

Amending Standing Orders

Standing Order 34 and remote participation in Senedd proceedings

July 2022

In accordance with Standing Order 11.7(iv), the Business Committee is responsible for making recommendations on the general practice and procedures of the Senedd, including any proposals for the re-making or revision of Standing Orders.

This report recommends that temporary Standing Order 34 (Emergency Procedures), which was introduced in March 2020 in response to the COVID-19 pandemic, should be allowed to lapse as scheduled on 1 August 2022 and that Standing Orders 6, 12 and 17 be amended to give permanent effect to some of its provisions. The report also recommends that remote participation in Plenary and committee meetings should be continued.

The Senedd is invited to approve the proposals to amend the Standing Orders as at Annex A. The amended Standing Orders, if approved, are at Annex B.



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Background

1. On 18 and 23 March 2020 the then National Assembly for Wales agreed Standing Order 34 (Emergency Procedures) in order to facilitate the continuation of Senedd business during the COVID-19 outbreak. These emergency provisions were initially set to expire upon the dissolution of the Fifth Senedd but were extended in March 2021 until 1 August 2022, or whenever the Senedd so resolves, whichever is sooner.
2. Given the ongoing COVID-19 restrictions in place at that time, the extension facilitated the continuity of business at the start of the Sixth Senedd and to allow the next Business Committee time to review the operation of the Standing Order.

Review of Standing Order 34 and remote participation in Senedd proceedings

3. In March 2022 the Business Committee agreed to commence a review of Standing Order 34 ahead of its scheduled expiration, and to consider the future of remote participation in Senedd proceedings as part of that review. This was due to the fact that, whilst the ability for Members to contribute remotely in hybrid and virtual Senedd proceedings is not dependent on Standing Order 34 and therefore no Standing Order changes are required for its continuation¹, it contains connected provisions enabling remote or weighted voting and the public accessibility of Plenary and committee meetings.
4. To inform its decisions, the Business Committee invited and received evidence from a range of sources:
 - 35 responses to an anonymous survey of Members of the Senedd, which invited views on remote participation in Plenary and committee proceedings, and remote voting in Plenary;
 - written responses from two party groups;

¹ Standing Orders are silent in relation to the location(s) from which Members are able to contribute to proceedings, which has facilitated the Senedd to respond to the pandemic in a flexible manner.

- a written response from the Chairs' Forum in relation to matters concerning committee proceedings; and
 - correspondence received from the Women's Equality Network (WEN) Wales.
- 5.** The Member survey sought Members' views as to whether (a) remote participation in Plenary and committee meetings, and (b) remote voting in Plenary meetings, should continue following the COVID-19 pandemic. Views were also sought on whether these provisions should be limited or qualified in any way once the current public health rationale no longer applied.
 - 6.** A majority of responses to the survey supported Members' ability to participate remotely continuing in all Senedd proceedings. Some distinction was drawn between different types of meetings, with more support for remote participation in committees, particularly for witnesses, than for Plenary meetings. The written submissions received from the Labour and Plaid Cymru Senedd groups both also supported the continuation of hybrid proceedings for Plenary and committee meetings.
 - 7.** The reasons provided in favour of remote participation continuing included the ability to attract more diverse Members at future elections, the benefits that such arrangements can bring to those with parental and other caring responsibilities, and a reduced need to travel, leading to cost, time and carbon emission savings. Members stating that remote participation should not continue felt it affected the quality of debates and scrutiny. A number of responses suggested that attending in person should be the norm, with remote participation saved for only limited circumstances.
 - 8.** The correspondence received from the Women's Equality Network (WEN) Wales urged the importance of retaining hybrid working for the benefit of those with caring responsibilities, especially women with caring roles, and disabled people.
 - 9.** The Chairs' Forum responded to support the option to hold committee meetings virtually, or in hybrid format, remaining available for the foreseeable future, with decisions over the mode of meeting remaining a matter for committee Chairs to determine on a meeting by meeting basis.
 - 10.** Divergent views were received in relation to the form of attendance by witnesses. Whilst all respondents supported a continuation of the ability for witnesses to attend committee meetings remotely, there was a distinction drawn on the issue of Ministerial attendance. The Labour group response

argued that Ministers should be treated in the same way as other Members in respect of whether they attend committee meetings in person or remotely, whilst the Chairs' Forum's position was that Ministers should attend in person, by default, but could be permitted to participate virtually with the prior agreement of the Chair, in the same way as others attending as invitees.

