

Standards Committee

Monday, 2 July 2018

Appendices referred to in the following Agenda items:

9. Ethical Framework Update

Appendix 5 (Pages 3 - 48)

The Continuing Importance of Ethical Standards for Public Service Providers

Appendix 6 (Pages 49 - 136)

Intimidation in Public Life: A Review by the Committee on Standards in Public Life

Appendix 7 (Pages 137 - 157)

The Government's response to the Committee on Standards in Public Life
Review of Intimidation in Public Life

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Committee on
Standards in
Public Life

May 2018

The Continuing Importance of Ethical Standards for Public Service Providers

Contents

5

Foreword

6

Executive Summary

8

Summary of
Recommendations

12

Chapter 1:
Introduction

17

Chapter 2:
Developments since 2014:
what has changed in
practice, and in the
wider environment

24

Chapter 3:
Action on the Committee's
2014 recommendations

34

Chapter 4:
Ongoing ethical tensions

40

Annexes

Foreword

Public services touch the lives of millions of Britons every day. Their quality can determine our collective and individual wellbeing. As varied in our lives as they are common, services like waste disposal, construction, health and social care, transport, court, probation and prison services, catering, education and employment assistance, are increasingly supplied to many of us by private organisations and paid for with public funds. Members of the public are clear that they want all contracts for services entered into and carried out with the public in mind, and that when things go wrong there is transparency and accountability about what has happened.

When the government decided in 2013 to expand the remit of the Committee to include public service providers, we produced our first report on the issue, 'Ethical standards for providers of public services' in 2014. This report made a series of important and straightforward recommendations to enhance the government's capability to commission providers who focus on ethical service delivery. This new report finds that, four years on, very little has been done to implement those recommendations.

In 2015 the Committee published guidance with examples of good practice in ethical service delivery that we observed during our period of evidence collection for the first report. In 2018, our evidence shows that the majority of service providers to government are not currently demonstrating best practice in ethical standards.

This report therefore reinforces the importance of commissioners and providers of public services in refocusing on ethical service delivery. The levers for change lie primarily with HM Treasury and the Cabinet Office. All commissioning departments must adopt a wider view of value for money, one that embeds ethical considerations at every level. Our recommendations show where government can harness the enhanced skills of its commercial officers to assess providers for ethical behaviours

during the procurement process and then enforce and reward these behaviours when they deliver public services, thereby embedding an improved ethical culture.

Five years ago, the government identified the need for some examination of the complexities arising from a new approach to funding and delivering services to the public. The Committee has stepped up to meet this need and intends to maintain its watching brief on the ethical standards of providers of public services in its forward work programme. Following the corporate failures of a number of the biggest providers of services to government since 2013, including the devastating collapse of Carillion early in 2018, this is a critical juncture for the government to decide the way in which services are delivered with public money. We look forward to the government's response to this report.

I am indebted to Sheila Drew Smith OBE for leading this review, as well as leading our earlier reports on this subject. Sheila's term of appointment came to an end in February this year and, on behalf of the Committee, I would like to express my gratitude to Sheila for her tireless work for the Committee across its wide remit in general, and for directing and concluding the work on this review in particular.

Lord Bew, Chair of the Committee

May 2018

Executive Summary

1. In 2017, £251.5 billion of taxpayers' money, or about one-third of government spending, was paid to private, charitable and voluntary providers to deliver services. The organisations that receive this public money have increasingly been asked to deliver a greater array of services to meet increasingly complex public needs.
2. The public want services to be delivered responsibly and ethically, regardless of provider. They also need to apply high ethical standards when managing public money. Meanwhile, as these are commercial arrangements, it is incumbent on government to design service delivery and manage the life cycle of the contract in such a way as to engender and reward high ethical standards. And the public expects that when service delivery fails, there will be a direct line of accountability to the public authority responsible.
3. The Committee on Standards in Public Life is responsible for promoting the Seven Principles of Public Life – selflessness, integrity, objectivity, accountability, openness, honesty, leadership – to all those involved in the provision and delivery of public services.
4. In 2014, the Committee undertook a review into departmental commissioning activity and the ethical standards of service providers. This found that neither government departments nor providers were well equipped to support or enforce ethical conduct by service delivery staff.
5. This report charts progress against our 2014 recommendations in the new environment in which public service delivery is evolving, including changes to the market and changes to the civil service arising from the planned withdrawal from the European Union. As the United Kingdom establishes new public sector bodies and regulatory approaches, there will need to be a continued, consistent and rigorous application of the Seven Principles of Public Life to public service delivery.
6. In our 2014 report, the Committee made a series of recommendations on how the Cabinet Office and government departments could reinforce the Seven Principles of Public Life with service providers. The Committee also published in the following year an online guide providing practical advice on ways to embed a culture of ethical conduct and apply standards.
7. The Committee found that the government has made some improvements in how it manages the ethical conduct of contractors as part of a broader maturing of outsourcing practices. There is some, limited evidence to suggest that the enhanced skill of the civil service puts some pressure on suppliers, but not necessarily to improve the ethical nature of their service delivery. The civil service has otherwise made little progress in adopting the Committee's recommendations; limited progress on introducing formal measures to reinforce the application of ethical standards; there has also been little done in the 'Commercial Strategy' to break down isolated pockets of commercial knowledge and the application of ethical standards since the Committee's 2014 report.

8. We remain concerned over the lack of internal governance and leadership of these areas in those departments with significant public service contracts. Departmental and management boards spend little, if any, time considering ethical considerations and tend to delegate such issues 'down the line'. Those involved in commissioning and auditing contracts remain too focused on the quantitative rather than the qualitative aspects of their role. And departments lack clear lines of accountability when contracts fail.
9. Despite the welcome advent of the Suppliers' Code of Conduct and a commissioning officers' working manual on standards, the Committee did not find compelling evidence of any improvement in how ethical considerations are incorporated into service delivery design, contractor selection or formal contract management processes. Similarly, the Committee is concerned with a continuing lack of transparency and accountability around vital aspects of service delivery, including complaint-handling mechanisms.
10. Service providers have developed a greater awareness of their ethical obligations in recent years, partly due to the high-profile failure of some organisations to adhere to these standards. However, some remain dismissive of the principles of public life or adopt a 'pick and mix' approach, which is not in the public interest. And many service providers continue to expect that setting and enforcing ethical standards remains a matter for government alone.
11. The Committee remains of the view that more must be done to encourage strong and robust cultures of ethical behaviour in those delivering public services. To that end, the Committee reaffirms the recommendations made in its 2014 report and has made a further set of more detailed, follow-up recommendations to address particular issues of concern.
12. Finally, the Committee has identified ongoing ethical tensions that exist for private sector organisations and professionals involved in public service delivery. In particular, the Committee calls for service providers to recognise that the Seven Principles apply to them, for greater moral courage among key financial and other professionals in securing and maintaining high ethical standards, and for consultation on the extension of the application of the Freedom of Information Act to private sector providers. The lack of reach of the Freedom of Information Act into activities of public service providers has reached a point where it is out of step with public expectations. These issues are included in this report and are intended as a contribution to current debate around the standards expected by the public.

Summary of Recommendations

Recommendation	Timeframe	Responsibility for implementation
To implement the Committee's 2014 recommendations		
Government departments, particularly those specialising in commercial capability, should immediately revise policies, practices, training and guidance to implement the recommendations in the Committee's 2014 report	September 2018	All central government departments, the Government Commercial Function, the Crown Commercial Service and Civil Service Learning
The Cabinet Office should publish a statement providing information on activities taken to implement the 2014 recommendations	By the end of 2018	Government Chief Commercial Officer
2018 recommendations		
Government Commercial Strategy		
Commissioners of services should include a Statement of Intent as part of the commissioning process or alongside contracts where they are extended, setting out the ethical behaviours expected by government of the service providers	Immediately and with every new contract or renewal	Departmental chief commercial officers and Crown representatives
Departmental Boards and Permanent Secretaries		
The HM Treasury Code of Practice for Government Boards should be revised to include ethical standards as key considerations for departmental boards	Before the end of 2018	HM Treasury

Recommendation	Timeframe	Responsibility for implementation
Departmental boards should put in place processes to learn lessons regarding contractual relationships prior to contracts' conclusion or extension	Immediately	Boards of central government departments
Departmental boards should demonstrate leadership on the importance of high ethical standards in commissioning and elevate responsibility for the overall framework for commissioning for services, including expected ethical standards, to board level	Before the end of 2018	Departmental boards and Permanent Secretaries of central government departments
The Government Chief Commercial Officer should revise the Standards of Service for the Government Commercial Function personnel to include understanding of and commitment to continuing awareness of ethical standards	By September 2018	Government Chief Commercial Officer
Ethics training		
Ethical standards training relevant to procurement and commissioning activities should be mandatory for all civil servants for whom commissioning is part of their role	Immediately	Civil service learning and all central government departments

Recommendation	Timeframe	Responsibility for implementation
Professional ethical obligations		
Accounting Officers in their annual accounts should provide assurance in accordance with HM Treasury's 'Principles of Managing Public Money' that high ethical standards are part of achieving value for money	In finalising the Departmental annual accounts for 2018/19	Accountants and auditors, including those in HM Treasury, their representative bodies and the National Audit Office
All professional bodies such as CIPS, CIPFA, ICAEW and ICAS, as well as the National Audit Office, should insist that financial, audit, legal and actuarial professionals demonstrate 'moral courage' when they witness irregularities, and ensure they know where to go to make professional complaints about ethical standards breaches	Immediately and ongoing	Professionals and their representative bodies, including accountants, auditors, lawyers, actuaries and similar professionals
Transparency		
The government should hold a public consultation on the question of expanding the Freedom of Information Act 2000 (UK) to include information held by providers where that information relates, directly or indirectly, to performance of a contract with government for the delivery of public services	By spring 2019	Minister for the Constitution

Recommendation	Timeframe	Responsibility for implementation
Public Service Providers		
All public service providers must, at the point of commissioning, agree to the commissioning bodies' Statement of Intent on the ethical behaviour expected of the Board, employees and subcontractors in delivery of any contract	Immediate and ongoing; to form part of regular contract preparation	All public service providers
All public service providers must, at the point of commissioning, publish a corollary "Statement of Providers' Intent" providing their plan for embedding a culture of high ethical standards in their service delivery approach during the life of the contract. This statement should reference the providers' approach to ethical leadership, performance management, induction and ongoing professional training on ethical issues and honesty in reflecting performance issues during the life of the contract	Immediate and ongoing; to form part of regular contract preparation	All public service providers
All suppliers to government be required to publish the process and anonymised outcomes of whistleblowing and complaints process the organisation has in place	Immediate and ongoing; to form part of regular contract monitoring	All public service providers

Chapter 1: Introduction

The Committee on Standards in Public Life: remit and previous work in this area

1. The Committee on Standards in Public Life was created in October 1994 and is responsible for promoting the Seven Principles of Public Life, established in its first report chaired by Lord Nolan. These principles – selflessness, integrity, objectivity, accountability, openness, honesty, and leadership – have since become the bedrock of ethical standards for those in public life.
2. The Committee's terms of reference were expanded in 2013 to include all those involved in the provision and delivery of public services. Consequently, all private sector organisations (including profit, not-for-profit and charitable organisations) delivering public services with taxpayer funds are encompassed by the Seven Principles of Public Life.
3. In response to this expanded remit, the Committee undertook a review in 2014 into the processes of government departments which commission public services from external providers, and the ethical standards of service providers themselves. The report, 'Ethical Standards for Providers of Public Services', focused both on commissioners' awareness of the need to articulate the Seven Principles of Public Life to providers, and providers' understanding of these principles.
4. An online guide aimed at both commissioners of public services and service providers followed the report in 2015. The guide provides

practical advice on ways to embed a culture of ethical standards, including how to set standards and ensure they are met.

Why do ethical standards matter for provision of public services?

5. About one-third of government spending is on external providers.¹ In 2017, over £251.5 billion of taxpayers' money was paid to corporate, charitable and voluntary service providers. The organisations that receive this public money have the power to affect significantly and directly our quality of life. They also have an obligation when managing public money, to apply high ethical standards when considering value for money.²
6. The public has long been concerned that their services are delivered responsibly and ethically, regardless of provider.

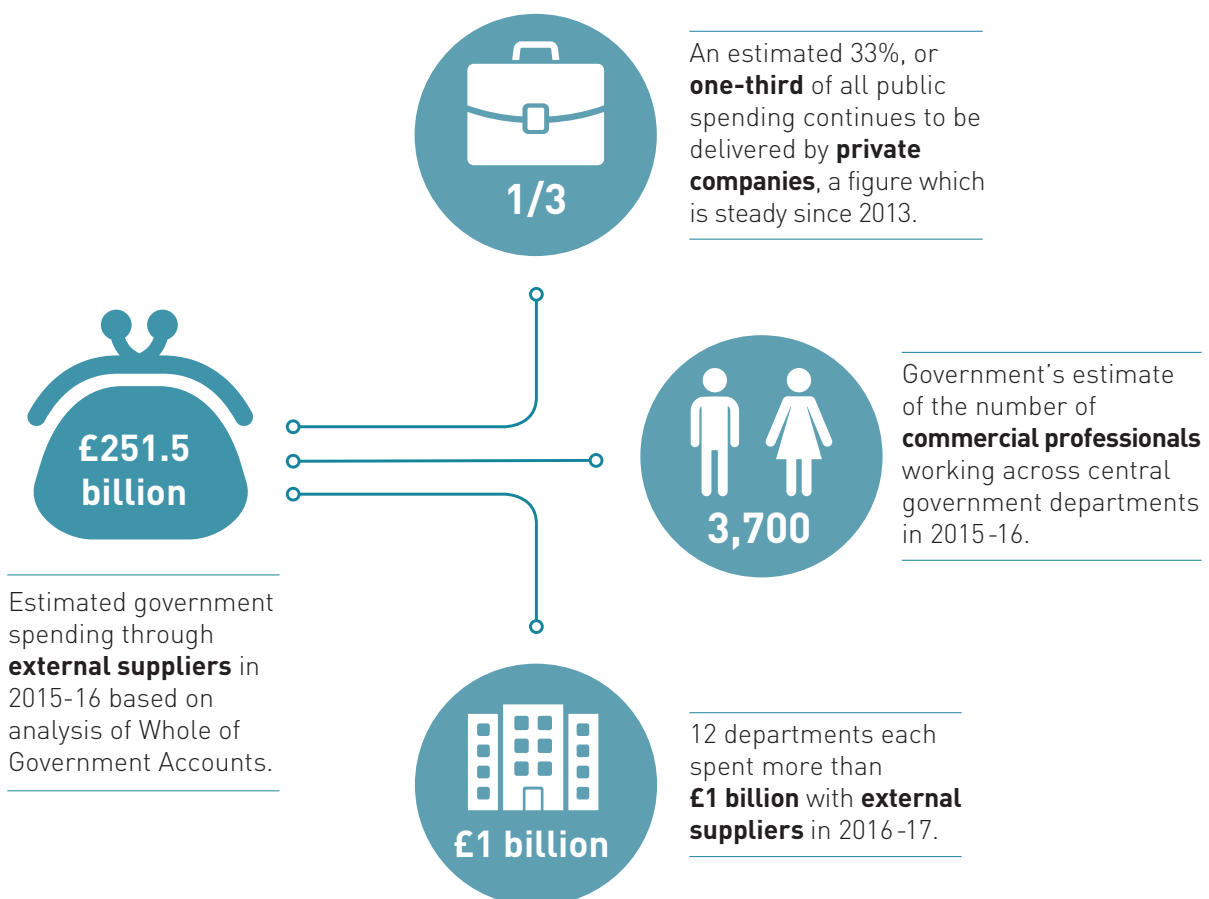
An Ipsos Mori survey commissioned by the Committee for the 2014 review found that "the public felt that the same ethical standards should be upheld by any organisation providing public services regardless of sector and supported by codes of conduct". In the survey, the public emphasised the "importance of needs-based provision – taking the needs of the end user into account, talking openly, and giving honest, impartial advice".³

1 National Audit Office, 'A short guide to commercial relationships', December 2017, page 1. URL: <https://www.nao.org.uk/wp-content/uploads/2017/12/A-Short-Guide-to-Commercial-relationships.pdf> page 1: Note on figures: government has no clear figure for the amount it spends through commercial relationships. The NAO produces its estimates based on sources including Whole of Government Accounts, Public Expenditure Statistical Analysis and the Cabinet Office's unpublished spending portal

2 HM Treasury, Managing Public Money, 2013; revisions 2015, 2018, page 1. "The demanding standards expected of public services are set out in box 1.1 and include "honesty, impartiality, openness, accountability, accuracy, fairness, integrity, transparency, objectivity, reliability and carried out [inter alia] to high ethical standards achieving value for money." URL: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/686462/MPM_2018.pdf (Accessed 10 December 2017, 8 March 2018)

3 Ipsos Mori results, Ethical Standards for Providers of Public Services Report, 2014, page 18

7. It is imperative for all public service providers to develop a strong culture of service delivery to all their customers - that is, central or local government and consumers and members of the public - built around ethical standards. This does not preclude an organisation from value for money considerations and offering a fair price for an ethically sound service which focuses on the experience of customers and its impact on communities.
8. The Committee fully recognises the challenges and difficulties of building a culture of ethical standards and behaviours in any organisation, but takes the view that the starting point must be an articulation of the expected standards by commissioners and an acceptance of those standards by providers.



Reference: National Audit Office, 'A short guide to commercial relationships'. December 2017.



This diagram is based on and contains information from NHS Digital, licenced under the current version of the Open Government Licence. The inner two layers of the diagram from NHS Digital have been retained. The outer layer has been added by the Committee.

9. Organisations that fail to ingrain a culture of service delivery built around ethical standards can face serious consequences, including significant reputational damage and the loss of senior company executives. However, a 2016 Institute for Government (IfG) survey found that when service providers fail to deliver, most respondents still think the commissioning government body should take responsibility and bear at least as much blame as the service provider.⁴ As the Local Government Ombudsman recently commented:

“Councils can outsource their services but not responsibility for them.”⁵

What did the 2014 review find?

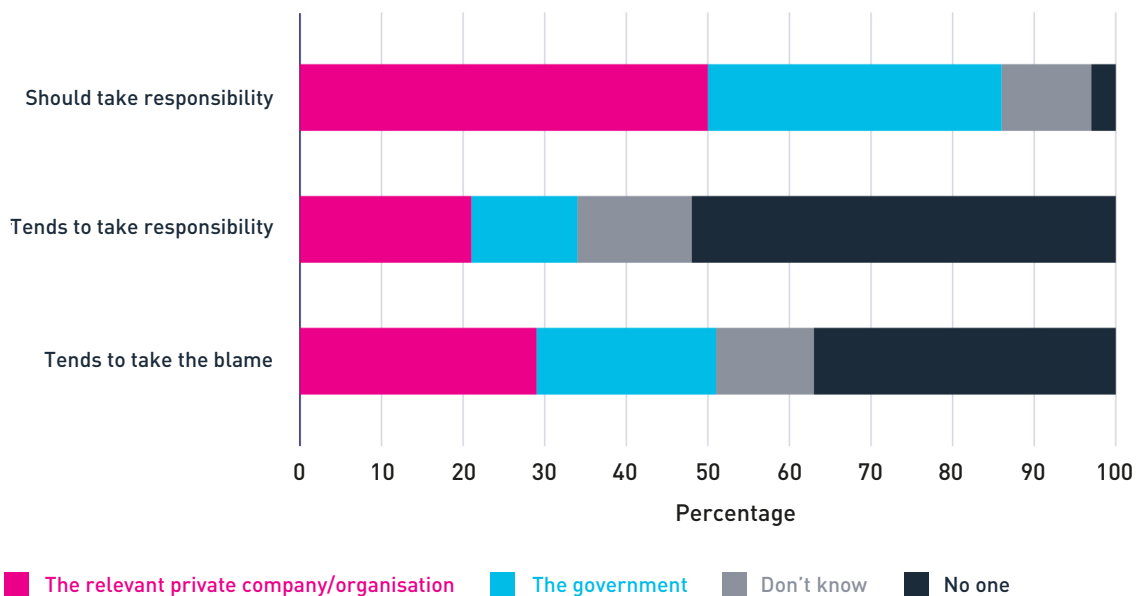
10. The Committee’s 2014 review found that institutions enjoy more trust from the public when services are provided based on principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.⁶

⁴ Institute for Government populus polling, 2016, N=2,040 cited in Gash, Tom, Building Government’s Commercial Capability. Institute for Government, February 2017, page 6

⁵ Michael King, Local Government Ombudsman cited in Sharman, Laura. The Municipal Journal, ‘Ombudsman warns councils not to outsource responsibility’ 14 March 2018. URL: <https://www.themj.co.uk/Ombudsman-warns-councils-not-to-outsource-responsibility-/210461>

⁶ Committee on Standards in Public Life, Ethical Standards for Providers of Public Services Report, 2014, page 5

Institute for Government polling: 'Thinking about the public services that are contracted out to private companies/organisations, when something goes wrong who do you feel...?'



Source: Institute for Government populus polling, 2016, N=2,040

11. The Committee found that:

- the public want common ethical standards across all provider types regardless of sector, supported by a code of conduct
- 'how' the service is delivered is as important to the public as "what" is delivered, with a focus on personalisation and user-led definition of quality
- public and stakeholder views of what should constitute ethical standards are broadly in line with the Seven Principles of Public Life
- commissioners expect providers to conform to ethical standards but rarely explicitly articulate this
- commissioners want guidance on how to embed ethical standards in the commissioning and procurement process

12. The Committee made three sets of recommendations, summarised below and considered in detail in chapter 3. The key recommendations were that:

- the Cabinet Office undertake a number of steps to reinforce the application of the Seven Principles of Public Life in public service delivery
- government departments take formal steps to ensure their oversight of ethical standards in service provision
- the Cabinet Office and departments consider ethical awareness a professional commercial capability requirement for those commissioning, procuring or managing government contracts, and provide suitable training

What does this follow up report cover?

13. The Committee has sought to identify what has changed in the attitude to and application of the Seven Principles of Public Life by both commissioners and service providers.
14. The Committee has been particularly interested in:
 - where service providers put ethical standards and the user experience at the centre of their business model
 - the government's capacity at the strategic level to ensure the understanding and application of the Seven Principles of Public Life
 - what the changes in government policy and capacity building since 2014 have meant for those who are at the coalface of designing and managing public service commissioning arrangements
 - whether commissioners and providers have succeeded in delivering public services that meet the ethical expectations of the public they serve
15. The Committee has considered the developments in best practice and the wider environment in which public service delivery is evolving (Chapter 2); actions taken in respect of the Committee's 2014 recommendations (Chapter 3); and offers some reflections on potential ethical tensions (Chapter 4).
16. In March 2017, the Committee held a roundtable followed by a survey assessing ethical standards in service commissioning. The names and organisations of those who participated are in Annex 4 to this report.
17. A great deal of media reporting and literature has also been published in the intervening period and this report attempts to reflect some of the views of well-informed commentators. During the period in which the Committee was finalising this report, Carillion, one of the largest providers of public services to both central and local government, went into liquidation. The public outcry around this failure serves to highlight the fundamental importance of companies and government paying attention to ethical standards by all those who provide services funded by the taxpayer.
18. We are grateful to all those individuals and organisations who engaged with our review.

Chapter 2:

Developments since 2014:

what has changed in practice, and in the wider environment

What has changed: key findings

- The Committee was pleased to note that the government has matured in its approach to ensuring their personnel have the necessary skills to design and manage commissioning of public services.
- Similarly, the Committee welcomes the publication in September 2017 of the government's Suppliers' Code of Conduct, which includes reference to the Seven Principles of Public Life. The document is an important step in putting suppliers on notice about the government's, and the public's, expectations of their behaviour.
- However, other than government's focus on increasing the commercial skills of its people, there is an insufficient focus on the need for ethical awareness in guidance and training materials provided by the Cabinet Office (Commercial Function), the Crown Commercial Service, and the commercial functions within departments.
- The government has made limited progress in adopting the Committee's 2014 recommendations.
- There is some evidence that the Crown Representative scheme and the government's coordination of its commercial activities with the largest outsourcing providers have improved government's ability to put pressure on providers, which some judge has led to lower costs and sometimes better performance.
- However, there is little evidence that the Cabinet Office has championed ethical components in the delivery of contracts or ensured a focus on ethical standards in managing the way services are delivered under these contracts, or in negotiating contract extensions.
- The government has made very limited progress on introducing formal steps to reinforce the application of ethical standards in services it commissions. There also remains a lack of internal departmental oversight and leadership on significant public service contracts.
- Accounting officers and auditors have failed to adopt the practice of seeking and reporting assurance that expenditure is undertaken, and value for money is achieved, in accordance with the highest ethical standards.
- While guidance on corporate governance in central government departments provides that board members should act in the public interest and safeguard the Nolan Principles, ethical standards are not explicitly included in the remit of most departmental boards.⁷ Boards may, under the guidance, delegate governance, audit and risk to sub-committees. Few government departmental boards or their subcommittees address the need for ethical standards or directly consider the ethical standards of their service providers.⁸
- The Committee considers that ministers should show leadership in asking for, and in receiving assurance from their departments that high ethical standards are built into their service delivery commissioning and contracts.

7 HM Treasury. Corporate governance in central government departments: code of good practice, April 2017 <https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017>

8 Annual Statements of Non-Executive Departmental Board members 2014/15 and 2015/16. Deliberations and individual processes of departmental boards are not otherwise published.

The wider environment

19. Three developments in particular mark the environment in which public service delivery is evolving. Most notably, the market for outsourcing has changed, with service design by government becoming more routine and large numbers of long-term contracts being extended. This has led to a gradual consolidation of service providers willing or able to deliver against larger or more specialised requirements. This potentially complicates the ethical dimensions of any procurement activity.
20. Second, there has been a heightened awareness of ethical obligations among service providers. This is perhaps partly brought about by a number of service providers since 2014 experiencing significant adverse consequences for failing to deliver public services within appropriate ethical standards. This might have encouraged a focus by some providers on reputation management and protections rather than development of an ethics-led service delivery culture. The sudden liquidation of Carillion, despite its continued outward representations of success, also serves to highlight these tensions.
21. Finally, as the United Kingdom withdraws from the European Union, it will need to establish new public sector bodies and regulatory approaches. It is likely that further work will be required to ensure a consistent and rigorous application of the Seven Principles of Public Life to public service delivery.

Changes in the market for outsourcing

22. While services have been outsourced on a large scale by governments for more than 30 years, the scale of outsourcing practices has continued to increase since the committee last looked in 2014. This has likely contributed to a more stable and less dynamic procurement market. As noted above, government commissioning processes have become more routine and there has been a consolidation amongst major service providers.
23. Press reports observe that there has been a growing tendency for government contracts for services to be extended, without a rigorous re-examination and renewal of ethical or other requirements. The NAO has warned that extensions of contracts reduce competitive pressure on providers, which can mean that government “pays more for technology over time than it needs”.⁹ Older contracts tend to have different performance indicators and payment schedules when compared to newer contracts for service with government.
24. The Committee is concerned ethical issues are lost in old contracts that are extended without changes being made to performance milestones to reflect ethical standards or, for example, user satisfaction. According to the NAO, 54 per cent of government contracts that were due to expire in 2015-16 were extended.¹⁰
25. The Committee is also concerned that the opportunities afforded to government departments at the commencement of a new contract are not being seized upon fully by those officers designing the commission. The Cabinet Office’s contract management handbook Professional Standards goes some way to highlighting the need to design contracts that consider ethical standards, but refers instead to corruption, such as bribery and fraud, while stopping short of referring to the Seven Principles in discussions of the need to be aware of ethical suppliers and supply chains.

⁹ Plimmer, Gill and Blitz, James. ‘UK outsourcing deals extended because of Brexit workload’ Financial Times, 10 April 2017. URL: <https://www.ft.com/content/fa80d526-1b7a-11e7-a266-12672483791a> Response by Rhys Williams, Gareth, Government Chief Commercial Officer ‘No contract extensions are due to ‘Brexit workload’’. Financial Times 18 April 2017. URL: <https://www.ft.com/content/28d0de66-236a-11e7-8691-d5f7e0cd0a16>

¹⁰ As above number 9.

26. Additionally, some markets for government services do not otherwise exist, and consequently, government continues to be the creator of new markets, with novel service demands. This raises tensions and possible conflicting roles between creating, using and subsequently managing markets. IfG research has “highlighted a lack of practical information and support for those designing, managing and stewarding public service markets across central and local government.”¹¹
27. For example, when the Ministry of Justice commissioned e-tags for young offenders, the eventual collapse of the scheme and escalating cost, without the service ever going online, was partly due to neither the commissioners nor the service providers knowing what delivery looked like. When such collapses in service arrangements occur, this further distorts the already small market of suppliers further. When Serco and G4S were prohibited from supplying electronic monitoring services, government could find only one supplier, Capita, willing and able to take on the contract.¹²

Providers' awareness of ethical obligations

28. A number of large service providers have experienced catastrophic ethical and financial failures that have forced them to reset their financial, personnel and regulatory posture. These failures have impacted heavily on the organisations themselves but also on the commissioning bodies and most of all, those directly interacting with the service. The way that some providers now manage risk and reputation, as well as how they recruit and train their staff has been altered by the requirements of corporate renewal.

29. Capita, Serco and G4S are all examples of firms that, due to such large-scale failures since 2010, have undergone systematic and drastic overhaul of senior personnel, internal and external complaints and whistleblowing policies. They have published ethical codes of behaviour which appear to link to the risk assessment and management each of these firms undertake for major projects.

Large service provider G4S told the Committee that, “we now think in a more conscious, active way about our role as delivering public services”. They also said that they have a greater emphasis on “operational, financial and reputational risk” and that these factors are now a “stronger part of the process of deciding whether to take up a contract”.¹³

30. The Committee met these three firms and found their focus was on compliance with regard to ethical service delivery. These firms made clear they would perform services differently where required to do so by government.
31. Many service provider organisations said that their ethical standards culture has radically shifted during the process of corporate renewal. Several providers have published values since 2014, all of which include references to ethical standards, integrity, respect for colleagues

11 Institute for Government, ‘Choice, competition and public service markets’: URL:

<https://www.instituteforgovernment.org.uk/our-work/public-services/choice-competition-and-public-service-markets>

12 Gash, Tom. Building Government’s Commercial Capability, Institute for Government, February 2017, page 6. URL: <https://www.instituteforgovernment.org.uk/publications/building-government%E2%80%99s-commercial-capability>

13 Interview with Peter Neden, Divisional CEO, G4S Care & Justice Services and Debbie Walker, Group Corporate Affairs Director, G4S on 15 March 2017.

and customers and in most cases, openness and transparency. Several pointed to success with new technology used in their operating systems to increase ethical awareness of staff, for example, enhanced body-worn monitoring devices worn by custody officers provided assurance as to standards of treatment and amenities.¹⁴

32. Some of these improvements by larger service providers towards understanding their obligations might be due to the reputational damage to companies and organisations resulting from ethical failures becoming public scandals. For example, G4S senior executives said that the 2014 report was a useful reference point and touch point for discussion and development: "We now think in a more conscious/active way about our role as delivering public services."¹⁵ They also said that they have a greater emphasis on reputational risk that it is now "a stronger part of the process of deciding whether to take up a contract".¹⁶
33. It would appear that providers have demonstrated a greater awareness of the nexus between creating an ethical standards framework and how it can protect against damage to reputational risks and shareholder pressures. These changes, forced upon them and necessitated by failures, have provided opportunities to grow a more ethically aware and conscientious market of service providers.
34. However, it is difficult to judge the depth and resilience of the cultural and principles-based changes that have taken place and at board level some appear to have fallen foul of their own precepts. In suggesting how the Nolan Principles of leadership and selflessness can be best applied, Dominic Lawson, in the *Sunday Times* said it well: ¹⁷

The truth is that no amount of corporate "best practice" seminars, nor even the most lavishly staffed HR departments emitting reams of semi-comprehensible politically inspired jargon, have the force of individual conscience.¹⁷

35. The reality, is that little is known about how actively staff in large service providers engage, apply and challenge the ethical standards espoused in these codes. Even less is known about the norms being developed in the firms following corporate renewal.
36. One provider which published extensive updated values statements and ethical standards on its website but which clearly failed to translate these into an ethical culture, was Carillion.
37. In the wake of its collapse, the Committee is concerned that despite these tilts at ethical standards, the practice within Carillion and its subsidiaries was very different. It appears that an absence of ethical leadership, honesty, transparency and accountability has come at the expense of the shareholders, government and taxpayer and above all, its employees, subcontractors and those who rely on the public services it was contracted to provide.

14 Gash, Tom, as above number 12.

15 As above number 13.

16 As above number 13.

17 Dominic Lawson, 'Virtue, Carillion could do, profit, not so much', Sunday Times. 21 January 2018. URL: <https://www.thetimes.co.uk/article/virtue-carillion-could-do-profit-not-so-much-b66w6gw2b>

Suppliers of sensitive contracts should be obliged to lodge with government a 'living will', being a set of arrangements to facilitate the transfer of a contract back to government or to another supplier if required. This would significantly reduce the operational risk to government of supplier failure. This is the 'Security of Supply Principle'.

Government and suppliers should agree to abide by a mutually-agreed code of conduct, which would set out expected standards of behaviour from government and its contractors. This would involve the government agreeing not to impose punitive or unfair terms and conditions or transfer unmanageable state risk; suppliers would agree to maintain certain metrics of financial stability; pay their sub-contractors in a timely fashion; and adequately fund their pensions. We think it would be important to have a process of independent arbitration built into the code of conduct to ensure that there is some avenue of redress and calling to account those who do not abide by the code. We call this the 'Fairness Principle'.¹⁸

38. Some of this is due to the lack of transparency of data, evident from the fact that internal complaints and feedback procedures are not traceable to those outside the company. Even if the complaints process in basic form is available- as in the case of Serco – none of the companies the Committee spoke with publish detailed information on how these processes are managed, any anonymised data about the outcomes of complaints, or how senior leadership then address the underlying issues.¹⁹

39. We noted, however, the CBI's comments that some departments and local governments have been effective in their commissioning by having consistency of experienced personnel, and a better awareness of what is to be contracted and what should be retained in house.

