Kim Webber B.Sc. M.Sc.
Chief Executive

52 Derby Street
Ormskirk
West Lancashire
L39 2DF

12 March 2018

TO: COUNCILLORS **I MORAN, D WESTLEY, I DAVIS, J DAVIS, MRS J MARSHALL AND K WRIGHT**

ALSO INVITED: **THE INDEPENDENT PERSON (MR S IBBS)**
THE RESERVE INDEPENDENT PERSON (MR S GARVEY)

Dear Councillor,

A meeting of the **STANDARDS COMMITTEE** will be held in the **CABINET/COMMITTEE ROOM - 52 DERBY STREET, ORMSKIRK L39 2DF** on **TUESDAY, 20 MARCH 2018** at **5.00 PM** at which your attendance is requested.

Yours faithfully

Kim Webber
Chief Executive

AGENDA
(Open to the Public)

1. APOLOGIES

2. MEMBERSHIP OF THE COMMITTEE

To be apprised of any changes to the membership of the Committee in accordance with Council Procedure Rule 4. This rule should only apply to the Standards Committee in exceptional circumstances and if the nominated substitute has been appropriately trained.

3. DECLARATIONS OF INTEREST 35 - 36

If a Member requires advice on Declarations of Interest, he/she is advised to contact the Borough Solicitor in advance of the meeting. (For the assistance of members a checklist for the use in considering their position on any particular item is included at the end of this agenda sheet).

4. URGENT BUSINESS

Note: No other business is permitted unless, by reason of special circumstances, which shall be specified at the meeting, the Chairman is of the opinion that the item(s) should be considered as a matter of urgency.

5. PUBLIC SPEAKING 37 - 40

Residents of West Lancashire, on giving notice, may address the meeting to make representations on any item on the agenda except where the public and press are to be excluded during consideration of the item. The deadline for submission is 10.00am on Friday 16 March 2018. A copy of the public speaking protocol and form to be completed is attached.

6. MINUTES 41 - 44

To receive as a correct record the minutes of the last meeting of the Committee held on 19 September 2017

7. COMPLAINTS STATISTICS 45 - 50

To consider the report of the Borough Solicitor

8. IP PROTOCOL 51 - 58

To consider the report of the Borough Solicitor

9. OFFICERS' CODE OF CONDUCT 59 - 82

To consider the report of the Borough Solicitor

10. INTIMIDATION IN PUBLIC LIFE 83 - 172

To consider the report of the Borough Solicitor

11. GUIDANCE FOR NEWLY ELECTED/CO-OPTED PARISH COUNCILLORS

To receive an oral update from the Borough Solicitor

12. STAKEHOLDER CONSULTATION: NATIONAL REVIEW OF LOCAL 173 -

	GOVERNMENT ETHICAL STANDARDS	188
	To consider the report of the Borough Solicitor	
13.	**REQUEST FOR PARISH COUNCIL REPRESENTATION ON STANDARDS COMMITTEE**	189 - 194
	To consider the report of the Borough Solicitor	
14.	**WORK PROGRAMME**	195 - 196

We can provide this document, upon request, on audiotape, in large print, in Braille and in other languages.

FIRE EVACUATION PROCEDURE: Please see attached sheet.
MOBILE PHONES: These should be switched off or to 'silent' at all meetings.

For further information, please contact:-
Sue Griffiths on
Or email susan.griffiths@westlancs.gov.uk

FIRE EVACUATION PROCEDURE FOR:
COUNCIL MEETINGS WHERE OFFICERS ARE PRESENT
(52 DERBY STREET, ORMSKIRK)

PERSON IN CHARGE:	Most Senior Officer Present
ZONE WARDEN:	Member Services Officer / Lawyer
DOOR WARDEN(S)	Usher / Caretaker

IF YOU DISCOVER A FIRE

1. Operate the nearest **FIRE CALL POINT** by breaking the glass.
2. Attack the fire with the extinguishers provided only if you have been trained and it is safe to do so. **Do not** take risks.

ON HEARING THE FIRE ALARM

1. Leave the building via the **NEAREST SAFE EXIT. Do not stop** to collect personal belongings.
2. Proceed to the **ASSEMBLY POINT** on the car park and report your presence to the **PERSON IN CHARGE.**
3. **Do NOT** return to the premises until authorised to do so by the PERSON IN **CHARGE.**

NOTES:
Officers are required to direct all visitors regarding these procedures i.e. exit routes and place of assembly.
The only persons not required to report to the Assembly Point are the Door Wardens.

CHECKLIST FOR PERSON IN CHARGE

1. Advise other interested parties present that you are the person in charge in the event of an evacuation.
2. Make yourself familiar with the location of the fire escape routes and informed any interested parties of the escape routes.
3. Make yourself familiar with the location of the assembly point and informed any interested parties of that location.
4. Make yourself familiar with the location of the fire alarm and detection control panel.
5. Ensure that the zone warden and door wardens are aware of their roles and responsibilities.
6. Arrange for a register of attendance to be completed (if considered appropriate / practicable).

IN THE EVENT OF A FIRE, OR THE FIRE ALARM BEING SOUNDED

1. Ensure that the room in which the meeting is being held is cleared of all persons.
2. Evacuate via the nearest safe Fire Exit and proceed to the **ASSEMBLY POINT** in the car park.
3. Delegate a person at the **ASSEMBLY POINT** who will proceed to **HOME CARE LINK** in order to ensure that a back-up call is made to the **FIRE BRIGADE.**
4. Delegate another person to ensure that **DOOR WARDENS** have been posted outside the relevant Fire Exit Doors.

5. Ensure that the **ZONE WARDEN** has reported to you on the results of his checks, **i.e.** that the rooms in use have been cleared of all persons.
6. If an Attendance Register has been taken, take a **ROLL CALL.**
7. Report the results of these checks to the Fire and Rescue Service on arrival and inform them of the location of the **FIRE ALARM CONTROL PANEL**.
8. Authorise return to the building only when it is cleared to do so by the **FIRE AND RESCUE SERVICE OFFICER IN CHARGE**. Inform the **DOOR WARDENS** to allow re-entry to the building.

NOTE:
The Fire Alarm system will automatically call the Fire Brigade. The purpose of the 999 back-up call is to meet a requirement of the Fire Precautions Act to supplement the automatic call.

CHECKLIST FOR ZONE WARDEN

1. Carry out a physical check of the rooms being used for the meeting, including adjacent toilets, kitchen.
2. Ensure that **ALL PERSONS,** both officers and members of the public are made aware of the **FIRE ALERT.**
3. Ensure that **ALL PERSONS** evacuate **IMMEDIATELY,** in accordance with the **FIRE EVACUATION PROCEDURE.**
4. Proceed to the **ASSEMBLY POINT** and report to the **PERSON IN CHARGE** that the rooms within your control have been cleared.
5. Assist the **PERSON IN CHARGE** to discharge their duties.

It is desirable that the **ZONE WARDEN** should be an **OFFICER** who is normally based in this building and is familiar with the layout of the rooms to be checked.

INSTRUCTIONS FOR DOOR WARDENS

1. Stand outside the **FIRE EXIT DOOR(S)**
2. Keep the **FIRE EXIT DOOR SHUT.**
3. Ensure that **NO PERSON,** whether staff or public enters the building until **YOU** are told by the **PERSON IN CHARGE** that it is safe to do so.
4. If anyone attempts to enter the premises, report this to the **PERSON IN CHARGE.**
5. Do not leave the door **UNATTENDED.**

MEMBERS INTERESTS 2012

A Member with a disclosable pecuniary interest in any matter considered at a meeting must disclose the interest to the meeting at which they are present, except where it has been entered on the Register.

A Member with a non pecuniary or pecuniary interest in any business of the Council must disclose the existence and nature of that interest at commencement of consideration or when the interest becomes apparent.

Where sensitive information relating to an interest is not registered in the register, you must indicate that you have an interest, but need not disclose the sensitive information.

Please tick relevant boxes

	General		Notes
1.	I have a disclosable pecuniary interest.	☐	*You cannot speak or vote and must withdraw unless you have also ticked 5 below*
2.	I have a non-pecuniary interest.	☐	*You may speak and vote*
3.	I have a pecuniary interest **because** it affects my financial position or the financial position of a connected person or, a body described in 10.1(1)(i) and (ii) **and** the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest or it relates to the determining of any approval consent, licence, permission or registration in relation to me or a connected person or, a body described in 10.1(1)(i) and (ii) **and** the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest	☐ ☐	*You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below* *You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below*
4.	I have a disclosable pecuniary interest (Dispensation 20/09/16) or a pecuniary interest but it relates to the functions of my Council in respect of:		
(i)	Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease.	☐	*You may speak and vote*
(ii)	school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends.	☐	You may speak and vote
(iii)	Statutory sick pay where I am in receipt or entitled to receipt of such pay.	☐	*You may speak and vote*
(iv)	An allowance, payment or indemnity given to Members	☐	*You may speak and vote*
(v)	Any ceremonial honour given to Members	☐	*You may speak and vote*
(vi)	Setting Council tax or a precept under the LGFA 1992	☐	*You may speak and vote*
5.	A Standards Committee dispensation applies (relevant lines in the budget – Dispensation 20/09/16 – 19/09/20)	☐	*See the terms of the dispensation*
6.	I have a pecuniary interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose	☐	*You may speak but must leave the room once you have finished and cannot vote*

'disclosable pecuniary interest' (DPI) means an interest of a description specified below which is your interest, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

Interest	***Prescribed description***
Employment, office, trade, profession or vocation	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.
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 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.

"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 notice to the Monitoring Officer of a DPI; "relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband or wife or a person with whom M is living as if they were civil partners;

"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 and other securities of any description, other than money deposited with a building society.

'non pecuniary interest' means interests falling within the following descriptions:

10.1(1)(i) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) Any body (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;

(iii) Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.

10.2(2) A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a connected person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

'a connected person' means

(a) a member of your family or any person with whom you have a close association, or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph 10.1(1)(i) or (ii).

'body exercising functions of a public nature' means

Regional and local development agencies, other government agencies, other Councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

A Member with a personal interest who has made an executive decision in relation to that matter must ensure any written statement of that decision records the existence and nature of that interest.

NB Section 21(13) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.

PUBLIC SPEAKING – PROTOCOL

(For meetings of Cabinet, Overview & Scrutiny Committees, Audit & Governance Committee and Standards Committee)

1.0 Public Speaking

1.1 Residents of West Lancashire may, on giving notice, address any of the above meetings to make representations on any item on the agenda for those meetings, except where the public and press are to be excluded from the meeting during consideration of the item.

1.2 The form attached as an Appendix to this Protocol should be used for submitting requests.

2.0 Deadline for submission

2.1 The prescribed form should be received by Member Services by 10.00 am on the Friday of the week preceding the meeting. This can be submitted by e-mail to member.services@westlancs.gov.uk or by sending to:

Member Services
West Lancashire Borough Council
52 Derby Street
Ormskirk
West Lancashire
L39 2DF

2.2 Completed forms will be collated by Member Services and circulated via e-mail to relevant Members and officers and published on the Council website via Modgov. Only the name of the resident and details of the issue to be raised will be published.

2.3 Groups of persons with similar views should elect a spokesperson to speak on their behalf to avoid undue repetition of similar points. Spokespersons should identify in writing on whose behalf they are speaking.

3.0 Scope

3.1 Any matters raised must be relevant to an item on the agenda for the meeting.

3.2 The Borough Solicitor may reject a submission if it:

(i) is defamatory, frivolous or offensive;

(ii) is substantially the same as representations which have already been submitted at a previous meeting; or

(iii) discloses or requires the disclosure of confidential or exempt information.

4.0 Number of items

4.1 A maximum of one form per resident will be accepted for each Agenda Item.

4.2 There will be a maximum of 10 speakers per meeting. Where there are more than 10 forms submitted by residents, the Borough Solicitor will prioritise the list of those allowed to speak. This will be considered having regard to all relevant matters including:

a. The order in which forms were received.
b. If one resident has asked to speak on a number of items, priority will be given to other residents who also wish to speak
c. Whether a request has been submitted in relation to the same issue.

4.3 All submissions will be circulated to Members of the relevant body and officers for information, although no amendments will be made to the list of speakers once it has been compiled (regardless of withdrawal of a request to speak).

5.0 At the Meeting

5.1 Speakers will be shown to their seats. At the commencement of consideration of each agenda item the Leader/Chairman will invite members of the public to make their representations. Residents will have up to 3 minutes to address the meeting. The address must reflect the issue included on the prescribed form submitted in advance.

5.2 Members may discuss what the speaker has said along with all other information, when all public speakers on that item have finished and will then make a decision. Speakers should not circulate any supporting documentation at the meeting and should not enter into a debate with Councillors.

5.4 If residents feel nervous or uncomfortable speaking in public, then they can ask someone else to do it for them. They can also bring an interpreter if they need one. They should be aware there may be others speaking as well.

5.5 Speakers may leave the meeting at any time, taking care not to disturb the meeting.

(Please see attached form.)

REQUEST FOR PUBLIC SPEAKING AT MEETINGS

MEETING & DATE ……

NAME ……

ADDRESS ……

……

Post Code ……

PHONE ……

Email ……

Please indicate if you will be in attendance at the meeting

YES/NO*

*delete as applicable

Note: This page will not be published.

(P.T.O.)

PLEASE PROVIDE DETAILS OF THE MATTER YOU WISH TO RAISE

Agenda Item Number …….

Title ……..

Details …….

……

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……

Name …… Dated ……

Completed forms to be submitted by 10.00am on the Friday of the week preceding the meeting to:-

Member Services, West Lancashire Borough Council, 52 Derby Street, Ormskirk, Lancashire, L39 2DF or
Email: member.services@westlancs.gov.uk

If you require any assistance regarding your attendance at a meeting (including access) or if you have any queries regarding your submission please contact Member Services on 01695 585065

Note: This page will be published.

STANDARDS COMMITTEE **HELD: Tuesday, 19 September 2017**

Start: 5.00 pm
Finish: 5.15pm

PRESENT:

Councillor:	D Westley (Vice Chairman in the Chair)	
Councillors:	I Davis	Mrs J Marshall
	J Davis	K Wright
In attendance:	Mr S Garvey (Reserve Independent Person)	
Officers:	Borough Solicitor (Mr T Broderick) Legal & Member Services Manager (Mr M Jones) Principal Overview and Scrutiny Officer (Mrs C Jackson)	

1 **APOLOGIES**

Apologies for absence were submitted on behalf of Mr S Ibbs (Independent Person).

2 **MEMBERSHIP OF THE COMMITTEE**

There were no changes to Membership of the Committee

3 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

4 **URGENT BUSINESS**

There were no items of urgent business.

5 **PUBLIC SPEAKING**

There were no items under this heading.

6 **MINUTES**

RESOLVED That the minutes of the last meeting of the Committee held on 21 March 2017 be approved as a correct record and signed by the Vice Chairman.

7 ANNUAL MONITORING OF TRAINING 2016/2017

Consideration was given to the report of the Borough Solicitor as circulated and contained on pages 11 – 15 of the Book of Reports which detailed training undertaken in 2016/17 and its effectiveness in relation to the Code of Conduct and standards.

Reference was made to the annual training scheduled to take place on 20 September 2017 and the external induction training offered to newly elected Borough Councillors.

RESOLVED That the training undertaken and the evaluation of it be noted.

8 STANDARDS COMMITTEE ANNUAL REPORT 2016/2017

The Borough Solicitor presented the Standards Committee Annual Report as circulated and contained on pages 17 – 25 of the Book of Reports.

RESOLVED That the Standards Committee Annual Report 2016/17, attached as an Appendix to the report be noted, endorsed and published on the Council's website.

9 COMPLAINTS STATISTICS

The Committee considered the complaints statistics for 2016/17 as set down at pages 27 to 32 of the Book of Reports.

RESOLVED That the Standards Complaints Statistics, attached at Appendix 1 to the report, be noted.

10 WORK PROGRAMME

Consideration was given to the Work Programme as circulated and contained on page 33 of the Book of Reports.

The ensuing discussion highlighted training offered to Parish Councillors and the Borough Solicitor undertook to bring a report to the next meeting outlining an approach to support, particularly new elected/co-opted, Parish Councillors, in their role.

