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DATE: 22 October 2019

To: Members of the
STANDARDS COMMITTEE

Councillor Will Harmer (Chairman)
Councillor Vanessa Allen (Vice-Chairman)
Dr Simon Davey, Councillor Melanie Stevens, Councillor Michael Tickner and
Councillor Stephen Wells

A meeting of the Standards Committee will be held at Bromley Civic Centre on
THURSDAY 31 OCTOBER 2019 AT 7.00 PM

MARK BOWEN
Director of Corporate Services

A G E N D A

- 1 APOLOGIES FOR ABSENCE**
- 2 DECLARATIONS OF INTEREST**
- 3 QUESTIONS**

In accordance with the Council's Constitution, questions that are not specific to reports on the agenda must have been received in writing 10 working days before the date of the meeting.

Questions specifically on reports on the agenda should be received within two working days of the normal publication date of the agenda. Please ensure that questions specifically on reports on the agenda are received by the Democratic Services Team by 5pm on Friday 25th October 2019.

- 4 MINUTES OF THE MEETING HELD ON 9TH JULY 2019**
(Pages 1 - 4)
- 5 DISCUSSION WITH THE CHIEF EXECUTIVE**

The Council's Chief Executive, Ade Adetosoye OBE, will be present at the meeting.

6 CODE OF CONDUCT: CONSIDERATION OF BEST PRACTICE FROM COMMITTEE ON STANDARDS IN PUBLIC LIFE
(Pages 5 - 22)

7 MONITORING OFFICER'S GENERAL REPORT
(Pages 23 - 140)

8 LOCAL GOVERNMENT ACT 1972 AS SUBSEQUENTLY AMENDED

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of confidential information.

Items of Business

Schedule 12A Description

9 EXEMPT MINUTES OF THE MEETING HELD ON 9TH JULY 2019
(Pages 141 - 142)

Information relating to any individual.

10 MONITORING OFFICER'S GENERAL REPORT - PART 2 APPENDICES
(Pages 143 - 148)

Information relating to any individual.

STANDARDS COMMITTEE

Minutes of the meeting held at 7.00 pm on 9 July 2019

Present:

Councillor Will Harmer (Chairman)
Councillor Vanessa Allen (Vice-Chairman)
Councillor Melanie Stevens and Councillor Stephen Wells

12 TO APPOINT A CHAIRMAN AND VICE-CHAIRMAN FOR 2019/20

Councillor Will Harmer and Councillor Vanessa Allen were appointed Chairman and Vice-Chairman for the 2019/20 Council year.

13 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Michael Tickner and Dr Simon Davey.

14 DECLARATIONS OF INTEREST

There were no declarations of interest.

15 MINUTES OF THE MEETING HELD ON 22 JANUARY 2019

RESOLVED that the minutes of the meeting held on 22nd January 2019 be confirmed.

16 QUESTIONS

No questions had been received.

17 MONITORING OFFICER'S GENERAL REPORT Report CSD19098

The Committee received a report from the Monitoring Officer setting out a number of issues for consideration. The Independent Person, Dr Simon Davey, had sent in some comments on the report which were tabled for consideration.

(A) Independent Persons

The Committee received an update on progress with recruiting additional Independent Persons. Advertisements earlier in the year had failed to attract any applications; Members proposed advertising in a wider range of locations and suggested looking amongst different categories of potential recruits, such

as honorary aldermen, religious groups and residents associations, although it was a requirement that Independent Persons should not be actively engaged in politics or local campaigning.

Members also suggested that the advertisement could be made more attractive and direct.

(B) Committee for Standards in Public Life - Local Government Ethical Standards Report (January 2019)

The report of the Committee for Standards in Public Life on “Local Government Ethical Standards” had been published on 30th January 2019. The report reflected the Committee’s concerns that there was a lack of effective sanctions in the current standards regime, other than the criminal sanctions relating to Declarable pecuniary Interests. The Committee for Standards in Public Life made 26 formal recommendations, most of which were addressed to government and required legislation, but also proposed 15 “best practice” recommendations which could be implemented by local authorities. One of the recommendations (25) was that party groups at local and national level should require that formal induction training be compulsory, and a Member considered that compulsion was not a helpful approach. It was proposed that work on the best practice recommendations in the Committee’s report be fed into a wider review of the Council’s Code of Conduct.

Members discussed the requirement that their home addresses be published on the Council website as part of their Declaration of Interest. These addresses could be taken down temporarily if there was a genuine threat to a Councillor or their family, but otherwise this was a clear statutory requirement.

The Committee discussed how high ethical standards could be promoted beyond the formal realm of Council meetings at group meetings. This was an area where group leaders could be effective in encouraging good practice and integrity of decision making.

The peer review of Bromley’s planning committees by the Planning Advisory Service (PAS) had made reference to the Standards Committee’s role on monitoring and advising on training of planning committee members. It was noted that a report on the recommendations arising from the Review was expected to be considered by the Development Control Committee at its meeting on 23rd July 2019. The Chairman offered to speak to the Chairman of Development Control Committee before their meeting, and a special meeting of this Committee could be called if necessary. Members requested that the PAS Report be circulated to the Committee members.

Bromley’s Code of Conduct was based on a model code proposed by the Department for Communities and Local Government following the Localism Act 2011. Bromley had voluntarily opted to require that a range of non-pecuniary interests should be declared, even though there was no statutory requirement, but Bromley had never required the interests of close family members or associates to be registered.

The Committee considered that the Code of Conduct should be reviewed, taking into account the best practice suggestions from the Committee for Standards in Public Life, with a view to an updated Code being ready for the 2020/21 Council year. It was suggested that the Director of Corporate Services should produce a new draft Code by mid-September, so that there was time for consultation with the party groups before a report was brought to the Committee's next meeting on 31st October 2019.

RESOLVED that a revised Code of Conduct be prepared for the Committee's next meeting on 31st October 2019, and the Director of Corporate Services be requested to bring forward draft proposals to allow for informal consideration by the party groups in advance of this.

(C) Dispensations granted

Dispensations granted by the Monitoring Officer were noted (Appendix 2 to the report).

(D) Gifts and Hospitality Register

The report set out declarations of gifts or hospitality received since the last meeting (Appendix 3 to the report.)

(E) Register of Interests

The Register of Interests was available for inspection.

(F) Substitution

Substitution was not allowed at the Committee, and the Monitoring Officer explained the reasons for this, which the Committee accepted.

(G) Work Programme and Matters Outstanding

The Committee considered its work programme for future meetings. Dr Davey had suggested a number of people to invite to future meetings - party group leaders, the Chief Executive, the Head of Audit, and the Monitoring Officer. The Head of Audit had attended a recent meeting, and the Monitoring Officer was always present, but the Committee was keen to hear from the Chief Executive and from group leaders.

(H) Whistle-blowing Procedures

More detail on the Council's whistle-blowing procedures had been submitted (in the part 2 agenda), including details of recent cases. Members were informed that there were a variety of ways for people to complain that were not defined as whistle-blowing.

(I) Complaints

The Committee received a summary of recent complaints made against Councillors.

18 LOCAL GOVERNMENT ACT 1972 AS SUBSEQUENTLY AMENDED

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summaries
refer to matters
involving exempt information**

19 MONITORING OFFICER'S GENERAL REPORT: APPENDICES

The Committee considered part 2 appendices containing details of whistle-blowing cases and complaints received against individual councillors since the last meeting on 22nd January 2019.

The Meeting ended at 8.00 pm

Chairman

Report No.
CSD19160

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **STANDARDS COMMITTEE**

Date: **Thursday 31st October 2019**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **CODE OF CONDUCT: CONSIDERATION OF BEST PRACTICE
FROM COMMITTEE ON STANDARDS IN PUBLIC LIFE**

Contact Officer: Philippa Gibbs, Deputy Democratic Services Manager
Tel: 0208 461 7638 E-mail: Philippa.Gibbs@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: All Wards

1. Reason for report

- 1.1 To update the Committee on the work that has been carried out to review the Council's Code of Conduct the publication of the report of the Committee on Standards in Public Life.
-

2. RECOMMENDATION

That the Committee notes and comments on the report, and recommends the updated Code of Conduct at Appendix 1 to full Council for approval and endorses the Public interest test at appendix 4.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
-

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £358,740.
 5. Source of funding: 2019/20 revenue budget
-

Personnel

1. Number of staff (current and additional): 6.79fte
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: Statutory Requirement: Local Government Acts 1972 and 2000 and subsequent legislation.
 2. Call-in: Not Applicable: This report does not involve an executive decision.
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The standards system affects all Members of the Council, and potentially any member of the public who considers that a member may have breached the Code of Conduct.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

- 3.1 At its meeting on 9th July 2019, the Standards Committee requested the Director of Corporate Services produce a revision to the Code of Conduct to reflect the best practice recommendations included in the report on Local Government Standards produced by the Committee on Standards in Public life.
- 3.2 These are set out below and a revised Code to cover Best Practice 1 and 2 is attached at [Appendix 1](#). Whilst it has never been an issue at Bromley some wording around Best Practice 2 has been added to the Code. The Council's current Code of Conduct is silent on inappropriate disclosure of confidential information and two options around this have been included for the Committee's consideration. The other matters are ones for the Committee to discuss and make recommendations as necessary.

