

## Research Briefing

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# The sub judice rule

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## Summary

‘Sub judice’ is a Latin term that literally translates as ‘under a judge’.

The sub judice rule in the House of Commons provides that MPs should not refer, in debates, questions and motions, to matters awaiting adjudication in a court of law. This is to avoid influencing the outcome of those court proceedings. The rule may be relaxed at the Speaker’s discretion, and it need not prevent the consideration of legislation.

The wording of the House’s sub judice rule was last revised on 15 November 2001, following a review of parliamentary privilege by a joint committee in the previous Parliament. In May 2025, the Speaker asked the Procedure Committee to review the operation of the sub judice rule in the House of Commons.

Previously, the sub judice rule had been formalised by a resolution in 1963 and amended in 1972.

## Procedure Committee reviews of the sub judice rule

### 2025 review

On 21 January 2025, the Speaker of the House of Commons, Lindsay Hoyle, said that he was going “[to ensure that the House’s sub judice resolution is reviewed to ensure it is fit for purpose](#)”.

On 22 May 2025, the [Procedure Committee announced that the Speaker had requested it to undertake the review of the sub judice rule](#), and it issued a call for evidence.

### Reviews since the 2001 rule change

Since 2001, the Procedure Committee has conducted two reviews of the sub judice rule.

In April 2005, the Procedure Committee published a report on [The Sub Judice Rule of the House of Commons](#). The committee considered whether a rule change was necessary after some MPs expressed disquiet about being prevented from discussing some issues in the House because of the rule. The committee believed that no change to the rule was necessary and that the House should continue to rely on the Speaker’s discretion to waive the rule.

In August 2006, the Procedure Committee published a report on the [application of the sub judice rule to proceedings in coroners' courts](#). It concluded that coroners' courts should remain within the scope of the House's sub judice rule but believed that the Speaker could use their discretion to allow debates on policy matters relating to ongoing inquests more frequently. The committee also recommended giving the Speaker the power to direct an MP to resume their seat if they overstepped the agreed mark in relation to sub judice matters. On 1 November 2006, the House approved the Procedure Committee's report and agreed to a new standing order giving the Speaker the power to order an MP to resume their seat.

## The sub judice rule

The full text of the sub judice rule agreed on 15 November 2001 is reproduced in Appendix 1.

The UK's three devolved legislatures all have sub judice rules in their standing orders:

- Scottish Parliament, [Standing Orders of the Scottish Parliament 6th Edition 10th Revision 2 July 2024](#), Rule 7.5
- Senedd Cymru/Welsh Parliament, [Standing Orders of the Welsh Parliament](#) (PDF), September 2024, page 59 and page 69
- Northern Ireland Assembly, [Standing Orders](#), November 2024, SO No 73

# 1 The sub judice rule

The sub judice rule provides that MPs should not bring up matters in debates, questions and motions which are awaiting adjudication in a court of law to avoid influencing the outcome of those court proceedings.<sup>1</sup> The rule may be relaxed at the Speaker's discretion, and it need not prevent the consideration of legislation.

The wording of the House's sub judice rule was last revised on 15 November 2001,<sup>2</sup> following a review of parliamentary privilege by a joint committee in the previous Parliament.<sup>3</sup>

The House agreed to rescind the previous sub judice rule and replace it with wording proposed by the Joint Committee on Parliamentary Privilege. The text of the 2001 resolution is reproduced in Appendix 1.

The House of Lords agreed to the new sub judice resolution proposed by the joint committee in May 2000.<sup>4</sup> The House of Lords sub judice rule is set out in the Companion to the Standing Orders.<sup>5</sup>

## 1.1 The 1963 rule

The sub judice rule has existed for a long time,<sup>6</sup> but was confirmed by two resolutions of the House, of 23 July 1963 and 28 June 1972, reported in Appendix 2.<sup>7</sup>

The 1963 resolution set out the main rule for the Commons. It came about because of a decision in December 1961 to rule out questions on the grounds of sub judice where a writ for libel had been issued, which meant that the

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<sup>1</sup> House of Commons, MPs' Guide to Procedure, [Sub judice rule](#) and [Sub judice and debates](#)

<sup>2</sup> [HC Deb 15 November 2001 cc1012-1020](#)

<sup>3</sup> Joint Committee on Parliamentary Privilege, [Report](#), HC 214-I 1998-99 and HL 43-I 1998-99, 30 March 1999 paragraphs 189-203

<sup>4</sup> HL Deb 11 May 2000 c1725-1735

<sup>5</sup> House of Lords, [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#) (PDF), 2022, paras 4.68-4.73, the wording of the resolution is in para 4.69

<sup>6</sup> The Procedure Committee said: "The present practice relating to reference in the House to matters considered as being sub judice has developed during the last 120 years from various precedents and rulings from the Chair, the earliest being in 1844" (HC 156 1962-63, para 1, see below)

<sup>7</sup> [HC Deb 23 July 1963 c 1417](#) and [HC 28 June 1972 c 1589](#)

