



The new Speaker of the House of Commons

Key challenges

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Summary

The new Speaker of the Commons – the 158th in its history – will take office at a time of challenges to the role and working of the Commons that are unparalleled in modern times.

This paper sets out nine key challenges facing the House of Commons as the new Speaker takes office. It is not an exhaustive list, and all the candidates for Speaker will have their own views about what problems the House should address. Instead, we focus on the most immediate issues awaiting the new Speaker.

The challenges we identify relate to two main aspects of the Speaker's role. The first is their visible role: chairing debates in the Commons chamber, acting as a referee and ensuring the House's rules and procedures are followed – including by interpreting those procedures where necessary.

The second relates to a less visible, but no less important, role in the management and administration of the Commons. As chair of the House of Commons Commission, which sets a strategy for running the House that is then delivered by the House of Commons Executive Board, the Speaker is responsible for the governance and running of the House.¹

In addition, the Speaker has an overarching role as the public face and voice of the Commons as an institution, representing the House to the Lords, the monarch and – to some extent – the government.

All Speakers must decide how they wish to fulfil these different parts of the role. The current Speaker, John Bercow, was elected in 2009 on a platform of reform. He sought to modernise the Commons, at the same time as emphasising the institution's value and rights, particularly those of backbench MPs. The nine candidates campaigning to be his successor must also outline the platform on which they are standing – and articulate their vision for how the Speaker should act in interpreting the House's procedures, running the Commons as an institution and representing it to the outside world.

From the moment they are dragged to the chair, the new Speaker will be in the spotlight – but they will also have an opportunity to help shape responses to each of the nine issues that we identify.

The Speaker's role in the use of parliamentary procedures

As Brexit has unfolded, the Commons has shown itself to be determined to assert its rights and powers against those of the executive. To do so, MPs have made use of the full procedural armoury at their disposal – sometimes leading the government to respond in kind.

The Speaker is the ultimate arbiter of Commons procedure. The current Speaker has been willing, since his election a decade ago, to aid and even encourage the Commons to hold the government to account. For the new Speaker, uncertainty over the use of some specific Commons procedures, as well as broader questions about how to handle a more assertive House, are likely to persist unless attempts are made to address these issues.

There are four key challenges facing the new Speaker in this area of the role:

- 1. Interpreting and applying Commons procedure**
- 2. Encouraging review of the Commons' formal powers**
- 3. Facilitating debate over the ability of the Commons to control its agenda**
- 4. Considering changes in the Commons' responsibilities after Brexit**

The Speaker's role in running the Commons administration

The Palace of Westminster is in need of major renovation work, which will take years and cost billions of pounds of public money. In addition, allegations in recent years of the widespread bullying of members of the House service, as well as MPs' staff, have provoked concern about the Commons' environment – as has the increased risk to MPs' safety in a polarised political landscape.

As chair of the House of Commons Commission, the new Speaker will also need to consider how to ensure that Parliament is a fit and proper workplace. These questions represent the remaining five of our nine key challenges:

- 5. Working to ensure the safety and security of everyone in the Commons**
- 6. Addressing the bullying and harassment of parliamentary and MPs' staff**
- 7. Leading the House through restoration and renewal**
- 8. Helping to ensure the Commons is a modern workplace fit for all**
- 9. Articulating the role and value of the Commons and its work**

Some of these issues have arisen as a result of the specific political circumstances over the course of the tumultuous 2017–19 parliamentary session. Others are longstanding. In some cases, work is already ongoing to address these questions.

The new Speaker cannot address these issues on their own. To enact change, they may need to rely on the government, MPs and peers across all political parties, whips, parliamentary staff and relevant public bodies.

But however the candidates choose to address these challenges, the way they do so will inevitably have consequences for how the House functions and how Parliament changes – or does not – during their time in office.

The Speaker's role in parliamentary procedures

During the 2017–19 parliamentary session, House of Commons procedures became a major political battleground and source of considerable controversy, amid a backdrop of minority government and cross-party splits over Brexit.

The current Speaker's novel interpretations of some Commons procedures have generated uncertainty about how they may be used in the future. Recent controversies have renewed longstanding debates about the limits of the Commons' formal powers, and the way the House's agenda is set.

Additionally, Brexit – in whatever form it takes – will have implications for the House, potentially requiring it to change procedures and resources to take on new scrutiny functions.