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

- 3.3 In 2012, Bromley adopted the DCLG model code with minor revisions. The original version of the DCLG model code and the LGA model code are attached at [Appendix 2](#) and [Appendix 3](#) for comparison.
- 3.4 It is worth noting that the Standards Commission for Scotland has adopted a definition/guidance on Bullying and harassment and this is appended to the end of the code.
- 3.5 Further work has been completed around setting out the criteria for considering complaints alleging breaches of the Code of Conduct and the Public Interest Test. Recommended criteria are attached at [Appendix 4](#) for approval by the Committee.

Non-Applicable Sections:	Impact on Vulnerable Adults and Children/Policy/Financial/ Personnel/ Legal/Procurement
Background Documents: (Access via Contact Officer)	None

**LONDON BOROUGH OF BROMLEY
CODE OF CONDUCT FOR COUNCILLORS AND CO-OPTED MEMBERS**

You are a member or co-opted member of the London Borough of Bromley and, hence, you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (i) **you have the written consent of a person authorised to give it; or**

- (ii) you are required by law to do so; or
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is:
 - reasonable and in the public interest; and
 - made in good faith and in compliance with the reasonable requirements of the Authority;

You acknowledge there may be times when you will be required to treat discussions, documents or other information relating to or held by the Council in a confidential manner, in which case you must observe such requirements for confidentiality.

You will often receive information of a private nature which is not yet public or which is not be intended to be public. You must respect and comply with the requirement to keep such information private, including information deemed to be confidential by statute. You acknowledge (1) that legislation gives you certain rights to obtain information not otherwise available to the public and you are entitled to exercise these rights where the information is necessary to carry out Council duties, (2) that such information is, for your use as a councillor and must not be disclosed or in any way used for personal or party political advantage or in such a way as to discredit the Council. This will also apply in instances where you hold the personal view that such information should be publicly available.

You must not prevent another person from gaining access to information to which that person is entitled by law.

You must treat all individuals with courtesy and respect when carrying out your duties as a councillor. Bullying or harassment is completely unacceptable and will be considered to be a breach of this Code.

You must respect your fellow Councilors and treat them with courtesy at all times when acting as a councillor. You should not make trivial or malicious complaints about other Councillors or make a complaint to secure a political advantage.

You will cooperate fully with any Standards Investigation.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners. A copy of the current Regulations which sets out details of disclosable pecuniary interests is attached to this Code and will be up-dated as necessary if the Regulations change.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

In addition you must:

1. Register any gift or hospitality with a value of over £25.00 with the Monitoring Officer within 28 days of receipt. Notification should include details of the gift/hospitality and the identity of the donor;
2. In addition to registering your disclosable pecuniary interests, you should also register the following non-pecuniary interests, namely:
 - (a) membership of outside bodies (as appointed by the Council);
 - (b) membership of other public organisations;
 - (c) membership of charities;
 - (d) membership of campaigning groups, political parties and trade unions.
3. You must notify the Monitoring Officer of any change to your disclosable pecuniary or other interests within 28 days of the change occurring so that your Register of Interests may be kept up-to-date.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

Unless dispensation has been granted, you may not participate in any discussion of, or vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. You may attend a meeting where you have a disclosable pecuniary interest where that right would be available to any member of the public, provided that you do not address the meeting on the matter in which you have an interest. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

2012 No. 1464

LOCAL GOVERNMENT, ENGLAND

The Relevant Authorities (Disclosable Pecuniary Interests)
Regulations 2012

<i>Made</i> - - - -	<i>6th June 2012</i>
<i>Laid before Parliament</i>	<i>8th June 2012</i>
<i>Coming into force</i> - -	<i>1st July 2012</i>

The Secretary of State, in exercise of the powers conferred by sections 30(3) and 235(2) of the Localism Act 2011^(a), makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and shall come into force on 1st July 2012.

(2) In these regulations—

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000^(b) and other securities of any description, other than money deposited with a building society.

(a) 2011 c.20.
(b) 2000 c.8.

Specified pecuniary interests

2. The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Act are the interests specified in the second column of the Schedule to these Regulations.

Signed by authority of the Secretary of State for Communities and Local Government

Grant Shapps
Minister of State

6th June 2012

Department for Communities and Local Government

SCHEDULE

Regulation 2

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of

(a) 1992 c. 52.

business or land in the area of the relevant authority; and
(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a relevant authority as defined in section 27(6) of the Localism Act 2011, on taking office and in the circumstances set out in section 31, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) of the Act sets out the circumstances in which such an interest is a disclosable interest.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.

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Bullying and Harassment

1. Introduction

1.1 Everybody has the right to be treated with dignity and respect and to work in an environment which is free from harassment, bullying, discrimination and victimisation. This is now reinforced by paragraph 3.6 of the Councillors' Code of Conduct 2018, which states:

'Bullying or harassment is completely unacceptable and will be considered to be a breach of this Code.'

1.2 Harassment, bullying, discrimination and victimisation (either directly or indirectly) are unacceptable and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider organisation in terms of morale and operational effectiveness.

1.3 You are responsible for your own behaviour and must ensure that you are aware of, and comply with, the provision concerning bullying and harassment in the Councillors' Code of Conduct and also any policy your Council has on ensuring dignity in the workplace.

2. Harassment

2.1 Harassment is any unwelcome behaviour or conduct which has no legitimate workplace purpose and which makes someone feel offended, humiliated, intimidated, frightened and / or uncomfortable at work. Harassment can be experienced directly or indirectly (such as being in the room while unacceptable conduct is being displayed and being affected by it), and can occur as an isolated incident or as a course of persistent behaviour.

2.2 It is also important to note that even if behaviour is unintentional, it can still be classed as a form of harassment. Harassment is essentially about what the recipient deems to be offensive, not about what was intended. You should be aware, therefore, of the impact of your conduct on others and that what may seem harmless to you can be offensive to someone else.

2.3 Harassment can occur through verbal or written comments (including ones made online). The following list provides some examples but it is, by no means, exhaustive:

- Unwelcome physical contact such as touching or invading 'personal space';
- Inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes (such as ones of a racial, sexual or sectarian nature);
- Intrusive questioning, including the persistent discussion of a person's sexual practices, misogynistic behaviour, sexual orientation or religious beliefs (either directly or with others); and
- Sending unwelcome emails, messages or notes; circulating or displaying explicit or inappropriate images.

3. Bullying

3.1 Bullying is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated or insulted. Again, it is the impact of any behaviour rather than the intent which is the key.

3.2 Bullying usually arises as a result of an individual misusing their power (usually derived from status or some other position of strength) and, again, can occur through all means of communication. Bullying tends to be a pattern of behaviour or can be a one off serious incident that becomes objectionable or intimidating. The examples in the following list are, by no means, exhaustive:

- Unwelcome physical, verbal or non-verbal conduct;
- Intimidatory behaviour including verbal abuse or the making of threats;
- Making someone's working life difficult;
- Disparaging, ridiculing or mocking comments and remarks;
- Physical violence; and
- Deliberately excluding an individual from conversations, work or social activities, in which they have a right or legitimate expectation to participate.

**COUNCILLOR CODE OF CONDUCT
DCLG TEMPLATE (April 2011)**

Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

**COUNCILLOR CODE OF CONDUCT
LGA TEMPLATE (April 2011)**

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of *[X authority]*, my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the *[county][borough][Authority's area]* or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

Criteria for Considering Complaints Alleging Breaches of the Code of Conduct

Complaints about a potential breach of the Code of Conduct are made to the Monitoring Officer who will arrange for the complaint to be reviewed to consider whether the complaint, if proven, would amount to a breach of the Code of Conduct and if so whether it should be referred for formal investigation.

When will the Code of Conduct Apply.

The first stage is to establish whether or not the Code applies.

