

## **Protecting the Debate: Intimidation, Influence and Information**

Centenary Action Group Consultation Response

19 October 2018

**Question: In what capacity are you giving the information? Eg: as a voter, an elected representative, an organisation.**

As the Centenary Action Group. The Centenary Action Group are a cross-party campaigning coalition convened by Helen Pankhurst. We represent over 100 activists, politicians and [women's rights organisations](#) working in the worlds of domestic, international, and political policy and campaigns. Together, we are #StillMarching for women's right to take part in the decisions that affect their lives.

In this response we address Section 1 only.

### **Consultation Response**

1. The Centenary Action Group was glad to see this consultation being published. In 2018, the UK is marking 100 years since the passing of the Representation of the People Act, when some women were first given the chance to vote in the UK. Since that milestone was passed, there have been numerous advances for women's political representation in the UK – but to this day they are blighted by the disproportionate violence and abuse directed at women in politics. We welcome the consultation recognising that abuse in politics has “a greater impact on women”. **We do not, however, believe that the document goes any way towards unpacking this disproportional impact. We therefore urge that the government response to this consultation, and the creation of any new offence, should pay more heed to the specific, gendered and intersectional abuse which women suffer in political life.**
2. Today, women in politics face an extraordinary amount of abuse, on social media and in day to day life. Whether that abuse is perpetrated online, in newspapers or on the street, women are targeted for the simple fact that they are women. Recent [research](#) by the Electoral Reform Society in Wales detailed a shocking level of abuse and harassment in politics, with 45.5% of respondents confirming that they had experienced some kind of abuse and harassment. Among female respondents this increased to 54%. We know that this abuse disproportionately affects Black, Asian and Minority Ethnic (BAME) women who are more likely to experience multiple levels of discrimination and we are pleased that the consultation has recognised Amnesty International's [research](#) that BAME women MPs are targeted far more than their white colleagues. We also need to recognise the role that faith can play. Gendered Islamophobia and Gendered anti-Semitism are becoming more and more apparent, as we have seen in recent months with prominent Jewish women MP's and noting in the Government's recent Hate Crime Action Plan that Muslim women are disproportionately targeted compared to people from other faith groups. If we want to encourage women from diverse backgrounds to participate at every level of political life, these issues must be taken more seriously and addressed fully. As a

Westminster Foundation for Democracy report on the subject makes clear, there are too many instances where the CPS has not taken adequate steps to address the harassment and intimidation of women in political life. This discourages many women from participating in political debate and impacts on the quality of political debate and democracy in this country.

3. This is an issue that we have to confront, and urgently. The benefits of tackling violence against women in politics are manifest: from work undertaken towards women's political participation the world over, there is clear evidence that the more diverse the decision makers are, the more widely power is spread – and the less room there is for abuse and discrimination. We must have a multi-dimensional and intersectional approach when removing barriers to women's political participation. This makes it more likely that decisions made will benefit everyone, including the most marginalised women and girls in the UK and beyond. Increasing women's participation in politics is critical. It is a central tenet of the UN Global Goals (Goal 5). All countries are aiming for these goals, but most countries, including the UK, are still falling short. We support the UN Special Rapporteur on Violence Against Women's "Violence Against Women in Politics" Report which asserted that UN member states have obligations to eradicate and prevent violence against women in politics. We also encourage the UK to continue to support the proposed ILO Convention on Ending Violence and Harassment in the World of Work and its wide definition of workers and workplaces which would include political work.
4. We therefore welcome this consultation. The creation of any new offence must recognise the gendered and intersectional nature of the abuse women suffer in political life. This consultation must result in robust measures to address intimidation of parliamentary candidates and party campaigners, including looking into making it a criminal offence to intimidate party candidates, both online and offline. As such, we welcome the UK Government's proposal to introduce a new electoral offence regarding intimidatory behaviour. We also recommend that other measures should be taken in an effort to tackle intimidation, harassment and abuse in public life.
5. Other measures that should be considered to protect political debate includes demanding a stronger response from social media companies when people in political life are abused on their platforms. We support the CSPL's recommendations that social media companies should be held accountable for developing automated techniques for identifying intimidatory behaviour. We also agree that social media companies should offer tools for users to escalate reports of illegal online activity to the police. There is also currently no official government support or guidance offered to candidates about their online rights and how to protect themselves online. Clear guidance on the law and how to report online abuse and seek help should be provided. We also recommend that political parties come together to tackle this abuse and develop and implement a joint code of conduct on intimidatory behaviour during election campaigns.

