>

Opposition days are one of the few opportunities that non-government MPs have to set the Commons’ agenda, and even then ministers still exert control over when they take place. Opting to largely ignore opposition motions means choosing to ignore the concerns raised by opposition MPs and the constituents that they represent.



## Widespread use of proxy voting increased whips' control over backbenchers

Figure 6.3 **Estimated proportion of proxy votes cast by party whips in the House of Commons, June 2020 to April 2021**



Source: Institute for Government analysis of UK parliament, *Hansard*.

Traditionally, voting in both the Commons and the Lords has taken place in person, requiring members to walk through the division lobbies. This began to change in the Commons in the last parliament, with the introduction of a pilot programme to allow MPs on parental leave to vote using a proxy – a scheme made permanent in September 2020. The pandemic, however, led to far more radical, albeit temporary, changes to voting.

The Lords adopted remote voting from June 2020. By contrast, the Commons, where changes to ways of working require ministers to table a motion for agreement, used a series of different forms of voting. After a brief experiment with remote voting in spring 2020, the government attempted to revert to socially distanced in-person voting. Scenes of MPs queuing up in parliament to vote, dubbed the 'Rees-Mogg conga', led to ridicule and health concerns, and forced the government to change course. But rather than revert to remote voting, ministers' preference was to temporarily expand the proxy system.

From June 2020, MPs unable to attend Westminster for public health or medical reasons related to the pandemic were entitled to use a proxy to cast their vote. Five months later, this was further extended to cover all MPs during the pandemic.\* By the end of the 2019–21 session, almost every MP had registered to use a proxy on at least one occasion (proxy voting for pandemic-related reasons subsequently ended in the 2021–22 session, in June 2021). Reports indicated that a high number of MPs' nominated proxies were party whips. At one point, the Conservative deputy chief whip was reportedly casting votes on behalf of 203 MPs, almost a third of the entire House.<sup>18</sup>

The best way of analysing whips' control over proxy votes is to count the number of sitting days on which each MP was eligible for a proxy vote, and whether their nominated proxies on those days were party whips. Our analysis indicates that across the period of extended proxy voting in the 2019–21 session, overall 95% of proxy votes were cast by MPs' party whips.

\* For further details, see the timeline at the beginning of this report.

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As shown in Figure 6.3, this changed over time. The proportion of proxies cast by whips steadily rose to over 95% by December 2020, and remained at that level until the end of the session.

Allowing whips to cast so many proxy votes makes it easier for them to control their backbenchers and risks creating a form of block voting.<sup>19</sup> Although a proxy should cast their vote as instructed, even if that means rebelling, the power dynamics between MPs and their whips make rebellions harder. Voting against a whip is a difficult decision; asking your party whip to vote against their own line on your behalf is even harder.

Such widespread use of proxy voting also raises uncomfortable questions about the purpose and value of parliamentary debate. If the vast majority of MPs need to instruct their proxies on how to vote in advance of votes – as is practically the case – then it indicates that members are not approaching debate with an open mind. This potentially devalues debate. When the number of MPs using proxies is low, as is the case in non-Covid times when proxy voting is open only to MPs on parental leave, this is far less of a concern. But allowing the vast majority of MPs to vote by proxy does risk making debates little more than formalities ahead of block votes cast by party whips.

Given the fractious nature of the government's own backbenches (as discussed in Chapter 3), it is unsurprising that ministers preferred a voting system that gave greater control to their whips, as opposed to making use of remote voting. The evidence suggests that this has not dissuaded Conservative backbenchers from voting against the government. But giving the whips so much control makes it harder for backbenchers to effectively represent their constituents. As the chair of the Commons Procedure Committee stated: "I know my Right Hon. Friend the Leader of the House will say that a Member can give their proxy to anyone they wish, but that is not what has happened. Whether we like it or not, constitutionally, it is not perhaps the best look for this Parliament, and it is something that many right hon. and hon. Members are desperately uncomfortable about."<sup>20</sup>

## Looking ahead

The return to in-person working in the Commons in September will mean an end to widespread use of proxies, and the Lords will continue remote voting for a short period before returning to in-person voting as well (though exemptions for some peers on medical grounds will continue).

