

Review of Intimidation of Parliamentary Candidates

Committee on Standards in Public Life

By email: public@public-standards.gov.uk

8 September 2017

Dear Lord Bew,

CALL FOR EVIDENCE: INTIMIDATION OF PARLIAMENTARY CANDIDATES

I wish to respond to the Committee's call for evidence on behalf of the Conservative Party. This submission seeks to complement representations that will have been provided by Conservative Members of Parliament and candidates.

Nature and degree of intimidation

1. The Prime Minister asked the Committee to undertake a review into intimidation of election candidates after unprecedented feedback of unwarranted abuse in the run up to and during the 2017 general election. This included tangible incidents of death threats, obscenity, defamation and slander, criminal damage, homophobia, sexism, anti-Semitism and menacing abuse. Such behaviour affected candidates from across the political spectrum. Examples of such behaviour are provided in an annex. This was not just 'banter', but conduct that went beyond the legitimate exercise of freedom of speech and freedom of expression.
2. Such behaviour did not stem from the direct activities of mainstream political parties. Certainly, during any general election, political parties will robustly scrutinise, challenge and criticise their election opponents. In 2017, we believe the central parties themselves did so within the confines of reasonable debate. Neither was the abuse exercised by the traditional print media or broadcast media.
3. In a free society, critical scrutiny of politicians – and those who aspire to hold public office – is an important feature of Britain's democratic system and its independent free press. Yet, as was initially evident in the 2014 Scottish independence referendum, there has been a step change in recent years in conduct that crosses the line beyond free speech, to behaviour that seeks to intimidate and abuse. Such behaviour ultimately seeks to discourage and prevent others from expressing their own political opinions.
4. We believe that this gradual change has been primarily driven by the unintended consequences of new technology – particularly of digital and social media – which has facilitated and encouraged the widespread distribution of abuse which is anonymous or made under false names. In turn, this has debased political debate, and lead to abuse that has spilled over into the physical realm as well.
5. This is not to call for special treatment for politicians. Unfortunately, public figures – from campaigners, to journalists, to anyone who may put their head above the virtual parapet, have also been subject to such abuse. Such intimidation though is particularly focused during an election or referendum campaign, as a consequence of the condensed and high-profile nature of an election event. As figureheads for a political cause, candidates (and their families) were targets for such abuse. Such unwelcome behaviour

affected all the political parties. But there was a political dimension, given such the instigators of such abuse was particularly associated by groups and individuals linked to the hard-left and far-right.

Proposals to tackle such behaviour

6. We outline a series of practical proposals below which we believe would help address such unacceptable behaviour in future elections.
7. ***Extending imprint rules to electronic material:*** There is a clearly established principle in election law that campaigning material from political parties or third parties should carry an imprint. Anonymity of campaigners is not recognised as a principle in election law. The imprint provides a check and balance against inappropriate content – as the publisher or promoter can be held to account publicly, and legal action can be initiated in the case of defamation or electoral offences (such as making a false statement about a candidate). Such provisions do not currently extend to electronic campaigning material (although the Electoral Commission recommends that an imprint should be added).
8. To tackle the growth in online anonymous abuse, the Government should exercise Section 143 of the Political Parties Elections and Referendums Act 2000 to issue regulations to extend imprint rules to electronic material. This only requires secondary legislation. We do not believe that this should hinder electronic campaigning in practice; for example, a tweet itself (with limited characters) should not have to carry an imprint, but the twitter account page should. The regulations can provide for practical guidance to help define when campaigning is triggered¹ (we are not proposing that individual social media posts, in isolation, would be defined as campaigning).
9. ***Online code of practice:*** The recently commenced Digital Economy Act 2017 requires the Secretary of State to issue a code of practice for social media providers on tackling online abuse, setting out arrangements on responding to complaints of intimidating or bullying behaviour. No further legislation is required to implement this code. We believe the code could set out specific steps and measures of redress for abuse in connection with election candidates. It could ensure there is a ‘one stop shop’ for candidates/agents to report election abuse and facilitate its removal. The guidance should also cover abuse against candidates’ families. Such abuse is already against the existing terms and conditions of social media companies; it is not unreasonable that such firms apply and enforce those terms and conditions.
10. Of course, some third party campaigners could seek to ignore such imprint rules through anonymous content (which would constitute an offence under the proposed extension of imprint rules, over and above the legality of the content). Companies which host websites and social media content should facilitate the release of underlying registration or contact information to enable legal redress against anonymous online abuse. This principle of disclosure is already established in law through Norwich Pharmacal orders. The code of practice should practically provide for a process to facilitate such redress without having to go to court, where there has been a clear breach of the company’s terms and conditions following the publication or distribution of abusive and actionable anonymous content.

