

# Amending Standing Orders: Proxy voting

March 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 temporary Standing Orders 12.41A-H (Proxy voting), which were introduced on a trial basis in March 2020, should become permanent and that proxy voting should be permitted in all forms of voting in Plenary and in a Committee of the Whole Senedd. The report also recommends that proxy voting provisions be expanded to include long-term illness or injury, caring responsibilities and bereavement.

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. The accompanying guidance to be issued by the Llywydd is at Annex C.



## Contents

<b>1. Background .....</b>	<b>3</b>
Proxy voting.....	3
Review of proxy voting provisions.....	3
<b>2. Business Committee’s conclusions .....</b>	<b>6</b>
<b>3. Proxy voting provisions .....</b>	<b>8</b>
Proxy voting for parental leave.....	8
Expanding proxy voting provisions.....	8
Limitations of a proxy vote .....	8
Guidance .....	8
<b>4. Decision.....</b>	<b>10</b>
<b>Annex A: Proposed changes to Standing Order 12, and explanatory notes.....</b>	<b>11</b>
<b>Annex B: Standing Orders 12, as amended .....</b>	<b>13</b>
<b>Annex C: Guidance for Members.....</b>	<b>14</b>

# 1. Background

## Proxy voting

1. On 11 March 2020 the then National Assembly for Wales agreed temporary Standing Orders 12.41A-H (Proxy voting) in order to facilitate a trial of proxy voting for parental leave. These provisions were initially set to expire on 6 April 2021 but have subsequently been extended on two occasions. In the absence of a vote by the Senedd to retain, extend or amend the Standing Orders, these provisions will automatically expire on 1 April 2023.
2. Two Members have voted by proxy in accordance with Standing Order 12.41A during the trial: in the Fifth Senedd, Bethan Sayed MS arranged for Dai Lloyd MS to act as her proxy between 8 July 2020 and 8 January 2021; and in the Sixth Senedd, Adam Price MS arranged for Siân Gwenllïan MS to act as his proxy between 7 June and 18 July 2021.

## Review of proxy voting provisions

3. In November 2022 the Business Committee agreed to review proxy voting provisions. The scope of the review was twofold:
    - to consider the possibility of making the existing provisions (for parental leave) permanent, with or without amendment; and
    - to consider extending the scope of the scheme to cover Members who are absent from the Senedd due to long-term illness or injury and other caring responsibilities.
  4. Since the introduction of proxy voting, working practices in the Senedd have changed - primarily in response to the COVID-19 pandemic. Following a review of the temporary Standing Orders (Emergency Procedures) introduced at the start of the pandemic to facilitate the continuation of Senedd business, the Business Committee concluded that the ability to participate and vote in Plenary remotely should be maintained and permanently incorporated into Standing Orders.
  5. In light of the development of remote participation and voting in Senedd proceedings, Business Committee agreed at the outset of the review of proxy voting that eligibility should be limited to situations in which a Member was to be absent from all Senedd proceedings.
-

## Amending Standing Orders:

### Proxy voting

---

**6.** To inform its decisions, the Business Committee invited and received evidence from a range of sources:

- 25 responses to an anonymous survey of Members of the Senedd;
- a written response from the Plaid Cymru Senedd group (Nb. responses from groups were not specifically requested);
- three separate responses from Members who have previously utilised proxy voting, either by being granted a proxy vote or casting one on behalf of another Member.

**7.** A majority of responses received supported the temporary Standing Orders covering parental leave being made permanent. The primary reasons provided in favour of maintaining the scheme were: to help attract a diverse membership for the Senedd; and because Members should not be penalised for being parents.

**8.** A majority of responses received also supported proxy voting provisions being expanded to cover a broader range of reasons for Members being absent from proceedings. Reasons given included: that these provisions would support a more diverse and representative Senedd; and that formal arrangements are better suited to prolonged periods of leave than informal 'pairing' of Members, which was considered to be dependent on 'political goodwill'.

**9.** However, over a third of those responding were opposed to both the continuation of the current provisions and any expansion. Members expressing this viewpoint indicated that they favoured the use of the pairing system to accommodate any short or long term absences from Senedd proceedings.