Members are entitled to privacy in their personal lives and the majority of the provisions of the Code of Conduct will only apply to Members when acting in an official capacity.

A Member will be acting in an official capacity when they are conducting the business of the Council or acting, claiming to act or giving the impression that they are acting in an official capacity as a member or representative of the Council.

If a Member uses Council resources or their position as a Councillor for personal advantage or to disadvantage another, or makes use of anything available to them as a Member of the Council which would not ordinarily be available to a member of the public, the Code of Conduct will apply at all times.

Unless a Member refers to themselves as a Councillor, uses a Council e-mail address or it is clear they are acting in an official capacity then activity on social media will not be covered by the Code of Conduct as it does not apply to personal social media activity.

If it is established the code Applies

If the Code of Conduct applies then the next stage is to consider whether or not the activity complained of amounts to a breach of the Code of Conduct.

Where it is clear that the complaint is about a Council service or decision which the councillor is not responsible for, the presumption will be that they will not be investigated.

If it is considered that there isn't a breach of the Code of Conduct, or if it is considered unlikely that the Standards Committee would determine that there is a breach, no further action will be taken.

If it is considered that the matter complained of is more likely than not a breach of the Code of Conduct consideration will be given as to whether it is appropriate to undertake a full investigation and /or refer to the Standards Committee.

The Public interest test

Public interest factors which will be taken into account include:

- The seriousness of the breach
- Whether the member deliberately sought personal gain for themselves or another person at the public expense
- Whether the circumstances of the breach are such that a Member has misused a position of trust or authority and caused harm to a person
- Whether the breach was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity.
- Whether there is evidence of previous similar behaviour on the part of the member
- Whether the investigation or referral to the Standards Committee is required to maintain public confidence in elected members in Bromley
- Whether an investigation or referral to the Standards Committee is a proportionate response, namely, whether it is likely that the breach would lead to a sanction being applied to the Member and whether the use of resources in carrying out an investigation or hearing by the Standards Committee would be regarded as excessive when weighed against any likely sanction.

The Monitoring Officer will consult with the Independent Person before reaching a conclusion on whether or not it is in the Public interest to undertake a formal investigation or refer a matter to the Standards Committee.

Report No.
CSD19158

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **STANDARDS COMMITTEE**

Date: **Thursday 31st October 2019**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **MONITORING OFFICER'S GENERAL REPORT**

Contact Officer: Philippa Gibbs, Deputy Democratic Services Manager
Tel: 0208 461 7638 E-mail: Philippa.Gibbs@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: All Wards

1. Reason for report

1.1 To update the Committee on a number of standards issues -

- Standards Commission for Scotland Case
 - Committee for Standards in Public Life - Intimidation in Public Life
 - Dispensations granted
 - Gifts and Hospitality declarations
 - Register of Interests
 - Code of Corporate Governance 2018/19
 - Work Programme and Matters Outstanding
 - Independent Persons
 - Complaints
-

2. **RECOMMENDATIONS**

(1) That the Committee notes and comments on the Monitoring Officer's report.

(2) That an interview panel be established comprising the Chairman, Vice-Chairman and the current Independent Person, supported by the Monitoring Officer, to interview the candidates for the role of Independent Person and make a recommendation to full Council on 9th December on the appointment of one or more Independent Persons.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
-

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £358,740.
 5. Source of funding: 2019/20 revenue budget
-

Personnel

1. Number of staff (current and additional): 6.79fte
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: Statutory Requirement: Local Government Acts 1972 and 2000 and subsequent legislation.
 2. Call-in: Not Applicable: This report does not involve an executive decision.
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The standards system affects all Members of the Council, and potentially any member of the public who considers that a member may have breached the Code of Conduct.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

Standards Commission for Scotland Case

- 3.1 There are different Standards Systems operating in the devolved administrations in Wales and Scotland. However cases there can influence standards matters in England. Recently a Sheriff Principal has found in favour of the Standards Commission for Scotland, the first ever substantive appeal against one of its decisions, in a case providing that when acting in a quasi-judicial capacity the enhanced protection afforded politicians to make political comment, under the European Convention on Human Rights (ECHR), is less likely to be engaged. The case concerned a councillor who was suspended for making inappropriate remarks during a licensing hearing to a taxi driver seeking to renew his license.
- 3.2 In that hearing a Councillor was alleged to have said to an applicant, that he did not “understand why two women would live with you never mind get married to you” and that “I think this man is a bully and I don’t want bullies driving people around in taxis in Fife”, at a meeting of the council’s Regulation and Licensing Committee on 15 December 2015. His application was refused, with the committee finding that he was not a fit and proper person to hold a licence. The application for renewal had prompted a letter from Police Scotland, which was not an objection to his application, but detailed allegations of violence, controlling and abusive behaviour and stalking in relation to his relationship with his estranged wife and stepson.
- 3.3 The applicant appealed the decision and the court allowed the appeal on the basis, among other things, that the committee had acted contrary to natural justice. Reversing the committee’s decision and ordering the Council to grant the licence.. The applicant then complained to the Commissioner for Ethical Standards in Scotland who suspended the Councillor for 2 months. The suspension was upheld on Appeal.
- 3.4 The case is not binding on the English legal system but it may influence the approach taken in England. It is worth remembering that there is also English case law which does not recognise licensing panels as quasi-judicial – but the message to be taken from this case is that there is arguably a difference between freedom to make political comment in a council debate and what can be said at a licensing hearing (and possibly even a planning meeting) with the case pointing to a lower level of protection for “political comment” under Article 10 of the ECHR when a councillor is sitting in a quasi-judicial capacity.
- 3.5 For political comment then a degree of immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive speech that would not be acceptable outside context is tolerated (see e.g. *Heesom v Public Services Ombudsman for Wales R (Calver) v Adjudication Panel for Wales and De Haes and Gijssels v Belgium.*) because whilst Article 10 rights are qualified the courts are understandably reluctant to curtail freedom of political speech.

Committee for Standards in Public Life – Intimidation in Public Office

- 3.6 Managing the response to any intimidation in public life has become increasingly pertinent as a result of recent national issues. The normal requirement is that details of all Members’ property interests in the borough are published. Where there are instances of intimidation of Members or their families then home address details can be removed by the Monitoring Officer from their Declaration of Interests page on the Council website under section 32(2) of the Localism Act 2011. This is usually subject to review after three or six months, depending on the circumstances of the case. One home address is currently withheld for this reason. The report Committee for Standards in Public Life’s report on Intimidation in Public Life is attached at [Appendix 1](#).

Dispensations Granted

- 3.7 The Council has delegated to the Monitoring Officer, in consultation with members of the Urgency Committee, the authority to grant dispensations to Councillors to attend and speak at meetings of the authority in circumstances where, under the Code of Conduct, they have a disclosable pecuniary interest (Scheme of Delegation to Officer, Part 2A, 3 (xxv)). Where these dispensations have been sought, they are typically about town planning issues, where the Code of Conduct means that councillors have less opportunity to assert their interests than other residents, or about employment, where technically there is a disclosable pecuniary interest, but in practice that interest is not significant. In order to be transparent, applications for dispensations since the last meeting are normally presented to this Committee, but in this case no dispensations have been granted since the last meeting.

Gifts and Hospitality Register

- 3.8 Under the Code of Conduct, Councillors are required to declare gifts and hospitality received due to their role as Councillors over the value of £25. These are published on the Council website, with a link from each Member's page. A schedule of the gifts and hospitality declarations made since the Committee's last meeting, is attached as [Appendix 2](#).

Register of Interests

- 3.9 Under the Localism Act 2011, the Register of Interests is required to be published on the Council's website, and a link to each Councillor's declaration is provided on their page. At its meeting in February 2018 the Committee suggested that a print-out of these declarations should be available at each meeting of the Committee for inspection by members of the public, and this will be done.

Code of Governance 2018/19

- 3.10 The final Code of Corporate Governance 2018/19 is attached at [Appendix 4](#) for Members' information. The Code is a requirement of the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Society of Local Authority Chief Executives (Solace.) The Council conducts an annual review of its governance arrangements which is detailed in the Annual Governance Statement which is published with the annual Statement of Accounts.

Work Programme and Matters Outstanding from Previous Meetings

- 3.11 Full Council at its meeting on 8th April 2019 decided that all Council Committees and Sub-Committees should include provision at scheduled meetings to consider matters outstanding from previous meetings. These matters will often form part of the future work programme. A table of matters outstanding is attached at [Appendix 5](#).
- 3.12 The Council's 2019/20 programme of meetings now includes three scheduled meetings of this Committee. The Committee's next meeting is on Thursday 12th March 2020. Members of the Committee are requested to consider what issues they wish to consider at future meetings.