¹ The existing requirements for imprints on campaigning material are laid out in Section 110 of the Representation of the People Act 1983 and Section 143 of the Political Parties, Elections and Referendums Act 2000. Newspapers and regulated broadcasters are specifically exempt from the campaigning provisions.

11. ***Extending the restrictions on publishing candidates' home addresses across all polls:*** The Political Parties and Elections Act 2009 allows Parliamentary candidates to withhold their home address from nomination papers and ballot papers. This provides a greater degree of protection for candidates and their families from physical abuse or intimidation, whilst still ensuring that the electorate are informed on whether or not a candidate is local to their constituency.
12. We believe these provisions should be extended to other elections. Such a change has recently been advocated by the Association of Electoral Administrators. Of course, all campaigning material from candidates would continue to have an imprint with their (office) address.
13. ***Clearer Crown Prosecution Service and/or College of Policing guidance:*** The Crown Prosecution Service and/or the College of Policing should produce updated guidance on election abuse. There are a range of existing criminal offences which police forces could and should enforce more consistently and effectively, and such guidance could outline the range of offences. Existing criminal offences include:
 - Public Order Act 1986 offences - Section 4 (Fear or provocation of violence), Section 4A (Intentional harassment, alarm or distress) and Section 5 (Harassment, alarm or distress);
 - Protection from Harassment Act 1997 (offences of harassment; and putting people in fear of violence);
 - Malicious Communications Act 1998 (sending letter or electronic communication with intent to cause distress or anxiety; includes messages which are indecent or grossly offensive or a threat);
 - Communications Act 2003 (sending electronic message which is grossly offence, or of an indecent, obscene or menacing character);
 - Intimidation or annoyance by violence or otherwise (Section 241 of the Trade Union and Labour Relations (Consolidation) Act 1992);
 - Criminal damage (Criminal Damage Act 1971);
 - False statements about the conduct of a candidate (Representation of the People Act 1983).
 - Abuse or intimidation with a racial or religious element (for example, anti-Semitism) would be subject to further offences and be considered aggravated behaviour.
14. This guidance should be backed up with enhanced training, monitoring, data collection and public communication in relation to electoral abuse and intimidation. Again, this is not to call for special treatment for politicians – the law should be equally applied to others in the public sphere, be they campaigners, journalists or everyday members of the public. But the purpose of such guidance and training would simply recognise that those in the public eye, running for public office, are exposed to greater risk.
15. ***Tougher laws against election intimidation:*** The Government has already accepted the proposal from Sir Eric Pickles' review of electoral fraud to lower the test of intimidation in connection with an election. The 2015 Tower Hamlets election court case found the legal threshold for proving intimidation was too high, such that prosecutions were not

viable, even despite clear evidence of intimidation outside polling stations.² This would involve an amendment to the Representation of the People Act 1983. Whilst this primarily relates to action which would prevent the free exercise of the franchise of an elector, rather than candidates, one could foresee that – left unchecked – systematic and organised abuse could easily be extended to the supporters of a candidate within a constituency.