House was unable to discuss the subject for some considerable time. The sub judice rule was referred to the Procedure Committee for consideration.<sup>8</sup>

The 1963 resolution stated that matters awaiting adjudication in a court of law should not be brought forward in motions, debates, questions or supplementary questions. There were two important qualifications. One was that the rule was subject to the discretion of the Chair (the Speaker in the Commons). The other was that it was subject to the right of the House to legislate on any matter.<sup>9</sup> The 1972 resolution relaxed the original resolution. It allowed that in civil proceedings and subject to the discretion of the Chair, MPs could refer to matters relating to ministerial decisions “which cannot be challenged in court except on grounds of misdirection or bad faith”.<sup>10</sup>

The Joint Committee on Parliamentary Privilege outlined the principles behind the sub judice rule as follows:

The present rule rightly tries to strike a balance between two sets of principles. On the one hand, the rights of parties in legal proceedings should not be prejudiced by discussion of their case in Parliament, and Parliament should not prevent the courts from exercising their functions. On the other hand, Parliament has a constitutional right to discuss any matters it pleases.<sup>11</sup>

The joint committee highlighted a number of problems with the rules, as they existed in 1998-99:

- The rules were different in the Commons and the Lords. Both rules allowed for discussion on matters concerning issues of national importance. However, they diverged on the discussion of ministerial decisions.
  - The Lords rule allowed for discussion of matters relating to any ministerial decision, at the discretion of the Leader of the House.<sup>12</sup>
  - The Commons rule allowed discussion of cases relating to ministerial decisions “which cannot be challenged in court except on grounds of misdirection or bad faith”. The joint committee considered that the exception should be drawn more widely so as to include any ministerial decision, subject to the discretion of the Chair.
- There was no explicit statement that the rules applied to committees.<sup>13</sup>

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<sup>8</sup> Procedure Committee, Rule relating to Reference in the House of Commons to Matters considered as Sub Judice, HC 156 1962-63

<sup>9</sup> [HC Deb 23 July 1963 c1417](#)

<sup>10</sup> [HC Deb 28 June 1972 cc1589-1627](#)

<sup>11</sup> Joint Committee on Parliamentary Privilege, [Report](#), HC 214-I 1998-99 and HL 43-I 1998-99, 30 March 1999

<sup>12</sup> Responsibility for waiving the sub judice rule in the House of Lords now rests with the Lord Speaker

<sup>13</sup> Joint Committee on Parliamentary Privilege, [Report](#), HC 214-I 1998-99 and HL 43-I 1998-99, 30 March 1999, para 189

- The joint committee highlighted the importance of having clear starting and finishing points for the rule in each case. For criminal cases it considered that the existing rule should continue. This was that the sub judice rule becomes active only when the case against the individual is formulated in a charge or summons to appear. However, it considered that a relaxation of the rule in relation to preliminary proceedings in civil cases (for example, for interim injunctions) would be desirable.<sup>14</sup>

The joint committee recommended that the two Houses should have an identical sub judice rule and recommended a form of words. This formed the basis of the motion before the House, published for the debate on 15 November 2001.<sup>15</sup>

An explanatory memorandum compared the existing rule with the wording proposed by the joint committee:

- It is made explicit that the rule applies in Committee
- New provisions clarify what is meant by a case being active, and exactly which proceedings are covered
- The provisions for criminal cases follow current practice, although the wording is clarified and the possibility of cases being discontinued is included
- The provisions for civil proceedings are relaxed so that pre-trial applications (for example, for injunctions) are treated as distinct proceedings. A case is currently sub judice from the time it is brought before the court “as for example by notice of motion for an injunction”; under the new rule once such a pre-trial issue had been settled the sub judice rule would be lifted until the case became active once more
- The relaxation of the rule now applies to any judicial review of a ministerial decision rather than being limited to reviews on grounds of misdirection or bad faith.<sup>16</sup>

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<sup>14</sup> Joint Committee on Parliamentary Privilege, [Report](#), HC 214-I 1998-99 and HL 43-I 1998-99, 30 March 1999, paragraph 197

<sup>15</sup> Joint Committee on Parliamentary Privilege, [Report](#), HC 214-I 1998-99 and HL 43-I 1998-99, 30 March 1999, para 202

<sup>16</sup> Explanatory Memorandum on the motion relating to matters sub judice standing on the order paper in the name of the Leader of the House, November 2001

## Box 1 – Application of the sub judice rule: A case study

On 29 July 2024, three girls were killed at a dance workshop in Southport. Following the attack, rioting took place in several towns and cities across the UK. On 1 August 2024, Axel Rudakubana was named as the suspected murderer; while courts usually prevent reporting of names of under-18s involved in legal proceedings, Axel Rudakubana was allowed to be named before he turned 18 to help prevent the spread of misinformation.<sup>17</sup>

In total he faced 16 charges in relation to the incident in Southport on 29 July.<sup>18</sup>

He pleaded guilty to all 16 charges on 20 January 2025 and was sentenced on 23 January 2025.<sup>19</sup>

On 16 January 2025, before the trial was scheduled to begin, the Attorney General issued a media advisory notice warning against commenting on the trial.<sup>20</sup>

Following the attack and before sentencing, the government made a number of statements about the attack. Before each government statement, an announcement was made concerning the application of the sub judice rule.