Elsewhere, MPs and peers are likely to continue asking urgent questions of ministers, especially if they remain frustrated with the timeliness of responses to written questions. Clearly, there is a balance to be struck between the volume of questions that departments must respond to, and the speed and quality of their response. But ministers should consider whether departments are adequately resourced to answer questions – a vital aspect of parliament's ability to hold ministers to account, particularly in an emergency.

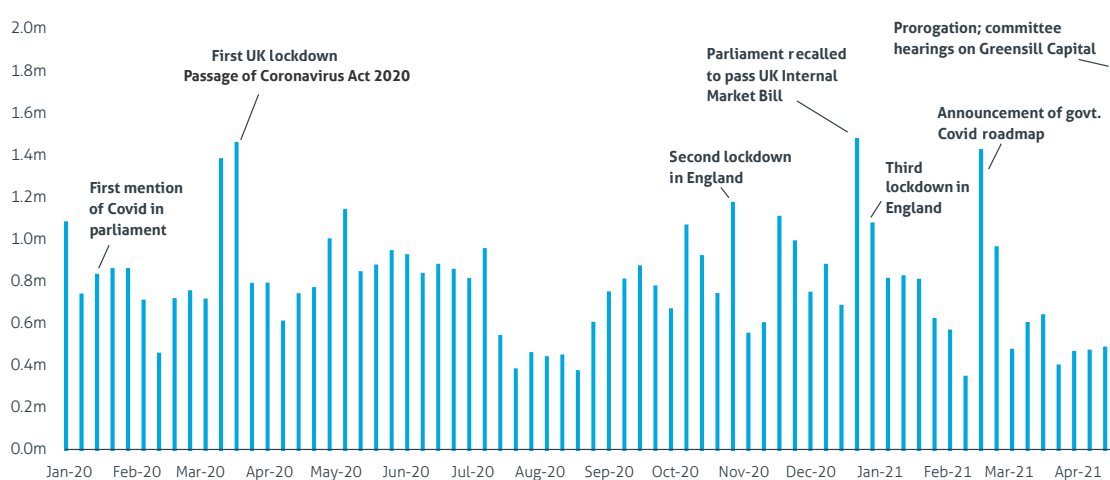
# 7 Parliament and the public

Parliament attracted large TV audiences in the 2019–21 session, especially at key moments in the pandemic, although not as large as during the Brexit-focused 2017–19 session. The move to hybrid and virtual proceedings, however, meant that the public saw parliament working in a very different way than usual – including seeing MPs and peers speaking from their own homes.

The public used the e-petitions system to exert influence on the government, as Marcus Rashford’s free school meals campaign showed. But much of the public’s interaction with parliament was via constituency casework relating to the pandemic, creating a sharp rise in MPs’ workloads.

## Parliament attracted large television audiences – though less than during Brexit debates

Figure 7.1 Weekly viewing figures for BBC Parliament, 6 January 2020 to 29 April 2021



Source: Institute for Government analysis of BARB, Weekly Viewing Summary, Jan 2020 to April 2021. Data covers views on a TV set live and up to seven days after broadcast. Key events marked.

