

The marginalisation of the House of Commons under Covid has been shocking; a year on, Parliament's role must urgently be restored.

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A year ago today, the House of Commons [returned to business](#) transformed by Covid. Since March 2020, the public has lived under some of the UK's most restrictive peacetime laws, and to support the economy public money has been spent on a vast scale. Yet parliamentary accountability for, and control over, these decisions has diminished to a degree that would have been unthinkable prior to the pandemic. One year on, with lockdown easing, the restoration of parliamentary control and functioning is now an urgent priority.

This post highlights five ways in which the government's approach to the House of Commons during Covid has marginalised MPs. In a parliamentary democracy, government accountability to Parliament is a core constitutional principle. But in a national emergency, when time for normal process is short, the gravity of the situation can require that parliamentary scrutiny be temporarily sacrificed in exchange for broader accountability. Yet the government has failed to keep its side of the bargain. [Too frequently](#), announcements have been made at press conferences, or briefed privately to the media, rather than presented for democratic scrutiny and questioning by MPs. Ministers have sought extraordinary powers while consistently excluding both the House of Commons as a whole, and certain MPs, from participating in proper oversight.

In the early days of the pandemic necessity arguably justified this approach. But a year on, a real risk exists of damaging precedents being set. This is magnified by the fact that some recent developments have accelerated negative trends predating the pandemic. Unless MPs collectively take a stand against Parliament's continued marginalisation by ministers, what was once extraordinary risks becoming the norm.

1. The erosion of parliamentary control: emergency legislation

The [Coronavirus Act 2020](#) made major changes to UK law, including a relaxation of normal safeguards on official action. But it was passed following just [one day's scrutiny](#) in the Commons. The Act's powers are subject to [six-monthly renewal](#) l. But in the year since it was passed, ministers have provided just five hours debating time for MPs to consider the on-going measures. Three and a half of these were spent debating the second renewal motion last month. But two further measures were also debated: a motion to approve regulations implementing the 'roadmap' out of lockdown, and a procedural motion to extend the temporary Standing Orders for MPs' virtual participation and proxy votes (discussed below). Taken separately, these three motions would have been subject to more cumulative debating time. By rolling them up into one debate, the government severely limited MPs'

scope to comment on three very different, but hugely important, questions. The debate was so oversubscribed that MPs were subject to a speech limit of four minutes.

2. The erosion of parliamentary control: regulations

Over [400 Coronavirus-related Statutory Instruments](#) (SIs) have been laid before Parliament since the pandemic began. All have been subject to little or no scrutiny, a situation described as '[totally unsatisfactory](#)' by the Commons Speaker. Although some SIs make relatively innocuous changes, others truly are draconian: shutting down businesses, [forcing people to stay at home](#), imposing [hotel quarantines](#) or [mandatory testing](#). Alongside this, the police have been given huge enforcement powers including fixed penalty fines of [up to £10,000](#) and [powers to enter private premises](#) at any time of the day or night.

An unusually high share of Covid SIs have been subject to the '[made affirmative](#)' scrutiny procedure - meaning they became law before being scrutinised, and require only retrospective parliamentary approval. Many of these derived from the government's use of the [urgent power in the Public Health \(Control of Disease\) Act 1984](#). This mechanism, which severely undermines accountability, has been described as '[addictive](#)'. Its excessive use (for nearly a quarter of all Covid-related SIs) has included circumstances - most notably for [mandatory face coverings](#) - which were not justified by a lack of time, as policy had previously been trailed publicly for weeks.

The government's casual approach to the scheduling of debates on SIs means they have often been in force for [weeks before MPs could consider them](#). A succession of lockdown regulations saw MPs debating and approving SIs even after they had been amended by a later instrument. Some SIs were revoked before being debated at all. Some have come into force just [an hour](#) or [less](#) after being made. Frequent errors that need to be [corrected](#), the lack of Impact Assessments, and discrepancies between [law and guidance](#) have all compounded scrutiny problems for MPs, but also crucially for the wider public.

3. The erosion of parliamentary control: money

Westminster has one of the weakest systems in the world for parliamentary influence and control over public spending - which has been greatly exacerbated by the pandemic. [Unlike in several other parliaments](#), no special oversight measures have been introduced to deal with the huge spending pressures posed by the crisis.