On 30 July 2024, the day after the attack, the Home Secretary made a statement. The statement was made before the case became sub judice, the Speaker drew the attention of the House to the sub judice rule and the fact that a major criminal investigation was underway:

Before the Home Secretary makes a statement, I must advise the House that although the matter is not yet sub judice, for the purpose of the House rules Members should exercise care in what they say about a major live criminal investigation. Members should take care not to say anything in this House that might prejudice a criminal trial. While the Home Secretary may wish to make factual statements for the record, I urge Members to avoid speculating about the guilt or innocence of any person, the identity of the person who has been arrested, or the motive for the attacks. Members may ask about the emergency services, the response to the attacks, the support for victims' families and other connected matters, but I urge the utmost caution in avoiding any remarks that might prejudice a future trial.<sup>21</sup>

On 2 September 2024, the Home Secretary made a statement on the violent disorder that had followed the attack in Southport. The Deputy Speaker

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<sup>17</sup> Channel 4 News, [Southport attack: 17-year-old Axel Rudakubana charged with three counts of murder](#), 1 August 2024

<sup>18</sup> Crown Prosecution Service, [CPS authorises two further charges against Axel Rudakubana](#), 29 October 2024

<sup>19</sup> Merseyside Police, [Axel Rudakubana jailed for minimum of 52 years](#), 23 January 2025

<sup>20</sup> Attorney General's Office, [Media Advisory Notice – trial of Axel Rudakubana](#), 16 January 2025

<sup>21</sup> [HC Deb 30 July 2024 c1273](#)

outlined the constraints that the sub judice rule would place on what MPs could say in the course of the statement:

Before I call the Home Secretary to make her statement, I remind the House that several hundred people have been charged with criminal offences relating to these disturbances. Most of those cases are still before the courts. Public order is a matter of national importance, and Mr Speaker has therefore decided to grant a limited waiver to the House's sub judice resolution in the following terms. Members may make statements of fact about the circumstances of the unrest, about the number of people arrested, charged and sentenced, and about the kinds of behaviour exhibited during these events. However, they may not refer to specific individuals who have been charged and are awaiting trial, or engage in any discussion or speculation about individual cases.<sup>22</sup>

On 21 January 2025, after Axel Rudakubana had pleaded guilty to all charges, the Speaker said that while the case remained sub judice, because of the plea he had granted a waiver so that MPs could discuss the case freely:

Before we come to the Home Secretary's statement, I want to say that I appreciate that it has been most frustrating for the House that we have not been able to discuss the issues relating to this case because of ongoing prosecutions. Although the case is still technically sub judice until sentencing on Thursday, given that the accused has pleaded guilty to all charges and that there is strong public interest in the House being able to discuss these matters, I am granting a waiver so that Members may discuss it freely. I am confident that the House's sub judice resolution has been followed correctly, and I am grateful to Members for their patience in not discussing this case substantially before now. I am going to ensure that the House's sub judice resolution is reviewed to ensure it is fit for purpose.<sup>23</sup>

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<sup>22</sup> [HC Deb 2 September 2024 c55](#)

<sup>23</sup> [HC Deb 21 January 2025 c873](#)

## 2

# The debate on 15 November 2001

The debate was opened by Stephen Twigg, Parliamentary Secretary, Privy Council Office. He said that the motion stemmed from the report in the previous Parliament of the Joint Committee on Parliamentary Privilege.

He said that the joint committee had recommended that the sub judice resolutions of both Houses of Parliament “should be brought up to date, and into line with one another”.<sup>24</sup>

The House of Lords had already implemented the joint committee’s recommendation.

He then said: “I stress that the new motion does not significantly alter the rules on sub judice”.<sup>25</sup>

## 2.1

### Minister’s explanation of the changes

Stephen Twigg spent some time explaining the reason for the sub judice rule. He described the separate role of Parliament (making the law) and the courts (interpreting the law), and that they “each keep to their appropriate functions”; and the importance of the privilege of freedom of speech for MPs:

Rightly, we have absolute privilege for anything that we say in Parliament. The courts cannot interfere with what we say or do in the course of proceedings in Parliament.<sup>26</sup>

He then said, “That absolute privilege must not be abused, and the sub judice rule is a means to prevent abuse”. But the rule is not absolute, quoting the joint committee, Stephen Twigg said:

“to strike a balance between two sets of principles. On the one hand, the rights of parties in legal proceedings should not be prejudiced by discussion of their case in Parliament, and Parliament should not prevent the courts from exercising their functions. On the other hand, Parliament has a constitutional right to discuss any matters it pleases.”