RESOLVED That an item on guidance for newly elected/co-opted Parish Councillors be added to the Committee's Work Programme.

……..
Chairman

STANDARDS COMMITTEE
20 MARCH 2018

Report of: Borough Solicitor

Contact for further information: Mrs S Griffiths (Extn 5097)
(E-mail: susan.griffiths@westlancs.gov.uk)

SUBJECT: COMPLAINTS STATISTICS

Wards affected: Borough wide.

1.0 PURPOSE OF THE REPORT

1.1 To provide statistical information in relation to Standards Complaints.

2.0 RECOMMENDATION

2.1 That the Standards Complaints Statistics, attached at Appendix 1, be noted.

3.0 CURRENT POSITION

3.1 Attached at Appendix 1 is statistical information provided in relation to Standards Complaints for 2017/18, period 1 April 2017 to 12 March 2018.

4.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

4.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

5.0 FINANCIAL AND RESOURCE IMPLICATIONS

5.1 There are no significant financial or resource implications arising from this report.

6.0 RISK ASSESSMENT

6.1 This item does not require a formal risk assessment and no changes have been made to risk registers as a result of this report.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Appendices

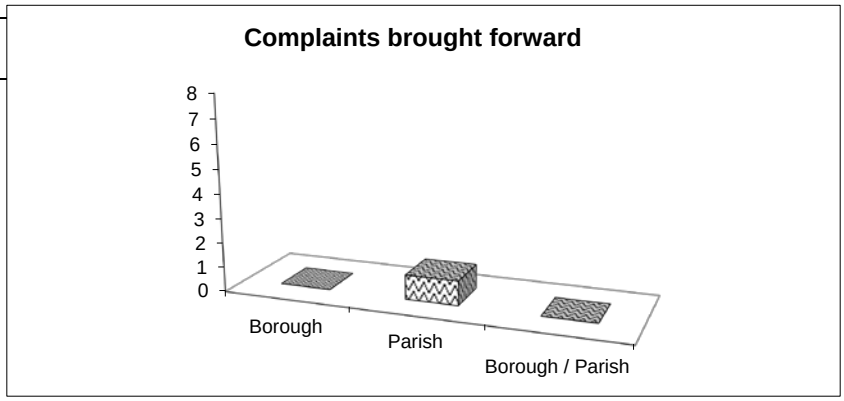
Appendix 1 - Standards Complaints 2017/18 (1 April 2017 to 12 March 2018)

STANDARDS COMPLAINTS 2017 / 2018

As at 12/03/18

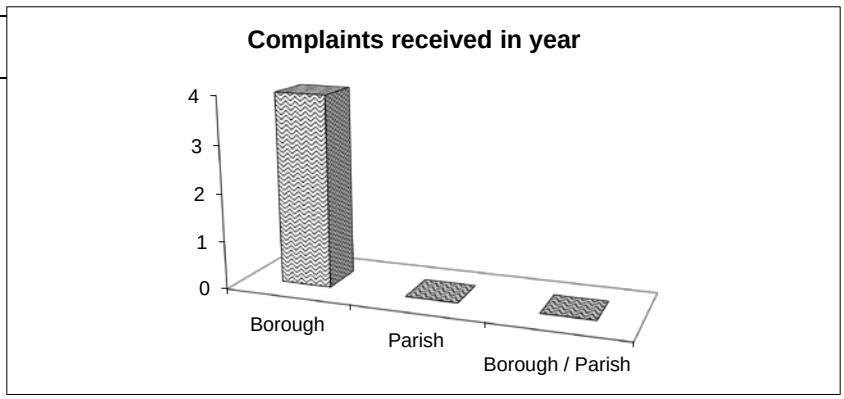
Complaints brought forward from previous year

Borough	0
Parish	1
Borough / Parish	0
Total	1



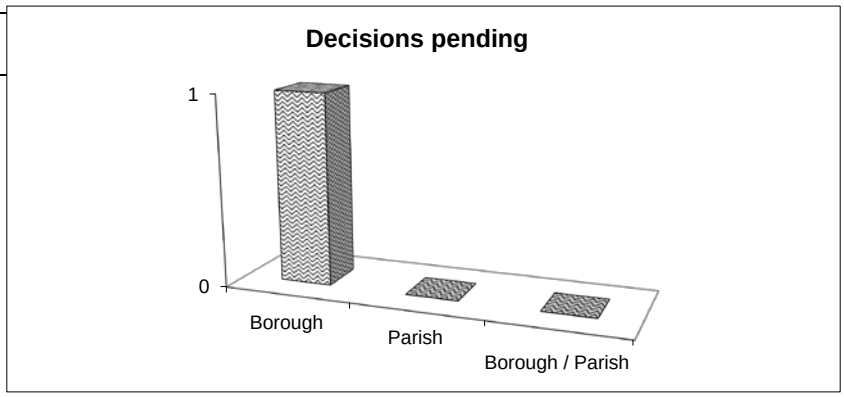
Complaints received in year

Borough	4
Parish	0
Borough / Parish	0
Total	4



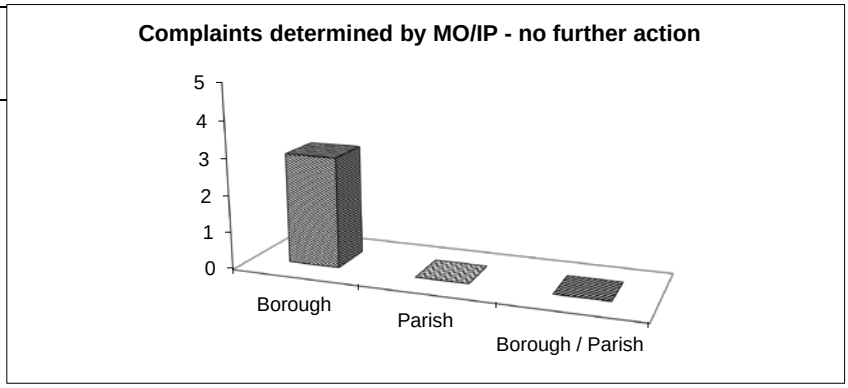
Decisions pending

Borough	1
Parish	0
Borough / Parish	0
Total	1



Monitoring officer in consultation with IP - complaint does not merit further action

Borough	3
Parish	0
Borough / Parish	0
Total	3



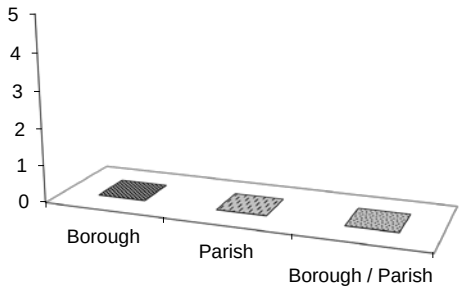
STANDARDS COMPLAINTS 2017 / 2018

As at 12/03/18

MO in consultation with IP - complaint can be resolved without need for formal investigation

Borough	0
Parish	0
Borough / Parish	0
Total	0

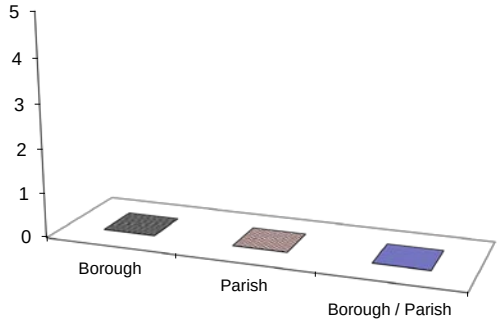
Complaints determined by MO/IP - resolve without need for formal investigation (local resolution).



MO in consultation with IP - complaint requires formal investigation

Borough	0
Parish	0
Borough / Parish	0
Total	0

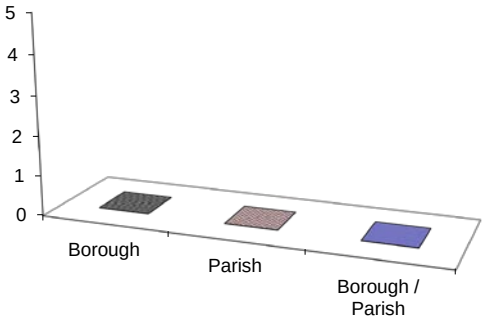
Complaints determined by MO/IP - require formal investigation.



MO in consultation with IP - Complaint referred to the Police as potentially criminal.

Borough	0
Parish	0
Borough / Parish	0
Total	0

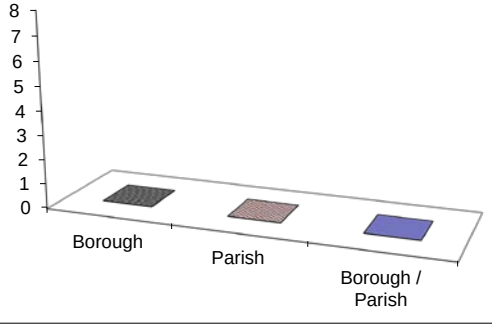
Complaints determined by MO/IP - referred to Police as potentially criminal.



MO in consultation with IP - complaints referred to Assessment sub-committee for consideration

Borough	0
Parish	0
Borough / Parish	0
Total	0

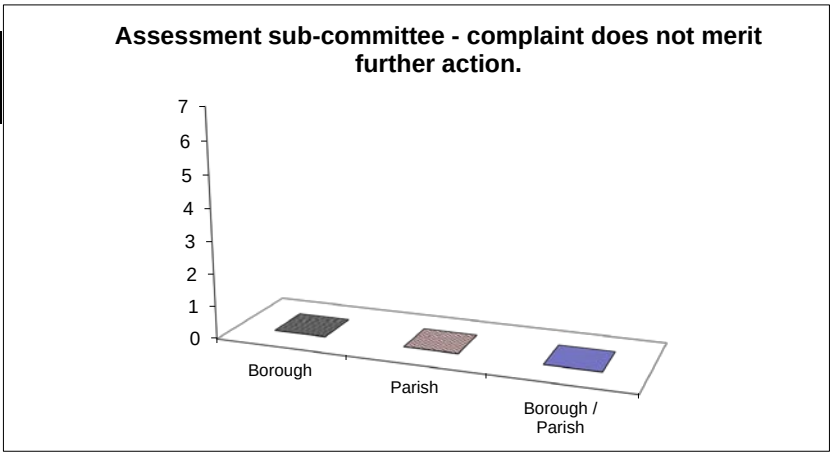
Complaints referred to Assessment sub-committee by MO/IP.



As at 12/03/18

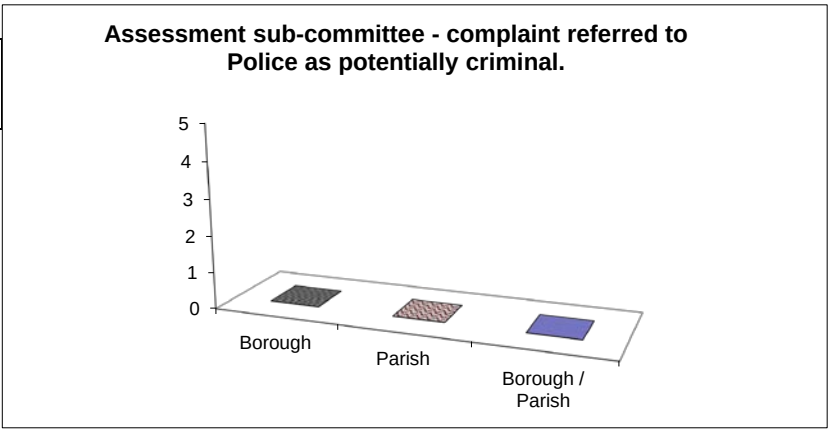
Assessment sub-committee - complaint does not merit further action

Borough	0
Parish	0
Borough / Parish	0
Total	0



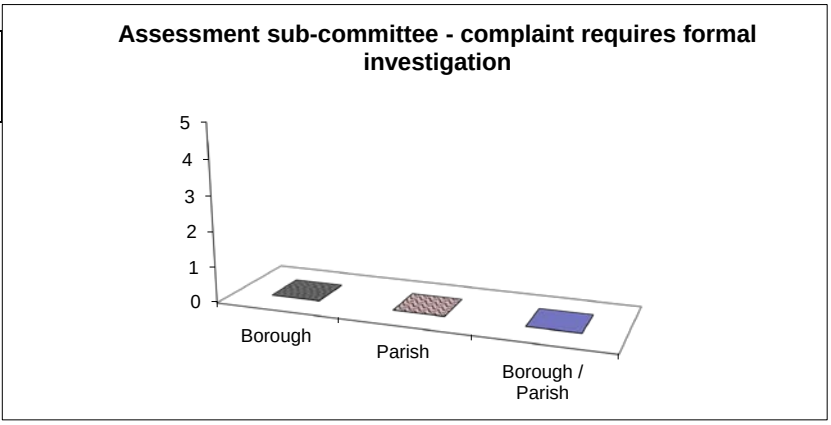
Assessment sub-committee - complaint referred to the Police as potentially criminal

Borough	0
Parish	0
Borough / Parish	0
Total	0



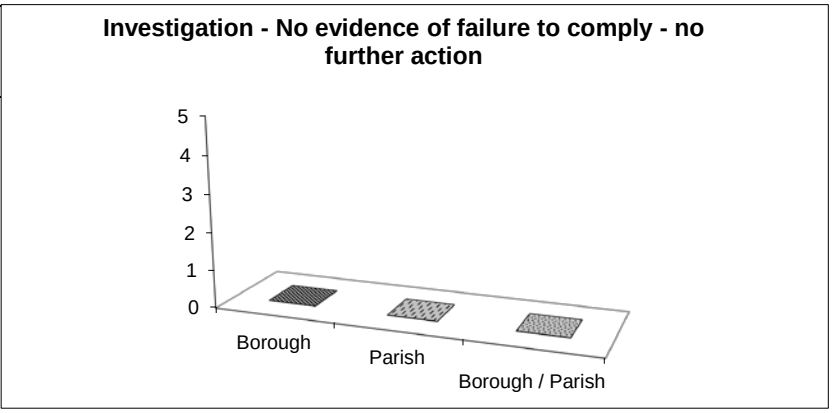
Assessment sub-committee - complaint requires formal investigation

Borough	0
Parish	0
Borough / Parish	0
Total	0



Investigation - No evidence of failure to comply - no further action

Borough	0
Parish	0
Borough / Parish	0
Total	0

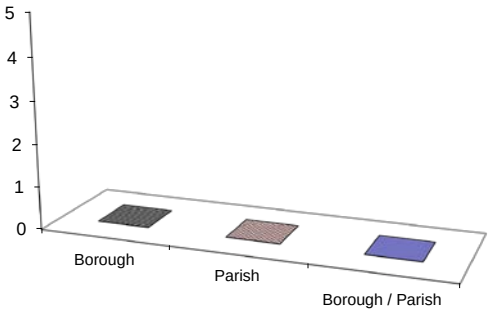


As at 12/03/2108

Investigation - finds breach - local resolution through MO & IP

Borough	0
Parish	0
Borough / Parish	0
Total	0

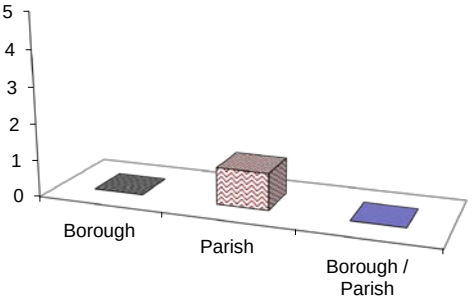
Investigation - finds breach - local resolution through MO & IP.



Investigation - finds breach - referred to the Hearing sub - committee for local hearing.

Borough	0
Parish	1
Borough / Parish	0
Total	1

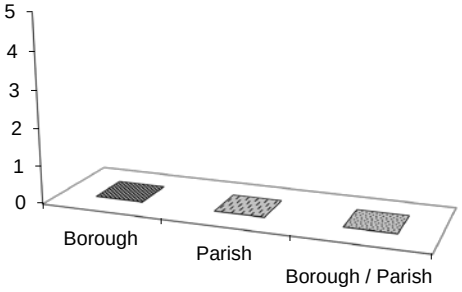
Investigation - finds breach - referred to the Hearing sub-committee for local hearing.



