

Research Briefing

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Intimidation of candidates and voters

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Summary

- 1 Intimidation of candidates
- 2 Disqualification orders
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- 4 Intimidation of voters

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Summary

The Elections Act 2022 introduced a new penalty, disqualification orders, for the offence of intimidatory behaviour towards election candidates and campaigners, which came into force in November 2023.

The Act also modernised the definition of ‘undue influence’, used to refer to compelling or inducing someone to vote a particular way. The new definition includes a wider range of intimidatory activities, including exerting spiritual influence.

Intimidation of candidates

There has been increasing concern about the intimidation and threats received by elected representatives and candidates. In October 2019, the Joint Committee on Human Rights published a report, [Democracy, freedom of expression and freedom of association: Threats to MPs](#). It drew attention to the ongoing threats to MPs and people standing for office.

Following the 2017 General Election, the then Prime Minister, Theresa May, asked the Committee on Standards in Public Life to conduct a short review of the issue of intimidation experienced by parliamentary candidates and in public life more broadly.

The [Committee’s report](#) was published in December 2017. One of the recommendations was that the Government should consult on a new crime in electoral law of intimidating candidates during an election period.

In March 2018 the Cabinet Office responded to the Committee’s report and committed to consulting on a new electoral offence of intimidation of candidates. The Government published its consultation document on 29 July 2018, [Protecting the Debate: Intimidation, Influence, and Information](#) and the [response to the consultation](#) was published in May 2019. The provisions resulting from the consultation were included in the [Elections Act 2022](#).

Disqualification orders

The Elections Act 2022 introduced a new penalty rather than creating a new offence. The penalty can be imposed for people convicted of existing intimidatory offences when the intimidation is directed at election candidates or campaigners during a referendum. It is designed to deter intimidatory behaviour during an election or referendum period.

These are called disqualification orders and can be imposed in addition to any sentence resulting from a criminal conviction. A disqualification order disqualifies the person convicted from holding elected office for five years.

The disqualification order applies to all elected offices in the UK except for membership of the Scottish Parliament and Scottish local government. After [consulting on proposals](#), the Scottish Government [introduced legislation](#) in January 2024 that includes provisions to extend disqualification orders for membership of the Scottish Parliament and Scottish local government.

Intimidation of voters

This briefing also examines ‘undue influence’, the electoral offence of intimidating voters. It is one of the ‘classic’ electoral fraud crimes that date from the Victorian era, when electoral fraud was commonplace.

In 2016 the Law Commission recommended the law on undue influence should be modernised. It said it should be restated as an offence of intimidation, deception, and improper pressure on voters.

Another [report in 2016 on electoral fraud](#) by Lord Pickles, then the Government’s anti-fraud tsar, also recommended changes to the offence of undue influence. He was concerned about the level of intimidation of voters outside polling stations and spiritual influence of faith leaders. He wanted to ensure voters of any faith were protected from having their religious beliefs manipulated in order to prevent them freely exercising their vote.

The Government’s [2018 consultation, Protecting the Debate](#), included questions on the scope of undue influence. It intended to maintain the general purpose of the offence, that it should refer to threats of violence, non-physical threats of harm, and duress, including from people in positions of power such as faith leaders.

This led to provisions in the [Elections Act 2022](#). These modernised the definition of undue influence for reserved elections. Elections to the Scottish and Welsh parliaments and Scottish and Welsh local council elections retain the old definition.

1 Intimidation of candidates

There has been increasing concern about the intimidation and threats received by elected representatives and candidates.

The [Elections Act 2022](#) introduced a new penalty for people convicted of intimidation when the intimidation is directed at candidates, campaigners or elected representatives. Anyone found guilty of this behaviour could be banned from standing for elected office for five years. The details of the new penalty, called disqualification orders, are outlined in section 2.

1.1 Intimidation experienced by politicians and candidates

A debate was held in Westminster Hall in July 2017 on the abuse and intimidation that had been experienced by parliamentary candidates and their supporters in the 2017 General Election.¹ Another debate was held in the Commons Chamber on 14 September 2017 on the same issue.²

Many MPs gave graphic examples, including death threats, rape threats, racial abuse, antisemitic abuse, and party-political abuse that goes well beyond robust debate with political opponents.

During the debate Diane Abbot MP noted that in her experience the abuse had got worse in recent years in general and not just at election time. She highlighted, like many others, that the rise of social media and the ease of sending online messages had made things worse saying, “I think the rise in the use of online media has turbocharged abuse”.³

A report from the think tank Demos on digital politics in the UK, published in 2017, noted the potential for MPs to engage with the electorate using social media saying “86% percent of British MPs are on Twitter, sending tens of thousands of tweets a year, and many are active across multiple platforms.” However, it also noted that:

¹ [HC Deb 12 July 2017, c152-71WH](#)

² [HC Deb 14 September 2017, c1041-83](#)

³ [HC Deb 12 July 2017, c159WH](#)

...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.⁴

Amnesty International analysed nearly a million tweets mentioning MPs from 1 January to 8 June 2017, with a focus on the six weeks prior to the 8 June UK election. Over 25,000 abusive tweets were sent to women MPs. It found that in the six weeks in the run up to the general election Diane Abbot received over 4,500 abusive tweets, which was 45% of the total sent to all women MPs and ten times more abuse than any other woman MP in the run-up to the election.⁵

The Electoral Commission report on the 2019 election surveyed parliamentary candidates. About a quarter responded to the survey and it found only a quarter of respondents had not experienced threats, abuse, or intimidation. Of those that had experienced it, one in six said the level was significant and some felt there was coordinated abuse and intimidation by supporters of other parties or causes. The most common type of abuse, threats or intimidation was online, and nearly 10% who replied had experienced physical abuse.⁶