The sub judice rule is necessary not only to preserve proper relations between courts and Parliament, but to ensure that trials are not prejudiced by parliamentary comment. He acknowledged that it could be frustrating for

<sup>24</sup> [HC Deb 15 November 2001 c1013](#)

<sup>25</sup> HC Deb 15 November 2001 c1013

<sup>26</sup> HC Deb 15 November 2001 c1013

MPs when the sub judice rule “restricts comment in this House more stringently than comment in the media, but that is unavoidable”.<sup>27</sup>

Article 9 of the Bill of Rights, an Act of Parliament from 1689, gives MPs absolute protection in relation to parliamentary proceedings; however, he said that “that should make us cautious about what we say in this place” and that the judiciary should be seen to be independent of political pressures.

However, parliamentary debate should not be limited more than necessary. Stephen Twigg said that three provisions in the motion stopped the sub judice rule doing so:

- the application of the rule is “subject to the discretion of the Chair”
- the House remains free to legislate on any matter
- the rule does not apply to cases in which a ministerial decision is in question in the courts—that is, where a decision is being judicially reviewed.

He also summarised three technical changes to the sub judice rule:

- The rule would be contained in a single resolution and the same rule would apply in both Houses
- It would be explicit that the sub judice rule applies to select committees,
- the references to specific courts were updated.<sup>28</sup>

## 2.2

## Response from the opposition

Responding to the minister, Eric Forth said on behalf of the Conservatives that he welcomed the motion, and was pleased to see that the discretion available to the Speaker was being retained.

Paul Tyler, on behalf of the Liberal Democrats, also supported the motion, on the grounds that it would make it more difficult for ministers to use the sub judice rule to avoid difficult questions.

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<sup>27</sup> HC Deb 15 November 2001 c1013

<sup>28</sup> HC Deb 15 November 2001 c1014

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## 3 Procedure Committee reviews

The Procedure Committee has reviewed the sub judice rule twice since it was last changed in 2001: in 2005 and in 2006. Neither review resulted in changes to the rule, but the committee did make recommendations about the House's processes around sub judice and recommended a new standing order allowing the Speaker to direct an MP to resume their seat.

### 3.1 April 2005

In April 2005, the Procedure Committee reported on the sub judice rule of the House of Commons after a case arose in the Foreign Affairs Committee and because of a question about how the rule applied to coroners' courts. The committee also considered the operation of the rule more generally.<sup>29</sup>

After reviewing the history of and justification of the rule, the committee reported on problems with the rule. The committee said that, as disputes about the application of the rule "seldom reach the floor of the House", it was difficult to quantify the level of disquiet with the rule.<sup>30</sup>

#### Referring to cases related to matter sub judice

There were concerns about referring to cases related to another matter that was sub judice. The Clerk of the House of Commons considered that it was normally possible to raise a general issue without going into the details of the particular. The committee thought that "there may be justification in asking the Speaker to exercise his discretion" in cases which remain active for several years.<sup>31</sup>

#### Questions about the process for a case

The committee also examined the specific phrase, in the rule: "cases ... shall not be referred to". It received evidence on whether it would be appropriate to raise questions about the length of time a case was taking. The Attorney General was "sympathetic" to such questions. However, the Faculty of Advocates and the Secretary of the Coroners' Society for England and Wales

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<sup>29</sup> Procedure Committee, [The Sub Judice Rule of the House of Commons](#) (PDF), 4 April 2005, HC 125 2004-05, paras 1-3

<sup>30</sup> As above, para 15

<sup>31</sup> As above, paras 16-21

expressed caution that such a question could be seen as interference in the course of justice or affect the decision of a judicial officer.<sup>32</sup>

## Coroners inquests

On the subject of inquests, the committee was concerned about how long some cases were active. But rather than change the rules, it believed that “it would be preferable to rely on the Speaker’s discretion”. The committee also noted concerns about the way in which the resolution treated cases before the coroners’ courts and recommended that the two Houses should consider definitions:

The Bar Council point out that paragraph (3)(a) of the sub judice resolution treats cases before coroners’ courts as falling within the provisions of paragraph (1)(a), concerning criminal cases (which are active when a charge has been made or a summons to appear has been issued), and describes this as “hardly apposite”. We recommend that the two Houses should consider jointly how the points at which cases before coroners’ courts are to be treated as active can be more suitably defined.<sup>33</sup>

The committee noted that the sub judice rule did not apply to tribunals. It considered whether the scope of the sub judice rule should be extended to cover tribunals. The committee understood that “remarks made in Parliament could prejudice tribunals”, and the committee “would expect Members to take care to avoid doing so”. It concluded, like the committee that recommended the 1963 rules, that “extending the rule to tribunals would be too restrictive”.<sup>34</sup>

## Speaker’s discretion

It considered the subject of the Speaker’s discretion and reported the Clerk of the Table Office’s explanation that “this discretion is exercised by the Speaker personally”. The committee recommended this should continue to be the case:

We agree that the exercise of discretion should continue to be a matter for the Speaker personally; therefore, we encourage Members who consider that the rule is unreasonably impeding the work of Parliament to refer the matter to the Speaker, stating their case, and ask him to exercise his discretion.<sup>35</sup>