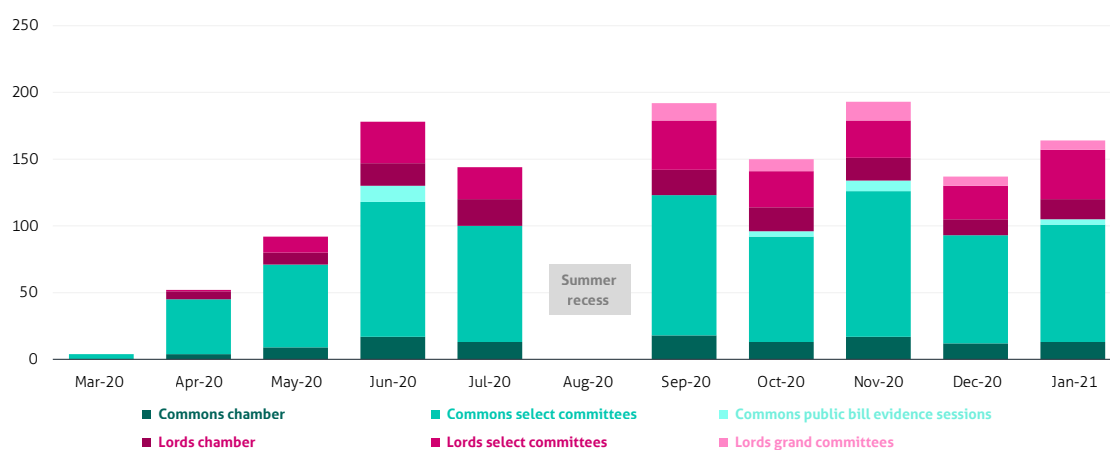
An average of 795,000 people per week between 6 January 2020 and 29 April 2021 (the part of the 2019/21 session for which there is data) tuned in to BBC Parliament. While high, these numbers were below the average of one million viewers a week in 2019 – when parliament was dominated by drama over Brexit.<sup>1</sup>

Public interest spiked at key moments in the pandemic. In the weeks before and after Boris Johnson’s announcement of the first national lockdown in March, an average of 1.4 million people a week watched BBC Parliament for an average of 10 minutes each. Other spikes in viewing figures came at the time that the second and third lockdowns in England were announced (1.2m and 1.1m viewers, respectively), as well as in February 2021 when the prime minister set out the government’s ‘roadmap’ for easing restrictions (1.4m viewers).

The public also tuned in to parliament for some reasons not related to Covid. In fact, the highest weekly viewing figures for BBC Parliament during the session (excluding December 2019, for which there is no data) came in its final week in April 2019 – 1.8m viewers. As well as prorogation ceremonies, that week featured several major select committee hearings – including on lobbying and the Greensill Capital scandal. The second highest viewing figures of the session were also not related to Covid, coming in the final week of December 2020, when parliament was recalled to pass the UK Internal Market Bill, putting the EU–UK trade deal into law. The relatively high viewing figures suggest that some public interest in parliament’s work continued even after the drama of the tumultuous 2017–19 parliament.

## Parliament boosted its broadcast capacity in the pandemic, offering the public a new view of its work – and its members

Figure 7.2 **Number of virtual and hybrid proceedings in the House of Commons and House of Lords, per month, by type of business, March 2020–January 2021**



Source: Institute for Government analysis of data supplied by the Parliamentary Broadcasting Unit. Excludes Commons ‘physical only’ sittings. Lords chamber sittings in April 2020 were supported by the Parliamentary Digital Service.

The UK parliament was the first in the world to substantially move to hybrid working – a mixture of in-person and remote working (though the Welsh Senedd was the first legislature in the UK to hold a virtual plenary session).<sup>2</sup> Doing this required (mostly temporary) changes to both Houses’ standing orders, or rules. It also required rapid development of new systems and technologies – for example, to install screens in the Commons and Lords chambers, or to ensure that MPs in multiple locations could take part in the same proceedings. Both Houses also had to boost their capacity to be able to broadcast multiple proceedings – with in-person and virtual participants – at once.