Hearing sub-committee - no breach found following hearing

Borough	0
Parish	0
Borough / Parish	0
Total	0

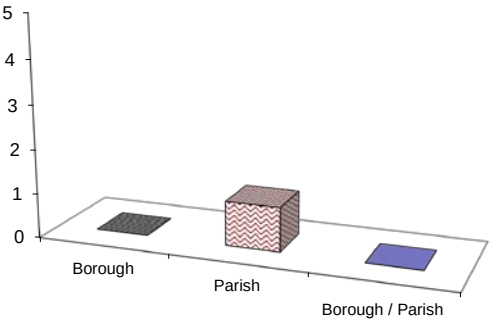
Hearing sub-committee - no breach found following hearing.



Hearing sub-committee - breach found and sanction(s) applied.

Borough	0
Parish	1
Borough / Parish	0
Total	1

Hearing sub-committee - breach found and sanction(s) applied.



STANDARDS COMMITTEE:
20 MARCH 2018

Report of: Borough Solicitor

Contact for further information: Mrs S Griffiths (Extn. 5097)
(E-mail: susan.griffiths@westlancs.gov.uk)

SUBJECT: INDEPENDENT PERSON – PROTOCOL

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To review the Independent Person Protocol.

2.0 RECOMMENDATIONS

2.1 That the Independent Person Protocol, attached at Appendix 1, be endorsed.

2.2 That the Independent Person Protocol shall not be brought to the Committee for routine annual review.

3.0 BACKGROUND

3.1 The statutory role of the Independent Person appointed under Section 28(7) of the Localism Act 2011 is to the assist the Council to discharge its duty to promote and maintain high standards of conduct amongst Members and Co-opted Members both of the Borough Council and those Parish Councils within the Borough.

3.2 The Independent Person Protocol (Constitution 16.5), has been adopted to clarify how the Independent Person will fulfil this role.

3.3 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (the Regulations) introduced a requirement that the Council provide revised arrangements for disciplinary action in respect of its statutory officers, i.e. the Head of Paid Service, The Chief Financial Officer and the Monitoring Officer. The Regulations also provided an additional role for Independent Persons.

3.4 Following consideration by the Standards Committee on 29 March 2016, the Independent Person recognised the extension to their role and amendments to the Independent Person Protocol and Indemnity arrangements (Constitution 17.3). It is noted that the Independent Person may decline a request to be involved then the Council will seek to reply on reciprocal arrangements with nearby local authorities.

4.0 CURRENT POSITION

4.1 Following the introduction of the Independent Person Protocol in July 2013, the Committee has annually reviewed the Protocol.

4.2 The latest version of the Independent Protocol, is attached at Appendix 1.

5.0 PROPOSALS

5.1 The position in regard to the role of the independent person under the statutory regime, and how this fits within the Council's processes, has now become firmly established. It is proposed therefore that for the future consideration of the Independent Person Protocol be brought to committee where appropriate rather than as an annual review, e.g. where there is any change in the role of the Independent Person or if the Committee requires it.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

6.1 There are no significant sustainability impacts associated with the report. Promoting and maintaining high ethical Standards contributes to achievement of the Community Strategy.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

7.1 The Independent Person and the Reserve Independent Person receive a small allowance in line with recommendations made by the Council's Independent Remuneration Panel. Any additional payment, up to the level of the standards remuneration would be paid for any relevant disciplinary action in which they agreed to take a role. This would be met from within existing budgets.

7.2 Should a claim be made that is covered by the Indemnity Arrangements then details of the financial implications will be reported back to the Members of the Committee.

8.0 RISK ASSESSMENT

8.1 There are no risks to the Council’s business objectives associated with the Protocol.

Background Documents
There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment
The decision does not have any direct impact on members of the public, employees and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices
Appendix 1 Independent Person Protocol (Constitution

INDEPENDENT PERSON PROTOCOL

The statutory role of an Independent Person appointed under Section 28(7) of the Localism Act 2011 is to assist the Council to discharge its duty to promote and maintain high standards of conduct amongst Members and Co-opted Members both of the Borough Council and those Parish Councils within the Borough.

This protocol has been established to clarify how the Independent Person will fulfil this role:

1. Considering complaints of failure to comply with the Members' Code of Conduct

1.1 The Monitoring Officer (MO) will seek the views of the Independent Person (IP) before determining whether a written complaint merits formal investigation, recognising that where appropriate the MO will seek to resolve complaints without formal investigation.

1.2 The MO has been given discretion by Council to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision and report to Standards Committee on the discharge of this function.

1.3 Following consideration of a written complaint, a decision letter will be issued by the MO which will record that the IP has been consulted and that their views have been taken into account.

1.4 Where at any time the IP is unable to act because of a conflict of interest or because they are otherwise unavailable their role will be carried out by the Reserve Independent Person (Reserve).

2. Matters under investigation

2.1 The MO may consult the IP at any stage during the process.

2.2 Where a matter has been referred to the Standards Committee for determination, the Committee may seek the views of the IP before reaching its conclusions.

2.3 The IP may be consulted by a member or co-opted member of the Council or of a Parish Council against whom a complaint has been made.

3.0 Decisions

3.1 The IP must be consulted before a finding is made as to whether a member has failed to comply with the Code of Conduct; or action to be taken in respect of that member (this means on a decision to take no action where the investigation finds no evidence of breach or, where the investigation finds evidence that there has been a breach, on any local resolution of the complaint, or on any finding of breach and on any decision on action as a result of that finding);

4.0 Relationship with the Standards Committee

4.1 The Standards Committee and MO are responsible for ensuring that the Council meets its duty to promote and maintain high standards. However, the IP has the right to be consulted on any proposed changes to the Code of Conduct or procedures for handling allegations.

4.2 The IP and Reserve shall receive agendas and minutes of all meetings of the Standards Committee and shall be entitled to attend those meetings and, with the agreement of the Chairman, speak at the Committee.

5.0 Advisory role in relation to disciplining of statutory officers

5.1 The Independent Person and/or the Reserve may be requested to form (part of) a Panel (Committee) for the purpose of advising the Council on all matters relating to the dismissal of the Head of the Paid Service, Monitoring Officer or Chief Finance Officer in accordance with the requirements of the Local Authorities (Standing Orders) (Amendment) Regulations 2015. It is noted that the Independent Person and Reserve may chose not to accept such an appointment.

6.0 Other matters

6.1 The IP and Reserve have the right of access to confidential information required to carry out their role. Access to such information shall be agreed with the MO. In carrying out the role the IP and Reserve shall keep confidential all confidential information they shall receive or become aware of in undertaking their duties. Access to such information shall be agreed with the MO except where it shall otherwise come into the possession of the IP or Reserve in the course of performing their role.

6.2 The IP and Reserve have the right of access to Council buildings in order to carry out their role. Access should be agreed with the MO.

6.3 The IP and Reserve are expected to declare any relevant interests in relation to cases to the MO who will decide whether the interests conflicts them out of involvement in the matter. In carrying out their respective roles the IP and Reserve shall have regard to the principles set out in the annex to this agreement.

6.4 The Council shall indemnify the Independent Person and Reserve in relation to the carrying out of their duties. * (whether in relation to their standards role or in their disciplinary role) in accordance with the terms of the Indemnity 2008 (see Constitution 17.3)).

ANNEX

PRINCIPLES

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.

STANDARDS COMMITTEE
20 MARCH 2018

Report of: Borough Solicitor

Contact for further information: Mrs S Griffiths (Extn 5097)
(E-mail: susan.griffiths@westlancs.gov.uk)

SUBJECT: OFFICERS' CODE OF CONDUCT

Wards affected: Borough wide.

1.0 PURPOSE OF THE REPORT

1.1 To review the Officers' Code of Conduct (the Code).

2.0 RECOMMENDATION

2.1 That the Officer Code of Conduct as attached at Appendix A be approved.

3.0 BACKGROUND

3.1 The Officers' Code of Conduct is included at 17.1 of the Constitution and applies to all employees under a contract of employment with the Council. It provides a very clear framework for employees to follow and ensures that high standards are maintained.

3.2 The current Code is attached to this report as an Appendix.

4.0 CURRENT POSITION

4.1 The Code was last updated in March 2016. In accordance with good practice the Code is reviewed from time to time. The long anticipated national code for officers has not been issued and accordingly local authorities devise their own standards. There are though certain statutory restrictions which are mentioned in the Code. The existing Code has the benefit of being long-standing and well understood by officers as well as proving itself an effective regulatory arrangement.

4.2 As a result of changes in the Council's management structure the Code has been updated and is attached with the tracked changes shown. The finalised version will show the changes made inserted into the document subject to any further input and consideration of members.

5.0 SUSTAINABILITY IMPLICATIONS

5.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

6.1 There are no significant financial or resource implications arising from this report.

7.0 RISK ASSESSMENT

7.1 This item does not require a formal risk assessment and no changes have been made to risk registers as a result of this report.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Appendix A – Officer Code of Conduct

Officers' Code of Conduct

CONTENTS

Introduction - Status of the Code
- Who the Code is aimed at
- Form of the Code

1. **Standards**

2. **Disclosure of Information**

3. **Political Neutrality**

4. **Relationships**

5. **Appointment and other employment matters**

6. **Outside commitments**

7. **Personal Interests**

8. **Equality Issues**

9. **Separation of roles during tendering**

10. **Corruption and Bribery**

11. **Use of financial resources**

12. **Hospitality**

13. **Sponsorship - giving and receiving**

14. **Use of Council facilities**

15. **Dress Code**

INTRODUCTION

The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code provides guidance to assist employees of West Lancashire Borough Council in their day-to-day work.

Status of the Code

The Code has been adopted by the Council and sets out the standards that apply. The aim of the Code is to lay down guidelines for employees which will help establish standards and protect employees from misunderstanding or criticism.

The Code is not intended to prohibit all social involvement with the outside world, nor would it be right to restrict private dealings between employees and any particular person or body. It is, however, important that employees judge the wisdom of their actions not by any comparison with the practices which, no doubt for good reasons, are followed in the private sector, but rather by reference to the traditional public service principles of accountability and responsibility.

The Code cannot cover all cases likely to arise in practice, but the principles certainly do. Ultimately the Council relies on the integrity, common sense and professional judgement of individual employees. You should not hesitate at any time to seek advice from your Director/Head of Service either on the interpretation of the Code, or, when circumstances arise which it does not cover.

Who the Code is aimed at

The Code applies to all employees under a contract of employment with the Council. Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. Activities carried out by employees, acting in the course of their employment, as members of companies or voluntary organisations should also be subject to the standards within the Code.

This Code is designed to help employees maintain the standards required of public officials. You should be aware that actions which are clearly contrary to the Code may provide evidence which could be considered gross misconduct and potentially lead to disciplinary action in accordance with the Council's Disciplinary Policy and Procedure.

Form of the Code

The Code takes the form of a statement of the standard which applies, followed by explanatory notes on that standard. I am pleased to endorse the Code. Local Government has for the most part a very good reputation and West Lancashire has been an exemplar in the way that staff go about their

business in a fair, impartial and honest way. This Code of Conduct provides a very clear framework for employees to follow and ensures that we maintain our current high standards.

Kim Webber
Chief Executive

March 2018

CODE OF CONDUCT

1.0 Standards

1.1 Employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality. Employees will be expected, through the local procedure referred to below and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report any impropriety or breach of procedure using this local procedure, or where appropriate, the Council's Whistleblowing Code at Constitution 17.2.

Notes:

Paragraph 2.1 of Part 2 of the National Scheme of Conditions of Service for Local Government Services Employees says "Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained."

Similar provisions are incorporated in the national conditions of service of Chief Officers.

Local Procedure

The employee should raise any deficiency in the provision of service with his/her immediate manager. If the circumstances inhibit reference to the immediate manager then an approach should be made to the appropriate senior manager. If the employee is not satisfied with the response then he/she should raise the matter with a more senior manager or relevant Director/Head of Service/Chief Executive.

2.0 Disclosure of Information

2.1 It is generally accepted that open government is best as is confirmed in the Freedom of Information Act 2000. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The Council itself has decided to be open about some other types of information as set out in the Council's Publication Scheme. Conversely, the Council is committed to keeping confidential matters in relation to staff and customers out of the public domain. It expects all those serving the Council to handle all individuals' personal information in a sensitive and professional manner and in line with the Council's Data Protection Policy. Employees must be aware of which information the Council is not open about, and act accordingly. Details can be found at schedule 1.

2.2 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Official information which has not been made public and is still confidential should not be disclosed to the press or made public without authority. Any particular information received by an employee from a councillor which is personal to that councillor and does not belong to the authority should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.

Notes:

No officer shall communicate to the public the proceedings of any committee meeting, etc., nor the content of any document relating to the authority unless required by law or expressly authorised to do so.

Information concerning an officer's private affairs shall not be supplied to any person outside the service of the employing authority unless the consent of such officer is first obtained.

The Local Government Act 1972, Section 100A - 100K provides for public access to the meetings and documents of the Council together with additional information which it is required to publish. Any person having custody of documents to which right of access applies would commit an offence by obstructing that right.

3.0 Political Neutrality

3.1 Employees serve the Council as a whole. It follows that they must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.

3.2 Subject to the Council's conventions, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality, see the guidelines attached as schedule 2.

3.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council whilst at work and must not allow their own personal or political opinions to interfere with their work.

Notes:

The Local Government & Housing Act 1989, Part I - contains provisions to stop "twin-tracking" (where a senior local authority employee is also an elected member of another local authority) and to restrict the political activity of senior employees and those operating in politically sensitive areas. Local authority employees holding politically restricted posts are disqualified from

membership of any local authority, other than a parish or community council, from being an MP or MEP and are subject to prescribed restrictions on their political activity.

The Local Government Officers (Political Restriction) Regulations 1990 and the Local Government (Politically Restricted Posts) (No.2) Regulations 1990 – detail the restrictions on the public political activities of local government officers who are appointed to or employed in posts which are politically restricted. The political restrictions are deemed to be incorporated in the contract of employment of every local authority employee who holds a politically restricted post.

4.0 Relationships

4.1 Councillors

4.1.1 Employees are responsible to the Council through its senior managers. For some, their role is to give advice to councillors and senior managers and all are there to carry out the Council's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

Notes:

Both Councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, its Committees and Sub-Committees and/or Cabinet.

The law and Officer Employment procedure rules lay down the rules for appointment, discipline and dismissal of staff. Councillors must ensure that they observe these scrupulously at all times. Special rules apply to the appointment of assistants to political groups. In all other circumstances, if Councillors are called upon to take part in appointing an officer, the only question they should consider is which candidate would best serve the whole council. They should not let their political or personal preferences influence their judgement. They should not canvass the support of colleagues for any candidate and they should resist any attempt by others to canvass theirs.

Useful reference can be made to the *Protocol on Member/Officer Relations at Constitution 16.2*

4.2 The local community and service users

4.2.1 Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.

4.3 Contractors

4.3.1 All relationships of a business or private nature with external contractors, or potential contractors, should be declared. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

4.3.2 Employees who engage or supervise contractors or have any other official relationship with contractors and who have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship.

4.3.3 Declarations arising from 4.3.1 and 4.3.2 above should be made under the mechanism set out below.

Notes:

Local Government Act 1972 - Section 117 - pecuniary interests - provides that if an officer knows that a contract in which he has a pecuniary interest whether direct or indirect has been, or is proposed to be, entered into by the local authority, he must give notice of his interest to the authority. This does not, of course, apply to a contract with him in his own name because the authority will then know of his interest.

Employees should also abide by the following:-

"(1) In addition to his duty under section 117 of the 1972 Act if it comes to the knowledge of any officer of the authority that he has a disclosable pecuniary interest in any contract which has been, or is proposed to be, entered into by the authority, or in some other matter which is to be considered by Council or Cabinet or any Committee or Sub-Committee, and which (in either case) is not

(a) the contract of employment (if any) under which he serves the authority, or

(b) the tenancy of a dwelling or domestic garage provided by the authority, he shall as soon as practicable give notice in writing to the proper officer of the fact that he is interested therein.

(2) For these purposes, a disclosable pecuniary interest is an interest that, if the officer were a member of the council, and if the contract or other matter were to be considered at a meeting of the council at which he were present, he would have to disclose a disclosable pecuniary interest or pecuniary interest**.**

(3) The Chief Executive of the Council shall record in a book to be kept for the purpose, particulars of any notice given by an officer of the council under section 117 of the Local Government Act, 1972, of a pecuniary interest in a contract, and the book shall be open during office hours to the inspection of any member of the council.