Independent Persons

- 3.13 Every principal local authority must appoint at least one independent person to be consulted by the authority or by members of the authority on standards issues. The changes to the Standards system brought about by the Localism Act 2011 have greatly reduced the involvement of Independent Persons compared to the former arrangements where there were several co-opted members of the Standards Committee, a need for frequent Sub-Committee

meetings and the Chairman was a co-opted member. However, it is still useful to have two Independent Persons, not only to have a broader input at Committee meetings, but so that different parties on a particular issue are not dependent on the same person for independent advice and also to avoid conflicts of interest.

- 3.14 When Mr Nicholas Marcar resigned as an Independent Person the Council was left with just one Independent Person - Dr Simon Davey. If Dr Davey were to also resign, the authority could potentially be without an Independent Person for a period. The role was advertised for a period earlier this year, but no applications were received. Advertisements in the New Shopper were run on two consecutive weeks in early October (2nd October 2019 and 9th October 2019) and two applications were received. Details of the candidates are set out in the part 2 agenda at [Appendix 6](#).
- 3.15 It is recommended that an interview panel be established comprising the Chairman, Vice-Chairman and the current Independent Person, supported by the Monitoring Officer, to interview the candidates and make a recommendation to full Council on 9th December on the appointment of one or more Independent Persons for a suggested term of five years..

Complaints

- 3.16 A summary of recent complaints against Councillors, since the Committee's last meeting, is included at [Appendix 7](#). As these complaints contain personal details about Councillors and complainants, and also as the Councillors concerned have not necessarily done anything that is clearly against the Code of Conduct, this information is included on the part 2 (private) agenda. There are no formal standards investigations at present.

Non-Applicable Sections:	Impact on Vulnerable Adults and Children/Policy/ Financial/Personnel/Legal/Procurement
Background Documents: (Access via Contact Officer)	None

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Intimidation in Public Life

**A Review by the
Committee on
Standards in Public Life**

**Committee on
Standards in
Public Life**

December 2017
Cm 9543





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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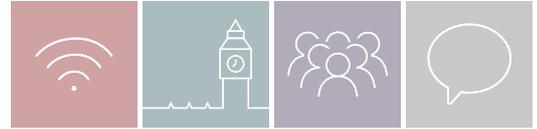
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The Seven Principles of Public Life

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.

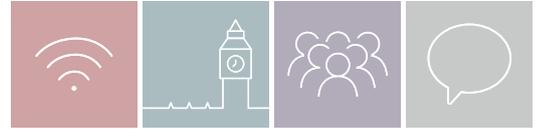
Honesty

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.

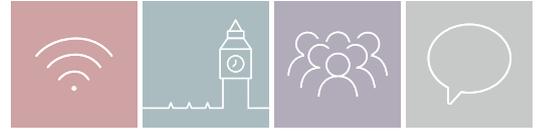
We propose legislative changes that the government should bring forward on social media companies' liability for illegal content online, and an electoral offence of intimidating Parliamentary candidates and party campaigners. Political parties must also put in place measures for more effective joint 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

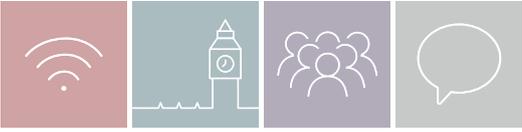
Chair, Committee on Standards in Public Life

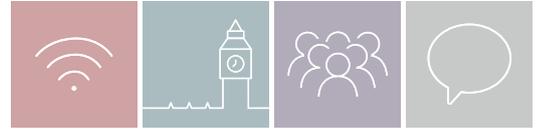




“While we celebrate our diversity, what surprises me time and time again as I travel around the constituency is that we are far more united and have far more in common than that which divides us.”

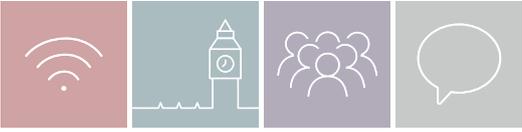
Jo Cox MP

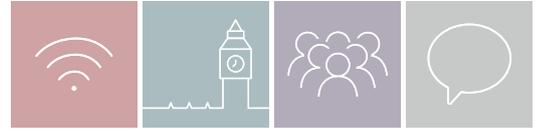




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Executive summary

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.

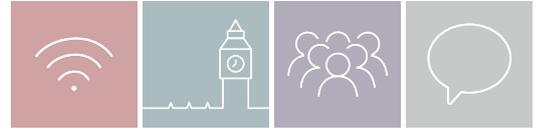
The Committee is deeply concerned about the failure of Google, Facebook and Twitter to collect performance data on the functioning of their report and takedown processes. Their lack of transparency is part of the problem. None of these companies would tell us if they collect this data, and do not set 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.

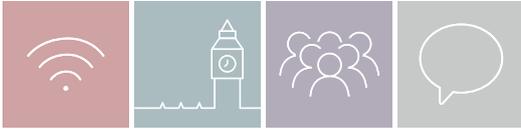
Some of those engaging in intimidatory behaviour towards Parliamentary candidates and others are members of political parties and/or the fringe groups of political parties. Leaders across the political spectrum must be clear that they have no tolerance for this sort of behaviour in their party, wherever 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.

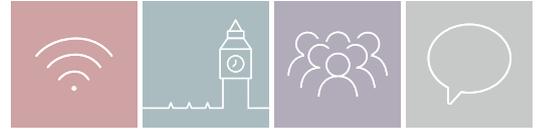
Political parties must take steps to provide support for all candidates, including through networks, training, support and resources. In particular, the parties should develop these support mechanisms for female, BAME, and LGBT candidates who are more likely to be targeted as subjects of intimidation.

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 out-dated 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.

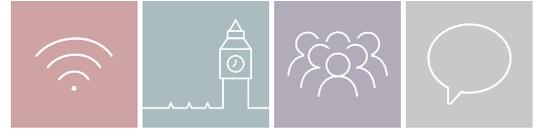
The public's lack of trust in politics and the political system creates an environment where intimidation in public life is more likely. Everyone in public life must take responsibility for turning this around. They need to uphold high ethical standards, so that they do not undermine or bring into disrepute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

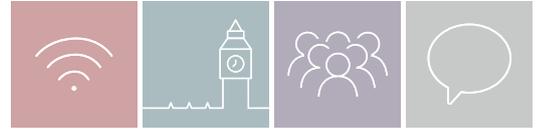
Election campaigns are competitive and Parliamentary politics is adversarial. Candidates and MPs must be able to have robust political debate within our democracy without opening the door to intimidation. Where candidates engage in highly personalised attacks, or blur the distinctions between policy 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

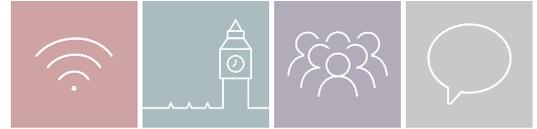
Recommendation	Responsibility	Timeframe
Government should bring forward legislation to shift the liability of illegal content online towards social media companies.	Government	On exiting the EU
Social media companies must develop and implement automated techniques to identify intimidatory content posted 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
<p>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.</p>	<p>Political parties</p>	<p>Within one year</p>
<p>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.</p>	<p>Political parties</p>	<p>Immediately</p>
<p>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.</p>	<p>Political parties</p>	<p>Within one year</p>
<p>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.</p>	<p>Political parties</p>	<p>Immediately</p>
<p>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.</p>	<p>Political parties</p>	<p>Joint code should be drawn up within one year – it should be enforced beginning at the next general election</p>
<p>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.</p>	<p>Political parties</p>	<p>Before the next general election</p>
<p>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.</p>	<p>Political parties</p>	<p>At the next general election</p>



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.