1. Interpreting and applying Commons procedure

There is no single source for the Commons' rules. Instead, they are set out in a combination of its standing orders (SOs), *Erskine May* – the guide to parliamentary procedure – and the precedents set by Speakers' rulings and decisions of the House. While MPs can and do make changes to their rules – for example, agreeing to a new temporary SO to introduce a pilot system for proxy voting for MPs on parental leave – the system rests on all MPs (as well as the government) clearly understanding how procedures work.

But during the 2017–19 parliamentary session, the combination of a specific set of circumstances – in particular the ongoing Brexit impasse and minority government – led to the Commons’ procedures becoming a key political background. MPs sought to use procedures in unprecedented ways, and the current Speaker on several occasions reached decisions that called previous understanding of how the rules worked into question. These included:

- the use of **motions for a return** to force the government to disclose internal documents and information, related both to Brexit and to its attempt to prorogue Parliament in September 2019
- allowing **emergency debates**, held under SO No. 24, to take place on amendable motions, allowing MPs to subsequently take control of the order paper to pass backbench legislation against the government’s wishes
- allowing amendments to a motion put “**forthwith**” – usually understood to mean without amendment or debate.

Why does this matter?

Procedure is fundamental to the working of the House of Commons. But this requires a shared understanding of how this works and how it is likely to be interpreted. The use of certain procedures in unexpected and innovative ways, as well as the revival of others that had largely fallen into disuse, has created uncertainty about their future use.

In some cases, precedent no longer matches the procedure set out in the Commons’ SOs. Such uncertainty makes it difficult for both MPs and the government to predict how business in the House might unfold in future.

What questions should the new Speaker consider?

- Is a comprehensive review of the Commons’ procedures necessary?
- Should there be changes in the way the Speaker receives advice and informs the House of their decision?
- How will they conduct themselves in the chair, in terms of their tone and willingness to intervene?

2. Encouraging review of the Commons’ formal powers

The House of Commons has certain powers to demand information from the government and other bodies. Commons committees have the right, delegated to them by the House, to call for “persons, papers and records” in order to conduct their inquiries.

This means that they can compel witnesses in the UK to appear before them.* But on several occasions during the 2017–19 session – as well as in the few years prior to it – witnesses had to be threatened with contempt of Parliament to agree to attend, or in some instances disregarded the threat and continued to refuse to appear before a committee.

* Although they cannot compel members of the Commons or Lords to appear before them.

It is not just individuals who can be found in contempt of Parliament. In December 2018, for the first time in its history, the government was held in contempt of Parliament – but again this highlighted the limits on the Commons’ formal powers. While it was embarrassing and politically damaging for the government, it had no formal effect (although the government did eventually release the information sought by Parliament).

At other times, MPs have resorted to motions for a return to seek information from the government (see page 4) – although this raises real questions about the potential effect on internal government processes, such as the drawing up of written advice or other information.

Why does this matter?

The formal ability of the Commons to obtain evidence and witnesses is an important aspect of its powers. But if it cannot enforce the rights it has, or there is a lack of clarity around their enforcement, that power is diminished. A lack of practical sanction for being held in contempt of Parliament means that potential witnesses may feel able to refuse to comply with MPs’ requests. This can mean that MPs struggle to obtain the information they need to do their jobs as effectively as possible.

What questions should the new Speaker consider?

- Is a review of the Commons’ formal powers (beyond that already being undertaken by the Privileges Committee) needed – and if so, who should conduct this?
- If statutory powers are desirable, will the government provide an opportunity to enact them?

3. Facilitating debate over the ability of the Commons to control its agenda

Since the early 20th century, it has been the convention and the rule that the government controls most of the time available for debate in the Commons. Under SO No. 14, government business has precedence in the House, with the exception of certain time reserved for opposition parties and backbenchers – though even then, the government decides when such time is scheduled.

Following the recommendations of the 2009 Wright Committee, the Backbench Business Committee was established. This allowed MPs to bid for time to debate a particular subject in either the main chamber or Westminster Hall.* Up to 35 days’ worth of time in the Commons is controlled by the committee each session – regardless of the length of the session – and it is still up to the government when that time appears on the order paper.**

But neither the government at the time, nor any subsequent governments, went as far as implementing the Wright Committee’s recommendation of a House Business Committee. This would be made up of members from across the House who would draft

* Westminster Hall is an additional space in Parliament where MPs can hold debates. Confusingly, ‘Westminster Hall debates’ do not actually take place in Westminster Hall, but in the Grand Committee Room. Only debates scheduled by the Backbench Business Committee are held in Westminster Hall.