16. *Action by political parties:* The Conservative Party already takes robust disciplinary action against any party member proved to have engaged in unacceptable behaviour, including suspension or expulsion. The Party has also in the past ruled that certain proscribed organisations are incompatible with party membership. Yet some political parties do not take such a clear stance against abusive behaviour, especially by their fringe groups. All political parties should be asked to draw up and publish a clear statement of the standards expected of members and how the party would enforce its disciplinary proceedings. Such self-regulation would complement the other proposals above.

Conclusion

17. The consequences of failing to take action against such unwelcome and growing behaviour would be to discourage people from participating in public life. Such abuse threatens to undermine legitimate free speech and public debate, and weaken Britain's reputation for free and fair elections. We hope our proposals will assist the Committee in drawing up a set of recommendations to the Prime Minister that can command cross-party and public support.

Yours sincerely,



Rt Hon Sir Patrick McLoughlin MP
*Chairman of the Conservative Party &
Chancellor of the Duchy of Lancaster*

² *Erlam & Ors v Rahman & Anor* [2015] EWHC 1215 (QB) (23 April 2015). The election judge, Richard Mawrey QC, noted: "Section 115 demands quite a serious level of violence before it will permit an election to be avoided... The court appreciates that many in Tower Hamlets will be disappointed, even horrified, that the 1983 Act does not penalise thuggish conduct at polling stations of the sort that occurred in 2014."

Annex: Examples

Selected excerpts: Westminster Hall, UK Elections: Abuse and Intimidation, 12 July 2017

- **Simon Hart (Carmarthen West and South Pembrokeshire):** ‘Retailers and hoteliers have felt that they cannot support a candidate publicly or make a donation to the party or candidate of their choice, because they are worried that they might be attacked on online review sites or, even worse, in person. There are elderly voters who will not put up a sign in their windows. There are volunteers who worry about handing out leaflets and having abuse hurled at them. There are colleagues whose sexuality or religion has resulted in them being spat at – not once, but regularly’ (*Hansard*, 12 July 2017, Col. 153WH).
- **Andrew Percy (Brigg and Goole):** ‘I have had death threats for a number of years – I now have panic buttons and a restraining order against somebody. What is different about what happened at this election – in which I was subjected to anti-Semitic abuse, my staff were spat at and my boards and property were attacked – is that the abuse has been politically motivated. The elephant in the room is that it has been motivated by the language of some of our political leaders, when they accuse people of one political side of murder, and when they dehumanise them... There is something more sinister to this’ (*Hansard*, 12 July 2017, Col. 155WH).
- **Nusrat Ghani (Wealden):** ‘My concern is that the abuse particularly stops women entering politics. I will give the example of a candidate who stood in Ealing and was unfortunately not elected. Candidates have to declare their addresses when they stand for Parliament. She said that she started becoming nervous during the election campaign when opponents started standing outside her door, spitting in her face and following her. That is the threatening behaviour that she wants to highlight’ (*Hansard*, 12 July 2017, Col. 156WH).
- **David Jones (Clwyd West):** ‘I have stood in six general elections and I can say that, frankly, this was by a long chalk the most unpleasant one in which I have ever participated. I have no doubt at all that much of the behaviour that [Simon Hart] outlined was co-ordinated, because the patterns of behaviour that I witnessed in my constituency have been repeated across the country and have been reported to me by a number of colleagues. One issue that I want to raise... is that of social media. Frankly, if ever there were a misnomer, “social media” is it; it is deeply antisocial media’ (*Hansard*, 12 July 2017, Col. 161WH).
- **Rehman Chishti (Gillingham and Rainham):** ‘When I stood up to make my acceptance speech and to thank all the electorate after a very difficult election—the culture in the election campaign was one of the most difficult that I have experienced—I had an activist say in public, “Fuck off back to country X”. The matter has been referred to the Kent police. They are investigating it under public order and racism, so let them do their job. But a Labour party activist, who happens to be a former assistant to the Medway Labour group, said that in public as I made my acceptance speech’ (*Hansard*, 12 July 2017, Col. 163WH).