Following significant internal review and renegotiation with service provider Capita, the London Borough of Barnet is now a more sophisticated purchaser of an array of services and, it considers, in a good position to assess service quality.²⁰

18 2017 Serco Stock Exchange Announcement Issued on 22 February 2018, Serco Group PLC [LEI: 549300PT2CIHYN5GWJ21], pages 10-12, URL: <https://www.serco.com/media/2271/serco-fy17-results-sea-22-february-2018.pdf>

19 Interviews with representatives from G4S, 15 March 2017; Serco, 2 March 2017; Capita, 11 April 2017.

20 Interview with John Hooton, Chief Executive and others from the London Borough of Barnet on 24 April 2017.

40. The Committee is also of the view that service providers put an inappropriate amount of emphasis on managing reputation, without acknowledging that it is a symptom of wrongdoing pervading an organisation's approach, rather than a risk itself. When the Committee met with David Gray, Chair of the energy regulator Ofgem during our review, 'Striking the Balance', he explained the danger in a reputation-led approach to risk management.

The risk register should not have reputation as a standing risk, when actually the 'reputation' is a result of doing the wrong thing... The reputation is commensurate with our 'licence to operate' based on trust. Therefore, having a good reputation should not be the objective.²¹

Withdrawal from the European Union

41. It has been reported that a large number of government contracts, including those for service delivery, have been extended because the resources of the commissioning bodies are too preoccupied with Brexit to focus on commencing new commissioning processes.²² Although this issue may decline in the coming years, contract extension should always be accompanied by a requirement for service providers to adopt and adhere to the high ethical standards in the contract delivery.
42. As the UK leaves the European Union, up to 20 new public bodies, including regulatory organisations, may need to be created. Government will need to ensure that these bodies apply a consistent and rigorous application of the Seven Principles of Public Life to public service delivery and implement the recommendations in our report '*Striking the Balance: upholding the seven principles in regulation*'.²³
43. In February 2014, the UK implemented EU Public Procurement Directives. The Committee had been informed during discussions leading to its previous report that these directives were partly responsible for ethical standards performance criteria being omitted from government service provider contracts. Leaving the EU will change the public procurement landscape, which may lead to the creation of contractual arrangements outside these regulations.²⁴

21 "David Gray, Chairman, Ofgem in 2016." Interview with Committee on Standards for Public Life for '*Striking the Balance – upholding the Seven Principles of Public Life in Regulation*', 2016.

22 Pilmer, G and Blitz, J., 'UK outsourcing deals extended because of Brexit workload'. URL: <https://www.ft.com/content/fa80d526-1b7a-11e7-a266-12672483791a>

23 Committee on Standards in Public Life, '*Striking the Balance: upholding the seven principles in regulation*', September 2016. URL: <https://www.gov.uk/government/publications/striking-the-balance-upholding-the-7-principles-in-regulation>

24 Purton, T and others (Travers Smith LLP), 'Outsourcing: UK (England and Wales) overview', Thomas Reuters Practical Law, 1 August 2017. URL: <https://uk.practicallaw.thomsonreuters.com/9-501-5068?transitionType=Default&contextData={sc.Default}&firstPage=true&bhpc=1> (Accessed 6 December 2017). Note: Other laws and guidance can also be relevant to procurement of services by departments and public bodies, including the Human Rights Act 1998, HM Treasury Decision Map Guidance for Procurement, the Detailed guidance published by the Crown Commercial Service (including the Suppliers' Code of Conduct), the Local Government Acts 1999 and 2000 and 2012, and local government standing orders

Chapter 3:

Action on the Committee's 2014 recommendations

44. In the Committee's 2014 report, we considered the government's ability to re-set the relationship between commissioners of public services, and the provider organisations. With this report, we have reviewed what the government has done to ensure that staff commissioning services are better equipped to engender ethical behaviours in their service delivery contract design and supervision. Broadly, we have found that the intention is there within government better to equip officers with skills; and that senior leadership and guidance have a more sophisticated negotiating stance when entering into agreements with providers.

45. On the provider side, the Committee's research for its 2014 report set out to understand the relationship between the Seven Principles of Public Life and those organisations that provide public services. We established that these providers had not previously been aware of the expanded remit of the Committee. Several of the main providers to government experienced significant corporate failures in 2013, resulting in a process of 'corporate renewal', which generally involved removal of most of the senior executive and board-level management, careful examination of financial management and accountability arrangements, re-assessment of financial risk and an examination of the ethical culture within these firms.



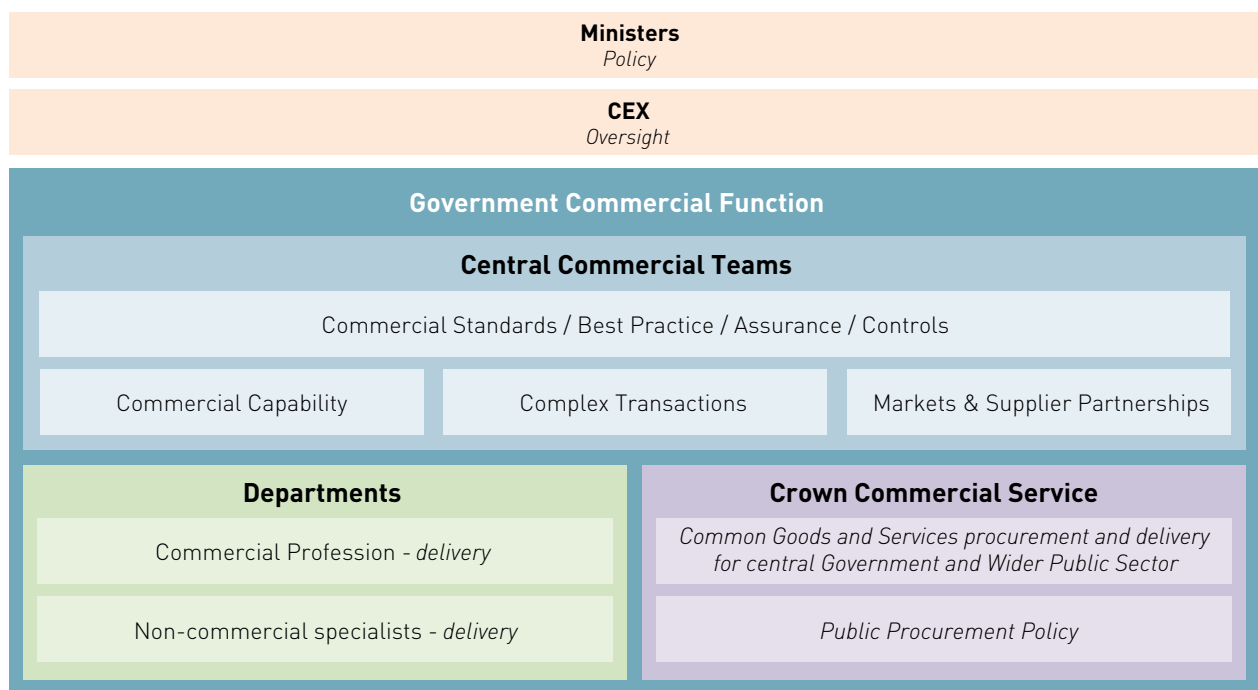
46. Set out below is a summary review of progress against our 2014 recommendations grouped according to the responsible organisation/function. A full list of the Committee's 2014 Report recommendations is set out in Annex 1.

Cabinet Office and the Crown Commercial Service (formerly GCS)

47. The government's new arrangements through the Crown Commercial Service (CCS) in the Cabinet Office, and the Government Commercial Function throughout central government departments, to bolster commercial capability and coordination of commissioning services, are "headed in the right direction" for eliciting a better outcome and attaining value for money. This is according to the NAO, the Chartered Institute of Public Finance and Accounting (CIPFA) and the Institute for Government.²⁵ The Chair of the House of Commons Public Accounts Committee (PAC) has, however, commented that the "improvements in contracting skills are not coming through quickly enough".²⁶

The role of the Crown Representatives is to help the government to act as a single customer with major suppliers. They work across departments to: ensure a single and strategic view of the government's needs is communicated to the market; identify areas for cost savings; and act as a point of focus for cross-cutting supplier-related issues. Crown Representatives cover all sectors of service provision including small and medium enterprises, voluntary sector organisations, mutually owned organisations, large suppliers and specific sectors.²⁷

The Commercial Function: Who does what



Source: Chief Commercial Officer, Cabinet Office.

25 "Government is now taking the issue seriously, and reforms since 2013 are going in the right direction." "Government Commercial and Contracting: an overview of the NAO's work", National Audit Office, Spring 2016.

26 Rutter, Tamsin, 'Meg Hillier on running the Public Accounts Committee, Whitehall contracting headaches, and what keeps perm secs awake at night', Civil Service World, 22 January 2018. URL: <https://www.civilserviceworld.com/articles/interview/meg-hillier-running-public-accounts-committee-whitehall-contracting-headaches-and>

27 'Crown Representatives and strategic suppliers: Information about the Crown Representatives and the strategic suppliers they work with'. URL: <https://www.gov.uk/government/publications/strategic-suppliers>

48. Although the Cabinet Office's commercial capability improvement work has been underway since before the Committee's 2014 report, very little of the new framework documents explicitly reference ethical issues, nor do they emphasise the need for ethical awareness among the professionals leading this work.

49. We recognise this capability is still early in development and that the changes to recruitment, leadership, skills mix and retention may not yet have resulted in significant changes in the ethical aspects of the outcomes required of services by third party providers. We also note that some suppliers have commented that they consider the government is a more skilled purchasing partner recently.

50. Problems have continued to emerge from some contractors who have failed to have effective standards or systems in place to ensure ethical behaviour by the board, and among their staff. Progress has been hampered by the overall strategic approach lacking underpinning ethical standards.

Cross-government efforts on ethical awareness

51. Whether the changes in the government's 'commercial capability' are sufficient to reap improvement in its actual capacity to identify ethical failures and manage them is more difficult to assess at this stage. The Committee did not find compelling evidence of improvements in relation to the following:

- the way in which commissioners make decisions about the structure of a commissioning process;
- what ethical considerations, if any, are taken into account when government commercial officers decide between bids for service delivery;
- leadership in the face of ethical as well as risk-based failures by civil servants and senior executives of service delivery organisations;

- complaints handling mechanisms e.g. lack of ombudsmen coverage;
- transparency and openness through the contractual process and in monitoring subsequent delivery.

Ensuring that ethical standards are addressed in contractual arrangements

52. The 2017 Suppliers' Code of Conduct goes some way to resetting expectations about what contracts with government will cover and what standards underpin contractual relationships between government and private organisations. The Code signals to service providers that the government expects more of commissioning officers across the civil service and service providers alike on improving standards of ethical conduct in service provision to the public. The Suppliers' Code of Conduct provides that the government "must ensure adherence to the highest standards of ethical and professional behaviour". However, the Cabinet Office has yet to demonstrate the extent to which the improvements in capability have led to auditable, demonstrable changes in the nature of ethical commissioning activity that the government undertakes.

53. The Ministry of Justice (MoJ) told the Committee that options are being considered for the creation of contract management standards, guidance tools and a repository for the management of operational performance and obligation tracking.²⁸ The aim of this work is to increase commercial capability across the procurement life-cycle and ensure that there is effective oversight for the application of policies and controls within the supply chain: "acting as a unifying process across functions and professions". Such tools would ideally include information about ethical behaviours detailed within the Code of Conduct. The driving narrative for these reforms is operational efficiency, value for money and contract compliance, with ethics being an integral part.²⁹

28 Interview with Barry Hooper, Chief Commercial Officer, Ministry of Justice on 16 March 2017.

29 As above number 28.

54. There is little evidence that the Cabinet Office has so far championed ethical components in the preparation for commissioning, the delivery of contracts, or particularly focused on ethical standards in managing the way services are delivered under these contracts.
55. Some recent changes to accountability and transparency requirements, including 'cascading accountability chains' have been introduced by the Cabinet Office centrally, but the absence of a means to monitor providers' ethical standards or to enforce improvements where unethical conduct has occurred, remains a major failing.

Developing guidance on how value for money can be aligned with high ethical standards

56. There has been no discernable joint policy work by the Cabinet Office, NAO and HM Treasury to align value for money with ethical standards, even where the departments consider there to be compatible key performance criteria for contract managers.
57. We note the publication in February 2018 of a new handbook on professional standards for contract management by the Commercial Capability Programme team of the Cabinet Office.³⁰ The document, which is designed to be used in conjunction with the Civil Service Competency Framework, Civil Service Leadership Statement and the Civil Service Code, is the most practical instruction manual available to the civil service staff responsible for any stage of commissioning service delivery. The document does not reference this Committee's 2014 report or, the 2015 guide giving examples of best practice behaviour by commissioners, contract managers and providers. The handbook also makes no reference to the Seven Principles of Public Life and how they are to be imbued through the pre-contractual, design and contract management phases of commissioning services.

Ensuring that ethical standards are championed by Crown Representatives and the need for formal assurances regarding ethical standards

58. The Crown Representative's role is to ensure that government is a well-informed consumer, negotiator and contractor. Their absence can have serious implications for both the commencement of a contract, and as has become evident in the emerging case of Carillion, lead to a situation where the government's visibility of a single, large contractor is limited. In the event of corporate collapse, the future of the contract involving large sums of public money becomes uncertain and the risk of non-delivery increases.
59. There is limited evidence that commissioners of services contracts are any more aware of the importance of considering ethical issues in pre-contract discussions or at the due diligence stage prior to contracting or using contract performance monitoring to enforce ethical standards than they were in 2014.
60. Service providers consistently told the Committee that they want commissioners to articulate the expected ethical standards. Most providers would be prepared to demonstrate a commitment to ethical standards, which many said was essential for maintaining their reputation, and by extension their viability.
61. But, where agreements or contract discussions did not specify expected ethical principles, some providers treated the Seven Principles or other ethical considerations as noble but optional ambitions rather than blueprints for operating.

30 Government Commercial Function, 'Contract Management Professional Standards Version 1.0', 22 February 2018. URL: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/683151/6.4006_CO_Commercial_Capability_Programme_Framework_Interactive.pdf [Accessed 22 February 2018]

The lack of explicit reference [to the Seven Principles of Public Life] might be seen as a gap; if such principles were part of the evaluation criteria people would pay attention to it. This would then be a powerful symbol.³¹

62. The Committee understands the difficulties in incorporating expected ethical behaviours in contracts but takes the view that such expectations and commitments could be set out by the commissioning body in a Statement of Intent to be agreed by the provider rather than in contractual terms. Commissioners and auditors could then actively monitor this statement and accompanying plan. A Statement of Intent would put pressure on contract managers to identify irregularities through their monitoring and performance reviews.

Recommendation:

Government departments, particularly those specialising in commercial capability, should immediately revise policies, practices, training and guidance to implement the recommendations in the Committee's 2014 report.

Recommendation:

The Cabinet Office should publish a statement providing information on activities taken to implement the 2014 recommendations.

Recommendation:

Commissioners of services should include a Statement of Intent as part of the commissioning process or alongside contracts where they are extended, setting out the ethical behaviours expected by government of the service providers.

Recommendation:

All public service providers must, at the point of commissioning, agree to the commissioning bodies' Statement of Intent on the ethical behaviour expected of the board, employees and subcontractors in delivery of any contract.

Recommendation:

All public service providers must, at the point of commissioning, publish a corollary "Statement of Providers' Intent" providing their plan for embedding a culture of high ethical standards in their service delivery approach during the life of the contract. This statement should reference the providers' approach to ethical leadership, performance management, induction and ongoing professional training on ethical issues and honesty in reflecting performance issues during the life of the contract.

Recommendation:

All suppliers to government be required to publish the process and anonymised outcomes of whistleblowing and complaints process the organisation has in place.

31 Kevin Craven, Chief Executive Officer, Central Government Division and Charles Carr, Communications Director, Media Relations, Serco, interview held on 2 March 2017.

Departmental Boards and Accounting Officers

63. Accounting Officers have not adopted the practice of seeking and reporting assurance that achieving value for money and expenditure has been in accordance with the highest ethical standards. Professional bodies and the NAO remain very concerned that Accounting Officers are insufficiently concerned that public value and good quality public services are not necessarily being derived from public expenditure on contracts. Others have described the scale of transfer of risk by government to the corporate sector, and the acceptance of that risk by companies, to be “dumb and desperate”.³²
64. The Committee that the government has recently worked on creating an agenda on accountability; central government departments are now putting in place ‘cascading accountability statements’. These statements are the only place departments are writing down who will and how to deal with an ethical breach by a service provider; how the Accounting Officer would deal with the breach and who is responsible for what component of the service.
65. A new code of practice published in April 2017 by HM Treasury and the Cabinet Office concerning the corporate governance for departmental boards³³ and accompanying guidance fails to provide advice on the need or method for ensuring ethical standards for commissioning. This is despite the budgets and delivery risks inherent in this activity. In practice we have found ethical issues are delegated to mid-level civil servants with little awareness of how the Seven Principles should relate to service contracts.
66. Some departments have begun to tackle the issues. For example, The Department for Education is undergoing a Commercial Transformation Programme, this includes raising the importance and skills of the

Contract Manager role. This includes having a smaller number of more specialised and better trained contract managers, each managing a number of contracts, rather than the previous position of individual contracts being a small part of a generalist’s job. The Department intends this programme to enable these staff to better understand the standards of behaviour expected from providers and monitor and ensure compliance.³⁴ The Ministry of Justice has incorporated ethics into the risk framework of the department and has done well to identify where it is most exposed to ethical concerns, for example, conflicts of interest, gifts and hospitality, tender evaluation, and civil servants leaving to join the private sector. By MoJ’s own account, it has identified areas for improvement based on the recommendations detailed in the Committee’s 2014 report.

67. The Secretary of State or the relevant minister often chairs departmental boards. Ministers are responsible for the policy framework as well as the setting of high ethical standards. All the departmental boards we sampled delegated strategic responsibility for ensuring that the department’s commercial activities were conducted in keeping with high ethical standards to compliance-focused Committees. These Committees usually focused on audit and risk. This was not usually accompanied by reports from the relevant committee to the board on any ethical issues raised. This approach, and the subsequent abrogation of leadership by the departmental board and executives for some significant failures of service provision, hamper the government’s ability to deliver its commissioning on an ethical basis.

32 Rupert Soames, Serco Group Chief Executive, The Telegraph, ‘Serco boss calls for greater outsourcing transparency in the wake of Carillion’s collapse’, 22 February 2018. URL: <https://www.telegraph.co.uk/business/2018/02/22/serco-boss-calls-greater-outsourcing-transparency-wake-carillions/>

33 HM Treasury, ‘Cabinet Office Corporate governance in central government departments: code of good practice’, April 2017. URL: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/609903/PU2077_code_of_practice_2017.pdf

34 Interview with Jack Salter, Head of Commercial Policy, Department for Education held on 15 March 2017.

68. A sample of periodic reviews of performance regimes suggested these did not detail ethical standards directly, though some did address performance pay and caps on senior executives' pay with performance. In some cases, this could incentivise ethical leadership, but there was nothing in the periodic reviews sampled by the Committee that made this connection between pay and ethical standards by the supplier.

Recommendation:

Accounting Officers in their annual accounts should provide assurance in accordance with HM Treasury guide, *Principles of Managing Public Money*, that achieving high ethical standards are part of achieving value for money.

Recommendation:

The HM Treasury Code of Practice for Government Boards should be revised to include ethical standards as key considerations for departmental boards.

Recommendation:

Departmental boards should elevate responsibility for the overall framework for commissioning for services, including expected ethical standards, to board level.

Recommendation:

Departmental boards should put in place processes to learn lessons regarding contractual relationships prior to contracts' conclusion or extension.

Professional capability

69. The government has been undertaking a strategic overhaul of its commercial practice since 2013, and has focused heavily on the recruitment, retention, pay and centralisation of skills of commercial managers to underpin an overhaul of its commercial strategy. A number of observers agree that this is likely to increase government's negotiating power, particularly around pricing.³⁵ What has delayed progress into the more technical areas of contract and procurement management, however, is the level of complexity involved in managing contracts, made more difficult where commercial experts are not close to the policy objectives in the commissioning department. We have heard comments about the separation of commissioning from policy leading to both a 'silo mentality' and lack of clarity on accountability.
70. The overall government commercial strategy (overseen by the Government Chief Commercial Officer in the Cabinet Office and enacted by the Crown Commercial Service, particularly in relation to its Crown Representatives and Strategic Suppliers Network), has focused heavily on bringing in new people from the private sector with existing commercial skills. This is a positive move and has been welcomed where it leads to better-negotiated outcomes with providers. But for those who are already in the Government Commercial Function, or who are managing contracts across as part of their role in the civil service, it is less clear what the strategy holds in terms of ethical standards training. Training is an essential and obvious means by which the government can develop ethical capability in all those who commission services paid for by the taxpayer.

35 Interview with Rob Whiteman, Chief Executive and Alison Scott, Head of Standards at the Chartered Institute of Public Finance and Accounting (CIPFA), 13 February 2017.

71. The government's strategy to increase the professionalism of the Crown Commercial Service must not allow existing silos of commercial knowledge, expertise and ethical awareness to persist in government departments. There has been little done in the 'Commercial Strategy' to break down isolated pockets of commercial knowledge and the application of ethical standards since the Committee's 2014 report.
72. Away from the centralised model of the GCF, departments also struggle to maintain personnel who have the skills to manage the commercial demands of their service providers. The Department for Education (DfE) has a modest programme of supporting contract management of service providers, which it recognises is often on the 'fringes' of a policy officer's work at the junior level. The DfE have Grant and Contract Management meetings to bring people together to draw on any lessons learnt across the department. They also have commercial awareness sessions every month for policy people who are not commercial specialists. Teams often request these sessions.
73. Commissioning services and managing contracts requires a balance between: knowing how to ensure the government has commercial insight into markets, and is not taken advantage of by providers bidding across government; and allowing departments the freedom to ensure that the contract fits the policy objectives. Some departments are still finding that balance.
74. Some of those whom the government now employs to manage contracts, like the Government Chief Commercial Officer himself, have backgrounds working in the private sector for many of the suppliers that regularly supply services on behalf of government. This is a necessary and an expeditious option for increasing the overall skill level of the Civil Service to manage competently complex contractual matters.
75. In its '*Striking the balance: upholding the Seven Principles of Public Life in Regulation*', the Committee recognised the benefits of the 'revolving door' of specialists moving between the public and private sectors, bringing technical knowledge to regulators and the ethical awareness and, potentially, compliance to the private sector entities. But the Committee also warned that, without safeguards in place to protect technical and confidential information, that revolving door can be a serious threat to the "essential integrity and independence" of the civil service.
76. The Committee agrees with the Government Chief Commercial Officer that, "[t]his is a complicated area, as you want people like me who have run outsourcing companies". We are, however, concerned that CCS is not actively developing the necessary safeguards to protect the government's commercial secrets and proprietary interests. Commercial specialists recruited to the CCS are recruited according to the specific standards for the Government Commercial Function within the civil service.³⁶ The document, *People Standards for the Profession* lists attributes that are sought for four levels of commercial professional – Commercial Lead, Associate Commercial Specialist, Commercial Specialist, and Senior Commercial Specialist – and is intended to complement existing guidance issued by the civil service, reports or guidance issued by Parliament and professional bodies. It does not specifically refer to the attributes requiring adherence to the Seven Principles, although it does refer to the Civil Service Code. The Committee therefore recommends that the Government Chief Commercial Officer should revise the standards for the Government Commercial Function personnel within the civil service to include understanding of and commitment to continuing awareness of ethical standards.

36 Government Commercial Function, '*People Standards for the Profession (version 2.0)*', 19 July 2016 (revised January 2017). URL: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/583625/People_Standards_for_the_Profession_v2.0.pdf (accessed 27 November 2017)

Recommendation:

The Government Chief Commercial Officer should revise the standards for the Government Commercial Function personnel within the civil service to include understanding of and commitment to continuing awareness of ethical standards.

Training, guidance and best practice on ethical awareness and standards

77. Beyond the publication of the Suppliers' Code of Conduct, the Committee has heard that those who are managing contracts in departments have not been given additional ethical or other training in relation to service delivery since our last report. The more general move towards a centralised model of contract management also risks contractual rules that do not reflect the needs and behaviours of service users in particular sectors.
78. While training is offered in the civil service at all levels and in all disciplines, particularly for those with financial responsibilities, the coverage of ethical principles is often elementary and inconsistent. Those who are brought into the GCF, or who start their careers in the GCF are often accredited with professional bodies that include some ethical contract management components of their accreditation. Those who have not undertaken the training for some time may not have been exposed to this component, or indeed any other component focusing on ethical service delivery.
79. The Committee is aware that, by themselves, principles and codes of practice are insufficient. As was pointed out in the first Report by the Committee³⁷ there is a particular need for guidance and training on ethical issues. Currently, there is no requirement regularly to update the professional training syllabus on ethical issues relating to commissioning for all civil servants who manage contracts, and particularly those gaining qualifications through the Chartered Institute of Procurement and Supply (CIPS). At present, there is a CIPS training module on ethical contract management. The GCF told the Committee that 80 percent to 90 percent of their staff are qualified with either CIPS or with The International Association for Contract and Commercial Management (IACCM). The UK Civil Service Graduate Programme or 'fast streamers' in the GCF are also qualified by CIPS. GCF was unable to say what other ongoing training on ethical contract management is available for its specialists or is being rolled out to departments across the civil service.
80. Other than departmental arrangements for reporting up the line or, in more extreme circumstances, whistleblowing, we are not aware of support systems for staff with concerns on ethical issues emerging in contract design and management. The most recent manual published by the Government Commercial Function, 'Contract Management – Professional Standards', despite its title, makes no reference to ethical standards in commissioning public services, nor does it mention that Seven Principles or this Committee's previous publications setting out best practice examples for ethical service delivery.
81. The Committee understands from evidence received from other organisations including think tank Reform, that those who manage contracts in the central government are still focused on the narrower notion of 'value for money', to mean 'price', rather than a fair price for a quality and ethically sound service to a standard the user expects.³⁸

37 Committee on Standards in Public Life, 'First Report', 1995. URL: <https://www.gov.uk/government/publications/mps-ministers-and-civil-servants-executive-quangos>

38 Harwich, E; Hitchcock, A; Fischer, E; 'Faulty by design. The state of public-service commissioning. Reform. January 2017. Accessed March 2017 at URL: <http://www.reform.uk/wp-content/uploads/2017/02/Faulty-by-design-report.pdf>

82. The government in the UK creates, uses and manages markets simultaneously. It is a position that carries enormous power and also an inherent conflict of interest, and for companies and government alike to rely on enforcement mechanisms for engendering a culture of ethical standards in public service delivery, is to approach the task from the wrong end entirely.
83. The Committee recognises that ethical capability is difficult to develop. But there are models for implementing cultural change in public, corporate, not-for-profit and charitable sectors that the government could use for ethical awareness-raising and capability building: for example, the legal and cultural introduction of workplace health and safety compliance and reporting which has become a fundamental element of good governance and embedded in the corporate world over the last 25 years. Secondly and more recently, changes made to organisational awareness and reporting to ensure that anti-bribery and anti-slavery measures are being followed in all parts of the supply chain in many industries in the UK and abroad.
84. The Committee considers that both of these frameworks have successfully addressed difficult, long-term cultural changes in government and private sector organisations and would be worth further consideration for adoption by government and service providers alike in relation to ethical capability.
85. The Committee reaffirms its recommendation that the Crown Commercial Service working with Civil Service Learning and the Commissioning Academy arrange training on ethical awareness and disseminate best practice on ethical standards. Senior Civil Servants are increasingly attending Major Projects training at the Said Business School at Oxford University and the Public Service Leadership initiative is to be led by HM Treasury.
86. The Committee further suggests that all those managing contracts, and particularly those for whom it is not a full-time activity, should undergo regular training on ethical standards to understand better changes in transparency, obligations of financial professionals and also the broadest understanding of 'value for money' and customer service.

Recommendation:

Ethical standards training relevant to procurement and commissioning activities should be mandatory for all civil servants for whom commissioning is part of their position.

Chapter 4:

Ongoing ethical tensions

Key findings

87. The delivery of public services by private sector bodies will inevitably create some enduring ethical tensions. The Committee has identified three areas that warrant further examination and discussion.
88. The first is the potential tension between compliance with the Seven Principles of Public Life, most notably the Selflessness principle and corporate obligations. The second is to do with the moral courage of professional advisors, particularly auditors, accountants and lawyers, and how they balance quantitative and qualitative measures of accountability. The third is the divergence in transparency and openness standards between public bodies and private companies providing public services.
89. While there are no easy ways to reconcile these dynamics, we consider steps can be taken to educate individuals and office-holders of their differing responsibilities and their obligations under the Seven Principles of Public Life.
91. Acting solely in the public interest could be seen to present a major tension for directors of corporate bodies who are covered by the Companies Act 2006. Section 172 provides that directors have a duty 'to act in good faith ... promote the success of the company'; and in the annual Director's Report they must explain how they have complied with their duties to stakeholders which encompass shareholders, employees, suppliers, the environment, the general community and creditors.³⁹ Consequently, many for-profit organisations will prioritise their duties to shareholders or private equity funders, often over other concerns, like ethical standards.
92. A similar difficulty arises in the case of small and medium-sized firms (SMEs), which may be wholly owned by an individual or family members.
93. Also, while the purposes of a charity must, in order to hold that status, be in the public interest, the trustees of charities have a duty to 'safeguard and protect its assets' and to act in the best interests of the charity above other considerations.⁴⁰
94. This potential tension between organisations' statutory duties and the selflessness principle was raised by participants in the research undertaken by Ipsos Mori in 2014, for our first report on public service providers.⁴¹

Selflessness Principle and the profit motive

90. Within the Seven Principles of Public Life, the Selflessness principle requires that holders of public office should take decisions solely in terms of the public interest.

39 Under legislation such as the Modern Slavery Act 2015, the Foreign Bribery Act 2010 and health and safety and corporate manslaughter legislation, Directors of companies and Trustees of Charities also must have regard to other requirements in addition to their fiduciary duties

40 The Charity Commission, 'The essential trustee: what you need to know, what you need to do (CC3)', 1 March 2012 (updated July 2015). URL: <https://www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3>

41 Participants expressed an acknowledgement of a concern that charities and private sector companies often had their own vision and values and were unclear what would happen if the two sets of values were contradictory. Ipsos Mori survey results, 2014 Committee Standards in Public Life, Ethical Standards of Public Service Providers, September 2014

95. The existence of this tension has led some providers to create an artificial distinction among the applicability of the principles to them, and even to become dismissive of the Seven Principles of Public Life altogether, or to adopt a 'pick and mix' approach, which is not in the public interest.

96. However, providers of public services are bound by the Seven Principles as they are presently described; they should not consider themselves exempt nor adopt a stance of avoidance and they should acknowledge coverage by the principles in their entirety, as in our proposed Statement of Intent. More than this, public service providers should embed the Seven Principles in the culture and practices of their organisation. When negotiating contracts, when entering markets and when agreeing to performance indicators, they should seek to apply the Principles to their situations and do so in a way that focuses on and embraces the public interest. At times, this obligation will accord with other regulatory and other expectations, for example, the Financial Reporting Council's requirement for any action by qualified accountants in their scope to be 'not detrimental to the public interest'. Implementing the safeguards in supply chains as prescribed in the Modern Slavery Act 2015; complying with the Foreign Bribery Act 2010; maintaining rigorous health and safety practices; and protecting the provider against fraud and other corruption are all examples of where providers are required to give primacy to the public interest over profit or other motivations.

97. Our view is that while it may not be straightforward for company directors and private owners of service providers, it is essential that leaders in all organisations should continue to strive to deliver their services in the public interest and be held accountable for such behaviour. We understand the tension that exists for private organisations both to maintain profit and demonstrate selflessness when entering and fulfilling service delivery contracts. However, the

Committee, at this time, thinks it is important to hold all providers to these responsibilities. The Committee will continue to consult further in 2018 and 2019 on the issue of whether the descriptor of selflessness, last revised in 'Standards Matter', should now be amended.

Moral courage: Ethical obligations of accountants, lawyers and other professionals

98. Members of professional organisations in the UK must adhere to ethical standards set out in their organisations' codes of conduct.⁴² CIPFA, one of these professional bodies, expressed concern to the Committee that auditors and financial professionals employed to manage the commissioning and tender processes for departments are not giving due consideration to ethical standards in conducting due diligence, framing contracts, establishing pricing and setting contractual terms. CIPFA indicated wider observations that value for money has come to mean pricing alone or "a race to the bottom".⁴³

99. We also note the work of the ICAEW Audit Futures initiatives to highlight the importance of ethical awareness in professional training and to embed ethical standards in organisations.⁴⁴ Efforts by these organisations to engender a greater awareness of ethical standards are commendable. However, the Committee is concerned that several relevant NAO publications do not draw sufficient attention to the ethical components of the professional obligations of auditors and financial service professionals.

42 See, for example, the codes of CIPFA, ICAS, ICAEW

43 CIPFA interview on 13 February 2017.

44 ICAEW Audit Futures initiatives URL: <https://www.icaew.com/technical/audit-and-assurance/audit-futures>

100. The Institute of Chartered Accountants of Scotland (ICAS), published a paper, 'Moral Courage', in 2017 and called on all those in the profession to swear to "place ethical leadership at the heart of their professional responsibilities, to shape the culture and values of their organisations" and guidance on what to do where one of their members experiences an ethical dilemma.⁴⁵ This guidance is essentially a professional manifestation of the Seven Principles of Public Life. The Committee commends the advice to the profession for its compelling and concise encapsulation of the actions those in unique positions of power, influence and insight must take where they witness behaviour that falls short of these Principles.
101. This reluctance to view 'value for money' through the lens of ethical standards has parallels in the private financial services sector generally. The Banking Standards Board, an organisation established to improve the ethical standards of bankers in the wake of the financial crisis of 2008 surveyed more than 28,000 people working in the UK finance industry. The results make for sobering reading. Almost one-third of respondents feared "negative consequences for them if they raised concerns [of an ethical nature]". Eighteen percent see people in their organisation turn a blind eye to inappropriate behaviour. Thirteen percent thought it difficult to get ahead in their careers without "being flexible with their ethical standards" and 2 percent said they see instances where unethical behaviour is rewarded.⁴⁶

Recommendation:

All professional bodies such as CIPFA, ICAEW and ICAS, as well as the National Audit Office, should insist that financial, audit, legal and actuarial professionals demonstrate 'moral courage' when they witness irregularities, and ensure they know where to go to make professional complaints about ethical standards breaches.