The January 2023 report [A House for Everyone: A Case for Modernising Parliament](#) (PDF)⁷ from the Fawcett Society, a women’s rights charity, examined how increasing political polarisation made it harder to be an MP and how extreme levels of online abuse, threats and harassment were damaging democracy.⁸ This report also reported on academic research that “found a widening gap between men and women in the levels of harassment, abuse, and intimidation between the 2017 and 2019 election campaign periods”.⁹

The Fawcett Society has called for a lifetime ban from standing for elected office for those who promote violence or rape. An open letter to the Government, signed by organisations including the Jo Cox Foundation and by politicians from several parties, said:

⁴ Demos, [Signal and Noise Can technology provide a window into the new world of digital politics in the UK?](#) May 2017, p4

⁵ Azmina Dhrodia, [Unsocial Media: Tracking Twitter Abuse against Women MPs](#), Amnesty Global Insights, 4 September 2017.

⁶ Electoral Commission, [In depth: campaigning at the 2019 UK Parliamentary general election](#), Tackling intimidation of candidates requires a holistic approach, April 2021,

⁷ The [Fawcett Society](#) campaigns for gender equality and women’s rights at work, at home and in public life

⁸ Fawcett Society, [A House for Everyone: A Case for Modernising Parliament](#) (PDF), January 2023, chapter 5

⁹ Sofia Collignon, Rosie Campbell, and Wolfgang Rüdiger. 2022. “The Gendered Harassment of Parliamentary Candidates in the UK.” *The Political Quarterly* 93 (1): 32–38, cited by the Fawcett Society

some of those responsible for issuing threats to women have then gone on to stand for election themselves. Surely anyone who issues threats of rape of violence or who incites hatred is not fit to stand for elected office?¹⁰

Local elections

The abuse is not limited to national elections. After the local elections of May 2021, the Local Government Association (LGA) held a meeting as part of its work on civility in public life. The Local Government Chronicle reported that:

There was a consensus among senior figures with decades of political experience that the discourse of political debate and savagery of attacks they endured during the last local elections was worse than they have ever known.¹¹

In 2023 the LGA held a survey that asked local councillors about abuse and intimidation. Of the 419 respondents, 82% said “they felt at risk at least some of the time whilst fulfilling their role”.¹² This was up from 73% in 2022.

The Electoral Commission published a study in September 2022 outlining the experiences of candidates in the May 2022 local elections.¹³ Four in 10 candidates reported experiencing problems with intimidation in elections in England (40%), Scotland (44%) and Wales (40%), in Northern Ireland the proportion of candidates who reported experiences of intimidation was 71%.¹⁴

The abuse can also come from other candidates. The All-Party Parliamentary Group (APPG) Against Antisemitism commissioned an inquiry into electoral conduct in 2013 with two follow-up reports in 2015 and 2017.¹⁵ The APPG found that abuse of candidates could also come from other candidates. Witnesses detailed incidents of intimidation, discriminatory leafleting and other campaign malpractice.¹⁶

¹⁰ Fawcett Society, [Fawcett open letter calls on Government to impose lifetime ban on candidates who promote violence](#), 22 May 2019

¹¹ Local Government Chronicle, [Kidnap and death threats, misogyny, dog mess through letterboxes: councillors reveal abuse](#), 11 June 2021

¹² Local Government Association, [LGA: Number of councillors feeling personally at risk in role reaches new high](#), 5 July 2023

¹³ The Electoral Commission, [Urgent action needed to prevent abuse and intimidation of candidates at elections](#), 21 September 2022

¹⁴ The Electoral Commission, [Urgent action needed to prevent abuse and intimidation of candidates at elections](#), 21 September 2022

¹⁵ [All-Party Parliamentary Inquiry into electoral Conduct: 2015 General Election update](#), May 2015; [All-Party Parliamentary Inquiry into electoral Conduct: Final update](#), July 2017

¹⁶ [Report of the All-party Parliamentary Inquiry into Electoral Conduct](#), October 2013 p10

1.2

Joint Human Rights Committee report: threats to MPs

In 2019, Parliament's Joint Committee on Human Rights published a report called [Democracy, freedom of expression and freedom of association: Threats to MPs](#). It drew attention to the ongoing threats to MPs and people standing for office, particularly online, and the prospect that such threats were a threat to democracy. It also examined areas of particular security concerns to Parliament, such as the policing in Parliament Square and the impact of intimidation on MPs and their staff.

The Committee was worried about the impact on MPs interaction with their constituents and with democratic engagement. It highlighted concerns about MPs no longer being able to hold surgeries where constituents could turn up without an appointment and MPs becoming less available to constituents to help or debate issues. The Committee stated:

We are not an effective democracy if MPs have to look over their shoulder before they speak or vote.¹⁷

The Joint Committee also acknowledged the competing rights of freedom of expression. MPs should be able to speak their mind and the public should be able to protest. The Committee said that everyone needed the space to engage in robust debate and noted:

It is clear that, if unchecked, the normalisation of abuse will change our politics: we need to tackle abuse, not to retreat. There is no single, easy, answer to this, because freedom of speech and freedom of association are also key to democracy. There is no right not to be offended.¹⁸

The Joint Committee's inquiry demonstrated the issue of abuse of MPs was part of a wider discussion on the nature of public discourse, both on and offline. The Committee highlighted:

There are many different organisations and individuals involved. They include, but are not limited to: Government; the Parliamentary authorities; the police; the Crown Prosecution Service; private sector companies such as Facebook and Twitter; political parties; and those who take part in individual and organised campaigns.¹⁹

The Joint Committee heard examples of MPs from different parties that and concluded:

Political parties have a responsibility to make clear they do not endorse intimidation and abuse. They must create a climate which makes it clear that

¹⁷ Joint Committee on Human Rights, [Democracy, freedom of expression and freedom of association: Threats to MPs](#), HC 37/HL 5 2019, October 2019, p6

¹⁸ As above, p23

¹⁹ As above, p4

abuse is not tolerated, and failure to abide by a party's code of conduct is dealt with robustly and speedily.²⁰

The Joint Committee said it would comment on the new offence of intimidation of candidates recommended by the Committee on Standards in Public Life (CSPL) when legislation was published. It also noted, like the CSPL, that political parties play a role in preventing abuse at other times of the year and that they must implement their codes of conduct.