Studies into election abuse

- **Research has shown male Conservative candidates faced the highest levels of abuse in their Twitter mentions.** ‘Broken down by party and gender, male Conservative candidates were the group who received the highest percentage of abuse in their mentions, followed by male UKIP and Labour candidates, and female Conservative candidates... Prominent

politicians act as magnets for the vast majority of the abuse – and there are significantly more prominent male politicians than female ones. And given the UK was governed by a Conservative majority before the election, that party was fielding more high-profile candidates' (*BuzzFeed*, 23 July 2017, [link](#)).

- Here are some examples of online abuse, found during the University of Sheffield investigation, that politicians across the political spectrum faced during the election campaign.



(*BuzzFeed*, 23 July 2017, [link](#)).

- BCS, the Chartered Institute for IT, developed a 'boos and cheers' system which has highlighted the level of abuse MPs face online. 'All tweets were categorised as either a 'boo' (a disagreement, an accusation or an insult), a 'cheer' (praise, agreement or support), or neutral (everything else, such as sharing news, quoting the MP or commenting on a wider issue). In total, 1.8 million messages containing either a boo or a cheer were sent during the period (48 percent of the total dataset). Of these, 730,000 were cheers and one million were boos. The remainder were determined to be neutral. There was a wide variance in the proportion of boos and cheers received by the parties' MPs during the collection period' (Demos, *Signal and Noise*, 25 May 2017, p.21, [link](#)).
- BCS found, on average, one in every twenty tweets sent to MPs were abusive. 'On average, one in 20 tweets and retweets mentioning MPs were classified as abusive (5.1 percent). However, as with boos and cheers, MPs in the UK have markedly different

experiences. Six MPs received one abusive tweet in every ten, while 34 received none at all. Eight of the MPs receiving the most abuse were male, two were female. There was little correlation between the follower count for an MP and the abuse they received (0.31)' (Demos, *Signal and Noise*, 25 May 2017, p.27, [link](#)).

- **An All-Party Parliamentary Inquiry into Electoral Conduct also detailed many examples of abuse faced by candidates, such as:**
 - 'Ameet Jogia, an Indian-origin Conservative party candidate was reportedly subjected to racial abuse when the wall of a voting booth in the constituency for which he was standing was daubed with a racist message. Mr. Jogia was reportedly left disappointed that "no one did anything to take it down". The matter is being investigated by the Electoral Commission' (*All-Party Parliamentary Inquiry into Electoral Conduct*, July 2017, p.19, [link](#)).
 - 'Another Conservative candidate and now re-elected MP Sheryll Murray said she was "sickened" when her posters were daubed with swastikas. Her agent suggested the attackers were trying to protest Ms. Murray's support for the Jewish community. Devon and Cornwall police confirmed a report of criminal damage' (*All-Party Parliamentary Inquiry into Electoral Conduct*, July 2017, p.19, [link](#)).
 - 'Andrew Percy, a Minister prior to the General Election, said he was abused in front of two witnesses by someone claiming to support the leader of the Labour Party. The alleged perpetrator was said to have shouted "Zionist scum" at Percy and, on being informed he was Jewish, replied "Oh, I will need a wash now". The incident was referred to the police and there was no suggestion Jeremy Corbyn supported or endorsed the incident' (*All-Party Parliamentary Inquiry into Electoral Conduct*, July 2017, p.19, [link](#)).
- **The report concluded by calling for better collection and analysis of election abuse.** 'Better collection and analysis of election-related racism and discrimination data should be secured... Members of Parliament involved with this inquiry process, will continue to advocate for these various measures to be taken forward over the coming years. The Electoral Conduct report shone a light on a frequently overlooked area of British public policy. Hopefully, its impact has led to a change in approach which will be longstanding and effective' (*All-Party Parliamentary Inquiry into Electoral Conduct*, July 2017, p.29, [link](#)).