(4) Where an officer submits a report to a meeting on a matter in which he has declared an interest under section 117 of the 1972 Act or paragraph (1), he shall state that such declaration has been made, and give brief details of it, in a separate paragraph at the commencement of the report.

(5) Where any officer advises orally a meeting of the council, the committee or a sub-committee on a contract, grant, proposed contract or other matter and has declared a pecuniary interest in that matter, whether under the requirements of section 117 of the 1972 Act, or of paragraph (1), he shall remind the meeting orally of that interest."

The Council's Contract Procedure Rules at Constitution 12 together with EU legislation set out the Council's standards in this area.

Mechanism for Employees to declare any non-financial or financial interest

A Declaration shall be made by giving notice in writing to the Chief Executive of the relationship/interest. The Chief Executive shall, via the Assistant Member Services Manager, record it in a book kept for the purpose and the book shall be open during office hours to the inspection of any member of the Council.

N.B. Financial interest includes, for example, shareholdings and offers of future employment

5.0 Appointment and other employment matters

5.1 Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be

involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.

5.2 Similarly, employees should not be involved in decisions relating to discipline or pay for any other employee who is a relative, partner, etc.

Notes:

Every candidate for any appointment under the Council shall, when making an application, disclose whether to his knowledge he is related to any member of the authority or to a holder of any senior office under the authority.

Deliberate omission to make such a disclosure will disqualify the candidate, and if the omission is discovered after appointment he should be liable to dismissal. Every member and senior officer of the authority shall similarly disclose to the authority any relationship known to him to exist between himself and a candidate for an appointment of which he is aware. It shall be the duty of the Chief Executive to report to the authority or appropriate committee any such disclosure.

The Officer Employment Procedure Rules at Constitution 13 prescribe the procedure to be followed in respect of the appointment of Chief Officers and their dismissal in the event of misconduct.

See also - *section 7, Local Government and Housing Act 1989* for appointment on merit and the Council's Codes of Practice on Recruitment and Equality in Employment.

6.0 Outside commitments

6.1 Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests.

Notes:

The Council stresses to employees of all grades that they should not undertake outside work if their official duties overlap in some way with their proposed work, if it causes a conflict of interest, if by its nature it will come before the Council or an officer for approval, or if it makes use of material to which the employee has access by virtue of his or her position (e.g. a planner who draws up plans within his or her own authority for an applicant for planning consent). It is irrelevant whether or not the work is paid.

An officer's off duty hours are his personal concern but he should not subordinate his duty to his private interests or put himself in a position where his duty and his private interests conflict. The employing authority should not attempt to preclude officers from undertaking additional employment, but any such employment must not, in the view of the authority, conflict with or react

detrimentally to the authority's interests, or in any way weaken public confidence in the conduct of the authority's business. Reference should be made to the Council's Working Time Policy in relation to the notification of secondary jobs.

Officers above scale 6 shall devote their whole time service to the work of their council and shall not engage in any other business or take up any other additional appointment without the express consent of the council.

No outside work of any sort should be undertaken in the office and use of facilities e.g. telephones, internet, email or access to typists is forbidden. Employees are also advised that correspondence and incoming telephone calls related to outside work are not allowed.

Procedure for seeking permission

The employee should complete the relevant form for the Chief Executive or relevant Director/Head of Service requesting permission and giving full details of the business to be engaged in, or the additional appointment. The Chief Executive or Director/Head of Service will consider the matter and may ask for further information. He/she will then grant or refuse permission, on the relevant form and forward a copy of the form to the Assistant Member Services Manager, who will record it in the Register of Outside Commitments.

6.2	Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment, as set out below.

Notes:

Intellectual property

Intellectual property is a generic term that includes inventions, creative writings and drawings. If these are created by the employee during the course of employment, then as a general rule, they belong to the employer. However, various acts of parliament cover different types of intellectual property.

The Council will regard intellectual property and copyright created during employment as belonging to it. If an employee wishes to use or benefit from the same, the express consent of the Chief Executive must be sought e.g. writing for a local government journal on matters pertaining to work related issues.

Inventions and patents

Inventions made before 1st June 1978 are the property of the employer if made in the course of that employer's employment. However, the Patents Act 1977 states that after 1st June 1978 inventions are only the property of the employer if, they have been made in the course of the employees normal duties; or they have been made in the course of duties specifically assigned to

the employee and where invention might be reasonably expected; or it was made in the course of the employees duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

7.0 Personal Interests

7.1 Employees must declare any financial interests which could conflict with the Council's interests.

7.2 Employees must declare any non-financial interests they consider could bring about conflict with the Council's interests e.g. kinship; friendship; freemasonry, membership of a society, organisation or trades union; involvement with a school or other organisation receiving grant aid from the authority; membership of a national health service trust board; involvement with an organisation or pressure group which may seek to influence the Council's policies.

7.3 Declarations arising from 7.1 and 7.2 above should be made under the mechanism set out in the notes to 4.3 above.

Notes:

See also paragraph 4.3 of this Code in relation to contractors and the notes thereon. These refer to areas other than contracts where pecuniary interests should be disclosed even though there is no statutory requirement.

Remuneration from a person or body which has dealings with the Council is a direct interest. If the remuneration were to be paid by the person or body to a spouse, this would be regarded as direct financial interest.

Employees should carefully consider their positions to avoid conflict of interest where either there is a direct financial interest but no contract, or they or their spouses are receiving remuneration from a person or body which is dealing with the Council.

"Remuneration" includes commission, honoraria, dividends, agency fees and interest as well as salary, wages, or fees.

There may be a conflict of interest even where no financial interest or advantage exists or accrues. This covers areas where relationships might be seen to influence judgements and convey the impression of personal motive. A simple example is where a council employee, who acts as an honorary officer of a voluntary association, is also directly involved during the course of his or her employment with claims for grant from the association.

A good test is to ask yourself whether others would think that the interest is of a kind to make it possible that you might be acting from personal motives. Normally ordinary membership of a national organisation would not need to be declared e.g. National Trust, RSPB, Unison.

8.0 Equality issues

8.1 All employees should ensure that policies relating to equality issues as agreed by the Council are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

Notes:

Please see the Council's current policies on *"Equality Statement"* and *"Equality in Employment Policy"* which comply with the requirements of the *Equality Act 2010*, together with the "*Dignity at Work policy"* available from Human Resources or on the Council's Intranet.

9.0 Separation of roles during tendering

9.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client contractor roles within the council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

9.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

9.4 Employees contemplating a management buy out should, as soon as they have formed a definite intent, inform the Chief Executive and withdraw from the contract awarding processes.

9.5 Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

Notes:

The Council's *Contract Procedure Rules and Financial Regulations at Constitution 11 and Constitution 12,* together with EU legislation, set out the Council's standards.

The internal arrangements for the client and contractor functions are designed to resolve any conflict which may arise.

10.0 Corruption and Bribery

10.1 It is an offence to bribe another person i.e. promise or give a financial or other advantage to another person with the intention of inducing that person to perform improperly a function or activity. Likewise, employees are guilty of an offence if they agree to receive or accept a financial or other advantage intending that in consequence a function or activity should be performed improperly

Notes:

Employees should be extremely cautious when, in a private capacity, they use the services of persons or bodies which they know to have dealings with the Council. It may sometimes be difficult to find persons or bodies which are not dealing with an Authority the size of West Lancashire and employees may often have such dealings without knowing of the relationship with the Council.

(a) Goods or services for private use may be bought from persons or bodies trading with the council, providing the price offered is readily available to the general public either directly or by way of a recognised trading organisation or discount scheme.

(b) Where, however, an employee has good reason to believe, that an offer of preferential terms, might in fact be a specific inducement in the form of either goods or services, to promote a person's or body's interest, he or she should decline to have such dealings. An employee should not use his or her position with the council to obtain a discount. Purchase of goods and services at discounted rates under a scheme or arrangement which applies to members of trade unions or employees as a whole are excluded from this paragraph.

(c) Employees should avoid contact with persons or bodies engaged in "pressure selling" where personal inducements are offered in return for orders. The proper action is for the employee concerned to report the matter to the Chief Executive or relevant Director/Head of Service immediately.

To avoid any suggestion of restraint of trade and unfair discrimination against any particular person or body, employees involved should always explain diplomatically the dangers to both parties inherent in such preferential offers.

The procedures by which the Council selects developers or consultants for schemes and for the supply of goods are clearly defined in the Council's Contract Procedure Rules and Financial Regulations at Constitution 11.1 and are publicly known.

See also paragraph 4.3 of this Code in relation to contractors and paragraph 7 of this code in relation to personal interests and the notes thereon.

Local Government Act 1972 - Section 117(2) - forbids an officer "under cover of his office or employment" to accept "any fee or reward" whatsoever other than proper remuneration.

Under the *Bribery Act 2010* it is an offence for employees to be bribed and consequently perform a function or activity improperly or to bribe another person to perform improperly.

See also paragraph 12 of this Code in relation to hospitality and gifts and the notes thereon and paragraph 13 in relation to sponsorship.

11.0 Use of financial resources

11.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value to the local community and to avoid legal challenge to the Council.

Notes:

See the Council's *Financial Regulations at Constitution 11.1*. See also the local procedure provided at Paragraph 1.

12.0 Hospitality and Gifts

12.1 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. They should be properly authorised and recorded, see the procedures and standards attached at schedule 3.

12.2 When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards as set out in schedule 3, operating within the Council.

12.3 When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.

12.4 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where attendance has been authorised and provided any purchasing decisions are not compromised.

12.5 Employees should not accept significant personal gifts from contractors and outside suppliers, although the Council may wish to allow employees to keep insignificant items of token value such as pens, diaries etc., see schedule 3 as to the principles to be applied here.

Notes:

Contract Procedure Rule 14(iv) provides "The Senior Officer shall be aware of the Bribery Act 2010 which introduces general offences of offering or receiving bribes, a specific offence of bribing a foreign public official and the corporate offence of failing to prevent bribery; and the Council's Anti-Fraud, Bribery and Corruption Strategy.

The following clause shall be inserted in every written Council contract:

'*The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things*:

(a) offer, give or agree to give to anyone any inducement or reward in relation to the improper performance of any function or activity in respect of this or any other Council contract (even if the Contractor does not know what has been done) or
(b) commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972 or
(c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees. Any clause limiting the Contractor's liability shall not apply to this clause' "

13.0 Sponsorship - Giving and Receiving

13.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

13.2 Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure of any such interest through the mechanism set out in the notes to 4.3 above. Similarly, where the Authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

14.0 Use of Council Facilities

14.1 Employees of the Council are provided with facilities including office equipment, and secretarial services etc., to use in carrying out their official duties only.

14.2 The use of computer facilities is governed by the Council's IT Security Policy.

14.3 Telephones may be used, on occasions, by employees for private local calls if it is not practicable to make such calls out of office hours. The use of mobile telephones should similarly be restricted and should not be used during working hours for general conversation.

14.4 Employees of the Council are generally not entitled to free or concessionary use of Council owned facilities such as sports centre, public halls etc, except where this is specifically required as part of their employment, in order to maintain fitness or competence or a specific scheme has been agreed.

15.0 Dress Code

15.1 Many employees will come into contact with the public each day and a smart appearance and courteous, helpful manner is essential. Personal hygiene is also an important factor. Certain employees are provided with appropriate clothing or protective equipment to ensure the proper performance of their duties. Other employees must wear a uniform as a condition of employment e.g. Customer Services. Additional guidance on dress code is available on the Council's intranet

SCHEDULE 1
(Paragraph 2.1)

INFORMATION THE COUNCIL IS OR IS NOT OPEN ABOUT

In certain circumstances employees may have a legal or professional duty to disclose information to a third party (e.g. in the course of legal proceedings).

In addition, the following should be taken into account:-

(a) Information should not be released to the media by individual employees except where they have been appointed or authorised for a specific purpose.

(b) Information which is confidential should not be disclosed to third parties except in response to a formal request from (i) an approved source e.g. HM Revenues and Customs, Departments for Work and Pensions or (ii) Bank Managers or Building Society Managers (where authorised)

(c) Employees are not encouraged, when acting in a private capacity, to comment publicly on the Council's policies or a specific decision. However, in circumstances where employees find it necessary to make public comment, they are expected to exercise prudence, discretion and to properly recognise the fact that the Council is their employer. It is recognised that there will be grounds for such comment in exceptional cases e.g.

    (i) recognised trade union officials issuing statements on behalf of their trade union, commenting on a matter relating to the Council.

    (ii) statements made by staff acting as officials of bodies such as parish councils or community associations.

(d) Advance knowledge of any impending council decision, particularly those relating to investment decisions or proposed developments, should not be used to further private interest.

(e) All employees should be circumspect in what is said outside the office about matters going on inside it.

Note 1. The requirements of the Data Protection and Freedom of Information Acts should be taken into account in respect of the above and advice sought from DP Link Officers, IAOs or the SIRO as required.

2. Please do not hesitate to seek advice in this area, either from the Chief Executive, relevant Director or Legal Services should issues of confidentiality arise.

Please also see Constitution 6 Access to Information Procedure Rules.

SCHEDULE 2
(Paragraph 3.2)

GUIDELINES ON THE CIRCUMSTANCES IN WHICH EMPLOYEES MAY ADVISE POLITICAL GROUPS AND WHETHER SUCH ADVICE IS CONFIDENTIAL TO THAT GROUP

1. Please see paragraphs 3 and 5 of the Convention for the Management of Council Business at Constitution 18.

2. Advice to all Council members must be even handed. If the advice of officers is sought by and offered to a particular group on the Council, consideration must be given as to whether or not similar facilities should be afforded to other groups of members.

SCHEDULE 3
(Clauses 12 and 13)

PROCEDURES FOR AUTHORISING AND RECORDING ACCEPTED OFFERS OF HOSPITALITY AND GIFTS, AND STANDARDS AND PRINCIPLES IN RESPECT OF THE SAME

1.0 Hospitality

1.1 A reasonable amount of hospitality is a normal part of the courtesies of public life creating contacts that can aid the Council's interests. However, it is important that attendance at any event or activity does not create an appearance of improper influence thus undermining public confidence.

1.2 Where hospitality is offered to employees as official representatives of the Council, it will normally be authorised where it appears appropriate and reasonable to accept. However, when hospitality is offered to individual employees, special caution is needed where the host is seeking to do business with the Council or to obtain a decision from it. Whether to accept an offer or not is often a question of judgement and the following checklist should help Officers to decide:

- Is the donor or event significant in the community or in the Council's area?
- Are you expected to attend because of your position in the community or Council?
- Will the event be attended by others of a similar position?
- What is the motivation behind the invitation?
- Would acceptance of the invitation be in any way inappropriate or place you under pressure in relation to any current or future issue involving the Council?
- Could you justify your attendance to the Council, press or public?
- Does the extent of the hospitality seem reasonable and appropriate and do you feel comfortable with the decision?

The following examples of acceptable and unacceptable hospitality are intended to give general advice only and must not be construed as being exhaustive.

1.3 **Acceptable Hospitality**

(a) An invitation to a society, institute or other dinner or function, related to local government, where the employee represents the Council or attends by virtue of his or her professional position.

(b) An invitation to a trade fair or similar event where there is a general invitation to customers.

(c) Drinks and food provided in the course of normal business, for example lunch at a Contractor's expense during a meeting or event.

1.4 **Unacceptable Hospitality**

(a) The offer of a free or subsidised holiday

(b) The offer of free or subsidised hotel accommodation, theatre tickets or tickets for a sporting event.

(c) The offer of free or subsidised use of a flat or hotel suite.

(d) The offer of free or subsidised membership of clubs e.g. leisure club, golf club etc.

1.5 It is generally more acceptable to join in hospitality offered to a group, than to accept something unique to an individual. When a particular person or body has a matter currently in issue with the Council (e.g. an arbitration arising from a contract or a development proposal) an offer of hospitality should clearly be refused even if, in normal times, it would be acceptable.