Transparency and collection of data

102. The government has made a number of commitments to enhancing transparency in contracts for services, including inserting at the IfG's recommendation, a new transparency clause⁴⁷ in all government service contracts. In reality, however, The Committee was left with the impression that internal departmental contract management information is insufficiently well-organised and aggregated so as to make collating key data straightforward. A member of the public would find it hard to locate and read most contracts for public services, including to know their value. This has a deleterious effect on good governance and transparency: many departments are not only unable to provide good insights into commercial patterns of behaviour by service providers. They are also unable to produce aggregated data publicly or to auditors.

45 Institute of Chartered Accountants of Scotland, Moral courage (ICAS). URL: <https://www.icas.com/ethics/moral-courage>

46 Arnold, Martin and Jenkins, Patrick, Financial Times. 'City bankers battle with quandary of ethics versus career 14 March 2017' URL: <https://www.ft.com/content/95171964-0817-11e7-97d1-5e720a26771b>

47 An example of one clause within the revised Model Contract for Services reads: "Within three [3] months of the Effective Date the Supplier shall provide to the Authority for its approval (such approval not to be unreasonably withheld or delayed) draft reports in accordance with Annex 1 (once approved, the "Transparency Reports")." URL: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/674692/Model_Services_Contract_Combined_Schedules_-England_Wales_v1.05__01.01.18_.pdf See also: Casebourne, Jo. 'Government acts on contract transparency', Comment, Institute for Government, 7 June 2016. URL: <https://www.instituteforgovernment.org.uk/blog/government-acts-contract-transparency>

103. Without the sorts of transparency requirements that government departments and other public bodies are subject to under the Freedom of Information Act 2000 (FOI Act), it is often difficult to know, for example, what complaints processes are available to people to report irregularities and whether such processes are used effectively to prevent wrongdoing. In some cases where the government is required to produce this type of information, commissioning bodies have been wholly reliant on the service provider to hand over such information upon request, without adequate system assurance on validity and provenance. The Chair of the Public Accounts Committee (PAC), Meg Hillier MP, is “sceptical of the ‘commercial confidentiality’ rationale that precludes it from the types of accountability common in government. She has also stated that she would like, as a final “great achievement” as PAC chair, to compel contractors to report more of their accounts, and to expand the scope of the Freedom of Information Act”.⁴⁸

I believe FOIs should be extended to the bits of an organisation that are funded entirely by taxpayers’ funding ... Whether it be Serco or Capita, if they’re running a public project they should be open to be sharing information about that just as the public sector would. They are an extension of government. There are very few of them, they’re large companies that seem to mop it up, and have it hidden behind a wall because they’re private. Wherever taxpayer money is being spent it should have accountability”.⁴⁸

48 Meg Hillier MP, Chair of the Public Accounts Committee, quoted in Rutter, Tamsin, ‘Running the Public Accounts Committee, Whitehall contracting headaches, and what keeps perm secs awake at night’, Civil Service World, 21 January 2018. URL: <https://www.civilserviceworld.com/articles/interview/meg-hillier-running-public-accounts-committee-whitehall-contracting-headaches-and>

49 As above number 48

104. The Information Commissioner, Elizabeth Denham, has also called for an extension of the FOI Act.⁵⁰ In a number of recent speeches, the Information Commissioner provided a public interest case for such an extension and suggested some possible thresholds for including service provider organisations, including for example, the monetary value of a contract, the size of the provider or the nature of the contract.⁵¹

105. As a result of this gap in information, individual commissioners are encouraged to focus on efficiency and value for money in the narrow, cost-reduction sense of contract management. They do not often have access to the cultural and behavioural information, or even previous or cross-departmental information they require, to perform 'ethical due diligence' tests prior to commissioning services or while managing contracts. Users are also unable to examine the credibility of the service providers' ethical frameworks and performance.

106. This lack of transparency of data, both from government departments and service providers being out of scope of the Freedom of Information Act, means that government is not well-equipped to make the best decisions about procurement and delivery, having regard to all relevant considerations, which is what the principles of openness, honesty and integrity require. Openness continues to be an elusive attribute of government and more so of the private sector bodies that derive much of their profit from contracts with government. While this is a concern to the Committee, it is also evident that government may itself be unaware of its own irregularities, or key financial data, because it lacks the technology and resources accurately to record and share key financial information with auditors, accountants and between agency commercial officers.

107. Another way for departments and departmental boards to assess in advance whether a commissioning process has been well-designed is to submit it to the Public Accounts Committee for scrutiny and advice, as that Committee has recommended in previous reports. We consider there to be significant benefit for departments and service providers in Permanent Secretaries and their commissioning officers responding positively to the invitation by the Chair of the House of Commons Public Accounts Select Committee to review selected commissioning proposals prior to them being put to market.

108. The exclusion of service provider organisations from the scope of the current FOI Act means that government and users alike are unable to examine the credibility of service providers' ethical frameworks and performance against those frameworks. In the interests of increased transparency and accountability, the Committee recommends consideration by the government of a consultation on the applicability of the FOI Act to service providers.

Recommendation:

The government should hold a public consultation on the question of expanding the Freedom of Information Act 2000 (UK) to include information held by providers where that information relates, directly or indirectly, to performance of a contract with government for the delivery of public services.

50 Greenslade, Roy, 'Information Commissioners wants the FOI Act to be extended', The Guardian, 2 September 2016. URL: <https://www.theguardian.com/media/greenslade/2016/sep/02/information-commissioner-wants-the-foi-act-to-be-extended>

51 Hall, Kat. 'UK Information Commissioner's Speech renews issue of transparency', The Register, 25 September 2017. URL: https://www.theregister.co.uk/2017/09/25/its_high_time_we_extended_foi_to_outsourcing_businesses/

Annex 1

Recommendations of the Committee's 2014 report, *'Ethical standards for public service providers'*

Recommendation 1

We recommend that the Cabinet Office should:

- adopt a strategic programme to reinforce:
 - the message that the Seven Principles of Public Life apply to any organisation delivering public services
 - the frameworks required to support ethical standards
- ensure that ethical standards reflecting the Seven Principles of Public Life are addressed in contractual arrangements, with providers required to undertake that they have the structures in place to support this
- ensure that high ethical standards are championed by Crown Representatives in their relationship with their strategic suppliers
- ensure that Crown Representatives provide advice to ministers on this aspect of their relationship with suppliers
- work collaboratively with the National Audit Office and HM Treasury to develop guidance on how value for money can be aligned with high ethical standards

Recommendation 2

We recommend that:

- accounting officers actively seek assurance that public money is being spent in accordance with the high ethical standards expected of all providers of public services, and annually certify (as part of managing public money duties) that they have satisfied themselves about the adequacy of their organisation's arrangements

- ethical standards should be specific responsibility of one non-executive board member of government departmental boards
- ethical standards should be incorporated within the Committee of Public Accounts' recommended departmental periodic reviews of performance regimes
- those directly involved in commissioning and contracting should always receive formal assurance by providers of their acceptance of the necessity of ethical standards in the delivery of public service

Recommendation 3

We recommend that:

- the Cabinet Office and departments consider ethical awareness and professional commercial capability requirement for those commissioning, procuring or managing government contracts
- the Crown Commercial Service, working with Civil Service Learning and the Commissioning Academy, arrange training on ethical awareness and disseminate best practice on ethical standards

Annex 2

Glossary of terms

Acronym or Term	Meaning
CCS	Crown Commercial Service, an executive agency sponsored by the Cabinet Office whose aims include 'bringing together policy, advice and direct buying; providing commercial services to the public sector and saving money for the taxpayer' ⁵²
CIPFA	Chartered Institute of Public Finance and Accountancy
CIPS	Chartered Institute of Procurement & Supply
Commissioning	The terms commissioning and procuring are often used interchangeably but there is a distinction between the two terms. In broad terms, commissioning is the establishment of the needs of a population and then buying services to meet that need. See below for procurement.
Contract extension	A contract extension is the continuation of an existing set of contractual terms and conditions and with the same parties as the previous or existing contract.
Corporate renewal	The process of completely changing a company in order to make it become more successful. ⁵³
ICAEW	Institute of Chartered Accountants of England and Wales
ICAS	The Institute of the Chartered Accountants of Scotland
DfE	Department for Education
DWP	Department of Work and Pensions
GCF	Government Commercial Function, a cross-government network procuring or supporting the procurement of goods and services for the government ⁵⁴
Government Chief Commercial Officer	Senior Civil Service officer leading the Government Commercial Function within the UK Cabinet Office

52 Crown Commercial Service, 'What we do'. URL: <https://www.gov.uk/government/organisations/crown-commercial-service> [Accessed 8 March 2018]

53 Longman Business English Dictionary, Financial Times Lexicon. URL: <http://lexicon.ft.com/Term?term=corporate-renewal>

54 Government Commercial Function, 'About us'. URL: <https://www.gov.uk/government/organisations/government-commercial-function> [Accessed 8 March 2018]

Acronym or Term	Meaning
IfG	The Institute for Government
MoJ	Ministry of Justice
Crown Representative	Senior Civil Service officers helping the UK government to act as a single customer with a number of regular suppliers to government. A further discussion of their role is on page 20.
NAO	National Audit Office
Outsourcing	Purchasing goods and/or services from third party suppliers via contractual means. Outsourcing can involve both commissioning and procurement of services.
PAC	Public Accounts Committee
Procurement	The terms commissioning and procuring are often used interchangeably but there is a distinction between the two terms. In broad terms, the buying of services from third parties as part of a legally binding contract is called procurement. See above for commissioning.
Seven Principles; Nolan Principles	<p>The Seven Principles of Public Life. The Seven Principles were established by the first Committee on Standards in Public Life, chaired by Lord Nolan. The Principles were outlined in the Committee's first report in 1995; the accompanying descriptors to the Seven Principles were revised following a review in the Fourteenth Report, published in January 2013.</p> <p>The Seven Principles are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.</p>

Annex 3

About the Committee on Standards in Public Life

The Committee on Standards in Public Life is an advisory, non-departmental public body sponsored by the Cabinet Office. The Prime Minister appoints the Committee Chair and its members.

The Committee was established in October 1994 by the then Prime Minister with the following terms of reference:

“To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life”.

The remit of the Committee excludes investigation of individual allegations of misconduct.

On 12 November 1997, the terms of reference were extended by the then Prime Minister:

“To review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements”.

The terms of reference were clarified following the triennial review of the Committee in 2013. The then Minister for the Cabinet Office confirmed that the Committee:

“should not inquire into matters relating to the devolved legislatures and governments except with the agreement of those bodies ... The government understands the Committee’s remit to examine ‘standards of conduct of all holders of public office’ as encompassing all those involved in the delivery of public services, not solely, those appointed or elected to public office”.

The Committee is a standing committee. As well as conducting inquiries into areas of concern about standards in public life, it can revisit those areas and monitor whether and how well its recommendations have been put into effect.

Committee membership for the period of this review

Lord (Paul) Bew, Chair

The Rt Hon Dame Margaret Beckett DBE MP

Sheila Drew Smith OBE
(term of appointment ended February 2018)

Simon Hart MP (term of appointment commenced July 2017)

Dr Jane Martin CBE

Jane Ramsey

Monisha Shah

The Rt Hon Lord (Andrew) Stunell OBE

Richard Thomas CBE
(term of appointment ended May 2017)

Dame Shirley Pearce DBE
(term of appointment commenced March 2018)

Secretariat

The Committee is assisted by a Secretariat consisting of:

Lesley Bainsfair (Secretary);

Ally Foat (Senior Policy Advisor);

Dee Goddard (Senior Policy Advisor);

Stuart Ramsay (Senior Policy Advisor); and

Amy Austin [Office Manager].

Press support is provided by Maggie O’Boyle.

Annex 4

Methodology

Methods

In order to conduct this review, the Committee held a roundtable discussion with a number of umbrella organisations; held 14 meetings with stakeholder organisations; and reviewed relevant academic literature, relevant legislation and relevant government policy.

Roundtable

- The Committee held a roundtable discussion on 20 March 2017 with a range of stakeholder organisations. The following questions formed the basis of the discussion.
 - What has changed in terms of ethical standards in public service provision since the publication of the Committee's report in 2014?
 - What has remained the same, and where have there been improvements?
 - Which elements of the Committee's recommendations and guidance to public service providers have been embedded into current practice?
 - Which aspects require further development?
 - Were there any ethical challenges for providers of public services on the horizon?

List of Attendees

Name	Organisation
Sharon Allen	(Then) Association of Chief Executives of Voluntary Organisations
Philippa Foster Back CBE	Institute of Business Ethics
Mark Byers	Civil Service Leadership Academy
Dr Jo Casebourne	Institute for Government
Elizabeth Chamberlain	National Council for Voluntary Organisations
Mike Cherry OBE	Federation of Small Businesses
David Coull	National Care Forum
Chris Graham	Capacity: Policy Services Lab
Dr Jane Martin CBE	Committee on Standards in Public Life
Melanie Maxwell Scott	Business Services Association

Name	Organisation
George McFarlane	CBI
Jacqui McKinlay	Centre for Public Scrutiny
Jane Ramsey	Committee on Standards in Public Life
Duncan Rudkin	General Pharmaceutical Council
Monisha Shah	Committee on Standards in Public Life
Sheila Drew Smith OBE	Committee on Standards in Public Life
Benjamin Taylor	Public Service Transformation Academy, Commissioning Academy Team
Richard Thomas CBE	Committee on Standards in Public Life

Meetings with stakeholders

The Committee held 15 separate interviews with the following representative organisations.

Name	Organisation
Rob Whiteman Chief Executive and Alison Scott (Then) Head of Standards	Chartered Institute of Public Finance and Accounting
Peter Wyman Chair	Care Quality Commission
Kevin Craven Chief Executive Officer UK & Europe	Serco
Charles Carr Head of Media Relations Central Government	
Gareth Rhys Williams Government Chief Commercial Officer Coleen Andrews, Head of Markets and Suppliers (Cabinet Office)	Government Chief Commercial Officer and Crown Commercial Service (The Committee met with these organisations on two separate occasions; in March 2017 and April 2018).
Sam Rowbury Director of Policy Delivery (Crown Commercial Service)	
Edward Green, Deputy Director, EU and Domestic Procurement Policy (Crown Commercial Service)	
Jack Salter Head of Commercial Policy	Department for Education

Name	Organisation
Peter Neden Divisional CEO, G4S Care & Justice Services	G4S
Debbie Walker Group Corporate Affairs Director	
Barry Hooper Chief Commercial Officer	Ministry of Justice
Vic Gysin Group Operations and Performance Director	Capita
John Hooton Chief Executive	London Borough of Barnet
Duncan Tessier Commercial Director	
Cath Shaw Deputy Chief Executive and Commissioning Director for Growth and Development	
Claire Green, Interim Assurance Director	
David Tatlow Monitoring Officer	
Stephen Evans Interim Chief Operating Officer	
David Prince CBE	
Steve Wood Deputy Commissioner (Policy)	Former member of Committee on Standards in Public Life
Joshua Reddaway Director Commercial & Contracting VFM	Information Commissioner's Office
Lord Kerslake	National Audit Office
Mark Babington Deputy Director Audit Policy, Audit and Actuarial Regulation Division	Financial Reporting Council

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Intimidation in Public Life

A Review by the Committee on Standards in Public Life

**Committee on
Standards in
Public Life**





Intimidation in Public Life: A Review by the Committee on Standards in Public Life

Presented to Parliament
by the Prime Minister
by Command of Her Majesty
December 2017



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The Seven Principles of Public Life

The Principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.





Dear Prime Minister,

I am pleased to present the 17th report of the Committee of Standards in Public Life, on intimidation in public life. You invited the Committee to undertake a review on the intimidation of Parliamentary candidates in July 2017, considering the wider implications for public office-holders, and producing recommendations for action which could be taken in the short- and the long-term. The Committee wishes to thank all those who gave evidence to the review, particularly those who were willing to relate often highly personal and distressing experiences of intimidation.

The vitality of our political culture depends upon free and vigorous expression of opinion, and it is crucial that this freedom is preserved.

The increasing prevalence of intimidation of Parliamentary candidates, and others in public life, should concern everyone who cares about our democracy. This is not about defending elites from justified criticism or preventing the public from scrutinising those who represent them: it is about defending the fundamental structures of political freedom.

A significant proportion of candidates at the 2017 general election experienced harassment, abuse and intimidation. There has been persistent, vile and shocking abuse, threatened violence including sexual violence, and damage to property. It is clear that much of this behaviour is targeted at certain groups. The widespread use of social media platforms is the most significant factor driving the behaviour we are seeing.

Intimidatory behaviour is already affecting the way in which MPs are relating to their constituents, has put off candidates who want to serve their communities from standing for public offices, and threatens to damage the vibrancy and diversity of our public life. However, the Committee believes that our political culture can be protected from further damage if action is taken now.

Having taken evidence from a number of Parliamentary candidates, and a range of expert organisations and members of the public, it is clear that there is no single, easy solution. But, at a watershed moment in our political history, it is time for a new and concerted response.

Our report makes recommendations which address the full breadth of the problem we face. Those across public life must work together to address this problem: we must see greater energy and action from social media companies, political parties, Parliament, the police, broadcast and print media, and from MPs and Parliamentary candidates themselves. Above all, this is a question of leadership by our largest political parties. This is all the more important in the light of recent allegations of sexual harassment and bullying in Parliament which will have shaken public confidence in politicians. Political parties will need to work together to address intimidation in public life; they should not use this report and its recommendations for partisan purposes or political gain.

We propose legislative changes that the government should bring forward on social media companies' liability for illegal content online, and an electoral offence of intimidating Parliamentary candidates and party campaigners. Political parties must also put in place measures for more effective joint working to combat intimidation in advance of the next general election. In the long term, prevention will be more effective and important than any individual sanction. Those in public life must adopt a more healthy public discourse and must stand together to oppose behaviour which threatens the integrity of public life.

I commend the report to you.

Lord Bew

Chair, Committee on Standards in Public Life





“While we celebrate our diversity, what surprises me time and time again as I travel around the constituency is that we are far more united and have far more in common than that which divides us.”

Jo Cox MP





Contents

Executive summary	13
Introduction	24
Chapter 1 – Intimidation in public life	26
Chapter 2 – Social media	31
Chapter 3 – Political parties	46
Chapter 4 – Law, policing and prosecution	57
Chapter 5 – Taking responsibility	70
Chapter 6 – The impact of intimidation	77
Appendix 1 – About the Committee on Standards in Public Life	81
Appendix 2 – Methodology	82





Executive summary

Intimidation in public life presents a threat to the very nature of representative democracy in the UK. Addressing this intimidatory, bullying and abusive culture matters. It matters for the diversity of our public life, it matters for the way in which the public can engage with representative democracy, and it matters for the freedom to discuss and debate issues and interests.

While intimidation in public life is nothing new, the scale and intensity of intimidation is now shaping public life in ways which are a serious issue. Social media companies have been too slow in taking action on online intimidation to protect their users. The political parties have failed to show leadership in calling out intimidatory behaviour and changing the tone of political debate. Police authorities have shown inconsistency in supporting those facing illegal intimidatory activities, and electoral law is out of date on this issue. So, we make recommendations for action to social media companies, political parties, government, police and prosecutors.

Intimidation also reflects broader issues with our public political culture. Those in public life must take responsibility for shaping that culture. They must take steps to ensure that their behaviour does not open the door for intimidation and work to build public trust in public life. They should uphold high ethical standards, and should never themselves engage in, incite or encourage derogatory or dehumanising political debate.

To understand this issue we have heard from a range of individuals and organisations, including candidates, MPs, social media companies, local councillors, regulatory bodies, broadcasters and journalists, police and security authorities, and other relevant stakeholders. We held 34 individual meetings, a roundtable, and a public and private hearing. We also received 88 written submissions to our call for evidence.

Our recommendations stand as a package. They should be implemented together, as a comprehensive response to an issue of central importance to our representative democracy. It is clear that determined action on the part of all those involved is required. The cost of not doing so is too high.

Our recommendations

The widespread use of **social media** has been the most significant factor accelerating and enabling intimidatory behaviour in recent years. Although social media helps to promote widespread access to ideas and engagement in debate, it also creates an intensely hostile online environment. Some have felt the need to disengage entirely from social media because of the abuse they face, and it has put off others who may wish to stand for public office.

In the fast-paced and rapidly developing world of social media, the companies themselves and government must both proactively address the issue of intimidation online. Not enough has been done. The Committee is deeply concerned about the limited engagement of the social media companies in tackling these issues.

Currently, social media companies do not have liability for the content on their sites, even where that content is illegal. This is largely due to the EU E-Commerce Directive (2000), which treats the social media companies as 'hosts' of online content. It is clear, however, that this legislation is out of date. Facebook, Twitter and Google are not simply platforms for the content that others post; they play a role in shaping what users see. We understand that they do not consider themselves as publishers, responsible for reviewing and editing everything that others post on their sites. But with developments in technology, the time has come for the companies to take more responsibility for illegal material that appears on their platforms.



The government should seek to legislate to shift the balance of liability for illegal content to the social media companies away from them being passive 'platforms' for illegal content. Given the government's stated intention to leave the EU Single Market, legislation can be introduced to this effect without being in breach of EU law. We believe government should legislate to rebalance this liability for illegal content, and thereby drive change in the way social media companies operate in combatting illegal behaviour online in the UK.

Government should bring forward legislation to shift the liability of illegal content online towards social media companies.

The social media companies are not providing a safe experience for their users. This is having a severely negative impact on a wide range of people in public life, who can be subject to persistent, vitriolic and threatening abuse online.

In advance of legislative change, social media companies must take responsibility for developing technology and the necessary options for users to tackle the issue of intimidation and abuse on their platforms.

Social media companies must develop and implement automated techniques to identify intimidatory content posted on their platforms. They should use this technology to ensure intimidatory content is taken down as soon as possible.

Social media companies must do more to prevent users being inundated with hostile messages on their platforms, and to support users who become victims of this behaviour.

Social media companies must implement tools to enhance the ability of users to tackle online intimidation through user options.

The Committee is deeply concerned about the failure of Google, Facebook and Twitter to collect performance data on the functioning of their report and takedown processes. Their lack of transparency is part of the problem. None of these companies would tell us if they collect this data, and do not set targets for the time taken for reported content to be taken off the platform. This seems extraordinary when their business is data driven in all other aspects. This data must be collected, and made available to users to judge the companies' performance on takedown.

All social media companies must ensure they are able to make decisions quickly and consistently on the takedown of intimidatory content online.

Twitter, Facebook and Google must publish UK-level performance data on the number of reports they receive, the percentage of reported content that is taken down, and the time it takes to take down that content, on at least a quarterly basis.

Social media companies must urgently revise their tools for users to escalate any reports of potential illegal online activity to the police.

Political tensions run high during election campaigns, and this also plays out online. During election campaigns, political debate and discussion online can become particularly heated. This can be amplified when intimidatory content online is not taken down quickly enough, as it shapes the tone of political debate.



Therefore, government should work with the social media companies to develop an independent body which can be set up during election campaigns as a ‘trusted flagger’ social media reporting team for illegal, hateful and intimidatory content. This would lead to any intimidatory content online being dealt with more quickly during the fast-paced context of an election.

The social media companies should work with the government to establish a ‘pop-up’ social media reporting team for election campaigns.

Social media companies should actively provide advice, guidance and support to Parliamentary candidates on steps they can take to remain safe and secure while using their sites.

Political parties have an important duty of care to their candidates, members and supporters to take action to address intimidation in public life. Intimidation takes place across the political spectrum, both in terms of those engaging in and those receiving intimidation.

The leadership of political parties must recognise this duty of care, and call out and condemn intimidatory behaviour wherever it occurs. Political parties must also be prepared to work together and engage constructively on these issues. Although political parties rely heavily on volunteers, particularly at election time, given the seriousness of the intimidation experienced by candidates and others, the parties have a responsibility to show leadership in addressing intimidation.

Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. They should challenge poor behaviour wherever it occurs.

Political parties must proactively work together to tackle the issue of intimidation in public life.

Some of those engaging in intimidatory behaviour towards Parliamentary candidates and others are members of political parties and/or the fringe groups of political parties. Leaders across the political spectrum must be clear that they have no tolerance for this sort of behaviour in their party, wherever it occurs. They should not remain silent whenever and wherever intimidation takes place.

One important part of setting expectations for the appropriate behaviour is through a code of conduct for members. Codes of conduct should also be supported by training on the code, and backed-up with appropriate disciplinary processes and sanctions for inappropriate behaviour.

Political parties should set clear expectations about the behaviour expected of their members, both offline and online through a code of conduct for members which specifically prohibits any intimidatory behaviour. Parties should ensure that members are familiar with the code. The consequences of any breach of the code should be clear and unambiguous.

Political parties must ensure that party members who breach the party’s code of conduct by engaging in intimidation are consistently and appropriately disciplined in a timely manner.

Political parties must collect data on the number of complaints against members for engaging in intimidatory behaviour, and the outcome of any disciplinary processes which result from these complaints.



Leaders of political parties should always call out intimidatory behaviour, even when it is perpetrated by those in the party's fringes. Fringe group leaders and spokespeople should immediately denounce any intimidatory behaviour on the part of their members or supporters.

To tackle this issue, more cross-party collaboration is needed. The parties should come together to develop a joint code of conduct on intimidatory behaviour during election campaigns. This would encourage cross-party consensus on recognising and addressing the issue, and reduce the party political element of enforcing breaches of the code.

This code should be jointly enforced by the political parties through regular meetings during election campaigns. By working together, parties can take steps to set aside partisan differences to combat the important issue of intimidation in our public life.

The political parties must work together to develop a joint code of conduct on intimidatory behaviour during election campaigns by December 2018. The code should be jointly enforced by the political parties.

Political parties have a responsibility to support and try to protect those who give their time, often on a voluntary basis, towards the democratic process and public life. This includes support and training on online campaigning.

In particular, the parties must provide support for those who are most likely to be subject to the most intensely hostile abuse online. We are deeply concerned about the impact of intimidation on the diversity of our representative democracy, therefore, the parties have an important responsibility to support female, BAME, and LGBT candidates and prospective candidates in particular.

Political parties must take steps to provide support for all candidates, including through networks, training, support and resources. In particular, the parties should develop these support mechanisms for female, BAME, and LGBT candidates who are more likely to be targeted as subjects of intimidation.

Political parties must offer more support and training to candidates on their use of social media. This training should include: managing social media profiles, block and mute features, reporting content, and recognising when behaviour should be reported directly to the police.

For the **law** to be effective and enforceable, existing legislation must have a sufficient scope, the **police** must be able to curtail and contain intimidatory behaviour, as well as be able to gather the required evidence where a prosecution is appropriate, and **prosecutors** must have appropriate guidance in place.

We have seen no evidence that the current criminal law is insufficient. New offences specific to social media are unnecessary and could be rendered outdated quickly.

Intimidation of Parliamentary candidates is of particular significance because of the threat it poses to the integrity of the democratic process and of public service more widely. Specific electoral sanctions would reflect the seriousness of this threat. A new electoral offence of intimidating Parliamentary candidates and party campaigners during an election should be considered. This would serve to highlight the seriousness of the issue, result in more appropriate sanctions, and serve as a deterrent to those specifically targeting Parliamentary candidates and their supporters.



The government should consult on the introduction of a new offence in electoral law of intimidating Parliamentary candidates and party campaigners.

The requirement that candidates standing for election as local councillors must publish their home address on the ballot paper has enabled intimidatory behaviour. There is cross-party consensus for legislation to remove this requirement, which the government should bring forward. Provisions already exist to prevent local authority members' particular financial and other interests being publicly declared where there is a risk of intimidation to them or their family, and these provisions should be drawn to members' attention by Monitoring Officers.

The government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending an election count.

Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011.

There have been a significant number of prosecutions and convictions, with a relatively high rate of successful prosecutions, for offences covering intimidatory behaviour. The Crown Prosecution Service (CPS) guidelines on cases involving social media communications rightly set a high evidential threshold and demanding public interest test, in order to ensure compatibility with the Article 10 right to freedom of expression under the European Convention on Human Rights.

We are persuaded that the CPS guidelines are reasonable and proportionate.

We commend the work of the Parliamentary Liaison and Investigation Team (PLaIT), a specialist police team based in Parliament which is building a national picture of the security threat to MPs and acts as a central point of contact and advice for individual MPs, and makes recommendations for additional security measures. However, its effectiveness requires MPs to make full use of the advice and services offered to them and to report any threats.

MPs should actively co-operate with the police and other security services working to address the security threats facing Parliamentarians and Parliamentary candidates.

There is currently inconsistency in the approach taken locally by police forces in policing intimidatory behaviour towards Parliamentary candidates. This may be due to police forces not fully understanding the context in which MPs and candidates operate, as well as a lack of understanding of social media technologies. Whilst we are mindful of pressures on police resources, better guidance and training is needed in this area.

The National Police Chiefs Council should ensure that local police forces have sufficient training to enable them to effectively investigate offences committed through social media. Local police forces should be able to access advice and guidance on the context in which MPs and Parliamentary candidates work.

There is a lack of policing guidance on offences which constitute intimidation during election periods, and local police sometimes conflate personal threats and public order offences. General election periods are a heightened environment in which candidates, in particular MPs standing for re-election, are more likely to experience intimidation.



The College of Policing Authorised Professional Practice for elections should be updated to include offences relating to intimidation, including offences committed through social media.

The rise of social media, in particular its transnational reach, has created significant challenges for policing. A most significant challenge is establishing who is responsible for sending a particular communication.

The Home Office and the Department for Digital, Culture, Media and Sport should develop a strategy for engaging with international partners to promote international consensus on what constitutes hate crime and intimidation online.

Parliamentary candidates have a broad range of expectations about what the police would be able to do in response to intimidatory behaviour they experience. Greater clarity as to what behaviour is and is not illegal, and what Parliamentary candidates can expect from their local police force, would assist Parliamentary candidates during a campaign and would result in more effective policing.

The National Police Chiefs Council, working with the Crown Prosecution Service and the College of Policing, should produce accessible guidance for Parliamentary candidates giving clear advice on behaviour they may experience during a campaign which is likely to constitute a criminal offence and what they should do in the face of such intimidation.

It is important that those who perpetrate intimidatory behaviour face proportionate legal sanctions. However, the law is a blunt instrument for dealing with much intimidatory behaviour. Policing and the law should not be seen as the primary means of addressing this issue. The primary focus must be on prevention.

Everyone in public life must play their part in **taking responsibility** for combatting intimidatory behaviour; this includes in particular MPs, leaders of political parties, and the media. They all play a role in shaping a healthy public political culture which does not open the door to intimidation.

The public's lack of trust in politics and the political system creates an environment where intimidation in public life is more likely. Everyone in public life must take responsibility for turning this around. They need to uphold high ethical standards, so that they do not undermine or bring into disrepute the institutions they are part of. This point was emphasised in the submissions to our review from members of the public.

Nobody in public life should engage in intimidatory behaviour, nor condone or tolerate it. All those in public life have a responsibility to challenge and report it wherever it occurs.

Those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life, and help prevent a decline in public trust in political institutions through their own conduct.

Those in positions of power and leadership in public life have a particular responsibility to consider how their tone is likely to shape public debate, and must not engage in political debate in a derogatory, dehumanising, or abusive way.

In particular, they must seek to stop intimidation based on prejudice or hate, which has a disproportionately negative impact on women, BAME, LGBT and other candidates from minority groups. It is essential that those in positions of leadership take steps to stop hatred and intimidation based on personal characteristics.



Those in public life must set and protect a tone in public discourse which is not dehumanising or derogatory, and which recognises the rights of others to participate in public life.

Those in public life have a responsibility not to use language which engenders hatred or hostility towards individuals because of their personal characteristics.

The broadcast and print media also have a responsibility to help tackle the intimidatory tone of public life. The freedom of the press is essential and must be protected. Nevertheless, journalists, broadcasters and editors should consider how the content they create might incite intimidation through delegitimising someone's engagement in the political process, placing undue influence on their individual characteristics, or using threatening language. While continuing their important scrutiny of those in public office, they must also be careful they are not unduly or unfairly undermining trust in the political system, especially through portraying stories about disagreements as breaches of ethical standards.

The media must also take active steps to prevent intimidation by ensuring that they do not encourage or incentivise obtaining stories through intimidation or harassment.

Press regulation bodies should extend their codes of conduct to prohibit unacceptable language that incites intimidation.

News organisations should only consider stories from freelance journalists that meet the standards of IPSO's Editors Code, or the Editorial Guidelines of Impress, as appropriate, and ensure that freelance journalists are aware of this policy.

Election campaigns are competitive and Parliamentary politics is adversarial. Candidates and MPs must be able to have robust political debate within our democracy without opening the door to intimidation. Where candidates engage in highly personalised attacks, or blur the distinctions between policy differences, professional failures and breaches of ethics, they legitimise the behaviour of others who seek to engage in intimidation. They also undermine trust in the political system.

Those in public life should not engage in highly personalised attacks, nor portray policy disagreements or questions of professional competence as breaches of ethical standards.