The Government published its response to the report on 22 March 2021.²¹ It reiterated the Government's commitment to introducing the new offence of intimidation of candidates. It also highlighted other ongoing work, including legislating for an online harms regulator and the Law Commission review of abusive and offensive online communications.

²⁰ Joint Committee on Human Rights, [Democracy, freedom of expression and freedom of association: Threats to MPs](#), HC 37/HL 5 2019, October 2019, p49

²¹ [Democracy, freedom of expression and freedom of association: Threats to MPs: Government Response to the Committee's First Report of Session 2019](#), HC 1317 2019-21, 22 March 2021

2

Disqualification orders

The new penalty, called a disqualification order, was not brought into force straight away but took effect on 1 November 2023.²²

The disqualification order is what is known as an ancillary order.²³ It is an order that the court can apply in addition to a sentence if the conditions are met.

A disqualification order disqualifies the person convicted from holding elected office for five years. It applies to all elected offices in the UK except for membership of the Scottish Parliament and Scottish local government.

2.1

Why were disqualification orders introduced?

At the first Prime Minister's Questions session of the 2017 Parliament, the then Prime Minister, Theresa May, was asked about intimidation in the election campaign and "what can be done to stop such intimidation, which may well put off good people from serving" in Parliament.²⁴

The Prime Minister subsequently requested that the Committee on Standards in Public Life (CSPL) should conduct an inquiry.²⁵

Lord Bew, Chair of the Committee, called for evidence from interested parties, saying the committee wanted to hear views on "how to address this without stifling the robust debate or differences of opinion that are fundamental to our democracy."²⁶

The Committee recommended that the Government should consult on a new electoral offence of intimidation of parliamentary candidates.²⁷

²² The [Elections Act 2022 \(Commencement No. 9, Transitional and Savings Provisions and Appointed and Specified Days\) and Ballot Secrecy Act 2023 \(Commencement\) Regulations 2023](#)

²³ Crown Prosecution Service, [Sentencing - Ancillary Orders](#), 13 December 2023

²⁴ [HC Deb 28 June 2017, c585](#)

²⁵ Cabinet Office press release, [Review into abuse and intimidation in elections](#), 12 July 2017

²⁶ CSPL press release, [Intimidation in Public Life: CSPL publishes terms of reference and calls for evidence](#), 24 July 2017

²⁷ Committee on Standards in Public Life, [Intimidation in Public Life: A Review by the Committee on Standards in Public Life](#), 13 December 2017

The Government consulted in 2018 and published responses in 2019. Details are set out in section 3. It led to the provisions included in the Elections Act 2022.

Instead of creating a new offence, the provisions in the 2022 Act create an additional sanction that could be applied if someone was found guilty of intimidating a candidate. The sanction would be a disqualification order, explained below.

The Government also extended the scope of the new sanction to all elections and referendums and considered the sanction would work to deter intimidatory behaviour during an election period.

2.2 How do disqualification orders work?

A disqualification order can be imposed by a court if someone is found guilty of intimidatory or threatening behaviour against a candidate.

In order to apply the disqualification order certain conditions must be met as set out in [part five](#) of the Act.

The 2022 Act lists the offences that someone must have been convicted of in [schedule 9](#). The schedule includes common law and statutory offences in the three legal jurisdictions of the UK (England and Wales, Scotland, and Northern Ireland). These include assault, public order and sexual offences, and harassment.

The schedule can be amended as new offences are created. For example, the Online Safety Act created three new communications offences (false communications, threatening communications and ‘cyber-flashing’) that were added to schedule 9 of the Elections Act.²⁸

For a disqualification order to be imposed, the offence must have been committed against a candidate or campaigner and the offender was motivated to commit the offence because the victim was a candidate or a campaigner. The disqualification order cannot be imposed if the fact the victim was a candidate or campaigner was not the motivation, only the criminal sanction can be imposed on conviction.

The Elections Act defines what a candidate and a campaigner is. Someone campaigning for a candidate must be directly employed or engaged, for example as an official canvasser. It does not cover someone who decides to place a poster in a window promoting a candidate unless they are also directly engaged in the candidate’s campaign.

²⁸ Sections 197, 181, and 183 of the [Online Safety Act 2023](#) created the new offences and [schedule 14](#) of the Online Safety Act added them to the Elections Act

Campaigners also include those campaigning in a national referendum as a permitted participant, or an accredited recall petition campaigner. It also includes those managing a local referendum campaign.

Someone is a candidate for the purposes of disqualification orders from the time they announce they intend to be a candidate at the next scheduled election.

The CSPL recommended that offences would have been limited to the regulated period of an election plus a short period of time after the election. The regulated period is the period between notice of election and polling day. For most elections this is 25 working-days. However, following the Government's consultation the new provisions cover a longer period. This extends protection, for example, to prospective parliamentary candidates who often announce their intention to stand in a constituency sometime before an election.

If someone is issued with a disqualification order and they hold elected office, they must vacate their seat. If someone subject to a disqualification order is elected to the House of Commons, their election is void.

Although the disqualification order does not bar someone from becoming a member of the Scottish Parliament or a Scottish local councillor, all candidates, regardless of the type of election, are protected by the sanction and are protected in any part of the UK.