The Procedure Committee noted that in select committee meetings, chairs can be required to exercise discretion to allow an active case to be referred to, and that this could subsequently cause difficulty to the Speaker and their

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<sup>32</sup> Procedure Committee, [The Sub Judice Rule of the House of Commons](#) (PDF), 4 April 2005, HC 125 2004-05, paras 22-23

<sup>33</sup> As above, para 28

<sup>34</sup> As above, paras 29-31

<sup>35</sup> As above, para 35

deputies. The committee recommended that select committee chairs should consult the Speaker if time allowed or otherwise take evidence in private.<sup>36</sup>

## 3.2

### July 2006

In July 2006, the Procedure Committee reported on the application of the sub judice rule to proceedings in coroners' courts. Its inquiry was prompted by further calls from MPs to re-examine the sub judice rules specifically in regard to coroners' courts. The committee said that "a number of apparent breaches of the rule in the House of Lords" was another factor that led to the inquiry.<sup>37</sup>

Like its predecessor committee (the committee that reported in April 2005), this committee reviewed the rule in general and in relation to the specific cases drawn to its attention. It reported three reasons for the House's sub judice rule, as identified by the Attorney General: "the risk of prejudicing individual cases, the principle of comity between the Courts and Parliament, and the need to demonstrate that the judiciary operates independently of the political process".<sup>38</sup>

#### Sub judice in the House of Lords

The Procedure Committee commented briefly on the House of Lords' experience. It agreed with the previous committee that any proposals for change should be considered jointly by the two Houses. While it had been concerned at the different implementation of the rule in the two Houses, it welcomed the "efforts made by the House of Lords authorities to ensure that the rule is implemented in the same way in both Houses".<sup>39</sup>

#### Coroners' courts

The committee concluded that coroners' courts should remain within the scope of the rule:

We conclude that the argument that coroners' courts should remain within the scope of the rule due to the possibility of prejudice is persuasive. Taken alongside the long standing precedent for inquests to have been included with the House's implementation of its sub judice rule, and the principle of comity, it forms a convincing case. We therefore concur with the view expressed in our predecessors' report that there is no justification for removing the protection of the rule from coroners' courts.<sup>40</sup>

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<sup>36</sup> Procedure Committee, [The Sub Judice Rule of the House of Commons](#) (PDF), 4 April 2005, HC 125 2004-05, paras 36-38

<sup>37</sup> Procedure Committee, [Application of the sub judice rule to proceedings in coroners' courts](#) (PDF), 22 August 2006, HC 714 2005-06, paras 1 and 21

<sup>38</sup> As above, para 7

<sup>39</sup> As above, paras 21-25

<sup>40</sup> As above, para 38

The committee concluded that there were no practical alternatives to defining which coroners' cases were active for the purposes of the rule.<sup>41</sup> Once a coroner has opened an inquest it was considered active, even if the case stood adjourned. (However, during the debate on the committee's report, Greg Knight, then chair of the Procedure Committee, indicated that there had been some movement on this issue – see below.)

## Speaker's discretion

After considering the scope of the rule, the committee, like its predecessor, stressed that the Speaker's discretion could be exercised more frequently. However, it cautioned that:

If that is to happen, a clear distinction must be maintained between policy matters and the details of a case and the Chair must be in a position to take effective action to enforce the terms of the debate.<sup>42</sup>

The committee also recommended giving the Speaker an explicit power to direct an MP to resume their seat if they overstepped the agreed mark in relation to sub judice matters:

We therefore recommend that an explicit power to order a Member to resume their seat on the grounds of a breach of sub judice should be provided to the Speaker, or, in Westminster Hall, the Chairman.<sup>43</sup>

The committee discussed the 'national importance' exemption: the Speaker can allow debate if a matter concerns issues of national importance. It heard calls for a wide interpretation of national importance. It accepted there was no established definition of the phrase but thought it should be interpreted in line with 2001 understandings, rather than the 1970s, when it was first included in the sub judice rule. The committee confirmed that it should be possible to debate such issues "from time to time, despite the existence of an active case".<sup>44</sup> The committee continued:

In these cases, however, the need for debate must be established and balanced against the likelihood of causing prejudice. We would expect the Speaker's discretion to be exercised more readily when a discussion in Parliament could result in a positive impact on the matter in question.<sup>45</sup>

The committee echoed the previous committee's call for select committee chairs to consult with the Speaker before waiving the sub judice resolution. It also noted the fact that select committees could take evidence in private.<sup>46</sup>

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<sup>41</sup> Procedure Committee, [Application of the sub judice rule to proceedings in coroners' courts](#) (PDF), 22 August 2006, HC 714 2005-06, para 63

<sup>42</sup> As above, para 48

<sup>43</sup> As above, para 48

<sup>44</sup> As above, paras 49-53

<sup>45</sup> As above, para 53

<sup>46</sup> As above, paras 85-88

## MPs understanding of sub judice

The Procedure Committee also considered how the House authorities' role in sub judice questions could be better understood. It recommended that: "In order to increase transparency and to improve Members' understanding of the sub judice rule and the Speaker's power of discretion, we recommend that the Table Office consider issuing a short guidance note for Members on sub judice issues". The committee produced a draft, with its report, and recommended that the leaflet should summarise "the general principles of the resolution and the procedures involved".<sup>47</sup>