** Of those 35 days, at least 27 days’ worth must be scheduled in the Chamber, rather than Westminster Hall.

plans for the Commons' time each week for MPs to agree. In the 2017–19 session, the actions of both the government and backbenchers renewed the debate over the ability of the House to control its own business.

The government has used its control of the order paper to limit the ability of opposition parties to hold debates at times where they might be difficult for the government; it also controversially postponed debate over a Brexit deal in December 2018 when its likely defeat became clear. Despite his criticism of the government's decision, Bercow was unable to prevent it.

MPs have cited their frustration at the lack of opportunities to express their views on Brexit as justification for their decision, on several occasions, to temporarily disapply SO No. 14 and take control of the Commons order paper – something the government's minority status has made easier to do than usual.

The extent of government control of the Commons' business also extends to deciding when the House will sit – something that has also become a political flashpoint. The government can decide how long a parliamentary session will last, as well as when recesses will occur (although these must be approved by MPs), and only it can seek the recall of the Commons – giving it the ability to decide, and so limit, when MPs are able to debate matters.

MPs also cannot vote to authorise or prevent the prorogation of Parliament. In September 2019, the government attempted to prorogue Parliament for five weeks, an unusually long period. Significantly, the Supreme Court intervened, and declared the prorogation unlawful as it prevented the House from fulfilling its functions. The prorogation was determined never to have happened, and the House duly continued the session before being prorogued again on 8 October ahead of the Queen's Speech just days later.

Why does this matter?

Control of the order paper – the Commons' schedule – is a vital tool for a functioning government. Losing control of it hinders a government's effort to enact its legislative agenda. But opposition MPs also need to be given sufficient time to hold the government to account, to scrutinise legislation and to ensure that the work of the House is topical.

Finding this balance has been a continual challenge, and questions remain – following occasional efforts at reform – as to whether the Commons has enough control of its own agenda.

What questions should the new Speaker consider?

- How can discussion of these issues best be facilitated when the interests of the government and backbenchers are seemingly opposed?
- Is a review of the scheduling and control of the Commons' business needed – and if so, who should undertake this?

4. Considering changes in the Commons' responsibilities after Brexit

The UK's membership of the EU has shaped the role that both Houses of Parliament have played in some areas of policy. But the decision to leave the EU means that the UK Parliament, including the Commons, will need to take on additional responsibilities – and change some existing ones.

In particular, the Commons will need to take on additional scrutiny responsibilities. Dependent on the form and timing of Brexit, this might be during a transition period (when new rules may be introduced by the EU that still affect the UK), or around the scrutiny of new treaties with other countries.

The Commons will also need to maintain a relationship with EU institutions, as decisions made in Brussels are likely to continue to have an impact on the UK, whatever form Brexit takes. This is particularly the case where the government has indicated that it will continue to align with EU standards.²

Why does this matter?

However Brexit unfolds, it will not spell the end of the UK's relationship with the EU. It is therefore important that the House of Commons – as well as the House of Lords – is equipped to scrutinise any new negotiations or treaties that are conducted, to oversee any functions transferred from the EU to the UK government, and to scrutinise rules drawn up by the EU institutions that may still affect the UK.

What questions should the new Speaker consider?

- What new areas of policy will the Commons need to scrutinise following Brexit – and how might its structures and procedures need to change?
- Are current Commons procedures adequate for the scrutiny of any future negotiations with the EU, or trade agreements with other countries? If not, how will changes be made?
- Does the House have sufficient resource to support any new scrutiny functions, as well as to maintain relationships with EU institutions after Brexit?

The Speaker's role in the running of the House

The management of Parliament ranges from the responsibility for the wellbeing and security of parliamentarians and staff to the day-to-day running of the building in which they work. The physical structure of the Palace of Westminster remains in urgent need of major renovation work, and the new Speaker will play an important role in articulating the importance of the planned restoration and renewal project – which may involve a temporary relocation of both Houses – to the public.

5. Working to ensure the safety and security of everyone in the Commons

MPs currently face an unprecedented level of threat to their safety and security. The Speaker can play an important role in advocating for the security needs of MPs and staff. Between 2017 and 2018, the number of threats to MPs reported to police rose by over 120%, and among MPs who responded to a 2019 survey conducted by the BBC, almost two thirds had contacted the police regarding a threat made to them in the previous year.³

These threats are often violent and can also target MPs' families and staff (in both Westminster and their constituencies). Several members of the public have been prosecuted for threats made to MPs, with one jailed for plotting to murder a sitting MP. While violent threats are made to MPs from across the House, police data suggests that women and those from black and minority-ethnic (BAME) backgrounds are disproportionately likely to be targeted.⁴

For some MPs, abuse via social media platforms has also become a persistent problem.