2.3 Devolved elections

The UK Government had intended the new disqualification orders to apply to all elections. The Scottish and Welsh governments and parliaments are each responsible for legislating for their own local elections and elections to their devolved parliaments. Both initially refused to grant [legislative consent motions](#) to the Bill that went on to become the Elections Act 2022 because it contained provisions on devolved elections.²⁹

The UK Government agreed to remove reference to Scottish devolved elections from the Election Bill as it was progressing through the UK Parliament. It also agreed to remove most elements relating to Welsh devolved elections.

Most of the elements of the Elections Act are therefore related to reserved elections (and excepted elections in Northern Ireland). These are elections where the responsibility for legislation lies with the UK Parliament: all elections in England and Northern Ireland, UK Parliament elections across the UK, and police and crime commissioner elections in England and Wales.

²⁹ Commons Library briefing CBP 9421, [Elections Bill 2021-22: Progress of the Bill](#), section 9.2

The Senedd Cymru subsequently agreed to grant legislative consent for provisions relating to disqualification orders as the UK Government considered them to be reserved to the UK Parliament. The Welsh Government disagreed with the UK Government's assertion that the provisions required legislative consent but gave consent anyway.

The Scottish Government held a consultation in December 2022 on electoral reform for devolved elections. It included a proposal to extend disqualification orders to Scottish Parliament and local elections.³⁰ The analysis of the consultation responses found 77% of respondents were in favour.³¹ The Scottish Government said it is sympathetic to the introduction of disqualification orders.³²

In January 2024 the Scottish Government introduced the [Scottish Elections \(Representation and Reform\) Bill](#) to the Scottish Parliament. The provisions in the Bill would extend the disqualification orders created in the Elections Act 2022 to prevent people from standing for election to the Scottish Parliament and Scottish local councils.³³

The Bill would also create a new Scottish disqualification order. This would have the same effect as the orders created by the Elections Act 2022 but would apply if someone was found guilty of intimidatory behaviour against returning officers, electoral registration officers or their staff working on devolved elections or referendums in Scotland. A Scottish disqualification order would prevent someone from standing for election to the Scottish Parliament or Scottish local government.³⁴ The disqualification orders introduced by the Elections Act 2022 did not apply to intimidatory behaviour aimed at election staff.

³⁰ Scottish Government, [Electoral reform consultation](#), 14 December 2022, chapter 1

³¹ Scottish Government, [Electoral Reform Consultation Analysis](#), 31 July 2023, chapter 1

³² Scottish Government, [Electoral reform consultation results 2022-2023: Scottish Government response](#), 19 October 2023

³³ [Scottish Elections \(Representation and Reform\) Bill](#) as introduced, clauses 10 and 11

³⁴ As above, clauses 3 to 9

3

Background to the introduction of the new penalty

As noted in the previous section, in 2017 the then Prime Minister, Theresa May, invited the Committee on Standards in Public Life (CSPL) to conduct a review of the intimidation experienced by parliamentary candidates, saying:

I have been horrified by stories from colleagues about the scale and nature of the intimidation, bullying and harassment they suffered during the general election campaign.

Robust debate is a vital part of our democracy, but there can be no place for the shocking threats and abuse we have seen in recent months.³⁵

The terms of reference for the Committee's inquiry were formally set out in the Prime Minister's letter to the CSPL of 17 July 2017:

To review the intimidation experienced by Parliamentary candidates, including those who stood in the 2017 General Election. The committee may also consider the broader implications for other candidates to public office and public office holders.

The review should:

- Examine the nature of the problem and consider whether measures already in place to address such behaviour are satisfactory 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 for the Prime Minister, including recommendations for action focused on what could be done in the short- and long-term and identifying examples of good practice.³⁶

³⁵ Cabinet Office press release, [Review into abuse and intimidation in elections](#), 12 July 2017

³⁶ [The Prime Minister's letter to CSPL on the intimidation of Parliamentary candidates](#), 17 July 2017

3.1

Committee on Standards in Public Life inquiry

The Committee's final report was published on 13 December 2017. It made a number of recommendations aimed at social media companies, political parties, elected representatives, the media, and government.³⁷

Definition of intimidation

The Committee noted it was difficult to pinpoint a definition of intimidation. For the purposes of the review the Committee's definition of intimidation was:

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.

It went on to say:

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.

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.³⁸

The Committee noted that intimidation at elections did not occur in a vacuum, saying:

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.³⁹

The report noted the rise of social media has been one of the most significant factors in facilitating intimidation and changing how the public interacts with candidates and elected representatives. While this has the benefit of allowing

³⁷ Committee on Standards in Public Life, [Intimidation in Public Life: A Review by the Committee on Standards in Public Life](#), 13 December 2017

³⁸ As above, p26

³⁹ Committee on Standards in Public Life, [Intimidation in Public Life: A Review by the Committee on Standards in Public Life](#), 13 December 2017, p30

citizens to communicate with those standing for office and their elected representatives more directly than ever before, the Committee noted that:

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.⁴⁰

The Committee heard how racist, sexist, homophobic, transphobic, and antisemitic abuse has put off candidates from standing for public office. If not addressed the Committee said, “we could be left with a political culture that does not reflect the society it should represent”.⁴¹

In the Committee’s view, tackling intimidation would enhance debate and scrutiny of elected representatives and allow for freedom of expression to continue to be an important part of public life:

...our democracy depends on those with different viewpoints disagreeing well. Intimidation aims at shutting down debate – cutting off participation and engagement.⁴²

Committee recommendations

One of its recommendations was that the Government should consult on the introduction of a new offence in electoral law of intimidating parliamentary candidates and party campaigners.