Summary table of recommendations and timeframes

Recommendation	Responsibility	Timeframe
Government should bring forward legislation to shift the liability of illegal content online towards social media companies.	Government	On exiting the EU
Social media companies must develop and implement automated techniques to identify intimidatory content posted on their platforms. They should use this technology to ensure intimidatory content is taken down as soon as possible.	Social media companies	Immediately
Social media companies must do more to prevent users being inundated with hostile messages on their platforms, and to support users who become victims of this behaviour.	Social media companies	Immediately
Social media companies must implement tools to enhance the ability of users to tackle online intimidation through user options.	Social media companies	Immediately
All social media companies must ensure they are able to make decisions quickly and consistently on the takedown of intimidatory content online.	Social media companies	Immediately
Twitter, Facebook and Google must publish UK-level performance data on the number of reports they receive, the percentage of reported content that is taken down, and the time it takes to take down that content, on at least a quarterly basis.	Social media companies	At least every quarter, beginning in the first quarter of 2018
Social media companies must urgently revise their tools for users to escalate any reports of potential illegal online activity to the police.	Social media companies	Immediately
The social media companies should work with the government to establish a 'pop-up' social media reporting team for election campaigns.	Social media companies	Before the next general election
Social media companies should actively provide advice, guidance and support to Parliamentary candidates on steps they can take to remain safe and secure while using their sites.	Social media companies	Before the next general election
Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. They should challenge poor behaviour wherever it occurs.	Those in positions of leadership within political parties	Immediately
Political parties must proactively work together to tackle the issue of intimidation in public life.	Political parties	Immediately



Recommendation	Responsibility	Timeframe
Political parties should set clear expectations about the behaviour expected of their members, both offline and online through a code of conduct for members which specifically prohibits any intimidatory behaviour. Parties should ensure that members are familiar with the code. The consequences of any breach of the code should be clear and unambiguous.	Political parties	Within one year
Political parties must ensure that party members who breach the party's code of conduct by engaging in intimidation are consistently and appropriately disciplined in a timely manner.	Political parties	Immediately
Political parties must collect data on the number of complaints against members for engaging in intimidatory behaviour, and the outcome of any disciplinary processes which result from these complaints.	Political parties	Within one year
Leaders of political parties should always call out intimidatory behaviour, even when it is perpetrated by those in the party's fringes. Fringe group leaders and spokespeople should immediately denounce any intimidatory behaviour on the part of their members or supporters.	Political parties	Immediately
The political parties must work together to develop a joint code of conduct on intimidatory behaviour during election campaigns by December 2018. The code should be jointly enforced by the political parties.	Political parties	Joint code should be drawn up within one year – it should be enforced beginning at the next general election
Political parties must take steps to provide support for all candidates, including through networks, training, and support and resources. In particular, the parties should develop these support mechanisms for female, BAME, and LGBT candidates who are more likely to be targeted as subjects of intimidation.	Political parties	Before the next general election
Political parties must offer more support and training to candidates on their use of social media. This training should include: managing social media profiles, block and mute features, reporting content, and recognising when behaviour should be reported directly to the police.	Political parties	At the next general election



Recommendation	Responsibility	Timeframe
The government should consult on the introduction of a new offence in electoral law of intimidating Parliamentary candidates and party campaigners.	Government	Within one year
The government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending an election count.	Government	Immediately
Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011.	Local Authority Monitoring Officers	Immediately
MPs should actively co-operate with the police and other security services working to address the security threats facing Parliamentarians and Parliamentary candidates.	MPs	Immediately
The National Police Chiefs Council should ensure that local police forces have sufficient training to enable them to effectively investigate offences committed through social media. Local police forces should be able to access advice and guidance on the context in which MPs and Parliamentary candidates work.	National Police Chiefs Council	Within one year
The College of Policing Authorised Professional Practice for elections should be updated to include offences relating to intimidation, including offences committed through social media.	College of Policing	Before the next general election
The Home Office and the Department for Digital, Culture, Media and Sport should develop a strategy for engaging with international partners to promote international consensus on what constitutes hate crime and intimidation online.	Home Office and the Department for Digital, Culture, Media and Sport	Immediately
The National Police Chiefs Council, working with the Crown Prosecution Service and the College of Policing, should produce accessible guidance for Parliamentary candidates giving clear advice on behaviour they may experience during a campaign which is likely to constitute a criminal offence.	National Police Chiefs Council, working with the Crown Prosecution Service and the College of Policing	Before the next general election
Nobody in public life should engage in intimidatory behaviour, nor condone or tolerate it. All those in public life have a responsibility to challenge and report it wherever it occurs.	All those in public life	Immediately



Recommendation	Responsibility	Timeframe
Those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life, and help prevent a decline in public trust in political institutions through their own conduct.	All those in public life	Immediately
Those in public life must set and protect a tone in public discourse which is not dehumanising or derogatory, and which recognises the rights of others to participate in public life.	All those in public life	Immediately
Those in public life have a responsibility not to use language which engenders hatred or hostility towards individuals because of their personal characteristics.	All those in public life	Immediately
Press regulation bodies should extend their codes of conduct to prohibit unacceptable language that incites intimidation.	Press regulation bodies (IPSO and Impress)	By December 2018
News organisations should only consider stories from freelance journalists that meet the standards of IPSO's Editors Code, or the Editorial Guidelines of Impress, as appropriate, and ensure that freelance journalists are aware of this policy.	News organisations	Immediately
Those in public life should not engage in highly personalised attacks, nor portray policy disagreements or questions of professional competence as breaches of ethical standards.	All those in public life	Immediately



Introduction

The Committee on Standards in Public Life (the Committee) was established by the then Prime Minister in 1994 and is responsible for promoting the Seven Principles of Public Life: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, and Leadership – commonly known as the Nolan principles.¹

In recent years, the intimidation experienced by Parliamentary candidates, and others in public life, has become a threat to the integrity, vibrancy and diversity of public life in the UK. In July this year, the Prime Minister asked the Committee if we would undertake a review of the intimidation experienced by Parliamentary candidates, including those who stood at the 2017 general election.

The Committee agreed to undertake the review, including considering the broader implications for other candidates for public office and those in public life, because we believe that the problem of intimidation is a matter of major concern. The intimidation of Parliamentary candidates stands as a threat to the culture of representative democracy in the UK, and determined action on the part of all those involved is required to address this issue.

Terms of reference

To review the intimidation experienced by Parliamentary candidates, including those who stood at the 2017 general election. The Committee may also consider the broader implications for other candidates for public office and other public office holders.

The review should:

- examine the nature of the problem and consider whether measures already in place to address such behaviour are sufficient to protect the integrity of public service; and whether such measures are (a) effective, especially given the rise of social media, and (b) enforceable

- produce a report, including recommendations for action focused on what could be done in the short and long-term and identifying examples of good practice

The review will recognise the important role of legitimate scrutiny of those standing for public office by the public and the press.

As part of this review, we have heard from a wide range of people about the nature of the problem of intimidation and its impact on our public life. We received 88 written submissions to our call for evidence from interested individuals and organisations. We held a roundtable with candidates, academic experts and stakeholder organisations, a public hearing with representatives from political parties, and a private hearing with those with a responsibility for policing and security. We have had 34 meetings with a range of individuals and organisations, including candidates, MPs, local councillors, social media companies, regulatory bodies, broadcasters and journalists, and relevant stakeholders. We are indebted to all those who contributed to our review.

Intimidation is already shaping our political culture, and poses a real risk to our representative democracy. It impacts us all, and we all have a responsibility to prevent this culture from taking hold. Our recommendations stand as a package. They should be implemented together as a comprehensive response to an issue of central importance to our public life. Without action, intimidation will have a significant impact on diversity, the relationship between those in public life and the public, and how we discuss and debate ideas.

¹ The Seven Principles were established in the Committee's first report in 1995. The descriptors were revised following a review in the Fourteenth Report in 2013.



In this report, we review the measures already in place to address such behaviour, including actions taken by social media companies and the political parties, as well as the legislative framework. We consider whether these measures are effective and enforceable. We make recommendations for action to social media companies, political parties, government, police and prosecutors, as well as those in positions of leadership in public life. They all must work together to change the emerging intimidatory tone and culture of political life. Throughout, we have recognised the important role of legitimate scrutiny of those standing for public office by the public and the press.

Overview of the report

We consider the nature of **intimidation in public life** in chapter 1, including whether this abuse is anything new, what we have seen, why addressing intimidation matters and what can be done.

In chapter 2, we consider how **social media** is shaping political communication and engagement with the public, and set out the steps that the social media companies must take to combat online intimidation. This includes providing options for users, developing automated identification of intimidatory material, and supporting healthy political debate during elections. We also consider options for legislative reform.

Political parties have a responsibility to prevent their members from engaging in intimidatory behaviour and support their candidates in the face of intimidation and abuse. They must also demonstrate leadership in setting the tone of political debate. We make recommendations to the parties in chapter 3.

Addressing intimidation requires effective **law, policing, and prosecution**, which we consider in chapter 4. We review the sufficiency of the current laws in place to address intimidatory behaviour, and make recommendations on steps that should be taken to increase consistency in prosecution and policing of intimidation.

In chapter 5, we consider the underlying causes of intimidation and make recommendations to those in public life on the role they should play in **taking responsibility** for influencing a public political culture. Everyone in a position of responsibility in public life should show leadership in working together to set an appropriate tone for public debate, create a healthy political culture and call out intimidatory behaviour wherever it occurs.

We consider the **impact of intimidation** in public life in chapter 6, and return to consider the wider implications of this issue for the health of the country's political culture and the stability of its representative institutions.



Chapter 1

Intimidation in public life

What is the problem?

We have heard from many people in public life who have faced intimidation, and it is clear that intimidatory behaviour has become a significant and damaging feature of public life. It can be difficult to pinpoint a definition of intimidation, even though it may be straightforward to ‘know it when you see it’.

For the purposes of this review, we have interpreted intimidatory behaviour as behaviour intended (or likely) to stop someone from wanting to engage in public life. It can be through words or behaviour, online or offline, and people across society can be perpetrators and victims.

Intimidation: words and/or behaviour intended or likely to block or deter participation, which could reasonably lead to an individual wanting to withdraw from public life.

Intimidation can include physical violence, threats of violence, damage to property, and abusive online and offline communications, amongst other activities. Sometimes, the collective impact of a number of individual actions can also be intimidatory, for example where people become subject to co-ordinated social media attacks.

“Threats have varied from...gestures of slitting my throat (witnessed by my then 6 year old daughter)...to requesting sexual activities including one disgusting comment...I’ve found it extremely embarrassing and humiliating as well as frightening.”²

Sarah Lesiter-Burgess

Intimidation is different from the legitimate persuasion or influence which takes place as part of the democratic process; intimidatory actions are not political pressure. Instead, they are intended and likely to cause an individual to withdraw from a public space, including social media, public events, or from public life altogether. This can have the effect of limiting freedom of expression by ‘shouting down’ opponents.

The rise of social media has been the most significant factor accelerating the prevalence of intimidatory behaviour in recent years. Although it can be a means by which to open up access to ideas, information, and debate, social media can also create an intensely hostile atmosphere online.

“It is hard to explain how it makes you feel. It is anonymous people that you’ve never met, true, but it has a genuinely detrimental effect on your mental health. You are constantly thinking about these people and the hatred and bile they are directing towards you.”³

Rachel Maclean MP

People of course respond differently to intimidation, but it can significantly affect an individual's physical or mental health and wellbeing, as well as on those close to the candidate.

² Written Submission 44 (Sarah Lesiter-Burgess)

³ Written Submission 49 (Rachel Maclean MP)



"I spoke on a number of occasions in the House of Commons in different committees about the rights of women. To which I suffered daily attacks on Twitter, on my email system or endless online articles written about how people wished to see me raped, they wished to come to find my sons hanging from a tree because I don't care about men..."⁴

Jess Phillips MP

(quoted by National Democratic Institute for International Affairs)

What we have seen

"2017 was the most negative campaign I have experienced. For example at hustings, if someone doesn't agree with you they shout you down."⁵

Rehman Chishti MP

Our evidence confirms the prevalence of intimidatory behaviour during election campaigns in recent years, including and especially at the 2017 general election. While intimidation in public life in the UK is nothing new, and is not limited to the UK alone, the scale and intensity of intimidation is now shaping public life. This is a matter of serious concern.

Findings from evidence submitted to the Committee:

33% of candidates surveyed had experienced 'inappropriate' behaviour during the election campaign⁶

56% of candidates surveyed are concerned about abuse and intimidation, and 31% say they are fearful⁷

No female MP who was active on Twitter has been free from online intimidation⁸

Of the women in Parliament, Diane Abbott MP received the most abuse. In addition to this, black and Asian women MPs – despite representing only 11% of all women in Westminster – received 35% more abusive tweets than white women MPs⁹

One clear trend is that social media is changing the way in which election campaigns are conducted and has led to a marked shift in how the public engages with Parliamentary candidates. Online intimidation is now a persistent characteristic of election campaigns for a large number of Parliamentary candidates, who can be subject to intimidatory messages 24 hours a day.

"Thirty years ago, when I first became an MP, if someone wanted to attack an MP, they had to write a letter—usually in green ink—put it in an envelope, put a stamp on it and walk to the post box. Now, they press a button and we read vile abuse that, 30 years ago, people would have been frightened even to write down."¹⁰

Rt Hon Diane Abbott MP

4 Written Submission 76 (National Democratic Institute for International Affairs)

5 Rehman Chishti MP, Individual Oral Evidence, 14 September 2017

6 Written Submission 89 (Dr Sofia Collignon Delmar, Dr Jennifer Hudson, Dr Wolfgang Rüdiger, Professor Rosie Campbell)

7 Written Submission 89 (Dr Sofia Collignon Delmar, Dr Jennifer Hudson, Dr Wolfgang Rüdiger, Professor Rosie Campbell)

8 Written Submission 87 (Amnesty International)

9 Written Submission 87 (Amnesty International)

10 Diane Abbott MP, speaking in a Westminster Hall debate on 12 July 2017, Hansard HC Deb, 12 July 2017, Vol 627, Col 159WH



Intimidation has been experienced by individuals across public life, from all groups and across the political spectrum. What is especially worrying is that some groups are disproportionately likely to be the targets of intimidation and abuse both online and offline. Candidates who are female, BAME or LGBT are disproportionately targeted in terms of scale, intensity and vitriol. The intimidation experienced by those who fit in more than one of these groups can be even worse.

“I’ve been in and around lobbies since 2003 and have been in Westminster full time since 2014/15. There’s been a sea change during that time in what’s been experienced by MPs and candidates, especially women.”¹¹

Laura Kuenssberg

The prevalence of intimidation during election campaigns, and in public life more broadly, has an impact on those beyond just Parliamentary candidates. It affects candidates’ families, staff, party volunteers, supporters, and voters.

“Intimidation may well put people off even acting as volunteers and activists for political parties at a grassroots level, which is often the first step towards public roles.”¹²

William Wragg MP

We face a serious challenge. Parliament cannot be cut off from the people it represents; we cannot permit intimidation to result in the exclusion of women and members of black and minority ethnic groups from the ranks of parliamentarians; and our public culture must be one in which people can debate, exchange views, and express their opinions, with mutual respect, civility and truth.

Why does addressing intimidation matter?

The wide spread of intimidatory language and behaviour is already shaping our political culture. Representative democracy is dependent on people’s freedom to engage in political debate and discussion. That freedom is compromised when a culture of intimidation effectively forces people out of public life, and where people are put off engaging in the political process by intimidation. The vast majority of messages the public send to MPs are not unpleasant, abusive or intimidatory. Our culture needs to promote debate and discussion, but it needs to do so in a way which preserves the civility of that debate and the integrity of political processes and mechanisms.

Freedom of expression

“We are definitely at a potential turning point. We are on a trajectory, there was a healthy change since the 1950s where the pedestal for office holders has been knocked down, but we are now at a stage of danger of dehumanisation. Right at the other end, if we end up there, it is a very dark and dangerous place for liberal democracy.”¹³

Brendan Cox

Freedom of expression is an important part of a vibrant public life, and our democracy depends on those with different viewpoints disagreeing well. Intimidation aims at shutting down debate – cutting off participation and engagement. In the past, and in many places across the world today, elections are violent and intimidatory, and result in the domination of those who bully most effectively, and often systematically exclude some groups. Tackling this intimidation, far from threatening genuine democratic debate and scrutiny, will serve to enhance and protect it. Indeed, in order to represent all legitimate interests all voices should

11 Laura Kuenssberg, Individual Oral Evidence, 14 September 2017

12 Confidential Submission

13 Brendan Cox, Individual Oral Evidence, 7 November 2017.



be heard so that the democratic process can be maintained.

More than half of candidates surveyed are moderately or very concerned about inappropriate behaviour (56%) and almost a third (31%) say they are fearful.¹⁴

A diverse public life

"I wouldn't have given up my job and stood for election if the abuse I would receive had been explained to me. I wouldn't have. I believed I had something to contribute with lengthy experience in the NHS, but I have a young family, and I wouldn't have wanted to put them through it. Their wellbeing is the priority."¹⁵

Dr Lisa Cameron MP

Intimidation is already having an impact on our public life. We have heard how racist, sexist, homophobic, transphobic and anti-Semitic abuse has put off candidates from standing for public office. If this issue is not addressed, we could be left with a political culture that does not reflect the society it should represent. This has serious implications for our democracy if our public life erodes to such a degree that it effectively excludes parts of the society it is there to serve.

"There is one woman in particular in my constituency who would make a fantastic MP. She said to me, 'I wouldn't do it, I couldn't do it, I couldn't go through what you experience.'¹⁶

Luciana Berger MP

Changing the relationship between Parliament and the public

The intimidation experienced by Parliamentary candidates is also changing the way they interact with the public. We have seen how intimidatory behaviour has led people to reduce or seek protection for their public appearances, and change how they engage with the public online. Without action, this issue is not going to go away, especially as the reduced accessibility and presence of those in public life can itself lead to the dissatisfaction which can fuel intimidatory behaviour.

"Whilst experienced party members and I could handle ourselves, the experience was very off-putting for new members, particularly young and elderly activists. By the end of the campaign we feared for their safety and new activists were only sent out with experienced activists."¹⁷

Councillor Ameet Jogia

The tone of debate

"The tone of modern political discourse permeates through society and normalises abusive and occasionally aggressive language when discussing politics."¹⁸

Equality and Human Rights Commission

Intimidation is also changing the tone of our public life. There are many examples of behaviour aimed at shutting down some people's involvement in the political sphere, as well as discussion and debate around some subjects. Politics, participation and comment has changed dramatically in recent years, with the rise of social media in the context of an increasingly plural and diverse society.

¹⁴ Written Submission 89 (Dr Sofia Collignon Delmar, Dr Jennifer Hudson, Dr Wolfgang Rüdiger, Professor Rosie Campbell)

¹⁵ Dr Lisa Cameron MP, Individual Oral Evidence, 1 November 2017

¹⁶ Luciana Berger MP, Individual Oral Evidence, 20 November 2017

¹⁷ Written Submission 51 (Councillor Ameet Jogia)

¹⁸ Written Submission 82 (Equality and Human Rights Commission)



Addressing intimidation is essential to maintaining an appropriate tone for political debate that does not lead to the exclusion of some groups.

“That level of lively knockabout, which has happened all my adult life, has not changed. What has changed is the sense that the views of the other are illegitimate. The thought is that ‘your views are illegitimate; you should be silenced.’”¹⁹

Nick Robinson

The wide reach of intimidation

We are also aware that people across public life more widely, not just those standing for or elected to Parliament, have been subject to intimidation both online and offline, including journalists, teachers, police officers, election officials, judges and leaders of public bodies. Addressing the issue of intimidation is necessary not just to preserve the integrity of elections, but that of public life more broadly. Intimidation is a significant concern, and everyone in public life has a responsibility to work to ensure that intimidation does not undermine the freedoms that are essential to our liberal democracy.

What can be done?

Intimidation in public life is a complex issue that does not have a single, straightforward solution. Addressing intimidation will require practical prevention, deterrence, and enforcement of sanctions; but it also requires addressing the underlying causes, and minimising its damaging effects on individuals and on public life as a whole.

The rise of social media has dramatically changed the way intimidatory behaviour shapes our public life (see chapter 2). Steps can be taken by the social media companies to reduce incentives for, and the effects of, intimidatory behaviour online.

Most importantly, the companies must remove illegal content from their platforms altogether, this should be underpinned by a rebalancing of the liability of social media companies for illegal content.

Where intimidation cannot be fully prevented, steps must also be taken to mitigate its effects, and ensure it does not stop those who want to serve their communities – particularly those from diverse backgrounds – from participating in public life. Political parties will have a crucial leadership role to play in this area (chapter 3).

Some intimidation in public life is a result of fixated individuals. While it would be difficult fully to resolve this issue, there is a growing awareness of threats from these individuals, and an improved evidence base on how to assess and contain them.²⁰ For behaviour which is not a fixated threat, a number of preventative measures can be taken. Effective policing and prosecution can act as a deterrent and prevent intimidatory behaviour from escalating, and provide support to victims (see chapter 4).

Our evidence has also shown that intimidation does not occur in a vacuum. As we explain in chapter 5, some abuse takes place in response to an unhealthy public political culture. This can be a result of an unhealthy public discourse of those in public life – including the media – needlessly undermining trust in public institutions, or poor standards of conduct in public life. Working to build a more healthy public political culture should, in the long-term, reduce the underlying causes of some intimidatory behaviour.

¹⁹ Nick Robinson, Individual Oral Evidence, 6 September 2017

²⁰ This has meant that such threats are being more effectively addressed, particularly by units such as the Fixated Threat Assessment Centre (<http://www.fixatedthreat.com/ftac-welcome.php>)



Chapter 2

Social media

Social media has come to play a significant role in British politics. Widely used social media sites such as Twitter and Facebook have become important ways to share political ideas and information. Elections are now played out online, as well as in the offline world.

Social media can be a democratising force, enabling citizens to communicate with those standing for office and their elected representatives more directly than ever before. During elections, Parliamentary candidates can engage more easily and directly with those they are seeking to represent. Through social media, candidates can mobilise support, engage with opponents, and promote their political platforms.

“Abuse on social media bears a huge psychological impact and has a chilling effect on their [female MPs] right to enjoy freedom of expression online, and exercising their right to equal participation in public and political life, and the right to privacy, among others.”²¹

Amnesty International

Yet, these platforms of debate and discussion can and do become places of intimidation. The platforms are designed and optimised to generate an emotional response as this generally increases user engagement that is critical to commercial success. This can take a dark turn when that emotive content is intimidatory. Social media can lead to widespread access to ideas and information, but they can also facilitate abuse by those who seek to see certain individuals pushed out of public life. Some MPs and candidates have disengaged entirely from social media due to the intimidation they have received; others who may be interested in engaging in public life are being put

off by the tone and intensity of political discussion online.

In this chapter, we explore the current legislative framework, discuss its limitations and enforceability, and make recommendations to government on how the legal framework may be revised to help combat intimidation online. We make recommendations to social media companies on steps they can take to prevent online intimidation, particularly during election campaigns.

In the fast-paced and rapidly developing world of social media, the companies and the government must proactively address the issue of intimidation online. So far, not enough has been done.

We have met with Twitter, Facebook, and Google, and we are deeply concerned about the lack of progress all three companies are making in protecting users online. We will be monitoring their progress in implementing our recommendations.

Is this abuse anything new?

“Abuse of parliamentary candidates is not a new phenomenon, but evidence would suggest that with the growth of social media, candidates are more exposed and open to abuse which is taking place on a larger scale than even five years ago.”²²

All Party Parliamentary Group Against Antisemitism

To an extent, the intimidation experienced by candidates is nothing new. In the past, some candidates received intimidatory messages by post, or were physically harassed.²³ These ‘offline’

21 Written Submission 87 (Amnesty International)

22 Written Submission 34 (All Party Parliamentary Group Against Anti-Semitism)

23 Submission 10 (Sir Ronald Watson CBE)



modes of intimidation still take place, and are often illegal (see chapter 4).

However, the evidence we have received has demonstrated that social media has sparked a step-change in the abuse and intimidation MPs, candidates, and others in public life receive. The instantaneous and direct nature of communication online has shaped a culture in which the intimidation of candidates and others in public life has become widespread, immediate, and toxic. This is exacerbated by the ability to hide behind the anonymity of social media profiles.

Free and easy use of social media has opened communication with those in public life to everyone, including a minority of those who seek to use this freedom to intimidate and try to limit the freedom of others through intimidation. But this is not inevitable, and social media companies must take the proactive steps necessary to reverse this.

What has changed?

The scale

The current scale and usage of social media is enormous, and rapidly growing. Globally, there are on average 500 million tweets posted per day,²⁴ and there are 1.33 billion daily active Facebook users.²⁵ On average, 400 hours of video are uploaded to YouTube every minute.²⁶

The accelerating pace of political debate

“The existing social media platforms are being used to perform a specific democratic function for which they were not designed.”²⁷

BCS – The Chartered Institute for IT

Social media has revolutionised how voters and candidates receive information. This has dramatically altered the pace of political debate by encouraging and enabling its users to comment on political news stories in real time. When commenting in this fast-paced environment, messages can be sent immediately without the deliberation which may take place in face-to-face communication.

The volume of messages

“Some MPs receive an average of 10,000 messages per day.”²⁸

BCS – The Chartered Institute for IT

Social media also gives the public unprecedented access to those in public life; anybody can send a message to a candidate or politician which arrives immediately on their phones in their pockets. While public figures could just disengage from social media, they lose the benefits of communicating with voters and constituents, which they should be able to do in a safe environment online. The stream of comment and information is direct, constant and ever present. During election campaigns, Parliamentary candidates receive a particularly large number of messages due to their public profile.

“Social media also bleeds into your 24 hours home life, at night the tweets come in when you’re cooking your kids’ tea or going to bed. There is little place to hide.”²⁹

Lisa Robillard Webb

24 <http://www.internetlivestats.com/twitter-statistics/>
25 <https://www.statista.com/statistics/346167/facebook-global-dau/>
26 Google/Jigsaw, Oral Evidence, 2 November 2017
27 Written Submission 64 (BCS - The Chartered Institute for IT)
28 Written Submission 64 (BCS - The Chartered Institute for IT)
29 Written Submission 36 (Lisa Robillard Webb)



Abuse and intimidation online can be persistent and overwhelming. Intimidatory users can use social media to encourage others to inundate a user with hostile messages, known as a 'dogpile'.

Ease of communication online

Social media has made communication with those in public life much easier, with over 70% of UK adults owning a smartphone which can be used from any location to send messages directly to the social media accounts of politicians and candidates.³⁰

"Social media enables unplanned, impulsive comment to reach its target; whereas previously a penned missive entailed numerous opportunities to rethink and change approaches or presented barriers which many would not or could not be bothered to overcome."³¹

Public Submission

"The increasing accessibility to public figures through the likes of social media and digitalisation has led to a blurring of boundaries over what can be considered acceptable and what cannot. A huge amount of the abuse directed at female parliamentary candidates in particular is highly sexualised and dangerous."³²

Scottish Women's Convention

This ease of communication has increased the opportunities for those who intend to intimidate people in public life to do so without much effort. A malicious user of an internet platform does not need to be in physical contact with a candidate, or

even write and send a letter to intimidate. Others who would not consider engaging in offline forms of intimidation, do engage in such behaviours online.

"...our experience is that this an area where an old problem has been given a new and more toxic life."³³

National Democratic Institute for International Affairs

Brevity changing the tone of debate

The format of social media, most obviously Twitter, encourages brevity. While concise communication can make political messages more accessible, the motivation to boil down complex political ideas into short messages can change the tone of debate. The norms of appropriate communication online are not well established.³⁴

The detailed discussion of a political idea or concept may be too long or complex to deliberate or debate on social media, whereas highly personalised political attacks are often more direct and more likely to be shared. Social media therefore incentivises content which is more likely to be negative. While communication and discussion in the traditional media also encourages brevity, these publications receive editorial oversight and operate within a regulatory framework which moderates content.

"Extreme positions whether political or moral or abusive, you will get more a rise in followers. There is an incentive to go to the extreme."³⁵

Lionel Barber, Financial Times

30 https://www.ofcom.org.uk/__data/assets/pdf_file/0017/105074/cmr-2017-uk.pdf

31 Written Submission 22 (Norm Cooper)

32 Written Submission 59 (Scottish Women's Convention)

33 Written Submission 76 (National Democratic Institute for International Affairs)

34 Alex Krasodonski-Jones (2017) Signal and Noise: Can technology provide a window into the new world of digital politics in the UK? Demos. <https://www.demos.co.uk/wp-content/uploads/2017/05/Signal-and-Noise-Demos.pdf>

35 Lionel Barber, Editor of the Financial Times, Individual Oral Evidence, 30 October 2017



The impact of anonymity

It is remarkably easy for those who seek to hide their identity online to do so, and some of the social media companies do not require a real name for users to sign up to their services. We have heard evidence from Parliamentary candidates and others in public life that anonymity online perpetuates the abuse and intimidation.

“Because of the internet and social media people feel emboldened to be ruder or more critical than they would otherwise be in person.”³⁶

Rt Hon Sir Hugo Swire MP

Where individuals are able to speak anonymously online, the ‘online disinhibition effect’ can be made worse: people tend to show a lack of restraint when communicating online in comparison to communicating in person.³⁷ The evidence we have received from candidates supports this.

“What is clear though, is that the anonymous and ‘safe distance’ nature of social media platforms allows such abuse to be handed out far less respectfully than it would usually be if delivered face-to-face.”³⁸

Demos

Users can also use technology to make it appear as though they are in a different jurisdiction. This is especially concerning when the online intimidatory behaviour is illegal, as we have seen evidence that it can be difficult for the police to track down those involved intimidation across borders (see chapter 4).

Social media legislation and regulation

The current legal framework

The legislative framework in which social media companies operate is based on simple principles, but is complex in its application. Although the cultural attitudes of the companies are shaped by the US legislation, the key controlling legislation in the UK is the EU’s 2000 E-Commerce Directive,³⁹ which was developed before the current main social media companies even existed.⁴⁰

The E-Commerce Directive (the Directive) allows ‘information society services’ providers, such as internet service providers and social media companies, to be exempt from criminal or civil liability when their services are used to commit an offence – for example, publishing or transmitting illegal content.

The Directive sets out the responsibility of the social media companies as ‘platforms’ for content created by other people. The aim of the Directive was to strike a balance between maintaining a low regulatory burden on service providers, the social interest in removing illegal content, and upholding individual rights including freedom of expression.⁴¹

How does the law work in practice?

The posting of death threats, threats of violence, and incitement of racial hatred directed towards anyone (including Parliamentary candidates) on social media is unambiguously illegal. Many other instances of intimidation, incitement to violence and abuse carried out through social media are also likely to be illegal. We outline and evaluate the current law surrounding the content of communications further in chapter 4.

36 Sir Hugo Swire MP, Individual Oral Evidence, 20 November 2017

37 Written Submission 58 (Dr Jonathan Rose), Suler, J. (2004). The online disinhibition effect. *Cyberpsychology & behavior*, 7(3), 321-326

38 Alex Krasodonski-Jones (2017) Signal and Noise: Can technology provide a window into the new world of digital politics in the UK? Demos. <https://www.demos.co.uk/wp-content/uploads/2017/05/Signal-and-Noise-Demos.pdf>

39 European Union E-Commerce Directive (2000/31/EC)

40 Friendster was found in 2003, MySpace and Facebook in 2004, Bebo in 2005, and Twitter in 2006

41 European Union E-Commerce Directive (2000/31/EC), Recital 41



Social media companies are not held legally liable for any illegal content, as they are likely to fall within the ‘hosting’ exemption,⁴² where the provider’s relationship to that content as a host is considered merely ‘technical, automatic or passive’.⁴³ The hosting exemption requires that the company does not have knowledge of the illegal activity or information, and removes or disables access to it ‘expeditiously’ if it becomes aware of it. This has formed the basis for what is called the ‘notice and takedown’ model.⁴⁴ Member states are prohibited from imposing a general monitoring duty on service providers in Article 15 of the Directive. This means that social media companies are legally envisaged to have a passive, rather than proactive, role in identifying and removing illegal content.

International comparisons on social media regulation

The EU E-Commerce Directive came into law 17 years ago, before most of the big players in today’s social media landscape even existed. Since then, EU member states have diverged significantly in their legislative treatment of social media platforms.⁴⁵ Member states have differing interpretations of what counts as ‘actual knowledge’ of illegal content, what counts as ‘expeditious’ takedown of content, and whether ‘manifestly illegal content’ (content that is obviously illegal even to a non-lawyer) merits different treatment.⁴⁶

Germany

In a significant development in June 2017, Germany became the first EU member state to pass legislation creating time-specific takedown provisions for social media platforms and introducing sanctions for contravention.

The German Network Enforcement Act applies to social media networks with two million or more registered users, and requires them to remove content that is “clearly illegal” within 24 hours of being notified by a user. A social media network intentionally or negligently violating this obligation can be fined up to €50 million.⁴⁷

USA

The USA has significant liability exemptions for social media companies, based on Section 230 of the Communications Decency Act 1996. This section specifically states that “no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another content provider”. Section 230 has been consistently upheld in US case law and provides robust exemption from liability for illegal material published on social media companies.

This gives the USA a regulatory environment which is highly favourable for social media companies, with the only significant exception being intellectual property breaches. Since the major social media companies all have their headquarters in the USA, this regulatory mindset can shape their engagement with legislative authorities across the world.

Legislative reform

The EU’s E-Commerce Directive is the reason that the social media companies do not search proactively for illegal content in order to remove it. The notice and takedown model incentivises service providers to avoid actively monitoring or taking preventative measures against illegal content so that they benefit from the hosting exemption.⁴⁸

42 Article 14, European Union E-Commerce Directive (2000/31/EC)

43 European Union E-Commerce Directive (2000/31/EC), Recital 42. The importance of meeting this condition to benefiting from the hosting exemption was confirmed by the European Court of Justice in *Google France and Google*, C-236/08

44 European Commission Staff Working Document (2012), Online services including e-commerce in the Single Market, SEC(2011) 1641, p39

45 European Commission Staff Working Document (2012), Online services including e-commerce in the Single Market, SEC(2011) 1641, p26ff

46 European Commission Staff Working Document (2012), Online services including e-commerce in the Single Market, SEC(2011) 1641, p32-39

47 Library of Congress, “Germany: Social Media Platforms to Be Held Accountable for Hosted Content Under ‘Facebook Act’”, *Global Legal Monitor*, 11 July 2017

48 European Commission Staff Working Document (2012), Online services including e-commerce in the Single Market, SEC(2011) 1641, p35



Social media

When the UK leaves the EU, it will cease to have obligations under EU law. The government may then seek to tip the balance of liability for certain forms of illegal content towards social media companies. Especially as technology has developed, removing or blocking access to individual content no longer requires disproportionate effort or expense for the social media companies.⁴⁹

“Our position is we would much rather when there are genuine, and there are genuine attitudes that concern, let’s try and work with Parliamentarians, with governments, with NGOs and all the other relevant parties and with other companies to try and address the problem, such that Parliamentarians don’t feel that they have to regulate...if they decide after all that there are still things that need legislating, it is clearly their call and we respect the democratic process.”⁵⁰

Facebook

Due to the quickly changing nature of social media and the fast-paced change in technological advancements, government should look beyond just working with the social media companies. Instead, Parliament should consider on a first principles basis the legislative framework that the social media networks and technological companies of the future should need to grow within.