Parliament took a slightly extended Easter recess in spring 2020, allowing staff more time to get things up and running. Initially, both Houses had to work within staffing and technological constraints. The practical effect of these was to limit the kinds of business that could take place in the Commons and Lords, as well as the length of debates. Early on, for example, the Commons sat for fewer hours each day, dividing its time into several blocks, in between which broadcast systems could be reset.<sup>3</sup>

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As Figure 7.2 shows, the Parliamentary Broadcasting Unit, Parliamentary Digital Service and staff in both Houses boosted their capacity for hybrid and virtual working as the session wore on. By June 2020, hybrid proceedings in public bill committees were possible, with 12 oral evidence sessions held in the month. From September 2020, Grand Committee sessions in the Lords were also possible, with 13 held in the month. Between April and June, the total number of hybrid and virtual proceedings delivered across both Houses more than tripled, from 52 in a month to 178 – and reached a subsequent high in November.

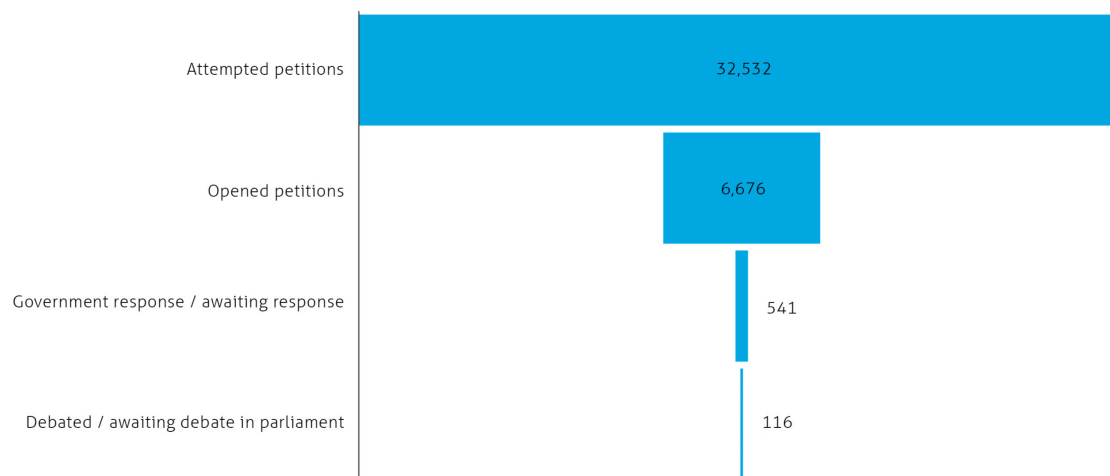
In developing its broadcast and technological capacity at such speed, parliament made changes that may have a long-term effect, including boosting its capability and resilience for the future.<sup>4</sup> For example, more rooms across the parliamentary estate are now equipped for a mixture of remote and in-person working. This could offer advantages for parliament's 'restoration and renewal' programme, giving both Houses more options for how to conduct their business while undergoing renovation.

Covid also marked the first time that members of the public tuning into BBC Parliament (or to parliamentlive.tv) saw MPs and peers joining parliamentary proceedings from outside Westminster. While it is difficult to quantify any effect that this may have had on public perceptions of parliament, it is possible that seeing MPs and peers in their own homes may have helped people to feel more represented by parliamentarians and gain a better appreciation of their role.<sup>5</sup>

Members of the public often saw MPs representing them from inside their constituencies, rather than from Westminster. The public could also see MPs and peers – and, at times, committee witnesses – experience the challenges of home working that so many other people were dealing with: interruptions from children and pets, or poor internet connections. At a time when people were experiencing some of the strictest regulations on movements and activities ever imposed in the UK, and making major adjustments to their daily lives, there was something important about seeing parliamentarians having to do the same. At the very least, being able to see into parliamentarians' homes served as a reminder that they are people with lives beyond Westminster.

## Covid delayed debates on e-petitions – but still allowed the public to influence the government

Figure 7.3 Number of e-petitions attempted, opened, receiving a government response and debated in parliament, December 2019–July 2021



Source: Institute for Government analysis of data from the e-petitions website. Data correct as of summer recess 2021.