The financial cost of providing security to MPs has increased by over £4 million within the last three financial years as MPs have taken up new security packages – in part a response to the murder of Labour MP Jo Cox in her constituency in 2016. Despite this investment, there are concerns among some parliamentarians that take-up has been too slow.⁵

There are also threats to the safety of all those on the parliamentary estate. In March 2017, a terrorist attack outside the Palace of Westminster killed six people, including PC Keith Palmer, who was on duty at the Houses of Parliament. Many MPs, as well as their staff and members of the House service, also have concerns about entering and leaving the parliamentary estate, given the frequent protests that take place immediately outside it.

Why does this matter?

The security and safety of members, as well as of all those employed around the House, will always be a fundamental concern. It will also be something considered by anyone thinking about pursuing a career in politics.⁶ There is a financial cost, as MPs take on further security packages.⁷

What questions should the new Speaker consider?

- Should additional steps to protect the security of MPs and staff be taken in Westminster and constituency offices?
- How can the Commons Commission work with other bodies to ensure the safety and security of all those in and around the House?

6. Addressing the bullying and harassment of parliamentary and MPs' staff

During the 2017–19 parliamentary session, allegations emerged of the widespread bullying and harassment of staff in the Commons – both those employed by MPs and those in the House service. Many staff reported that they had not spoken out previously for fear of losing their jobs; those who had previously made complaints often found that they were not taken seriously, or that there were no consequences for perpetrators.

The allegations prompted several reviews. Independent reports by Dame Laura Cox and Gemma White QC found a “significant problem” with a minority of MPs, as well as a workplace culture in the House of:

deference, subservience, acquiescence and silence, in which bullying, harassment and sexual harassment have been able to thrive and have long been tolerated and concealed.⁸

The Cox report made three main recommendations about the House’s complaints and investigation procedures. But a year on from its publication, only two have so far been implemented: a new, independent system for investigating complaints, outside the control of members, is yet to be agreed.

Why does this matter?

The Cox and White reports drew attention to the negative effect that bullying and harassment has had on staff – some had left their roles in the House service, or in MPs’ employ, as a direct result of the way they were treated. While the effect on the individuals involved is a priority concern, the loss of experienced staff has also had a detrimental impact on the working of the Commons.

What questions should the new Speaker consider?

- What needs to be done – and by whom – in order to fully implement the recommendations of the Cox Report?
- What can be done to give House and MPs’ staff confidence in any new complaints and grievance procedure?
- What other steps must be taken to improve workplace culture in the Commons, and how can the Commission do this?
- How should the new Speaker conduct themselves with regard to staff and members, and what kind of example will they set?

7. Leading the House through restoration and renewal

In 2016, a joint committee of both Houses asked to consider the needs of the parliamentary estate reported that the Palace was at risk of both “catastrophic failure” and “smaller, incremental failures” that could prevent both Houses from conducting their business. Particularly at risk are aging mechanical and electrical systems, which may both experience significant failure.⁹

In April 2019, the Commons had to be suspended when water began leaking into the chamber from the ceiling. As well as affecting the business of the House, these problems can pose a threat to the safety of everyone in the Commons: in the 12 months to May 2019, for example, stonework fell from the building eight times.¹⁰ There is also a risk of fire: between 2008 and 2012, 40 fires were recorded in the Palace.¹¹

Three years ago, a recommendation to temporarily relocate both Houses of Parliament to allow for the restoration and renewal of the Palace was made, but progress has been slow. Only in 2018 did MPs and peers agree to this course of action, and necessary legislation was not passed until September 2019.

Why does this matter?

The physical state of the Palace of Westminster presents a potential safety threat to the thousands of people who work there. It is affecting the ability of the Commons (and the Lords) to carry out their business. Continued delays to restoration and renewal will create additional costs, as authorities have to conduct ongoing maintenance while waiting to undertake the longer-term work needed.

The extensive nature of restoration work needed and its projected cost – between £3.5 and £5.6 billion – also presents a challenge to the Speaker in communicating the value of this work to the public.¹² But it also creates an opportunity for long-term thinking about how the House's working practices and culture can be incorporated into restoration plans.

What questions should the new Speaker consider?

- How can the Commons' ability to conduct its business, and to keep MPs and staff safe, be ensured while the restoration and renewal is underway?
- What role should the House of Commons Commission play in planning and delivering restoration and renewal works programme?