**10.** Business Committee also noted that there has been significant developments in proxy voting provisions in other UK parliaments since the temporary Standing Orders were first introduced in the Senedd. This has included the introduction of permanent or temporary provisions for a range of absences in the House of Commons, the Scottish Parliament and the Northern Ireland Assembly.

**11.** During its discussions, Business Committee considered how it could ensure options for Members are future proofed and create an equality of opportunity for all Members who wish to apply for a proxy vote. As such, in addition to considering the types of absences which would qualify for a proxy vote, the

Committee also reviewed the minimum and maximum durations for the proxy vote.

## 2. Business Committee's conclusions

**12.** The Business Committee considered the issues arising from its review at meetings on 7, 14 and 28 February and 14 March 2023. In light of the views and evidence received, a majority of the Committee proposes that:

- Proxy voting provisions for parental leave should be made permanent.
- The maximum durations for proxy voting for parental leave should be revised to seven months for the mother or father of a baby, the partner of a person giving birth, an adoptive parent, or carer in a surrogacy arrangement. Of this, a maximum of one month shall be taken before, and a maximum of six months after, the due date, adoption date or surrogacy date.
- The Presiding Officer's discretion should only be used to determine the duration of a proxy voting arrangement when a Member or their partner suffer a miscarriage or stillbirth, and not the Member's eligibility to be granted a proxy vote.
- Proxy voting provisions should be extended to include periods in which a Member is absent due to long-term illness or injury, caring responsibilities and bereavement.
- Should a Member be absent due to long-term illness or injury or for reasons of caring responsibilities, the initial duration of a proxy voting arrangement should be between four weeks and six months, with the potential for this to be extended at the discretion of the Presiding Officer.
- Should a Member be absent due to bereavement, the duration of a proxy voting arrangement is to be agreed between the Member and the Presiding Officer, and may be extended at the Presiding Officer's discretion.
- Proxy voting should be permitted in all types of voting in Plenary and a Committee of the Whole Senedd, including those that require a resolution or motion to be passed on a vote in which the number of Members voting in favour is not less than two-thirds of the total number of Senedd seats, or when the proxy vote would count toward the number required for quorum.

- The Presiding Officer should continue to be able to use their discretion in determining matters around eligibility for a proxy vote and the duration of arrangements.
- That pairing arrangements could continue to be used for shorter term absences, or for longer absences if that was the preference of the Member concerned.
- Business Committee should review provisions in relation to proxy voting prior to the end of the Sixth Senedd.

**13.** By majority view, the Business Committee proposes that these conclusions be reflected through changes to Standing Order 12 and associated guidance issued by the Presiding Officer.

**14.** Darren Millar MS stated the opposition of the Conservative Group to retaining the current provisions and to extending proxy voting.

### 3. Proxy voting provisions

**15.** The Business Committee has considered the views received and the use of proxy voting provisions to date and has made the following proposals for amendments to be made to Standing Orders:

#### **Proxy voting for parental leave**

**16.** It is proposed that Standing Order 12.41H is removed in order to make proxy voting provisions for parental leave permanent. Business Committee is proposing this change in order to future proof the options available to Members and to provide Members who are absent from proceedings for the reasons prescribed with a means to express their view on decisions before the Senedd.

#### **Expanding proxy voting provisions**

**17.** It is proposed that Standing Order 12.41A is amended to include absences for long-term illness or injury, caring responsibilities and bereavement. Business Committee is proposing this change in order to future proof the options available to Members and to provide Members who are absent from proceedings for the reasons prescribed with a means to express their view on decisions before the Senedd.

#### **Limitations of a proxy vote**

**18.** It is proposed that Standing Orders 12.41C – D are removed to allow a proxy vote to be cast in all forms of voting in Plenary and in the Committee of the Whole Senedd, and to enable a proxy vote to count towards the number of Members required for a vote to be valid. This is proposed to ensure that a proxy vote has equal status to a vote cast by a Member directly. As a consequence, Business Committee also proposes a minor amendment to Standing Order 12.41B.