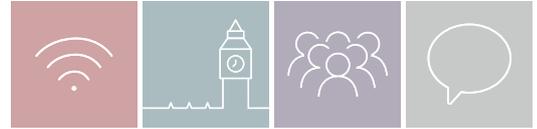
“It is hard to explain how it makes you feel. It is anonymous people that you’ve never met, true, but it has a genuinely detrimental effect on your mental health. You are constantly thinking about these people and the hatred and bile they are directing towards you.”³

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 Rüdig, Professor Rosie Campbell)

7 Written Submission 89 (Dr Sofia Collignon Delmar, Dr Jennifer Hudson, Dr Wolfgang Rüdig, 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

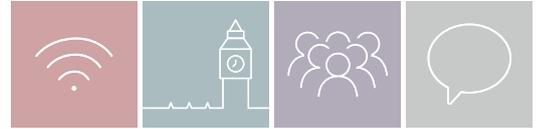
Brendan Cox

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 intimidating. 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 intimidating 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/>

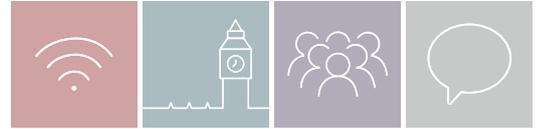
25 <https://www.statista.com/statistics/346167/facebook-global-dau/>

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 Krasodomski-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

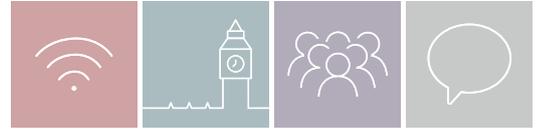
37 Written Submission 58 (Dr Jonathan Rose), Suler, J. (2004). The online disinhibition effect. *Cyberpsychology & behavior*, 7(3), 321-326

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



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.

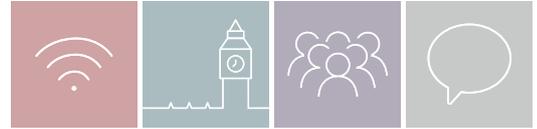
Revising this legal framework which applies to the social media companies would incentivise the prompt, automated identification of illegal content. This would have a positive impact on combatting the intimidatory tone of online political discussions.

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

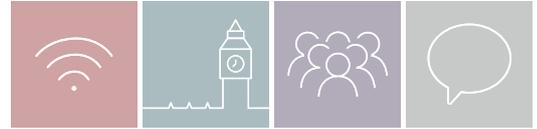
Twitter

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, Recl@im 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.

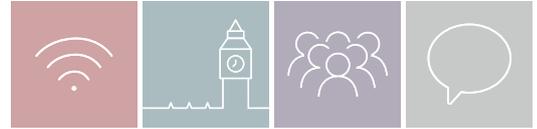
A Fawcett Society survey of women in public life found that only half of the women surveyed (50% of Facebook users and 43% of Twitter users) reported abusive content to the platform. This was largely because, from their experience, they did not think that the platforms would act on their reports.⁶⁶

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

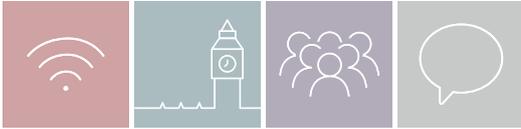
The companies’ failure to collect this data seems extraordinary given that they thrive on data collection. It would appear to demonstrate that they do not prioritise addressing this issue of online intimidation. This is unacceptable given the negative impact that intimidatory content can have on its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



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

Robert Shrimley, 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 Shrimley, 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=.xlnaVQOmp#.wpwo4qDMG



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 intimidating content

The febrile atmosphere of elections is made worse when intimidating 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 intimidating behaviour.

The team should also collect data on reports of online intimidating 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.

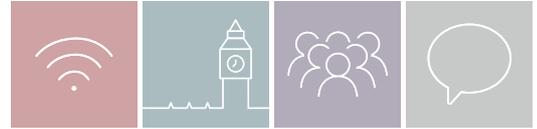
The social media companies should work with the government to establish a ‘pop-up’ social media reporting team for election campaigns.

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.



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

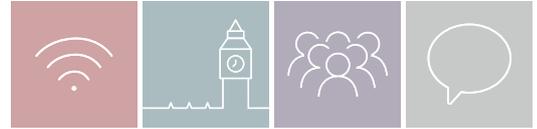
82 Written Submission 76 (National Democratic Institute for International Affairs)

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

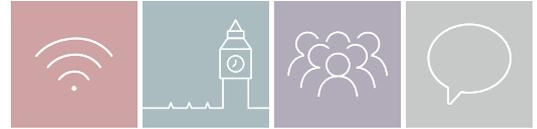
90 Written Submission 89 (Dr Sofia Collignon Delmar, Dr Jennifer Hudson, Dr Wolfgang Rüdig, Professor Rosie Campbell)

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

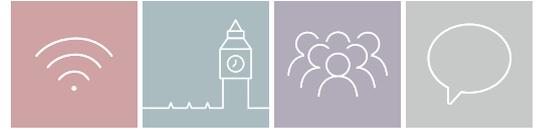
We acknowledge that election campaigns are exceptionally busy and pressurised times for political parties, but this does not mean that they can shirk their responsibility to take action where there are accusations of party members engaging in intimidatory behaviour.

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

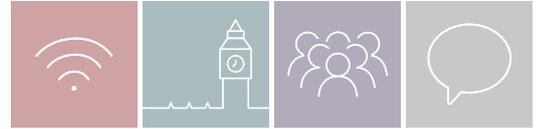
Professor Mark Philp

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/cj4muuz500250145fwnqvzat>



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.

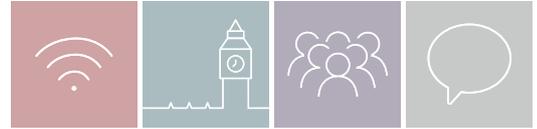
All political parties must take steps to ensure they provide appropriate support to candidates from a diverse range of backgrounds so that public life can be an open space for people from all backgrounds to engage meaningfully in elections, and in turn, Parliament.

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

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.

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.

“...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.

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.

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.

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



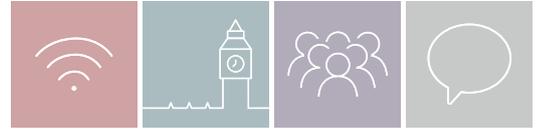
Political parties

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.

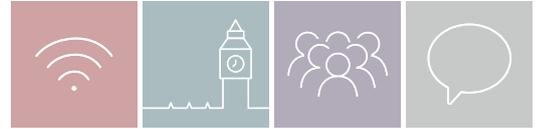
Intimidation: words and/or behaviour intended or likely to block or deter participation, which could reasonably lead to an individual wanting to withdraw from public life.

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).

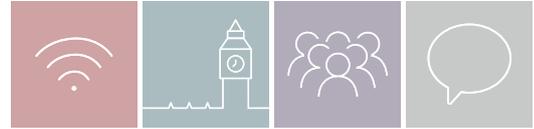
We believe that any new electoral offence that is introduced should not have any wider scope than the existing criminal law in respect of intimidatory behaviour. No behaviour which is currently legal should be made illegal. However, we believe that the introduction of a distinct electoral offence will

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

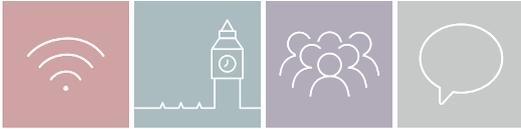
130 Electoral Commission, Oral Evidence, 25 October 2017

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.

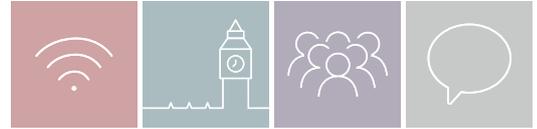
Enforcement: prosecution

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

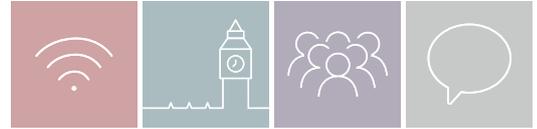
brought to the CPS, which can be a considerable challenge.

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. PLalT 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 PLalT 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 PLalT 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 PLalT, Individual Oral Evidence, 21 August 2017

145 Parliamentary Security Directorate, Private Hearing, 14 September 2017

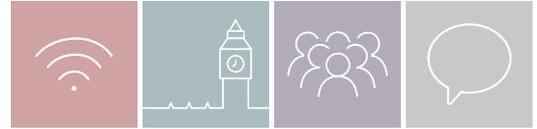
146 Lindsay Hoyle MP, Deputy Speaker, House of Commons, Private Hearing, 14 September 2017

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.justiceinspectors.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.

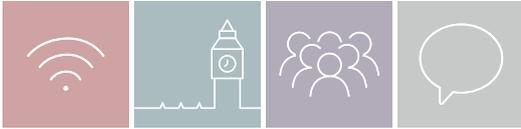
151 National Police Chiefs Council, Private Hearing, 14 September 2017

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

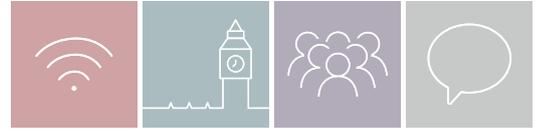
Luciana Berger MP

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.