Parliament should reconsider the balance of liability for social media content. This does not mean that the social media companies should be considered fully to be the publishers of the content on their sites. Nor should they be merely platforms, as social media companies use algorithms that analyse and select content on a number of unknown and commercially confidential factors. These out-dated categories must be reconsidered to recognise the changing nature of the creation,

ownership and curation of online content and communications.

“We need new categories and to think about which parts of our current typologies still apply. The current distinctions do not do justice to the nature of [social media] institutions and their many and varied functionalities.”⁵¹

Will Moy, Full Fact

It is clear to us that the social media companies must take more responsibility for the content posted and shared on their sites. After all, it is these companies which profit from that content. However, it is also clear that those companies cannot and should not be responsible for human pre-moderation of all of the vast amount of content uploaded to their sites.

Legislation which rebalances the liability for online content can be considered when the UK ceases to have obligations under EU law. For example, legislation could remove the hosting liability exemption for particular types of content, such as death threats, where automatic removal or monitoring does not require disproportionate effort or expense.

Revising this legal framework which applies to the social media companies would incentivise the prompt, automated identification of illegal content. This would have a positive impact on combatting the intimidatory tone of online political discussions.

Legislative change to rebalance liability would ensure that our recommendations on speeding up the process of taking down content, and transparency about the collection of data on notice of takedown, are enacted. It would also remove the current perverse incentives for companies to avoid any form of active moderation using machine learning.

49 The High Court accepted this in *Mosley v Google*, [2015] EWHC 59 (QB), 49-54

50 Simon Milner, Facebook, Oral Evidence, 20 September 2017

51 Will Moy, FullFact, Oral Evidence, 30 October 2017



Government should bring forward legislation to shift the liability of illegal content online towards social media companies.

There are concerns across government about illegal online behaviours and activity, which touch on a number of issues across government departments. We are aware that the social media companies are often dealing with different parts of government on different subjects, including hate speech, child sexual exploitation, counter-terrorism, and copyright. We discuss this further in chapter 4.

The social media companies must uphold their responsibility to engage with government to help tackle these issues. The government should take a coordinated approach to promote joint working with the social media companies. Government and Parliament should consider the recommendations we make to social media companies, and make efforts to take them forward as part of their wider work with the companies.

Developing technology and supporting users

In the meantime, and in addition to legislative change, there is much that the social media companies can and should be doing to change the experience of users who experience online abuse and intimidation.

“We need to protect users, even from a commercial perspective, we need to make people feel safe online.”⁵²

Jigsaw

Using technology to combat online intimidation

Social media firms rely on a ‘report and take down’ model for offensive, intimidatory and illegal material: a company’s users flag content to the host site, which then makes a decision about whether it breaches their rules and guidelines. Due to technological advances in text analysis and machine learning, companies should be able to develop ways to monitor proactively illegal and/or hateful content online.

“Machine learning is extremely important for flagging violent extremism content for review: over 83 percent of the videos we removed for violent extremism in the last month were taken down before receiving a single human flag... [we] receive over 260,000 user flags a day.”⁵³

Google

The Committee agrees with the House of Commons Home Affairs Committee’s recommendation that “all social media companies [should] introduce clear and well-funded arrangements for proactively identifying and removing illegal content”.⁵⁴ These companies are not lacking in resources, and having heard directly from social media companies, we remain unconvinced that they are going far enough or fast enough to tackle online intimidation or collect information intimidation reported to them.

52 Yasmin Green, Jigsaw, Oral Evidence, 2 November 2017

53 Google, Follow-up to Oral Evidence, 2 November 2017

54 <https://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/inquiries/parliament-2015/inquiry7/>



“For the industry, as noted, further investment in artificial intelligence systems should be a priority. Algorithms must be created that more readily filter abusive words, accounts and pictures, and more effectively identify problem users and remove them.”⁵⁵

All Party Parliamentary Group Against Antisemitism

The burden of combatting intimidation online should not lie solely with those who are intimidated. We have heard evidence from those who have experienced intimidation about the detrimental impact that having to deal with torrents of abuse can have on their lives. The social media companies have an immediate responsibility to develop and implement technology to support users who face intimidation by identifying, blocking, and screening hateful and abusive content.

“The first thing we do in the morning is to block and delete online abuse, usually whilst having breakfast. Porridge with one hand, deleting abuse with the other.”⁵⁶

Office of Rt Hon Diane Abbott MP

While there has been positive collaboration among social media firms, government and the third sector in tackling some illegal activities, for example online child abuse, this investment in a collaborative approach must also be taken for other key social issues, including online intimidation. The companies have told us that they do not compete on public policy or safety, so they must work together to address these issues.

Some progress is being made in the development of machine learning and automation techniques

to try to change the tone of political discussion online. Jigsaw, formerly Google Ideas, and Google’s Counter Abuse Technology team have been developing Perspective, an application-programming interface (API) which “uses machine learning to spot abuse and harassment online”.⁵⁷ However, we were disappointed to learn that this development is not being embedded into Google products, including YouTube.

Companies should be taking steps to use machine learning to identify intimidatory patterns of behaviour of users – for example sending lots of messages to one user in a short time frame with no replies, or persistently using violent or inappropriate language. Technology to identify online intimidation must be taken up across companies. This technology should not rely solely on users actively opting-in.

The companies should then take steps to prevent these users from engaging in such behaviour. Twitter, for example has introduced an automated ‘timeout’ for users engaging in intimidatory behaviour online.

“We’re using technology in ways to try to find that behaviour. User reports are still critical – and we won’t get past that because context is everything. We think there’s good progress... We are taking action on ten times more accounts than this time last year, due to internal machine learning.”⁵⁸

Twitter

55 Written Submission 34 (All Party Parliamentary Group Against Anti-Semitism)

56 Staff of Diane Abbott MP, Individual Oral Evidence, 1 November 2017

57 <https://www.perspectiveapi.com/>

58 Nick Pickles, Twitter, Oral Evidence, 25 October 2017



There has not been enough progress on developing automated techniques for the identification and takedown of intimidatory content online. As one way to combat intimidation in the immediate term, Facebook, Google and Twitter must do more to use technology to protect users from intimidation.

Social media companies must develop and implement automated techniques to identify intimidatory content posted on their platforms. They should use this technology to ensure intimidatory content is taken down as soon as possible.

Identifying and preventing ‘dogpiling’

We have heard evidence of the ‘dogpiling’ of public figures, where an individual can receive tens of thousands of messages a day as part of a co-ordinated campaign or after becoming the centre of a viral news story. This can be a particular problem on Twitter, but also applies on other online platforms. The traditional press and broadcast media can trigger and perpetuate these ‘tweet storms’ by reporting on them.

“It got so bad during the election that for much of the campaign I came off social media and didn’t post anything which impacted on my ability to campaign.”⁵⁹

Maria Caulfield MP

The social media companies are making some progress in this area by developing new, automated tools to reduce the impact of dogpiling on individuals. For example, Twitter has taken steps to enable their teams to review reported tweets targeted at a person who is being dogpiled more quickly.

Twitter has set out in their community guidelines that users are prohibited from encouraging this behaviour.⁶⁰ However, any such co-ordinated online intimidation could be organised on other web platforms or specialised websites. Some of these messages may also be sent by automated bots and anonymous accounts. Therefore, the social media companies must do more to identify dogpiling and support users.

“...multiple different people are sometimes targeting an individual at scale. This is where they need help – and that’s why we have a relationship with political parties.”⁶¹

Twitter

Facebook commented to us that they deliberately do not have a ‘big red button’ to report content, as they need to ask questions about the inappropriate online behaviour in order to prioritise it. However, Reclaim the Internet recommend a ‘panic button’ system, whereby users can report online intimidation in the case of dogpiling due to the intensity of the messages.⁶² Combined with automated processes to identify where online dogpiling occurs, a panic button could help to protect those in the public eye from suffering intimidatory messages.

Social media companies must do more to prevent users being inundated with hostile messages on their platforms, and to support users who become victims of this behaviour.

59 Written Submission 53 (Maria Caulfield MP)

60 <https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/609/609.pdf>

61 Nick Pickles, Twitter, Oral Evidence, 25 October 2017

62 http://www.reclaimtheinternet.com/big_questions



Giving users options

Public figures who have experienced online intimidation told us that user options such as options to block and mute messages, phrases and other users are an important part of helping to protect themselves against some abusive content and managing their social media presence. But these measures do not yet go far enough to protect users.

Social media companies have taken some steps to give users options to reduce intimidatory behaviour online. These options, which should be simple for users to enable, provide those who experience intimidation with a means to prevent further threatening or offensive messages from appearing on their social media profiles.

“You can mute certain words, or you can use a filter where you don’t see tweets from someone who hasn’t changed their profile picture from the default. Some MPs are worried about using too many filters.”⁶³

Twitter

Twitter has announced the development of tools for users never to be shown tweets from a user who has never changed their profile picture or has not verified their phone number.⁶⁴ Facebook has introduced similar mechanisms to enable users to block profiles, and ‘unfollow’ pages and groups.

These tools must be improved and implemented in the immediate term. They must be clear to users and simple to set up. The companies have a responsibility to their users to enable users to protect themselves from reading intimidatory abuse online.

Social media companies must implement tools to enhance the ability of users to tackle online intimidation through user options.

Action on report and takedown

However, when users mute or block an account it does not prevent a discussion, which may be illegal and/or incite violence, from continuing. Therefore, once someone has blocked or muted an account they must rely on others to report content to the social media company.

“They will remove them for you to see them, but not remove it altogether...But removing it from Diane doesn’t stop another black woman from seeing it, or from emboldening someone else.”⁶⁵

Office of Rt Hon Diane Abbott MP

As things stand, the delayed action by many of the social media companies in taking down content reported to them is unacceptable. We have heard from figures across public life about the frustration they have felt about the platforms’ (especially Facebook, Twitter and Google) delayed response or inaction on content that has been reported to them.

A Fawcett Society survey of women in public life found that only half of the women surveyed (50% of Facebook users and 43% of Twitter users) reported abusive content to the platform. This was largely because, from their experience, they did not think that the platforms would act on their reports.⁶⁶

63 Nick Pickles, Twitter, Oral Evidence, 25 October 2017

64 <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/hate-crime-and-its-violent-consequences/oral/48836.html>

65 Staff of Diane Abbott MP, Individual Oral Evidence, 1 November 2017

66 Written Submission 69 (Fawcett Society)



Delivering on takedown of reported content

Users of social media platforms should expect that the social media companies will take quick and decisive action on any content reported to them. The companies have a responsibility to their users, as well as a broader social responsibility, to act quickly to take down content on their platforms that violates their terms and guidelines. They already do this with commercial interests such as copyright infringement, and should do so with hateful and illegal speech which can be much more harmful.

In addition to developments in machine learning, human decision-making can play an important role in taking down some social media content, especially where online intimidation is very subjective.

“There were very subtle threats because of the context of the previous communication. For example, a woman talked about a man who was in abusive communication with her... mentioning the road that she lived on.”⁶⁷

Dr Ruth Lewis

Facebook told us that they are increasing the size of their global ‘community operations’ team from 4,500 to 7,500 people.⁶⁸ We commend this, but it must also have the impact of changing the user experience in terms of action on reported material.

This is not just a matter of allocating more resources; Google, Facebook and Twitter must do more so that action is taken on the content reported to them which breaches their rules. None of the social media companies have done enough to act on the content reported to them.

All social media companies must ensure they are able to make decisions quickly and consistently on the takedown of intimidatory content online.

Transparency about performance on takedown

We are surprised and concerned about Google, Facebook and Twitter’s failure to collect performance data on the functioning of their report and takedown processes. Facebook and Twitter said that they do not collect data on the number of reports they receive by country, the percentage of reported content that is taken down,⁶⁹ nor the amount of time between the initial report and the content being removed from the site. Nor do they have targets for improving performance on the takedown of reported content.

“JR: You don’t keep performance data, you don’t do data reports on how many you’ve had in a particular period of what type of incident? SM: No.”⁷⁰

Facebook

The companies’ failure to collect this data seems extraordinary given that they thrive on data collection. It would appear to demonstrate that they do not prioritise addressing this issue of online intimidation. This is unacceptable given the negative impact that intimidatory content can have on its victims. The social media companies have a responsibility to their users to monitor their performance on takedown.

67 Dr Ruth Lewis, Roundtable, 12 September 2017

68 Simon Milner, Facebook, Individual Oral Evidence, 20 September 2017

69 Google do publish country-level data on government requests for the takedown of content. <https://transparencyreport.google.com/government-removals/by-country/GB>

70 Simon Milner, Facebook, Individual Oral Evidence, 20 September 2017, Nick Pickles, Twitter, Oral Evidence, 25 October 2017.



Social media

“These companies live on data, they just don’t prioritise this issue enough to compile the data on it.”⁷¹

Robert Shrimsley, Financial Times

This data should be collected, and targets should be set for performance on taking down content, in particular the amount of time taken for content which breaches the community standards to be taken down. None of the three companies we spoke to would share any targets they had for the amount of time taken to takedown of content which violates their standards.

Social media companies must be able to collect this data so that they know where to invest in improving their report and takedown systems.

“Our target is to review a flagged video and make a decision as quickly as possible.”⁷²

Google

Not only should the companies collect this data themselves, they must be transparent with their users about their performance on taking down reported content. We note that Ofcom publishes a report on public complaints received on a weekly basis, and a list of current investigations on a fortnightly basis. The social media companies’ lack of transparency on this shows a lack of respect to users, who should be able to know whether the companies are improving on taking down the inappropriate content on their sites.

“We’re also thinking about how we can be transparent about action we take automatically, without reports. But there is definitely renewed emphasis about how we can get more transparent.”

Twitter

Twitter, Facebook and Google, must publish UK-level performance data on the number of reports they receive, the percentage of reported content that is taken down, and the time it takes to take down that content, on at least a quarterly basis.

The government should ensure that this recommendation is written into their code of practice for social media companies, which was required in Section 103 of the Digital Economy Act 2017.⁷³

Promoting swift and constructive escalation to the police

Behaviour that is illegal offline is also illegal online. However, more needs to be done to enable those who are being intimidated to report illegal behaviour to the law enforcement agencies. If someone is receiving credible threats of violence, social media companies should move quickly, not only to remove the post or account, but also to ensure that the threats can be escalated to the police.

“Now the loud aggressor...can find a direct line to the...individual elected members they vehemently disagree with.”⁷⁴

Public Submission

⁷¹ Robert Shrimsley, Financial Times, Individual Oral Evidence, 30 November 2017

⁷² Written Submission (Google follow-up)

⁷³ <https://www.gov.uk/government/consultations/internet-safety-strategy-green-paper>

⁷⁴ Written Submission 22 (Norm Cooper)



Google, Facebook and Twitter do not provide adequate advice to users on how to escalate a complaint to the police when they report an illegal message, comment or post. They must do more to create jurisdiction-specific guidance to users who seek to escalate their concerns about illegal intimidatory behaviour to the authorities. While all social media companies do have some guidance on reporting online behaviour, this guidance is not specific to the legal jurisdiction where the user is based.

General statements, such as “Remember that you should contact local law enforcement if you ever feel threatened by something you see on Facebook”,⁷⁵ do not help users engage with the police when they are facing illegal and intimidatory messages online. The companies should provide guidance to users on what is illegal in each country, with a particular emphasis on only reporting illegal behaviour, how to report illegal behaviour, and steps that can be taken to help police investigations.

Users will currently, and understandably, often send the police screenshots of intimidatory comments, but these are difficult for the police to locate online without a link to the content. The Committee was surprised that when we asked Facebook why they did not offer guidance to their users about reporting URLs rather than screenshots, Facebook said they were not aware of this.⁷⁶

Twitter has introduced an option for users to be sent an email which can then be forwarded directly to the police when they report abusive content. This email details the URL of reported message, and a link to Twitter’s guidelines for police authorities about requesting user data.⁷⁷ However, this option is only available for the reporting of violent threats.

Where illegal statements are made online, action should be taken quickly to protect the victim. Since they facilitate this communication, social media platforms have a social responsibility to ensure that victims of online threats are able to contact appropriate law enforcement agencies swiftly, and provide users with the means to provide the accurate and appropriate information to the police.

All social media companies have a responsibility to advise their users about how they escalate any credible threats they receive, the proper means to escalate their concerns, and an overview of the legal framework in operation within the country that the user is based.

Social media companies must urgently revise their tools for users to escalate any reports of potential illegal online activity to the police.

Addressing intimidation online during election campaigns

By their very nature, elections are competitive and adversarial, and political tensions run high during election campaigns. Social media provides a means by which citizens can engage with the political process during these times, but the darker side of such engagement is the intimidation that Parliamentary candidates, party campaigners, and others in public life experience.

Analysis of offensive language targeted at MPs during the month leading up to the 2017 general election found that in general, between 2% and 4% of all tweets sent to politicians on a given day could be identified as abusive.⁷⁸

Social media platforms should work proactively during elections, recognising that the volume of intimidatory messages and abuse will increase.

⁷⁵ https://www.facebook.com/help/212722115425932?helpref=page_content

⁷⁶ Facebook, Individual Oral Evidence, 23 June 2009

⁷⁷ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/hate-crime-and-its-violent-consequences/oral/48836.html>

⁷⁸ https://www.buzzfeed.com/tomphillips/twitter-abuse-of-mps-during-the-election-doubled-after-the?utm_term=.xlnvQQomp#.wpwo4qDMG



Social media

Social media companies should work with the police, Parliament and political parties to consider what special measures may be put in place during election campaigns.

Acting quickly to take down intimidatory content

The febrile atmosphere of elections is made worse when intimidatory content online is not taken down quickly enough during election campaigns, as it shapes the tone of debate.

Some organisations, including some government bodies, have been ‘whitelisted’ or become ‘trusted flaggers’ by social media companies. This means that their staff have received specialised training on behaviour that breaches the platform’s rules, and so their recommendations for take down are acted upon more quickly by the social media companies. This model is already in operation in areas such as counter-terrorism and online child abuse.

“What the trusted flagger can do, is that they can become an expert in the content that is not allowed on our platform, and they can flag that...that can help us get an expedited review and also help to feedback to them about the processes. That would be something well worth exploring.”⁷⁹

Google

Twitter, Facebook and Google should work with the government to create a ‘pop-up’ election social media reporting team of trusted flaggers. This team should receive specific training on online activity which breaches the site’s rules, so that their recommendations for takedown can be expedited.

This pop-up ‘one stop shop’ for elections should provide support to social media users by providing a means by which to report inappropriate behaviour to the social media companies. It should

also provide advice on escalating any complaints of illegal behaviour to the police. The pop-up social media reporting team should also proactively search election hashtags and key accounts to identify and report intimidatory behaviour.

The team should also collect data on reports of online intimidatory behaviour, which will help political parties, government and the social media companies better understand this problem.

“We almost need some kind of response service where we actually stand up for each other online to get away from the situation where if someone is attacking you, you feel a thousand eyes looking at you and you feel alone.”⁸⁰

BCS – The Chartered Institute for IT

This proposal would also help to remedy the situation where candidates and others feel entirely unsupported and alone when they experience intimidation online at election times. This team should step in to support candidates where they experience intimidation online, and all candidates should be made aware of how to contact this team.

The social media companies should work with the government to establish a ‘pop-up’ social media reporting team for election campaigns.

Providing support and training to candidates

Twitter, Facebook and Google have advised us that they do seek to provide training and support for Parliamentary candidates during election campaigns. But, we found that Parliamentary candidates do not feel supported in their online activity, particularly on how to manage intimidating and other threatening behaviour on social media.

79 Katie O’Donovan, Google, Oral Evidence, 2 November 2017

80 David Evans BCS - The Chartered Institute for IT, Roundtable, 12 September 2017



“We had an email from Facebook, but it was more of a ‘come and make a candidate page’. We have had nothing from the social networks since.”⁸¹

Green Party

Alongside political parties (see chapter 3), the social media companies have a responsibility to provide advice, guidance and support to Parliamentary candidates. This should include support on steps that can be taken to prevent and address online intimidation.

Social media companies should actively provide advice, guidance and support to Parliamentary candidates on steps they can take to remain safe and secure while using their sites.

81 Aimee Challenor, Green Party, Oral Evidence, 21 September 2017



Chapter 3

Political parties

Political parties are the cornerstone of democratic engagement with the political system,⁸² so they must demonstrate leadership in combatting the issue of intimidatory behaviour. They have important responsibilities towards their candidates, members and supporters.

The problem of intimidation during the 2017 election campaign period impacted on candidates and volunteers across the political spectrum, and some of those engaging in this abusive and derogatory behaviour have been party members.

“They are interested in what they can use you for, not always on you as an individual, or what is particularly difficult for you.”⁸³

Sarah Olney

Every political party, whatever their size or political persuasion, has three key responsibilities in relation to the issue of intimidation:

1. To show leadership in setting an appropriate tone for public debate around elections for their campaigners and supporters
2. To tackle intimidatory behaviour undertaken by their members
3. To provide support to their candidates who face intimidation during the election campaign

Political parties have not done enough in any of these three areas so far. Given the seriousness of the step-change in the intimidation of Parliamentary candidates and others in public life in recent years, the political parties have a responsibility to come together and engage constructively on these issues. The cost to democracy of not doing so is too high.

Taking responsibility for setting the tone

For everyone who engages in the political process, whether as party members, supporters, voters or observers, the political parties and especially their leaders play a fundamental role in setting the tone of debate surrounding elections.

“If we wish our constituents to respect us as candidates and potential representatives we should lead by example and conduct our debates in the chamber and in the media in a more respectful and civil manner.”⁸⁴

Showing leadership

One of the Seven Principles is leadership, which demands that:

“Holders of public office should exhibit these principles [Selflessness, Integrity, Objectivity, Accountability, Openness and Honesty] in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.”⁸⁵

Those in leadership positions in political parties regionally and nationally have a responsibility to set an appropriate tone within the organisation. They should be aware of how their behaviour shapes the activities of party members and supporters, and take steps to eradicate a culture of intimidation.

“...[if] political parties view harassment and abuse as legitimate tools they will give free reign to others to behave accordingly.”⁸⁶

Jackie Doyle-Price MP

⁸² Written Submission 76 (National Democratic Institute for International Affairs)

⁸³ Sarah Olney MP, Individual Oral Evidence, 17 October 2017

⁸⁴ Written Submission 85 (Confidential)

⁸⁵ <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

⁸⁶ Written Submission 73 (Jackie Doyle-Price MP)



The Committee does not underestimate the frantic nature of election periods, and many of those submitting evidence have referred to the ‘rough and tumble’ nature of politics generally and particularly during election time. Nonetheless, party leaders must send very clear signals that any intimidatory behaviour is unacceptable, as members and supporters will be looking to their leadership to set the tone of their engagement with the campaign.

A survey of Parliamentary candidates at the 2017 general election found that several candidates noted that political parties and candidates themselves are responsible for an ‘abusive environment’ because they use aggressive rhetoric in their campaigns.⁸⁷

Leaders of parties must call out and condemn inappropriate behaviour wherever it occurs. At all times, including during election campaigns, leaders must take steps to set the tone of campaigning and communication, and take responsibility for making sure it is clear that any intimidatory behaviour is completely unacceptable.

Those in positions of leadership within political parties should make very clear that they have a ‘not in my name’ policy for intimidatory behaviour. They must send a clear message to their supporters that it is never acceptable to engage in, or open the door for, intimidation. Whether at a national or local level, parties should be prepared to directly call out behaviour of their supporters where it is inappropriate.

Online, this could include taking opportunities to retweet against the message or respond to inappropriate messages directly, to demonstrate that abusive behaviour is not acceptable. This would play an important part in setting an appropriate tone for political debate.

Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. They should challenge poor behaviour wherever it occurs.

Tackling intimidation on a cross-party basis

“It is not inherent in anyone’s politics or ideology to act like this towards individuals. There is the possibility for cross-party and cross-political spectrum work on this.”⁸⁸

Joe Todd, Momentum

Elections are competitive, but denouncing the intimidation of Parliamentary candidates is one issue the parties can, and should, come together on. The Committee was disappointed to learn at our hearing with political parties about the lack of successful collaboration to date between the political parties on this issue.

“The Labour Party has not had cross-party talks with other parties with regard to intimidation, bullying and harassment. The reason for that is probably that there has been a bit of a stand-off. I want to be absolutely truthful about this. The Conservative Party has attacked the Labour Party, and the Labour Party has attacked the Conservative Party.”⁸⁹

Labour Party

We have seen parties unhelpfully using the issue of intimidation for partisan purposes, by alleging that the other party is the problem without addressing issues within their party or trying to work towards a common solution. The intimidation experienced by Parliamentary candidates across the political

87 Written Submission 89 (Dr Sofia Collignon Delmar, Dr Jennifer Hudson, Dr Wolfgang Rüdiger, Professor Rosie Campbell)

88 Joe Todd, Momentum, Oral Evidence, 14 November 2017

89 Rt Hon Ian Lavery MP, Labour, Public Hearing, 14 September 2017



spectrum is too high a price to pay for political point scoring.

Political parties may also be reluctant to enforce their rules and codes for party members during elections due to the concern that other parties will use any evidence of intimidatory behaviour against their party as part of the campaign. In particular, party leaders at a national and regional level must show leadership in working together to address this issue across party lines.

Political parties must proactively work together to tackle the issue of intimidation in public life.

Intimidatory behaviour by party members

Political parties are membership organisations often with staff working on a voluntary basis with limited resources. They do, however, have a responsibility to ensure that their members are aware of the behaviour expected of them by the party, and take necessary steps to discipline any members who engage in intimidatory behaviour.

In a survey of 950 Parliamentary candidates at the 2017 general election, 33% reported 'inappropriate behaviour' by supporters of opposition parties and/or candidates. In the same survey, 68% of the 118 Conservative candidates who responded to the survey said they had experienced inappropriate, intimidatory behaviour during the 2017 election campaign, compared to 36% of the 229 Labour candidates.⁹⁰

Evidence submitted to the Committee suggests that Conservative candidates were more likely to be subject to intimidatory behaviour than candidates representing the other political parties.⁹¹ Those who gave evidence at our roundtable

suggested that this could be due to the fact that the Conservatives were the incumbent party of government, and that their party members and activists are less likely to be active on social media.⁹² For example, 38% of Conservative members said they 'liked' on Facebook something by their party or candidate during the 2017 campaign, compared to 63% of Labour members.⁹³

"It [the skew in reported harassment] can be explained in part because the Conservative Party is in government and therefore does things to people rather than simply saying things to or about them, and that will tend to increase opposition and perhaps ill feeling towards it. ... but it is important to realise that to some extent that difference is demographic and structural."

Professor Tim Bale

We are disappointed by the lack of progress by the political parties in ensuring that intimidatory behaviour does not become prevalent within their parties, and eradicating it where it does occur. Parties should use the influence they hold over their members to stamp out any abusive and derogatory behaviour. Party leadership should act immediately to condemn such behaviour as soon as it occurs.

"Greater consistency of approach, in calling out abuse and leading efforts to change party cultures and structures, is needed."⁹⁴

All-Party Parliamentary Group Against Antisemitism

90 Written Submission 89 (Dr Sofia Collignon Delmar, Dr Jennifer Hudson, Dr Wolfgang Rüdig, Professor Rosie Campbell)

91 Written Submission 89 (Dr Sofia Collignon Delmar, Dr Jennifer Hudson, Dr Wolfgang Rüdig, Professor Rosie Campbell)

92 Professor Tim Bale, Queen Mary University of London, Roundtable, 12 September 2017

93 Written Submission 80 (Professor Tim Bale), ESRC-funded UK Party Members Project <https://esrcpartymembersproject.org/>

94 Written Submission 34 (APPG Against Antisemitism)



Each of the parties which fielded candidates at the general election face different opportunities and challenges in managing this issue internally. Smaller parties are able to promote engagement with their members more directly, but have fewer resources to tackle breaches of the rules. The larger parties have more resources and staff to combat these issues, but also have a more disparate and larger group of members. Nonetheless, the recommendations set out below must be adopted proportionately by all of the political parties.

Codes of conduct for party members

Political parties have taken different approaches to developing internal standards on issues of intimidation, harassment and abusive behaviour. In particular, the parties have taken different approaches to developing and implementing codes and conduct and rules for their members.

Codes of conduct are a clear and visible way for political parties to set out the behaviour that they expect of their members. Codes of conduct can be powerful, and they give guidance in clarifying the right thing to do for those who are unsure.⁹⁵ While they are not a silver bullet solution, when combined with leadership, they can play an important role in addressing cultural issues within organisations.

Liberal Democrat Party

The Liberal Democrat Party has a members' code of conduct, which all members must sign up to. This code sets out a number of principles for appropriate behaviour, and also has a checklist of questions that members should ask themselves when they act internally or externally. One of the points on this list is:

Could what I am intending to do or say or write (in any format) be taken as intimidation, harassment or bullying?⁹⁶

We welcome this example of good practice of a political party setting out expected behaviours, and providing members with a framework by which to question their own behaviour. This code also clearly sets out the sanctions which may be employed if the code is breached.

Labour Party

At our public hearing, the Labour Party informed us they are developing a new code of conduct for members in light of the 2017 general election.⁹⁷ We welcome the Labour Party's commitment to developing a new code of conduct, and recommend that it should specifically address intimidatory language and behaviour. We recommend that the code should be produced quickly, and that it is made public.

The Labour Party has also implemented a pledge on online abuse and a social media policy which forms part of the party's membership terms and conditions. The pledge reads:

I pledge to act within the spirit and rules of the Labour Party in my conduct both on and offline, with members and non-members and I stand against all forms of abuse.⁹⁸

Conservative Party

The Conservative Party introduced a code of conduct in November 2017 in light of the sexual harassment scandals surrounding Parliament.⁹⁹ This is accompanied by a new procedure for party

95 Committee on Standards in Public Life, Standards Matter, January 2013, 4.8 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/348304/Standards_Matter.pdf

96 <https://www.libdems.org.uk/doc-code-of-conduct>

97 Ian Lavery MP, Public Hearing, 31 September 2017

98 Written Submission 74 (Labour Party)

99 <https://www.conservatives.com/codeofconduct>



discipline and sanctions when there are allegations that the code has been breached.

This code is for ‘anyone representing the Party as an elected or appointed official or office-holder’ and therefore does not apply to the wider party membership. The code makes explicit reference to bullying and abusive behaviour by those officials, as well as setting out the importance of behaviour which upholds the Seven Principles of Public Life.

They should: Not use their position to bully, abuse, victimise, harass or unlawfully discriminate against others¹⁰⁰

The Conservative Party also has a code for the leadership and management of volunteers, which makes reference to intimidatory or bullying behaviour of volunteers by volunteer leaders.¹⁰¹

We welcome the development of a code of conduct and disciplinary procedure for party officials. The Conservative Party has recommended that all political parties should draw up and publish a clear statement of standards expected by members in particular, and how disciplinary proceedings for breaches of these standards would be enforced.¹⁰² We encourage all parties, including the Conservative Party, to publish this information.

Political parties should set clear expectations about the behaviour expected of their members, both offline and online through a code of conduct for members which specifically prohibits any intimidatory behaviour. Parties should ensure that members are familiar with the code. The consequences of any breach of the code should be clear and unambiguous.

Sanctions, discipline and enforcement

The Committee received submissions from MPs and candidates across the political spectrum imploring the parties to ensure that the sanctions in place to deal with intimidation by party members are sufficiently robust and are enforced consistently at the national and local levels.

Where codes of conduct for members are in place, they must also be enforced and any breaches of the code should be sanctioned appropriately at local and national levels. Where intimidatory behaviour is not illegal, but is in breach of any party’s code, the political parties should take responsibility for instigating sanctions against the behaviour of their members.

Given the seriousness of these issues, parties must use the full range of sanctions available to them to penalise inappropriate behaviour by their members. These sanctions include: removal from positions of influence within the political party, prohibition from opportunities to stand for elected offices on behalf of the party, temporary suspension from the party, and permanent exclusion from the party.

“Parties were not expecting the snap election, and didn’t have always the infrastructure to make sure that they controlled the frontline of campaigning.”¹⁰³

Electoral Commission

We acknowledge that election campaigns are exceptionally busy and pressurised times for political parties, but this does not mean that they can shirk their responsibility to take action where there are accusations of party members engaging in intimidatory behaviour.

100 <https://www.conservatives.com/codeofconduct>

101 <https://www.conservatives.com/volunteercode>

102 Written Submission 67 (Conservative Party)

103 Electoral Commission, Oral Evidence, 25 October 2017



Indeed, timely and appropriate action by the political parties is particularly important during election campaigns as this is when candidates are the most high-profile and susceptible to intimidation. Parties should act immediately to address unacceptable behaviour by their members whenever it occurs.

In their evidence to the Committee, the Liberal Democrats highlighted that their process for escalating complaints against a member during election campaigns makes allowance for the increased pressure on the party's resources.

"The full disciplinary processes of the party are suspended during a general election, and instead a small unit within the elections compliance team assesses the seriousness of a case, and determines whether the member concerned should be suspended until the full disciplinary process is reconstituted after the election."¹⁰⁴

Liberal Democrats

Political parties must ensure that party members who breach the party's code of conduct by engaging in intimidation are consistently and appropriately disciplined in a timely manner.

Collecting data on intimidation

None of the political parties that attended our public hearing (Conservatives, Labour and Liberal Democrats) collected centralised data on reports of intimidatory behaviour in particular by their members during general election campaigns.¹⁰⁵ This is deeply concerning; this issue should be of a high priority for the parties, who have a duty of care to candidates and volunteers to combat the intimidatory atmosphere of election campaigns.