- 11.** The Chairs' Forum expressed the view that guidance should transparently communicate the approach that is to be taken to attendance at committee meetings, and to set-out the etiquette and standards expected of participants.
- 12.** A majority of responses to the survey supported the continuation of remote voting. The reasons expressed in support were the same as those in favour of remote participation, with some expressing the view that a distinction cannot be drawn between both aspects. Responses arguing against remote voting referred to the potential for Members not to participate in proceedings other than for voting.
- 13.** Both Labour and Plaid Cymru group responses, as well as several Members' survey responses, stated that the onus must be on individual Members to ensure that that they are present and able to vote prior to any votes being taken, regardless of whether they are voting remotely or in person.
- 14.** A small majority of Members responding to the survey indicated qualified support for remote voting, including that it should only be available in certain circumstances or from certain locations, and that what is or is not acceptable at voting time should be clearly prescribed.

Business Committee's conclusions

15. The Business Committee considered the issues arising from the review at meetings on 14 June, 21 June and 5 July 2022. In light of the views and evidence received, the Committee proposes that:

- The ability for Members to participate remotely in Plenary and committee meetings should be maintained;
- Members of committees should have the flexibility to choose how to participate in committee proceedings on a meeting-by-meeting basis, taking account of the business under consideration and any guidance issued by the Llywydd in accordance with Standing Order 6.17. Chairs of committees retain overall responsibility for determining the format in which meetings are held, having consulted with their committees;
- Expectations in respect of attendance at committee meetings, including in relation to Ministers and others attending as witnesses, should be set out in guidance issued by the Llywydd in consultation with the Business Committee and the Chairs' Forum, as appropriate;
- Standing Order 34 should be allowed to lapse as scheduled on 1 August 2022, with several provisions retained through transposal into Standing Orders 6, 12 and 17. Business Committee's proposals on each of the provisions contained within Standing Order 34 are outlined in the following section;
- Standing Order 17.35 should be revised to allow voting by roll call in committee proceedings;
- Standing Orders 12.1 and 17.40 should be revised to clarify that meetings must be broadcast live and that a meeting is a public meeting where a live broadcast is available; and
- Matters relating to attendance, conduct and voting in hybrid and virtual proceedings, including to emphasise that it is the responsibility of individual Members to secure a reliable connection and ensure that they are able to access the voting system ahead of any votes, should be set out in guidance issued by the Llywydd in consultation with the Business Committee and the Chairs' Forum, as appropriate.

Standing Order 34 provisions

- 16.** The Business Committee has considered the views received and the use of Standing Order 34 provisions to date and has made the following proposals:

Designated Temporary Presiding Officer

- 17.** It is proposed that Standing Orders 34.2-4 are allowed to lapse on 1 August 2022.
- 18.** These provisions allow the Senedd to elect a Designated Temporary Presiding Officer who would be able to exercise the functions of the Presiding Officer in circumstances where neither the Presiding Officer nor Deputy Presiding Officer are able to act, whether remotely or in person.
- 19.** A motion was agreed in the Fifth Senedd on 18 March 2020 to elect David Melding AM as designated Temporary Presiding Officer, though the role was not utilised in practice. No Designated Temporary Presiding Officer has been elected during the Sixth Senedd.
- 20.** In the absence of this provision, Standing Order 6.24 allows for the Clerk to take the chair in order to arrange for the election of a temporary Presiding Officer on each occasion that both the Presiding Officer and Deputy Presiding Officer are unable to act.

Acting Chair of Plenary Meetings

- 21.** It is proposed that Standing Orders 34.5-8 are incorporated into Standing Order 6 and retained for future use as an additional contingency, should illness or absence mean that neither the Presiding Officer or Deputy Presiding Officer are able to act to chair Plenary proceedings.
- 22.** These Standing Orders are designed for a scenario whereby the Presiding Officer or Deputy are unable to chair plenary meetings but remain able to exercise the functions of the Llywydd. They provide a mechanism for the Senedd to elect, in advance, an Acting Chair of Plenary who is able to carry out the full functions of the Presiding Officer in relation to the chairing of plenary meetings in order to enable the smooth running of proceedings.
- 23.** These functions go beyond those available to a Temporary Chair under SO6.24, including:

- All the functions of the Presiding Officer under Standing Order 13 to maintain order in Plenary, including the ability to exclude a Member from Senedd proceedings;
- Ability to run a vote and exercise a casting vote;
- Ability to make a statement on behalf of the Presiding Officer;
- Decisions on urgent business and business without notice;
- Determining questions as to the interpretation or application Standing Orders in so far as necessary to dispose of the Plenary business of the day.