6. As the consultation rightly notes, this is not an issue limited to the UK. International political party bodies should therefore also agree joint standards to address violence and harassment of women in politics and hold their member parties accountable for adhering to these standards. A global call is needed for social media companies to recognise and eradicate online gender-based violence on their platforms. All national governments should have robust regulatory systems - such as an enforceable social media code of practice - that contain specific measures and requirements on the prevention and identification of, and response to, gendered online abuse and online forms of VAWG. This needs to include, at a minimum, standards for: the design, development and safety assessments of new products; location services and security settings; reporting functions; and procedures for how to handle, store and share evidence, and respond to civil and criminal proceedings. The UK Government should bring forward their 'online harms' white paper, and long-proposed new social media code of practice, which should contain such specific measures and requirements
7. We also think that digital citizenship needs to be central to education, taught universally and from a young age. The need for more intensive delivery of digital citizenship education is now recognised around the world from UNESCO to the House of Lords in the UK. Programmes like Internet Citizens by Institute of Structured Dialogue and Glitch!UK's Digital Citizenship aim to raise the agency of young people to use digital technology online confidently, respectfully and positively online. Digital citizenship education provides young people with an understanding of the forms of online abuse, including online hate speech, its impacts and consequences. It also prepares young people to navigate a constantly changing digital space as well as build a positive online community.
8. 100 years since the passing of the Representation of the People Act, we want to build on that momentum, by ensuring that women in the UK and across the world feel encouraged and able to play as active a part in political debate as they wish. We shouldn't have to wait another ten years, as we did with the vote, for all women to be equally represented in politics. In the centenary year of some women winning the right to vote, we believe that it is time for action.

## **Section 1: A New Electoral Offence**

**Question 1: Do you agree that the new electoral offence should apply electoral sanctions to existing offences of intimidatory behaviour, such as those identified by the CSPL, listed in Annex A, and equivalent offences in Scotland and Northern Ireland?**

Yes. To take into account online intimidatory behaviour we would also include offences recognised by the Communications Act 2003 and Malicious Communications Act 2003, as well as Sections 2A and 4A of the Protection from Harassment Act 1997.

The Communications Act 2003, used for many of the prosecutions over online abuse, rules against sending “a message or other matter that is grossly offensive or of an indecent, obscene or menacing character.” It also makes it illegal to “persistently” use social media “for the purpose of causing annoyance, inconvenience or needless anxiety to another”. The Malicious Communications Act 2003 makes it an offence to send messages with the intent to “cause distress or anxiety”. Sections 2A and 4A of the Protection from Harassment Act 1997 relate to the ‘offence of stalking’ and ‘stalking involving fear of violence or serious alarm or distress’.

**Question 2: We propose that the new electoral offence will attract the sanction of being barred from standing for elected office for 5 years. Do you agree?**

Yes. We agree that if an individual is found guilty of a specified offence they should be prohibited from standing or holding any elected office for a period of 5 years. Applying this sanction would make sure that there is consistency with other electoral offences and would act as a deterrent.

**Question 3: We do not propose that the new electoral offence should remove an offender’s right to vote. Do you agree?**

Yes. We agree that an offender’s right to vote should not be removed. However, we do not feel that stopping someone from standing for election for five years is enough of a deterrent for people who have no intention of putting themselves up for election.

We think that this area needs to be explored further to see if there is another, more suitable, sanction that could also or instead be used.

**Question 4: We think that offences committed against candidates and campaigners during all types of polls should attract the additional electoral sanctions. Do you agree? If not, please explain.**

Yes. Intimidating candidates and campaigners is not acceptable at any poll. Offences committed against candidates and campaigners should attract the additional electoral sanctions for all types of polls.

It is important to ensure consistency across all polls. Consistency will prevent confusion as to when, and at what elections, the sanctions apply. It will also send a clear message to campaigners and voters that intimidation is unacceptable behaviour and has serious consequences.

**Question 5: We propose that offences against campaigners during a referendum campaign should attract the additional electoral sanctions. Do you agree? If not, please explain.**

Yes. We agree that electoral sanctions should apply to offences against campaigners during a referendum campaign. Campaigners play a vital role in the democratic process and it is right that they should not be abused or intimidated.

Applying these electoral sanctions should deter some people from engaging in behaviour that intimidates campaigners.

**Question 6: We propose that the existing definition of when someone becomes a 'candidate', with reference to any election campaign, would be clear and workable for the new electoral offence. Do you agree? If not, please explain.**

No. We do not agree that the existing definition of when someone becomes a candidate will be workable for the new electoral sanction. We have seen UK political parties select their candidates for office ahead of the next election that has not been called yet. They are candidates in that they very much they will be canvassing, leafleting, interacting with the general public and therefore it is essential that there is a new workable definition of candidate.