Parliament.co.uk-hosted e-petitions are an important means through which the public can attempt to directly influence debate in the Commons. Following the 2019 election, the Petitions Committee received a threefold increase in the number of petitions, with many of these relating directly or indirectly to the Covid pandemic.<sup>6</sup>

Between the 2019 election and the beginning of parliament's summer 2021 recess, 32,532 e-petitions were 'attempted' – meaning that they were begun on the e-petitions website, and were then checked to ensure they met certain requirements. Of these, nearly 26,000 were rejected on grounds including duplication of existing petitions, failure to set out what action they wanted the government to take, or because they dealt with an issue for which neither the government nor parliament is responsible. This left 6,676 petitions to be officially 'opened' for signatures. Between them, these petitions attracted 36.8 million signatures – an average of 5,508 signatures per petition. But this average masked huge variation. The top 10 petitions over the period each received an average of 638,000 signatures, with the most-signed petition, relating to child hunger, receiving more than 1.1m. Of the 10, six related directly to the pandemic.

However, Covid restrictions in parliament meant that Westminster Hall, the venue for most e-petitions debates, did not operate for several months. This led to delays, creating a backlog. By July 2020, there were 28 e-petitions awaiting debate in parliament.<sup>7</sup> For more than six months, no petitions were debated in Westminster Hall – and when proceedings there did restart in September 2020, the government's insistence on in-person attendance meant that any MPs unable to travel to Westminster – for example, because of health concerns – could not participate in the debates that did take place.<sup>8</sup>

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In response to this, the Petitions Committee innovated – with the support of the Leader of the House, Jacob Rees-Mogg. For example, it held multiple ‘e-petition sessions,’ in which MPs were able to give evidence via making speeches, in a way similar to usual petitions debates in Westminster Hall.<sup>9</sup> And in March 2020, the committee organised a virtual session on Covid, in which members of the public were able to put questions to a range of ministers and officials – allowing citizens to engage directly with the people making decisions.<sup>10</sup>

Although there were delays in debating e-petitions in parliament, the public was still able to use them to influence government policy. An important example of how this happened was the availability of free school meals for children during the holidays. In the summer of 2020 Marcus Rashford, the 22-year-old Manchester United and England footballer, had successfully urged the government to keep offering food vouchers to children eligible for free school meals, so that their parents would not need to find money to feed them during the holidays.<sup>11</sup>

Rashford then called on the government to further extend free school meals into the October half-term, beginning a petition that collected more than one million signatures – the most of any petition since the 2019 election. The government refused to do this, and defeated a Labour-tabled opposition day motion to do so, leading charities and business to fill the gap.<sup>12</sup> But in early November the government made another U-turn in the face of sustained public pressure, establishing a winter grant fund of £170m to enable local authorities to support low-income families with the cost of food over the holidays.<sup>13</sup>

The government’s change in policy occurred long before the petition formally closed in April 2021, and before it was debated in parliament in the spring of 2021, but after it had garnered a significant number of signatures.

## **Citizens increasingly relied on MPs to help them navigate the pandemic**

As the pandemic developed, with the health crisis, lockdowns and associated economic problems placing growing hardship on communities across the UK, the public were increasingly reliant on their MPs to represent them in parliament – but also to answer their questions at a more local level. These included everything from changes to (often localised) restrictions to the functioning of public services.

No central or consistent data is collected on the volume of casework or correspondence facing each MP, and it is likely to vary depending on the particular location, economy and demographics of each constituency. But there is a large amount of anecdotal evidence to suggest that MPs from different parties, spanning different kinds of constituencies, all saw vast increases in their constituency workload. One Plaid Cymru MP’s office opened the same number of cases in just five months (between March and July 2020) as the total number in almost two years (January 2018 to October 2019).<sup>14</sup> Between mid-March and mid-April 2020, they were receiving one email per minute.