2.0 Gifts

2.1 There are two considerations when gifts are offered: the nature of the gift in terms of value; and, the motivation of the giver. Most organisations, as part of their normal commercial activity, distribute gifts which range from the promotional e.g. calendars, diaries, etc., to the more expensive e.g. wines and spirits. The more expensive gifts are obviously distributed where they will have the greater specific impact. All this is often commonplace and acceptable conduct in the private sector, but the requirements of the public sector are very different.

2.2 Employees should refuse any personal gift offered to them by any person or body who has or seeks dealings with the Council. The exceptions to this are:-

(a) modest promotional material of low value such as calendars and diaries which are, in many cases, unsolicited and simply delivered by post. Even here, however, employees should use judgement and more expensive commercial items should be refused or returned.

(b) small gifts of a token value, given on the conclusion of a courtesy visit to a factory or other premises, of a sort normally given by that person or body.

(c) a small gift of token value, where refusal would cause needless offence and the giver is not currently seeking a decision or business from the

Council, but merely wishes to express thanks for advice, help or co-operation received.

2.3 When a gift has to be refused and/or returned this should be done with tact and courtesy so as not to cause offence.

2.4 It is sometimes acceptable to the giver, for a gift which in other circumstances would be refused as in 2.3 above, to be donated instead to charity. An arrangement of this sort should only be made with the approval of the Chief Executive or relevant Director/Head of Service.

3.0 Register of Accepted Offers of Hospitality and Gifts

3.1 All offers of hospitality which an employee decides to accept; other than hospitality of a nominal value only (e.g. an offer of a drink following a site visit or an invitation to a working lunch of a modest standard provided to allow the parties to discuss business) or hospitality arising as part of an authorised conference or course; should be reported to the Chief Executive or relevant Director/Head of Service, in writing, on the relevant form, with the employees detailed comments as to why it would be appropriate to accept the same. The Chief Executive or Director/Head of Service will then make a decision whether or not to authorise acceptance of the offer in line with the standards set out above and endorse the form accordingly. If acceptance is authorised the employee should forward the form to the Assistant Member Services Manager so that the same can be recorded in the Register of hospitality and gifts.

3.2 The Chief Executive or relevant Director/Head of Service and the Assistant Member Services Manager should be advised of all gifts accepted in accordance with the principles referred to above, other than those of modest promotional material of low value such as calendars and diaries, by completing the relevant form, so that the details can be included in the Register.

STANDARDS COMMITTEE
20 MARCH 2018

Report of: Borough Solicitor

Contact for further information: Mrs S Griffiths (Extn 5097)
(E-mail: susan.griffiths@westlancs.gov.uk)

SUBJECT: INTIMIDATION IN PUBLIC LIFE

Wards affected: Borough wide.

1.0 PURPOSE OF THE REPORT

1.1 To note the report of the Committee on Standards in Public Life entitled "Intimidation in Public Life" (attached as an Appendix).

2.0 RECOMMENDATION

2.1 That the report be noted.

3.0 CURRENT POSITION

3.1 The Committee on Standards in Public Life published its report in December 2017 in response to the increasing prevalence of intimidation in public life. The report presents evidence showing the extent and seriousness of the problem and has found intimidation taking place across the political spectrum, both in terms of those engaging in intimidation and those receiving it.

3.2 The Committee on Standards in Public Life are committed to considering further the issue of intimidation of local councillors as part of their forthcoming review of local government standards.

3.3 One recommendation arising from the report is the requirement for Monitoring Officers to bring the availability of sensitive interests in the Localism Act 2011 to the attention of councillors. Suitable notifications are issued to Councillors to highlight the provisions in relation to sensitive interests and these are reflected in the Council's Members' Code of Conduct. Processes and training also serve to make councillors aware of the facility provided. An example of the process is the "interests sheet" which forms part of every agenda for a council meeting includes reference to the provision on sensitive interests.

4.0 SUSTAINABILITY IMPLICATIONS

4.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

5.0 FINANCIAL AND RESOURCE IMPLICATIONS

5.1 There are no significant financial or resource implications arising from this report.

6.0 RISK ASSESSMENT

6.1 This item does not require a formal risk assessment and no changes have been made to risk registers as a result of this report.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Appendix – Report of the Committee on Standards in Public Life “Intimidation in Public Life”

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

Cm 9543

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

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

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

Introduction

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

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

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

Terms of reference

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

The review should:

- examine the nature of the problem and consider whether measures already in place to address such behaviour are sufficient to protect the integrity of public service; and whether such measures are (a) effective, especially given the rise of social media, and (b) enforceable
- produce a report, including recommendations for action focused on what could be done in the short and long-term and identifying examples of good practice

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

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

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

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

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

Overview of the report

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

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

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

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

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

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

Chapter 1
Intimidation in public life

What is the problem?

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

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

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

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

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

Sarah Lesiter-Burgess

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

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

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

Rachel Maclean MP

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

2 Written Submission 44 (Sarah Lesiter-Burgess)

3 Written Submission 49 (Rachel Maclean MP)

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

Jess Phillips MP
(quoted by National Democratic Institute for International Affairs)

What we have seen

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

Rehman Chishti MP

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

Findings from evidence submitted to the Committee:

33% of candidates surveyed had experienced 'inappropriate' behaviour during the election campaign[6]

56% of candidates surveyed are concerned about abuse and intimidation, and 31% say they are fearful[7]

No female MP who was active on Twitter has been free from online intimidation[8]

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 MPs[9]

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 Rüdig, Professor Rosie Campbell)
15 Dr Lisa Cameron MP, Individual Oral Evidence, 1 November 2017
16 Luciana Berger MP, Individual Oral Evidence, 20 November 2017
17 Written Submission 51 (Councillor Ameet Jogia)
18 Written Submission 82 (Equality and Human Rights Commission)

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

> "That level of lively knockabout, which has happened all my adult life, has not changed. What has changed is the sense that the views of the other are illegitimate. The thought is that 'your views are illegitimate; you should be silenced."[19]
>
> **Nick Robinson**

The wide reach of intimidation

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

What can be done?

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

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

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

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

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

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

19 Nick Robinson, Individual Oral Evidence, 6 September 2017

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

Chapter 2
Social media

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

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

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

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

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

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

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

Is this abuse anything new?

> "Abuse of parliamentary candidates is not a new phenomenon, but evidence would suggest that with the growth of social media, candidates are more exposed and open to abuse which is taking place on a larger scale than even five years ago."[22]
>
> **All Party Parliamentary Group Against Antisemitism**

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

21 Written Submission 87 (Amnesty International)
22 Written Submission 34 (All Party Parliamentary Group Against Anti-Semitism)
23 Submission 10 (Sir Ronald Watson CBE)

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

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

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

What has changed?

The scale

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

The accelerating pace of political debate

> "The existing social media platforms are being used to perform a specific democratic function for which they were not designed."[27]
>
> **BCS – The Chartered Institute for IT**

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

The volume of messages

> "Some MPs receive an average of 10,000 messages per day."[28]
>
> **BCS – The Chartered Institute for IT**

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

> "Social media also bleeds into your 24 hours home life, at night the tweets come in when you're cooking your kids' tea or going to bed. There is little place to hide."[29]
>
> **Lisa Robillard Webb**

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

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 Shrimsley, Financial Times

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

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

"Our target is to review a flagged video and make a decision as quickly as possible."[72]

Google

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

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

Twitter

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

The government should ensure that this recommendation is written into their code of practice for social media companies, which was required in Section 103 of the Digital Economy Act 2017.[73]

Promoting swift and constructive escalation to the police

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

"Now the loud aggressor...can find a direct line to the...individual elected members they vehemently disagree with."[74]

Public Submission

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

72 Written Submission (Google follow-up)

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

74 Written Submission 22 (Norm Cooper)

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

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

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

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

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

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

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

Addressing intimidation online during election campaigns

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

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

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

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

76 Facebook, Individual Oral Evidence, 23 June 2009

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

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

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

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

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

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

This pop-up 'one stop shop' for elections should provide support to social media users by providing a means by which to report inappropriate behaviour to the social media companies. It should also provide advice on escalating any complaints of illegal behaviour to the police. The pop-up social media reporting team should also proactively search election hashtags and key accounts to identify and report intimidatory behaviour.

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

> "We almost need some kind of response service where we actually stand up for each other online to get away from the situation where if someone is attacking you, you feel a thousand eyes looking at you and you feel alone."[80]
>
> **BCS – The Chartered Institute for IT**

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

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

Providing support and training to candidates

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

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

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

> "We had an email from Facebook, but it was more of a 'come and make a candidate page'. We have had nothing from the social networks since."[81]
>
> **Green Party**

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

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

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

Chapter 3
Political parties

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

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

> "They are interested in what they can use you for, not always on you as an individual, or what is particularly difficult for you."[83]
>
> **Sarah Olney**

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

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

Political parties have not done enough in any of these three areas so far. Given the seriousness of the step-change in the intimidation of Parliamentary candidates and others in public life in recent years, the political parties have a responsibility to come together and engage constructively on these issues. The cost to democracy of not doing so is to 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 Rüdig, 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 others[100]

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

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

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

Sanctions, discipline and enforcement

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

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

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

> "Parties were not expecting the snap election, and didn't have always the infrastructure to make sure that they controlled the frontline of campaigning."[103]
>
> **Electoral Commission**

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

100 https://www.conservatives.com/codeofconduct
101 https://www.conservatives.com/volunteercode
102 Written Submission 67 (Conservative Party)
103 Electoral Commission, Oral Evidence, 25 October 2017

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

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

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

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

Collecting data on intimidation

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

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

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

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

Fringe groups

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

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

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

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

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

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

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

A joint code of conduct

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

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

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

Dr Lisa Cameron MP

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

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

Professor Mark Philp

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

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

107 Written Submission 54 (Professor Sarah Birch)

108 Professor Mark Philp, Roundtable, 12 September 2017

> "There are accusations of another political party being involved – I asked if they [the other party] would investigate but they would say no."[109]
>
> **Lee Scott**

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

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

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

Providing support to Parliamentary candidates

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

> "There were instances where I had to attend meetings as a candidate and I knew I would face abuse but I didn't get a response from the party. When you think there is a high risk and you highlight it, you should get some support and guidance."[110]
>
> **Dr Lisa Cameron MP**

> "Being a candidate is a lonely experience."[111]
>
> **Lee Scott**

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

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

109 Lee Scott, Individual Oral Evidence, 11 October 2017

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

111 Lee Scott, Individual Oral Evidence, 11 October 2017

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

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

> "I feel that as I am not in a winnable or marginal seat I am given less attention even though the abuse is the same."[113]
>
> **Lisa Robillard Webb**

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

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

Promoting and supporting diversity

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

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

> "Some of it aims to attack women in public life – whether Labour, Tory, SNP – they get a visceral response. It is almost asking, 'what are you doing in a public space?"[114]
>
> **Rt Hon Diane Abbott MP**

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

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

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

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

113 Written Submission 36 (Lisa Robillard Webb)

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

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

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

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

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

Social media: supporting candidates

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

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

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

> "…cross-party activity has to be there. We have to create the equivalent of the physical social norming whereby if one of your party members at a hustings starts being stupid then everyone rolls their eyes."[119]
>
> **BCS – The Chartered Institute for IT**

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

115 Aimee Challenor, Green Party, Individual Oral Evidence, 21 September 2017
116 Baroness Brinton, Liberal Democrats, Public Hearing, 14 December 2017
117 John Vincent, Roundtable, 12 September 2017
118 Lisa Robilliard Webb, Roundtable, 12 September 2017
119 David Evans, BCS - the Chartered Institute for IT, Roundtable, 12 September 2017

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.

120 Hansard HC Deb, 12 July 2017, Vol 627 Col 167WH

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 imprints[129] 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.

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]

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.

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 1997[137]

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 2003[139]

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

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

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

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

The CPS informed us that, overall, there has been a 68% rise in prosecutions of communications offences since 2013/14.[140]

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

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

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

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

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

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

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

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

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

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

Enforcement: policing

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

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

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

The Parliamentary Liaison and Investigation Team (PLaIT)

The Parliamentary Liaison and Investigation Team (PLaIT) is a specialist police team based in Parliament which was created to assess and address security threats to MPs. The unit provides support to individual MPs about security concerns and coordinates the response within local forces.[141]

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

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

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

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

141 Written Parliamentary Question 61644, 30 January 2017

142 PLaIT, Individual Oral Evidence, 21 August 2017

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

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

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

> "Other candidates do not have the support that we have. There is a real differential out there. It is about making sure that any candidate has the right to the same support when we reach an election period."[146]
>
> **Rt Hon Lindsay Hoyle MP, Deputy Speaker of the House of Commons**

The Committee also welcomes the recent approach taken by IPSA in taking personal security considerations into account in its publication policy, for example, by not publishing the start and end points of MPs' claimed journeys, or the names of MPs' landlords.[147] IPSA should remain alert to these considerations, particularly where a policy may disproportionately affect a particular group of MPs such as female MPs or those with families.[148]

National policing

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

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

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

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

144 PLaIT, Individual Oral Evidence, 21 August 2017

145 Parliamentary Security Directorate, Private Hearing, 14 September 2017

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

147 Written Submission 71 (IPSA)

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

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

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

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

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

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

Guidance during election periods

The Committee has found that there is a lack of policing guidance on offences which constitute intimidation during election periods. We have also heard evidence that local police sometimes conflate personal threats and public order offences. The College of Policing's Authorised Professional Practice (APP) guidelines for policing elections includes public order offences alongside electoral law offences, but these are generally framed in expectation of public protests, not the intimidation of Parliamentary candidates by whatever means. In particular, the APP makes no reference to harassment or offences that may be committed via social media during elections.[155]

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

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

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

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

153 Electoral Commission, Oral Evidence, 25 October 2017

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

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

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

Challenges to policing

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

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

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

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

Clarity and guidance for Parliamentary candidates

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

> "Anything that could be introduced to support MPs in their role would be very helpful, at the moment there is virtually nothing."[157]
>
> **Luciana Berger MP**

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

156 National Police Chiefs Council, Private Hearing, 14 September 2017
157 Luciana Berger MP, Individual Oral Evidence, 20 November 2017
158 National Police Chiefs Council, Private Hearing, 14 September 2017

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

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

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.

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.

Chapter 5
Taking responsibility

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

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

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

> "Enormous ad hominem [personal] attacks in Parliament are us spray-painting our own window…Those who choose to play the ball rather than the man or woman can hold strong views without treating the others as if they are scum of the earth."[159]
>
> **Rt Hon John Bercow MP, Speaker of the House of Commons**

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

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

> "I do believe that MPs should lead by example."[160]
>
> **Public Submission**

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

Leadership in opposing and reporting intimidation

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

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

159 John Bercow MP, Speaker of the House of Commons, Individual Oral Evidence, 5 September 2017
160 Written Submission 8 (Adam Finkel-Gates)

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

> "We need to build back to an era not of deference but of mutual respect. Politicians have a key role to play in that in how they behave and treat each other, and calling out behaviour."[161]
>
> **Brendan Cox**

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

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

Leadership in setting high ethical standards

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

The Seven Principles of Public Life were set out by the Committee in 1994 to set out the behaviours that the public expect of those in public life. In the face of the challenge of an intimidatory culture in public life, everyone in public life, including candidates, must play a role in rebuilding the public's trust in politics. One way of doing so is through ensuring that they show leadership in upholding ethical standards, so that their behaviour does not undermine or call into disrepute the institutions of which they are part.

> "Changing today's perceptions of politicians requires national effort by all involved in public service to demonstrate that they are there to help everybody and not to benefit themselves."[163]
>
> **Dr Clive Sneddon**

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

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

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

Due to the high profile and representative nature of their role, MPs have a particular responsibility to uphold the highest standards of ethical conduct. They should consistently and reliably demonstrate high standards of ethical behaviour, openness and accountability, and recognise that even small

161 Brendan Cox, Individual Oral Evidence, 7 November 2017

162 Edelman's Trust Barometer has recently suggested diminishing public trust in the UK government, public institutions, and political leaders. http://cfps.org.uk/wp-content/uploads/final2017trustbarometerukmediadeck-noembargo-170113165126.pptx

163 Written Submission 55 (Dr Clive Sneddon)

lapses can have a disproportionately damaging effect on public perceptions.[164]

> "There is a disjunct between politicians lecturing [the public], and people feeling they should practice what they preach. So there is a sense of hypocrisy which supercharges people's sense of distrust and animosity because it's not just the sense you're as bad as everyone else, but also tainted with the accusation of hypocrisy."[165]
>
> **Brendan Cox**

Parliament, like all other institutions in public life, is made up of individuals who of course make mistakes from time to time, and sometimes fail to live up to the standards expected of them. How mistakes are rectified is also important to maintaining public confidence.[166] Where breaches occur, MPs must demonstrate honesty and openness about those breaches, and seek to rectify any wrongdoing.