24. A motion was agreed in the Fifth Senedd on 18 March 2020 to elect David Melding AM as Acting Chair, though the role was not utilised in practice.² No Designated Temporary Presiding Officer has been elected during the Sixth Senedd to date, however it is proposed that the ability to do so be retained to enable the Senedd to elect a Member to carry out these functions in a planned manner which helps to minimise disruption to business.

Recall of the Senedd by the Presiding Officer

25. It is proposed that Standing Order 34.9 is allowed to lapse on 1 August 2022.

26. This provision was introduced to provide a direct mechanism through which the Presiding Officer could, with the agreement of the Business Committee, recall the Senedd to consider a matter of urgent public importance related to public health matters.

27. On 24 March 2021 the Senedd agreed to create a new Standing Order 12.3A which gave permanence to the temporary provision under Standing Order 34.9 and widened its use beyond public health matters, whilst adding an additional requirement for the Presiding Officer to also consult with the First Minister. This new permanent provision was used for the recall on 22 December 2021.

Quorum in Plenary

28. It is proposed that Standing Order 34.10 is allowed to lapse on 1 August 2022.

² David Melding did continue to act as a Temporary Chair of Plenary Meetings as provided for by SO6.22.

29. The rationale for setting a lower quorum threshold (four, representing more than one political group) at the start of the COVID-19 pandemic was to mitigate the risk that fewer than 10 Members may be available for a vote, and to take account of restrictions on the number of Members able to participate remotely at the start of the pandemic. This has been superseded by the ability for all Members to attend virtual Plenary meetings and by the introduction of remote voting.

(Weighted) Voting in Plenary

30. It is proposed that Standing Orders 34.11-14 are allowed to lapse on 1 August 2022.

31. Provisions enabling a nominated Member of each political group to carry the same number of votes as the number of members in their group were introduced at the start of the pandemic in response to the circumstances at the time, specifically the urgent need to take measures to limit the spread of COVID-19 and therefore to restrict the number of Members able to participate and vote in proceedings.

32. These provisions were used between 8 April and 1 July 2020, but have not been required since the introduction of remote voting on 8 July 2020, since which time Members have been able to vote individually.

(Remote) Voting in Plenary

33. It is proposed that Standing Order 12.41 be amended to remove the requirement for Members to cast their votes in person. This will enable remote voting to continue as a permanent provision and enable temporary Standing Orders 34.14A-D to be allowed to lapse on 1 August 2022.

34. The Business Committee also proposes the addition of a new Standing Order to make clear that it is a Member's responsibility to ensure that they are able to access the voting system ahead of any votes, and that further guidance should be issued by the Llywydd in consultation with the Business Committee about the conduct of voting in Plenary meetings.

Voting in Committees

35. It is proposed that Standing Orders 34.14E-F be allowed to lapse on 1 August 2022 and that Standing Order 17 be amended to enable voting by roll-call in committee proceedings.

36. Standing Orders 34.14E-F permitted remote electronic voting in committee meetings, however this has not been used in practice.

37. The Business Committee has agreed, following representations from the Chairs' Forum, that these provisions should be allowed to lapse and to propose that Standing Order 17.35 is amended to enable voting by roll-call in committees (in addition to by a show of hands), on the basis that this is a more appropriate method in virtual or hybrid meetings than by show of hands.

Accessibility of Plenary Meetings and Accessibility of Committee Meetings

38. It is proposed that Standing Orders 34.15-17 and 34.19-21 are allowed to lapse on 1 August 2022 and that Standing Orders 12.1 and 17.40 are amended to clarify that broadcast access means a live broadcast, and that a meeting broadcast live constitutes proceedings held in public in accordance with section 31 of the Government of Wales Act 2006.

Oral Questions

39. It is proposed that Standing Order 34.18 is allowed to lapse on 1 August 2022.

40. The provision enabling the Presiding Officer, having consulted with Business Committee, to disapply the requirements under Standing Order 12.56³ reflected circumstances during the initial stages of the pandemic when: the format of Plenary meetings was uncertain; there was a limit on the number of Members able to attend plenary (meaning not all Members who were successful in a ballot would be present in the Chamber to ask their tabled questions); and so that the Welsh Government could focus efforts on its response to the public health emergency.