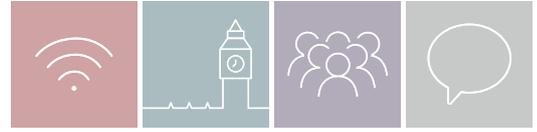
Leadership in opposing and reporting intimidation

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.

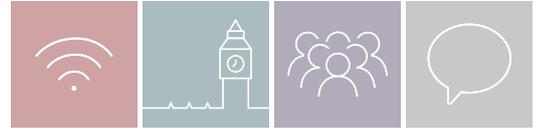
164 Further discussion in: Committee on Standards in Public Life, *Standards Matter* (2013), 6.19

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

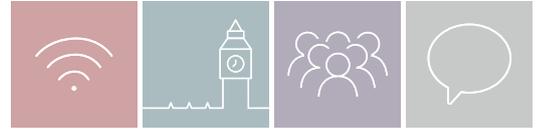
Freedom of the press should be cherished and protected. Nevertheless, journalists, broadcasters and editors should consider whether the content they are creating could incite others to engage in intimidatory behaviour. Does it delegitimise someone’s engagement in the political process? Does it place 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



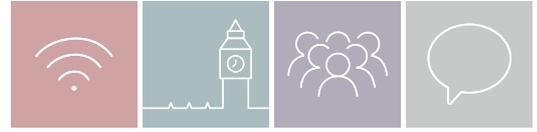
comes at the high cost of damaging public trust in our political system.

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

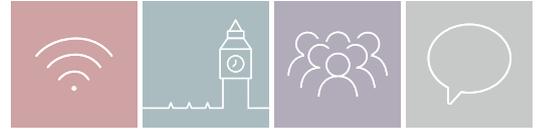
The overwhelming view of Parliamentary candidates who provided evidence to the Committee was that intimidation is already discouraging individuals from standing for public offices.

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 Kuennsberg 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?

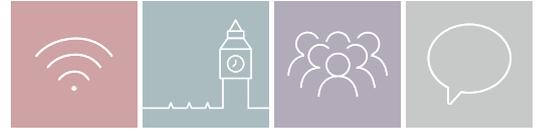
Is existing legislation sufficient to address intimidation of Parliamentary candidates?

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

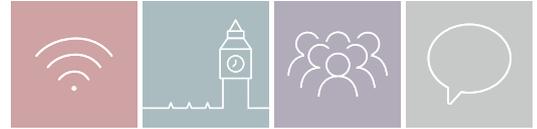
The Committee held a public hearing with representatives from political parties, to discuss the role of political parties in addressing intimidation, their codes of conduct and sanctions, and support offered to candidates. We have published the transcript of the hearing. We also invited all other parties 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 Shrimmsley	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

Appendix 2**Gifts and Hospitality Declarations (since July 2019)**

Councillor	Date	Provider	Gift or hospitality
Cllr Peter Dean	4 th August 2019	Chairman of Kent County Cricket Club	Attended cricket match at Beckenham with hospitality
Cllr Christine Harris	4 th August 2019	Chairman of Kent County Cricket Club	Attended cricket match at Beckenham with hospitality
Cllr Melanie Stevens	24/07/19	On the Beach Biggin Hill	Full body massage
	17/08/19	Biggin Hill Festival of Flight	2 tickets
	29/08/19	Biggin Hill Community Care Association	Lunch
Cllr Michael Tickner	04/08/19	Chairman of Kent County Cricket Club	Attended cricket match at Beckenham with hospitality.

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Code of Corporate Governance 2018/19

FINAL

5th June 2019

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1. Introduction

The Chartered Institute of Public Finance and Accountancy (CIPFA) and the Society of Local Authority Chief Executives (Solace) 'Delivering Good Governance in Local Government' Framework requires each authority to maintain, as best practice, a Code of Corporate Governance.

The Framework defines the principles that should underpin the governance of each local government organisation. It provides a structure to help individual authorities with their approach to governance. Whatever form of arrangements are in place, authorities should test their governance structures and partnerships against the principles contained in the Framework by:

- ▶ Reviewing existing Governance arrangements
- ▶ Developing and maintaining an up to date local code of governance, including arrangements for ensuring ongoing effectiveness
- ▶ Reporting publicly on compliance with their own code on an annual basis and on how they have monitored the effectiveness of their governance arrangements in the year and on planned changes.

To achieve good governance, each local authority is required to demonstrate that its governance structures comply with the core and sub principles contained within the Framework. The London Borough of Bromley has adopted the CIPFA/Solace Framework as its Code of Corporate Governance.

Bromley Council is committed to applying these principles and is satisfied that it already has a well established and robust Constitution and other good governance documents and arrangements in place. Bromley's Constitution sets out how the Council operates, how decisions are made and the procedures followed to ensure that decision making is efficient, transparent and accountable to local people. Some of the procedures are required by law such as the Code of Conduct for Councillors, while others are a matter for the Council.

The key policies and processes that underpin the Council's compliance with these principles are set out in Appendix A.

1.1 Annual Governance Statement

The Council conducts an annual review of its governance arrangements, including the system of internal control. The purpose of the review is to provide assurance from a number of sources including Members, Chief Officers, internal and external audit, other review agencies and inspectorates that corporate governance arrangements are adequate and operating effectively; or where gaps are revealed, action is planned that will ensure effective governance in future.

The outcome of the review is detailed in the Annual Governance Statement which is published with the annual Statement of Accounts.

2. What is Corporate Governance?

2.1 Definition

The CIPFA International Framework 'Good Governance in the Public Sector' defines governance as:-

'The arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved'

It also states that:-

'To deliver good governance in the public sector, both governing bodies and individuals working for public sector entities must try to achieve their entity's objectives while acting in the public interest at all times'

'Acting in the public interest implies primary consideration of the benefits for society, which should result in positive outcomes for service users and other stakeholders'

Governance is about how local government bodies ensure that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. It comprises the systems and processes, cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with, and where appropriate, provide leadership to their communities.

Effective corporate governance and the capacity to lead and manage change are essential to meet the ever increasing challenges for the public sector. Good governance is important to all involved in local government and a key responsibility of the Chief Executive, the Leader of the Council and other statutory governance Chief Officers.

Bromley Council recognises that:

- ▶ Good governance leads to good management, good performance, good stewardship of public money, good public engagement and, ultimately, good outcomes for residents and service users
- ▶ Good governance enables an authority to pursue its vision effectively, as well as underpinning that vision with appropriate mechanisms for control and management of risk
- ▶ All authorities should aim to meet the standards of the best and governance arrangements should not only be sound, but also be seen to be sound

2.2 The Principles

Principle A – Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law

Behaving with Integrity

- Ensuring Members and Officers behave with integrity and lead a culture where acting in the public interest is visibly and consistently demonstrated thereby protecting the reputation of the organisation
- Ensuring Members take the lead in establishing specific standard operating principles or values for the organisation and its staff and that they are communicated and understood. These should build on the Seven Principles of Public Life (the Nolan Principles)
- Leading by example and using the above standard operating principles or values as a framework for decision making and other actions
- Demonstrating, communicating and embedding the standard operating principles or values through appropriate policies and processes which are reviewed on a regular basis to ensure that they are operating effectively

Demonstrating strong commitment to ethical values

- Seeking to establish, monitor and maintain the organisation's ethical standards and performance
- Underpinning personal behaviour with ethical values and ensuring they permeate all aspects of the organisation's culture and operation and embedding these in agreed codes of conduct
- Developing and maintaining robust policies and procedures which place emphasis on agreed ethical values
- Ensuring that external providers of services on behalf of the organisation are required to act with integrity and in compliance with ethical standards expected by the organisation

Respecting the Rule of Law

- Ensuring Members and staff demonstrate a strong commitment to the rule of the law as well as adhering to relevant laws and regulations
- Creating the conditions to ensure that the statutory officers, other key post holders, and Members, are able to fulfil their responsibilities in accordance with legislative and regulatory requirements
- Striving to optimise the use of the full powers available for the benefit of citizens, communities and other stakeholders
- Dealing with breaches of legal and regulatory provisions effectively

- Ensuring corruption and misuse of power are dealt with effectively

Principle B – Ensuring openness and comprehensive stakeholder engagement

Openness

- Ensuring an open culture through demonstrating, documenting and communicating the organisation's commitment to openness
- Making decisions that are open about actions, plans, resource use, forecasts, outputs and outcomes. The presumption is for openness. If that is not the case, a justification for the reasoning for keeping a decision confidential should be provided
- Providing clear reasoning and evidence for decisions in both public records and explanations to stakeholders and being explicit about the criteria, rationale and considerations used. In due course, ensuring that the impact and consequences of those decisions are clear
- Using formal and informal consultation and engagement to determine the most appropriate and effective interventions/courses of action