The Committee’s conclusion was that current range of offences were sufficient to tackle the sorts of intimidatory behaviour experienced by candidates, whether carried out online or elsewhere. However, it did hear from concerns about the “sufficiency of the current law to deal with intimidatory behaviour on social media”. It considered that introducing a new electoral offence, while not criminalising any new kind of behaviour, would help protect democratic processes by adding an electoral sanction to any criminal sanction:

No behaviour which is currently legal should be made illegal. However, we believe that the introduction of a distinct electoral offence will 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.⁴³

The Committee noted the “high evidential threshold for prosecution as well as a relatively demanding public interest test” for online abuse to be considered for prosecution.

⁴⁰ Committee on Standards in Public Life, [Intimidation in Public Life: A Review by the Committee on Standards in Public Life](#), 13 December 2017, p31

⁴¹ As above, p29

⁴² As above, p28

⁴³ As above, pp59-61

The Crown Prosecution Service's (CPS) guidance requires a social media post to be "grossly offensive" for it to proceed with a prosecution. Hate crimes often have a disproportionate impact on the victim because they are being targeted for a personal characteristic. Prosecutors will consider any hate crime context as appropriate when assessing whether the high threshold is met for grossly offensive material.

The Committee noted that the high threshold for prosecuting "grossly offensive" posts reflects how commonplace offensive comments are in everyday life and the need to protect the right to freedom of expression under Article 10 of the European Convention on Human Rights.⁴⁴

Other recommendations

The Committee's report also included other recommendations. The CSPL echoed the [Electoral Commission's recommendation](#) that digital campaign material, including on social media, should carry an imprint to show who is responsible. This was taken forward and has been implemented. The Library briefing, [Imprints on election and campaign material](#) examines this in more detail.

The Committee also recommended that the home address of candidates in local council elections should no longer appear on ballot papers. This requirement had already been removed for UK parliamentary elections and was taken forward for other elections by various pieces of legislation.⁴⁵

Other recommendations aimed at social media companies included that they must take responsibility for developing technology and the necessary options for users to tackle the issue of intimidation and abuse on their platforms.

The CSPL also made recommendations to the National Police Chiefs Council. One of those recommended the publication of accessible guidance for candidates giving clear advice on behaviour they may experience during a campaign which is likely to constitute a criminal offence. Joint guidance was published by the Council with the Crown Prosecution Service, College of Policing, and the Electoral Commission.

At the time of writing the current versions was [Joint Guidance for Candidates in Elections: When it goes too far](#) (PDF). A separate publication for candidates in Scotland is available, [Guidance for Election Candidates in Scotland](#) (PDF).

The Committee made several recommendations for political parties. It said that political parties had a responsibility to:

- To show leadership in setting an appropriate tone for public debate around elections for their campaigners and supporters

⁴⁴ Committee on Standards in Public Life, [Intimidation in Public Life: A Review by the Committee on Standards in Public Life](#), 13 December 2017, pp63-4

⁴⁵ For example, the [Local Elections \(Principal Areas\) \(England and Wales\) \(Amendment\) \(England\) Rules 2018](#) made the necessary changes for local election in England.

- To tackle intimidatory behaviour undertaken by their members
- To provide support to their candidates who face intimidation during the election

In the report, Lord Bew said:

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.⁴⁶

The CSPL also recommended that political parties must work together to develop a joint code of conduct on intimidatory behaviour during election campaigns. The main parties all now have codes of conduct. The CSPL and the Jo Cox Foundation worked together and with parties to develop a statement on the conduct of political party members. The statement was produced in 2019, which the Committee stated should complement existing party codes of conduct:

[The statement] is not intended to supersede or replace party codes of conduct or disciplinary processes, but to complement them by acting as a high-level statement of principle outlining the minimum standards of behaviour that all party members should aspire to.⁴⁷

3.2

Government response

The Government's response was published in March 2018. It welcomed the CSPL report and recognised its wide-ranging recommendations.

The Government agreed that with the recommendation that it should consult on the introduction of a new offence in electoral law, and it promised a consultation in the summer of 2018.⁴⁸ The Government noted that the existing offences relating to intimidation of candidates are not set out in electoral law but in other areas of the law. It also noted electoral offence of 'undue influence' only relates to voters (section 4 examines changes to the offence of undue influence).

In May 2018 the Government also asked the Law Commission to review the criminal law to assess the extent to which the current law achieved equal treatment between online and offline abuse offences. The Law Commission reported in 2021.⁴⁹ The Online Safety Act 2023 include the new offence of threatening communications, where a person who sends a message

⁴⁶ [Intimidation in Public Life: A Review by the Committee on Standards in Public Life](#), 13 December 2017, p7

⁴⁷ Committee on Standards in Public Life, [Intimidation in Public Life: joint statement on conduct of political party members](#), December 2020

⁴⁸ Cabinet Office, [Government response to the Committee on Standards in Public Life Review of Intimidation in Public Life](#), 8 March 2018

⁴⁹ Law Commission, [Modernising Communications Offences](#), HC 547, July 2021

conveying a threat of death, serious injury, rape, assault by penetration, or serious financial loss, and intends that (or is reckless as to whether) someone encountering the message will fear the threat will be carried out.⁵⁰

The Government said it was supportive of the recommendations aimed at political parties “but recognises that ultimately these are matters for the political parties.”

It did not propose to take up the Committee’s recommendation on political parties developing a joint code of conduct on intimidatory behaviour, saying:

This may create delays towards action by individual parties, given there are over 300 registered political parties. However, the Government does believe that, as a matter of self-regulation, each registered political party should draw up and publish a clear statement of the standards expected of its members, affiliated groups and activists, and how the party would uphold such standards in this code.⁵¹

3.3 Government consultation

The Government’s consultation on the new electoral offence, [Protecting the Debate: Intimidation, Influence, and Information](#) was published on 29 July 2018.