## Debate on the report

The Procedure Committee's report was debated on 1 November 2006, alongside various proposals from the Modernisation Committee on the use of public bill committees; a new communications allowance; and September sittings.<sup>48</sup>

As well as approving the committee's report, the House also agreed to the new standing order, recommended by the committee, that would allow the Speaker or committee chairs to order an MP to resume their seat if they breached the sub judice rule:

Ordered,

That, with effect from the beginning of the next Session of Parliament,

(1) the following Standing Order (Sub judice) be made:

'42A. The Speaker, or the chairman, may direct any Member who breaches the terms of the sub judice resolution of the House to resume his seat.'; and

(2) the following amendment to Standing Order No. 89(3)(c) (Procedure in standing/general committees) be made:

Line 40, after 'repetition),' insert 'No. 42A (Sub judice),'.— [Mr. Straw.]<sup>49</sup>

During the debate, Greg Knight, the Chairman of the Procedure Committee explained the reasons for the change to standing orders. He said the committee did not feel that the authorities of the House were "repeatedly over-cautious in the advice that they gave" but that that impression had been created for a number of reasons. First, the rule is subject to the discretion of the Chair; and secondly,

... the House authorities have, perhaps, been over-cautious in their advice on the implementation of the rule. That is because – to be fair to them, and to borrow the words of the former Clerk of the House, Sir Roger Sands –

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<sup>47</sup> Procedure Committee, [Application of the sub judice rule to proceedings in coroners' courts](#) (PDF), 22 August 2006, HC 714 2005-06, paras 76 and 83

<sup>48</sup> [HC Deb 1 November 2006 cc304-422](#) (note debate interrupted in c379, restarts in [c380](#))

<sup>49</sup> HC Deb 1 November 2006 c418

‘we have quite often been let down by Members in this matter’.<sup>50</sup>

Despite recommending that the rule should remain unchanged, Greg Knight pointed to other changes that might make it easier for matters before the coroners’ courts to be discussed in the House. He reported that he had received a letter from Harriet Harman, the Minister of State in the Department for Constitutional Affairs, in which she explained the proposals in the draft Coroners Bill would draw a distinction between the coroner’s duty to investigate and to hold an inquest. This, she argued, could allow coroners to open an investigation at the beginning of their process and then open an inquest at a later date. The letter continued:

We will need to assess how this change will impact on the exemption that coroner’s cases receive from debate in Parliament under the sub judice rule, but certainly one interpretation could be that a coroner’s investigation and inquest would equate to the distinction in the criminal justice system between a police investigation and the commencement of court proceedings.<sup>51</sup>

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<sup>50</sup> HC Deb 1 November 2006 c343

<sup>51</sup> HC Deb 1 November 2006 c345

## 4

## 2025 review

On 21 January 2025, the Speaker of the House of Commons, Sir Lindsay Hoyle, said that he was going “to ensure that the House’s sub judice resolution is reviewed to ensure it is fit for purpose”.<sup>52</sup>

The Speaker made this announcement before a ministerial statement on the Southport attack. The statement was made following a police investigation and a court case in which the accused pleaded guilty.

Before announcing the review, the Speaker had commented on the way the sub judice rule had worked in relation to this case:

Before we come to the Home Secretary’s statement, I want to say that I appreciate that it has been most frustrating for the House that we have not been able to discuss the issues relating to this case because of ongoing prosecutions. Although the case is still technically sub judice until sentencing on Thursday, given that the accused has pleaded guilty to all charges and that there is strong public interest in the House being able to discuss these matters, I am granting a waiver so that Members may discuss it freely. I am confident that the House’s sub judice resolution has been followed correctly, and I am grateful to Members for their patience in not discussing this case substantially before now.<sup>53</sup>

On 22 May 2025, the Procedure Committee announced that [the Speaker had requested it to undertake the review and it issued a call for evidence](#).<sup>54</sup>

In its call for evidence, the Procedure Committee provided the following background:

The resolution is intended to preserve ‘comity’<sup>55</sup> between the courts and the House, to avoid Parliament influencing, or appearing to attempt to influence, the outcome of court proceedings, and to avoid Parliament acting as an alternative forum for resolution of matters that are before the courts.

Parliament is an important forum for discussion of matters of public interest and national importance, and MPs should have the ability to raise, discuss and resolve such matters swiftly and effectively when they emerge. The courts, meanwhile, should also be reassured that their important work is able to proceed effectively to ensure the fair and swift administration of justice.

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<sup>52</sup> [HC Deb 21 January 2025 c873](#)

<sup>53</sup> As above

<sup>54</sup> Procedure Committee, [Sub judice resolution in the House of Commons](#) [inquiry page] and [Call for Evidence](#)

<sup>55</sup> the reciprocal respect given by Parliament and the courts to their respective constitutional roles

This inquiry will look at whether the current resolution, agreed by the House of Commons in 2001, continues to strike the appropriate balance.