#### **Guidance**

**19.** It is proposed that Standing Order 12.41G is amended to remove reference to parental leave, with the effect that guidance will cover all forms of proxy voting.

**20.** Standing Order 12.41G directs the Llywydd, having consulted the Business Committee, to issue written guidance to Members on the operation of the proxy



voting procedure. The guidance covers practical and procedural arrangements such as eligibility, minimum and maximum durations, designation of a proxy, publishing and varying the arrangement, and principles for exercising the proxy vote. It gives the Llywydd discretion to determine compliance with the scheme in the event of any ambiguity. That guidance has been amended to reflect decision undertaken during this review and can be found at Annex C.

## 4. Decision

**21.** On 21 March 2023 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.

**22.** The Senedd is also invited to note that guidance will be issued by the Llywydd in accordance with Standing Order 6.17 - which has been agreed by the Business Committee - to cover a range of matters, including eligibility, minimum and maximum durations, designation of a proxy, publishing and varying the arrangement, and principles for exercising the proxy vote and that this guidance will be kept under review. That guidance can be found at Annex C.

## Annex A: Proposed changes to Standing Order 12, and explanatory notes

<b>STANDING ORDER 12 - Business in Plenary Meetings</b>	
Decisions on Motions and Amendments	Retain sub-heading
12.41A A Member may, by reason of absence from <u>all the Senedd proceedings</u> for parental leave, <u>long-term illness or injury</u> , <u>caring responsibilities</u> or <u>bereavement leave</u> , arrange for their vote to be cast by another Member acting as a proxy (a proxy vote).	<p><b>Amend Standing Order</b></p> <p>The proposed amendment inserts additional reasons for absence from Senedd proceedings which would entitle a Member to apply for a proxy vote and clarifies that it would apply in circumstances where a Member would be absent from all proceedings, including those conducted virtually or in a hybrid format.</p>
12.41B <del>Subject to Standing Order 12.41C, a</del> proxy vote may be cast on all business in Plenary (including secret ballots under Standing Order 6 and Standing Order 17) and a Committee of the Whole Senedd.	<p><b>Amend Standing Order</b></p> <p>The proposed amendment would remove reference to a Standing Order which the Business Committee also proposes to remove.</p>
<del>12.41C No proxy vote may be cast where legislation requires a resolution or motion to be passed on a vote in which the number of Members voting in favour of it is at least two-thirds of the total number of Senedd seats.</del>	<p><b>Remove Standing Order</b></p> <p>It is proposed that the Standing Order is removed so that proxy voting is permitted in all types of voting in Plenary and a Committee of the Whole Senedd.</p>
<del>12.41D A proxy vote must not count towards the numbers participating in a vote for the purposes of Standing Order 12.46.</del>	<p><b>Remove Standing Order</b></p> <p>It is proposed that the Standing Order is removed so that proxy voting is permitted in all types of</p>

## Amending Standing Orders:

Proxy voting

<b>STANDING ORDER 12 - Business in Plenary Meetings</b>	
	voting in Plenary and a Committee of the Whole Senedd.
12.41E A proxy vote may be cast only if the Presiding Officer has certified that the Member for whom the vote is to be cast is eligible under the terms of Standing Order 12.41A.	Retain Standing Order
12.41F A vote cast by a proxy must be clearly indicated as such in the report of plenary proceedings or minutes of the Committee of the Whole Senedd.	Retain Standing Order
12.41G The Presiding Officer, having consulted the Business Committee, must issue written guidance to Members under Standing Order 6.17 on the operation of voting by proxy for parental leave.	<b>Amend Standing Order</b> It is proposed that the Standing Order is amended to enable the Presiding Officer to issue guidance covering all aspects of proxy voting.
<del>12.41H Standing Orders 12.41A – H, and the references to them in Standing Orders 12.41 and 17.48, will cease to have effect on 1 April 2023.</del>	<b>Remove Standing Order</b> It is proposed that the Standing Order is removed to remove the expiry date in order to make the provisions permanent.