The CSPL recommendation for a new electoral offence was aimed at parliamentary candidates. The Government proposed that the new electoral offence should apply to candidates at all elections for which the UK Government is responsible for legislating for (UK Parliament elections and all other elections in England and Northern Ireland).⁵²

Proposed new offence

The Government proposed to create the new ‘offence’ on the basis of intimidatory behaviours which are already illegal, such as harassment, stalking or malicious online communications. The CSPL had noted that current criminal law was sufficient in covering the full range of cases of intimidation.

The minister’s foreword to the document said:

A specific electoral offence would work to highlight the seriousness of the threat of intimidation of candidates and campaigners to the integrity of public life and the electoral process, and to provide for specific electoral sanctions.⁵³

⁵⁰ Department for Science, Innovation & Technology, [Online Safety Act: new criminal offences circular](#)

⁵¹ Cabinet Office, [Government response to the Committee on Standards in Public Life Review of Intimidation in Public Life](#), 8 March 2018

⁵² Cabinet Office, [Protecting the Debate: Intimidation, Influence, and Information](#), 29 July 2018, p26

⁵³ Cabinet Office, [Protecting the Debate: Intimidation, Influence, and Information](#), 29 July 2018, p5

What would the penalty be?

The Government proposed an extra electoral element to act as a deterrent to intimidatory behaviour from taking place during the election period. The proposed additional penalty could be applied when someone was found guilty of intimidation under existing criminal law and the intimidation was because someone was a candidate.

It would prohibit offenders from standing for elective office for five years if found guilty. Some electoral offences carry a sanction that also prohibit someone from registering to vote, but the Government considered that removing someone's right to register to vote was disproportionate.

The Government was clear that this new offence would not be a 'catch all' to stifle debate and disagreement. The proposed offence would be compatible with freedom of expression protected by European Convention on Human Rights. The CSPL report, as noted above, highlighted that a communication must be "more than simply offensive, shocking or disturbing".

When would it apply?

The Government intended for the offence to apply only during the regulated period of an election campaign and for a week after polling day. The start of the regulated period is usually the earliest someone can officially become a candidate and the regulation of election expenses and donations apply.

It should only be applicable in cases where a candidate or campaigner is intimidated because they are a candidate or campaigner. The consultation document noted if the offender knows the victim is a candidate but the election may not be the reason for the offence, "the general criminal law would, of course, continue to apply in such cases. But in our view it would not be appropriate for electoral sanctions to apply as well."⁵⁴

Many candidates know they will be standing in a forthcoming election before the notice of election. However, the Government noted that this could vary and the time period where restrictions apply would not be sufficiently clear unless restricted to the regulated period, usually the 25 working-days before polling day for most elections.⁵⁵

3.4

Consultation responses

The [responses to the consultation](#) were published in May 2019. The Government confirmed it would move forward with the proposed new offence as set out in the original consultation document.

⁵⁴ As above, p31

⁵⁵ As above, p28

Three quarters of respondents broadly agreed with the approach set out in the consultation of applying an electoral sanction to existing offences of intimidatory behaviour, although concerns were expressed by some about the interaction of the new offence with the right to freedom of expression.

The Conservative Party and Liberal Democrats agreed with the new offence. Labour Party and the SNP disagreed with the concept of a new offence. The Labour Party said the proposed new electoral offence would duplicate offences. It favoured replacing the offence of undue influence to incorporate intimidation and undue influence. The SNP favoured removing the concept of corrupt and illegal practices in electoral law and instead attaching electoral consequences to sentences for other crimes if there is a proven link to elections.⁵⁶

85% of respondents agreed that the offence should apply at all polls and include referendums.⁵⁷

65% agreed that campaigners should be included under the proposed new electoral offence. The Association of Electoral Administrators (AEA) and some local councils suggested that Returning Officers and their staff should also be protected under the new electoral offence.⁵⁸ The Government reiterated it would work with the Attorney General's Office and the Crown Prosecution Service to develop a clear definition that protects campaigners, but it did not think there was a need to extend the protection to Returning Officers and their staff.

71% of respondents agreed with the sanction of prohibiting someone from standing for an elected office for five years (making the offence a 'corrupt practice'). Some respondents were concerned that the sanction would not be a sufficient deterrent. 57% thought that the new offence should not remove an offender's right to vote. Some respondents emphasised that removing the right to vote should not be used lightly as it is a fundamental right in a democratic society.⁵⁹

The Electoral Commission agreed that removing the right to vote would be a disproportionate sanction but suggested stopping someone from standing for election may not be a sufficient deterrent for people who do not want to become a candidate.⁶⁰ The Local Government Association made a similar point in its response:

⁵⁶ Cabinet Office, [Protecting the Debate: Intimidation, Influence, and Information](#), pp17-8

⁵⁷ As above, p20

⁵⁸ As above, p22

⁵⁹ As above, pp19-20

⁶⁰ Electoral Commission, [Response to the UK Government policy consultation: Protecting the Debate](#), 15 October 2018

It is important not to give the impression that, by having a penalty that is only a disincentive to those wishing to stand for office, the majority of intimidation is undertaken by those seeking election.⁶¹

85% of respondents agreed that the offence should only be applicable in cases where a candidate or campaigner is intimidated because they are a candidate or campaigner.⁶²

57% of respondents agreed that the protection should start from the period of notice of elections. 47% thought there should be a period of time before the notice of elections during which the protection should be applied. Some respondents highlighted that in practice candidates and campaigners are often actively campaigning before the regulated period and are therefore potential targets of abuse and intimidation for longer. 50% of all responses agreed with the proposal that the protection offered by the offence should end seven calendar days after the close of the poll.