Political parties must ensure that data is collected on the number of members disciplined by the party for engaging in intimidatory behaviour. This will require co-ordination between the parties at the national and local level. Enforcing the code and collecting and publicising data on breaches helps demonstrate the seriousness of this issue.

The Committee will be writing to each of the political parties in 12 months' time to request data on the number of party members investigated for allegations of intimidatory behaviour and the sanctions they received in the previous year. Political parties should collect this data centrally to make sure they can make appropriate changes to their disciplinary processes to tackle intimidation by their members.

Political parties must collect data on the number of complaints against members for engaging in intimidatory behaviour, and the outcome of any disciplinary processes which result from these complaints.

Fringe groups

Some of the intimidatory behaviour experienced by candidates at the 2017 general election has been perpetrated by groups of activists who operate at the fringe of the political parties. For some of these groups, members must also be members of the political party and therefore the party's code of conduct applies, while other groups are independent from the party.

Leaders of parties with fringe groups must also call out intimidatory behaviour of members of those fringe groups. They should not use the excuse of distancing themselves from such groups during election campaigns to avoid quickly and forcefully calling out intimidatory behaviour. They must take steps to make clear that intimidation is unacceptable, wherever it occurs within their party.

¹⁰⁴ Baroness Brinton, Liberal Democrats, Public Hearing, 14 September 2017

¹⁰⁵ None of the political parties were able to provide the Committee with numbers on the number of individuals sanctioned for intimidatory behaviour. In their follow-up letters to the Committee, no parties had data on intimidatory behaviour as a distinct category.



Fringe groups are often a loud part of the political discussion during election campaigns, so leaders within those groups have a responsibility to discourage their members from engaging in vicious and contemptuous behaviour both online and offline and to denounce it when it does occur. Fringe groups are often less coordinated than political parties, but those in positions of responsibility, and spokespeople for those groups, have no lesser a responsibility to act against intimidatory behaviour.

Where behavioural codes are in place within these groups, they must be publicly accessible, and proactively and consistently enforced. Political parties should also consider steps they can take to join up disciplinary processes between political parties and fringe groups where they have an overlapping membership.

Leaders of political parties should always call out intimidatory behaviour, even when it is perpetrated by those in the party's fringes. Fringe group leaders and spokespeople should immediately denounce any intimidatory behaviour on the part of their members or supporters.

A joint code of conduct

Leaders across the political spectrum must be clear that they have no tolerance for this sort of behaviour amongst their members.

To tackle this issue, more cross-party collaboration is needed. We believe this is important for two reasons: first, it reduces the party political element of enforcing breaches of the code; second, it would encourage cross-party consensus on recognising and addressing the issue.

“If there is a cross party agreement on a code of conduct and mechanisms for members who breach this code, it would support candidates from all parties to come forward, knowing the issue of abuse will be addressed meaningfully and without any ‘political points scoring agenda.’”¹⁰⁶

Dr Lisa Cameron MP

In addition to internal party codes, there needs to be a joint, cross-party code of conduct backed up by an appropriate range of sanctions for intimidatory behaviour during election campaigns. This code should be jointly developed by all of the political parties in Parliament, and should be jointly enforced by a committee of party compliance officers. Such codes of conduct can be highly effective when political parties have taken part in drawing them up and have voluntarily agreed to them.¹⁰⁷

“There has to be cross-party agreement on this because, if there is not, any attempt by a single party to enforce a set of regulations will be undercut by other parties that do not enforce them.”¹⁰⁸

Professor Mark Philp

Having a joint code of conduct on intimidatory behaviour in place during election campaigns would provide an alternative mechanism for candidates across the political spectrum to raise and escalate intimidatory behaviour to an authority other than their party. Joint enforcement of the code can also help to overcome differences in variable party resources.

¹⁰⁶ Dr Lisa Cameron MP, Individual Oral Evidence, 1 November 2017

¹⁰⁷ Written Submission 54 (Professor Sarah Birch)

¹⁰⁸ Professor Mark Philp, Roundtable, 12 September 2017



“There are accusations of another political party being involved – I asked if they [the other party] would investigate but they would say no.”¹⁰⁹

Lee Scott

This code must be drafted in advance of the next general election. We expect the development of a joint code of conduct on intimidatory behaviour during election campaigns to have reached a conclusion within the next 12 months. We are willing to host the discussions on developing the code, and will be writing to the political parties to suggest this. The code should be reviewed between elections to ensure that it remains relevant given the changing nature of online communications.

A joint code of conduct for political parties on intimidatory behaviour during election campaigns will promote cross-party collaboration on this issue as it will help parties to come to an agreement on identifying and sanctioning intimidatory behaviour of members during that period. A cross-party group of party officials should meet regularly during election campaign periods to enforce the joint code. The code should be published by December 2018, and be reviewed between elections.

The political parties must work together to develop a joint code of conduct on intimidatory behaviour during election campaigns by December 2018. The code should be jointly enforced by the political parties.

Providing support to Parliamentary candidates

Political parties have a duty to their candidates and volunteers. They have a responsibility to support and try to protect those who give their time, often on a voluntary basis, towards the democratic process and public life.

“There were instances where I had to attend meetings as a candidate and I knew I would face abuse but I didn’t get a response from the party. When you think there is a high risk and you highlight it, you should get some support and guidance.”¹¹⁰

Dr Lisa Cameron MP

“Being a candidate is a lonely experience.”¹¹¹

Lee Scott

We agree with the recommendations of the 2013 Report of the All-Party Parliamentary Inquiry into Electoral Conduct, which called on political parties to strengthen their support for candidates during the election period.¹¹² In particular, the report recommended that parties should:

- do more to provide candidates with the necessary training to prepare for the ‘ruthless’ nature of campaigning, including personal safety sessions and briefings from experienced campaigners
- develop welfare support networks for candidates to break the culture of silence regarding intimidation and abuse
- compile a register of contacts for candidates who are victims of online abuse, including help lines, counselling and other services

109 Lee Scott, Individual Oral Evidence, 11 October 2017

110 Dr Lisa Cameron MP, Individual Oral Evidence, 1 November 2017

111 Lee Scott, Individual Oral Evidence, 11 October 2017

112 All Party Inquiry into Electoral Conduct (2013) <https://www.antisemitism.org.uk/files/cj3e6rg8y906h0104uh8bojao/cj4muuuz500250145fwnqvzat>



The Committee has been disappointed to see that progress in this area has been mixed. We have heard evidence from candidates that they do not feel appropriately supported by their parties when they face online and offline intimidation.

“I feel that as I am not in a winnable or marginal seat I am given less attention even though the abuse is the same.”¹¹³

Lisa Robillard Webb

Small and large parties across the political spectrum need to ensure that their candidates have access to appropriate networks and resources, training, and support with social media. This should also extend to local council candidates.

The short-notice nature of the 2017 general election meant that some of the support mechanisms and training that the parties would usually have in place for elections was not available. However, it is not unreasonable to expect parties to be able to respond quickly to political demands and they should have placed greater priority on this, and must do so for future elections as part of their responsibility to their candidates, members and supporters.

Promoting and supporting diversity

As we stated in chapter 1, female candidates are much more likely to be subject to intimidation than their male colleagues, as are BAME and LGBT candidates. This problem is even worse for those who fit into multiple categories.

Understandably, if left without the necessary support, members from these groups may choose to withdraw from public life due to the intimidation and abuse they have suffered.

“Some of it aims to attack women in public life – whether Labour, Tory, SNP – they get a visceral response. It is almost asking, ‘what are you doing in a public space?’”¹¹⁴

Rt Hon Diane Abbott MP

The Committee is deeply concerned about the impact that this targeted, aggressive behaviour may have on the diverse and representative nature of democracy and public life. If this issue remains unaddressed, the progress made to date in making Parliament more diverse could be undermined by the tone of electoral campaigns. In turn, when Parliament is not seen to be representative of its citizens, this can further stoke the divisions in society which can lead to distrust and disengagement from the electoral process.

All political parties must take steps to ensure they provide appropriate support to candidates from a diverse range of backgrounds so that public life can be an open space for people from all backgrounds to engage meaningfully in elections, and in turn, Parliament.

We are reassured to see that there is consensus among the parties we spoke to on the importance of maintaining and promoting diversity in public life. However we are concerned that too few proactive steps are being taken to promote such diversity by supporting the candidates who are most likely to be victims of intimidatory behaviour online and offline.

The Committee is disappointed that the recommendations of the 2013 Report of the All-Party Parliamentary Inquiry into Electoral Conduct to support candidates have not been implemented by all of the parties. In particular, the lack of resources and pastoral support available to candidates has left many candidates feeling vulnerable during election campaigns.

113 Written Submission 36 (Lisa Robillard Webb)

114 Diane Abbott MP, Individual Oral Evidence, 1 November 2017



"We have particular groups, e.g. Greens of colour, women, LGBTIQA+ and others. These groups specialise in supporting these people...at election time they form a key part of supporting those groups."¹¹⁵

Green Party

"...when it comes to social media. The parties are trying to exploit it for campaigning purposes to the greatest possible extent, so maybe occasionally we are fuelling the engine. We just do not know how to control it."¹¹⁷

John Vincent

There are some examples of good practice in this area, for example the Liberal Democrats have developed resilience training for their candidates, which was partly triggered by the awareness that they were losing good female candidates who were reluctant to engage in elections due to the nature and scale of abuse.¹¹⁶

Political parties must take steps to provide support for all candidates, including through networks, training, support and resources. In particular, the parties should develop these support mechanisms for female, BAME, and LGBT candidates who are more likely to be targeted as subjects of intimidation.

One candidate told the Committee about their disappointment at having to spend hours reporting individual posts themselves to the social media companies during the election campaign, only for that abusive account to be closed and another established the next day.¹¹⁸ When candidates are undergoing experiences such as these, the political parties must be in a position to support them.

"...cross-party activity has to be there. We have to create the equivalent of the physical social norming whereby if one of your party members at a hustings starts being stupid then everyone rolls their eyes."¹¹⁹

BCS – The Chartered Institute for IT

Social media: supporting candidates

Managing campaigning across multiple social media platforms during election campaigns can be challenging for Parliamentary candidates, who may have little or no experience of using these platforms for professional purposes.

As part of their duty of care to candidates, political parties must also play a role in supporting candidates online. Political parties themselves need to develop a deeper understanding of how social media campaigning works in the lead-up to elections.

Just as we recommend that the social media platforms should strengthen their guidance and support to candidates during election campaigns, the political parties should supplement theirs with training on how to managing election campaigns on social media and online safety.

¹¹⁵ Aimee Challenor, Green Party, Individual Oral Evidence, 21 September 2017

¹¹⁶ Baroness Brinton, Liberal Democrats, Public Hearing, 14 December 2017

¹¹⁷ John Vincent, Roundtable, 12 September 2017

¹¹⁸ Lisa Robilliard Webb, Roundtable, 12 September 2017

¹¹⁹ David Evans, BCS - the Chartered Institute for IT, Roundtable, 12 September 2017



Political parties

As the support network for candidates, parties are well placed to offer this training and guidance. This training could be conducted by the central party or regionally, and could take place in face-to-face or online formats. However it takes place, it is fundamental that candidates and their staff receive the necessary training on:

- managing a social media presence
- utilising block and mute features within the platforms
- how to report content to the social media companies
- recognising online behaviour that is illegal and that should be reported directly to the police

Social media policies and guidance issued by the parties provide a useful first step in addressing this intimidatory behaviour, but the parties have a duty of care beyond this to help candidates and their teams develop a practical awareness of the use of social media.

Political parties must offer more support and training to candidates on their use of social media. This training should include: managing social media profiles, block and mute features, reporting content, and recognising when behaviour should be reported directly to the police.



Chapter 4

Law, policing and prosecution

Our terms of reference for this review included establishing whether measures in place to address intimidatory behaviour, including the criminal law, are effective and enforceable. The fundamental importance of free speech and legitimate scrutiny of public officials needs to be recognised, and should not be unduly restricted. The vast majority of interactions between the public and those in public life are constructive and respect the principles underpinning our political system. However, it is right that legal sanctions exist for those whose words or behaviour threatens freedom of expression and the integrity of the democratic process. For the current law as a whole to be effective and enforceable, the smooth working of all the parts of the process is required, including legislation, the police, and prosecutors.

The law must have a sufficient scope: intimidatory behaviour, where it should be illegal, should fall within the scope of a relevant offence with appropriate sanctions. The police must be able to address intimidatory behaviour in order to curtail it or prevent it from escalating, but also be able to gather the required evidence where a prosecution is appropriate. The Crown Prosecution Service (CPS) must have appropriate guidance in place to prosecute offences where sufficient evidence exists and where it is in the public interest to do so. We consider challenges to the operation of different parts of the process, and make recommendations for how it can be improved.

Intimidation and the criminal law

The current law includes a range of offences that capture different aspects of our definition of intimidation, words or behaviour intended to or likely to block participation in public life.

Intimidation: words and/or behaviour intended or likely to block or deter participation, which could reasonably lead to an individual wanting to withdraw from public life.

The law is indifferent to the mode of communication, whether speech, written communication, or through social media. Government ministers have emphasised in relation to social media that “what is illegal offline is illegal online”.¹²⁰ Existing offences relating to intimidation are outlined in the summary table.



Summary table of existing offences

Offence	Legislation	Maximum penalty
Common assault	Criminal Justice Act 1988	6 months' imprisonment and a fine
Destroying or damaging property	Criminal Damage Act 1971, s.1	3 months' imprisonment if less than £5,000; otherwise 10 years' imprisonment
Threats to destroy or damage property	Criminal Damage Act 1971, s.2	10 years' imprisonment
Threats to kill	Offences against the Person Act 1861, s.16	10 years' imprisonment
Harassment	Protection from Harassment Act 1997, s.2	6 months' imprisonment and a fine
Stalking	Protection from Harassment Act 1997, s.2A	6 months' imprisonment and a fine
Harassment involving putting someone in fear of violence	Protection from Harassment Act 1997, s.4 (as amended by the Policing and Crime Act 2017)	10 years' imprisonment and a fine
Stalking involving putting someone in fear of violence	Protection from Harassment Act 1997, s.4A (as amended by the Protection of Freedoms Act 2012 and the Policing and Crime Act 2017)	10 years' imprisonment and a fine
Using threatening or abusive words or behaviour with intent to cause fear of violence	Public Order Act 1986, s.4	6 months' imprisonment
Using threatening or abusive words or behaviour in the hearing of someone likely to be caused alarm or distress	Public Order Act 1986, s.5	Fine (level 3)
Sending a message using a public electronic communications network that is of an indecent, obscene or menacing character	Communications Act 2003, s. 127	6 months' imprisonment and a fine
Sending communications with intent to cause distress and anxiety	Malicious Communications Act 1988, s.1 (as amended by the Criminal Justice and Courts Act 2015)	2 years' imprisonment and a fine



Where criminal intimidatory behaviour is perceived by the victim or any other person to be motivated by hostility or prejudice based on race, religion, disability, sexual orientation or transgender identity, it will be prosecuted as a hate crime.

Sufficiency of the current law

Criminal law

To evaluate whether the criminal law has sufficient scope, we have considered whether intimidatory behaviours, where they ought to be illegal, fall clearly within the range of at least one current criminal offence with appropriate penalties.

“Broadly, the law is there, and, broadly, law enforcement and policing are content with the law. There is a view that, with the advent of the internet, some of our more ancient laws are probably not applicable, but we do not find that. For example, threats to kill comes from the Offences Against the Person Act 1861 and is perfectly serviceable. The Public Order Act 1986 is perfectly serviceable. The Malicious Communications Act 1988 was designed around telephones and letters and is perfectly serviceable. Broadly, we are content with that.”¹²¹

Chief Constable Mike Barton QPM, National Police Chiefs Council

From our own analysis of the existing legal provisions, the Committee has found that the current criminal law is sufficient in the case of offences against the person and damage to property, as well as credible threats of violence. This was also the view of the expert evidence we received from the police and the CPS. However, in the course of the review, the Committee heard concerns about the sufficiency of the current law to deal with intimidatory behaviour on social media.

The relevant laws on abusive communications were framed before social media platforms existed, and there are no current criminal offences specific to social media.

Looking in detail at the offences listed above, the law is neutral on whether an offence is committed on social media or through other means. This is often expressed as the general principle that what is illegal offline is illegal online. This gives the law sufficiency flexibility to apply both to online and offline offences.¹²²

The wording of current offences captures the relevant aspects of behaviour on social media that we are concerned about, such as the nature of the communication as menacing or intending to cause distress. Since this is the case, an offence relating specifically to social media is unnecessary. New legislation which is specific to social media could be rendered out-dated more quickly, since it would involve specifying a particular means of committing an offence.¹²³

The House of Lords Select Committee on Communication considered the issue of criminal offences and social media in 2014, concluding that although all the relevant offences were framed before the prevalence of social media platforms, these offences are generally appropriate for prosecuting offences committed using social media, for the same reasons we have considered above. The Select Committee on Communication also concluded that they did not see a justification for a consolidation of the current law, since the law could be consolidated according to several different aspects of offences, of which social media is just one. Overlap in offences does not necessarily imply duplication, since some offences will be more or less serious than others.¹²⁴

¹²¹ Mike Barton QPM, Private Hearing, 14 September 2017

¹²² Alison Saunders, Q15, House of Lords Select Committee on Communications, Social Media and Criminal Offences Inquiry: Oral and supplementary written evidence

¹²³ Alison Saunders, Q17, House of Lords Select Committee on Communications, Social Media and Criminal Offences Inquiry: Oral and supplementary written evidence

¹²⁴ Tim Thompson, Q16, House of Lords Select Committee on Communications, Social Media and Criminal Offences Inquiry: Oral and supplementary written evidence



“Our view on social media at the moment is that we feel that we already have a suite of offences there, whether it is the Offences Against the Person Act 1861, the Public Order Act 1986...We believe that that is all there.”¹²⁵

Chief Constable Mike Barton QPM, National Police Chiefs Council

A number of submissions to the review urged the Committee not to recommend the introduction of new criminal offences relating to the intimidation of MPs and candidates. Whilst some offences do exist specifically in relation to named public offices, for example police officers, the current criminal law captures all the relevant aspects of the behaviour that we are concerned with and includes proportionate sanctions. Whilst we believe that electoral law could be updated and improved, the criminal law is not the appropriate place to introduce any new offences directed towards Parliamentary candidates or MPs.

We have seen no evidence to suggest that the current criminal law is insufficient in covering the full range of cases that we have defined as intimidation for the purpose of this report. As such, the current criminal law should remain as it is.

Electoral law

Electoral law can overlap with and complement the criminal law, such that offences with criminal sanctions can also involve sanctions under electoral law. These sanctions are specific to the election process, such as being barred from voting for a certain period, or removal from the electoral register.¹²⁶ Such sanctions recognise that these offences, such as undue influence or electoral fraud, are offences against the integrity

of the electoral process, and that it is therefore appropriate that individuals face sanctions relating to their own privileges within that process.

A number of submissions to the review recommended the implementation of the Law Commission’s recommendations to consolidate and update the offence of undue influence in electoral law.¹²⁷ We believe it is important that voter intimidation is addressed, but it should be noted that existing offences relate only to voter intimidation, not to the intimidation of Parliamentary candidates or party campaigners.¹²⁸

As we conclude above, we believe the current criminal law is sufficient to cover the full range of cases of intimidation. Therefore any new offence in electoral law should be no broader than the existing criminal law. However, the Committee considers that the issue of intimidation is of particular significance because of the threat that it poses to the integrity of public service and the democratic process.

During an election period, it would therefore be appropriate to have specific electoral sanctions that reflect the threat that intimidation of Parliamentary candidates and their supporters poses to the integrity of elections. Any such offence in electoral law should be tightly defined, to capture intimidatory behaviour that is directed towards an individual specifically in their capacity as a Parliamentary candidate or party campaigner, which intends unduly to influence the result of the election (for example, by affecting their candidature or inhibiting their campaigning).

We believe that any new electoral offence that is introduced should not have any wider scope than the existing criminal law in respect of intimidatory behaviour. No behaviour which is currently legal should be made illegal. However, we believe that the introduction of a distinct electoral offence will

¹²⁵ Mike Barton QPM, Private Hearing, 14 September 2017

¹²⁶ Written Submission 90 (Electoral Commission)

¹²⁷ Written Submission 34 (APPG Against Antisemitism), Written Submission 74 (Labour Party)

¹²⁸ Written Submission 90 (Electoral Commission)



serve to highlight the seriousness of the threat of intimidation of Parliamentary candidates to the integrity of public life and of the electoral process, and will result in more appropriate sanctions. We believe that specific electoral offences will also serve as an effective deterrent to those who are specifically targeting Parliamentary candidates and their supporters.

The government should consult on the introduction of a new offence in electoral law of intimidating Parliamentary candidates and party campaigners.

We heard evidence from the Electoral Commission of the need to update electoral law more broadly in order to protect the integrity of the electoral system. As part of this, we agree with the Electoral Commission that the imprints¹²⁹ currently required for print material promoting a political party should also be extended to online material, including social media.¹³⁰ This reform was put in place for the Scottish independence referendum in 2014, and was successfully implemented in relation to formal campaigning organisations.

Local government

We also heard from a number of individuals that the requirement that candidates standing for election as local councillors to publish their home addresses on the ballot paper had been a significant factor in enabling intimidatory behaviour, or would put them off from standing as a council candidate due to the risk of intimidation.¹³¹ A number of former candidates stated that the disclosure of their home address

enabled intimidatory behaviour to escalate when they subsequently stood as a Parliamentary candidate.¹³² This is not a requirement for Parliamentary candidates, where candidates must state their address on their nomination form but can opt instead for only the constituency in which they live to appear on the ballot paper.¹³³

Fawcett Society survey data found that when standing as a councillor, there is a gender difference between councillors identifying 'fear of violence' (13% of women; 8% of men), or 'harassment or abuse from the electorate' (46% of women; 35% of men) as barriers to engagement.¹³⁴

In evidence we received from national political parties, we believe there is a consensus for removing the requirement that candidates standing as local councillors have their address published. Rather, as with Parliamentary candidates, candidates standing as local councillors should have the option to publish only the ward in which they live on the ballot paper. Equally, the addresses of agents, sub-agents, and election observers disclosed to the Returning Officer in order for them to attend an election count should not be disclosed to others.

The government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending an election count.

129 "Whenever election material is produced, it must contain certain details (which we refer to as an 'imprint') to show who is responsible for the production of the material... Election material is published material such as leaflets, adverts and websites that can reasonably be regarded as intended to influence voters to vote for or against political parties or categories of candidates, including political parties or categories of candidates who support or oppose particular policies or issues, and is aimed at the public or a section of the public" https://www.electoralcommission.org.uk/__data/assets/pdf_file/0004/166225/fs-imprints-npc.pdf

130 Electoral Commission, Oral Evidence, 25 October 2017

131 Written Submission 38 (John Woolley), Written Submission 72 (Lola McAvoy), Written Submission 79 (Anonymised), Dr Lisa Cameron MP, Individual Oral Evidence, 1 November 2017

132 Written Submission 72 (Lola McAvoy); Confidential Submissions.

133 Electoral Commission Guidance on standing as a Parliamentary candidate, https://www.electoralcommission.org.uk/__data/assets/pdf_file/0003/173019/UKPGE-Part-2b-Standing-as-a-party-candidate.pdf

134 Written Submission 69 (The Fawcett Society)



We also saw evidence that some local councillors were told to declare their home addresses as part of a declaration of pecuniary interests, but were not informed about the sensitive interests provisions in the Localism Act 2011, which prevents the publication of the details of an interest where the councillor and Monitoring Officer agree that it could lead to intimidation or violence against the councillor or their family. This meant that their addresses were in the public domain.

For offences including fear of violence offences and racially or religiously aggravated offences under the Protection from Harassment Act 1997 (excluding stalking), there have been a significant number of prosecutions and convictions, with a relatively high rate of successful prosecutions.

Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011.

Enforcement: prosecution

Several high profile cases of intimidation of sitting MPs were successfully prosecuted. The individual found guilty of sending rape threats to Stella Creasy MP was found guilty under Section 127 of the Communications Act 2003; and an individual who sent multiple abusive racist messages to Luciana Berger MP was found guilty of racially aggravated harassment under the Protection from Harassment Act 1997. We have heard evidence that further convictions have taken place of individuals sending grossly offensive messages to or harassing MPs.¹³⁵

We have seen at least one case where an individual convicted of an online offence – sending an offensive, indecent or obscene message to Luciana Berger MP – has also been charged with an offline offence – being a member of the proscribed organisation National Action, whose members have been accused of conspiring to kill Rosie Cooper MP.¹³⁶

¹³⁵ Crown Prosecution Service, Private Hearing, 14 September 2017

¹³⁶ <https://www.theguardian.com/uk-news/2017/oct/27/alleged-neo-nazi-appears-in-court-charged-with-plotting-to-kill-labour-mp-rosie-cooper>



Protection from Harassment Act 1997¹³⁷

Year	Cautions	Prosecutions	Convictions	Convictions as % of prosecutions	% change in prosecutions year-on-year
2015	6,859	28,926	22,316	77%	-
2016	5,399	25,521	19,651	77%	-12%

The numbers of prosecutions and convictions under the Malicious Communications Act 1988 and Communications Act 2003 have seen a steady increase in recent years, with a high rate of successful prosecutions.

Malicious Communications Act 1988 (including under Section 32 of Criminal Justice and Courts Act 2015)¹³⁸

Year	Cautions	Prosecutions	Convictions	Convictions as % of prosecutions	% change in prosecutions year-on-year
2014	899	897	694	77%	-
2015	548	1,056	797	71%	18%
2016	131	1,420	1,083	76%	34%

Section 127 of the Communications Act 2003¹³⁹

Year	Cautions	Prosecutions	Convictions	Convictions as % of prosecutions	% change in prosecutions year-on-year
2014	691	1,501	1,209	81%	-
2015	577	1,715	1,425	83%	14%
2016	207	1,969	1,399	71%	15%

¹³⁷ Calculations based on Ministry of Justice Criminal Statistics Quarterly - December 2016 <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2016>

¹³⁸ Calculations based on Ministry of Justice Criminal Statistics Quarterly - December 2016 <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2016>.

¹³⁹ Calculations based on Ministry of Justice Criminal Statistics Quarterly - December 2016. <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2016>



The CPS informed us that, overall, there has been a 68% rise in prosecutions of communications offences since 2013/14.¹⁴⁰

In October 2016, the CPS published guidance on prosecuting cases involving communications sent using social media which fall short of being threats of violence or communications targeting specific individuals, such as blackmail or stalking.

These guidelines set both a high evidential threshold for prosecution as well as a relatively demanding public interest test.

The high evidential threshold required to proceed with a prosecution reflects how commonplace offensive comments are in everyday life, and the importance of context to determining if an offence has been committed. In particular, a communication must be more than simply offensive, shocking or disturbing.

In practice, on the guidelines provided, a number of cases of intimidation of Parliamentary candidates would seem to us to meet the requirement for prosecution but did not proceed to prosecution. We have heard evidence that the CPS test for what counts as 'grossly offensive' is not necessarily in line with the views of victims or the public more broadly. This is because police or prosecutors may have a different threshold for considering material to be grossly offensive based on their exposure to this behaviour.

We sought further evidence, and heard that the test for grossly offensive communications is a demanding evidential standard because it must be compatible with the right to freedom of expression under Article 10 of the European Convention on Human Rights. We also heard that what is grossly offensive will be highly context-dependent, which does not make it amenable to criteria set down in advance. Further, the police have to be able to establish the identity of those who sent the relevant communication before the matter can even be

brought to the CPS, which can be a considerable challenge.

In framing its public interest test, the CPS notes the potential 'chilling' effect on free speech. Factors affecting whether a prosecution is in the public interest include if there is a hate crime element to the communication, if the target was a person serving the public at the time, and if the communication was part of a coordinated campaign or was repeated. CPS guidance states that a prosecution is unlikely to be necessary and proportionate when the communication is taken down quickly, the individual shows genuine remorse, the communication was not intended for a wide audience, or where the communication is not obviously beyond what would be acceptable in a tolerant society.

The CPS guidance states that one aggravating factor that tips the public interest test towards prosecution is that the target of a communication is a person serving the public at the time. The Committee heard that the CPS guidelines are sufficiently broad that this would include MPs, and would be very likely to include Parliamentary candidates at the time of an election. The Committee heard that cases of intimidatory behaviour towards Parliamentary candidates meeting the evidential test for prosecution would almost certainly also meet the public interest test. As such, the current enforcement of the criminal law in respect of prosecution seems to us to be satisfactory.

We also welcome the CPS revised guidelines on prosecuting hate crime, published on 21 August 2017, which make clear that there is a parity between online and offline hate crime. Whilst not all the behaviour we are concerned with would qualify as hate crime, particularly that motivated by political disagreement or disaffection, we agree with the principle that what is illegal offline should be illegal online.

140 Crown Prosecution Service, Private Hearing, Thursday 14 September 2017



We are persuaded that the CPS guidelines are reasonable and proportionate, in recognition of the potentially very large number of cases that could constitute an offence. We recognise the potential significant ‘chilling’ effect on the exercise of free speech should prosecutions for offensive but nonetheless low-level behaviour be pursued with the full consequence of criminal sanctions. CPS has rightly inserted a demanding public interest test for prosecution, but we are confident that cases of intimidation of Parliamentary candidates that meet the high evidential standard would proceed to prosecution.

Enforcement: policing

Effective policing is required for a number of reasons: it can prevent behaviour from escalating and curtail offences which are already being committed, it can deter potential offenders, and it is needed to collect sufficient evidence to proceed to a viable prosecution where appropriate.

Whilst sitting MPs have access to the Parliamentary Liaison and Investigation Team (PLaIT), Parliamentary candidates who are not sitting MPs do not. We have found that the approach taken on intimidation offences by local police forces is inconsistent. Whilst mindful of current pressures on policing, better training and guidance is needed to address this inconsistency.

Beyond this, social media, with its transnational reach, presents the most significant policing challenge when enforcing the current law.

The Parliamentary Liaison and Investigation Team (PLaIT)

The Parliamentary Liaison and Investigation Team (PLaIT) is a specialist police team based in Parliament which was created to assess and address security threats to MPs. The unit provides

support to individual MPs about security concerns and coordinates the response within local forces.¹⁴¹

The Committee heard that PLaIT has very effective working relationships with the CPS and social media companies, which is helping the enforcement of intimidation offences committed against MPs. PLaIT is also able to assess and take steps to prevent some of the most serious threats, such as credible death threats, against MPs.¹⁴²

The work of PLaIT is on the one hand to build a national picture of the security threat to MPs, through working with local police forces, and to develop intelligence relating to that security threat. It also acts as a central point of contact and advice for individual MPs with security concerns. PLaIT is able to recommend and implement security measures as required, in addition to the standard security package that is available to each MP and funded by the Independent Parliamentary Standards Authority (IPSA).¹⁴³ We commend this work. However, we note that its effectiveness requires MPs to make use of the facilities offered to them, and to take the advice that is offered. Whilst decisions about personal security are ultimately down to the individual, where police services are working to build a national picture of the threat to MPs, they require the intelligence necessary to do so. MPs should actively report instances of intimidation they receive to the police, not just for their own safety, but to help to address the threat faced by others.

MPs should actively co-operate with the police and other security services working to address the security threats facing Parliamentarians and Parliamentary candidates.

Since PLaIT is a Parliamentary facility, candidates are usually unable to benefit from its service

¹⁴¹ Written Parliamentary Question 61644, 30 January 2017

¹⁴² PLaIT, Individual Oral Evidence, 21 August 2017

¹⁴³ IPSA MPs Scheme of Business Costs and Expenses, chapter 10. <http://www.theipsa.org.uk/media/1977/mps-scheme-of-business-costs-and-expenses-2017-18-v12.pdf>



during general election periods, even if they were previously sitting MPs. This is because there are technically no MPs once a general election has been called, and previously sitting MPs lose all services and privileges associated with that office. Cases involving Parliamentary candidates during election periods, or involving prospective or unsuccessful Parliamentary candidates, will be handled by the local police force.¹⁴⁴ However, for the 2017 general election, any security arrangements that were already in place for sitting MPs were not withdrawn – including any physical security arrangements in place at their home, London home, or constituency office. PLaiT would have acted as an advice provider or signpost to a local police force to a Member seeking re-election during an election period.¹⁴⁵

The effective work of PLaiT does mean, however, that MPs seeking re-election will often have better access to advice and physical security arrangements compared to other Parliamentary candidates during an election period.

“Other candidates do not have the support that we have. There is a real differential out there. It is about making sure that any candidate has the right to the same support when we reach an election period.”¹⁴⁶

Rt Hon Lindsay Hoyle MP, Deputy Speaker of the House of Commons

The Committee also welcomes the recent approach taken by IPSA in taking personal security

considerations into account in its publication policy, for example, by not publishing the start and end points of MPs’ claimed journeys, or the names of MPs’ landlords.¹⁴⁷ IPSA should remain alert to these considerations, particularly where a policy may disproportionately affect a particular group of MPs such as female MPs or those with families.¹⁴⁸

National policing

The Committee has heard from a number of those involved in protecting the security of MPs that there is inconsistency in the approach taken locally by police forces.

This may be due to some local police forces not fully understanding the context in which MPs and Parliamentary candidates operate, as well as a lack of understanding of social media technologies.¹⁴⁹ This has meant that some offences have not been dealt with as effectively as they should be.