Engaging comprehensively with institutional stakeholders

- Effectively engaging with institutional stakeholders to ensure that the purpose, objectives and intended outcomes for each stakeholder relationship are clear so that outcomes are achieved successfully and sustainably
- Developing formal and informal partnerships to allow for resources to be used more effectively
- Ensuring that partnerships are based on:
 - Trust
 - A shared commitment to change
 - A culture that promotes and accepts challenge among partners,
 and that the added value of partnership working is explicit

Engaging with individual citizens and service users effectively

- Establishing a clear policy on the type of issues that the organisation will meaningfully consult with or involve communities, individual citizens, service users and other stakeholders to ensure that service (or other) provision is contributing towards the achievement of intended outcomes
- Ensuring that communication methods are effective and that Members and officers are clear about their roles with regard to community engagement
- Encouraging, collecting and evaluating the views and experiences of communities, citizens, service users and organisations of different backgrounds including reference to future needs
- Implementing effective feedback mechanisms in order to demonstrate how views have been

taken into account
<ul style="list-style-type: none"> Balancing feedback from more active stakeholder groups with other stakeholder groups to ensure inclusivity
<ul style="list-style-type: none"> Taking account of the impact of decisions on future generations of tax payers and service users
<ul style="list-style-type: none"> Behaviours and actions that demonstrate good governance in practice are illustrated in the bullet points

Principle C – Defining outcomes in terms of sustainable economic, social and environmental benefits

Defining Outcomes

- Having a clear vision, which is an agreed formal statement of the organisation’s purpose and intended outcomes containing appropriate performance indicators, which provide the basis for the organisation’s overall strategy, planning and other decisions
- Specifying the intended impact on, or changes for, stakeholders including citizens and service users. It could be immediately or over the course of a year or longer
- Delivering defined outcomes on a sustainable basis within the resources that will be available
- Managing service users’ expectations effectively with regard to determining priorities and making the best use of the resources available

Sustainable economic, social and environmental benefits

- Considering and balancing the combined economic, social and environmental impact of policies and plans when taking decisions about service provision
- Taking a longer-term view with regard to decision making, taking account of risk and acting transparently where there are potential conflicts between the organisation’s intended outcomes and short-term factors such as the political cycle or financial constraints
- Determining the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits, through consultation where possible, in order to ensure appropriate trade-offs
- Ensuring fair access to services

Principle D – Determining the interventions necessary to optimise the achievement of the intended outcomes

Determining Interventions

- Ensuring decision makers receive objective and rigorous analysis of a variety of options indicating how intended outcomes would be achieved and associated risks. Therefore ensuring best value is achieved however services are provided
- Considering feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources available including people, skills, land and assets and bearing in mind future impacts

Planning Interventions

- Establishing and implementing robust planning and control cycles that cover strategic and operational plans, priorities and targets
- Engaging with internal and external stakeholders in determining how services and other courses of action should be planned and delivered
- Considering and monitoring risks facing each partner when working collaboratively, including shared risks
- Ensuring arrangements are flexible and agile so that the mechanisms for delivering goods and services can be adapted to changing circumstances
- Establishing appropriate key performance indicators (KPIs) as part of the planning process in order to identify how the performance of services and projects is to be measured
- Ensuring capacity exists to generate the information required to review service quality regularly
- Preparing budgets in accordance with objectives, strategies and the medium term financial plan
- Informing medium and long term resource planning by drawing up realistic estimates of revenue and capital expenditure aimed at developing a sustainable funding strategy

Optimising achievement of Intended Outcomes

- Ensuring the medium term financial strategy integrates and balances service priorities, affordability and other resource constraints
- Ensuring the budgeting process is all inclusive, taking into account the full cost of operations over the medium and longer term
- Ensuring the medium term financial strategy sets the context for ongoing decisions on

significant delivery issues or responses to changes in the external environment that may arise during the budgetary period in order for outcomes to be achieved while optimising resource usage

- Ensuring the achievement of 'social value' through service planning and commissioning

Principle E – Developing the Entity's capacity including the capability of leadership and the individuals within it

Developing the Entity's Capacity

- Reviewing operations, performance and use of assets on a regular basis to ensure their continuing effectiveness
- Improving resource use through appropriate application of techniques such as benchmarking and other options in order to determine how resources are allocated so that defined outcomes are achieved effectively and efficiently
- Recognising the benefits of partnerships and collaborative working where added value can be achieved
- Developing and maintaining an effective workforce plan to enhance the strategic allocation of resources

Developing the capability of the Entity's Leadership and other Individuals

- Developing protocols to ensure that elected and appointed leaders negotiate with each other regarding their respective roles early on in the relationship and that a shared understanding of roles and objective is maintained
- Publishing a statement that specifies the types of decision that are delegated and those reserved for the collective decision making of the Governing Body
- Ensuring the Leader and the Chief Executive have clearly defined and distinctive Leadership roles within a structure whereby the Chief Executive leads in implementing strategy and managing the delivery of services and other outputs set by Members and each provides a check and a balance for each other's authority
- Developing the capabilities of Members and Senior Management to achieve effective leadership and to enable the organisation to respond successfully to changing legal and policy demands as well as economic, political and environmental changes and risks by:-
 - Ensuring Members and staff have access to appropriate induction tailored to their role and that ongoing training and development matching individual and organisational requirements is available and encouraged
 - Ensuring Members and Officers have the appropriate skills, knowledge, resources and support to fulfil their roles and responsibilities and ensuring that they are able to update their knowledge on a continuing basis
 - Ensuring personal, organisational and system-wide development through shared learning, including lessons learnt from governance weaknesses both internal and external
- Ensuring that there are structures in place to encourage public participation
- Taking steps to consider the Leadership's own effectiveness and ensuring Leaders are open

to constructive feedback from Peer Review and Inspections

- Holding staff to account through regular performance reviews which take account of training or development needs
- Ensuring arrangements are in place to maintain the health and wellbeing of the workforce and support individuals in maintaining their own physical and mental wellbeing

Principle F – Managing risks and performance through robust internal control and strong public financial management

Managing Risk

- Recognising that Risk Management is an integral part of all activities and must be considered in all aspects of decision making
- Implement robust and integrated Risk Management arrangements and ensuring that they are working effectively
- Ensuring that responsibilities for managing individuals are clearly allocated

Managing Performance

- Monitoring service delivery effectively including planning, specification, execution and independent post implementation review
- Making decisions based on relevant, clear objective analysis and advice pointing out the implications and risks inherent in the organisation's financial, social and environmental position and outlook
- Ensuring an effective scrutiny or oversight function is in place which provides constructive challenge and debate on policies and objectives before, during and after decisions are made thereby enhancing the organisation's performance and that of any organisation for which it is responsible
- Providing Members and senior management with regular reports on service delivery plans and progress towards outcome achievement
- Ensuring there is consistency between specification stages (such as budgets) and post implementation reporting (e.g. financial statements)

Robust Internal Control

- Aligning the Risk Management Strategy and policies on internal control with achieving objectives
- Evaluating and monitoring risk management and internal control on a regular basis
- Ensuring effective counter fraud and anti-corruption arrangements are in place
- Ensuring additional assurance on the overall adequacy and effectiveness of the framework of

governance, risk management and control is provided by the internal auditor

- Ensuring an audit committee or equivalent group/function, which is independent of the Executive and accountable to the Governing Body:
 - Provides a further source of effective assurance regarding arrangements for managing risk and maintaining an effective control environment
 - That its recommendations are listened to and acted upon

Managing Data

- Ensuring effective arrangements are in place for the safe collection, storage, use and sharing of data, including processes to safeguard personal data
- Ensuring effective arrangements are in place and operating effectively when sharing data with other bodies
- Reviewing and auditing regularly the quality and accuracy of data used in decision making and performance monitoring

Strong Public Financial Management

- Ensuring financial management supports both long term achievement of outcomes and short term financial and operational performance
- Ensuring well developed financial management is integrated at all levels of planning and control, including management of financial risks and controls

Principle G – Implementing good practices in transparency, reporting, and audit to deliver effective accountability