For financial year 2021-22 the annual [Contingencies Fund Act](#) - which went through the Commons in one day on 24 March - increased the contingency limit for spending without prior parliamentary approval from the normal 2% of total spending in the previous financial year to 12%. Before this, the [2020 Act](#) had raised it from 2% to an extraordinary 50%. Normally, a Contingencies Fund Bill is an uncontroversial technical measure. But the more that is spent via the Contingency Fund, the less has to be approved subsequently via the Estimates process. In total, the [House of Commons Library estimates](#) that ministers could spend up to £469 billion in 2021-22, prior to parliamentary approval of departmental spending plans.

4. Denial of MPs' equal participation rights

Initially, under a government motion [agreed on 22 April 2020](#) and renewed on 12 May, MPs unable to attend Westminster due to the pandemic could participate in all proceedings virtually, including debates on legislation. In a [particularly appalling moment](#) for parliamentary accountability - and despite protest from the House's own Procedure Committee, opposition leaders and affected MPs - the government unilaterally announced that these provisions would end on 20 May, refusing time for a debate allowing them to be renewed. [In June](#), under pressure from MPs and the Procedure Committee, virtual participation rights for 'clinically vulnerable' or 'clinically extremely vulnerable' members were restored for 'scrutiny' proceedings (e.g. oral questions and

ministerial statements) only. Despite repeated [sharp criticism](#) from senior government backbenchers, some [astonishing cases of exclusion](#), and [critical reports from the Procedure Committee](#), virtual participation rights in legislative proceedings were not restored until [30 December](#). Hence, at ministerial insistence, the most medically vulnerable MPs were locked out of participation in key Commons business for a shocking 224 days.

5. Wholesale and unnecessary use of proxy votes

Few people outside Westminster realise that nearly all MPs are now voting by proxy rather than in person, with just a handful casting their own votes. On the last sitting day before Easter, [595 out of 650 MPs were certified as eligible for proxies](#). Those 595 votes were held by just 18 nominated people - primarily party whips. A single government whip was responsible for casting 329 votes and one opposition whip for 173. The [scheme requires](#) the nominated proxy to follow instructions from those whose proxy they hold, meaning whips have sometimes cast votes against the party line. But mass proxy votes clearly undermine the decision-making process, and MPs' representative roles, if they have to decide how their vote should be cast prior to a debate - without for example knowing which amendments have been selected. If hundreds of MPs make such choices beforehand, debate becomes mere theatrical window-dressing. Meanwhile, some members could be nervous of instructing a whip to vote against the line; in tight votes, this could prove problematic. As the Chair of the Procedure Committee [has noted](#), the system is 'sub-standard ... and is possibly open to abuse'.

Use of mass proxies is also absurd, because parliamentary officials designed a secure voting app - which was [originally used by MPs](#) but abandoned, [again at ministerial insistence](#), in May 2020. Despite calls from members - including the [chair of the Liaison Committee](#) on behalf of select committee chairs, and the [Procedure Committee](#) (para. 113) - the government has consistently refused to give MPs a vote on reintroduction of the app. Meanwhile, it has been [used in the Lords](#) throughout the pandemic, largely without difficulty.

Conclusion

Individually, each of these five developments is shocking. Collectively, they amount to a fundamental undermining and exclusion of Parliament and its members from crucial decisions - on policy, spending, and the management of the House of Commons itself. Parliament traditionally sits at the heart of British politics. With lockdown hopefully now ending, it is essential to prioritise the full restoration of parliamentary democracy and MPs' participation rights.

There are real dangers that, over the last year, the government has become too comfortable with decision-making that evades parliamentary scrutiny. The excessive use of emergency procedures must end, key announcements should be made first to the House of Commons, and MPs must be able to debate and approve major policy changes well before they come into effect. Robust scrutiny is essential for transparency and democratic accountability, but also to ensure that [policy itself is adequately robust](#). Further measures - crucially including any move to [vaccine passports](#) - need full oversight by MPs.

Some difficulties during the pandemic have amplified problems at Westminster that had been visible for years. [Improvements](#) in the [scrutiny of delegated legislation](#) and [financial](#) matters have long been called for. Fundamentally, the extent to which the government controls the House of Commons agenda, and thereby its procedures, [needs to be reduced](#). In exiting the current emergency situation, MPs' decision-making powers in all of these areas badly need to be enhanced.

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