It said its inquiry would look at the following areas:

- Operability of the sub judice resolution
- Evolution of UK politics and constitution since 2001
- Legal developments since 2001
- Changing media landscape since 2001
- International comparison

## 4.1

### Comments on the operation of the sub judice review

At the end of the 2010 Parliament, the Procedure Committee published a report entitled [Matters for the Procedure Committee in the 2015 Parliament](#) (PDF). It identified a number of matters that the committee had considered but “not brought to a conclusion in this Parliament”.

In a single paragraph on the sub judice rule, the Procedure Committee said that a member of the committee had drawn attention to two points about the operation of the sub judice rule:

one concerning the application of the rule to “separate” proceedings in a civil case, and the other concerning the application of the rule to public petitions.

The committee had discussed the issues informally with the Clerk of the Journals, who “raised a number of wider points about the operation of the sub judice rule”. The committee considered these issues merited more consideration and suggested that its successor committee “may wish to make such consideration one of its early tasks”.<sup>56</sup>

These matters were not pursued.

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<sup>56</sup> Procedure Committee, [Matters for the Procedure Committee in the 2015 Parliament](#) (PDF), 17 March 2015, HC 1121 2014-15, para 33

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## 5 The sub judice rule in the devolved legislatures

### 5.1 Scotland

The Scotland Act 1998 (schedule 3) required the Scottish Parliament to include a sub judice rule in its standing orders.<sup>57</sup> The requirement is expressed in Rule 7.5, which states:

1. A member may not in the proceedings of the Parliament refer to any matter in relation to which legal proceedings are active except to the extent permitted by the Presiding Officer.
2. For the purposes of paragraph 1, legal proceedings are active in relation to a matter if they are active for the purposes of section 2 of the Contempt of Court Act 1981 (c.49).
3. Where any member refers to a matter in relation to which legal proceedings are active the Presiding Officer may order that member not to do so.
4. Nothing in this Rule shall prevent the Parliament from considering legislation.<sup>58</sup>

After an instance in the Scottish Parliament when the sub judice rule applied, the then Presiding Officer Sir David Steel said:

The broadcast and written media must take their own view on the application of the rules of contempt of court and make their own decisions accordingly. Freedom of speech has a central place in the Parliament and the ability of members to represent their constituents is an essential and cherished duty of us all. Alongside that, however, we all must have regard to the interests of justice, including the interests of all parties to a court action. There is no question of gagging parliamentary debate on the McKie case. It would have been perfectly in order for it to be debated here at any time after the Minister for Justice's statement in June 2000 and before the civil action became active in March this year. It will become possible again to debate the matter once the court case has been concluded. In the meantime, it is vital to recognise the proper place of the courts and of the Parliament. That is my ruling.<sup>59</sup>

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<sup>57</sup> Scotland Act 1998 (chapter 46), [Schedule 3](#), para 1

<sup>58</sup> Scottish Parliament, [Standing Orders of the Scottish Parliament 6th Edition 10th Revision 2 July 2024](#), Rule 7.5

<sup>59</sup> SPOR 15 May 2002 cc11855-6

## 5.2

### Wales

Section 31 of the Government of Wales Act 2006 requires the standing orders of the Senedd to have a sub judice rule.<sup>60</sup> There are separate standing orders for plenary meetings and committee proceedings.

#### Plenary meetings

13.15 Subject to the right of the Senedd to legislate on any matter or to discuss subordinate legislation, a Member must not raise or pursue in plenary meetings any matter which relates to active proceedings (as defined by Schedule 1 to the Contempt of Court Act 1981), except to the extent permitted by the Presiding Officer.<sup>61</sup>

#### Committee meetings

17.28 Subject to the right of the Senedd to legislate on any matter or to discuss subordinate legislation, a Member must not raise or pursue in committee meetings any matter which relates to active proceedings (as defined by Schedule 1 to the Contempt of Court Act 1981), except to the extent permitted by the Chair.<sup>62</sup>

## 5.3

### Northern Ireland

Schedule 6 of the Northern Ireland Act 1998 requires the standing orders of the Northern Ireland Assembly to have a sub judice rule.<sup>63</sup> This requirement is met in Standing Order No 73:

(1) A member shall not, in any proceedings of the Assembly, refer to any matter in respect of which legal proceedings are active (within the meaning of section 2 of the Contempt of Court Act 1981) except to the extent permitted by the Speaker.

(2) Where the proceedings are committee proceedings, paragraph (1) applies as if the reference to the Speaker were a reference to the chairperson of that committee.