---

## Annex B: Standing Orders 12, as amended

- 12.41A A Member may, by reason of absence from all Senedd proceedings for parental leave, long-term illness or injury, caring responsibilities or bereavement leave, arrange for their vote to be cast by another Member acting as a proxy (a proxy vote).
- 12.41B A proxy vote may be cast on all business in Plenary (including secret ballots under Standing Order 6 and Standing Order 17) and a Committee of the Whole Senedd.
- 12.41C [This Standing Order was removed by resolution in Plenary on 29 March 2023]
- 12.41D [This Standing Order was removed by resolution in Plenary on 29 March 2023]
- 12.41E A proxy vote may be cast only if the Presiding Officer has certified that the Member for whom the vote is to be cast is eligible under the terms of Standing Order 12.41A.
- 12.41F A vote cast by a proxy must be clearly indicated as such in the report of plenary proceedings or minutes of the Committee of the Whole Senedd.
- 12.41G The Presiding Officer, having consulted the Business Committee, must issue written guidance to Members under Standing Order 6.17 on the operation of voting by proxy.
- 12.41H [This Standing Order was removed by resolution in Plenary on 29 March 2023]

---

## Annex C: Guidance for Members

### Proxy voting

#### Introduction

---

224. The procedures for exercising a Proxy Vote are set out under Standing Orders 12.41A-G.

#### Parental leave

---

##### Eligibility

225. Proxy voting is available to Members who are absent from all Senedd proceedings for reasons of childbirth, care of an infant or child as a result of a new adoption or surrogacy arrangement, or who have suffered a miscarriage or stillbirth.

226. A Member must demonstrate eligibility for the scheme by notifying the Presiding Officer of their intention to take parental leave, and providing any additional documentation or forms of notification that the Presiding Officer deems appropriate.

227. The scheme is not compulsory and Members are free to vote in person or use any other informal pairings available to them.

228. In the event of any ambiguity, the Presiding Officer will use their discretion to determine compliance with the proxy voting scheme.

##### Duration

229. Subject to the Presiding Officer's discretion, the maximum duration of the dispensation to vote by proxy is:

- seven months for the biological mother of a baby; the primary or single adopter of a baby or child; or the primary or single carer of a baby or child in a surrogacy arrangement; and
- seven months for the biological father or the partner of the person giving birth who has parental responsibility for the child; the second adopter of a baby or child; or the secondary carer of a baby or child in a surrogacy arrangement.

- 
230. Of this, a maximum of four weeks shall be taken before the due date, adoption date or surrogacy date and a maximum of six months after the due date, adoption date or surrogacy date.
231. The duration will include periods when the Senedd is in recess or dissolved. In exceptional circumstances the Presiding Officer can use their discretion to vary the duration.
232. A Member must specify in writing to the Presiding Officer the dates on which the absence will begin and end, subject to the maximum durations permitted. The Member is entitled to cast a vote by proxy for the period specified in the certificate issued by the Presiding Officer under Standing Order 12.41E (paragraph 249).
233. The Presiding Officer's discretion will be used to determine maximum durations for proxy voting when Members or their partners have suffered a miscarriage or stillbirth. In determining such factors, the Presiding Officer will be mindful of statutory entitlements.

## **Long-term illness or injury and caring responsibilities**

---

### **Eligibility**

234. Proxy voting is available to Members who are absent from all Senedd proceedings for reasons of long-term personal illness or injury, or due to their caring responsibilities.<sup>1</sup>
235. A Member must notify the Presiding Officer of their intention to take leave, and provide any additional documentation or forms of notification that the Presiding Officer deems appropriate.
236. The scheme is not compulsory and Members are free to vote in person or use any other informal pairings available to them.
237. In the event of any ambiguity, the Presiding Officer will use their discretion to determine compliance with the proxy voting scheme.

### **Duration**

---

<sup>1</sup> Caring responsibilities will usually refer to care that is needed in exceptional circumstances, for example in relation to long-term illness or injury, and is not intended to include routine or permanent caring responsibilities.