UK parliamentary general election candidates

The Government agreed with respondents that the period where the new offence applies should last longer than the normal 25-day election timetable period for UK general elections.⁶³

For other elections the period when the new offence applies would be from the publication of the notice of election until seven days after the poll, as set out in the consultation document.

For general elections to the UK Parliament the new offence would apply during the ‘long campaign’. This applies in the last five months of a five-year Parliament and applies pre-election spending limits before Parliament is dissolved. The limits on campaign expenditure by individual candidates are set out in the Representation of the People Act 1983, as amended.⁶⁴

The Government response concluded, “As it is likely that campaigning will take place during the long campaign it is right that we seek to protect against intimidation during this timeframe, in addition to the notice of elections period.”⁶⁵

⁶¹ LGA Response to Cabinet Office consultation: [‘Protecting the Debate: Intimidation, Influence and Information’](#), p2

⁶² As above, p25

⁶³ As above, p24

⁶⁴ Sections 76 and 76A

⁶⁵ Cabinet Office, [Protecting the Debate: Intimidation, Influence and Information: Government response](#), May 2019, p25

4 Intimidation of voters

The intimidation of voters (also known as ‘undue influence’) is one of the ‘classic’ electoral fraud crimes that date from the Victorian era, when much of the law around electoral processes was first written.

The offences of undue influence, bribery, and treating (another kind of bribery with food, drink or entertainment), were aimed at combating the violence and corrupt behaviour associated with elections in the Victorian era, where a person’s vote was seen as a commodity to be influenced by people of power and not an expression of democratic will.⁶⁶

The [Elections Act 2022](#) updated the wording of the electoral offence of undue influence. Like other aspects of the Elections Act, it only updated the law for reserved elections (under the jurisdiction of the UK Parliament, such as parliamentary general elections).

4.1 What is undue influence?

Undue influence in elections is trying to persuade someone to vote one way or another, or not vote, by using inappropriate influence. That can be either by threat, by fraud, or by abusing a position of trust or power.

The Law Commission conducted a review of electoral law between 2016 and 2020. It summarised the offence as trying to get someone to vote in a particular way, or persuading someone not to vote as follows:

- pressure and duress - whether it involves physical violence or the threat of it
- trickery - to cover devices and contrivances such as publishing a document masquerading as a rival campaign’s and
- abuse of a position of influence: where a special relationship of power and dependence exists between the person exerting the influence and the voter.⁶⁷

⁶⁶ Law Commission, Scottish Law Commission, and Northern Ireland Law Commission, [Electoral Law A Joint Consultation Paper](#), 2014, p242

⁶⁷ Law Commission, Scottish Law Commission, and Northern Ireland Law Commission [Electoral Law: A Joint Interim Report](#), 2016, p141

The Law Commission recommended the offence should be redrafted and modernised as the wording that existed was poorly expressed and hard to enforce.⁶⁸

Elections Act 2022

The [Elections Act 2022](#) updated the offence of undue influence as it applies to reserved elections. The new wording was based on the Law Commission recommendation and that of the [Pickles review](#) into electoral fraud and was subject to consultation (see the background to the revision of undue influence below).

The new wording contained in section 8 of the 2022 Act was inserted into the main piece of legislation, the Representation of the People Act 1983, as new [section 114A](#). The section sets out the activities that fall within the offence:

- (a) using or threatening to use violence against a person
- (b) damaging or destroying, or threatening to damage or destroy, a person's property
- (c) damaging or threatening to damage a person's reputation
- (d) causing or threatening to cause financial loss to a person
- (e) causing spiritual injury to, or placing undue spiritual pressure on, a person
- (f) doing any other act designed to intimidate a person
- (g) doing any act designed to deceive a person in relation to the administration of an election.⁶⁹

As the new definition only applies to reserved elections, the 1983 Act still retains the definition that had been in place since 2006 (the last time the definition was revised). This remains section 115, but it has been amended to apply only to local government elections in Scotland and Wales.

Electoral law is complex and fragmented and the offence of undue influence for other devolved elections is in other legislation (these correspond with the definition in section 115 of the 1983 Act):

- [Rule 77](#) of the Scottish Parliament (Elections etc.) Order 2015 applies to Scottish Parliament elections.
- [Rule 81](#) of the National Assembly for Wales (Representation of the People) Order 2007 applies to Senedd Cymru elections.

⁶⁸ Law Commission, Scottish Law Commission Northern and Ireland Law Commission [Electoral Law: A Joint Interim Report](#), 2016, p150

⁶⁹ Section 114A of the Representation of the People Act 1983, as amended

4.2

Background to the Elections Act provisions

In its review the Law Commission noted that the existing offence was “poorly expressed in legislation” but that the safeguarding of voters from intimidation, physical compulsion and improper pressure remains important. It had recommended in 2016 that the law on undue influence should be modernised and restated as an offence of intimidation, deception, and improper pressure on voters.⁷⁰ The Commission noted:

It is thus desirable that the offence should be redrafted and modernised so it can be understood by candidates and campaigners, by police officers called upon to investigate complaints, by prosecutors who must decide whether to prosecute, and by the courts.⁷¹

The Law Commission also examined the issue of spiritual influence. The concern of undue influence by religious leaders led to the inclusion of ‘spiritual injury’ in the meaning of undue influence. An election was declared void in Ireland in 1892 because a bishop’s letter was held to have exerted undue influence after it was read at the altar and it was held to have been in support of one candidate.⁷²

The Commission sought views on whether the abuse of influence, religious or otherwise, should fall under the offence. Most respondents to the consultation said the law should regulate abuse of influence, religious or otherwise. Richard Mawrey KC, who oversaw the Tower Hamlets fraud case in 2014, where the result was overturned as a result of electoral fraud, thought there was a particular need for regulation of spiritual injury because it was again being exerted and had been found to have happened in the Tower Hamlets case.⁷³ By the time of the Commission’s final report the Government had responded to the Pickles report.