8. Helping to ensure the Commons is a modern workplace fit for all

As the makeup of the Commons has changed in the past century, so too have changes been made to its working practices – largely designed to help MPs with children balance their home and professional lives. In 2003 and 2012, the Commons changed its scheduled sitting hours to be more family friendly, principally with the aim of greater predictability and fewer late-night sittings. In 2010, a crèche was opened on site.

Following the publication of Professor Sarah Childs' landmark *Good Parliament* report in 2016, John Bercow established the Speaker's Reference Group on Representation and Inclusion. This brought together MPs from across the House to consider how to make the Commons as inclusive and "diversity sensitive" a workplace as possible. Among other things, the Reference Group helped to permanently establish the Women and Equalities select committee and to encourage the routine monitoring of the diversity of witnesses before select committees.

More recently, building on the work of the Commons Procedure Committee, a pilot system of proxy voting was introduced for MPs on parental leave.¹³

But there is further work to be done.¹⁴ For example, there is a continued lack of clarity about the ability of MPs to take formal parental leave, beyond the question of how they can vote in divisions, and there is no automatic paid cover for MPs on parental leave.¹⁵

Issues with the diversity of members and committee witnesses persist. Facilities in the House are not always suitable for those with disabilities. Combining healthcare challenges with work as an MP is still difficult.

Why does this matter?

The Commons is a representative institution. A number of steps to modernise the House, and make it more inclusive, have been taken, but the new Speaker may wish to consider what further reforms could be made – particularly as the House prepares for the overhaul of restoration and renewal work.

What questions should the Speaker consider?

- Are there further reforms that could be undertaken to make the Commons an inclusive workplace?
- Would it be helpful to establish a new group to provide leadership on diversity and inclusion?
- What role can the Speaker personally play in setting the tone for the culture of the House of Commons?

9. Articulating the role and value of the Commons and its work

In recent years, the UK Parliament has made efforts to improve public understanding of the role and work of both Houses, through education and outreach activities (often focused on young people) and greater use of social media. Public exhibitions dealing with aspects of the House's history – such as the 100th anniversary of women gaining the vote – are routinely held, and the chamber has also been used to hold UK Youth Parliament debates.*

Work is ongoing to improve the parliamentary website, www.parliament.uk, and data about what the Commons is doing is increasingly available online – though the pace of this is slow.

* The UK Youth Parliament is an organisation for young people, whose 369 members are elected to represent the views of their peers in their local area. Elections are held every one or two years, and all those aged between 11 and 18 are entitled to vote. Members of the Youth Parliament hold annual debates and draw up a manifesto setting out young people's views, which is presented to the government.

More members of the public than ever are watching events unfold in the Commons. Each day from the beginning of 2019 until the middle of August, over 15,500 viewers tuned in to Parliament's online live-streaming service, an increase of 200% from 2017. In January 2019, during key votes on Brexit, the BBC Parliament television channel even had higher ratings than MTV.¹⁶

But with greater public attention comes greater public scrutiny – not least with regard to how MPs have responded to the result of the 2016 EU referendum, and the broader clash its handling has highlighted between direct and representative democracy.

Why does this matter?

The Commons is at the heart of the UK's system of representative democracy. If public faith and trust in the Commons is undermined, its legitimacy suffers. But faith in MPs is low. A YouGov poll for Sky News in October 2019 reported that only one in seven people trust MPs on the subject of Brexit, and just one in 100 of the population trusts parliamentarians "a lot".¹⁷

What questions should the Speaker consider?

- Does the Commons have a compelling argument to make about its own value – and what role should the Speaker play in making this case?
- Should current education and outreach activities be expanded – how can they achieve the most impact?

Addressing the challenges facing the Commons

The role of Speaker has changed considerably over its long history.¹⁸ Whoever next holds the position will help to further define and shape the role for future Speakers.

They will do so at a time of unparalleled challenges to the House of Commons: to its procedures, its value, its ways of working – even its physical structure. The new Speaker will not be able to address all of the nine issues we identify themselves: they will need to build and maintain the support of others.

They will also face greater and more intense scrutiny of their own behaviour, decisions and approach to the role. During the course of the campaign for the 2019 Speaker election, several candidates have stated their belief that the role of Speaker itself is in need of reform, in order to boost accountability and transparency.

The new Speaker will have plenty in their in-tray. They will also have their own priorities and vision for their time in the role. But without attempts to properly tackle the issues outlined above – attempts that the Speaker can help drive, but not command alone – they are unlikely to be resolved.

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