We welcome the government’s announcement of the establishment of a new online hate crime hub, as well as the earlier publication of the hate crime action plan in July 2016. The online hate crime hub should replicate the effective single point of contact that PLaiT has established with social media platforms, and ensure consistency by introducing a centralised expert assessment process.¹⁵⁰

Whilst we note current pressures on police resources, and competing operational priorities, the National Police Chiefs Council (NPCC) acknowledged in the course of our review that there is more work to do to improve the

144 PLaiT, Individual Oral Evidence, 21 August 2017

145 Parliamentary Security Directorate, Private Hearing, 14 September 2017

146 Lindsay Hoyle MP, Deputy Speaker, House of Commons, Private Hearing, 14 September 2017

147 Written Submission 71 (IPSA)

148 Written Submission 68 (Political Studies Association - Women and Politics Group)

149 The latter was suggested in a Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Services, report ‘Real Lives, Real Crimes: A Study of Digital Crime and Policing’: <https://www.justiceinspectorates.gov.uk/hmicfrs/our-work/digital-crime-and-policing/real-lives-real-crimes-a-study-of-digital-crime-and-policing/chapter-5-how-well-are-the-police-training-their-officers-in-digital-crime/>

150 <https://www.gov.uk/government/news/home-secretary-announces-new-national-online-hate-crime-hub>



consistency of local policing, particularly in relation to internet offences.¹⁵¹

The National Police Chiefs Council should ensure that local police forces have sufficient training to enable them to effectively investigate offences committed through social media. Local police forces should be able to access advice and guidance on the context in which MPs and Parliamentary candidates work.

We have heard that there is effective joint working between constabularies' Single Points of Contact (SPOCs) for elections and the Electoral Commission, as well as enhanced training for policing elections.¹⁵² We heard that SPOCs will routinely attend a candidate briefing along with Returning Officers at the beginning of an election period, which covers electoral offences and the Electoral Commission's guidance.¹⁵³ The work of SPOCs has brought enhanced consistency to local policing through effective training and a national network. However, this training has focussed on offences specific to electoral law, rather than offences of intimidation, by whatever means. We also heard evidence that Police Scotland have an excellent working relationship with election officials, which has ensured that potential issues arising during an election campaign could be dealt with effectively.¹⁵⁴

Guidance during election periods

The Committee has found that there is a lack of policing guidance on offences which constitute intimidation during election periods. We have also heard evidence that local police sometimes conflate personal threats and public order offences. The College of Policing's Authorised Professional Practice (APP) guidelines for policing elections includes public order offences alongside electoral law offences, but these are generally framed in

expectation of public protests, not the intimidation of Parliamentary candidates by whatever means. In particular, the APP makes no reference to harassment or offences that may be committed via social media during elections.¹⁵⁵

The evidence we have received leads us to conclude that general election periods are a heightened environment which makes it more likely that candidates, in particular MPs standing for re-election, are likely to experience intimidation. Policing election periods effectively is also vital to uphold the integrity of the democratic process. In our view, this warrants additional training and guidelines for police on how to deal with such offences in order to ensure that they can be policed effectively. This would also enable more cases to proceed to prosecution where appropriate.

Given that police officers must have regard to the APP, and that APP guidelines exist specifically for elections, we believe that the APP would be the most appropriate place for additional guidelines on offences which relate to the intimidation of Parliamentary candidates. This would extend the benefits of consistency across local police forces, already achieved in the area of elections through a national network of SPOCs, to offences that address intimidatory behaviour during election periods. The number of relevant offences committed during an election period should be recorded separately, in order to monitor this issue. Although the College of Policing APP only applies to England and Wales, Police Scotland and the Police Service of Northern Ireland may wish to implement similar guidance.

151 National Police Chiefs Council, Private Hearing, 14 September 2017

152 Electoral Commission, Oral Evidence, 25 October 2017; All Party Inquiry into Electoral Conduct (2013) <https://www.antisemitism.org.uk/files/cj3e6rg8y906h0104uh8bojao/cj4muuuz500250145fwnqvzat>

153 Electoral Commission, Oral Evidence, 25 October 2017

154 Mary Pitcaithly OBE, Individual Oral Evidence, 14 November 2017

155 <https://www.app.college.police.uk/app-content/policing-elections/>



The College of Policing Authorised Professional Practice for elections should be updated, to include offences relating to intimidation, including offences committed through social media.

Challenges to policing

The Committee has found that the rise of social media, in particular its transnational reach, has created significant challenges for policing. A significant challenge is establishing attribution: who is responsible for sending a particular communication.

The policing challenges raised by social media, and use of electronic communication more broadly, are considerable. Those responsible for offences may be located abroad; co-operation with social media platforms is made more difficult by their international presence and the variety of jurisdictions in which they operate; and the current state of technology makes it very easy for individuals, organisations or institutions to hide their identity without requiring a significant level of technical expertise or equipment. Whilst methods exist for international evidence gathering, they are unlikely to be proportionate to the offence committed, and are unlikely to fit within the time period within which a prosecution for a summary offence must be brought.¹⁵⁶

International co-operation on evidence-gathering requires a prior international consensus on offences and definitions. We have heard evidence of an effective cross-cutting approach within government to promote international co-operation on policing counter-terrorism and child exploitation offences. This is only possible due to a high level of international consensus and clarity as to what constitutes an offence. The government should therefore develop its existing international engagement on counter-terrorism and child exploitation to promote international consensus on

definitions of hate crime and threatening speech in order to create a basis for greater international co-operation when policing these offences.

The Home Office and the Department for Digital, Culture, Media and Sport should develop a strategy for engaging with international partners to promote international consensus on what constitutes hate crime and intimidation online.

Clarity and guidance for Parliamentary candidates

A number of former Parliamentary candidates informed the Committee that they were not confident in recognising when intimidatory behaviour was likely to constitute a criminal offence. It is also clear from the evidence we received that candidates had a very broad range of expectations as to what the police would be able to do in relation to intimidatory behaviour.

“Anything that could be introduced to support MPs in their role would be very helpful, at the moment there is virtually nothing.”¹⁵⁷

Luciana Berger MP

It is in the interests of both effective policing and of Parliamentary candidates that there is clarity as to what behaviour is and is not illegal, and what Parliamentary candidates should expect from their local police force during a campaign. Police Scotland routinely issue security guidance to Parliamentary candidates in Scotland, although this is relatively limited in scope. In particular, the NPCC emphasised to us the importance of sensitive, non-partisan policing during an election campaign, which we agree is essential to maintain the independence and legitimacy of policing during election periods.¹⁵⁸

¹⁵⁶ National Police Chiefs Council, Private Hearing, 14 September 2017

¹⁵⁷ Luciana Berger MP, Individual Oral Evidence, 20 November 2017

¹⁵⁸ National Police Chiefs Council, Private Hearing, 14 September 2017



Guidance booklets distributed to Parliamentary candidates at the beginning of an election period could offer candidates clarity, by giving examples of intimidatory behaviour which is illegal, and detailing common behaviour towards Parliamentary candidates which, whilst uncomfortable or offensive, is not likely to be illegal. The process of creating and disseminating such guidance, if done in collaboration with local forces, could also enhance the consistency of local policing during election periods.

The National Police Chiefs Council, working with the Crown Prosecution Service and the College of Policing, should produce accessible guidance for Parliamentary candidates giving clear advice on the behaviour which they may experience during a campaign which is likely to constitute a criminal offence and what they should do in the face of such intimidation.

Therefore, addressing intimidation in public life will require a focus on prevention at all levels and by all with any interest, including those in public life themselves, which we discuss in chapter 5. More broadly, the recommendations we make throughout this review should be seen as a coherent package to address all aspects of the problem.

Focussing on prevention

It is important that those who perpetrate intimidatory behaviour are held to account and face appropriate legal sanctions. Equally, we have emphasised that effective policing can act both as an effective deterrent and can prevent intimidatory behaviour from escalating.

However, it should be recognised that the law is a blunt instrument for dealing with intimidatory behaviour. At the point that the force of law is invoked, already the relationship between Parliamentary candidates and the public has suffered, individuals may have been put off from standing for elected or appointed offices, and Parliamentary candidates will have gone through experiences that no individual ought to go through.



Chapter 5

Taking responsibility

Intimidation does not take place in a vacuum. Intimidatory behaviour is made more likely by an unhealthy public political culture. The evidence we have received suggests that there is a relationship between the public political culture and the behaviour of individuals. All those in public life, and in particular leaders of political parties, MPs, and the media, must take responsibility for shaping a healthy public political culture.

Our terms of reference for this review were directly concerned with the intimidation of Parliamentary candidates, but we are also concerned with everyone in public life who has a responsibility to help combat the issue.

Both the rights and the responsibilities of all those in public life should be acknowledged. This chapter addresses all those speaking up and taking a leadership role in public life, including (but not limited to) Parliamentarians, local councillors, Police and Crime Commissioners (PCCs), chairs of public bodies, political commentators and journalists.

“Enormous ad hominem [personal] attacks in Parliament are us spray-painting our own window... Those who choose to play the ball rather than the man or woman can hold strong views without treating the others as if they are scum of the earth.”¹⁵⁹

Rt Hon John Bercow MP, Speaker of the House of Commons

Democracy is a two-way street. It involves a reciprocal relationship between those in public life, and the public. Individual citizens should behave in a way which respects the principles and values on which our political system is built. Even in an atmosphere of frustration and mistrust, they must respect that with political engagement come responsibilities, which exist to protect the free

participation of every citizen in public life and public debate.

The behaviour of those in positions of responsibility in public life, however, has a much greater influence over the public political culture. The culture that those in public life shape, itself shapes the response of the public. In fulfilling the demands of their own role, they therefore also have a responsibility to act in a way which does not damage this culture as a whole. When they fail to fulfil this responsibility, and breach high ethical standards, the result is mistrust, frustration, and a gulf between the public and those in public life.

“I do believe that MPs should lead by example.”¹⁶⁰

Public Submission

Every individual in public life must show leadership by taking responsibility for opposing and reporting intimidation and for maintaining high ethical standards. All those in public life, including the media, must take responsibility for how they shape the public political culture and set an appropriate tone for public debate.

Leadership in opposing and reporting intimidation

Intimidatory behaviour by anyone in public life is unacceptable. No political argument is strengthened by the threat of violence, and nobody in public life should engage in behaviour which intends to block someone else's participation in public life.

The principle of leadership demands that those in public life should challenge poor behaviour where it occurs. Intimidatory behaviour should not be condoned or tolerated wherever it is encountered

159 John Bercow MP, Speaker of the House of Commons, Individual Oral Evidence, 5 September 2017

160 Written Submission 8 (Adam Finkel-Gates)



in our democracy. This applies not just those involved in political parties, as we make clear in chapter 3, but everyone in public life.

“We need to build back to an era not of deference but of mutual respect. Politicians have a key role to play in that in how they behave and treat each other, and calling out behaviour.”¹⁶¹

Brendan Cox

Everyone in public life should challenge intimidation, oppose it, and where necessary report it to relevant authorities, including where such behaviour is undertaken by a member of their own party or organisation.

Nobody in public life should engage in intimidatory behaviour, nor condone or tolerate it. All those in public life have a responsibility to challenge and report it wherever it occurs.

Leadership in setting high ethical standards

The Committee has long been concerned about the impact that low levels of trust in political life, political institutions and those involved in politics can have on public life. One consistent theme of the evidence we have collected, particularly from members of the public, is that some intimidatory behaviour is driven by the public's lack of trust in politics and the political system. Where people have low trust in political processes,¹⁶² they may perceive those involved in public life to be legitimate targets for personal attacks and abuse.

The Seven Principles of Public Life were set out by the Committee in 1994 to set out the behaviours that the public expect of those in public life. In the

face of the challenge of an intimidatory culture in public life, everyone in public life, including candidates, must play a role in rebuilding the public's trust in politics. One way of doing so is through ensuring that they show leadership in upholding ethical standards, so that their behaviour does not undermine or call into disrepute the institutions of which they are part.

“Changing today's perceptions of politicians requires national effort by all involved in public service to demonstrate that they are there to help everybody and not to benefit themselves.”¹⁶³

Dr Clive Sneddon

When those in public life show little respect for the public by not upholding ethical standards, some people will often feel no responsibility to be civil, and will have only a fierce sense of frustration and injustice.

Those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life, and help prevent a decline in public trust in political institutions through their own conduct.

High profile Parliamentary scandals involving a significant number of MPs, including the expenses scandal in 2008 and the sex and harassment scandal in 2017, demonstrate the immense damage to public institutions and to public trust caused by breaches of ethical standards.

Due to the high profile and representative nature of their role, MPs have a particular responsibility to uphold the highest standards of ethical conduct. They should consistently and reliably demonstrate high standards of ethical behaviour, openness and accountability, and recognise that even small

161 Brendan Cox, Individual Oral Evidence, 7 November 2017

162 Edelman's Trust Barometer has recently suggested diminishing public trust in the UK government, public institutions, and political leaders. <http://cfps.org.uk/wp-content/uploads/final2017trustbarometerukmediadeck-noembargo-170113165126.pptx>

163 Written Submission 55 (Dr Clive Sneddon)



lapses can have a disproportionately damaging effect on public perceptions.¹⁶⁴

“There is a disjunct between politicians lecturing [the public], and people feeling they should practice what they preach. So there is a sense of hypocrisy which supercharges people’s sense of distrust and animosity because it’s not just the sense you’re as bad as everyone else, but also tainted with the accusation of hypocrisy.”¹⁶⁵

Brendan Cox

Parliament, like all other institutions in public life, is made up of individuals who of course make mistakes from time to time, and sometimes fail to live up to the standards expected of them. How mistakes are rectified is also important to maintaining public confidence.¹⁶⁶ Where breaches occur, MPs must demonstrate honesty and openness about those breaches, and seek to rectify any wrongdoing.

“If we are to hold people to high standards of accountability, as part of the foundations of mutual respect, then we have to allow them to correct mistakes. Where a mistake has been honestly made, corrections should be welcomed and respected and enforced.”¹⁶⁷

Will Moy, Full Fact

Setting the tone of debate

Alongside showing leadership by opposing and reporting intimidation, and by maintaining high ethical standards, those in public life must also take responsibility for the way in which they shape the public political culture.

When those in public life engage in political debate in a derogatory and abusive way, or engender prejudice or hatred towards individuals or groups, they poison the public political culture by lowering the standards of behaviour that everyone accepts as reasonable. In turn, this can create a context in which others feel it is appropriate to engage in intimidatory behaviour both online and offline. Those who engage in intimidation may feel that their actions do little to damage the integrity of public service if that integrity has already been breached by those in public offices.

“The attitude that is communicated through Parliament is often quite derogatory towards the opposition...it appears that people feel like they can say what they like from behind their position of authority.”¹⁶⁸

Public discourse must allow significant and robust political disagreement, but without creating the conditions which encourage intimidatory behaviour. This can only occur when participants in public debate engage in a responsible way. This involves recognising others’ freedom to participate in public life and to hold different points of view. We have heard evidence from some who have significant experience of public life that this recognition of the right to participate, and the responsibilities it carries, is fading.

164 Further discussion in: Committee on Standards in Public Life, *Standards Matter* (2013), 6.19

165 Brendan Cox, Individual Oral Evidence, 7 November 2017

166 CSPL Public Attitudes Survey 2012, 3.2 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/337017/Public_Attitude_Survey_2012.pdf

167 Will Moy, Director, Full Fact, Individual Oral Evidence, 30 October 2017

168 Written Submission 17 (Confidential)



“We seem to have lost in this country in the past 15 to 20 years the ability to disagree well... We can have robust debate, but it is about the level of personal abuse and deliberately trying to undermine people.”¹⁶⁹

Baroness Brinton, Liberal Democrats

What is said in political campaigns and public political discussion reverberates throughout society. Our representative democracy has the House of Commons at its heart, so how MPs behave is crucially important to public discussion and debate, and public trust. But, it is not just Parliamentarians who shape the tone of public debate. Those in positions of leadership across public life also bear that responsibility and include councillors, candidates, people of positions of leadership in public bodies, and all those who deliver services to the public.

Those in public life have a responsibility to consider this when they make public statements. They need to think about how the tone they take shapes public debate. In the fast-paced world of politics, those in public life must make quick decisions about how they engage with their colleagues and opponents in the traditional media and online. Especially during election campaigns, there can be a temptation to engage in political discourse which undermines an opponent's right to participate and engage in public life, or to hold a different view from their own.

“When you watch the news it is not uncommon to hear jeering in the House of Commons... it almost makes it acceptable for the public to continue this disrespect towards MPs.”¹⁷⁰

Public Submission

Language which is dehumanising, vile, or abusive, and which treats political and partisan divisions as absolute and unbridgeable can, intentionally or not, encourage intimidatory behaviour by legitimising the idea that particular individuals are not worthy of common respect or participation in public life. Such attitudes can motivate action which attempts to block that participation, through threats, abuse, or violence.

Those in public life must set and protect a tone in public discourse which is not dehumanising or derogatory, and which recognises the rights of others to participate in public life.

We have found significant evidence of intimidation which is motivated by prejudice or hate. This might be based on an individual's gender, race, religion, or their sexual orientation. But speech which may fall short of being hateful may still adopt a tone which engenders hostility towards individuals because of their personal characteristics.

“In the last period there hasn't been an upsurge in hatred, but these people feel they have a licence to articulate and follow through what they were thinking previously. It's not about people being converted to fascism or whatever, but they sense they have social licence to follow through and that is the thing that language does.”¹⁷¹

Brendan Cox

Contentious political questions should be able to be discussed in public life, even when they touch on highly sensitive questions of personal identity. However, everyone in public life must take responsibility for making sure that they do not criticise or dehumanise their opponents based on these personal characteristics. Otherwise, they can open the door for others who are motivated

169 Baroness Brinton, President, Liberal Democrats, Public Hearing, 14 September 2017

170 Written Submission 8 (Adam Finkel-Gates)

171 Brendan Cox, Individual Oral Evidence, 7 November 2017



by hatred or hostility to engage in intimidatory behaviour towards individuals based on those characteristics. This is of fundamental importance for protecting and promoting the diversity of our public life.

Those in public life have a responsibility not to use language which engenders hatred or hostility towards individuals because of their personal characteristics.

The responsibility of the media

We have considered the significant role of social media in chapter 2. But print and broadcast media also contribute to a culture in which elected public officials can become targets of threats and abuse; and where targeting personal attributes or mere participation in public life is perceived as legitimate. Threatening or contemptuous language to describe public officials, especially when they are upholding high professional and ethical standards, can shape a culture that makes intimidation more likely.

“It must be recognised by media outlets that there is a fine line between political debate and instigating reckless behaviour in individuals towards electoral candidates.”¹⁷²

Scottish Women’s Convention

Broadcast and print media can amplify the effects of intimidation that takes place on social media, for example, by reporting on ‘twitterstorms’. As the distinction between traditional and social media becomes increasingly blurred, for example, with online-only news outlets with a high profile on social media such as BuzzFeed, The Canary, and Guido Fawkes, the media should be increasingly

attentive to how stories are reported can give rise to intimidatory behaviour.

“...My office has just reported to the police about five tweets, if not more, that have issued threats against me following the front-page article of today’s The Daily Telegraph...Would you [the Speaker of the House of Commons] make it very clear to everybody, in whatever capacity, that they have an absolute duty to report responsibly, to make sure that they use language that brings our country together, and to make sure that we have a democracy that welcomes free speech and an attitude of tolerance?”¹⁷³

Rt Hon Anna Soubry MP

Freedom of the press should be cherished and protected. Nevertheless, journalists, broadcasters and editors should consider whether the content they are creating could incite others to engage in intimidatory behaviour. Does it delegitimise someone’s engagement in the political process? Does it place undue emphasis on someone’s individual characteristics, such as gender, religion, race or sexuality? Does it use threatening language? Could it unduly undermine public trust in the political system? This responsibility also applies to local media, which can play a crucial role in election campaigns.

Press regulation bodies should extend their codes of conduct to prohibit language that incites intimidation.

Widespread recognition of public personalities and figures brings many benefits, including increased engagement in the political arena. However, an increasing ‘celebrity culture’ surrounding politicians, which has been partly fuelled by the print and broadcast media, also threatens to blur

172 Written Submission 59 (Scottish Women’s Convention)

173 Hansard HC Deb, 15 November 2017, Vol 631 Col 386



the distinction between the personal lives and professional responsibilities of those in public life.

During the course of the review, we were told about a case where a freelance journalist previously door-stepped the seven-year-old child of a Parliamentary candidate at their family home, without parental knowledge or consent. Both the candidate and their child were extremely distressed. Intimidation or harassment of those in public life by print journalists is a breach of IPSO's Editor's Code.¹⁷⁴ Whilst the evidence we have heard from IPSO suggest that they consider press self-regulation has had a positive effect on journalistic culture following the Leveson Report, by putting in place measures to prevent and curtail intimidation or harassment, freelance journalists not acting on behalf of a regulated publisher do not fall within IPSO's remit.¹⁷⁵ This is because IPSO regulate publishers, who take responsibility for a story and the conduct of a journalist only where they employ that journalist, commission their work, or print that story.

We believe that the lack of redress in these sorts of cases represents a gap in the current press standards regime, and would not sufficiently deter persistent offenders. News organisations should make clear to freelance journalists that they expect the same standards of conduct from them as with staff reporters.

News organisations should only consider stories from freelance journalists that meet the standards of IPSO's Editors Code, or the Editorial Guidelines of Impress, as appropriate, and ensure that freelance journalists are aware of this policy.

The media are acutely aware of the potency of reporting on breaches of ethical standards, for

example, by framing a story about disagreement or incompetence as one of wrongdoing. They should not undermine public trust by deliberately portraying partisan disagreement or questions of professional competence as a breach of ethical standards.¹⁷⁶

Recent controversies surrounding 'fake news' present a considerable challenge in this area, since candidates' views or conduct may be not simply misrepresented but wholly fabricated.¹⁷⁷ We heard evidence that candidates face a difficult decision about whether to counter incendiary claims, which may often be followed by an intense period of intimidation or abuse, particularly via social media. We are also concerned about the wider implications of fake news in having a corrosive effect upon democracy,¹⁷⁸ and intend to keep a watching brief on these issues.

Personal attacks and politicising ethical standards

Throughout our review, we have heard evidence that one of the problems is MPs and candidates focussing on an individual rather than the issue at stake – described by the Speaker, Rt Hon John Bercow MP, as 'playing the player not the ball'. Highly personal attacks, rather than criticisms of someone's position, record, or competence, is what the public find off-putting, and what is in turn most likely to fuel political disaffection.

In particular, we have seen examples of where failures of competence or judgment – or even instances of disagreement – are wrongly portrayed as breaches of standards or ethics. While there are often political or electoral advantages in blurring the distinction between professional failures, partisan disagreement, and breaches of ethics, this

174 Whilst IPSO is the main press regulator that has been referenced in evidence received to the review, we note that IPSO is not the sole press regulator in the UK and that Impress are currently the only press regulator to have been recognised by the Press Recognition Panel.

175 Matt Tee, Chief Executive of IPSO, Individual Oral Evidence, 8 November 2017

176 Professor Mark Philp, Public Ethics and Political Judgment, July 2014. See also discussion in Standards Matter, 2.14, 6.18

177 Allegations of fabricated news stories relating to Parliamentary candidates during the 2017 Election were raised in the Westminster Hall debate on abuse and intimidation (Hansard HC Deb 12 July 2017, Vol 267 Col 154WH)

178 See the Committee's submission to the 2017 Select Committee for Culture, Media and Sport inquiry into fake news



comes at the high cost of damaging public trust in our political system.

Some in public life use breaches of ethical standards by their opponents for political point scoring. Drawing attention only to the standards failures of political opponents, or citing standards failures for personal or political advantage without seeking to improve standards across the board, is an inappropriate use of political power.

When MPs and candidates attack the integrity and effectiveness of one side of the political spectrum, this can have a ‘splashback effect’, undermining public confidence in politicians and the political system as a whole. Those in positions of political leadership should recognise a collective responsibility, across the political spectrum, to maintain high ethical standards.

Those in public life should not engage in highly personalised attacks, nor portray policy disagreements or questions of professional competence as breaches of ethical standards.

We recognise that on the one hand, the adversarial nature of party politics can give focus and energy to public debate and help interest and engage people in the political process. On the other, adversarial politics can be misused, creating a culture which opens a door to intimidation. Our adversarial political system can and should maintain a political culture which is free from intimidation and abuse. This is of critical importance for maintaining a healthy and functioning democratic political culture.



Chapter 6

The impact of intimidation

Our terms of reference for this review include considering the wider implications of the intimidation of Parliamentary candidates and those in public life.

Everyone who cares about our public life should be concerned at the threat that intimidation poses to the relationship between the public and those in public life, the free exchange of ideas in public debate, the diversity of candidates for elected and appointed offices, and the essential freedoms that underpin our representative democracy – to speak in public and to stand for public offices.

In this chapter, we chart how intimidatory behaviour has already affected Parliament and our political system, and show how it is beginning to have a wider impact on our political culture, and on other office-holders throughout public life.

The relationship between the public and Parliament

Our political system protects the public's right to hold their elected representatives to account, primarily at elections, but also through a wider public process of scrutiny and engagement. It is structured so that representatives listen to those they represent – primarily through elections, but also through the constituency system, public meetings, consultations, and petitions. Similar structures exist at the level of local government. In broad terms, the system encourages people to speak their mind to those in power. Newspapers, broadcasters and the news media more generally also have responsibilities in this area as part of process of holding those in power to account.

“It is important to recognise that the democratic process requires some direct contact between politicians and the general public in the widest sense.”¹⁷⁹

This system, however, rests on a set of delicate balances between Parliament and the wider public culture, balances which are put at risk through intimidatory behaviour.

“I now have video entry only into my constituency office. I have panic alarms installed. I only post on social media after I have attended events so people can't track my movements, on the advice of local police. I no longer put anything personal on social media. I no longer hold open surgeries, they are by appointment only and are not advertised in advance.”¹⁸⁰

Maria Caulfield MP

Sitting MPs have related how intimidation and abuse has impacted on their working arrangements and how they interact with their constituents. Some MPs have had to make their surgeries less readily accessible, by not holding them in a public place and by making them by appointment only.

Other candidates and MPs have had to reduce their public appearances, ensure that they are accompanied to evening events, and in some cases have sought police protection at public events, particularly during general election campaigns.

179 Written Submission 49 (Confidential)

180 Written Submission 53 (Maria Caulfield MP)



“I would never now attend an ‘in-person’ event on my own because of my experience at the 2015 election when I genuinely believed that I could have been subject to a physical assault.”¹⁸¹

Labour Party 2017 Parliamentary Candidate

Some candidates noted that having to take these steps has put them at a disadvantage during an election campaign, particularly when their political opponents draw attention to their reduced public accessibility.

If these trends continue, we are concerned that they will deepen the alienation and disaffection that may be driving intimidatory behaviour in the first place. If there are reduced opportunities to engage personally with political representatives, this would likely result in diminished public understanding of the Parliamentary process, of how individual Parliamentarians should behave, and how they assist citizens even where they disagree on a political argument.

“Public campaigns are needed to ensure voters understand the nature of the roles. Misinformation about elections and public office needs to be countered.”¹⁸²

John Vincent

Unacceptable influence on the political process

Intimidation also threatens the integrity of the political process. For decisions to be made in the public interest, decision-makers must be able to make reasoned decisions based upon their best

judgment, and not be subject to unacceptable pressure or influence.¹⁸³

Inevitably, some people will be disappointed and angry when things that they feel strongly about are not taken forward in the way they want. We therefore expect that exchanges in the political process will be robust, challenging, and highly charged.

If the political process is to work, however, that challenge must be appropriate, proportionate, and within certain boundaries. Most importantly, it should not undermine the authority and integrity of the process itself. Attempts to change the views, behaviour, or participation of candidates for public office by the use of threats or intimidation bring inappropriate influences to bear on the decisions of candidates or elected public officials. This threatens the integrity of the political process, as elected representatives and candidates may be afraid to act according to their judgement due to fear about the repercussions of doing so.

Even when the actions of representatives provoke fears, anger or frustration, all of us have a deeper responsibility to behave in ways that respect the principles upon which that process rests. Undermining the integrity of that process threatens public trust in the political system, and leads to decisions that are not made fairly in the public interest.

Candidates for public office and diversity in public life

The overwhelming view of Parliamentary candidates who provided evidence to the Committee was that intimidation is already discouraging individuals from standing for public offices.

Our public life will suffer when people with talent and experience are deterred from remaining in or

181 Written Submission 74 (Labour Party)

182 Written Submission 43 (John Vincent)

183 Concerns about unequal and unacceptable influences compromising the integrity of decision-making also lay at the heart of the Committee's recommendations in relation to lobbying in our 2013 report, *Strengthening Transparency Around Lobbying*.



entering politics by the abuse and intimidation that they receive. If we want a diverse and experienced set of candidates for public offices, we need to address intimidation in the political arena. For this reason, we also need to pay attention to who is being targeted. A clear finding of our review is that intimidation is disproportionately likely to be directed towards women, those from ethnic and religious minorities, and LGBT candidates. A failure to tackle such abuse will perpetuate inequalities in Britain's public life and restrict the diversity of those representing the public.

"Our research shows that there is a real danger that high levels of online abuse against women MPs will have a chilling effect on women taking part in public life - particularly women of colour."¹⁸⁴

Amnesty International

We heard that women were likely to cite intensive abuse on social media as a key factor in preventing them from seeking public offices – particularly if there may be threats towards members of their family.¹⁸⁵ We are also concerned about the wider impact of intimidation directed towards the staff, supporters, and volunteers of candidates.

Volunteering on a campaign will often be the first step to future involvement in public life. We received evidence suggesting that individuals could be put off from standing for elected and appointed public offices altogether if they experience intimidation or witness it before they are even a candidate.

The freedom to stand for elected and appointed public offices is one of the core freedoms

underpinning a representative democracy. Intimidation and abuse should not be considered part of the cost of involvement in politics. It should matter to everybody, and society as a whole, that no one who has an interest in serving and the capability to serve in public life should be deterred from doing so because they do not want to put themselves, their family, or their supporters in a position where they attract intimidation and abuse.

"Almost everyone I know who goes into politics from any party is doing it because they care about their community and their country and they want to serve. Yet it makes you question constantly, 'is it worth it?'"¹⁸⁶

Rachel Maclean MP

Freedom to debate

We have seen evidence that the effects of intimidation go beyond the bounds of the political system, and that some forms of intimidation are attempting to rule out particular topics or views as legitimate subjects of public debate.¹⁸⁷

Our terms of reference for this review explicitly included the importance of maintaining freedom of expression. Democracy cannot function or flourish without protecting the essential freedom to express political opinions, however unfashionable or unpopular, where these do not undermine democracy or the rule of law itself.

In a free and democratic society, those working in the press must also have the freedom to ask legitimate questions of those in public life. We are concerned about cases where journalists have experienced threats or attempts to silence them.¹⁸⁸

184 Written Submission 87 (Amnesty International)

185 Written Submission 69 (Fawcett Society)

186 Written Submission 25 (Rachel Maclean MP)

187 Lee Scott, Individual Oral Evidence, 11 October 2017

188 <http://www.independent.co.uk/news/uk/politics/laura-kuenssberg-bbc-politics-editor-online-critics-trolls-silence-me-campaign-party-leaders-a8033086.html>



“I was then angry that people, especially young journalists, were having to go through the back door [at Scottish independence referendum events] due to intimidation.”¹⁸⁹

Nick Robinson

Closing down debate of particular topics in a public forum weakens our public life, not just for those in positions of influence, but for all who should have the freedom to participate in public debate without fear or intimidation.

Acting now on intimidation in public life

We have seen and heard concerning evidence of the way intimidation is damaging our public life. Intimidatory behaviour is already affecting the relationship between the public and Parliamentarians, and threatens the vibrancy and diversity of our public life. It also threatens the core freedoms that underlie our representative democracy: the freedom to stand for public office, and the freedom to participate in public debate.

Addressing intimidation is not simply about the behaviour of individuals. It is also about the significant impact it has on the integrity and functioning of our political system.

We are aware that public office-holders in frontline roles, such as teachers or police officers, will have experienced threats or abuse for many years whilst serving the public. We are now seeing an increasing number of public office-holders being subject to intimidation. We note with concern reports that political journalists are experiencing threats of violence, which also represents a

broader threat to the freedom of the press.¹⁹⁰ We have heard similar reports from some election officials.¹⁹¹ We also heard that local candidates and councillors from across the political spectrum are also experiencing intimidatory behaviour.¹⁹² The 2016 Judicial Attitudes Survey found that 37% of judges were concerned for their safety outside of court.¹⁹³ We are also aware of recent reports of threats directed towards doctors.¹⁹⁴

Acting now is the only way to ensure that public office-holders in a variety of roles and sectors are not subject to pressures and conduct that undermines their freedom, willingness or ability to serve in public life.

Addressing the full breadth of this issue requires social media companies, political parties, Parliament, police services, prosecutors, and those in public life themselves to work together. This includes public leadership at all levels, preventative measures, and effective enforcement of existing measures and sanctions. These are all inter-related, and will depend on each other for their effectiveness.

Now is the right moment to address intimidatory behaviour. By doing so we can begin to rebuild a healthy political culture, and avoid intimidation becoming a permanent feature of our public life.

The recommendations we have made stand as a package. They should be implemented together, as a comprehensive response to an issue of central importance to our public life.

189 Nick Robinson, Individual Oral Evidence, 6 September 2017

190 “BBC chairman demands action on ‘explicit and aggressive’ abuse of its journalists”, Radio Times, 13 September 2017; “How the BBC’s Laura Kuenssberg was ‘given a bodyguard’ after threats by online hate mob during the election”, Daily Mail, 14 July 2017

191 Mary Pitcaithly OBE, Individual Oral Evidence, 14 November 2017

192 Local Government Association, Oral Evidence, 31 October 2017

193 <https://www.judiciary.gov.uk/wp-content/uploads/2017/02/jas-2016-england-wales-court-uk-tribunals-7-february-2017.pdf>, p22

194 “Charlie Gard doctors sent death threats”, The Times, 14 July 2017



Appendix 1: About the Committee on Standards in Public Life

The Committee on Standards in Public Life is an advisory non-departmental public body sponsored by the Cabinet Office. The Chair and members are appointed by the Prime Minister.

The Committee was established in October 1994, by the then Prime Minister, with the following terms of reference:

“To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.”

The remit of the Committee excludes investigation of individual allegations of misconduct.

On 12 November 1997, the terms of reference were extended by the then Prime Minister:

“To review issues in relation to the funding of political parties, and to make recommendations as to any changes in present arrangements.”

