

Amending Standing Orders: Wales Covid-19 Inquiry Special Purpose Committee

July 2023

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 a temporary Standing Order – Standing Order 35 – is agreed by the Senedd to make provisions for the operation of the Wales Covid-19 Inquiry Special Purpose Committee, established by the Senedd on 16 May 2023.

The Senedd is invited to approve the proposal to revise the Standing Orders as outlined at Annex A.



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1. Background

- 1.** On 16 May 2023, the Senedd agreed to establish the Wales Covid-19 Inquiry Special Purpose Committee (“the Covid Special Purpose Committee”).
- 2.** At its meeting on 23 May 2023, the Business Committee decided to propose the appointment of Co-chairs to the Covid Special Purpose Committee. The Business Committee noted that the concept of Co-chairs was novel for the Senedd, and that Standing Orders had never previously been interpreted as providing for a committee to have more than one chair.
- 3.** On 24 May 2023, the Senedd agreed the relevant motion in Plenary to give effect to this proposal. In relation to co-chairing arrangements, the motion stated that:
 - references in Standing Orders to a “chair” of a committee will be interpreted to mean “co-chair”;
 - the functions of chairs of committees outlined in Standing Orders must be exercised jointly by the Co-chairs of the Covid Special Purpose Committee;
 - the initial business of the Covid Special Purpose Committee should be to consider the procedures it proposes to adopt to fulfil the purposes for which it is established (including the functioning of the co-chairing arrangements) and to recommend any amendments to Standing Orders which it considers necessary or expedient to facilitate its work;
 - the Business Committee will propose any amendments to Standing Orders which it considers are required to facilitate the work of the Covid Special Purpose Committee, taking into account any recommendations for amendments made by the Covid Special Purpose Committee.
- 4.** In light of the novel nature of the co-chairing arrangement, the Business Committee considered its practical, procedural and legal implications at its meeting on 20 June 2023.

2. Co-chairing

5. The Business Committee's proposal for a co-chairing arrangement for the Covid Special Purpose Committee is deliberately distinct from job-sharing models of chairing.¹ Specifically, the proposal is predicated on interpreting the joint exercise of chair functions as meaning that neither of the Co-chairs would be able to act unilaterally in relation to the Committee's work, nor would they be individually responsible or accountable for individual elements of the role i.e. both Co-chairs would not only be jointly responsible at all times for, but also involved in:

- all committee-related decisions, and
- exercising all chairing functions.

6. This is in contrast to a job-share where, more commonly, there are allocations of responsibility and authority between the two partners in the arrangement. For example, in a job-share, the partners may decide to work on the basis that the role is divided by time (e.g. with one partner leading on (and accountable for) the role Monday-Wednesday, and the other partner on Thursday-Friday), or divided by specific tasks, duties or subject areas. Underpinning most job-sharing arrangements is the principle that one partner in the arrangement is able to progress the task at hand on behalf of them both. While the partners may wish to agree clear and consistent approaches and underlying principles at the outset, they are not both involved in all decisions nor do they exercise all functions together.

7. Initial consideration of arrangements in other parliaments indicates that a co-chairing arrangement like the one proposed for the Covid Special Purpose Committee – i.e. with neither partner in the arrangement being able to act without the agreement of the other – does not exist elsewhere. Nevertheless, examples of arrangements involving more than one individual in a chairing role which do exist were considered to help inform the Business Committee's consideration of how procedural and practical arrangements for the Covid Special Purpose Committee arrangements might work in practice.²

¹ The Senedd does not operate job-sharing arrangements currently. However, the Business Committee intends to consider this matter as part of its procedural forward work programme during this Senedd.

² Examples considered included job-sharing arrangements in some Local Authorities in England, guidance issued by the British Medical Association in relation to job sharing arrangements on

3. The Business Committee's consideration

8. The Business Committee considers there to be a number of practical and procedural implications of the co-chairing arrangement for the Covid Special Purpose Committee that require new provision and/or clarification in Standing Orders. On that basis, the Business Committee believes a temporary Standing Order for the Covid Special Purpose Committee is needed.

Co-chair functions and protocol

9. The Senedd's resolution of 24 May 2023, which appointed the Co-chairs to the Covid Special Purpose Committee, stated that:

- references in Standing Orders to a "chair" of a committee be interpreted to mean "Co-chair" of the Committee;
- the functions of chairs of committees outlined in Standing Orders must be exercised jointly by the Co-chairs.

10. The Business Committee considers that, for clarity and transparency, these requirements should be re-iterated in the temporary Standing Order along with a clear statement that the Covid Special Purpose Committee must have two Co-chairs. Furthermore, given both Co-chairs' involvement in – and responsibility for – all committee-related decisions and chairing functions, the Business Committee believes that it would be preferable to interpret references in Standing Orders to a "chair" of a committee to mean "Co-chairs" rather than "Co-chair".

11. The Business Committee also recognises some of the practical challenges that might arise as a result of both Co-chairs being at all times jointly responsible for, and involved in, the exercise of all chairing functions and decisions. On that basis, it considers that there should be a requirement in the temporary Standing Order for the agreement of a protocol between the Co-chairs setting out their joint ways of working, and for this protocol to be published for clarity and transparency.

boards, arrangements for the chairing of the UK-EU Parliamentary Partnership Assembly and mechanisms adopted for the Co-operation Agreement and The Independent Commission on the Constitutional Future of Wales.