(3) Nothing in this order shall prevent the Assembly from considering legislation.<sup>64</sup>

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<sup>60</sup> Government of Wales Act 2006 (chapter 32), [section 31](#). The Government of Wales Act 1998 had required the standing orders of the National Assembly for Wales to include a sub judice rule (section 69)

<sup>61</sup> Welsh Parliament, [Standing Orders of the Welsh Parliament](#) (PDF), September 2024, p59

<sup>62</sup> As above, p69

<sup>63</sup> Northern Ireland Act 1988 (chapter 47), [Schedule 6](#), para 1

<sup>64</sup> Northern Ireland Assembly, [Standing Orders](#), November 2024, SO No 73

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## Appendix 1 – The sub judice rule

The Motion agreed by the House of Commons on 15 November 2001 was:

That the Resolutions of 23rd July 1963 and 28th June 1972 be rescinded and the following Resolution be made:

That, subject to the discretion of the Chair, and to the right of the House to legislate on any matter or to discuss any delegated legislation, the House in all its proceedings (including proceedings of committees of the House) shall apply the following rules on matters sub judice:

1. Cases in which proceedings are active in United Kingdom courts shall not be referred to in any motion, debate or question.

(a) (i) Criminal proceedings are active when a charge has been made or a summons to appear has been issued, or, in Scotland, a warrant to cite has been granted.

(ii) Criminal proceedings cease to be active when they are concluded by verdict and sentence or discontinuance, or, in cases dealt with by courts martial, after the conclusion of the mandatory post-trial review.

(b) (i) Civil proceedings are active when arrangements for the hearing, such as setting down a case for trial, have been made, until the proceedings are ended by judgment or discontinuance.

(ii) Any application made in or for the purposes of any civil proceedings shall be treated as a distinct proceeding.

(c) appellate proceedings, whether criminal or civil, are active from the time when they are commenced by application for leave to appeal or by notice of appeal until ended by judgment or discontinuance.

But where a ministerial decision is in question, or in the opinion of the Chair a case concerns issues of national importance such as the economy, public order or the essential services, reference to the issues or the case may be made in motions, debates or questions.

2. Specific matters which the House has expressly referred to any judicial body for decision and report shall not be referred to in any motion, debate or question from the time when the Resolution of the House is passed until the report is laid before the House.

3. For the purposes of this Resolution—

- (a) Matters before Coroners Courts or Fatal Accident Inquiries shall be treated as matters within paragraph 1(a);
- (b) 'Motion' includes a motion for leave to bring in a bill; and
- (c) 'Question' includes a supplementary question.<sup>65</sup>

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<sup>65</sup> [HC Deb 15 November 2001 c1020](#)

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## Appendix 2 – Previous sub judice resolutions

### Resolution of 23 July 1963

Resolved, That, subject always to the discretion of the Chair and to the right of the House to legislate on any matter,

(1) matters awaiting or under adjudication in all courts exercising a criminal jurisdiction and in courts martial should not be referred to—

- (a) in any Motion (including a Motion for leave to bring in a Bill), or
- (b) in debate, or
- (c) in any question to a Minister including a supplementary question;

(2) matters awaiting or under adjudication in a civil court should not be referred to—

- (a) in any Motion (including a Motion for leave to bring in a Bill), or
- (b) in debate, or
- (c) in any question to a Minister including a supplementary question

from the time that the case has been set down for trial or otherwise brought before the court, as for example by notice of motion for an injunction; such matters may be referred to before such date unless it appears to the Chair that there is a real and substantial danger of prejudice to the trial of the case.

(3) Paragraphs (1) and (2) of this Resolution should have effect—

- (a) in the case of a criminal case in courts of law, including courts martial, from the moment the law is set in motion by a charge being made;
- (b) in the case of a civil case in courts of law, from the time that the case has been set down for trial or otherwise brought before the court, as for example by notice of motion for an injunction;
- (c) in the case of any judicial body to which the House has expressly referred a specific matter for decision and report, from the time when the Resolution of the House is passed.

(4) Paragraphs (1) and (2) of this Resolution should cease to have effect—

- (a) in the case of courts of law, when the verdict and sentence have been announced or judgment given, but resumed when notice of appeal is given until the appeal has been decided;
- (b) in the case of courts martial, when the sentence of the court has been confirmed and promulgated, but resumed when the convicted man petitions the Army Council, the Air Council or the Board of Admiralty;
- (c) in the case of any judicial body to which the House has expressly referred a specific matter for decision and report, as soon as the report is laid before the House.<sup>66</sup>

## Resolution of 28 June 1972

Resolved, That—

- (1) notwithstanding the Resolution of 23rd July 1963 and subject to the discretion of the Chair reference may be made in Questions, Motions or debate to matters awaiting or under adjudication in all civil courts, including the National Industrial Relations Court, in so far as such matters relate to a Ministerial decision which cannot be challenged in court except on grounds of misdirection or bad faith, or concern issues of national importance such as the national economy, public order or the essentials of life;
- (2) in exercising its discretion the Chair should not allow reference to such matters if it appears that there is a real and substantial danger of prejudice to the proceedings; and should have regard to the considerations set out in paragraphs 25 to 28 of the Fourth Report from the Select Committee on Procedure.<sup>67</sup>

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<sup>66</sup> [HC Deb 23 July 1963 c1417](#)

<sup>67</sup> [HC Deb 28 June 1972 cc1589-1627](#)

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