> "If we are to hold people to high standards of accountability, as part of the foundations of mutual respect, then we have to allow them to correct mistakes. Where a mistake has been honestly made, corrections should be welcomed and respected and enforced."[167]
>
> **Will Moy, Full Fact**

Setting the tone of debate

Alongside showing leadership by opposing and reporting intimidation, and by maintaining high ethical standards, those in public life must also take responsibility for the way in which they shape the public political culture.

When those in public life engage in political debate in a derogatory and abusive way, or engender prejudice or hatred towards individuals or groups, they poison the public political culture by lowering the standards of behaviour that everyone accepts as reasonable. In turn, this can create a context in which others feel it is appropriate to engage in intimidatory behaviour both online and offline. Those who engage in intimidation may feel that their actions do little to damage the integrity of public service if that integrity has already been breached by those in public offices.

> "The attitude that is communicated through Parliament is often quite derogatory towards the opposition...it appears that people feel like they can say what they like from behind their position of authority."[168]

Public discourse must allow significant and robust political disagreement, but without creating the conditions which encourage intimidatory behaviour. This can only occur when participants in public debate engage in a responsible way. This involves recognising others' freedom to participate in public life and to hold different points of view. We have heard evidence from some who have significant experience of public life that this recognition of the right to participate, and the responsibilities it carries, is fading.

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

165 Brendan Cox, Individual Oral Evidence, 7 November 2017

166 CSPL Public Attitudes Survey 2012, 3.2 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/337017/Public_Attitude_Survey_2012.pdf

167 Will Moy, Director, Full Fact, Individual Oral Evidence, 30 October 2017

168 Written Submission 17 (Confidential)

"We seem to have lost in this country in the past 15 to 20 years the ability to disagree well... We can have robust debate, but it is about the level of personal abuse and deliberately trying to undermine people."[169]

Baroness Brinton, Liberal Democrats

What is said in political campaigns and public political discussion reverberates throughout society. Our representative democracy has the House of Commons at its heart, so how MPs behave is crucially important to public discussion and debate, and public trust. But, it is not just Parliamentarians who shape the tone of public debate. Those in positions of leadership across public life also bear that responsibility and include councillors, candidates, people of positions of leadership in public bodies, and all those who deliver services to the public.

Those in public life have a responsibility to consider this when they make public statements. They need to think about how the tone they take shapes public debate. In the fast-paced world of politics, those in public life must make quick decisions about how they engage with their colleagues and opponents in the traditional media and online. Especially during election campaigns, there can be a temptation to engage in political discourse which undermines an opponent's right to participate and engage in public life, or to hold a different view from their own.

"When you watch the news it is not uncommon to hear jeering in the House of Commons... it almost makes it acceptable for the public to continue this disrespect towards MPs."[170]

Public Submission

Language which is dehumanising, vile, or abusive, and which treats political and partisan divisions as absolute and unbridgeable can, intentionally or not, encourage intimidatory behaviour by legitimising the idea that particular individuals are not worthy of common respect or participation in public life. Such attitudes can motivate action which attempts to block that participation, through threats, abuse, or violence.

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

We have found significant evidence of intimidation which is motivated by prejudice or hate. This might be based on an individual's gender, race, religion, or their sexual orientation. But speech which may fall short of being hateful may still adopt a tone which engenders hostility towards individuals because of their personal characteristics.

"In the last period there hasn't been an upsurge in hatred, but these people feel they have a licence to articulate and follow through what they were thinking previously. It's not about people being converted to fascism or whatever, but they sense they have social licence to follow through and that is the thing that language does."[171]

Brendan Cox

Contentious political questions should be able to be discussed in public life, even when they touch on highly sensitive questions of personal identity. However, everyone in public life must take responsibility for making sure that they do not criticise or dehumanise their opponents based on these personal characteristics. Otherwise, they can open the door for others who are motivated

169 Baroness Brinton, President, Liberal Democrats, Public Hearing, 14 September 2017

170 Written Submission 8 (Adam Finkel-Gates)

171 Brendan Cox, Individual Oral Evidence, 7 November 2017

by hatred or hostility to engage in intimidatory behaviour towards individuals based on those characteristics. This is of fundamental importance for protecting and promoting the diversity of our public life.

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

The responsibility of the media

We have considered the significant role of social media in chapter 2. But print and broadcast media also contribute to a culture in which elected public officials can become targets of threats and abuse; and where targeting personal attributes or mere participation in public life is perceived as legitimate. Threatening or contemptuous language to describe public officials, especially when they are upholding high professional and ethical standards, can shape a culture that makes intimidation more likely.

> "It must be recognised by media outlets that there is a fine line between political debate and instigating reckless behaviour in individuals towards electoral candidates."[172]
>
> **Scottish Women's Convention**

Broadcast and print media can amplify the effects of intimidation that takes place on social media, for example, by reporting on 'twitterstorms'. As the distinction between traditional and social media becomes increasingly blurred, for example, with online-only news outlets with a high profile on social media such as Buzzfeed, The Canary, and Guido Fawkes, the media should be increasingly attentive to how stories are reported can give rise to intimidatory behaviour.

> "…My office has just reported to the police about five tweets, if not more, that have issued threats against me following the front-page article of today's The Daily Telegraph…Would you [the Speaker of the House of Commons] make it very clear to everybody, in whatever capacity, that they have an absolute duty to report responsibly, to make sure that they use language that brings our country together, and to make sure that we have a democracy that welcomes free speech and an attitude of tolerance?"[173]
>
> **Rt Hon Anna Soubry MP**

Freedom of the press should be cherished and protected. Nevertheless, journalists, broadcasters and editors should consider whether the content they are creating could incite others to engage in intimidatory behaviour. Does it delegitimise someone's engagement in the political process? Does it place undue emphasis on someone's individual characteristics, such as gender, religion, race or sexuality? Does it use threatening language? Could it unduly undermine public trust in the political system? This responsibility also applies to local media, which can play a crucial role in election campaigns.

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

Widespread recognition of public personalities and figures brings many benefits, including increased engagement in the political arena. However, an increasing 'celebrity culture' surrounding politicians, which has been partly fuelled by the print and broadcast media, also threatens to blur

172 Written Submission 59 (Scottish Women's Convention)
173 Hansard HC Deb, 15 November 2017, Vol 631 Col 386

the distinction between the personal lives and professional responsibilities of those in public life.

During the course of the review, we were told about a case where a freelance journalist previously door-stepped the seven-year-old child of a Parliamentary candidate at their family home, without parental knowledge or consent. Both the candidate and their child were extremely distressed. Intimidation or harassment of those in public life by print journalists is a breach of IPSO's Editor's Code.[174] Whilst the evidence we have heard from IPSO suggest that they consider press self-regulation has had a positive effect on journalistic culture following the Leveson Report, by putting in place measures to prevent and curtail intimidation or harassment, freelance journalists not acting on behalf of a regulated publisher do not fall within IPSO's remit.[175] This is because IPSO regulate publishers, who take responsibility for a story and the conduct of a journalist only where they employ that journalist, commission their work, or print that story.

We believe that the lack of redress in these sorts of cases represents a gap in the current press standards regime, and would not sufficiently deter persistent offenders. News organisations should make clear to freelance journalists that they expect the same standards of conduct from them as with staff reporters.

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

The media are acutely aware of the potency of reporting on breaches of ethical standards, for example, by framing a story about disagreement or incompetence as one of wrongdoing. They should not undermine public trust by deliberately portraying partisan disagreement or questions of professional competence as a breach of ethical standards.[176]

Recent controversies surrounding 'fake news' present a considerable challenge in this area, since candidates' views or conduct may be not simply misrepresented but wholly fabricated.[177] We heard evidence that candidates face a difficult decision about whether to counter incendiary claims, which may often be followed by an intense period of intimidation or abuse, particularly via social media. We are also concerned about the wider implications of fake news in having a corrosive effect upon democracy,[178] and intend to keep a watching brief on these issues.

Personal attacks and politicising ethical standards

Throughout our review, we have heard evidence that one of the problems is MPs and candidates focussing on an individual rather than the issue at stake – described by the Speaker, Rt Hon John Bercow MP, as 'playing the player not the ball'. Highly personal attacks, rather than criticisms of someone's position, record, or competence, is what the public find off-putting, and what is in turn most likely to fuel political disaffection.

In particular, we have seen examples of where failures of competence or judgment – or even instances of disagreement – are wrongly portrayed as breaches of standards or ethics. While there are often political or electoral advantages in blurring the distinction between professional failures, partisan disagreement, and breaches of ethics, this

174 Whilst IPSO is the main press regulator that has been referenced in evidence received to the review, we note that IPSO is not the sole press regulator in the UK and that Impress are currently the only press regulator to have been recognised by the Press Recognition Panel.

175 Matt Tee, Chief Executive of IPSO, Individual Oral Evidence, 8 November 2017

176 Professor Mark Philp, Public Ethics and Political Judgment, July 2014. See also discussion in Standards Matter, 2.14, 6.18

177 Allegations of fabricated news stories relating to Parliamentary candidates during the 2017 Election were raised in the Westminster Hall debate on abuse and intimidation (Hansard HC Deb 12 July 2017, Vol 267 Col 154WH)

178 See the Committee's submission to the 2017 Select Committee for Culture, Media and Sport inquiry into fake news

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

Some in public life use breaches of ethical standards by their opponents for political point scoring. Drawing attention only to the standards failures of political opponents, or citing standards failures for personal or political advantage without seeking to improve standards across the board, is an inappropriate use of political power.

When MPs and candidates attack the integrity and effectiveness of one side of the political spectrum, this can have a 'splashback effect', undermining public confidence in politicians and the political system as a whole. Those in positions of political leadership should recognise a collective responsibility, across the political spectrum, to maintain high ethical standards.

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

We recognise that on the one hand, the adversarial nature of party politics can give focus and energy to public debate and help interest and engage people in the political process. On the other, adversarial politics can be misused, creating a culture which opens a door to intimidation. Our adversarial political system can and should maintain a political culture which is free from intimidation and abuse. This is of critical importance for maintaining a healthy and functioning democratic political culture.

Chapter 6
The impact of intimidation

Our terms of reference for this review include considering the wider implications of the intimidation of Parliamentary candidates and those in public life.

Everyone who cares about our public life should be concerned at the threat that intimidation poses to the relationship between the public and those in public life, the free exchange of ideas in public debate, the diversity of candidates for elected and appointed offices, and the essential freedoms that underpin our representative democracy – to speak in public and to stand for public offices.

In this chapter, we chart how intimidatory behaviour has already affected Parliament and our political system, and show how it is beginning to have a wider impact on our political culture, and on other office-holders throughout public life.

The relationship between the public and Parliament

Our political system protects the public's right to hold their elected representatives to account, primarily at elections, but also through a wider public process of scrutiny and engagement. It is structured so that representatives listen to those they represent – primarily through elections, but also through the constituency system, public meetings, consultations, and petitions. Similar structures exist at the level of local government. In broad terms, the system encourages people to speak their mind to those in power. Newspapers, broadcasters and the news media more generally also have responsibilities in this area as part of process of holding those in power to account.

> "It is important to recognise that the democratic process requires some direct contact between politicians and the general public in the widest sense."[179]

This system, however, rests on a set of delicate balances between Parliament and the wider public culture, balances which are put at risk through intimidatory behaviour.

> "I now have video entry only into my constituency office. I have panic alarms installed. I only post on social media after I have attended events so people can't track my movements, on the advice of local police. I no longer put anything personal on social media. I no longer hold open surgeries, they are by appointment only and are not advertised in advance."[180]
>
> **Maria Caulfield MP**

Sitting MPs have related how intimidation and abuse has impacted on their working arrangements and how they interact with their constituents. Some MPs have had to make their surgeries less readily accessible, by not holding them in a public place and by making them by appointment only.

Other candidates and MPs have had to reduce their public appearances, ensure that they are accompanied to evening events, and in some cases have sought police protection at public events, particularly during general election campaigns.

179 Written Submission 49 (Confidential)
180 Written Submission 53 (Maria Caulfield MP)

> "I would never now attend an 'in-person' event on my own because of my experience at the 2015 election when I genuinely believed that I could have been subject to a physical assault."[181]
>
> **Labour Party 2017 Parliamentary Candidate**

Some candidates noted that having to take these steps has put them at a disadvantage during an election campaign, particularly when their political opponents draw attention to their reduced public accessibility.

If these trends continue, we are concerned that they will deepen the alienation and disaffection that may be driving intimidatory behaviour in the first place. If there are reduced opportunities to engage personally with political representatives, this would likely result in diminished public understanding of the Parliamentary process, of how individual Parliamentarians should behave, and how they assist citizens even where they disagree on a political argument.

> "Public campaigns are needed to ensure voters understand the nature of the roles. Misinformation about elections and public office needs to be countered."[182]
>
> **John Vincent**

Unacceptable influence on the political process

Intimidation also threatens the integrity of the political process. For decisions to be made in the public interest, decision-makers must be able to make reasoned decisions based upon their best judgment, and not be subject to unacceptable pressure or influence.[183]

Inevitably, some people will be disappointed and angry when things that they feel strongly about are not taken forward in the way they want. We therefore expect that exchanges in the political process will be robust, challenging, and highly charged.

If the political process is to work, however, that challenge must be appropriate, proportionate, and within certain boundaries. Most importantly, it should not undermine the authority and integrity of the process itself. Attempts to change the views, behaviour, or participation of candidates for public office by the use of threats or intimidation bring inappropriate influences to bear on the decisions of candidates or elected public officials. This threatens the integrity of the political process, as elected representatives and candidates may be afraid to act according to their judgement due to fear about the repercussions of doing so.

Even when the actions of representatives provoke fears, anger or frustration, all of us have a deeper responsibility to behave in ways that respect the principles upon which that process rests. Undermining the integrity of that process threatens public trust in the political system, and leads to decisions that are not made fairly in the public interest.

Candidates for public office and diversity in public life

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

Our public life will suffer when people with talent and experience are deterred from remaining in or

181 Written Submission 74 (Labour Party)

182 Written Submission 43 (John Vincent)

183 Concerns about unequal and unacceptable influences compromising the integrity of decision-making also lay at the heart of the Committee's recommendations in relation to lobbying in our 2013 report, Strengthening Transparency Around Lobbying.

entering politics by the abuse and intimidation that they receive. If we want a diverse and experienced set of candidates for public offices, we need to address intimidation in the political arena. For this reason, we also need to pay attention to who is being targeted. A clear finding of our review is that intimidation is disproportionately likely to be directed towards women, those from ethnic and religious minorities, and LGBT candidates. A failure to tackle such abuse will perpetuate inequalities in Britain's public life and restrict the diversity of those representing the public.

> "Our research shows that there is a real danger that high levels of online abuse against women MPs will have a chilling effect on women taking part in public life - particularly women of colour."[184]
>
> **Amnesty International**

We heard that women were likely to cite intensive abuse on social media as a key factor in preventing them from seeking public offices – particularly if there may be threats towards members of their family.[185] We are also concerned about the wider impact of intimidation directed towards the staff, supporters, and volunteers of candidates.

Volunteering on a campaign will often be the first step to future involvement in public life. We received evidence suggesting that individuals could be put off from standing for elected and appointed public offices altogether if they experience intimidation or witness it before they are even a candidate.

The freedom to stand for elected and appointed public offices is one of the core freedoms underpinning a representative democracy. Intimidation and abuse should not be considered part of the cost of involvement in politics. It should matter to everybody, and society as a whole, that no one who has an interest in serving and the capability to serve in public life should be deterred from doing so because they do not want to put themselves, their family, or their supporters in a position where they attract intimidation and abuse.