12. The Business Committee believes that this protocol should set out, as a minimum, the Co-chairs' agreed approach to:

- the chairing of meetings (including arrangements for 'in the moment' decisions that are needed in practice, for example calling Members, maintaining order, allowing matters relating to active court proceedings to be raised, and adjourning or suspending a meeting);
- the exercise of practical functions outside meetings (including, for example, arrangements for the signing off of papers and draft reports, correspondence, participating in Senedd business in their capacity as Co-chair, and representing the Covid Special Purpose Committee publicly); and
- dispute resolution.

Co-chair vacancy

13. Existing provisions in Standing Orders that deal with a vacancy in the position of a committee chair are premised on there being only one chair. As a result, the Business Committee considers that clarification is needed about how a vacancy in a Covid Special Purpose Committee's Co-chair would be handled.

14. The Business Committee considered the impact that a vacancy in one of the two Co-chairs' positions would have. It concludes that:

- each Co-chair holds their position independently of the other – that is, a vacancy in one Co-chair position does not create a vacancy in the other Co-chair's position;
- the position of a Co-chair of the Covid Special Purpose Committee becomes vacant when the Member concerned:
 - resigns from the Committee by giving notice in writing to the Business Committee;
 - is removed from the Committee by a resolution of the Senedd;
 - is elected chair of another committee;
 - ceases to be a Member;
 - joins or leaves a political group.

- where the position of a Co-chair becomes vacant, the Business Committee must first invite the political group from which that Co-chair was appointed to nominate a replacement. If a replacement is not provided within five working days (not counting working days in a non-sitting week), the Business Committee will revert to the established procedure for handling other committee chair vacancies (i.e. considering the effect of the vacancy on the balance of committee chairs between groups, tabling a motion to change the political group from which the Co-chair of the Committee be appointed, and – having regard to that consideration – table one or more motions proposing to change the political group from which the chair of any other committee may be elected);
- all of the above arrangements should be set out in the temporary Standing Order.

Co-chair absence

15. The Business Committee also considered the impact of a temporary absence of one, or both, of its Co-chairs, including the arrangements for temporary chairing.

16. For the avoidance of doubt about whether one Co-chair could act in the absence of the other Co-chair, the Business Committee agreed that the temporary Standing Order should state that, in the event that one or both Co-chairs are absent, the Committee must appoint a Temporary Co-chair for each absent Co-chair.

17. While recognising the flexibility provided for committees in Standing Order 17.22 to appoint the Member they choose as temporary chair, the Business Committee believes that the protocol agreed by the Co-chairs should specify that any Temporary Co-chair appointed in their absence should be from the same political group as the absent Co-chair.

Expiry of the temporary Standing Order

18. The Business Committee considered arrangements for the temporary Standing Order's expiry.

19. As the temporary Standing Order's provisions relate specifically to the Covid Special Purpose Committee (which will cease to exist at the dissolution of the Senedd), and any future committee configuration will be a matter for the next

Senedd, the Business Committee concludes that the temporary Standing Order should expire following a resolution of the Senedd that the Covid Special Purpose Committee should cease to exist, or on the dissolution of the Senedd, whichever is the sooner.

4. Decision

20. On 4 July 2023 the Business Committee formally agreed to propose changes to Standing Orders and the Senedd is invited to approve the proposed new temporary Standing Order at Annex A.

Annex A: Proposed Standing Order 35.

35. STANDING ORDER 35 – Wales Covid-19 Inquiry Special Purpose Committee

35.1. Standing Order 35 makes temporary provisions for the operation of the Wales Covid-19 Inquiry Special Purpose Committee (“the Committee”), established by the Senedd on 16 May 2023. Standing Order 35 will cease to have effect following a resolution of the Senedd that the Committee should cease to exist, or on the dissolution of the Senedd, whichever is sooner. Where provisions contained in Standing Order 35 are in conflict with other Standing Order provisions, those in Standing Order 35 must have precedence.

Co-chairs: Functions

35.2. For the purposes of the Committee:

- (i) references in Standing Orders to a chair of a committee are to be interpreted as meaning Co-chairs;
- (ii) the functions of chairs of committees outlined in Standing Orders must be exercised jointly by the Co-chairs.

35.3 The Co-chairs must agree and publish a protocol setting out their joint ways of working.

Co-chairs: Number

35.4. The Committee must have two Co-chairs.

Co-chairs: Vacancy

35.5. The position of a Co-chair of the Committee becomes vacant when the Member concerned:

- (i) resigns from the Committee by giving notice in writing to the Business Committee;
- (ii) is removed from the Committee by a resolution of the Senedd;
- (iii) is elected chair of another committee;
- (iv) ceases to be a Member;

(v) joins or leaves a political group.

35.6 A vacancy in one Co-chair position does not create a vacancy in the other Co-chair's position.

35.7 Where the position of a Co-chair becomes vacant, the Business Committee must first invite the political group from which that Co-chair was appointed to nominate a replacement. If a nomination is received within five working days (not counting working days in a non-sitting week), the Business Committee must table a motion under Standing Order 17.3 proposing the appointment of that new Co-chair.

35.8 If the nomination of a replacement Co-chair is not received within the timescales outlined under Standing Order 35.7, the Business Committee:

- (i) must consider the effect of that vacancy on the balance of committee chairs between political groups;
- (ii) may, having regard to that consideration, table a motion under Standing Order 17.3 proposing to change the political group from which the Co-chair of the Committee may be appointed;
- (iii) may, having regard to that consideration, table one or more motions under Standing Order 17.3 proposing to change the political group from which the chair of any other committee may be elected.

Temporary Co-chair

35.9 If one or both Co-chairs are absent, the Committee must appoint a temporary Co-chair for each absent Co-chair.