The Pickles report

A review of electoral fraud in 2016, by Lord Pickles, considered undue influence. He reported that the offence “is considered to be an area of law that is incredibly difficult to prove to the criminal standard”.⁷⁴

The Pickles report also addressed the concern of intimidation of voters outside polling stations.⁷⁵ Lord Pickles also cited the mayoral election in Tower Hamlets in 2014, where one of the concerns had been the level of

⁷⁰ As above, p150

⁷¹ As above, p147

⁷² Law Commission, Scottish Law Commission, and Northern Ireland Law Commission, [Electoral Law: A Joint Consultation Paper](#), 2014, p246

⁷³ Law Commission, Scottish Law Commission, and Northern Ireland Law Commission [Electoral Law: A Joint Interim Report](#), 2016, p147

⁷⁴ Cabinet Office, *Securing the ballot: review into electoral fraud*, August 2016

⁷⁵ As above, p43

intimidation of voters outside polling stations.⁷⁶ Lord Pickles quoted the judge in the Tower Hamlets case:

Despite clear evidence of intimidatory behaviour during the Tower Hamlets election court case, Richard Mawrey QC noted that the bar was just too high to meet the test in criminal law. He noted: "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."⁷⁷

The Pickles report also considered spiritual injury and conclude that retaining a spiritual element was required:

The potential for spiritual influence to be exercised in society may be increasing, and it is important that the legislation unambiguously protects voters of any faith from having their religious beliefs manipulated in order to prevent them freely exercising their vote.⁷⁸

The [Government response](#) to Lord Pickles, published in December 2016, agreed with him that the spiritual element of undue influence should be maintained.⁷⁹

4.3

Government consultation

The 2018 consultation, [Protecting the Debate: Intimidation, Influence, and Information](#) also included questions on the electoral crime of undue influence.

The Government's consultation agreed that the offence of undue influence should be retained and needed clarifying, saying the offence as currently drafted was complex and "difficult to interpret and use".⁸⁰

The Government asked questions on the scope of undue influence. It intended to maintain the general purpose of the offence, that it should refer to threats of violence, non-physical threats of harm, duress and should also continue to apply after polling day. For example, a person may be threatened or harmed after the election on account of having voted or refrained from voting.⁸¹

The Government consultation asked whether intimidation at a polling station should be included in the offence of undue influence and if so whether it

⁷⁶ BBC News, [Tower Hamlets election fraud mayor Lutfur Rahman removed from office](#), 23 April 2015

⁷⁷ Sir Eric Pickles, [Securing the ballot Report of Sir Eric Pickles' review into electoral fraud](#), August 2016, p9

⁷⁸ As above, p45

⁷⁹ Cabinet Office, [A democracy that works for everyone: a clear and secure democracy - government response to Sir Eric Pickles' review of electoral fraud](#), December 2016, p21

⁸⁰ Cabinet Office, [Protecting the Debate: Intimidation, Influence, and Information](#), 29 July 2018, p35

⁸¹ As above, pp36-7

should “include behaviour which falls below the current requirement of physical force, violence or restraint”.⁸²

4.4 Consultation responses

The response to the consultation attracted high levels of agreement on the proposals included in the consultation document. All respondents agreed that the offence needed greater clarity to make it clear and enforceable. There was clear support for maintaining the scope of the threat of harm to a voter as set out by the Government.

News Media UK argued that the redrafted offence should target more precisely threats of physical harm and abuse of position. It highlighted that any redrafting of the offence should remove any ambiguity in order to ensure that ‘harm’ could not extend to causing offence or hurt feelings, nor should it punish political fervour.⁸³

The Government response set out that the revised offence will encompass:

- physical acts of violence or threat of violence
- non-physical acts inflicting or threatening to inflict damage, harm or loss
- actions of duress
- actions of trickery
- acts which are intended to cause harm
- direct and indirect acts which cause the elector harm
- offences committed by or on behalf of a perpetrator in relation to acts that cause the elector harm and
- acts which are carried out before and after the election.⁸⁴

Polling stations

83% of respondents agree that the offence should capture intimidatory behaviour inside or outside polling stations. 73% of respondents agreed that

⁸² Cabinet Office, [Protecting the Debate: Intimidation, Influence, and Information](#), 29 July 2018, p39

⁸³ Cabinet Office, [Protecting the Debate: Intimidation, Influence, and Information: Government response](#) (PDF), May 2019, p27

⁸⁴ As above, p29

the definition should include behaviour which falls below the current requirement of physical force, violence, or restraint.⁸⁵

The Government intended to include intimidation inside or outside the polling station but acknowledged drafting the offence will be complex:

In terms of how the area included in ‘inside and outside a polling station’ would be defined or identified, the Government is aware that this won’t always be as straightforward as it may seem as a variety of buildings are used to hold polls. Polling places which house the polling stations, and the grounds they sit in, vary in size, shape and space and it is difficult to define a standard radius.⁸⁶

The revised wording of undue influence introduced by the 2022 Act does not specifically mention polling stations. During the debate on the Bill Kemi Badenoch, then a minister in the Department of Levelling Up, Housing and Communities, said the revised wording was aimed at addressing the issue of intimidation outside polling stations and would address concerns raised by the Pickles report.⁸⁷

⁸⁵ Cabinet Office, [Protecting the Debate: Intimidation, Influence, and Information: Government response](#) (PDF), May 2019, p30

⁸⁶ Cabinet Office, [Protecting the Debate: Intimidation, Influence, and Information](#), 29 July 2018, p30

⁸⁷ [HC Deb 19 October 2021, c231](#)

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