41. The development of hybrid and virtual proceedings, as well as the return to normal government business, has superseded the need for this provision. In the event of future emergency situations Standing Order 33.6 could be used to suspend all or part of Standing Order 12.56 as is deemed necessary at the time.

³ For the First Minister, Welsh Ministers, the Counsel General, and the Senedd Commission to answer oral questions in plenary.

Responsible Committee under Standing Order 21

42. It is proposed that Standing Orders 34.22-23 are allowed to lapse on 1 August 2022.

43. Standing Order 34.22(i), which enables Standing Orders 21.2 and 21.34 to be disapplied, was only used briefly at the beginning of the pandemic (it was reversed on 17 April 2020). Standing Order 34.22(ii), which enables those functions to be carried out by the Senedd as a whole, and Standing Order 34.23, which enables the responsible committee to report later than the 20 days rule set out in Standing Order 21.4, have not been used.

44. This was due to the ability of the Constitutional and Legislative Affairs Committee of the Fifth Senedd and the Legislation, Justice and Constitution Committee in the Sixth Senedd to meet virtually, and to work extremely quickly in scrutinising and reporting on COVID-related and other regulations. Since committees have been able to meet virtually or in hybrid, there is no longer a need to make provision for circumstances in which the Senedd was able to meet but committees were not.

⁴ Relating to the consideration of statutory instruments or draft statutory instruments by the responsible committee

Decision

- 45.** On 5 July 2022 the Business Committee formally agreed to propose changes to Standing Orders and the Senedd is invited to approve the proposed new Standing Orders at Annex B.
- 46.** The Senedd is also invited to note that guidance will be issued by the Llywydd in accordance with Standing Order 6.17 - in consultation with the Business Committee and the Chairs' Forum, as appropriate - to cover a range of matters, including attendance, conduct and voting in Plenary and committee meetings and that this guidance will be kept under review in light of experience during the Sixth Senedd.

Annex A – Proposed changes to Standing Orders 6, 12 and 17, and explanatory notes

STANDING ORDER 6 – Presiding Officer and Deputy

Acting Chair of Plenary Meetings	Insert new heading
6.23A <u>The Senedd may elect an Acting Chair for the purposes of chairing plenary meetings.</u>	<p>Insert new Standing Order</p> <p>The proposed new Standing Order would transpose temporary SO34.5 into SO6 and enable the continuation of the provision for an Acting Chair of Plenary Meetings to be elected in advance.</p>
<p>6.23B <u>An Acting Chair elected under Standing Order 6.23A may only undertake the following functions of the Presiding Officer:</u></p> <ul style="list-style-type: none"> <u>(i) functions relating to business in Plenary under Standing Order 12;</u> <u>(ii) functions relating to order in plenary, under Standing Order 13;</u> <u>(iii) any other functions relating to Plenary business.</u> 	<p>Insert new Standing Order</p> <p>The proposed new Standing Order would transpose temporary SO34.6 into SO6 and specify the functions that an Acting Chair may undertake.</p>
6.23C <u>An Acting Chair may only undertake the functions specified under Standing Order 6.23A after the Clerk has notified the Senedd that both the Presiding Officer and the Deputy Presiding Officer are unable to chair plenary meetings.</u>	<p>Insert new Standing Order</p> <p>The proposed new Standing Order would transpose temporary SO34.7 into SO6 and specify the process through which an Acting Chair could assume the functions of the role.</p>

<p>6.23D <u>An Acting Chair ceases to exercise these functions when the Clerk notifies the Senedd that either the Presiding Officer or Deputy Presiding Officer become able to chair plenary meetings.</u></p>	<p>Insert new Standing Order The proposed new Standing Order would transpose temporary SO34.8 into SO6 and specify the process through which an Acting Chair would cease to exercise the functions of the role.</p>
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STANDING ORDER 12 – Business in Plenary Meetings

<p>Plenary Meetings</p>	<p>Retain existing heading</p>
<p>12.1 Plenary meetings of the Senedd must take place in public and broadcasting access must be permitted in accordance with such arrangements as the Commission may agree. <u>Δ Plenary meeting which is broadcast live constitutes public proceedings.</u></p>	<p>Amend Standing Order The proposed amendment clarifies that a Plenary meeting with a live broadcast is a public meeting for the purposes of Standing Orders.</p>
<p>Decisions on Motions and Amendments</p>	<p>Retain existing heading</p>
<p>12.41 Subject to Standing Orders 12.41A-H <u>and any guidance issued by the Presiding Officer under Standing Order 6.17,</u> Members must cast their votes individually and in person (but are not obliged to vote).</p>	<p>Amend Standing Order The proposed amendment removes the requirement for votes to be cast in person and ensures it is still clear that Members must cast their own votes. The situations in which they can vote and the specific technology to be used will be dealt with in guidance. The provision for electronic voting is enshrined in SO 12.43.</p>
<p>A12.41A <u>It is a Member’s responsibility to ensure that they have in person or remote access to a Plenary meeting and any voting system in operation, prior to a vote in which they intend to participate.</u></p>	<p>Insert new Standing Order The proposed new Standing Order clarifies that the responsibility to ensure that they are able to vote rests with individual Members.</p>