---

## **Amending Standing Orders:**

### Proxy voting

---

238. The usual duration of the dispensation to vote by proxy is for a minimum of four weeks and a maximum of six months, including periods when the Senedd is in recess or dissolved. In exceptional circumstances the Presiding Officer can use their discretion to extend the duration of a proxy voting arrangement.
239. A Member must specify in writing to the Presiding Officer the dates on which the absence will begin and end, subject to the maximum durations permitted. The Member is entitled to cast a vote by proxy for the period specified in the certificate issued by the Presiding Officer under Standing Order 12.41E (paragraph 249).

## **Bereavement**

---

### **Eligibility**

240. Proxy voting is available to Members who are absent from all Senedd proceedings for reasons of bereavement.
241. A Member must notify the Presiding Officer of their intention to take leave, and provide any additional documentation or forms of notification that the Presiding Officer deems appropriate.
242. The scheme is not compulsory and Members are free to vote in person or use any other informal pairings available to them.
243. In the event of any ambiguity, the Presiding Officer will use their discretion to determine compliance with the proxy voting scheme.

### **Duration**

244. The duration of a proxy vote for bereavement is to be agreed between the Member and the Presiding Officer, and may be extended at the Presiding Officer's discretion. The agreed duration will include periods when the Senedd is in recess or dissolved.
245. A Member must specify in writing to the Presiding Officer the dates on which the absence will begin and end. The Member is entitled to cast a vote by proxy for the period specified in the certificate issued by the Presiding Officer under Standing Order 12.41E (paragraph 249).

## **General provisions**

---

246. The following provisions are applicable in all circumstances.
-



---

## Designation of a proxy

---

247. When specifying the dates of absence, the Member eligible for proxy voting must name the Member who has agreed to carry out their proxy vote, thereby vouching that an agreement has been entered into.
248. A Member is free to choose any other Member to carry out their proxy vote, subject to the agreement of the other Member and notification to the Presiding Officer.

---

## Publishing the arrangement

---

249. On receipt of this information, and once the Presiding Officer has determined compliance, the Presiding Officer will lay a certificate setting out the name of the Member nominated as proxy and the start and end dates. The certificate will note the proxy has been granted for reasons related to parental leave, long-term illness or injury, caring responsibilities or for bereavement but will not specify any further detail in relation to the circumstances.
250. The 'votes summary' for each Plenary or Committee of the Whole Senedd meeting will note that a proxy vote has been cast by listing the Member and how they voted in the usual way, in accordance with Standing Orders 12.48 and 17.35, and by noting which Member cast a proxy vote on their behalf.

---

## Varying the arrangement

---

251. A Member who wishes to change the Member who is their proxy, to end their period of proxy voting earlier than originally notified, or to cast a vote in person on (a) specific item(s) of business, or suspend the arrangement for a period of time, must give written notice to the Presiding Officer as soon as is reasonably practicable after the circumstances that have led to the request become known (for example, publication of Plenary agenda, tabling of motion). A Member may also request to participate in Senedd proceedings whilst in possession of a proxy vote. The Presiding Officer will use their discretion to determine compliance in these circumstances.
252. The Presiding Officer will issue and lay a new certificate under paragraph 249 if required.

## **Amending Standing Orders:**

### Proxy voting

---

253. Changes of proxy made for a specified period will take effect from the start (or end) of the day(s) specified.

## **Exercising the proxy vote**

---

254. A Member eligible to vote by proxy must agree with the Member nominated as their proxy when the proxy vote will be cast and how it will be exercised on each vote.
255. A Member designated as a proxy must act in strict accordance with the instruction given by the absent Member.
256. A Member designated as a proxy may cast their own vote one way and the proxy vote in the other, and may cast a proxy vote without casting their own vote at all.
257. A Member registered as voting by proxy who wishes to vote in person will be entitled to do so, provided that the Presiding Officer has been notified as soon as is reasonably practicable after the circumstances that have led to the request became known (paragraph 251). The Presiding Officer's discretion will be used to determine compliance in these circumstances.
258. A Member eligible to vote by proxy must inform the Member nominated as their proxy of any relevant interest which prohibits them from voting under Standing Order 2.9.

## **Practical arrangements for voting by proxy**

---

259. The Clerk will make practical arrangements with the Member nominated as proxy to exercise the proxy vote.