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Another Labour MP in a Birmingham constituency received 14,500 emails throughout 2020 – with just four staff to deal with them.<sup>15</sup> And a staff member for another MP recalled that in the first two weeks of the first lockdown they received five times as much correspondence per day compared to usual.<sup>16</sup> MPs and their staff were also having to field completely new kinds of inquiries – for example, helping with constituents stranded abroad by new travel restrictions, or ensuring that local businesses could navigate Covid regulations affecting their work – including during regional lockdowns.

Covid has accelerated a longer-term trend in which the casework aspect of MPs' roles has become more important: recognising this, the Independent Parliamentary Standards Association had increased its staff budgets even before the pandemic, to ensure that it could meet demand. Even as the pandemic recedes, the casework load is likely to remain high – with one MP suggesting that “the balance of responsibilities has fundamentally changed – with greater emphasis on the MP as an interlocutor between government and citizen, adviser and caseworker”.<sup>17</sup>

## Looking ahead

As the pandemic recedes, the number of people tuning in to watch parliamentary proceedings live is likely to fall – though the potential reimposition of any Covid restrictions and other high-profile political events may briefly increase viewership. The public will once again be able to visit the parliamentary estate – though the digital forms of education and outreach that both Houses adopted during the pandemic are likely to stay, potentially helping parliament reach even more members of the public.

The return to normal also means that parliamentary proceedings such as e-petitions debates will be able to happen as usual. But the chair of the Petitions Committee, Catherine McKinnell, has indicated that some of the innovations made during Covid – like e-petition sessions, in which MPs could give evidence in the form of speeches – may be retained in some format.

The volume of casework and correspondence received by MPs may fall slightly as life returns to normal – though the longer-term effects of the pandemic on the economy, and on public services (including the NHS, where long waiting lists are already growing), may well keep MPs and their staff busy.



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# Methodology

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The data in this report, unless otherwise stated, covers the activity of the UK parliament in the 2019–21 parliamentary session. Most data that we use is publicly available, and we indicate below where this is not the case.

All efforts have been made to ensure that our analysis is accurate. Parliamentary data is not always straightforward to use and understand, and so we have offered a detailed explanation of our sources and methodology below.

## Cost and administration

Most data in this chapter is taken from the annual reports and accounts that are separately published by the House of Lords and House of Commons. Data is for the 2020/21 financial year (unless otherwise indicated). Financial data for previous years has been adjusted for inflation, using CPI, and is in 2020/21 prices.

The analysis and headline figures in the chapter focus on both Houses' resource (day-to-day) spending. Capital spending is briefly discussed in the text, but we do not include this in our headline figures.

Figures cited for the House of Lords include the cost of peers' allowances and expenses, as these are paid for by the House. But figures for the House of Commons do not cover the cost of MPs' salaries and expenses nor those of their staff – as these are paid and regulated by the Independent Parliamentary Standards Authority. Data for MPs' salaries and expenses for 2020/21 is not yet published, and so we do not include it in our analysis. However, we do mention some changes to the rates of MPs' expenses that have been announced in the past year.

## Time

Data in this chapter is mostly taken from *Hansard*.

In calculating the approximate time that the Commons spent on coronavirus, we included as 'Covid-related business' anything that we think would not have taken place without the pandemic. This means that some forms of routine business that are likely to have been dominated by the pandemic – such as departmental oral questions, or budgets – are not included. To give an estimate of the amount of time spent on routine and non-Covid business, we subtracted the total time spent on Covid-related business from the total sitting time of the Commons. Covid restrictions meant that the House was at times briefly suspended to allow for cleaning or to reset broadcasts. We have not excluded these suspensions from our figures as it would have been laborious to do so – and as most suspensions were brief they are unlikely to have affected the overall picture.

Data on the length of time spent by ministers at Covid-related press conferences is taken from the videos of those press conferences posted on the government's website, gov.uk, and official YouTube channel. We have included addresses to the nation – for example, when the prime minister announced the first lockdown in March 2020 – in those figures.