**Question 7a: Do you think the new electoral offence should extend to campaigners? If so, please explain which campaigners you think should fall within the scope of the new electoral offence, given the above considerations. If not, please explain.**

Yes. A Westminster Foundation for Democracy [report](#) on 'Violence Against Women in Politics' concludes that intimidation of party activists can have as equally pernicious an effect on democracy as the intimidation of candidates. Deterrents should exist to protect women in political life from harassment, violence and intimidation. Electoral candidates should not be the only group protected under the proposed new legislation.

We recommend the following should fall within the scope of the new offence:

- Candidates or party spokespeople chosen in advance of an election to be defined as a campaigner
- An employee of a registered party
- Independent candidates
- People running for party candidate selection
- Members and volunteers of a registered political party
- Democracy includes many more who participate actively in public life and therefore should include activists working on an issue-based campaign that is targeting candidates.

**Question 7b: If you think that campaigners should be included, do you have a suggestion as to how this could be done for use in the relevant legislation?**

At the same time as the committee considers introducing new legislation, priority should also be given to training police and prosecution in the existing legislation mentioned in our response to Q1. Resources should be made available for this to happen. We echo the recommendation of an aforementioned Westminster Foundation for Democracy report that "thought should be given as to whether the Met should be the first port of call to deal with threats against MPs, Lords and election candidates."

**Question 8: Do you agree that protection should start from the period of notice of elections? If not, please explain.**

No. Candidates can be selected for their party ahead of a general election. Candidates and campaigners should have some protection all year round.

**Question 9: Should there be a period before notice of election for a scheduled poll during which this offence applies? If so, what would be a suitable time period of protection? If not, please explain.**

We do not agree that the provision should be tied to the notice of election. Protection should cover people who have publicly stated they are going to stand for election, but their candidacy has not officially commenced for the purpose of electoral law. The earliest day someone can become a candidate for the purpose of electoral law (for example in relation to the regulation of their campaign spending) is either the last day for publication of the notice of election or, at a UKPGE, the day of dissolution of Parliament. Protection therefore could start at the point of becoming a candidate under electoral law.

However, a person might declare their candidacy publicly prior to this. For example, the lead up to a UK parliamentary general election where there is a long campaign. During this period the spending rules apply and people are actively campaigning, but their candidacy has not officially commenced.

This means that someone could be subject to intimidation during this time but before becoming a candidate under electoral law. They would not be protected by the electoral sanctions if it was to start from the period of notice of election and if there is no access to justice for candidates who face intimidatory behaviour they may stand down before the "official" election starts

The Government should consider whether there needs to be a defined start date from which the new electoral sanctions could be applied. For example, it could be for the prosecution and sentencing judge to determine if a person was subject to intimidation because of the fact they were a candidate, based on the specific circumstances in each individual case.

**Question 10a: Do you agree that protection, under the new electoral offence, should end seven calendar days after the close of poll?**

No.

**Question 10b: If not, when do you think protection under the new electoral offence should end?**

If the protection of a new electoral sanction were to end seven days after the close of poll, there is a risk that elected representatives could be subject to intimidation. This could mean that they are prevented from carrying out their elected mandate. Ideally, there would be no end date to the application of the new electoral sanctions. The Government should ask further advice from the police, prosecutors and the judiciary should advise on how this could be achieved in practice.

**Question 11: Do you agree that protection, under the new electoral offence, should apply during the referendum period, as determined by the relevant referendum legislation? If not, please explain.**

The protection should start once the relevant legislation setting the date of the referendum has come into force. Once the date of the referendum has been set in legislation everyone knows when polling day is and that referendum is definitely going ahead. Therefore, regardless of whether the regulated period for referendum campaign spending has started, campaigners can start campaigning and may be at risk of being intimidated

**Question 12: Do you agree that a new electoral offence should only be applicable in cases where a candidate or campaigner is intimidated because they are a candidate or campaigner?**

We agree that the new electoral sanction should only apply when a candidate or campaigner is intimidated because they are candidate or campaigner. This should cover online intimidation. We think that the police, prosecutors and the judiciary should advise on how this could be achieved in practice as they will be the enforcers of the new electoral sanctions.

We also think that digital citizenship needs to be central to education, taught universally and from a young age. The need for more intensive delivery of digital citizenship education is now recognised around the world from UNESCO to the House of Lords in the UK. Programmes like Internet Citizens by Institute of Structured Dialogue and Glitch!UK's Digital Citizenship aim to raise the agency of young people to use digital technology online confidently, respectfully and positively online. Digital citizenship education provides young people with an understanding of the forms of online abuse, including online hate speech, its impacts and consequences. It also prepares young people to navigate a constantly changing digital space as well as build a positive online community.