> "Almost everyone I know who goes into politics from any party is doing it because they care about their community and their country and they want to serve. Yet it makes you question constantly, 'is it worth it?"[186]
>
> **Rachel Maclean MP**

Freedom to debate

We have seen evidence that the effects of intimidation go beyond the bounds of the political system, and that some forms of intimidation are attempting to rule out particular topics or views as legitimate subjects of public debate.[187]

Our terms of reference for this review explicitly included the importance of maintaining freedom of expression. Democracy cannot function or flourish without protecting the essential freedom to express political opinions, however unfashionable or unpopular, where these do not undermine democracy or the rule of law itself.

In a free and democratic society, those working in the press must also have the freedom to ask legitimate questions of those in public life. We are concerned about cases where journalists have experienced threats or attempts to silence them.[188]

184 Written Submission 87 (Amnesty International)

185 Written Submission 69 (Fawcett Society)

186 Written Submission 25 (Rachel Maclean MP)

187 Lee Scott, Individual Oral Evidence, 11 October 2017

188 http://www.independent.co.uk/news/uk/politics/laura-kuenssberg-bbc-politics-editor-online-critics-trolls-silence-me-campaign-party-leaders-a8033086.html

> "I was then angry that people, especially young journalists, were having to go through the back door [at Scottish independence referendum events] due to intimidation."[189]
>
> **Nick Robinson**

Closing down debate of particular topics in a public forum weakens our public life, not just for those in positions of influence, but for all who should have the freedom to participate in public debate without fear or intimidation.

Acting now on intimidation in public life

We have seen and heard concerning evidence of the way intimidation is damaging our public life. Intimidatory behaviour is already affecting the relationship between the public and Parliamentarians, and threatens the vibrancy and diversity of our public life. It also threatens the core freedoms that underlie our representative democracy: the freedom to stand for public office, and the freedom to participate in public debate.

Addressing intimidation is not simply about the behaviour of individuals. It is also about the significant impact it has on the integrity and functioning of our political system.

We are aware that public office-holders in frontline roles, such as teachers or police officers, will have experienced threats or abuse for many years whilst serving the public. We are now seeing an increasing number of public office-holders being subject to intimidation. We note with concern reports that political journalists are experiencing threats of violence, which also represents a broader threat to the freedom of the press.[190] We have heard similar reports from some election officials.[191] We also heard that local candidates and councillors from across the political spectrum are also experiencing intimidatory behaviour.[192] The 2016 Judicial Attitudes Survey found that 37% of judges were concerned for their safety outside of court.[193] We are also aware of recent reports of threats directed towards doctors.[194]

Acting now is the only way to ensure that public office-holders in a variety of roles and sectors are not subject to pressures and conduct that undermines their freedom, willingness or ability to serve in public life.

Addressing the full breadth of this issue requires social media companies, political parties, Parliament, police services, prosecutors, and those in public life themselves to work together. This includes public leadership at all levels, preventative measures, and effective enforcement of existing measures and sanctions. These are all inter-related, and will depend on each other for their effectiveness.

Now is the right moment to address intimidatory behaviour. By doing so we can begin to rebuild a healthy political culture, and avoid intimidation becoming a permanent feature of our public life.

The recommendations we have made stand as a package. They should be implemented together, as a comprehensive response to an issue of central importance to our public life.

189 Nick Robinson, Individual Oral Evidence, 6 September 2017

190 "BBC chairman demands action on 'explicit and aggressive' abuse of its journalists", Radio Times, 13 September 2017; "How the BBC's Laura Kuenssberg was 'given a bodyguard' after threats by online hate mob during the election", Daily Mail, 14 July 2017

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

192 Local Government Association, Oral Evidence, 31 October 2017

193 https://www.judiciary.gov.uk/wp-content/uploads/2017/02/jas-2016-england-wales-court-uk-tribunals-7-february-2017.pdf, p22

194 "Charlie Gard doctors sent death threats", The Times, 14 July 2017

Appendix 1: About the Committee on Standards in Public Life

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

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

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

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

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

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

The terms of reference were clarified following the Triennial Review of the Committee in 2013. The then Minister for the Cabinet Office confirmed that the Committee "should not inquire into matters relating to the devolved legislatures and governments except with the agreement of those bodies", and that "the Government understands the Committee's remit to examine 'standards of conduct of all holders of public office' as encompassing all those involved in the delivery of public services, not solely those appointed or elected to public office".

The Committee is a standing committee. It can not only conduct inquiries into areas of concern about standards in public life, but can also revisit those areas and monitor whether and how well its recommendations have been put into effect.

Membership of the Committee, as of December 2017

Lord (Paul) Bew, Chair

The Rt Hon Dame Margaret Beckett DBE MP

Sheila Drew Smith OBE

Simon Hart MP

Dr Jane Martin CBE

Jane Ramsey

Monisha Shah

The Rt Hon Lord (Andrew) Stunell OBE

Secretariat

The Committee is assisted by a Secretariat consisting of Lesley Bainsfair (Secretary to the Committee), Ally Foat (Senior Policy Advisor), Dee Goddard (Senior Policy Advisor), Stuart Ramsay (Senior Policy Advisor), and Khadija Haji-Aden (Governance and Communications Coordinator). Press support is provided by Maggie O'Boyle.

Appendix 2: Methodology

Methods

In order to conduct this review, the Committee used a range of methods:

- a public call for evidence, to which we received 88 responses
- an invitation to every MP and Peer to contribute to the review
- a roundtable discussion with former candidates, academics, think tanks, and stakeholders
- a public hearing with political parties
- a private hearing with police and security services
- published interviews with social media companies
- interviews with Parliamentarians and Parliamentary candidates, and others who have experienced intimidation
- 18 meetings with stakeholder organisations
- desk-based research including:
    - a review of relevant academic literature
    - a review of existing codes of conduct of political parties
    - a review of relevant legislation
    - a review of relevant policing and prosecution guidance

Public call for evidence

The Committee held a public call for evidence, which invited submissions from anyone with an interest in these issues. The call for evidence was open from 9am on 24 July 2017 to 5pm on 8 September 2017. We received 88 responses to this call for evidence.

The call for evidence was published on our website, and was listed as a consultation on GOV.UK. The call for evidence was sent to all MPs and Peers, as well as to each of the political parties currently represented in the House of Commons with a request that they share it with former Parliamentary candidates.

Those responding to the review were given the option of marking their submission as confidential, so that individuals could give evidence which may be highly personal or sensitive or which might invite intimidation were it to be made public. We undertook not to publish or otherwise disclose these submissions unless required by law. Responses to the call for evidence that were not marked as confidential are published alongside our review.

The call for evidence stated the terms of reference of the review and invited evidence and comments on the following themes:

What is the nature and degree of intimidation experienced by Parliamentary candidates, in particular at the 2017 general election?

Does the issue of the intimidation of Parliamentary candidates reflect a wider change in the relationship and discourse between public office holders and the public?

Has the media or social media significantly changed the nature, scale, or effect of intimidation of Parliamentary candidates? If so, what measures would you suggest to help address these issues?

Is existing legislation sufficient to address intimidation of Parliamentary candidates?

What role should political parties play in preventing the intimidation of Parliamentary candidates and encouraging constructive debate?

What other measures might be effective in addressing the intimidation of Parliamentary candidates, and candidates for public offices more broadly?

Could the experience of intimidation by Parliamentary candidates discourage people from standing for elected or appointed public offices?

Has the intimidation of Parliamentary candidates led to a change in the way in which public office holders interact with the public in correspondence, on social media, or at in-person events?

Roundtable

The Committee held a roundtable discussion with a range of stakeholder organisations, think tanks, academics, and former Parliamentary candidates to discuss the nature and recent extent of intimidatory behaviour, what can be done to combat intimidation in public life, and the impact of such behaviour on public life. We have published the transcript of the hearing.

Name	Organisation
Professor Tim Bale	Queen Mary, University of London
Sir Kevin Barron MP	House of Commons
Professor Rosie Campbell	Birkbeck College, University of London
Professor Neil Chakraborti	University of Leicester
James Davies	BCS – The Chartered Institute for IT
David Evans	BCS – The Chartered Institute for IT
Adam Finkel-Gates	University of Leicester
Claire Foster-Gilbert	Westminster Abbey Institute
Dr Jennifer van Heerde-Hudson	University College London
Professor Ruth Lewis	University of Northumbria
Alasdair MacDonald	Equality and Human Rights Commission
Joy Morrissey	Former Parliamentary candidate (Conservative) and Women2Win
Fiyaz Mughal OBE	TellMAMA
Dr Victoria Nash	Oxford Internet Institute
Rt Hon Peter Riddell CBE	Commissioner for Public Appointments
Lisa Robillard Webb	Former Parliamentary candidate (Labour)
Dr Jonathan Rose	De Montford University
Sam Smethers	Fawcett Society
Josh Smith	Demos
Dr Mark Shephard	University of Strathclyde

Name	Organisation
Kasia Staszewska	Amnesty International
Danny Stone	Anti-Semitism Policy Trust
John Vincent	Former Parliamentary candidate (Liberal Democrat)

Public hearing: political parties

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

Name	Role and organisation
Baroness (Sal) Brinton	President, Liberal Democrats
Ian Lavery MP	Chair, Labour Party
Rt Hon Sir Patrick McLoughlin MP	Chairman, Conservative Party

Private hearing: police and security services

The Committee held a private hearing with representatives from the police and security services to discuss the sufficiency and enforceability of the current law, and current arrangements in place to protect and support MPs. The hearing was held on the basis that the transcript would not be published so as not to compromise important operational information.

Name	Role and organisation
Chief Constable Mike Barton QPM	Crime operations lead, National Police Chiefs Council
Eric Hepburn	Director of Security, Houses of Parliament
Rt Hon Lindsay Hoyle MP	Deputy Speaker and Chair of the Consultative Panel on Parliamentary Security
Gregor McGill	Director of Legal Services, Crown Prosecution Services

Interviews with social media companies

As with the public hearing, these meetings were held on the basis that a full note and audio recording of the meeting would be made available online.

Name	Role and organisation
Nick Pickles	Head of Public Policy and Government (UK and Israel), Twitter
Sean Evins	Government and Policy Outreach Manager, Facebook
Simon Milner	Policy Director (UK, Middle East and Africa), Facebook
Emma Collins	Public Policy Manager, Facebook
David Skelton	Public Policy and Government Relations Manager, Google
Katie O'Donovan	UK Public Policy Manager, Google
Yasmin Green	Head of Research and Development, Jigsaw
Lucy Vasserman	Software engineer, Jigsaw

Interviews with Parliamentarians and former Parliamentary candidates

The Committee held 11 meetings with Parliamentarians and former Parliamentary candidates. Due to the sensitive nature of these discussions, with the exception of Aimee Chanellor, who spoke to the Committee on behalf of the Green Party, these meetings were all held on the basis that no note of the meeting would be published, and material from the meeting would only be quoted in our report with the permission of the individual concerned.

Rt Hon John Bercow MP	Speaker of the House of Commons
Rt Hon Lord McFall	Senior Deputy Speaker, House of Lords
Rehman Chishti MP	Conservative MP
Lee Scott	Former Conservative MP
Rt Hon Sir Hugo Swire MP (by telephone)	Conservative MP
Rt Hon Diane Abbott MP	Labour MP
Luciana Berger MP (by telephone)	Labour MP
Rt Hon Yvette Cooper MP	Labour MP
Dr Lisa Cameron MP	Scottish National Party MP
Sarah Olney	Former Liberal Democrat MP
Aimee Challenor	Former Green Party candidate

Meetings with individuals and stakeholder organisations

The Committee held 18 meetings with individuals and stakeholders. These meetings were all held on the basis that the no note of the meeting would be published, and material from the meeting would only be quoted in our report with the permission of the individual concerned.

Name	Speaker of the House of Commons
Nick Robinson	BBC (personal capacity)
Laura Kuenssberg	BBC (personal capacity)
David Evans and James Davies	BCS – The Chartered Institute for IT
Officials	Crown Prosecution Service
Rachael Bishop	Department of Digital, Culture, Media and Sport
Claire Bassett and Bob Posner	Electoral Commission
Mary Pitcaithly OBE (by telephone)	Convenor, Electoral Management Board, Scotland
Lionel Barber and Robert Shrimsley	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

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STANDARDS COMMITTEE

20 MARCH 2018

Report of: Borough Solicitor

Contact for further information: Mr M E Jones (Extn 5025)
(E-mail: matthew.jones@westlancs.gov.uk)

SUBJECT: STAKEHOLDER CONSULTATION: NATIONAL REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS

Wards affected: Borough wide.

1.0 PURPOSE OF THE REPORT

1.1 To advise Members of the current review by the Committee on Standards in Public Life into local government ethical standards and to recommend a suitable consultation response.

2.0 RECOMMENDATION

2.1 That the consultation response at Appendix 2 be submitted on behalf of the Council.

3.0 BACKGROUND

3.1 The Committee on Standards in Public Life is undertaking a review of local government ethical standards. The Committee has called for evidence about how councils are supporting good ethical standards in local government, following the significant changes to the governance of local councillors' conduct since the implementation of the Localism Act 2011. The consultation seeks the views of stakeholders on the workings of the current ethical standards regime for local government, including codes of conduct, investigations, sanctions and whistleblowing.

3.2 The consultation forms part of the Committee's wider review of local government ethical standards in England. The Committee has stated that it intends to publish its findings and recommendations during 2018.

3.3 The consultation is open to all to respond but is particularly aimed at certain stakeholders including local authority standards committees. Submissions can relate to as many or few of the consultation questions as stakeholders wish to address. The return date for responses to the consultation paper is 5pm on 18 May 2018. The consultation paper can be found via the following link:

https://www.gov.uk/government/consultations/local-government-ethical-standards-stakeholder-consultation

3.4 Members may recall that prior to the Localism Act, the Local Authorities (Model Code of Conduct) Order 2007 prescribed a model code of conduct to relevant authorities. Relevant authorities were required to have Standards Committees, who could disqualify members for up to six months.

3.5 Standards for England (previously the Standards Board) was responsible for a national overview of local investigations into member conduct allegations. In certain cases the Board itself investigated allegations. It could not impose sanctions on members, but it could refer cases to the First-Tier Tribunal (previously the Adjudication Panel) or to the relevant authority's own standards committee for determination. The Tribunal could disqualify members for up to five years.

3.6 Standards for England was abolished as a result of the Localism Act 2011. Criticisms of the former regime were that it was over-centralised, was a vehicle for vexatious complaints, and that it was largely unnecessary because poor behaviour can be expected to meet its end in the ballot box. Common criticisms of the new regime however are that it has gone too far in removing the capacity for, or the likelihood of, effective sanctions against councillor misconduct to be applied. Serious sanctions such as disqualification can result from criminal offences such as the failure to declare disclosable pecuniary interests, but not from other breaches of adopted codes.

4.0 WEST LANCASHIRE BOROUGH COUNCIL AND PARISH COUNCILS – MEMBERS' CODE OF GOOD CONDUCT

4.1 The Code adopted by the Council (and all Parish Councils within the Borough) is attached at Appendix 1. The Code was modelled on the former national code, but with appropriate variation to reflect local circumstances.

5.0 PROPOSED CONSULTATION RESPONSE

5.1 Members are asked to consider the consultation response at Appendix 2, which is recommended to be submitted on behalf of the Council.

5.2 The consultation on local government ethical standards is to be welcomed. It is now a number of years since the new standards regime set out in the Localism Act 2011 was introduced, so there has been a reasonable period of time in which to assess the effectiveness of the new statutory framework.

5.3 Except for the issue of sanctions, it is considered that the existing local system for the promotion of high ethical standards generally works well. The proposed response seeks to highlight a number of issues including:

- The potential issues created by the removal of the national code.
- The perceived lack of appropriate sanctions for more serious breaches of the Code.
- The need for clarity regarding the operation of the Disclosable Pecuniary Interest provisions
- The important role performed by the Independent Person

5.4 The Borough Solicitor will e-mail all Borough Members to draw their attention to the consultation exercise. Members may then consider whether to make their own individual response. The Borough Solicitor will also liaise with parish clerks to seek to ensure that parish members are also aware of the consultation exercise.

6.0 SUSTAINABILITY IMPLICATIONS

6.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

7.1 There are no significant financial or resource implications arising from this report.

8.0 RISK ASSESSMENT

8.1 This item does not require a formal risk assessment and no changes have been made to risk registers as a result of this report.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and/or stakeholder. Therefore no Equality Impact Assessment is required.