Implementing good practice in transparency

- Writing and communicating reports for the public and other stakeholders in a fair, balanced and understandable style appropriate to the intended audience and ensuring that they are easy to access and interrogate
- Striking a balance between providing the right amount of information to satisfy transparency demands and enhance public scrutiny while not being too onerous to provide and for users to understand

Implementing good practices in reporting

- Reporting at least annually on performance, value for money and stewardship of resources to stakeholders in a timely and understandable way
- Ensuring Members and senior management own the results reported
- Ensuring robust arrangements for assessing the extent to which the principles contained in this Framework have been applied and publishing the results on this assessment, including

an action plan for improvement and evidence to demonstrate good governance (the Annual Governance Statement)

- Ensuring that this Framework is applied to jointly managed or shared service organisations as appropriate
- Ensuring the performance information that accompanies the financial statements is prepared on a consistent and timely basis and the statements allow for comparison with other, similar organisations

Assurance and effective Accountability

- Ensuring that recommendations for corrective action made by external audit are acted upon
- Ensuring an effective Internal Audit service with direct access to Members is in place, providing assurance with regard to governance arrangements and that recommendations are acted upon
- Welcoming peer challenge, reviews and inspections from regulatory bodies and implementing recommendations
- Gaining assurance on risks associated with delivering services through third parties and that this is evidenced in the Annual Governance Statement
- Ensuring that when working in partnership, arrangements for accountability are clear and the need for wider public accountability has been recognised and met

Key Policies/Processes in our Governance Framework include:

Appendix A

Core Principles Key Policies/ Procedures	<u>Principle A</u> Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law	<u>Principle B</u> Ensuring openness and comprehensive stakeholder engagement	<u>Principle C</u> Defining outcomes in terms of sustainable, economic, social and environmental benefits	<u>Principle D</u> Determining the interventions necessary to optimise the achievement of the intended outcomes	<u>Principle E</u> Developing the entity's capacity, including the capability of its leadership and the individuals within it	<u>Principle F</u> Managing risks and performance through robust internal control and strong public financial management	<u>Principle G</u> Implementing good practices in transparency, reporting, and audit, to delivery effective accountability
Annual Audit Letter 2017/18						✓	✓
Anti Bribery Policy and Procedures - Appendix C (revised January 2019)	✓						
Annual Governance Statement (Page 116)						✓	✓
Anti Fraud and Corruption Strategy (revised January 2019)	✓					✓	
Anti Money Laundering Policy and Procedures - Appendix D (revised January 2019)	✓						

Core Principles Key Policies/ Procedures	<u>Principle A</u> Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law	<u>Principle B</u> Ensuring openness and comprehensive stakeholder engagement	<u>Principle C</u> Defining outcomes in terms of sustainable, economic, social and environmental benefits	<u>Principle D</u> Determining the interventions necessary to optimise the achievement of the intended outcomes	<u>Principle E</u> Developing the entity's capacity, including the capability of its leadership and the individuals within it	<u>Principle F</u> Managing risks and performance through robust internal control and strong public financial management	<u>Principle G</u> Implementing good practices in transparency, reporting, and audit, to delivery effective accountability
Audit Sub Committee	✓				✓	✓	✓
Building a Better Bromley		✓	✓	✓		✓	
Capital Strategy 2019 to 2023 Covering Report Capital Strategy Appendices Capital Strategy Supplementary Request			✓			✓	
Code of Conduct for Members	✓						
Committee Meeting Information	✓	✓					
Committee Reports		✓	✓	✓			

Core Principles Key Policies/ Procedures	Principle A Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law	Principle B Ensuring openness and comprehensive stakeholder engagement	Principle C Defining outcomes in terms of sustainable, economic, social and environmental benefits	Principle D Determining the interventions necessary to optimise the achievement of the intended outcomes	Principle E Developing the entity's capacity, including the capability of its leadership and the individuals within it	Principle F Managing risks and performance through robust internal control and strong public financial management	Principle G Implementing good practices in transparency, reporting, and audit, to delivery effective accountability
Complaints Procedure Complaints Procedure - covering report Procedural guide to handling Complaints in Bromley revised December 2016	✓	✓					
Constitution	✓	✓				✓	✓
Corporate Operating Principles						✓	✓
Executive and Resources Annual PDS Committee Report 2017/18							✓

Core Principles Key Policies/ Procedures	<u>Principle A</u> Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law	<u>Principle B</u> Ensuring openness and comprehensive stakeholder engagement	<u>Principle C</u> Defining outcomes in terms of sustainable, economic, social and environmental benefits	<u>Principle D</u> Determining the interventions necessary to optimise the achievement of the intended outcomes	<u>Principle E</u> Developing the entity's capacity, including the capability of its leadership and the individuals within it	<u>Principle F</u> Managing risks and performance through robust internal control and strong public financial management	<u>Principle G</u> Implementing good practices in transparency, reporting, and audit, to delivery effective accountability
Financial Strategy 2020/21 to 2022/23						✓	
Forward plan of Key and Private Executive decisions			✓	✓			✓
Internal Audit Opinion and Annual Report 2017/18							✓
Leader's Foreword and Statement of Accounts 2017/18						✓	✓
Local Development Framework (Local Plan)			✓				
Policy, Development and Scrutiny Committees		✓				✓	✓

Core Principles Key Policies/ Procedures	Principle A Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law	Principle B Ensuring openness and comprehensive stakeholder engagement	Principle C Defining outcomes in terms of sustainable, economic, social and environmental benefits	Principle D Determining the interventions necessary to optimise the achievement of the intended outcomes	Principle E Developing the entity's capacity, including the capability of its leadership and the individuals within it	Principle F Managing risks and performance through robust internal control and strong public financial management	Principle G Implementing good practices in transparency, reporting, and audit, to delivery effective accountability
Portfolio Plans Adult, Care and Health Portfolio Plan 2018/22 Children, Education and Families Portfolio Plan 2018/22 Environment and Community Services Portfolio Plan 2018/21 Public Protection and Enforcement Portfolio Plan 2018/19 Renewal, Recreation and Housing Portfolio Plan 2018/19			✓	✓			

Core Principles Key Policies/ Procedures	<u>Principle A</u> Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law	<u>Principle B</u> Ensuring openness and comprehensive stakeholder engagement	<u>Principle C</u> Defining outcomes in terms of sustainable, economic, social and environmental benefits	<u>Principle D</u> Determining the interventions necessary to optimise the achievement of the intended outcomes	<u>Principle E</u> Developing the entity's capacity, including the capability of its leadership and the individuals within it	<u>Principle F</u> Managing risks and performance through robust internal control and strong public financial management	<u>Principle G</u> Implementing good practices in transparency, reporting, and audit, to delivery effective accountability
Public Consultations/Meetings (Page 91 onwards)		✓					
Raising Concerns (Whistleblowing) Policy and Procedures - Appendix B (revised January 2019)	✓					✓	
Register of Interests (Members)	✓					✓	✓
Risk Registers (page 55 onwards)			✓	✓		✓	
Scheme of Delegation						✓	
Monitoring Officer's General Report (Standard's Committee 22nd January 2019)	✓					✓	

Core Principles Key Policies/ Procedures	Principle A Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law	Principle B Ensuring openness and comprehensive stakeholder engagement	Principle C Defining outcomes in terms of sustainable, economic, social and environmental benefits	Principle D Determining the interventions necessary to optimise the achievement of the intended outcomes	Principle E Developing the entity's capacity, including the capability of its leadership and the individuals within it	Principle F Managing risks and performance through robust internal control and strong public financial management	Principle G Implementing good practices in transparency, reporting, and audit, to delivery effective accountability
Treasury Management Investment Strategy 2019/20 Covering Report Treasury Management Investment Strategy 2019/20 (Council Report 25th February 2019) Treasury Management Strategy Statement, Annual Investment Strategy and Minimum Revenue Provision Policy Statement 2019/20						✓	✓

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Work Programme and Matters Outstanding from Previous Meetings

Minute No.	Issue	Update
17(B)	That a revised Code of Conduct be prepared for the Committee's next meeting and the Director of Corporate Services be requested to bring forward draft proposals to allow for informal consideration by the party groups.	See Monitoring Officer's General Report.
17(G)	That the Chief Executive and Group Leaders be invited to a future meeting.	The Chief executive will be attending the current meeting on 31 st October 2019. Group leaders will be programmed into meetings in 2020.

Future Meetings -

The Committee is next scheduled to meet on 12th March 2020. Meetings are to be scheduled three times a year, so the 2020/21 Council Programme of Meetings (to be approved by General Purposes and Licensing Committee in February 2020) will include dates in June/July 2020, October/November 2020 and February/March 2021.

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Agenda Item 9

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

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