STANDING ORDER 17 – Operation of Committees

Voting	Retain existing heading
<p>17.34 Where a vote is necessary to dispose of the business, the chair must invite the committee to agree the motion or amendment. If:</p> <p>(i) no Member objects, the motion or amendment is deemed agreed by the committee; or</p> <p>(ii) any Member objects, a vote must be taken in accordance with provision in Standing Order 17.35.</p>	<p>Retain Standing Order</p> <p>Standing Order included for information.</p>
<p>17.35 Subject to Standing Order 17.34(i), voting in committees is by a show of hands <u>or by roll call</u> and, when any member of the committee requests that the vote be recorded, the names of those voting (including those recording an abstention) must be recorded in the minutes of the committee’s proceedings.</p>	<p>Amend Standing Order</p> <p>The proposed amendment enables votes in committee meetings to be conducted by roll call as well as by show of hands. It will be for the chair of a committee to decide on the voting method used, in accordance with Standing Order 17.23.</p>
Openness of Committees	Retain existing heading
<p>17.40 Subject to Standing Order 17.42, committees must meet in public and broadcasting access for public meetings must be permitted in accordance with such arrangements as the Commission agrees. <u>A committee meeting which is broadcast live constitutes public proceedings.</u></p>	<p>Amend Standing Order</p> <p>The proposed amendment clarifies that a committee meeting with a live broadcast is a public meeting for the purposes of Standing Orders.</p>

Annex B – Standing Orders 6, 12 and 17, as amended

STANDING ORDER 6 – Presiding Officer and Deputy

Acting Chair of Plenary Meetings

- 6.23A The Senedd may elect an Acting Chair for the purposes of chairing plenary meetings.
- 6.23B An Acting Chair elected under Standing Order 6.23A may only undertake the following functions of the Presiding Officer:
- (i) functions relating to business in Plenary under Standing Order 12;
 - (ii) functions relating to order in plenary, under Standing Order 13;
 - (iii) any other functions relating to Plenary business.
- 6.23C An Acting Chair may only undertake the functions specified under Standing Order 6.23A after the Clerk has notified the Senedd that both the Presiding Officer and the Deputy Presiding Officer are unable to chair plenary meetings.
- 6.23D An Acting Chair ceases to exercise these functions when the Clerk notifies the Senedd that either the Presiding Officer or Deputy Presiding Officer become able to chair plenary meetings.

STANDING ORDER 12 – Business in Plenary Meetings

Plenary Meetings

12.1 Plenary meetings of the Senedd must take place in public and broadcasting access must be permitted in accordance with such arrangements as the Commission may agree. A Plenary meeting which is broadcast live constitutes public proceedings.

Decisions on Motions and Amendments

12.41 Subject to Standing Orders 12.41A-H and any guidance issued by the Presiding Officer under Standing Order 6.17, Members must cast their votes individually (but are not obliged to vote).

A12.41A It is a Member's responsibility to ensure that they have in person or remote access to a Plenary meeting and any voting system in operation, prior to a vote in which they intend to participate.

STANDING ORDER 17 – Operation of Committees

Voting

- 17.34 Where a vote is necessary to dispose of the business, the chair must invite the committee to agree the motion or amendment. If:
- (i) no Member objects, the motion or amendment is deemed agreed by the committee; or
 - (ii) any Member objects, a vote must be taken in accordance with provision in Standing Order 17.35.
- 17.35 Subject to Standing Order 17.34(i), voting in committees is by a show of hands or by roll call and, when any member of the committee requests that the vote be recorded, the names of those voting (including those recording an abstention) must be recorded in the minutes of the committee's proceedings.

Openness of Committees

- 17.40 Subject to Standing Order 17.42, committees must meet in public and broadcasting access for public meetings must be permitted in accordance with such arrangements as the Commission agrees. A committee meeting which is broadcast live constitutes public proceedings.