Appendices

Appendix 1 – West Lancashire Borough Council and Parish Councils – Members' Code of Conduct
Appendix 2 – Proposed Consultation Response

Part 5 - Codes and Protocols

WEST LANCASHIRE BOROUGH COUNCIL AND PARISH COUNCILS MEMBERS' CODE OF CONDUCT

1. You are a Member or Co-opted Member and hence you shall have regard to the principles set out in the attached Annex.

2.1 You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member.

2.2 Where you act as a representative of the Council on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or on any other body, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3.1 You must treat others with respect

3.2 You must not do anything which may cause the Council to breach any of the equality enactments; bully any person; intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

4.1 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 you have the consent of a person authorised to give it; you are required by law to do so; 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 the disclosure is reasonable and in the public interest; and made in good faith and in compliance with the reasonable requirements of the Council.

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

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

6.1 You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

6.2 You must act in accordance with all legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures.

6.3 You must, when using or authorising the use by others of Council resources (i) act in accordance with the Council's reasonable requirements; and (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).

6.4 You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

7.1 When reaching decisions on any matter you must have regard to any relevant advice provided to you by the Council's chief finance officer; or monitoring officer where that officer is acting pursuant to his or her statutory duties.

7.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

8. **Registering and declaring disclosable pecuniary interests**

8.1 You must, within 28 days of your election or appointment to office as a member or co-opted member notify the Council's monitoring officer of any disclosable pecuniary interests you have (see paragraph 9 below)

8.2 You must, notify the Council's monitoring officer within 28 days of becoming aware of any changes to a disclosable pecuniary interest previously notified or of any new disclosable pecuniary interest not previously notified.

8.3 If a disclosable pecuniary interest, has not been entered onto the Council's register, then the member or co-opted member must disclose the interest to any meeting of the Council at which they are present, where they have a disclosable pecuniary interest and where the matter is not a 'sensitive interest' *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.*

8.4 Following disclosure of a disclosable pecuniary interest not on the Council'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.

8.5 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 disclosable pecuniary interest.

It is a criminal offence to
Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting

Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest

As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years. Council Procedure Rules require you to leave the room where the meeting is held whilst any discussion or voting takes place.

9. Definitions

Disclosable pecuniary interest (DPI) means an interest of a description specified below which is your interest, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

Interest	***Prescribed description***
Employment, office, trade, profession or vocation	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.
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 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.

"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 notice to the Monitoring Officer of a DPI;

"relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband or wife or a person with whom M is living as if they were civil partners;

"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 and other securities of any description, other than money deposited with a building society.

Meeting means any meeting of the Council, the Cabinet, any of the Council's or Cabinet's committees, sub-committees, joint committees, joint sub-committees, or area committees.

10. Registering and Declaring Interests other than Disclosable Pecuniary Interests (Pecuniary and Non-Pecuniary Interests)

10.1 Registering Interests

(1) You must, within 28 days of your election or appointment to office as a member or co-opted member notify the Monitoring Officer in writing of your non-pecuniary interests where they fall within the following descriptions, for inclusion in the register of interests:

(i) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) Any body (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the

influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;

(iii) Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.

(2) You must, within 28 days of becoming aware of any new interest or change to any interest registered under 10.1(1), notify the Monitoring Officer in writing of the details of that new interest or change.

10.2 **Declaring interests**

(1) Where you have a non-pecuniary interest described in 10.1(1) above or in 10.2(2) below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the non-pecuniary interest, and you attend a meeting of the Council at which the business which related to or is likely to affect that non-pecuniary interest is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) You have a non-pecuniary interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a connected person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

connected person means (a) a member of your family or any person with whom you have a close association; or (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or (d) any body of a type described in paragraph 10.1(1)(i) or (ii).

(3) Where you have a non-pecuniary interest in any business of your authority which relates to or is likely to affect a person described in 10.1(1)(i) or 10.1(1)(ii)(a), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(4) Where you have a non-pecuniary interest but, by virtue of 10.4, sensitive information relating to it is not registered in the Council's register of members' interests, you must indicate to the meeting that you have a non-pecuniary interest, but need not disclose the sensitive information to the meeting.

(5) Where you have a non-pecuniary interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

10.3 **Register of interests**

Any interests notified to the Monitoring Officer as above will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the Council's website.

10.4 **Sensitive interests**

Where you consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

10.5 **Non participation in case of pecuniary interest**

(1) Where you have a non-pecuniary interest in any business of your authority that interest will become a pecuniary interest where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business (a) affects your financial position or the financial position of a person or body described in 10.1(1), 10.1(2) or 10.2(2); or (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in 10.1(1), 10.1(2) or 10.2(2).

(2) Subject to paragraph (3) and (4), where you have a pecuniary interest in any business of your authority (a) you may not participate in any discussion of the matter at the meeting (b) you may not participate in any vote taken on the matter at the meeting and (c) you must disclose the interest to the meeting.

In addition Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

(3) Where you have a pecuniary interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

(4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of your authority in respect of

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

(5) Where, as an executive member, you may discharge a function alone, and you become aware of a pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer in writing of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

10.6 **Interests arising in relation to overview and scrutiny committees**

In any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken, you may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

11. Gifts and Hospitality

You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority. The Monitoring Officer will place your notification on a public register of gifts and hospitality. This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

ANNEX

PRINCIPLES

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.

PROPOSED RESPONSE

a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

The Code of Conduct adopted by the Borough Council (and by our local Parish Councils) is modelled on the former national code and was well received by both Borough and Parish members upon introduction. The overwhelming majority of members take their duties under the Code extremely seriously and have a very real desire to achieve the highest standards of conduct in the discharge of their democratic duties.

Save for the issue of limited sanctions (which appears also to be of concern to other local authorities) the Borough Council's Procedure for the Assessment of Complaints is considered to robust and operating fairly to both the complainant and the subject member.

b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

It is considered that the existing legislation gives rise to a lack of meaningful sanctions where a more serious breach of the Code of Conduct is established.

See further the response to f. below.

Codes of conduct

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

As part of their induction all new Borough members are given training on the requirements of the Code. In addition the Council holds an annual Code of Conduct Training Seminar to which all Borough and Parish Members (including Parish clerks) are invited to attend. As well as covering the Code of Conduct in detail, the seminar also provides advice to members on wider ethical matters such as the Code of Recommended Practice on Publicity (purdah guidance) and Probity in Planning. In recent years the training has been interactive and participative through the use of fictional cases studies and standards quizzes. Generally it is considered that the Code is well understood by members.

However, the wording of the statutory provisions relating to Disclosable Pecuniary Interests (DPIs) could be improved so as to clarify when a Councillor will have a DPI in a matter to be voted on or discussed at a meeting.

Although the Code adopted by the Borough Council (and the Parish Councils within West Lancashire) is modelled on the former national code it is noted that other authorities have departed somewhat from the former standard provisions. The removal of the single national code may have led to inconsistencies between codes which members of the public may find difficult to understand.

d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Yes. The requirements allow sufficient flexibility for local authorities to decide what

matters should be addressed within their adopted Code.

Investigations and decisions on allegations

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

The Borough Council has adopted detailed arrangements for handling standards complaints. It is considered that these processes operate well. In particular, the arrangements allow for complaints to be dealt with more quickly than before, particularly in relation to the initial assessment process.

During 2017/18 the Borough Council received 4 complaints and 1 complaint from the previous year had been carried forward. Of these:-

3 have resulted in no further action;
1 was considered by the Standards Hearings Sub-Committee
1 complaint pending
1 of the complaints was made against a Parish Councillor, 4 against Borough Councillors

ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

The role of the Independent Person(s) (IP) is well-regarded within West Lancashire and forms an integral part of current processes.

The input of the IP is important and gives confidence to the general public and members. The Borough Council has adopted a comprehensive Independent Person Protocol to help clarify how the role will be performed. The IP is consulted at all stages of a complaint from initial assessment to a final decision as to whether there been a breach of the Code.

iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

The Borough Council's procedures provide that pre-assessment reports and investigatory reports are prepared with the assistance of an external advisor where appropriate.

Whilst it would be rare for there to be a conflict of interest, MOs (and Deputy MOs) may have some unease in handling complaints against senior members at their own authority. These issues are managed in West Lancashire through robust procedures and the use of external advisors where appropriate.

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?

Nationally, the absence of meaningful sanctions is considered a weakness of the existing arrangements and this has also been echoed at a local level.

Whilst a Councillor who fails to meet the statutory obligations relating to DPIs may be subject to criminal proceedings, in respect of other misconduct the sanctions available to Standards Committees are much weaker than those available to Standards for England under the former regime. This may undermine the confidence held by the public that more serious allegations are met with appropriate sanctions.

What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

There are a range of possible sanctions within the existing law and the locally adopted procedures including:

Borough Council

A. Reporting its findings to Council for information;
B. Recommending to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
C. Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
D. Instructing the Borough Solicitor to arrange training for the member;
E. Recommending to the Council the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority.
F. Recommending to the Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
G. Recommending that the Council excludes the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Parish Councils

A. Reporting its findings to the Parish Council for information;
B. Recommending the Parish Council arrange training for the member;
C. Recommending to the Parish Council the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority.
D. Recommending to the Parish Council that it withdraws facilities provided to the member by the Parish Council, such as a computer, website and/or email and Internet access.

Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Consideration should be given to Standards Committees having the power to suspend a member for a period of time depending on the seriousness of the breach of the Code.

Declaring interests and conflicts of interest
g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

The existing arrangements to declare interests are considered satisfactory.

A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

The existing arrangements are considered satisfactory.

What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

The Borough Council's Code mirrors the former national code in that it provides for additional categories of interests: non-pecuniary interests which must be declared, and pecuniary interests, which must also be declared and would prevent participation in relevant matters by the member concerned. The operation of non-pecuniary and pecuniary interests has not caused any difficulties.

Whistleblowing

h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

The Borough Council has an adopted policy on whistleblowing. It is not considered that any changes are required to these arrangements.

Improving standards

i. What steps could local authorities take to improve local government ethical standards?

It is suggested that all local authorities should be required to establish a Standards Committee.

j. What steps could central government take to improve local government ethical standards?

As set out above, the most fundamental weakness of the existing regime is the absence of meaningful sanctions. It is considered that this should be addressed.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors? What measures could be put in place to prevent and address this intimidation?

The MO is not aware of any concerns being raised by local councillors in relation to intimidation.

Local Borough and Parish Members have been made aware of the consultation and are invited to reply as appropriate regarding this issue.

STANDARDS COMMITTEE

20 MARCH 2018

Report of: Borough Solicitor

Contact for further information: Mrs S Griffiths (Extn 5097)
(E-mail: susan.griffiths@westlancs.gov.uk)

SUBJECT: MEMBERSHIP OF STANDARDS COMMITTEE

Wards affected: Borough wide.

1.0 PURPOSE OF THE REPORT

1.1 To consider a request for two Parish Representatives to be appointed to the Standards Committee.

2.0 RECOMMENDATION

2.1 The Committee's views are requested.

3.0 BACKGROUND

3.1 Prior to the introduction of the current Standards regime (as required by the Localism Act 2011) the Council's Standards Committee had provided for two Parish Council representatives in accordance with a statutory requirement placed upon it.

3.2 Upon the introduction of the current regime a report from the Managing Director (People & Places) on membership of the "new" Standards Committee was considered by the Council on 19 June 2012. The Council had a discretion to exercise and the report contained a recommendation proposing that the Parish Councils be invited to nominate a maximum of 3 Parish Councillors to be co-opted as non-voting members of the Committee from 1 July 2012. It may be recalled that there was no obligation to have a standards committee as such, although standards functions would need to be catered for.

3.3 Council resolved to establish a Standards Committee comprising 3 Conservative and 3 Labour members, with no provision for Parish Council representatives (this was considered alongside other detailed decisions at the same meeting in relation to the changed regime).

3.4 The Council continues to have responsibility for dealing with standards matters including complaints against elected and appointed members of Parish Councils. It also retains a choice of whether to appoint parish representatives and, if so, the extent to which they may be involved.

4.0 CURRENT POSITION

4.1 A request has been received from the Lancashire Association of Parish and Town Councils (West Lancashire Area Committee) for the Council to consider the appointment of Parish Council representatives on the Council's Standards Committee. A copy of the letter is attached as Appendix 1 to the report. Furthermore, the issue was raised at the Parish Clerks' Liaison meeting on 19 January 2018.

4.2 In considering the issues raised members may wish to be cognisant of the experience of complaints which is reported elsewhere on the agenda. There is a particular frustration mentioned within the letter appended and this may not be addressed by any change in arrangements given the restricted powers available to principal councils in their standards arrangements.in dealing with parish matters

5.0 ISSUES

5.1 There is an ability for Parish Council representation to be provided for on the Standards Committee and Members may wish to consider the co-option of 1 or 2 parish representatives, with rights to speak on issues but not vote.

5.2 Furthermore Member may wish to consider to appoint one of the nominated Parish reps to Assessment and Hearings Sub-Committee where a parish related complaint is to be decided on the same basis (i.e. to speak but not vote).

5.3 If members considered there is a need to change arrangements the decision on change would be one for a meeting of Full Council to be considered on the Committee's recommendation. This would need to include the matter of detailed arrangements including updated terms of reference, provision for expenses and procedures.

6.0 CONCLUSION

6.1 Appointments to Committees, Sub-Committees etc. will be considered at the Annual Council meeting on 16 May 2018 and therefore any changes to membership of the Standards Committee will take effect in the forthcoming Municipal Year 2018-19.

7.0 SUSTAINABILITY IMPLICATIONS

7.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

8.0 FINANCIAL AND RESOURCE IMPLICATIONS

8.1 There are no significant financial or resource implications arising from this report. If changes to the regime are made then officers will need to revise procedures to accommodate this. This would be done ahead of reporting the matter to Council for decision, if appropriate.

8.2 If representatives were to be included in revised arrangements then they would need to have their expenses met for travel and subsistence (not allowances) in line with arrangements for members. This could/could not* be accommodated within the current budgets [and it is suggested that an appropriate arrangement be agreed for funding this in the report to Council.

9.0 RISK ASSESSMENT

9.1 This item does not require a formal risk assessment and no changes have been made to risk registers as a result of this report.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

Appendix A – Letter from LAPTC (WL Area Committee)

Lancashire Association of Parish and Town Councils
West Lancashire Area Committee

Chair – Cllr M Sumner

[redacted]

Please reply to – Hon Secretary – Irene O'Donnell
14 Eastleigh
Skelmersdale
WN8 6AX
irene.lalc@yahoo.co.uk
01695 732859

Dear Terry

I have been asked by the member parishes of LALC to propose changes in the Standards Committee membership to include parish councillors. In previous years there were 2 parish council representatives on the Standards Committee and the LALC area committee think this should be re-introduced as the Standards Committee deals mainly with parish council issues. We have also spoken with parishes who are not members of LALC and they also agree with this proposal.
I believe this stems from the recent investigation concerning Burscough which took a long time to be dealt with and the outcome didn't resolve the issue fully as all councillors received the same "punishment" when only one had committed the offence.

[redacted]

Hoping you will consider these points.

Regards

Irene

Irene O'Donnell (Mrs)
Hon. Secretary

Standards Committee Work Programme – March 2018

(Meetings end March and September, as appropriate)

	Timescale	Comments
1 Lessons to be learned from reported complaints/monitoring of compliance with the Code	As and when required	On going
2 New/Revised Protocols	As and when required	On going
3 Complaints Statistics	Each meeting	
4 Code of Conduct Seminar for Officers, Borough and Parish Councillors	18 September 2018	
5 Hearings and Investigations	As and when required	On going
6 Consideration of applications for dispensations	As and when required	On going
7 Standards Committee – Annual Report	18 September 2018	
8 Annual Monitoring of Training Report	18 September 2018	
9 Review of the IP Protocol	20 March 2018	
10 Update on Whistleblowing Code	18 September 2018	
11 Officer Code of Conduct	20 March 2018	
12. Intimidation in Public Life	20 March 2018	
13. Guidance for newly elected/co-opted Parish Councillors	20 March 2018	Minutes of Sept 2017 Standards Committee
14. Local Government ethical Standards Consultation – Committee on Standards in Public Life	20 March 2018	
15. Request for Parish Representation	20 March 2018	
16. Planning Code of Good Practice	18 September 2018	