The terms of reference were clarified following the Triennial Review of the Committee in 2013. The then Minister for the Cabinet Office confirmed that the Committee “should not inquire into matters relating to the devolved legislatures and governments except with the agreement of those bodies”, and that “the Government understands the Committee’s remit to examine ‘standards of conduct of all holders of public office’ as encompassing all those involved in the delivery of public services, not solely those appointed or elected to public office”.

The Committee is a standing committee. It can not only conduct inquiries into areas of concern about standards in public life, but can also revisit those areas and monitor whether and how well its recommendations have been put into effect.

Membership of the Committee, as of December 2017

Lord (Paul) Bew, Chair

The Rt Hon Dame Margaret Beckett DBE MP

Sheila Drew Smith OBE

Simon Hart MP

Dr Jane Martin CBE

Jane Ramsey

Monisha Shah

The Rt Hon Lord (Andrew) Stunell OBE

Secretariat

The Committee is assisted by a Secretariat consisting of Lesley Bainsfair (Secretary to the Committee), Ally Foat (Senior Policy Advisor), Dee Goddard (Senior Policy Advisor), Stuart Ramsay (Senior Policy Advisor), and Khadija Haji-Aden (Governance and Communications Coordinator). Press support is provided by Maggie O’Boyle.



Appendix 2: Methodology

Methods

In order to conduct this review, the Committee used a range of methods:

- a public call for evidence, to which we received 88 responses
- an invitation to every MP and Peer to contribute to the review
- a roundtable discussion with former candidates, academics, think tanks, and stakeholders
- a public hearing with political parties
- a private hearing with police and security services
- published interviews with social media companies
- interviews with Parliamentarians and Parliamentary candidates, and others who have experienced intimidation
- 18 meetings with stakeholder organisations
- desk-based research including:
 - a review of relevant academic literature
 - a review of existing codes of conduct of political parties
 - a review of relevant legislation
 - a review of relevant policing and prosecution guidance

Public call for evidence

The Committee held a public call for evidence, which invited submissions from anyone with an interest in these issues. The call for evidence was open from 9am on 24 July 2017 to 5pm on 8 September 2017. We received 88 responses to this call for evidence.

The call for evidence was published on our website, and was listed as a consultation on GOV.UK. The call for evidence was sent to all MPs and Peers, as well as to each of the political parties currently represented in the House of Commons with a request that they share it with former Parliamentary candidates.

Those responding to the review were given the option of marking their submission as confidential, so that individuals could give evidence which may be highly personal or sensitive or which might invite intimidation were it to be made public. We undertook not to publish or otherwise disclose these submissions unless required by law. Responses to the call for evidence that were not marked as confidential are published alongside our review.

The call for evidence stated the terms of reference of the review and invited evidence and comments on the following themes:

What is the nature and degree of intimidation experienced by Parliamentary candidates, in particular at the 2017 general election?

Does the issue of the intimidation of Parliamentary candidates reflect a wider change in the relationship and discourse between public office holders and the public?

Has the media or social media significantly changed the nature, scale, or effect of intimidation of Parliamentary candidates? If so, what measures would you suggest to help address these issues?

Is existing legislation sufficient to address intimidation of Parliamentary candidates?

What role should political parties play in preventing the intimidation of Parliamentary candidates and encouraging constructive debate?

What other measures might be effective in addressing the intimidation of Parliamentary candidates, and candidates for public offices more broadly?

Could the experience of intimidation by Parliamentary candidates discourage people from standing for elected or appointed public offices?

Has the intimidation of Parliamentary candidates led to a change in the way in which public office holders interact with the public in correspondence, on social media, or at in-person events?



Roundtable

The Committee held a roundtable discussion with a range of stakeholder organisations, think tanks, academics, and former Parliamentary candidates to discuss the nature and recent extent of intimidatory behaviour, what can be done to combat intimidation in public life, and the impact of such behaviour on public life. We have published the transcript of the hearing.

Name	Organisation
Professor Tim Bale	Queen Mary, University of London
Sir Kevin Barron MP	House of Commons
Professor Rosie Campbell	Birkbeck College, University of London
Professor Neil Chakraborti	University of Leicester
James Davies	BCS – The Chartered Institute for IT
David Evans	BCS – The Chartered Institute for IT
Adam Finkel-Gates	University of Leicester
Claire Foster-Gilbert	Westminster Abbey Institute
Dr Jennifer van Heerde-Hudson	University College London
Professor Ruth Lewis	University of Northumbria
Alasdair MacDonald	Equality and Human Rights Commission
Joy Morrissey	Former Parliamentary candidate (Conservative) and Women2Win
Fiyaz Mughal OBE	TellMAMA
Dr Victoria Nash	Oxford Internet Institute
Rt Hon Peter Riddell CBE	Commissioner for Public Appointments
Lisa Robillard Webb	Former Parliamentary candidate (Labour)
Dr Jonathan Rose	De Montford University
Sam Smethers	Fawcett Society
Josh Smith	Demos
Dr Mark Shephard	University of Strathclyde



Name	Organisation
Kasia Staszewska	Amnesty International
Danny Stone	Anti-Semitism Policy Trust
John Vincent	Former Parliamentary candidate (Liberal Democrat)

Public hearing: political parties

The Committee held a public hearing with representatives from political parties, to discuss the role of political parties in addressing intimidation, their codes of conduct and sanctions, and support offered to candidates. We have published the transcript of the hearing. We also invited all other parties currently represented in the House of Commons to speak to the Committee.

Name	Role and organisation
Baroness (Sal) Brinton	President, Liberal Democrats
Ian Lavery MP	Chair, Labour Party
Rt Hon Sir Patrick McLoughlin MP	Chairman, Conservative Party

Private hearing: police and security services

The Committee held a private hearing with representatives from the police and security services to discuss the sufficiency and enforceability of the current law, and current arrangements in place to protect and support MPs. The hearing was held on the basis that the transcript would not be published so as not to compromise important operational information.

Name	Role and organisation
Chief Constable Mike Barton QPM	Crime operations lead, National Police Chiefs Council
Eric Hepburn	Director of Security, Houses of Parliament
Rt Hon Lindsay Hoyle MP	Deputy Speaker and Chair of the Consultative Panel on Parliamentary Security
Gregor McGill	Director of Legal Services, Crown Prosecution Services



Interviews with social media companies

As with the public hearing, these meetings were held on the basis that a full note and audio recording of the meeting would be made available online.

Name	Role and organisation
Nick Pickles	Head of Public Policy and Government (UK and Israel), Twitter
Sean Evins	Government and Policy Outreach Manager, Facebook
Simon Milner	Policy Director (UK, Middle East and Africa), Facebook
Emma Collins	Public Policy Manager, Facebook
David Skelton	Public Policy and Government Relations Manager, Google
Katie O'Donovan	UK Public Policy Manager, Google
Yasmin Green	Head of Research and Development, Jigsaw
Lucy Vasserman	Software engineer, Jigsaw

Interviews with Parliamentarians and former Parliamentary candidates

The Committee held 11 meetings with Parliamentarians and former Parliamentary candidates. Due to the sensitive nature of these discussions, with the exception of Aimee Chanellor, who spoke to the Committee on behalf of the Green Party, these meetings were all held on the basis that no note of the meeting would be published, and material from the meeting would only be quoted in our report with the permission of the individual concerned.

Rt Hon John Bercow MP	Speaker of the House of Commons
Rt Hon Lord McFall	Senior Deputy Speaker, House of Lords
Rehman Chishti MP	Conservative MP
Lee Scott	Former Conservative MP
Rt Hon Sir Hugo Swire MP (by telephone)	Conservative MP
Rt Hon Diane Abbott MP	Labour MP
Luciana Berger MP (by telephone)	Labour MP
Rt Hon Yvette Cooper MP	Labour MP
Dr Lisa Cameron MP	Scottish National Party MP
Sarah Olney	Former Liberal Democrat MP
Aimee Challenor	Former Green Party candidate



Meetings with individuals and stakeholder organisations

The Committee held 18 meetings with individuals and stakeholders. These meetings were all held on the basis that the no note of the meeting would be published, and material from the meeting would only be quoted in our report with the permission of the individual concerned.

Name	Speaker of the House of Commons
Nick Robinson	BBC (personal capacity)
Laura Kuenssberg	BBC (personal capacity)
David Evans and James Davies	BCS – The Chartered Institute for IT
Officials	Crown Prosecution Service
Rachael Bishop	Department of Digital, Culture, Media and Sport
Claire Bassett and Bob Posner	Electoral Commission
Mary Pitcaithly OBE (by telephone)	Convenor, Electoral Management Board, Scotland
Lionel Barber and Robert Shrimley	Financial Times
Official	Foreign and Commonwealth Office
Will Moy	Full Fact
Official	Home Office
Matt Tee (by telephone)	IPSO
Brendan Cox (by telephone)	Jo Cox Foundation
Iona Lawrence	Jo Cox Foundation
Mark Lloyd and Dr Charles Loft	Local Government Association
Cllr Marianne Overton MBE	Local Government Association
Joe Todd (by telephone)	Communications Officer, Momentum
DI Philip Grindell	Parliamentary Liaison and Investigation Team



The Government's response to the Committee on Standards in Public Life Review of Intimidation in Public Life

Presented to Parliament
by the Minister for the Constitution
by Command of Her Majesty

March 2018



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Foreword by

The Prime Minister

Britain's liberal democracy is admired around the world for its tolerance and decency. It is defined by values which have a universal appeal: freedom of thought and expression within laws which are democratically made; the competition of ideas leading to collective progress and improvement; respect for those with different viewpoints.

These principles have been at the heart of the British tradition of liberty for generations. In an open market-place of ideas, in which different viewpoints can coexist and people are free to make the case for their own beliefs, opinions can be changed, arguments won and progress achieved.

But today, the ideal of a truly plural and open public sphere where everyone can take part is in danger. A tone of bitterness and aggression has entered into our public debate. Participants in local and national public life – from candidates and elected representatives to campaigners, journalists and commentators – have to contend with regular and sustained abuse. Often this takes the form of overt intimidation.

British democracy has always been robust and oppositional. But a line is crossed when disagreement mutates into intimidation.

Last year I commissioned the Committee on Standards in Public Life to conduct an investigation into intimidation following last year's general election. Their report makes sobering reading, but it also points the way forward, and I welcome its recommendations.

All of us in public life have a responsibility to challenge and report intimidating behaviour wherever it occurs. We must set a tone in public discourse which is neither dehumanising nor derogatory and which recognises the rights of others to participate. These responsibilities fall on each of us as individuals and, collectively, on the political parties.

For its part, the Government will act on the Committee's recommendations, as we set out in this response to their report. But the action we need to take to secure our democracy goes beyond committee reports and government responses, to the heart of how we conceive of political differences and how we treat each other.

At its best, British public life is characterised by the values which we have traditionally been most proud of as a nation. Fierce rivalry, yes, but also common decency and a rejection of extremism and absolutism.

Most people don't view politics through an ideological prism. They want politicians to work together to improve their lives and our country. They expect disagreements and debate about the best way forward. But they also want practical solutions which will improve people's lives.

Her Majesty's Government is pursuing policies across every area which are designed to build a stronger economy and a fairer society in a country that truly works for everyone. By taking the action set out in this response, we will also play our part in building a democracy in which every voice can be heard.

THERESA MAY

GOVERNMENT RESPONSE TO THE RECOMMENDATIONS

Recommendation 1: Nobody in public life should engage in intimidatory behaviour, nor condone or tolerate it. All those in public life have a responsibility to challenge and report intimidatory behaviour wherever it occurs.

Recommendation 2: Those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life, and help prevent a decline in public trust in political institutions through their own conduct.

Recommendation 3: Those in public life must set and protect a tone in public discourse which is not dehumanising or derogatory, and which recognises the rights of others to participate in public life.

Recommendation 4: Those in public life have a responsibility not to use language which engenders hatred or hostility towards individuals because of their personal characteristics.

Recommendation 5: Those in public life should not engage in highly personalised attacks, nor portray policy disagreements or questions of professional competence as breaches of ethical standards.

The Government welcomes these recommendations. Robust debate is fundamental in an open democracy, but threats and other forms of abuse are unacceptable and must not be tolerated. We welcome the fact that the Committee consulted so widely and produced such considered recommendations which span the spectrum of all those engaged in public life. These issues matter at all times.

As the Prime Minister said in her speech on standards in public life in Manchester on 6 February 2018, it is incumbent on all of us in public life to accept our responsibility to help sustain a genuinely pluralistic public debate.

All those in public life have a responsibility to challenge and report intimidating behaviour wherever it occurs. We must all seek to uphold the highest standards of conduct. We must set a tone in public discourse which is neither dehumanising nor derogatory and which recognises the rights of others to participate and have different views.

The Government takes this issue extremely seriously. We already have codes of conduct to ensure all those in Government observe the highest standards of behaviour and conduct. We recently updated the Ministerial Code to reinforce the requirement to treat everyone with respect, to ensure there is a culture of respect at the centre of public life, and a clear requirement that Ministers must be

professional in all their dealings and treat all those with whom they come into contact with consideration and respect.

The Prime Minister's speech on this issue emphasised that Britain's liberal democracy has long been respected around the world for its tolerance and decency. Freedom of thought and expression within laws which are democratically made; an open-market place of views and ideas, where differences of opinion can coexist but where respect remains for those with different viewpoints – arguments can be won, and progress will be achieved.

British democracy has always been robust and oppositional, but it is essential that individuals are not put off from entering public life because of the coarsening of public debate and intimidation of candidates, evidence of which the Committee found during their review, and which we must work together to address.

Recommendation 6: The Government should consult on the introduction of a new offence in electoral law of intimidating Parliamentary candidates and party campaigners.

The Government agrees with this recommendation and will launch a consultation exercise in the summer.

The public consultation will determine whether or not the current criminal law is sufficient, or whether there is a need for the creation of a distinct electoral offence. The current electoral offence of "undue influence" only relates to voters, where actions stop electors from voting or pressure them to vote a certain way.

Criminal offences on intimidation more generally (such as the Public Order Act) are not electoral offences. This means that the acts of intimidation cannot be taken up in an Election Court if such acts adversely influenced the election. There are also sanctions – such as barring those guilty of an electoral offence from standing for five years – which are only available via an Election Court.

The consultation will consider what might be an appropriate threshold for such an offence, as well as balancing free speech considerations.

The Committee's report also recommended (though not as a numbered recommendation) that the electoral law requirements for an imprint on campaigning materials be extended to electronic communications. The Government will also address this proposal in the consultation, including how such a requirement could be appropriately framed. The Law Commission will also conduct a review of the legislation relating to online offensive communications, which is due to commence shortly.

We will also look at this issue in light of the recommendation made by Sir Eric

Pickles in his report 'Securing the Ballot'¹ that the offence of undue influence in respect of electors should be strengthened. The 2015 Tower Hamlets Election Court case found the legal threshold for proving intimidation was too high, such that prosecutions were not viable, even despite clear evidence of intimidation outside polling stations in the 2014 local elections. The Government response to that report agreed that the threshold should be amended.

We will also consider if there are sufficient safeguards from abuse and intimidation for electors and also for public servants charged with delivering our elections.

Recommendation 7: Government should bring forward legislation to shift the liability of illegal content online towards social media companies.

The Government has been clear that social media platforms are no longer just passive hosts, and we need a new approach. We need to think carefully about what level of legal liability social media companies should have for content on their sites, and we need to fully understand the consequences of any changes.

Through the Digital Charter the Government is working to understand how we can make the existing frameworks and definitions work better, and whether there is a case for developing a new definition for these platforms. At present, limited liability is defined in EU law, so we are working closely with European partners, as well as other like-minded countries and the businesses themselves, to develop our understanding of the problem, alongside the impacts of any intervention on the digital economy.

Recommendation 8: The Government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending an election count.

The Government agrees with this recommendation and will look to bring forward secondary legislation at a suitable opportunity to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. We do not want to see capable individuals deterred from standing for office because they believe the process risks their safety, or makes them vulnerable to abusive activity.

This requirement will be replaced with an option to include a statement of residence based on an electoral area the candidate lives in rather than having to include a specific address. The Government aims to do this in time for the 2019 local authority elections.

1

www.gov.uk/government/uploads/system/uploads/attachment_data/file/545416/eric_pickles_report_electoral_fraud.pdf

This practice must be applied equally to all those standing for election to public office and should apply to those standing at any level of local authority elections including for mayoral positions and for the role of Police and Crime Commissioner. This will be done by the next time these polls arise in May 2020.

Recommendation 9: Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011.

The Government agrees with this recommendation. The Localism Act 2011 and Ministry of Housing, Communities and Local Government guidance *Openness and transparency on personal interests – A Guide for Councillors* (2013) provides the relevant frameworks for monitoring officers. The local authority monitoring officer (or in the case of a parish council, the monitoring officer of the district or borough council) is responsible for establishing and maintaining a council's register of members' interests.

An authority's register of members' interests must be published on the council or authority website. However, where a member and the monitoring officer consider that disclosure of the details of a specific interest could lead to the member, or a person connected to the member, being subject to violence or intimidation, that is considered a sensitive interest and must be withheld from the published register. This is set out in the Localism Act 2011, and in the 2013 guidance. We will review this guidance and consider whether it can be made more explicit.

The Government will then write to Local Authority Chief Executives, and work with the Local Government Association and sector bodies, to publicise and raise awareness of the sensitive interest provisions, to ensure that Monitoring Officers are aware of this guidance and where to access it.

Recommendation 10: The Home Office and the Department for Digital, Culture, Media and Sport should develop a strategy for engaging with international partners to promote international consensus on what constitutes hate crime and intimidation online.

The Government agrees with this recommendation and is already working with international partners on tackling online hate crime.

Government officials are actively involved in Europe-wide efforts to develop an approach which balances free speech with protection from harm. They have also secured agreement from the 57 member states of the Organisation for Security and Co-operation in Europe, which includes the USA, to work collaboratively to reduce the harm caused on the internet. The UK has also successfully engaged with internet firms through the Cyber Hate Working Group established by the Inter-Parliamentary Coalition for Combating Antisemitism. This has led to the agreement of a 'Best Practice' document which is published by the Anti Defamation League and has been endorsed by many internet companies.

Building on the success of the above best practice document we have supported the European Commission initiative to agree a second generation of this agreement signed in June 2016 which commits the signatories to removing illegal hate speech within 24 hours.

The UK is proud to have robust legislation on hate crime and sets an example to our international partners in this area.

Recommendation 11: Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. They should challenge poor behaviour wherever it occurs.

Recommendation 12: Political parties must proactively work together to tackle the issue of intimidation in public life.

Recommendation 13: Political parties should set clear expectations about the behaviour expected of their members, both offline and online through a code of conduct for members which specifically prohibits any intimidatory behaviour. Parties should ensure that members are familiar with the code. The consequences of any breach of the code should be clear and unambiguous.

Recommendation 14: Political parties must ensure that party members who breach the party's code of conduct by engaging in intimidation are consistently and appropriately disciplined in a timely manner.

Recommendation 15: Political parties must collect data on the number of complaints against members for engaging in intimidatory behaviour, and the outcome of any disciplinary processes which result from these complaints.

Recommendation 16: Leaders of political parties should always call out intimidatory behaviour, even when it is perpetrated by those in the party's fringes. Fringe group leaders and spokespeople should immediately denounce any intimidatory behaviour on the part of their members or supporters.

Recommendation 17: The political parties must work together to develop a joint code of conduct on intimidatory behaviour during election campaigns by December 2018. The code should jointly be enforced by the political parties.

Recommendation 18: Political parties must take steps to provide support for all candidates, including through networks, training and support and resources. In particular, the parties should develop these support mechanisms for female, BAME, and LGBT candidates who are more likely

to be targeted as subjects of intimidation.

Recommendation 19: Political parties must offer more support and training to candidates on their use of social media. This training should include: managing social media profiles, block and mute features, reporting content, and recognising when behaviour should be reported directly to the police.

The Government is supportive of the Committee's recommendations, but recognises that ultimately these are matters for the political parties.

The Government recommends that all political parties put in place their own code of conduct for all their representatives. The Government does not propose to initiate further steps for a *joint* code – this may create delays towards action by individual parties, given there are over 300 registered political parties. However, the Government does believe that, as a matter of self-regulation, each registered political party should draw up and publish a clear statement of the standards expected of its members, affiliated groups and activists, and how the party would uphold such standards in this code. Different parties may develop differently worded codes: what is important is the effective enforcement of the fundamental principles behind them.

The Parliamentary Parties Panel provides an existing and well-established forum for political parties to work together on matters relating to electoral regulation, and to share best practice. This could help to co-ordinate liaison between political parties and social media companies on how best to provide support to candidates and prospective candidates.

In relation to the collection of quantitative data on complaints, some caution is needed to prevent perverse incentives within political parties from not taking forward complaints. We would recommend that, as best practice, some commentary could be published by political parties within their annual accounts or annual report.

Collectively, these steps should not restrict political parties from holding each other to account in the spirit of democratic scrutiny; nor should it prevent elected representatives from the free (and often frank) expression of their political views as elected representatives. The legitimate exercise of freedom of speech and freedom of association, within the law, goes hand in hand with challenging intimidation which seeks to deprive others of their freedom of speech.

Recommendation 20: Social media companies must develop and implement automated techniques to identify intimidatory content posted on their platforms. They should use this technology to ensure intimidatory content is taken down as soon as possible.

Recommendation 21: Social media companies must do more to prevent users being inundated with hostile messages on their platforms, and to

support users who become victims of this behaviour.

Recommendation 22: Social media companies must implement tools to enhance the ability of users to tackle online intimidation through user options.

Recommendation 23: All social media companies must ensure they are able to make decisions quickly and consistently on the takedown of intimidatory content.

Recommendation 24: Twitter, Facebook and Google must publish UK-level performance data on the number of reports they receive, the percentage of reported content that is taken down, and the time it takes to take down that content, on at least a quarterly basis.

Recommendation 25: Social media companies must urgently revise their tools for users to escalate any reports of potential illegal online activity to the police.

Recommendation 26: The social media companies should work with government to establish a 'pop-up' social media reporting team for election campaigns.

Recommendation 27: Social media companies should actively provide advice, guidance and support to Parliamentary candidates on steps they can take to remain safe and secure while using their sites.

These recommendations are for the social media companies concerned, rather than Government. Nevertheless, the Government has already been clear about the need to encourage social media companies to do more to tackle these issues.

The digital revolution has changed the way that people behave and interact and so we need to respond to this.

The Government will support the Committee's recommendations in this area through the Digital Charter; its core purpose is to make the internet work for everyone – for citizens, businesses and society as a whole. Through the Charter we want to make the UK both the safest place to be online and the best place to start and grow a digital business.

The Internet Safety Strategy is an important early strand of the Charter, and will be crucial in realising this ambition. The Strategy will be published in the spring. It will tackle the urgent need to deal with intimidatory and bullying behaviour, which has become common place online.

We are already taking action to help make the Internet a safer place, and following the recent consultation on Internet Safety, we are introducing a social

media code of practice and an annual Internet Safety Transparency Report. The code of practice will set out what we expect of social media companies. It will provide guidance on how bullying and harmful content should be dealt with.

We have been encouraged by some of the steps taken by companies to prevent online harms, and the code of practice will ensure that there is a coherent approach so all users of social media can be confident participating in online life. The annual Internet Safety Transparency Report will provide UK-level data to enable us to better understand what content users are reporting to social media providers, how social media responds to the handling of complaints, and what gets taken down.

Some companies, notably Google, have already committed to publish transparency reports, but we want to introduce common metrics. We want users to be better informed about what is happening on the social media platforms which they are using and how reported content is dealt with. Getting this right takes time, and we will provide more detail on both in the Internet Safety Strategy. In the meantime social media companies will, in line with the report's recommendation, be putting in place specific support during election campaigns to ensure abusive content can be dealt with quickly – and that they will be providing advice and guidance to Parliamentary candidates on how to remain safe and secure online.

The Government agrees that these are important steps in safeguarding the free and open elections which are a key part of our democracy.

Recommendation 28: MPs should actively co-operate with the police and other security services working to address the security threats facing Parliamentarians and Parliamentary candidates.

This is a matter for the House authorities. However, the Government encourages MPs to work and cooperate with the police and the Parliamentary Liaison and Investigation Team on these issues.

Recommendation 29: The National Police Chiefs Council should ensure that local police forces have sufficient training to enable them to effectively investigate offences committed through social media. Local police forces should be able to access advice and guidance on the context in which MPs and Parliamentary candidates work.

The Government agrees with this recommendation and will support and encourage the relevant policing bodies concerned to act upon these recommendations.

The College of Policing deliver training entitled Researching Identifying Tracing Electronic Suspects. This training equips officers to safely and lawfully gather information and intelligence on the internet, and crucially to trace and identify suspects online. The National Police Chiefs Council will continue to work with

the College of Policing to ensure that the course context is current, in keeping with technological advances.

The Parliamentary Liaison and Investigation Team – a central team which liaises across the Metropolitan Police Service, regional forces and MPs on allegations of crime against MPs – is already in place. In addition, the team works to ensure standards across the country and also identifies cross border series crime and national trends. Local forces can refer to the Team for advice and guidance on the workings of MPs. The Team have developed a network of UK Policing leads to gather intelligence and visibility of reported crime and will begin producing quarterly reports showing national and regional crime trends, intelligence, overviews and investigation. These quarterly reports will be shared nationally with forces creating insight into some of the issues faced by MPs. The National Police Chiefs Council will review the current advice and guidance given to local forces on the context in which MPs and parliamentary candidates work as part of the next Team quarterly report, due to be published in April 2018.

Recommendation 30: The College of Policing Authorised Professional Practice for elections should be updated to include offences relating to intimidation, including offences committed through social media.

The Government agrees with this recommendation and will support and encourage the College of Policing to act upon these recommendations.

It is important for police officers and staff to have the necessary support to meet new and emerging threats and protect the public. Under the devolved policing model, it is the responsibility of Chief Officers, with support from their professional body, the College of Policing, to assess what skills are needed in their workforce and put in place the necessary standards and training provisions.

The College has committed to revising Authorised Professional Practice on elections, through its electoral malpractice group, to ensure it is up to date and sets a clear standard for police officers which reflects the modern context, including offences relating to intimidation and those committed through social media.

Authorised Professional Practice guidance is regarded as the official source of professional practice advice on policing. Police officers and staff are expected to have regard to the Practice in discharging their responsibilities. This review will commence in February 2018.

Recommendation 31: The National Police Chiefs Council, working with the Crown Prosecution Service and the College of Policing, should produce accessible guidance for Parliamentary candidates giving clear advice on behaviour they may experience during a campaign which is likely to constitute a criminal offence and what they should do in the face of such intimidation.

The Government agrees with this recommendation and will support and encourage these policing bodies to act upon these recommendations.

Police leaders are already working to ensure that clear advice is available. The National Counter Terrorism Security Office provide security advice, including cyber security advice and guidance to all Parliamentary candidates through the Electoral Commission. The National Police Chiefs Council will review the content of this guidance already provided to candidates by the Office to determine if it covers advice on behaviour Parliamentary Candidates may experience during a campaign, and if that behaviour is likelihood likely to constitute a criminal offence. Any guidance from the National Police Chiefs Council will supplement that of the Office.

The National Police Chiefs Council have put in place a lead for Elections who ensures all advice is shared among MPs and Parliamentary candidates and engages with Party Headquarters. In addition, the Parliamentary Liaison and Investigation Team works extensively with local forces during campaign periods to raise awareness around the heightened risk during this period and act as contact point for advice and guidance. The Team have an established relationship with the Director of Public Prosecutions and the local Crown Prosecution Service for advice on a case-by-case basis.

Recommendation 32: Press regulation bodies should extend their codes of conduct to prohibit unacceptable language that incites intimidation.

Recommendation 33: News organisations should only consider stories from freelance journalists that meet the standards of IPSO's Editors Code, or the Editorial Guidelines of Impress, as appropriate, and ensure that freelance journalists are aware of this policy.

These recommendations are addressed to the regulators and the news organisations, rather than the Government. The Government is committed to a free and independent press, and therefore the codes of conduct of press regulators are, rightly, written independently by the self-regulators. Robust, high quality journalism is important for public debate, scrutiny and ultimately for democratic political discourse. The Government is determined to ensure that the UK has a vibrant, independent and plural free press which is able to provide this high quality journalism. That is why the Prime Minister announced on 6 February that the Government is establishing an external review looking into the sustainability of the national, regional and local press.

ANNEX A:**Summary table of the Committee's recommendations and timeframes**

Recommendation	Timeframe recommended by the Committee	Responsibility
1. Nobody in public life should engage in intimidatory behaviour, nor condone or tolerate it. All those in public life have a responsibility to challenge and report it wherever it occurs.	Immediately	All those in public life
2. Those in public life should seek to uphold high standards of conduct, adhering to the Seven Principles of Public Life, and help prevent a decline in public trust in political institutions through their own conduct.	Immediately	All those in public life
3. Those in public life must set and protect a tone in public discourse which is not dehumanising or derogatory, and which recognises the rights of others to participate in public life.	Immediately	All those in public life
4. Those in public life have a responsibility not to use language which engenders hatred or hostility towards individuals because of their personal characteristics.	Immediately	All those in public life
5. Those in public life should not engage in highly personalised attacks, nor portray policy disagreements or questions of professional competence as breaches of ethical standards.	Immediately	All those in public life
6. The Government should consult on the introduction of a new offence in electoral law of intimidating Parliamentary candidates and party campaigners.	Within one year	Government

7. Government should bring forward legislation to shift the liability of illegal content online towards social media companies.	On exiting the EU	Government
8. The Government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending an election count.	Immediately	Government
9. Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive provisions in the Localism Act 2011.	Immediately	Local Authority Monitoring Officers
10. The Home Office and the Department for Digital, Culture, Media and Sport should develop a strategy for engaging with international partners to promote international consensus on what constitutes hate crime and intimidation online.	Immediately	Home Office and the Department for Digital, Culture, Media and Sport
11. Those in positions of leadership within political parties must set an appropriate tone during election campaigns, and make clear that any intimidatory behaviour is unacceptable. Must challenge poor behaviour wherever it occurs.	Immediately	Those in positions of leadership within political parties
12. Political parties must work proactively together to tackle the issue of intimidation in public life.	Immediately	Political parties

13. Political parties should set clear expectations about the behaviour of their members, both offline and online, through a code of conduct for members which specifically prohibits any intimidatory behaviour. Parties should ensure that members are familiar with the code. The consequences of any breach of the code should be clear and unambiguous.	Within one year	Political parties
14. Political parties must ensure that party members who breach the party's code of conduct by engaging in intimidation are consistently and appropriately disciplined in a timely manner.	Immediately	Political parties
15. Political parties must collect data on the number of complaints against members for engaging in intimidatory behaviour, and the outcome of any disciplinary processes which result from these complaints.	Within one year	Political parties
16. Leaders of political parties should always call out intimidatory behaviour, even when it is perpetrated by those in the party's fringes. Fringe group leaders and spokespeople should immediately denounce any intimidatory behaviour on the part of their members or supporters.	Immediately	Political parties
17. Parties must work together to develop a joint code of conduct on intimidatory behaviour during election campaigns by December 2018. The code should jointly be enforced by the political parties.	Joint code should be drawn up within one year – it should be enforced beginning at the next general election	Political parties

18. Political parties must take steps to provide support for all candidates, including through networks, training and support and resources. In particular, the parties should develop support these support mechanisms for female, BAME and LGBT candidates who are more likely to be targeted as subjects of intimidation.	Before the next general election	Political parties
19. Political parties must offer more support and training to candidates on their use of social media. This training should include: managing social media profiles, block and mute features, reporting content, and recognising when behaviour should be reported directly to the police.	At the next general election	Political parties
20. Social media companies must develop and implement automated techniques to identify intimidatory content posted on their platforms. They should use this technology to ensure intimidatory content is taken down as soon as possible.	Immediately	Social media companies
21. Social media companies must do more to prevent users being inundated with hostile messages on their platforms, and to support users who become victims of this behaviour.	Immediately	Social media companies
22. Social media companies must implement tools to enhance the ability of users to tackle online intimidation through user options.	Immediately	Social media companies
23. All social media companies must ensure they are able to make decisions quickly and consistently	Immediately	Social media companies

on the takedown of intimidatory content.		
24. Twitter, Facebook and Google must publish UK-level performance data on the number of reports they receive, the percentage of reported content that is taken down, and the time it takes to take down that content, on at least a quarterly basis.	At least every quarter, beginning in first quarter of 2018	Social media companies
25. Social media companies must urgently revise their tools for users to escalate any reports of potential illegal online activity to the police.	Immediately	Social media companies
26. The social media companies should work with government to establish a 'pop-up' social media reporting team for election campaigns.	Before the next general election	Social media companies
27. Social media companies should actively provide advice, guidance and support to Parliamentary candidates on steps they can take to remain safe and secure while on their sites.	Before the next general election	Social media companies
28. MPs should actively co-operate with the police and other security services working to address the security threats facing Parliamentarians and Parliamentary candidates.	Immediately	MPs
29. The National Police Chiefs Council should ensure that local police forces have sufficient training to enable them to effectively investigate offences committed through social media. Local police forces should be able to access	Within one year	National Police Chiefs Council

advice and guidance on the context in which MPs and Parliamentary candidates work.		
30. The College of Policing Authorised Professional Practice for elections should be updated to include offences relating to intimidation, including offences committed through social media.	Before the next general election	College of Policing
31. The National Police Chiefs Council, working with the Crown Prosecution Service and the College of Policing, should produce accessible guidance for Parliamentary candidates giving clear advice on behaviour they may experience during a campaign which is likely to constitute a criminal offence and what they should do in the face of such intimidation.	Before the next general election	National Police Chiefs Council, working with the Crown Prosecution Service and the College of Policing
32. Press regulation bodies should extend their codes of conduct to prohibit unacceptable language that incites intimidation.	By December 2018	Press regulation bodies (IPSO and Impress)
33. News organisations should only consider stories from freelance journalists that meet the standards of IPSO's Editors Code, or the Editorial Guidelines of Impress, as appropriate, and ensure that freelance journalists are aware of this policy.	Immediately	News organisations

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