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## Primary legislation

The data in this chapter is taken from the UK parliament website, in particular its bills page, and the division lists published after formal votes. The date shown for each stage of each bill is the first date of that stage. We focus our analysis on government bills.

In calculating the proportion of Conservative MPs that rebelled against the government during the session, we focused only on 'voting Conservative MPs' – excluding those who by convention do not vote (the two Conservative deputy Speakers) and one Conservative MP who had the whip withdrawn during the session. To judge whether Conservative MPs rebelled against the government, we compared the way they voted (as set out in the division lists published by parliament) with how senior members of the executive (for example, the PM or chancellor) voted, which we took to represent the government's position. We excluded the small number of occasions on which Conservative MPs voted in both lobbies – while this may have been a deliberate means of abstaining on a vote, it may also have been an error.

However, judging whether an MP rebelled against their party is not an exact science, because details of the party whip for each division are usually not made public. This means that it is not always possible to be certain whether a Conservative MP voting differently to senior members of the government was a rebellion: for example, the vote may have been free, or only partially or informally whipped. We have tried to factor out any votes that were publicly declared to be free votes – but the lack of transparency about party whips means that we may have missed some votes.

## Secondary legislation

The data in this chapter is mostly taken from the UK parliament's statutory instrument tracker website. We also draw on some of the analysis undertaken by the Hansard Society through its Covid SI dashboard.

## Select committees

Most of the data in this chapter comes from committee webpages. Our analysis of inquiries includes one-off evidence sessions listed as inquiries on committee webpages. Again, we define a Covid-related inquiry as any that included direct reference to the pandemic in its title or that would not have been held in the absence of it. This will be an underestimate, as Covid is likely to have been discussed in other routine inquiries, or those focused on other matters.

## Backbench activity

Data on backbench activity is mostly taken from *Hansard* and the UK parliament's 'search material' website. Figures on written questions and the timeliness of government responses are taken from analysis published by the Commons Procedure Committee. As set out in the chapter, we focus our analysis on 'ordinary' written questions, which do not require an answer by any set date, as this gives a good indication of how departments prioritised their workload.

Data on the use of proxy votes by MPs draws on the lists of registered proxy votes that were regularly published in *Hansard* during the session. We calculated the number of days that each MP had a registered proxy, and the number of those days on which their registered proxy was a whip from their party. We have tried to account for changes

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in party whips over the course of the session, as well as for changes in each MP's nominated proxy. Our definition of whips includes assistant whips. We have excluded Sinn Féin from our analysis (as their MPs do not take their seats) as well as independent MPs and parties with fewer than three MPs.

## **Parliament and the public**

Data on petitions is taken from the e-petitions website, which is jointly maintained by the government and parliament. The data we use covers the period from the beginning of the 2019 parliament until the summer recess of 2021, meaning it extends beyond the end of the 2019–21 session. This is because of the way that the data is provided on the e-petitions website.

Figures on viewing figures for BBC Parliament are taken from the Broadcasters' Audience Research Board (BARB) website. We use BARB's weekly viewing summary, which means our figures go back only to January 2020. The data we use is 'C7 TV set (as broadcast)', which captures the number of views on a TV set live and in the seven days following broadcast. This means that viewing from computers or tablets is not included.

Data on the broadcast capabilities of parliament was provided to us by parliament.

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## Acknowledgements

We are extremely grateful to the staff across both Houses of Parliament and others who helpfully and patiently answered our questions, provided us with useful data and reviewed drafts of the report. Particular thanks must also go to Samuel Olajugba and Kwabena Osei, who joined the team over the summer and helped compile data and conduct analysis. We are also grateful to colleagues at the Institute for Government, especially Paul Shepley for his help with data. Bronwen Maddox, Pauline Joy, and Tom Pope provided valuable comments and support. Finally, huge thanks to Will Driscoll, Melissa Ittoo, Sam Macrory, Candice McKenzie, and David Edwards for their support with publication. Any remaining errors are the authors' alone.

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